

Capital Reporting Company
Formal Case No. 1119 12-02-2015

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PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA

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IN THE MATTER OF THE JOINT : Formal Case
APPLICATION OF EXELON : No. 1119
CORPORATION, PEPCO HOLDINGS, :
INC., POTOMAC ELECTRIC POWER :
COMPANY, EXELON ENERGY :
DELIVERY COMPANY, LLC AND :
NEW SPECIAL PURPOSE ENTITY, LLC:
FOR AUTHORIZATION AND APPROVAL :
OF PROPOSED MERGER TRANSACTION :
-----:

Washington, D.C.

Wednesday, December 2, 2015

The Public Interest Hearing in the above-
captioned matter began at 10:20 a.m., pursuant to
notice, at the Public Service Commission of the
District of Columbia, 1325 G Street, N.W.,
Washington, D.C.

BEFORE: BETTY ANN KANE - CHAIRMAN
JOANNE DODDY FORT - COMMISSIONER
WILLIE L. PHILLIPS - COMMISSIONER

Before: Bonnie L. Russo

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1 I N D E X

2	WITNESSES:	DIR	CROSS	RED	REC
3	TOMMY WELLS	76	82	176	--
4	CARIM KHOUZAMI	180	--	--	--
5	DAVID VELAZQUEZ	291	--	--	--

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1 P R O C E E D I N G S

2 THE SECRETARY: All rise. You may
3 be seated.

4 CHAIRMAN KANE: Good morning. I'm
5 going to call to order this public interest
6 hearing of the D.C. Public Service Commission
7 in Formal Case 1119, which is in the matter of
8 the joint application of Exelon Corporation,
9 Pepco Holdings, Inc., Potomac Electric Power
10 Company, Exelon Energy Delivery Company, LLC,
11 and New Special Purpose Entity, LLC, for
12 authorization and approval of a proposed merger
13 transaction.

14 For the record, I'm Betty Ann Kane,
15 the chairman of the Public Service Commission.
16 Seated to my right is Commissioner Joanne Doddy
17 Fort and to my left is Commissioner Willie
18 Phillips.

19 And for the record, today is
20 Wednesday, December 2, 2015. We are convening
21 this hearing at 10:25 a.m. in the hearing room
22 of the Commission at 1325 G Street, Northwest.

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1 Today's hearing is being held to
2 hear testimony by parties as to whether the
3 nonunanimous settlement agreement filed on
4 October 6, 2015 is in the public interest. The
5 agreement was signed by the joint applicants,
6 by the office of people's counsel, the
7 Apartment and Office Building Association of
8 Metropolitan Washington, the District of
9 Columbia Government, the District of Columbia
10 Water and Sewer Authority, the National
11 Consumer Law Center, National Housing Trust,
12 and the National Housing Trust Enterprise
13 Preservation Corporation, and these parties
14 will be referred to collectively as the
15 settling parties.

16 The other parties in this case who
17 did not sign the agreement will be referred to
18 as the non-settling parties. These parties are
19 D.C. Solar United Neighborhoods, the General
20 Service Administration, Grid 2.0 Working Group,
21 the Maryland, D.C., Virginia Solar Energy
22 Industries Association, the Mid-Atlantic

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1 Renewable Energy Coalition, Monitoring
2 Analytics, Inc., the Market Monitor for PJM,
3 NRG Energy, Inc., and WGL Energy Systems, Inc.,
4 and WGL Energy Services, Incorporated, which
5 together are known as WGL Energy, and they
6 weren't limited -- granted limited
7 intervention.

8 The hearing is for the purpose of
9 allowing the parties to the proceedings to
10 submit testimony and to cross-examine the
11 witnesses on the issue of whether the
12 nonunanimous settlement agreement is in the
13 public interest and also to provide the
14 Commission an opportunity to ask questions of
15 the witnesses pertaining to the agreement.

16 A bit of background. On April 30,
17 2014, the Exelon Corporation announced Exelon's
18 proposed purchase of Pepco Holdings, Inc. On
19 June 18, 2014, the joint applicants filed a
20 joint application for approval by the
21 Commission, pursuant to D.C. Code 34504 and
22 341001. Applications were a change of control

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1 of Pepco to be effected by the proposed merger
2 of PHI with Purple Acquisition Corp, a
3 wholly-owned subsidiary of Exelon.

4 The Commission convened four
5 community hearings before seeking input from
6 the public on the joint application. On
7 December 14 to 17, 2014, and January 20 at
8 various times and locations, there were two
9 other dates in there which I will add for the
10 record, but there were four community hearings,
11 at various times and locations throughout the
12 District of Columbia. 11 days of evidentiary
13 hearings were held on March 30 to April 8 and
14 April 20 through 22 and the record closed on
15 May 27, 2015.

16 The Commission issued an order in
17 this case on August 25th. On October 6, 2015,
18 an order denying the application and finding it
19 was not -- and taken as a whole, it was not in
20 the public interest.

21 On October 6, 2015, the joint
22 applicants filed a motion to reopen the record

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1 in formal Case No. 1119 to allow consideration
2 for consideration of a nonunanimous settlement
3 agreement which is attached to the motion.
4 Among other things, the joint applicants
5 requested that the Commission toll
6 consideration of an application for
7 reconsideration which had been filed for such
8 period of time as the Commission requires to
9 fully consider the merits of the settlement
10 agreement and to toll the time for responses to
11 the applicant for application for
12 reconsideration, and that application for
13 reconsideration is been what's filed on
14 September 28th.

15 By order issued on October 26, the
16 Commission tolled the deadline for action on
17 the merits of the joint applicants application
18 for reconsideration and the filing and
19 responses to that application until the
20 Commission renders a decision on the
21 nonunanimous settlement agreement or until this
22 Commission determines otherwise.

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1 In an order issued on October 28,
2 the Commission granted the motion to reopen the
3 record in Formal Case No. 1119 to allow for
4 consideration of the nonunanimous settlement
5 and set forth a procedural schedule pertaining
6 to such considerations which brings us here
7 today.

8 Now, preliminary matters for today's
9 hearing. The first matter is the joint
10 applicants motion for special appearance of an
11 out-of-state attorney that was filed on
12 November 25, 2015.

13 Does any party object to the
14 granting of this motion? I am not hearing from
15 any party about this so hearing none, we grant
16 this motion.

17 Secondly, the settling parties --
18 yesterday filed a motion regarding evidentiary
19 hearing procedure requiring permission to, No.
20 1, present opening statements by all the
21 parties who wish to do so, and, two, to allow
22 the settling parties to provide brief, live

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1 rejoinder to the testimony of the nonsettling
2 parties.

3 Are there any objections to the
4 granting of this motion? Hearing none, seeing
5 none, that motion is also granted.

6 Third, Public Citizen, on November
7 30, 2015, filed a motion to reply to the joint
8 applicants response to Public Citizen's
9 petition for leave to intervene. This motion
10 was filed after the Commission had voted to
11 deny Public Citizen's participation last
12 Wednesday at our open meeting.

13 I am making a motion that we waive
14 the rules to allow the reply to be put into the
15 record because the Commission did act on the
16 initial motion before the normal ten-day period
17 for hearing from parties had expired, and in
18 that motion to affirm our decision to deny
19 intervention status to Public Citizen.

20 Call for a vote on that motion or a
21 discussion.

22 COMMISSIONER FORT: I have no

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1 discussion. I'm prepared to vote.

2 COMMISSIONER PHILLIPS: I'm prepared
3 to vote.

4 COMMISSIONER KANE: All in favor of
5 the motion signify by saying aye.

6 COMMISSIONER FORT: Aye.

7 COMMISSIONER PHILLIPS: Aye.

8 COMMISSIONER FORT: I vote to -- and
9 that motion is to allow the reply into the
10 record and to reconfirm our vote, right?

11 CHAIRMAN KANE: Correct.

12 COMMISSIONER FORT: I vote yes.

13 COMMISSIONER PHILLIPS: Yes.

14 CHAIRMAN KANE: And the chair votes
15 yes. The motion is approved. Thank you.

16 There's one housekeeping matter I
17 want to also address, please be sure you've
18 turned off your cell phones, anything else that
19 transmits an electric signal. That does not
20 apply to laptops that are receiving signals.
21 It's only if sending a signal out, like a cell
22 phone or a pager. They do interfere sometimes

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1 with our electronic system here, as well as
2 being a distraction and we want to be sure that
3 we do hear everything that everybody has to say
4 today.

5 Do any of the parties have any other
6 matters they want to address at this time? And
7 let me -- before we do this, I'm going to ask
8 the parties, thank you, to identify yourselves,
9 and then I will ask if any of the parties who
10 have identified themselves have any other
11 preliminary matters that they want to address.

12 We'll start with the company, Mr.
13 Meier.

14 MR. MEIER: Thank you very much,
15 Chairman Kane. Good morning, Commissioner
16 Fort, good morning, Commissioner Phillips.

17 My name is Peter Meier, I'm vice
18 president of legal services for Pepco Holdings.
19 I will be appearing on behalf of the joint
20 applicants today. With me will be Wendy Stark,
21 who is deputy general counsel of Pepco
22 Holdings. Also to my left is Paul Bonney,

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1 senior vice president and deputy general
2 counsel for Exelon, and also appearing on
3 behalf of the joint applicants will be Tony
4 Gay, associate general counsel, PECO Energy.
5 Thank you.

6 MR. EILBOTT: Good morning, my name
7 is Eli Eilbott with the law firm Duncan,
8 Weinberg, Genzer & Pembroke. We are outside
9 counsel for the office of the people's counsel.
10 With me in the hearing room today is the
11 people's counsel and several members of her
12 staff.

13 MS. FRANCIS: Good morning, Your
14 Honors. I am Frann G. Francis, senior vice
15 president and general counsel for the Apartment
16 and Office Building Association. Good morning.

17 MR. CALDWELL: Good morning, Your
18 Honors. My name is Brian Caldwell, I'm an
19 assistant attorney general. I'm here today on
20 behalf of the District of Columbia Government.

21 I do have one preliminary matter
22 that I would like to raise to the Commission.

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1 There was a list of witnesses that was handed
2 out this morning scheduled and one of the
3 District's witnesses, Director Tommy Wells of
4 DOEE has prearranged travel. He's going to be
5 leaving this evening, and if we can request
6 that he be moved up in the order of witnesses
7 so that he may be able to leave the hearing by
8 no later than 1:00, if possible. That would be
9 our request.

10 CHAIRMAN KANE: Thank you. We will
11 take that up in just a minute.

12 MR. SPECK: Good morning, Madam
13 Chair, Commissioner Fort, Commissioner
14 Phillips. I'm Randy Speck with Kaye Scholer
15 and I represent D.C. Sun in this proceeding.

16 MS. WHITE: Good morning, Madam
17 Chair, Commissioners. My name is Nancy White
18 with the law firm of Squire Patton Boggs. I'm
19 appearing on behalf of the District of Columbia
20 Water and Sewer Authority this morning.

21 MR. RORIES: Good morning, Your
22 Honors. My name is Charles Rories and I'm here

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1 representing Grid 2.

2 MS. ELEFANT: Good morning, Your
3 Honors. Carolyn Elefant with the law office of
4 Carolyn Elefant. I am representing the
5 Mid-Atlantic Renewable Energy Coalition.

6 MS. WEIN: Good morning, Your
7 Honors. My name is Olivia Wein. I'm a staff
8 attorney at the National Consumer Law Center
9 and I am representing the National Consumer Law
10 Center, the National Housing Trust and the
11 National Housing Trust Enterprise.

12 CHAIRMAN KANE: Thank you. I see
13 there are several nameplates where we do not
14 currently have someone here from NDV-SEIA, from
15 NRG or from Washington Gas Energy, just for the
16 record. Someone is here?

17 MR. KWISIKIS: Good morning, Your
18 Honor, matt Kwisikis. I'm appearing on behalf
19 of WGL Energy.

20 CHAIRMAN KANE: Okay, we've got a
21 place for you right up there.

22 MR. KWISIKIS: I just had a

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1 preliminary matter. WGL Energy appreciates
2 very much the Commission's order allowing it to
3 participate on a limited basis in this
4 proceeding.

5 WGL Energy has reviewed the
6 settlement agreement, supporting testimony and
7 elected not to file written testimony or to
8 request cross-examination this morning.
9 However, we reserve the right to file a brief.

10 CHAIRMAN KANE: Okay. Thank you.

11 And GSA, which is a party has
12 informed us they will not be appearing. They
13 have filed something for the record.

14 All right. Yes, Mr. Caldwell, in
15 turns of schedule, what we are going to ask, we
16 are aware of Mr. Wells's time constraints and
17 that he's leaving the country this evening, and
18 so we are going to take the opening statements
19 and then I will see where we are in time and
20 most likely will then take Mr. Wells after
21 those opening statements, and then revert back
22 to the regular schedule.

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1 MR. CALDWELL: Thank you, Your
2 Honor. We appreciate that.

3 MR. MEIER: And Your Honor, we had
4 two preliminary matters as well. At the
5 appropriate time, we wanted to mark the first
6 exhibit as the settlement agreement and we also
7 wanted to address with the Court's --
8 Commission's permission, to stipulate into the
9 record evidence so we don't have to do the
10 authentication questions as we have done in
11 previous hearings, if that is acceptable to the
12 Commission.

13 CHAIRMAN KANE: Yes, that is. It
14 will save us some time. So if you want to
15 proceed.

16 MR. MEIER: Thank you very much,
17 Chairman.

18 My name is Peter Meier, I'm
19 appearing on behalf of the joint applicants.
20 The chairman summarized the history of this
21 case. I will just point out that as you know
22 when we appeared here last at the evidentiary

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1 hearing in April, it was a very contentious
2 hearing. None of the other parties supported
3 the merger of Exelon and Pepco. There was
4 considerable testimony against that merger from
5 a number of parties, including the office of
6 people's counsel and the D.C. Government.

7 While we had obtained approval from
8 the Commission of Maryland and Delaware as well
9 as the Board of Public Utilities that approved
10 the merger, those approvals were predicated on
11 detailed, comprehensive settlement agreements
12 with major parties to those proceedings. We
13 did not have a settlement agreement in the
14 District of Columbia. On August 27, the
15 Commission issued its order denying the merger.

16 In retrospect, we realized that our
17 failure to present a settlement agreement made
18 a very difficult task for this Commission to
19 find that the merger was in the public
20 interest. Indeed, in your August 27 order, you
21 criticized the joint applicants for failing to
22 bring forward a settlement that evidenced the

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1 general agreement of the parties on mitigation
2 factors that would address their concerns.

3 That was a tough order for the joint
4 applicants to read and I suspect it was a
5 challenging order for the Commission to write.
6 But it was a well written order, and it
7 carefully explained the reasoning of the
8 Commission and identified their expectation for
9 what was required to present a merger that was
10 in the public interest.

11 That decision galvanized the joint
12 applicants to try again to consider whether
13 they could achieve a settlement for this
14 merger. Indeed, we are here today because a
15 settlement was agreed to among the settling
16 parties that meets their concerns and that
17 addresses the Commission's standards for
18 mergers in the public interest.

19 The chairman reviewed the parties to
20 the settlement agreement, they include the D.C.
21 Government represented by the mayor of the
22 District of Columbia, the attorney general of

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1 the District of Columbia, the director of the
2 Department of Energy and the Environment. It
3 includes the office of people's counsel, the
4 statutory representative of utility customers
5 and ratepayers in the District of Columbia.

6 The settlement agreement includes
7 AOBA, the association that represents
8 significant commercial interests in the
9 District of Columbia. The settlement includes
10 D.C. Water, one of the largest customers of
11 Pepco in the District of Columbia, and finally,
12 it includes the NCLC and the National Consumer
13 Law Center and the National Housing Trust, an
14 advocacy organization that advocates on behalf
15 of low income and limited income customer
16 citizens.

17 We're excited to have this
18 opportunity to put our best foot forward to
19 meet our burden of proof that this merger,
20 predicated on the settlement agreement,
21 satisfies the public interest test.

22 I won't go through the commitments

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1 included in any detail, that will I'm sure be
2 covered in cross-examination, but I will
3 highlight just a couple of commitments.

4 Where the Commission was previously
5 concerned that the customer investment fund or
6 CIF did not adequately address the needs of the
7 Commission, the joint applicants through the
8 settlement agreement with their other settling
9 parties, increased the CIF to \$72.8 million,
10 more than doubling the previous amount. The
11 CIF has been earmarked for a number of
12 important measures that promote affordability
13 and sustainability including a \$25.6 million
14 fund to offset residential rate increases,
15 including for master meter departments, and to
16 be clear, that \$25.6 million will never be
17 charged to the customers of the District of
18 Columbia. In fact, none of the \$72.8 million
19 will be charged to the customers of the
20 District of Columbia.

21 There is \$14 million for an
22 immediate rate credit to appear on customer's

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1 bills. There is about \$17 million for
2 renewable generation, energy efficiency and
3 sustainability to be directed by the District
4 and finally, about \$16 million for low income
5 customers through LIHEAP and bill forgiveness
6 and other measures.

7 We've improved the reliability
8 commitment to exceed the Commission's
9 standards, and to do so without increasing a
10 specified budget for capital and O and N
11 expenditures. We've agreed to significant
12 penalties for noncompliance including financial
13 penalties.

14 Exelon and Pepco have also agreed to
15 specific enforceable commitments that will
16 promote distributed generation interconnection
17 in the District of Columbia, that will result
18 in the construction of solar generation within
19 the District of Columbia that will result in
20 the contracting for a hundred megawatts of wind
21 power and that will assist the District of
22 Columbia as it examines opportunities to build

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1 micro grids in the District of Columbia. These
2 measures clearly signal that Pepco and Exelon
3 are aligned with the public policy objectives
4 of the District.

5 Other commitments promote a strong
6 local voice for Pepco both within the Exelon
7 organization and within the District of
8 Columbia, including a commitment for not less
9 than ten years to maintain the headquarters of
10 Pepco and Pepco Holdings in the District. A
11 provision to create a board of directors of
12 Pepco Holdings, Inc., the majority of which
13 will be independent and will include at least
14 one district resident.

15 Finally, the settlement agreement
16 includes measures to promote employment in the
17 District of Columbia, notably \$5.2 million for
18 a work force development fund that is in
19 addition to the 72.8 million but like the CIF,
20 cannot be recovered from customers.

21 Obviously, the support of the
22 settling parties is very important to the joint

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1 applicants, but this settlement agreement has
2 also garnered broad support from a variety of
3 other citizens and interests in the District of
4 Columbia. At your community hearings, at our
5 community hearings on October -- November 17
6 and 18, you heard from dozens of citizens and
7 representatives of organizations who support
8 the merger because of the benefits the
9 settlement agreement brings. That included,
10 for example, the Alliance for Solar Choice, a
11 group that represents solar developers.

12 You've also received more than 3,000
13 letters from citizens and representatives who
14 support the settlement. One of those letters,
15 for example, was signed by a majority of the
16 members of the Council of the District of
17 Columbia, who requested that the Commission
18 approve the merger on the basis of the
19 settlement agreement.

20 The settling parties recognize that
21 the Commission has a difficult job as an
22 independent agency to reach its own conclusion,

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1 and we know you will weigh the evidence, you
2 will examine the witnesses, you will consider
3 the facts, you will apply the same rigor and
4 scrutiny and analysis that you did in your last
5 order.

6 The joint applicants believe they
7 have learned from the August 27 order, and that
8 they have put together a package with the other
9 settling parties that meets the public interest
10 standard for the settlement agreement and
11 indeed for the merger.

12 Pepco and Exelon are eager for the
13 opportunity to work with the District and other
14 stakeholders as the District pursues a greener
15 and cleaner future. We urge you to approve the
16 settlement agreement. Thank you very much.

17 CHAIRMAN KANE: Thank you, Mr.
18 Meier.

19 People's counsel -- let me just ask
20 who else has an opening statement. People's
21 counsel, D.C. Government, D.C. Sun, not D.C.
22 Water Grid, MAREC and Housing Trust. Okay.

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1 Thank you. Get a sense of timing.

2 MS. SISTRUNK: Good morning.

3 CHAIRMAN KANE: Good morning.

4 MS. SISTRUNK: Good morning,

5 Chairman Kane, Commissioner Fort and

6 Commissioner Phillips.

7 For the record, I am Karen Sistrunk,
8 deputy people's counsel, appearing on behalf of
9 the Office of the People's Counsel. I would
10 also like to recognize assistant people's
11 counsel Eric Sears who assisted in preparing
12 the office's opening statement.

13 Throughout this proceeding, the
14 people's counsel's sole focus has been to
15 ensure that residential consumers interests are
16 protected and that Exelon provides substantial
17 and meaningful benefits to district ratepayers.
18 Nothing has changed. The office's mission and
19 objective remains the same.

20 As you are aware, OPC is by law the
21 advocate for consumers of natural gas, electric
22 and local telephone services, and in developing

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1 its positions on public utility matters, the
2 office is required to consider public safety,
3 the economy of the District, the conservation
4 of natural resources and preservation of
5 environmental quality. The office take its
6 mission seriously and recognizes the need to
7 balance the interest of all constituents in all
8 eight wards.

9 At the same time, OPC recognizes the
10 diversity of the city and encourages public
11 participation at all levels, even where there
12 is disagreement. Accordingly, consistent with
13 our usual practice, OPC has zealously advocated
14 on behalf of D.C. ratepayers in this proceeding
15 conducting an extensive review of the merger
16 application presented during the course of the
17 trial.

18 We adamantly urge the Commission to
19 reject the merger application filed by the
20 joint applicants. The proposal as filed did
21 not provide significant consumer benefits or a
22 firm commitment from the joint applicants. OPC

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1 applauded the Commission's denial of the joint
2 applicants' original application this past
3 August.

4 However, a few weeks later after the
5 Commission's denial of the joint applicants'
6 merger proposal, OPC was approached by the D.C.
7 Office of Energy and the Environment with a new
8 and revised settlement agreement. It was
9 proffered by the joint applicants. We
10 cautiously, critically and with a healthy
11 degree of skepticism evaluated the new proposal
12 to determine whether there were any material
13 changes that the applicants offered -- changes
14 to what the applicants offered at trial and
15 more importantly, whether the new agreement
16 satisfied OPC's and the requirements and the
17 Commission's public interest requirements.

18 In our review, we determined that
19 the revised proposal appeared to be an honest
20 attempt to address the issues raised by the
21 Commission, OPC and the intervening parties.
22 Nonetheless, OPC actively negotiated for more

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1 benefits, firmer commitments and strong
2 enforcement measures.

3 The end result is the revised merger
4 proposal now before the Commission, which is
5 five times over the initial offer of \$14
6 million and more than twice its last -- Exelon
7 and Pepco's last and final trial offer of
8 \$33.75 million and it offers benefits that meet
9 or exceed OPC's proposal in its case in chief.

10 It has been suggested that OPC and
11 the other settling intervenor parties, quote,
12 change their positions. As the record will
13 reflect, it is the joint applicants who changed
14 their position and are now taking seriously the
15 concerns raised by D.C. policymakers, OPC and
16 D.C. citizens.

17 I will now briefly address some of
18 the key settlement provisions, specifically the
19 customer investment fund, reliability and
20 sustainability provisions. At trial, the
21 office challenged the sufficiency of the CIS
22 value as well as the lack of any specific

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1 allocation plan, while the Commission expressed
2 concern about the applicant's intention to flow
3 through future savings to D.C. ratepayers and
4 the lack of additional assistance to the
5 District's low income consumers.

6 OPC believes the proposed settlement
7 agreement addresses the concerns raised -- to
8 be raised regarding the CIF. First, the value
9 of the CIF has been raised to 72.8 million,
10 which is 420 percent -- an increase of 420
11 percent from the original offer of 14 million
12 and approximately 116 percent increase from the
13 revised proposal of \$33.75 million.

14 This is significant in that the CIF
15 can be thought of as a down payment on future
16 synergy savings if the merger is approved. The
17 increase in the CIF is an upfront payment to
18 consumers. The increased CIF ensures that
19 ratepayers will see substantial, immediate and
20 tangible financial benefits from this merger.

21 Second, the settlement agreement now
22 presents a clear allocation plan for the

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1 customer investment fund. In addition to the
2 direct bill credits and funds to offset future
3 rate increases, portions of the CIF will be
4 used to enhance the District's programs for
5 renewable energy development, energy efficiency
6 and sustainability.

7 Low income consumers will also
8 receive additional benefits under the CIF
9 allocation in the form of \$9 million in
10 supplemental LIHEAP funding, an arrearage
11 management plan that will provide matching
12 payment or bill credits for qualified
13 customers. The elimination of residential
14 account receivables more than two years old and
15 \$6.75 million to fund innovative energy
16 efficiency programs developed by the District
17 and the National Consumer Law Center and
18 National Housing Trust. These are tangible
19 benefits that will directly benefit consumers
20 where the need is greatest.

21 Finally, with respect to the CIF, to
22 address the Commission's concerns about future

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1 synergy savings benefiting ratepayers, the
2 merger agreement requires Pepco to flow all
3 synergy savings applicable to the District
4 through the rate making process, to reclassify
5 the regulatory support costs incurred to
6 approve this merger as transaction costs and to
7 not recover its costs to achieve in excess of
8 the documented synergy savings in future rate
9 cases.

10 With respect to reliability, as we
11 all know, Pepco's reliability performance has
12 been a major issue in recent years due to the
13 frequent and prolonged outages D.C. residents
14 have experienced. To address this problem, the
15 Commission in 2012 implemented more stringent
16 reliability standards. At trial, during the
17 merger, OPC was adamant that any new merger
18 proposal include incremental improvements above
19 and beyond the Commission-mandated reliability
20 standards.

21 The office believes the current
22 agreement addresses many of OPC's and the

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1 Commission's concerns regarding Pepco's
2 reliability performance post-merger.

3 In its order rejecting the revised
4 merger application, the Commission expressed
5 concern that for the years 2015 to 2017, there
6 were no reliability commitments and that the
7 commitments for the years 2018 through 2020
8 employed an averaging method inconsistent with
9 the current reliability standards.

10 Additionally, the Commission found
11 the inflated reliability budget commitment to
12 be potentially harmful and the return on equity
13 penalty to be weak.

14 Based on these criticisms, the
15 settling parties negotiated more robust
16 reliability commitments. First, the joint
17 applicants have committed to not only meet but
18 to exceed the Commission's standards on an
19 annual basis, from 2016 to 2020.

20 Second, the reliability related
21 capital budget commitment has been revised to
22 exclude emergency restoration expenditures and

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1 D.C. power line undergrounding projects.

2 Third, the return on equity penalty
3 has been eliminated and it's been replaced with
4 automatic penalty payments of \$2 million in
5 2018, \$3 million in 2019, and \$6 million in the
6 year 2020, for a failure to meet either SAIFI
7 or SAIDI requirements.

8 Finally, the proposed settlement as
9 penalty for overspending both the
10 reliability-related capital budget and the
11 reliability-rated O&M budget.

12 For the reliability-related capital
13 budget, Pepco would be required to place in
14 escrow \$63,000 for every \$1 million spent in
15 excess of the budget target for that year. OPC
16 believes that the reliability commitment
17 contained in this proposed agreement will
18 produce incremental improvements in reliability
19 greater than the current reliability standards
20 and that the revised financial penalties
21 provides a company sufficient financial
22 incentive to meet the enhanced standards.

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1 With respect to sustainability. In
2 accordance with the Clean and Affordable Energy
3 Act, the Commission designated the public
4 interest factor to examine conservation of
5 natural resources and preservation of
6 environmental quality. The Commission found
7 that neither the initial nor the revised merger
8 application contained sufficient commitments to
9 support the growth of distributed generation
10 and the use of renewables in the District.

11 The proposed settlement agreement
12 now contains several provisions that enhance
13 and support the policy objectives contained in
14 the Clean and Affordable Energy Act, the
15 Distributed Generation Amendment Act and the
16 sustainable D.C. plan.

17 In addition to the contribution to
18 the sustainable energy trust fund, the
19 renewable energy development fund and the green
20 building fund, the joint applicants have
21 committed to develop ten megawatts of solar
22 generation, enhanced Pepco's interconnection

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1 process and waive the hundred dollar
2 interconnection applications fee, establish a
3 reasonable time frame for interconnection,
4 procure 100 megawatts of wind energy from wind
5 generation facilities located in the PJM
6 footprint, and provide \$5 million in capital to
7 government entities for the development of
8 renewable energy projects in the District.

9 In conclusion, the terms and
10 conditions of this merger proposal provide
11 direct and tangible benefits to ratepayers
12 through direct bill credits, several years of
13 rate stability, improved service reliability
14 and support for distributed generation and
15 renewables in the District. The cost of these
16 benefits will not be recovered from D.C.
17 ratepayers but rather will be paid for by
18 Exelon shareholders.

19 Based on the foregoing, OPC
20 respectfully submits that the merger of PHI and
21 Exelon based on the terms of the settlement
22 agreement should be approved as being in the

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1 public interest. Thank you.

2 CHAIRMAN KANE: Thank you. Ms.

3 Francis? No, Mr. Caldwell.

4 MR. CALDWELL: Thank you, Your

5 Honor.

6 Good morning, Chairman Kane and

7 Commissioners Fort and Phillips. I am

8 assistant attorney general Brian Caldwell and

9 I'm appearing on behalf of the District of

10 Columbia Government today.

11 At the outset, the District of

12 Columbia Government would like to thank the

13 Commission for its thorough analysis of this

14 matter in Order No. 17947 issued on August 25,

15 2015.

16 Indeed, the proposed settlement

17 agreement that is before you today is the

18 direct result of the Commission rejecting the

19 joint applicants' initial proposal. It was

20 precisely that rejection that caused the joint

21 applicants to respond by offering a far more

22 substantial set of benefits than what they

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1 previously proposed.

2 Order 17947 recognizes the numerous
3 deficiencies that the D.C. Government, Office
4 of People's Counsel, AOBA and others raised in
5 connection with the joint applicants' proposed
6 application to merge. That order laid the
7 foundation upon which the proposed settlement
8 agreement was constructed.

9 As a result, the District government
10 is pleased to be a signatory to the settlement
11 agreement which cures many of the previous
12 shortcomings and pushes the proposed merger
13 squarely into net benefit territory for
14 district residents.

15 For example, in contrast to the
16 joint applicants' previous merger proposal,
17 which the Commission found contained no
18 incremental benefits for low income residents,
19 many of whom are elderly and on fixed incomes,
20 the agreement before you now provides for over
21 \$16 million in energy assistance funds. This
22 exceeds by \$2 million the \$14 million total

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1 customer investment fund that joint applicants
2 originally proposed for the entire District of
3 Columbia jurisdiction.

4 As Department of Energy and
5 Environmental Director Tommy Wells testified,
6 \$9 million of this money will be used to fully
7 fund the District's low income home energy
8 assistance program or LIHEAP. For a period of
9 years, it represents a vital lifeline for low
10 income families struggling to keep their homes
11 warm in the winter and cool in the summer, and
12 who are regularly turned down for LIHEAP
13 assistance due to a lack of available funds.

14 As Director Wells further testifies,
15 \$6.75 million of these funds will be used for
16 weatherizing the homes of low income families
17 to reduce their energy bills by making their
18 homes more energy efficient. This program will
19 extend to the homes of low income families
20 living in master meter apartments and other
21 multifamily dwellings.

22 Finally, Pepco has agreed in the

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1 settlement to forgive any existing customer
2 debts that are more than two years old and
3 develop an arrearage management program for
4 LIHEAP qualifying customers to help them pay
5 down their outstanding balances. The benefits
6 to low income customers contained in the
7 settlement agreement are tangible and are above
8 and beyond what is currently provided by law.

9 These commitments are in addition to
10 the benefits that all residential ratepayers
11 will receive from direct bill credits in
12 offsets to rate increases. Such offsets will
13 also be offered to master metered apartment
14 buildings where many low income families
15 reside.

16 A second major area of deficiency
17 cited by the Commission involved the joint
18 applicants' failure to offer any incremental
19 benefits with respect to Public Interest Factor
20 7, the conservation of natural resources and
21 environmental quality.

22 In contrast to the joint applicants'

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1 previous merger proposal, the settlement
2 agreement now provides a number of financial
3 and nonfinancial commitments to cure this
4 Commission cited deficiency. As Director Wells
5 testifies, the joint applicants now commit to
6 allocating \$10 million to the District's green
7 building funds to establish a green bank which
8 will spur innovation and sustainable
9 technologies. \$3.5 million will go to the
10 District's sustainable energy trust fund to
11 expand the size and the scope of the
12 sustainable energy utilities programs and
13 offerings. Another \$3.5 million will go to the
14 District's renewable energy development funds
15 to develop new solar installations in the
16 District.

17 In addition, as Director Wells
18 testifies, the joint applicants now commit to
19 among other things developing between seven and
20 ten megawatts of solar in the District. The
21 cost of which will not be recovered in
22 distribution rates, an enhanced solar

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1 interconnection procedure which should help the
2 District move closer to achieving its renewable
3 portfolio standard requirements.

4 Although these commitments will not
5 guarantee that the District meets its renewable
6 portfolio standard requirements, there can be
7 no doubt that these commitments move the
8 District in the right direction and represent a
9 tangible benefit not present in the joint
10 applicants' earlier proposal.

11 The Commission also found deficient
12 the joint applicants' previous commitments to
13 system reliability. As District of Columbia
14 witness Ralph Smith testifies, the reliability
15 commitments in the settlement agreement have
16 been enhanced significantly. For instance, the
17 settlement agreement requires Pepco's
18 compliance with annual SAIDI and SAIFI targets
19 rather than a three-year rolling average.

20 Pepco must meet these targets or
21 face automatic noncompliance payments rather
22 than a one-time return on equity penalty that

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1 would not be incurred until 2021 as previously
2 committed.

3 The settlement agreement decouples
4 Pepco's reliability commitments from a pre-set
5 D.C. plug construction schedule. In addition,
6 the settlement agreement provides that Pepco
7 must reach its enhanced SAIDI and SAIFI targets
8 within a specific budget. These are tangible
9 reliability benefits that would not exist in
10 the absence of the settlement agreement.

11 There are a number of other benefits
12 incurred upon ratepayers by the settlement
13 agreement, not the least of which is the \$72.8
14 million customer investment fund, a separate
15 \$5.2 million work force development fund and
16 Pepco's commitment to donate at least \$19
17 million over ten years to charitable
18 organizations located in the District.

19 The settlement agreement devotes \$14
20 million from the customer investment fund which
21 was the total amount that the joint applicants
22 proposed to the District in their initial

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1 application, for direct bill credits to
2 residential customers including low income
3 customers.

4 There was also a provision for \$25.6
5 million dollars in credits to offset future
6 rate increases so that all residential
7 customers including residents in master metered
8 apartments enjoy benefits similar to a rate
9 increase for a period of three years.

10 As the foregoing examples
11 illustrate, the Commission's comprehensive
12 analysis in Order No. 17947 has led to a
13 proposed settlement agreement from the joint
14 applicants that is far superior in a number of
15 material respects. The District government
16 expects that an Exelon-owned Pepco will be a
17 good corporate partner with the District and
18 will honor its obligations. Over the
19 settlement agreement, it preserves Pepco as a
20 separate local company which will be regulated
21 by and accountable to this Commission.

22 With the foregoing understanding,

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1 the District government believes that approval
2 of the settlement agreement will promote the
3 merger on the conditions of the settlement
4 agreement is now in the public interest. Thank
5 you very much.

6 CHAIRMAN KANE: Thank you, Mr.
7 Caldwell. Mr. Speck?

8 MR. SPECK: Good morning, Madam
9 Chair, Commissioner Fort, Commissioner
10 Phillips.

11 As this Commission found in its
12 August 27 order, Exelon has an inherent
13 conflict of interest that permeates every
14 aspect of its proposed acquisition of our local
15 utility. A very -- a few small rapidly
16 evaporating rate concessions will not rectify
17 that this basic conflict with electric
18 customers interests that conflict and that
19 conflict creates unacceptable risks.

20 Exelon still derives half of its
21 revenue from its merchant generation fleet,
22 most of which consist of aging nuclear plants

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1 that are rapidly becoming economically
2 obsolete. Exelon will still seek to maximize
3 profits from that essential component of its
4 business. In other words, it will adopt
5 corporate policies that are designed to prop up
6 the price customers pay for energy, very much
7 to customer's detriment. Regardless of the
8 ring-fencing provisions, Exelon's distributed
9 utilities will still be vulnerable to one of --
10 to the structural weaknesses of its generation
11 business and Pepco will still be one of the
12 cash cows that subsidize the rest of Exelon's
13 portfolio.

14 The Commission should not be misled
15 by the essentially trivial short-term payments
16 that Exelon can easily afford to make so that
17 it can appropriate the District's electric
18 franchise and then milk its customers for years
19 to come. Nor do hollow self-serving promises
20 to develop a few renewable resources undo
21 Exelon's clearly stated corporate policies that
22 are antithetical to the District's commitment

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1 to conserve natural resources and preserve
2 environmental quality.

3 Exelon still seeks to control the
4 development of renewable next generation with
5 an outdated centralized control paradigm.
6 Exelon still views distributed generation as an
7 essential threat that it must control including
8 through its opposition to facilitating
9 legislation. Exelon will gladly agree to build
10 a token number of profitable solar or wind
11 generation facilities or to develop rate-based
12 micro grids if by doing so, it displaces more
13 competitive suppliers and impedes an already
14 vibrant market.

15 Nothing in the proposed settlement
16 agreement suggests that Exelon has been
17 miraculously transformed into the kind of
18 enthusiastic partner that will carry out
19 policies and operations for a local
20 distribution system with a greater amount of
21 distributed generation.

22 As evidence of Exelon's true

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1 character, the Commission should need look no
2 further than Formal Case 1130, which is
3 examining ways to modernize the grid to better
4 accommodate new technologies.

5 Four days after Order 17947, Pepco,
6 already in the throws of Exelon, submitted a
7 terse two-page recitation of problems and
8 concerns about the cost and impediments to
9 integrating new technologies. The same kind of
10 nay-saying that Exelon pushed in New York's rev
11 proceeding and that D.C. Sun summarized in
12 Appendix A to its initial post-hearing brief.

13 The Commission should contrast
14 Pepco-Exelon's position in August 2015 with
15 Pepco's pre-Exelon plans for Utility 2.0 for
16 the grid of the future, which is represented in
17 D.C. Sun, Cross Exhibit 2, when this
18 pre-Exelon, Pepco enthusiastically embraced new
19 technological developments and outlined an
20 ambitious plan to make the grid of the future
21 fully-compatible with customer needs.

22 That is the kind of distribution

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1 company that the District needs and currently
2 has with Pepco, but it will relinquish that if
3 the Commission permits Exelon to acquire Pepco.

4 Paragraph 129 of the settlement
5 agreement which addresses Formal Case 1130 is
6 pathetically weak tea. And particularly in
7 light of Exelon's track record, offers no
8 assurance of the enthusiastic support that the
9 Commission and the District require.

10 Before Order 17947, the District
11 government and OPC raised urgent alarms over
12 Exelon's inherent conflict of interest, but
13 they have apparently been nullified by Exelon's
14 ability to use its money and influence to bend
15 opinions. The Commission should not be swayed
16 by such tactics. Exelon will always be able to
17 overwhelm its underfunded oppositions with
18 saturation advertising, political
19 contributions, a cadre of lobbyists or by
20 offering \$25 million side deals for unspecified
21 naming rights.

22 The Commission's job is to protect

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1 the public interest realizing that this
2 decision in this proceeding will be forever.
3 It would be imprudent and unconscionable to
4 saddle customers with intolerable long-term
5 risks in return for a few quickly dissipated
6 bubbles.

7 As D.C. Sun advised the Commission
8 on November 4, the accelerated schedule makes
9 it impossible for D.C. Sun with its limited
10 resources to conduct meaningful discovery, file
11 supplemental testimony or conduct productive
12 cross-examination. Rather, D.C. Sun will rely
13 on the comprehensive record that the Commission
14 has already compiled, including the extensive
15 testimony from customers and on the
16 Commission's own interrogation of the
17 settlement parties witnesses.

18 The Commission has demonstrated
19 through this proceeding its ability to test
20 assertions and to reach its own conclusions,
21 and we are confident that it will be so with
22 respect to the proposed settlement agreement.

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1 The standard is clear, Order 17947 lays out the
2 requirements and how the Commission will apply
3 them in this proceeding.

4 The Commission's task now is to
5 assess whether the proposed settlement
6 satisfies that standard. We submit that it
7 does not. Relying on Order 17947 and the
8 abundance of evidence in the record, D.C. Sun
9 will show in its brief that the settlement
10 agreement is deficient with respect to each of
11 the seven public interest factors, and that the
12 defects that led the Commission to reject the
13 application before, warrant rejection again.

14 Let me briefly go through each of
15 the public interest factors.

16 With respect to Factor 1, the
17 so-called customer investment fund, the CIF.
18 The benefit for customers is short-lived at
19 best and completely illusory or inconsequential
20 at worst. The reported rate credit excludes
21 the largest class of customers including the
22 federal government, and masks residential rate

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1 increases that will come home to roost in April
2 2019 producing unbearable rate shocks. The \$14
3 million one-time bill credit is, by any
4 measure, trivial fleeting compensation for the
5 long-term economic and environmental risks that
6 those customers will be required to assume.

7 Most of the remaining CIF payments
8 will go to the District government where they
9 will either displace taxpayer funds that would
10 otherwise be used for those purposes or will,
11 as with past earmarked funds, be subject to the
12 council's re-appropriation to the District's
13 general fund.

14 There is no evidence that this now
15 somewhat larger CIF will provide any
16 incremental benefit. Moreover, the increased
17 CIF will still leave the District in the same
18 unequal position vis-a-vis other PHI
19 jurisdictions, because the Most-Favored-Nation
20 Provisions in Maryland, New Jersey and Delaware
21 will ensure that the District's share of the
22 total CIF will be allocated based on the number

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1 of meters, not on an appropriate basis, either
2 the local operating company sales, rate base or
3 net income. Nor will the settlement agreement
4 assure any more long-term jobs than the earlier
5 application that the Commission rejected.

6 Indeed, a utility that supports and
7 encourages competitive development of new
8 technological resources will create far more
9 local jobs than proffered in this settlement
10 agreement.

11 As to Factor 2, despite some window
12 dressing, control of our utility will
13 unequivocally rest with Exelon in Chicago.
14 When vital corporate interests are at stake,
15 like the interest in projecting murky
16 generation revenues, none of the settlement
17 agreement's provisions will prevent Exelon from
18 exercising its will to the detriment of
19 district customers.

20 Unfortunately, the joint applicants
21 chose not to submit supplemental testimony from
22 Exelon's CEO Mr. Crane, from PHI's CEO Mr.

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1 Rigby, or even Exelon Utility's CEO Mr.
2 O'Brien, the top executives who are most
3 qualified to testify about the extent of
4 Exelon's control over Pepco. Those executives
5 made it clear in earlier testimony, however,
6 that Exelon will dictate key policies and
7 nothing in the settlement agreement renounces
8 that testimony.

9 With respect to Factor 3, the
10 settlement agreement's reliability provisions
11 will not provide material improvements over the
12 joint applicants' previous rejected proposal.
13 While some provisions are tightened up, the key
14 fact remains, Pepco has already made
15 substantial reliability improvements and
16 reliability will improve due to D.C. plug
17 whether PHI remains as a standalone utility or
18 becomes an Exelon subsidiary.

19 Nor does the settlement agreement or
20 the testimony give any clue as to how Exelon
21 and Exelon Utility will act differently or what
22 Exelon will actually do that will produce

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1 greater reliability or safety.

2 For Factor 4, Exelon's inherent
3 conflict of interest cannot be completely cured
4 by the ring-fencing provisions proffered in the
5 settlement agreement, which are largely
6 unchanged from the application that the
7 Commission denied. I will point the Commission
8 to the recent energy future bankruptcy
9 proceeding in Texas which provides a cautionary
10 lesson that bankruptcy can threaten to displace
11 ring-fencing provisions, even if they are much
12 more robust than the ones in this settlement
13 agreement.

14 For instance, in the Texas
15 proceeding, the ring-fencing provisions
16 included mandatory minority ownership of the
17 utility. Like energy future, Exelon will be
18 particularly susceptible to the vagaries of the
19 energy market and could well see the same fate
20 which would create intolerable risks for Pepco
21 customers and will not be mitigated by these
22 ring-fencing arrangements.

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1 The settlement agreement's purported
2 failsafe break-up provision offers no solace,
3 because by the time Exelon files for
4 bankruptcy, the damage will have been done, and
5 the fate of Pepco will be within the providence
6 of the bankruptcy court, not the Commission.

7 In any case, there is no way that
8 Exelon's acquisition of Pepco could provide a
9 net benefit with respect to Factor 4 since the
10 status quo with no potential detriment from a
11 conflicted parent company is unambiguously
12 preferable to the proposed merger.

13 With regard to Factor 5, the
14 processes we've all witnessed since the
15 Commission issued Order 17947 demonstrate the
16 difficulties that the Commission will face in
17 attempting to regulate Exelon.

18 Exelon has tried to use its
19 disproportionate financial muscle by blanketing
20 the media in an attempt to reverse perceived
21 public opinion by making payments for nebulous
22 naming rights, by dangling forthcoming

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1 political contributions and by using charitable
2 contributions to secure support, all as part of
3 an effort to reverse the Commission's order.

4 The nuts and bolts of regulation
5 will be more difficult as a result of the added
6 layer above PHI. But more importantly, Exelon
7 will always been the largest elephant in the
8 room. And it has shown in other jurisdictions
9 how it seeks to achieve its corporate policy
10 objectives through brut political influence
11 rather than through transparent regulatory
12 channels.

13 For Factor 6, the settlement
14 agreement does not adequately address the
15 Commission's concerns about Exelon's inherent
16 conflict of interest and the effect it will
17 have on distributed generation.

18 Indeed, by putting Exelon in a
19 preferred position for solar and microgrid
20 development, the settlement agreement
21 exacerbates rather than alleviates these
22 concerns. The settlement agreement is

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1 anticompetitive and would permit Exelon to
2 stifle other interests seeking to develop new
3 technology resource that would stimulate a
4 competitive market and provide greater benefit
5 for customers.

6 Even the decision about whether
7 Exelon will remain in PJM, which is in the
8 settlement in Paragraph 116, which provides
9 some check on anticompetitive behavior, is not
10 ironclad and can be made without any input from
11 this commission.

12 Finally, with respect to Factor 7,
13 there is no evidence that the settlement
14 agreement will produce any incremental benefit
15 over what Pepco could achieve relying on the
16 natural operation of the District's vibrant
17 competitive market.

18 First, as I noted, the CIF payments
19 to the District ostensibly for clean and --
20 energy and sustainability may not provide any
21 net benefit because the funds may be either
22 replaced -- may either just replace funds that

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1 the District would otherwise spend, or they may
2 simply be diverted to the District's general
3 funds.

4 Second, the settlement agreement's
5 interconnection provisions are virtually
6 identical to those adopted in other
7 jurisdictions and, at best, simply reflect
8 minimum prudent behavior. Moreover, Exelon
9 Utilities' CEO has testified that he could
10 identify no best practices that Exelon would
11 bring to Pepco's interconnection procedures and
12 agreed that Exelon may actually learn from
13 Pepco rather than the other way around.

14 Third, the commitment to build
15 between 7 and 10 megawatts of solar generation
16 is illusory and even counterproductive for
17 several reasons. This commitment takes credit
18 for the 5 megawatts of solar that D.C. Water
19 has already been planning to install and that
20 it will likely be -- that likely will be
21 installed without Exelon if it makes economic
22 sense. If the project doesn't make sense, it

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1 won't be built, with or without Exelon.

2 No solar will be built under this
3 provision unless Exelon receives what it
4 considers commercially reasonable terms. In
5 other words, unless it can make a profit.

6 In short, nothing about the merger
7 will change the economics of the Blue Plain
8 solar project or any other solar project
9 contemplated by the settlement agreement, and
10 there will be no merger benefits above what
11 would occur anyway.

12 Moreover, if Exelon builds this 7 to
13 10 megawatts of solar generation at
14 commercially reasonable terms, it will displace
15 competitive development from the private sector
16 and will build it anyway because the market
17 makes those installations worthwhile.

18 Fourth, Exelon's commitment to
19 purchase new or existing wind energy capacity
20 and ancillary services located anywhere in the
21 PJM territory will, like any solar
22 installation, merely meet existing RPS

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1 requirements and will not provide an
2 incremental environmental benefit.

3 Fifth, the arbitrary commitment to
4 develop four microgrids fails to provide a
5 benefit for a number of reasons. It sidesteps
6 the Commission's regulation because it permits
7 the cost to be recovered from customers through
8 rates even though the Commission has made no
9 determination whether the benefits of those
10 families justify the costs or whether other
11 alternatives would be more beneficial.

12 It gives Exelon an unfair advantage
13 in developing emerging technology by keeping
14 competitors out of the market, which will tend
15 to stifle microgrid development or increase its
16 costs. There is no evidence that Pepco could
17 not provide exactly the same services as
18 provided by Exelon.

19 In sum, this proposed deal suffers
20 from the same deficiencies that the Commission
21 found in Order 17947 that required it to reject
22 the application as inconsistent with the public

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1 interest.

2 D.C. Sun urges the Commission to be
3 vigilant in scrutinizing the settlement -- the
4 settling party's case. While this iteration of
5 commitments marginally improve some aspects of
6 the deal, like the CIF, it still falls short of
7 the Commission's standard for a transaction
8 that is in the public interest.

9 The two key deficiencies that the
10 Commission -- that led the Commission to deny
11 this application, the loss of control and
12 Exelon's inherent conflict of interest, still
13 loom as critical detriments to the public
14 interest.

15 The Commission should not risk the
16 District's electricity future and the welfare
17 and security of our children and grandchildren
18 by turning over our local distribution utility
19 to an owner that will never be in sync with the
20 District's interest.

21 PHI's CEO testified that Pepco can
22 meet all of the customers' needs without this

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1 merger but that he pursued a deal with Exelon
2 because it provided \$1.6 billion in added
3 shareholder value.

4 If PHI believes that its
5 shareholders need a substantial premium that
6 can only be achieved through a sale, there are
7 other suitable suitors. Exelon, however, comes
8 with unacceptable baggage that creates
9 intolerable long-term risk for customers in the
10 District.

11 The Commission should again deny
12 this application because, taken as a whole, it
13 is not in the public interest.

14 Thank you.

15 CHAIRMAN KANE: Thank you, Mr.
16 Speck.

17 Ms. White.

18 MS. WHITE: D.C. Water does not have
19 an opening statement. We enthusiastically
20 endorse the opening statements of the District
21 Government and OPC.

22 CHAIRMAN KANE: Thank you.

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1 MR. RORIES: The same is true for
2 Grid 2.

3 CHAIRMAN KANE: That you don't have
4 a statement.

5 MR. RORIES: That we have no
6 statement, and we enthusiastically endorse the
7 statements that were just referred --

8 CHAIRMAN KANE: Of D.C. Sun.

9 MR. RORIES: Of Mr. Speak and of the
10 others that are in opposed to the settlement
11 agreement.

12 CHAIRMAN KANE: Thank you for
13 clarifying. Thank you.

14 MS. ELEFANT: Good morning, Your
15 Honors.

16 Nothing has changed. Nothing has
17 changed since MAREC and the other parties here
18 sat here many months ago. The same concern
19 that MAREC had back when the merger was
20 proposed remains.

21 As MAREC wrote in its brief in
22 response -- in its post-hearing briefs, the

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1 proposed merger will entrench Exelon as a
2 dominant utility in the Mid-Atlantic region.
3 It will expand it's influence in PJM even as
4 Exelon's animosity to renewables as a means to
5 insulate its struggling nuclear assets from
6 competition are directly at odds with the
7 D.C.'s aggressive and robust renewable
8 policies.

9 There's nothing -- as D.C. Sun has
10 stated very extensively, there's nothing in
11 this proposal that addresses those concerns,
12 which the Commission as well found to be
13 problematic in its order denying the merger.

14 Rather than reiterate many of the
15 points that D.C. Sun has already raised, I'll
16 focus on a few other matters.

17 In this merger proceeding, the
18 Commission established, at the behest of the
19 parties, Public Interest Factor 7, which is
20 intended to examine the impact of the merger on
21 renewables and -- renewables and the
22 environment and energy matters.

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1 Despite having proposed this new
2 public interest factor, the applicants did not
3 offer any commitments initially that would
4 address Public Interest Factor 7. At most,
5 there may have been an opportunity where they
6 had proposed that part of the consumer
7 investment fund could be used to address
8 renewable issues.

9 But notwithstanding this newly
10 announced policy, the joint applicants showed
11 their true colors by testing it out and not
12 proposing anything in response to it.

13 I think it also bears noting that
14 the nonsettling parties in this proceeding are
15 comprised of groups with a mission to -- to
16 support and promote renewable energy:
17 D.C. Sun, Grid 2.0, MAREC, MDV-SEIA. And the
18 fact that these parties are the ones that
19 aren't settling suggests that the policies that
20 are being proposed by the joint applicants are
21 incompatible with the goals of renewable
22 energy.

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1 Now, I'll admit that the Commission,
2 in its order, found that the impact with regard
3 to Public Interest Factor 7 was neutral.
4 However, there are still other problems with
5 other factors.

6 The new proposals that the applicant
7 has made in response to Public Interest Factor
8 7 are commitments without any teeth that
9 counsel for the applicants described these
10 commitments as binding. And yes, they are.
11 But they also, by their own terms, have
12 loopholes and escape clauses.

13 For example, Mr. Speak already
14 discussed some of the loopholes in the
15 development of the 10 megawatt solar project.
16 With regard to the wind contract, Exelon is not
17 even required to issue an RFP for five years
18 until after the Commission's order on the
19 merger is -- is issued.

20 So these commitments are things that
21 are very far down the line an most likely
22 undertakings that Exelon -- that the new

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1 company would have to undertake anyway in order
2 to comply with RPS -- with RPS standards.

3 And finally, these commitments are
4 also a drop in the bucket compared to Exelon's
5 22,000-plus megawatts of generation that it
6 owns or controls within the region. So these
7 proposal that the applicant has belatedly come
8 forward with to comply with Public Interest
9 Factor 7 don't even do that much.

10 The other matter that I would ask
11 the Commission to evaluate in this proceeding
12 is the applicants seem to suggest that there's
13 no harm, no foul. The Commission denied the
14 merger. The applicant comes back with these
15 new settlement or offers to placate parties.

16 But I would submit that there is
17 substantial foul. Because if this is what it
18 takes to get Exelon to come to the table and to
19 propose -- to propose measures that would even
20 purport to satisfy D.C. ratepayers, then that's
21 too much.

22 We spent days, weeks at these

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1 hearings. The rate -- taxpayer dollars went to
2 pay for the D.C. Government participation.
3 Individuals groups came forward with attorney
4 fees.

5 None of those costs, none of the
6 extensive costs of these hearings will ever be
7 recovered. And yet, if it takes that much in
8 order to get Exelon to even come forward
9 halfway with what it could have done at the
10 beginning, that's too much.

11 As the Commission evaluates these
12 new proposals and evaluates the testimony in
13 this case, one of the questions that it should
14 ask itself is whether the applicant's conduct
15 and its manner of doing business in this
16 proceeding is reflective of turning a new page
17 or if this is just a harbinger of things to
18 come if this is what we can expect as business
19 as usual from Exelon, a war of attrition and
20 fighting and wasted fees and costs just to get
21 action to be taken that could have been done at
22 the outset.

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1 We would submit that the latter is
2 true, that -- and that this -- and that for the
3 other reasons that I've discussed already and
4 that D.C. Sun has discussed, that this merger
5 does not satisfy the public interest and should
6 be denied.

7 Thank you.

8 CHAIRMAN KANE: Thank you.

9 MS. WEIN: Good morning, Your --

10 CHAIRMAN KANE: Morning.

11 MS. WEIN: Good morning, Your
12 Honors.

13 Again, my name is Olivia Wein. I'm
14 a staff attorney at the National Consumer Law
15 Center representing NCLC, the National Housing
16 Trust and National Housing Trust Enterprise.

17 NCLC and NHT are mission-driven
18 nonprofit organizations that seek to improve
19 the lives of low-income families. NCLC
20 advocates on behalf of the interest of
21 low-income residential energy consumers. And
22 NHT is a developer and owner of affordable

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1 housing and a lender to other organizations
2 that development affordable housing.

3 In our initial petition to
4 intervene, we were seeking to ensure that there
5 were clearly identified and substantial
6 benefits for the families in the District who
7 live in affordable multifamily housing. In
8 particular, we had a focus on improving the
9 energy efficiency of affordable multifamily
10 housing both to reduce the bills for the
11 tenants who pay directly for the utilities and
12 to help maintain housing as affordable in the
13 long run.

14 We noted that keeping energy costs
15 low in multifamily housing is critical to
16 maintaining affordable homes for low-income
17 families in the District.

18 In the earlier phase of this
19 proceeding, we filed a brief opposing the
20 merger precisely because it did not include
21 substantial benefits for the most vulnerable
22 consumers. We also recommend that the

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1 Commission not approve the merger unless there
2 were, in fact, substantial investments for
3 energy efficiency and affordable multifamily
4 housing and direct and tangible benefits for
5 low-income households.

6 As touched upon in the prior opening
7 statements by OPC and the District of Columbia
8 Government and the testimony of our witness,
9 the settlement agreement includes identifiable
10 and substantial benefits for low-income
11 households in the District, and we therefore
12 fully support the Commission approving the
13 settlement agreement.

14 Thank you.

15 CHAIRMAN KANE: Thank you, Ms. Wein.

16 All right. That concludes our
17 opening statements.

18 We will mark company -- applicants
19 want to put your application in?

20 MR. MEIER: Yes, ma'am.

21 CHAIRMAN KANE: Marked as an
22 exhibit?

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1 MR. MEIER: We would like to mark
2 and stipulate the admission of the settlement
3 agreement as Joint Applicant NSA 1.

4 And -- and everyone should have
5 received that. I think that will facilitate
6 the proceedings going forward.

7 CHAIRMAN KANE: Thank you. That
8 will be so marked -- entered and so marked.

9 (Joint Applicant Exhibit NSA 1 was
10 marked for identification and received into
11 evidence.)

12 CHAIRMAN KANE: Now, we will -- as I
13 said, it's 11:30. I think we will need to
14 proceed with D.C. Government, would be our
15 first witness, so that -- Mr. Wells -- we have
16 adequate time to cross-examine and ask
17 questions of Mr. Wells and get his testimony,
18 et cetera, into the record.

19 So Mr. Caldwell.

20 MR. CALDWELL: Thank you very much,
21 Your Honors. And appreciate that
22 accommodation.

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1 The District Government at this time
2 calls Director Tommy Wells to the stand.

3 TOMMY WELLS,

4 being first duly sworn, to tell the
5 truth, the whole truth and nothing but the
6 truth, testified as follows:

7 DIRECT EXAMINATION BY COUNSEL FOR DISTRICT OF
8 COLUMBIA GOVERNMENT

9 BY MR. CALDWELL:

10 Q. Can you please state your name for
11 the record.

12 A. Yes. I'm Tommy Wells, the director
13 of the District Department of Energy and
14 Environment.

15 Q. And on whose behalf are you
16 appearing today?

17 A. Actually on behalf of the Department
18 of Energy and Environment for D.C. and the D.C.
19 Government.

20 Q. Are you the same Tommy Wells that
21 submitted testimony in support of the
22 settlement agreement on October 30th, 2015, the

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1 test --

2 A. Yes.

3 Q. -- the testimony being premarked as
4 Exhibit DCG H?

5 A. Yes, I am.

6 MR. MEIER: I'd like to have marked
7 for the record DCG H.

8 CHAIRMAN KANE: So marked.

9 (Exhibit DCG H was marked for
10 identification.)

11 BY MR. CALDWELL:

12 Q. And if I were to ask you the same
13 questions today, would your answers be the
14 same?

15 A. Yes.

16 Q. And was the testimony prepared by
17 you or under your direct supervision?

18 A. Yes, it was.

19 MR. CALDWELL: Thank you.

20 Your Honors, I believe, as we were
21 granted opportunity to provide some brief
22 rebuttal, I'm going to ask the witness a few

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1 questions on nonsettling parties' testimony.

2 CHAIRMAN KANE: Certainly.

3 BY MR. CALDWELL:

4 Q. Mr. Wells, Witness Burcat on behalf
5 of MAREC, testifies on Exhibit MAREC A, Page 7,
6 at Lines 13 through 15, that, in reference to
7 the commitments made for renewable generation,
8 he says that the first thing you'd like to
9 note, quote: I note that the proposed merger
10 remains opposed by all of the intervenors that
11 support and promote renewable energy. That
12 fact alone should give the Commission pause as
13 it considers whether the applicants have
14 satisfied Public Interest Factor 7.

15 Do you have anything to say in
16 response to that statement?

17 A. Well, I just have to say that, as
18 the District of Columbia, through the
19 Department of the Environment and Department of
20 Government Services, this is the largest
21 investor in pushing forward renewable energy in
22 the District of Columbia.

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1 We -- I cannot agree that -- that
2 the -- the other entities are the only ones
3 that represent an interest in renewable energy.

4 We have also the Department of
5 D.C. -- well, we have D.C. Water. They have
6 just unveiled one of the largest anaerobic
7 digesters in the world, and that's renewable
8 energy. And we're working with them to realize
9 an expansion of more renewable energy through
10 solar power.

11 So those two entities alone I
12 believe are the largest investors in renewable
13 energy and will continue to be, along with
14 the -- the new initiative that was unveiled
15 yesterday by the mayor to put solar power on 15
16 D.C. buildings, which will be a substantial
17 investment, one of the largest in the country,
18 of solar investment.

19 Q. Thank you.

20 Now I'd like to turn your attention
21 to the testimony of Scott Hempling where at
22 Page 52, Line 18, it begins, in reference to

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1 Joint Applicants' NSA 1, which is the
2 settlement agreement, at Paragraph 9(a) -- I'm
3 sorry -- 9(c) -- that's the provision that
4 provides for \$6.75 million for energy
5 efficiency programs developed or designated by
6 the District in consultation with the National
7 Consumer Law Center and National Housing Trust
8 targeted towards both affordable multifamily
9 units and master-metered multifamily buildings
10 which include low- and limited-income
11 residents -- Mr. Hempling states that, in
12 reference to that provision: Asking this
13 commission to approve and arrangement where
14 private parties who support Exelon's private
15 business strategy give preferred access to
16 governmental decision-makers is inconsistent
17 with democratic principles. Excluding someone
18 from these government-held meetings, excluding
19 them from the promised consultation merely
20 because they decline to sign this defective
21 document is to turn to -- government function
22 over to private parties, something one sees in

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1 undemocratic nations but not something
2 appropriate in the capital of our nation.

3 A. One --

4 Q. Do you have anything to say about
5 that?

6 A. Yes. NCLC, as recognized by the
7 Public Service Commission, has an interest, and
8 they are a intervening party. They are -- have
9 shown to be -- that this is a value added and
10 that in no way would this exclude having all
11 the other parties that are interested in
12 helping shape the investment of the
13 \$6.75 million from being at the table.

14 It is not an exclusive agreement.
15 It's just an assurance that NCLC will be at the
16 table as well as other parties in the District.
17 We want and encourage and will have other
18 parties in the District at the table in
19 determining the investment of those funds.

20 So that is not an exclusive
21 arrangement. And it would not be in the
22 public's interest for that to be an exclusive

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1 arrangement.

2 MR. CALDWELL: Thank you very much.

3 And with those two questions, the
4 witness is available for cross-examination.

5 CHAIRMAN KANE: Thank you.

6 Cross-examination? Anyone?

7 MS. ELEFANT: Yes. I --

8 CHAIRMAN KANE: Yes. MAREC. Go
9 ahead.

10 CROSS-EXAMINATION BY COUNSEL FOR MAREC

11 BY MS. ELEFANT:

12 Q. Good afternoon, Mr. Wells -- or is
13 it Dr. Wells?

14 A. No. It's Mr. Wells.

15 Q. Okay. Well, then I elevated you.
16 So do you have your -- a copy of
17 your testimony with you?

18 A. Yes, I do.

19 Q. Okay. So -- and actually, before
20 we -- we address that, I just wanted to ask you
21 about some of the District of Columbia's
22 policies.

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1 Now, you testified before that D.C.
2 is one of the largest -- was it developers
3 or --

4 A. Investors in -- in renewable energy
5 in the District of Columbia, yes.

6 Q. And you also testified that D.C.
7 Government supports and promotes renewable
8 energy; is that accurate?

9 A. Absolutely.

10 Q. Now, the D.C. Government, in
11 addition to supporting and promoting renewable
12 energy, has other interests that it supports
13 and promotes; isn't that right?

14 A. Of course.

15 Q. So -- so supporting and promoting
16 renewables is not the District's sole mission,
17 is what I'm getting at; is that right?

18 A. No. We're -- we're a government.

19 Q. Okay. Okay. I wanted to now turn
20 your attention to your testimony, specifically
21 the pages that begin at -- beginning at Page 13
22 where you discuss the consumer -- the CIF fund

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1 allocations for renewable generation.

2 A. Yes.

3 Q. Okay. And so in your testimony you
4 discussed one of the provisions at Line 9.

5 You said that the applicants will
6 provide \$3.5 million for the District
7 Government's renewable energy programs; is that
8 right?

9 A. Yes. That's right.

10 Q. And you deter- -- did you determine
11 that to be a benefit of the merger?

12 A. Yes.

13 Q. Okay. And then, in addition to
14 that, you also discussed on Page 14 that --
15 Line 12 -- there would be another \$3.5 million
16 not recoverable in rates for the District
17 Government's Sustainable Energy Trust Fund; is
18 that right?

19 A. That's right.

20 Q. And you also determined that would
21 be a benefit of the merger?

22 A. Yes.

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1 Q. And are these benefits that you
2 determined were specifically related to Public
3 Interest Factor 7 relating to energy in the
4 environment or relating to the environment and
5 renewables?

6 A. I believe that it does come under
7 that, yes.

8 Q. Now, prior to -- now, in the
9 original merger proceeding, the District of
10 Columbia had certain conditions in mind; isn't
11 that right?

12 A. Yes.

13 Q. Do you recall what those were?

14 A. Well, the original conditions were
15 from the previous administration. I know that
16 they were filed. And I'm -- I'm aware of the
17 previous conditions somewhat. I mean we
18 inherited that, yes.

19 Q. Do you -- I'll just ask you.

20 Do you recall, for example, the --
21 one of the conditions that was proposed, as
22 part of your file -- as part of the filing, was

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1 a sustainable energy fund -- a sustainable
2 development fund under which Exelon would --
3 shall invest \$95 million over a five-year
4 period in sustainable -- in a sustainable
5 development fund?

6 Does that sound like one of the --

7 A. Yes.

8 Q. -- conditions you proposed --

9 A. Yes.

10 Q. -- previously? Okay.

11 And then, as another condition that
12 was previously proposed by the District, it
13 was: Exelon shall provide, within 90 days
14 after notification to FERC of consummation of
15 the merger \$70 million in funding for the
16 District of Columbia to advance the purposes
17 and accelerate implementation of the Clean and
18 Affordable Energy Act of 2008.

19 Does that --

20 A. Yes.

21 Q. -- ring a bell?

22 And then finally, you -- D.C. had

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1 also proposed as a condition that Exelon shall
2 develop \$2 million to an institution to --
3 selected by the Department of Energy -- the
4 District Department of Energy and Environment
5 to support research and development of
6 renewables.

7 Does that --

8 A. That sounds right.

9 Q. Okay. Now, would you agree that
10 those conditions that were proposed in the
11 original proceeding were substantially of
12 greater dollar value than the conditions that
13 you just discussed in your testimony in -- in
14 your testimony that's been presented in this
15 hearing?

16 A. Yes.

17 Q. Can you tell me what accounts for
18 the change in position?

19 A. Well, in negotiating and/or in -- in
20 getting to a deal that, as you know, the
21 District opposed the -- vigorously opposed the
22 -- the settlement -- or not the settlement but

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1 the -- the merger.

2 And so we did not come to an
3 agreement but only because of the decision of
4 the Public Service Commission did we have the
5 opportunity to really substantially move the
6 joint applicants in the direction of what the
7 District originally wanted.

8 And certainly, of course, as -- as a
9 government entity, we would ask for far more in
10 initially to -- to try to get the best deal for
11 the citizens.

12 I believe we've done that with the
13 settlement agreement. But it really -- I just
14 have to say that it's -- we opposed the -- the
15 merger when there was no agreement. And so did
16 the Public Service Commission.

17 Q. Now, at the time that you proposed
18 the merger, would it be fair to say that your
19 position was that the District opposes the
20 merger, but it's something that could be
21 salvaged if these conditions, the \$95 million
22 payment to the sustainable energy fund, the

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1 \$70 million fund, were adopted?

2 Wasn't that your prior position?

3 A. If that -- if that amount of money
4 had been there along with the other interests
5 of the District, I believe that the District --
6 you know, obviously I'm speaking on behalf of
7 the earlier administration where we did not
8 have the opportunity to form these numbers
9 until of course we -- we came in in January.
10 But that -- that sounds like a reasonable
11 position.

12 Q. And so, however, now your position
13 is that the merger does meet -- meets the
14 public interest and satisfies Factor 7 with the
15 various -- the \$10.5 million commitment, or
16 roughly to 10.5 million, to various renewable
17 and energy efficiency and clean energy
18 programs.

19 A. Well, it's not just about the money
20 as well. It's about the commitment to build
21 more solar in the District of Columbia, to
22 partner with D.C. Water, and also to purchase

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1 into PJM grid a hundred megawatts of -- of wind
2 power. So there's a lot more to that than just
3 the CIF investments that's been agreed upon.

4 And so the -- as you know, I guess
5 the final offer was something like \$34 million
6 to the District in terms of CIF fund. Now
7 we're at 72 plus the 5 million for -- for the
8 workforce development fund.

9 So we're at a substantially
10 different place through the settlement
11 agreement.

12 Q. Now, you just testified before that
13 D.C. was -- I -- I didn't take very good notes.

14 You testified about D.C. solar --
15 they're going to be putting -- installing solar
16 on 50 buildings.

17 That -- is that an initiative of the
18 D.C. Government?

19 A. Yes, it is.

20 Q. And so that's something that D.C.
21 Government would be doing with or without
22 Exelon's involvement; isn't that right?

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1 A. That's right. There's only an
2 example of interest in -- in renewable energy
3 that the District I don't think really is equal
4 in that and at least any other city in the
5 country right now.

6 Q. Do you know roughly how many
7 megawatts of -- of energy that initiative will
8 comprise?

9 A. We will have to get back to you on
10 how much that will be.

11 Q. Okay. Now, in terms of the
12 10 megawatt solar proposal, isn't it true that
13 5 of those megawatts were already under
14 development prior to when this settlement
15 agreement was adopted?

16 A. Actually, it was much earlier.
17 You're exactly right. And I met with George
18 Hawkins to discuss this and why high didn't it
19 happen. He said that Pepco was unable to be a
20 partner in a way that would make it feasible
21 for them, so they dropped the plans, but that
22 they really thought that it would be a good

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1 idea to do it.

2 So I saw this as an opportunity to
3 take -- they actually planned 10 megawatts.
4 And so I saw this as an opportunity to offer 5
5 to try to make the deal work.

6 The interconnection problems that
7 Pepco's had chronically has prevented deals
8 like this to go on before. There's been a --
9 some other solar that's been installed at
10 D.C. Water that I don't believe's ever been
11 hooked up on one of their buildings. At least
12 that was my understanding from Mr. Hawkins.

13 So the -- the other parties and --
14 and capacity that Exelon brings gives greater
15 assurance to D.C. Water that this actually
16 could happen. And D.C. Water did their own due
17 diligence to see what's different about working
18 with Exelon than with Pepco on this or at least
19 having the -- the solar with Pepco but have the
20 backup and expertise of Exelon's and their sub-
21 -- subsidiaries.

22 So that gave greater confidence to

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1 D.C. Water. So I figured that, while we were
2 looking at 7 megawatts, let's up it up to --
3 to 10, offer 5 to D.C. Water to see if that
4 would leverage actually 10 more megawatts in
5 total.

6 So that is why that, if they can't
7 get the deal done again, if it fails again,
8 then we drop back down to 7 megawatts for the
9 rest of the city.

10 But this was a way to try to
11 leverage the goal and the plans for D.C. Water
12 to begin with.

13 Q. Now, you said earlier that one of
14 the reasons that the -- there were problems
15 with this deal was because of Pepco's
16 interconnection issues?

17 A. I believe that was part of it in my
18 understanding and the conversation I had with
19 George Hawkins, the director of D.C. Water.

20 Q. Now, as you're aware, Exelon is a
21 generation company; isn't that right?

22 It doesn't own or have control over

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1 the distribution.

2 A. That's right. But they also own P
3 -- I guess P&G in Baltimore where they've had a
4 much better track record of doing
5 interconnection with solar.

6 Q. So it was your feeling that having
7 Exelon -- now -- having Exelon involved in the
8 merger would get Pepco to do what it was
9 obligated legally to do already?

10 A. I know that Mr. Hawkins talked with
11 representatives from Pepco and Exelon and felt
12 reassured that this gave greater assurance that
13 they could get this done where they had
14 essentially felt like they could not get it
15 done.

16 Q. Now, at what point in time did the
17 D.C. Government -- how did it come to change
18 its position from opposing the merger to
19 supporting the merger?

20 Do you recall when that --

21 A. Well --

22 Q. -- change took place?

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1 A. We knew that, after -- at least I
2 knew that, after the Public Service Commission
3 had denied approval of the merger, that we were
4 in a very different place than we'd been
5 before. Essentially, as -- as I believe the
6 representative from Pepco had noted, that there
7 was almost no negotiations going on, at least
8 between my office and the joint applicants.

9 After the Public Service Commission
10 denied the merger, then we were in a completely
11 different world. And it would be clear that,
12 if this were going to happen, that we were
13 dealing with a party in a very different
14 position and so thought it most responsible to
15 at least hear what they had to offer.

16 They made substantial changes. And
17 a lot of it was along the lines of the
18 direction from the Public Service Commission of
19 why they do not believe the merger was in the
20 public's best interest.

21 And it seemed that, in the first
22 offer, of how far they had come from

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1 co-locating their headquarter in D.C. and --
2 and substantially upping the -- the consumer
3 investment funds and some other things, that it
4 seemed like it was now in good faith.

5 So we began negotiations, and we
6 came to a preliminary area where we thought we
7 could agree. But the mayor made it clear that
8 she wanted the other intervenors to be
9 consulted, approached, and to see what the
10 other intervenors would need in order to come
11 into this deal.

12 And so I -- I -- I met with all the
13 other intervenors, either by phone or
14 otherwise, except D.C. Sun, where that was
15 indicated that that would not be protective.
16 And then we kept hammering out a deal and a
17 settlement that, as you can image, these types
18 of negotiations go right up to the end.

19 And so another condition of the
20 mayor is that there had to be a transparent,
21 publicly involved hearing process and
22 initially, along with other intervenors, had

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1 said that this really should be a new filing
2 and -- because there are elements in the new
3 filing that provided for public input and
4 transparency.

5 And so, when the Public Service
6 Commission came with an alternative but
7 assuring the public input, then that
8 was another condition that was met. So this
9 was moving all along in a particular direction
10 until the -- the District was satisfied, along
11 with the other intervenors, especially the
12 major -- the major intervenors, that we had
13 negotiated a settlement agreement that was not
14 only in the best interest of the District today
15 but is in the best interest of the District
16 tomorrow.

17 Q. Do you have any idea how much money
18 the District government spent on its
19 participation in the initial merger proceeding
20 up through the Commission's denial?

21 A. Yes.

22 Q. Can you --

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1 A. It's approximately a million
2 dollars.

3 Q. Okay. Does it -- and you testified
4 before that, once the Commission denied the
5 merger, the District felt that it was in a
6 different place in terms of its ability to be
7 able to negotiate an agreement; is that right?

8 A. That absolutely right. It -- it
9 certainly -- after expending those kind of
10 funds, there was, you know, interest or that it
11 would be possible that, if we entered and
12 agreed to a settlement with the -- the joint
13 applicants before the Public Service Commission
14 made their decision, we would have recouped
15 those funds. But we did not do that. We did
16 not believe it was in the District interest.
17 And so we -- we continued to oppose.

18 Q. But these -- as I understand from
19 your testimony, the proposal that the District
20 has made in the settlement agreement were not
21 something that were even on the table before.

22 It wasn't something you could have

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1 agreed to before; isn't that right?

2 A. Well, in -- pretty much. I mean
3 some things they -- they had offered \$34
4 million. That was on the table. That's about
5 half of what we ended up with.

6 So we could have agreed to \$34
7 million. We could have agree to one microgrid.
8 We could have agreed to 5 megawatts of solar.
9 But we didn't.

10 And so those things were on the
11 table, but we just substantially and materially
12 changed the settlement agreement, and also with
13 guidance from the ruling from the Public
14 Service Commission.

15 Q. And so I just want to ask one final
16 question.

17 Is it at all troubling to you that
18 it cost D.C. taxpayers a million dollars to be
19 able to reach a point in a proceeding where you
20 can get what will become the home utility to --

21 MR. CALDWELL: Your Honor, so I'm
22 going to -- I'm going to object to this -- this

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1 line of questioning. It's really getting into
2 the substance of the negotiations and -- and
3 matters that are, you know, privileged and are
4 protected by -- under the rules of -- the
5 Commission's rules under settlement
6 negotiations.

7 CHAIRMAN KANE: Would you repeat the
8 question.

9 BY MS. ELEFANT:

10 Q. My final question -- and this is my
11 final question -- is just to ask whether it is
12 at all troubling that the District of Columbia
13 taxpayers and the D.C. Government paid a
14 million dollars in order to secure settlement
15 provision -- in order to get the -- what will
16 become the local utility to comply with the
17 public interest.

18 MR. CALDWELL: I'm going to also
19 object on the grounds of relevance. I don't --
20 like what is -- whether or not it's troubling
21 to the witness is not something that is of --
22 of relevance.

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1 CHAIRMAN KANE: Well, the witness
2 can answer --

3 THE WITNESS: Yes. I --

4 CHAIRMAN KANE: -- his opinion on
5 that or not. But I don't think the question
6 went to anything that occurred during the
7 settlement. And you are correct that, under
8 our rules, the actual give and take during a
9 settlement process is confidential.

10 But I believe the million dollars
11 you're referring to refers to money that was
12 spent during the evidentiary hearing process;
13 is that correct?

14 MS. ELEFANT: Yes.

15 CHAIRMAN KANE: Thank you.

16 MS. ELEFANT: Per the testimony.

17 And I will be careful. I will --

18 CHAIRMAN KANE: Thank you.

19 LAWYER2: -- keep that in mind in
20 terms of --

21 CHAIRMAN KANE: Thank you.

22 MS. ELEFANT: -- questioning about

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1 settlement. I apologize if I've overstepped.

2 CHAIRMAN KANE: You could talk about
3 the outcome of the settlement where --

4 MS. ELEFANT: Sure. Well taken.

5 THE WITNESS: And what I'll say
6 is -- is that New Jersey, Delaware, our
7 neighboring counties, most populous counties to
8 the District in Montgomery County, Princes
9 George's County, they spent money on this as
10 well. And they came to agreement.

11 And we had offered whatever they
12 got. And we decided that was not enough. And
13 so we had a different opinion than the other
14 jurisdictions. And every jurisdiction, from
15 New Jersey down, that's part of what we do. We
16 -- we spend public money on the people's
17 council to protect the ratepayers. We spend,
18 you know, taxpayers moneys on this process.

19 That -- the matter of degree I
20 believe is what you're asking, is that does it
21 seem that the matter of degree and then not get
22 an agreement.

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1 We had the same offer that Maryland
2 had, but we -- we turned it down and -- and at
3 risk. But it was the right thing to do, and
4 now we're in a far, far different place on
5 behalf of the District residents. But we had
6 to make a judgment call.

7 And so that's -- you know, I -- I
8 think that possibly even the joint parties,
9 joint applicants, did not believe that they
10 would end up at this spot.

11 MS. ELEFANT: Thank you.

12 I have no further questions for the
13 witness.

14 CHAIRMAN KANE: Thank you.

15 I -- commissioners have some
16 questions for Mr. Wells.

17 First of all, I want to move into
18 the record as Commission Exhibit -- PSC Exhibit
19 1 the data responses --

20 COMMISSIONER FORT: It's not marked.

21 CHAIRMAN KANE: Would be to mark
22 it -- mark it Exhibit -- yes -- would be to

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1 mark it as Commission Exhibit 1, which are the
2 responses -- D.C. Government/Wells responses to
3 D.C. Government data Request No. 2. That would
4 consist of 13 pages. And ask some questions
5 about that.

6 (Exhibit PSC 1 was marked for
7 identification.)

8 CHAIRMAN KANE: I also want to
9 present -- which I'm going to ask questions on,
10 which hopefully the parties have it. I'll pass
11 it out now -- which will be preliminary marked
12 as PSC 2.

13 And it is, for identification, an
14 excerpt from the transcript of the evidentiary
15 hearings that were held in this case on April
16 21st, 2015. And it is pages 3153 through pages
17 3158, a six-page excerpt from that.

18 (Exhibit PSC 2 was marked for
19 identification.)

20 CHAIRMAN KANE: Give that to the
21 secretary. Give one to the -- give one to the
22 witness also.

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1 Yeah. And make sure that everyone
2 has it.

3 Mr. Wells, if you have the -- the
4 data responses -- the 13-page data response.

5 MR. CALDWELL: Your Honor, I'm
6 sorry. That was marked --

7 CHAIRMAN KANE: PSC 1 -- the data
8 response, PSC 1. And the excerpt from the
9 April 21st transcript as -- preliminarily
10 marked as PSC 2.

11 MR. CALDWELL: Thank you.

12 THE WITNESS: Madam Chair, I have
13 something that's titled data response -- was a
14 response to staff data request No. 2.

15 CHAIRMAN KANE: Yes.

16 THE WITNESS: And let me make sure
17 that there's 13 pages.

18 Including certificate of service?

19 CHAIRMAN KANE: That would
20 include --

21 THE WITNESS: And --

22 CHAIRMAN KANE: Yes. The

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1 certificate page, yes.

2 THE WITNESS: Okay.

3 CHAIRMAN KANE: Includes the
4 certificate page.

5 Do you have a --

6 THE WITNESS: Got the --

7 CHAIRMAN KANE: Transcript excerpt,
8 yes. The six pages, which is PSC 2. Okay.

9 I wanted to ask some questions,
10 first of all, about these data responses to --
11 did you prepare these? Are you the sponsor of
12 these data responses?

13 THE WITNESS: Yes.

14 CHAIRMAN KANE: Yes.

15 And if you were to be asked --

16 THE WITNESS: I mean they're under
17 my --

18 CHAIRMAN KANE: They're --

19 THE WITNESS: -- direction.

20 CHAIRMAN KANE: -- under your --

21 THE WITNESS: Yes.

22 CHAIRMAN KANE: -- under your

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1 direction and sponsorship. Yes.

2 And if you were asked the same
3 questions today, would you consider the same
4 answers would be true today?

5 THE WITNESS: Yes.

6 CHAIRMAN KANE: Okay. Thank you.
7 Sometimes things change in between. I like to
8 verify as it's --

9 THE WITNESS: And also I'm just
10 remembering I think there may have been a -- a
11 small amendment to the data request, but I
12 think we're okay.

13 CHAIRMAN KANE: Okay. I'm looking
14 at your counsel.

15 If there is an amendment, please let
16 us know.

17 THE WITNESS: Maybe not. Maybe it
18 was fixed before it was submitted.

19 MR. CALDWELL: I don't believe there
20 is an amendment.

21 CHAIRMAN KANE: Okay.

22 THE WITNESS: Okay.

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1 CHAIRMAN KANE: Thank you.

2 So I want to look at your testimony
3 and stuff.

4 Yes. Question?

5 MS. FRANCIS: I just want to make
6 sure I'm looking at the right document.

7 CHAIRMAN KANE: Yes.

8 MS. FRANCIS: It's dated November --
9 November 13th?

10 CHAIRMAN KANE: Correct.

11 MS. FRANCIS: I only have eight
12 pages of responses, two pages of a certificate
13 of service, and a cover page.

14 CHAIRMAN KANE: That's correct.

15 MS. FRANCIS: Okay.

16 CHAIRMAN KANE: That's correct.
17 It -- added all up together, including the
18 blank page on the back, it comes to 13. But
19 that is the same document, yes, dated November
20 13th, submitted by the attorney general on
21 behalf of Mr. Wells.

22 MS. FRANCIS: Thank you.

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1 CHAIRMAN KANE: I wanted to ask you
2 some questions both on your testimony and the
3 data responses.

4 And the first goes to Page 13 of 33
5 of your testimony. And I want to start at Line
6 9.

7 You were asked to describe the CIF's
8 allocation for renewable energy development,
9 which is Settlement Agreement No. 6. And you
10 indicate that, within 60 days of the merger
11 closure, the joint applicants will provide
12 3.5 million not recoverable in customer rates
13 for the District Government's renewable energy
14 programs and the that the District Government
15 intends to deposit these funds in the Renewable
16 Energy Development Fund, D.C. Code 34-1436?

17 See that?

18 THE WITNESS: Yes.

19 CHAIRMAN KANE: And then in your
20 data response -- or your response to the -- to
21 the Commission's request, I want to turn to
22 Question 2 -- Question 2.

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1 These pages are not at all numbered,
2 actually. But it's the question Page 2. And
3 it would be page -- after the -- after the
4 cover letter, page -- one, two -- Page 3.

5 THE WITNESS: Okay.

6 CHAIRMAN KANE: Page 4 at the marked
7 one. Right. Thank you.

8 See that?

9 THE WITNESS: Yes.

10 CHAIRMAN KANE: And you were asked
11 to -- this is in regard to the Renewable Energy
12 Development Fund.

13 THE WITNESS: Yes.

14 CHAIRMAN KANE: Asked to provide an
15 accounting of the revenue; interest bearing
16 uses of the fund since inception; whether any
17 moneys have been transferred; other uses since
18 inception, and if so, when and how much; asked
19 for the quarterly reports on the fund that are
20 required to be provided to the council; and
21 asked for some additional clarifications.

22 And your response for Question A was

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1 a table in -- showing from 2008 by fiscal year
2 through fiscal year 2015, which just included
3 the revenue that goes into the renewable
4 development fund.

5 What is the source of revenue for
6 the Renewable Energy Development Fund?

7 THE WITNESS: Primarily it's the
8 alternative compliance fund -- or the
9 alternative compliance payments.

10 CHAIRMAN KANE: And the alternative
11 compliance payments, for the record, are --
12 come from where?

13 THE WITNESS: It's for generators of
14 pow- -- or sellers of -- of power into the
15 District that are not meeting renewable
16 standards. This is a way that they can meet
17 the renewable standards for this period.

18 CHAIRMAN KANE: That are not
19 purchasing enough renewable --

20 THE WITNESS: Renewable --
21 renewable --

22 CHAIRMAN KANE: -- energy credits.

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1 THE WITNESS: Right.

2 CHAIRMAN KANE: Okay. And subject
3 to check, because you don't have a total here,
4 I want to look first at -- of the -- of -- of
5 what the totals of each of these columns is.
6 You've got revenue interest earned and
7 expenditures.

8 Through 2014 -- I want to start with
9 that -- you've added it up -- and I'll ask you
10 subject to check -- the total revenue was about
11 1.853999 million.

12 I'm going to talk separately about
13 2015 in a minute.

14 THE WITNESS: Okay.

15 CHAIRMAN KANE: About 1.8 million
16 and about -- if you'll agree, subject to check,
17 about \$5,000 in interest. So about 1.859
18 million.

19 Is that about right?

20 THE WITNESS: I think so.

21 CHAIRMAN KANE: And then if you add
22 up the final column on expenditures of 18456,

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1 12 -- \$128, we think, and 90,000, subject to
2 check again, would you agree that comes to
3 around \$331,000.

4 THE WITNESS: I'll stipulate to
5 that, yes.

6 CHAIRMAN KANE: Now, you were asked
7 also whether any money had been -- so that at
8 the end of 2014, with a collection of 1.859 and
9 expenditures of 331, there would have been, if
10 you subtract, about 1.5 million left in that
11 fund; is that correct, 18859 minus 331?

12 THE WITNESS: Okay.

13 CHAIRMAN KANE: Okay. And was -- is
14 that the actual amount that was there at the
15 end of 2014, or was any of that money
16 transferred out of the fund?

17 THE WITNESS: I'll have to get back
18 to you with an answer on that. That's -- I'll
19 have to get back to you with an answer on that
20 for 2014. I know that --

21 CHAIRMAN KANE: Well, at the end of
22 2014, right?

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1 THE WITNESS: Right.

2 I know that, after we came into
3 office, that we've since made expenditures out
4 of that fund for renewable energy. But prior
5 to that, I'll have to get back to you on that.

6 CHAIRMAN KANE: We had a question B.

7 MR. CALDWELL: We'll take that as
8 a --

9 CHAIRMAN KANE: Has any --

10 MR. CALDWELL: -- request.

11 CHAIRMAN KANE: Yeah. Has anybody
12 -- I believe that the answer has been provided
13 here, actually.

14 Question B is: Have any REDF monies
15 been transferred to other uses since inception?
16 If so, when and how much?

17 And your answer to Question B is:
18 See the accompanying spreadsheet.

19 So if you'll turn over to Page 6, I
20 just want to ask you to verify what these
21 numbers are. You have a total through 2012 --
22 it only covers those years -- of 1,088,000 was

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1 transferred out.

2 THE WITNESS: My -- I'm looking at
3 Page No. 6. So I don't know --

4 CHAIRMAN KANE: Let me look at the
5 --

6 THE WITNESS: -- if we're looking at
7 the same thing.

8 CHAIRMAN KANE: I have a copy of
9 the -- it was -- it's -- yeah. It's -- it is
10 -- it's Page 8 -- wait -- Page -- yeah, Page 6
11 of 13. It's a sideways chart that's in color.

12 So if you just -- it's on the
13 reverse of the page that has.

14 THE WITNESS: And it says "Renewable
15 Energy Development Fund," yes.

16 CHAIRMAN KANE: Yes. Renewable
17 Energy Development Fund. Amount transferred
18 207,000 in '09; 19,000 in -- in fiscal '10; and
19 another 4,000 in fiscal '10; 682,000 in fiscal
20 '11; 217,000 redesignated -- I assume that
21 means put back in -- in -- in December '12; but
22 then another 174,000 taken out a day later in

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1 2012.

2 Is that correct?

3 THE WITNESS: That's -- that's
4 exactly what the chart says. And we believe
5 that to be accurate, yes. From the previous
6 administration, yes. That's...

7 CHAIRMAN KANE: Okay. So instead of
8 there being one and a half million, there might
9 have been maybe couple hundred thousand in it;
10 is that correct?

11 THE WITNESS: Right. I -- right.

12 CHAIRMAN KANE: As of end of 2014?

13 THE WITNESS: Yes.

14 CHAIRMAN KANE: Now, in 2015 there's
15 a very, very large deposit into that fund,
16 which -- is that also from the alternative
17 compliance fees, \$6.3 million deposit?

18 THE WITNESS: Yes.

19 CHAIRMAN KANE: And interest -- a
20 significant amount of interest earned at
21 23,000; but in 2015, an expenditure of only
22 859,000; is that correct?

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1 THE WITNESS: We had not -- yeah.
2 That is correct. And that is -- but the timing
3 of how the moneys came in, which I'm not as --
4 as -- it may be somewhat accurately reflected
5 here, but the timing of bringing in the 6
6 million came in, I believe, after the
7 allocation and commitment of the 800,000-plus.

8 I mean -- so there -- I know you're
9 doing a running total, but in terms of what we
10 believe that we had eligible to spend, the 6
11 million is only being allocated now -- or
12 committed now.

13 CHAIRMAN KANE: Yes. Would you
14 agree, subject to subject, that -- that those
15 payments come around the 1st of March each
16 yeah?

17 THE WITNESS: They do start coming
18 around the 1st of March. But I'm told by
19 our -- our financial officer that we're not to
20 say that we have our total amount in until
21 sometime in May.

22 And so it was only after May that

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1 I'm certified how much we can budget for new
2 initiatives for solar after that.

3 CHAIRMAN KANE: With the addition of
4 three and a half million from the nonunanimous
5 settlement into this fund and the -- well, my
6 question is what is in place -- how -- how was
7 the money transferred out?

8 What -- what action is necessary to
9 transfer money out of this fund?

10 THE WITNESS: That if the money's
11 reallocated within the District budget, it
12 generally has to go through the Budget Support
13 Act and a budget process through the council.

14 In terms of money being transferred
15 out for payment for projects, we just did, as
16 you probably know, 130 solar roofs on
17 low-income-owner homes. And that is around
18 750,000 right off the -- you know, out of that
19 fund.

20 And so that -- what happens to that,
21 of course, is we -- we amended the -- the
22 sustainable energy utilities contract and

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1 transferred the funds out to them in order to
2 fund the project.

3 CHAIRMAN KANE: So the money gets
4 transferred out by request of the mayor,
5 approval of the council in a Budget Support Act
6 or on the initiative of council and a Budget
7 Support Act?

8 THE WITNESS: Generally, if it's
9 under a million dollars, we do not need to go
10 through council to --

11 CHAIRMAN KANE: Right. Well, I'm
12 sorry. I'm not speaking of the money that's
13 for your expenditures. I'm -- we're talking
14 about the transfers out --

15 THE WITNESS: If it's transferred
16 out --

17 CHAIRMAN KANE: -- into the general
18 fund, yeah.

19 THE WITNESS: If it's transferred
20 into the general fund, it has to -- the law has
21 to be changed for the per- -- for the period of
22 the budget. And that is what occurred --

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1 CHAIRMAN KANE: That is what --

2 THE WITNESS: -- in this --

3 CHAIRMAN KANE: -- has -- has

4 occurred.

5 Is there anything in the
6 nonunanimous settlement agreement that would
7 prohibit the council from doing that again out
8 of this fund?

9 THE WITNESS: No.

10 CHAIRMAN KANE: No?

11 THE WITNESS: But I would have to
12 add, Commissioner Kane, that the mayor in good
13 faith negotiated with a number of parties. I
14 think I know the Public Service Commission is
15 impressed -- or should -- at least we are -- in
16 the number of intervening parties that signed
17 on.

18 This was done in good faith, not
19 just behest of the government, but on behalf of
20 intervening parties that came on board with
21 this.

22 And I think that it is completely in

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1 alignment with the plans and vision for this
2 administration to expend those funds exactly as
3 they've been negotiated. Or they've been
4 negotiated to another pot that it is clearly
5 the intention of the government to put the
6 funds there.

7 We did not have to do that. We did
8 that because we believe that another 3.5
9 million of investment, particularly in solar,
10 as that -- that column requires, that -- that
11 is in align with the plans for the District.

12 But it did not have to go there, but
13 we negotiated it there. And so I believe that
14 the intent of the mayor, the intent of the city
15 and also -- and as to degree to which the
16 council recognizes that and is -- you know,
17 that -- I can't speak to the whims of the
18 council, but I believe the council will
19 recognize that. This was done in good faith
20 with our neigh- -- with our community partners.

21 CHAIRMAN KANE: Let me move on to
22 the money that's going to go into the

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1 Sustainable Energy Trust Fund. That's another
2 three and a half million dollars.

3 THE WITNESS: Yes.

4 CHAIRMAN KANE: And again, I wanted
5 to -- continuing on with it -- with the data
6 response. And we asked the same questions:
7 How much did the mayor ask for and the council
8 approve in diverting funds from the Sustainable
9 Energy Trust Fund in the FY 2016 budget.

10 And your response is that they
11 approved transferring 3.5 million in SETF funds
12 balance to the general fund.

13 Do you see that?

14 THE WITNESS: Yes.

15 CHAIRMAN KANE: And how much does
16 the settlement agreement say is going to go
17 into the SETF?

18 THE WITNESS: 3.5 million.

19 CHAIRMAN KANE: Exactly same amount?
20 The same amount that was transferred out.

21 THE WITNESS: Yes. But --

22 CHAIRMAN KANE: Same dollar amount.

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1 THE WITNESS: -- this is not
2 supplanting. It is not intended to supplant.
3 It is -- it is the same amount that we put 3.5
4 in one fund and 3.5 in the other. We had 7
5 million remaining. We split them evenly
6 between the two accounts.

7 CHAIRMAN KANE: So the fact that
8 three and a half million was transferred out of
9 the SETF into the general fund had nothing to
10 do with, through the settlement agreement,
11 replacing three -- putting three and a half
12 million into the fund.

13 THE WITNESS: This is not to restore
14 that amount. I believe that the District needs
15 to do that, as it has in previous
16 administrations to some degree in the past.

17 And let me just say to the Public
18 Service Commission that, as I -- we took on the
19 new administration, we had a \$200 million
20 deficit. I looked at my budget, and there was
21 a -- a fund that had built up that was there
22 and had -- and seeing that there was some

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1 barrier to even getting it out.

2 Now, because it's dedicated to the
3 sustainable energy utility, and the sustainable
4 energy utility was capped at \$20 million, they
5 had underspent the their budget substantially.
6 So when it built a reserve, at the time we
7 could not give them more than \$20 million. And
8 we had \$20 million to give them.

9 So that fund was there, and it could
10 not be used other than for the sustainable
11 energy utility. I recommended to the mayor
12 that, to help balance the city's budget, that
13 we use 3.5.

14 In retrospect, as I've certainly
15 learned the depth of my duties in -- in
16 relationship to the fealty that we have to
17 ratepayers and such, I have represented to the
18 city administrator that I believe I made that
19 recommendation in error and that we need to put
20 those funds back.

21 And that was -- now that the law has
22 changed, as you know, that we can now exceed

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1 the \$20 million, there will not be a fund
2 balance that just grows that can't be touched.
3 I believe that we've fixed that.

4 But I understand the Public Service
5 Commission's concern that that's not what the
6 funds are for. They're not for the general
7 budget for the District. And that was -- I
8 believe I made that recommendation to the mayor
9 in error.

10 CHAIRMAN KANE: Let me talk about
11 past history before the recommendation.

12 In your response in this question,
13 Question 3, on table -- question -- excuse
14 me -- Response C, Item C, you've got a table
15 showing the revenue -- the interest earned and
16 the expenditures.

17 What is the source of the money in
18 the SETF funds aside from the three and a half
19 million that settlement proposes to put into
20 it?

21 THE WITNESS: That is a -- that's a
22 -- a surcharge or a fee on the ratepayers'

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1 bills in the District.

2 CHAIRMAN KANE: On gas and electric
3 bills, correct?

4 THE WITNESS: And --

5 CHAIRMAN KANE: Gas and electric.

6 THE WITNESS: Exactly right.

7 CHAIRMAN KANE: Okay. That --

8 THE WITNESS: On gas and electricity
9 as well.

10 CHAIRMAN KANE: Would you agree,
11 subject to check, that about 80 percent of it
12 comes from electric bills, about 20 percent
13 from gas bills, gas --

14 THE WITNESS: Yes.

15 CHAIRMAN KANE: -- customers?

16 THE WITNESS: That's -- that's
17 right.

18 CHAIRMAN KANE: So again, your chart
19 doesn't have a total. But if you'll trust my
20 math, if you add up all of the numbers from
21 2009 -- I believe this law went into effect --
22 the surcharge went into effect November 1st,

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1 2008. So that was just one month into fiscal
2 2009.

3 If you add all of that up, it comes
4 to a little over \$140 million that customers --
5 ratepayers -- gas, electric ratepayers paid
6 into the fund?

7 THE WITNESS: Yes.

8 CHAIRMAN KANE: Been collected.

9 And that money's collected by Pepco
10 and by Washington Gas as a surcharge and is
11 turned over to the District Government I
12 believe every two weeks or on a regular basis.
13 I looked at the --

14 THE WITNESS: Yes.

15 CHAIRMAN KANE: You provided -- and
16 I want to be sure as we're talking about these
17 data responses -- you provided, in answer to
18 the question that we asked about the
19 expenditure, a link to a place on the D.C.
20 Government's DOEE's web site that has the
21 quarterly reports that the department is
22 required to provide to the council.

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1 And those quarterly reports do have
2 every week or every two weeks how much was
3 collected by Pepco, collected by Washington Gas
4 and sent over. So I want to be sure, for the
5 record, that, when we put this data request in,
6 that the information that's in that link is
7 also put into the record, however that is done
8 mechanically.

9 But we add all this up. It's about
10 140 million. You add on the interest --
11 substantial interest last year of -- got to
12 about 141 -- \$140.3 million. And then you have
13 expenditures as of about 115 million in the
14 SETF fund.

15 And then we asked about diversion of
16 the fund to that gap. And if you look at your
17 answer to E where you have a spreadsheet -- and
18 I want to ask you a couple of questions on this
19 -- but in the -- the column there that says
20 "Out" -- and that's in red and in
21 parentheses -- it adds up to \$34 million so
22 that, of the 140 million that was collected, 34

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1 million was diverted into the general fund out
2 of the SETF?

3 THE WITNESS: That's right.

4 CHAIRMAN KANE: And I see there the
5 -- the 3.5 million.

6 Is there anything -- same question:
7 Anything in the language of the -- and this
8 was -- excuse me.

9 This was diverted by action of the
10 council, usually at the request of the mayor,
11 and not necessarily this mayor but to -- going
12 all the way back to several mayors and several
13 administrations?

14 THE WITNESS: That's right.

15 CHAIRMAN KANE: And several
16 councils.

17 Is there anything in the settlement
18 agreement that would prohibit either a future
19 mayor or a future council or current council
20 from again changing the law on a -- a
21 single-item basis and diverting funds out of
22 the SETF?

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1 THE WITNESS: As -- no. But as we
2 said before, was that this was a fund that
3 built up that could not be used otherwise until
4 the law was changed.

5 And apparently the previous
6 administrations did use it as -- you know, as
7 you can see, they -- at times they put money
8 back in. So they used it somewhat as a bank
9 and not just direct payments out to -- for the
10 general fund but also payments back in. But
11 the remainder is, as you state, is 34 million.

12 And in reviewing all of that, since
13 I've taken my position, I think that is clearly
14 on bad policy. And I -- that's why I informed
15 the mayor that I believe I had made a error in
16 recommending the 3.5 million, that we did not
17 want to continue the same track record as the
18 previous administrations because that is not --
19 clearly not in good faith with the -- the
20 ratepayers.

21 And so that is -- you know, and the
22 other thing that has occurred, as you know, is

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1 a substantial difference -- substantive
2 difference is that the law has been changed.
3 We can spend more money to the SEU than 20
4 million a year. So there should not be a -- a
5 -- a growing fund balance.

6 CHAIRMAN KANE: But the law, before
7 it was changed, would you agree did
8 specifically provide that the funds could not
9 be used for any other purpose and that they
10 remained without fiscal year limitation?

11 THE WITNESS: Absolutely. And --

12 CHAIRMAN KANE: And that that's
13 still the current law.

14 THE WITNESS: Absolutely. And
15 that's why the funds balance grew until it was
16 used clearly as -- somewhat as a bank by the
17 previous administrations.

18 And I will agree with the Commission
19 that that's bad policy. And the administration
20 no longer supports that. And I was in error in
21 relying on past practice of previous
22 administrations in saying this fund balance

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1 could be available in the event that the
2 District had a deficit, as we did. And I
3 believe that was in error.

4 CHAIRMAN KANE: I think it -- this
5 also concerned the Commission it was -- in any
6 merger commitment, not only must there be a
7 judgment as to whether it's in the public
8 interest or whether it advances the public
9 interest as a whole but whether there is some
10 accountability, traceability, assurance that
11 what's promised is what's going to actually
12 happen.

13 THE WITNESS: Absolutely.

14 CHAIRMAN KANE: Onto another
15 question so that I understand -- and so we
16 understand clearly what the proposals are in
17 terms of, were it to be approved, we would know
18 what kind of performance we would have to
19 expect to make sure that it would -- would
20 actually happen.

21 On the 10 megawatts of solar, I know
22 you answered some questions. I'm now moving to

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1 Page 27 of your -- of your testimony.

2 THE WITNESS: Yes.

3 CHAIRMAN KANE: Now, as you
4 testified -- I will also be asking Mr. Hawkins
5 some direct questions about this in terms of
6 the proposed solar at -- at Blue Plains.

7 As you testified or answered in
8 order -- in answer to the questions from
9 MAREC's counsel, D.C. Water had plans underway
10 to build some solar at -- at -- at Blue Plains,
11 correct?

12 THE WITNESS: Plans that they were
13 unable to effectuate, yes.

14 CHAIRMAN KANE: Yes.

15 And you indicated the reason for
16 that was that they could not -- the reason they
17 could not effectuate them was that could not
18 get an agreement from Pepco about
19 interconnection.

20 THE WITNESS: It wasn't just
21 interconnection. There was more to that. And
22 I have to defer to George Hawkins on that.

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1 CHAIRMAN KANE: Okay.

2 THE WITNESS: But the -- my
3 impression from the conversation with him is
4 that it was due to Pepco's failure. And it may
5 be a greater than interconnection. I don't
6 know if it's the financing. You know, I -- I
7 don't know what all was involved, but they --
8 they did not say it was their own fault.

9 CHAIRMAN KANE: Okay. And I -- we
10 will ask -- I'll ask those questions -- reserve
11 those questions appropriate for -- for -- for
12 Mr. Hawkins.

13 But you have now testified that,
14 with the proposal here, in which Exelon which
15 will own Pepco, will be doing the project, that
16 it will be feasible.

17 THE WITNESS: That's a --

18 CHAIRMAN KANE: Perhaps I'm not
19 interpreting what you said.

20 THE WITNESS: Right. I'm trying to
21 think in terms of -- there's also clauses in
22 there about competitively bid. There's a

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1 number of things in there that are involved in
2 the criteria of -- of -- of contracting this
3 out.

4 I'm not suggesting that we have
5 Exelon become an energy generator directly.
6 We'll have to -- I mean that's certainly going
7 to be under the Public Service Commission's
8 rules and requirements about the -- about what
9 they can do. But what they -- Exelon, as a
10 corporation, can help fund and see that the --
11 the 10 megawatts was created, 5 -- 5 at
12 D.C. Water.

13 CHAIRMAN KANE: So you are expecting
14 Exelon to help fund it?

15 THE WITNESS: Yes.

16 CHAIRMAN KANE: Yes. Fund it in
17 terms of a grant, I -- there was reference in
18 here to it being commercially feasible or
19 commercially agreeable.

20 THE WITNESS: Yes.

21 CHAIRMAN KANE: Yes.

22 THE WITNESS: The -- the reference

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1 would be better probably from the settlement
2 agreement itself.

3 CHAIRMAN KANE: Yes. I believe that
4 is 128.

5 MR. CALDWELL: Your Honor, I believe
6 that's 118.

7 CHAIRMAN KANE: 118. Thank you.
8 118.

9 It says: Develop or assist. Exelon
10 shall, by December 31st, 2018, develop or
11 assist in the development of 10 megawatts of
12 solar in generation; will enter into good faith
13 negotiations of a commercially acceptable
14 arrangement for 5 megawatts of such generation
15 to be conducted at the D.C. Water blue Plains
16 advanced waste water treatment, et cetera.

17 THE WITNESS: Right.

18 CHAIRMAN KANE: So I don't see a
19 reference in here to Exelon funding it.

20 THE WITNESS: It was my
21 understanding that Exelon would fund it.

22 CHAIRMAN KANE: Would fund it.

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1 And by funding, you mean that they
2 would grant some money that would not --
3 explain to me what you mean "fund."

4 THE WITNESS: Well, for example, it
5 says: The construction and installation shall
6 be competitively bid --

7 CHAIRMAN KANE: Right.

8 THE WITNESS: -- with preference for
9 local qualified businesses.

10 It was --

11 CHAIRMAN KANE: That -- that's not
12 funding, is it?

13 THE WITNESS: Well, it's a -- it's
14 assumed that, if you send out bids -- and
15 Exelon was putting out the bids -- that Exelon
16 was the funder -- that -- that they would not
17 be RFP'ing on the District's behalf; they'd be
18 RFP'ing on their own behalf.

19 And if they -- we also speak to
20 whether they can sell the SRECs or not. So I'm
21 not sure how they don't fund it but yet benefit
22 from the SRECs so that -- I mean may -- maybe

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1 there's -- there's some gymnastics there that
2 I'm not assuming.

3 My assumption is -- is that Exelon
4 could only participate in SRECs by developing
5 this solar power themselves in concert, you
6 know, such as D.C. Water's already identified
7 the land and how this can be done. That's half
8 the battle in a major city, as you know.

9 But the -- the presumption was that
10 Exelon would own the SRECs --

11 CHAIRMAN KANE: Right.

12 THE WITNESS: And there's a
13 restriction on when they can sub them.

14 CHAIRMAN KANE: Yeah. And I'm going
15 to ask you about that and the reason that.

16 Yes. It says: Exelon shall sell
17 the output of solar generation constructed in
18 fulfillment of this commitment in the market.

19 And I believe you say, think in --
20 in -- in -- in Page 28, Line 4, of your
21 testimony: The cost of installation will not
22 be recoverable on rates, and Exelon is

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1 permitted to sell the output in the market.

2 THE WITNESS: Right.

3 CHAIRMAN KANE: So Exelon will be --
4 that -- those -- they would -- they would sell
5 it in the market.

6 Now, let me ask you --

7 THE WITNESS: And let me add --

8 CHAIRMAN KANE: I'm still trying
9 to --

10 THE WITNESS: -- that the --

11 CHAIRMAN KANE: -- reconcile that
12 with -- with the statement that Exelon would,
13 quote, fund it.

14 In normal parlance, if someone's
15 going to fund it as you're talking about
16 funding -- funding the -- the solar that you're
17 -- that you're building, you're giving a grant.

18 THE WITNESS: No. What --

19 CHAIRMAN KANE: Or the SCU is -- is
20 -- is doing it through those fund --

21 THE WITNESS: No.

22 CHAIRMAN KANE: That's not the kind

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1 of funding --

2 THE WITNESS: This is not a transfer
3 of funds to the District for this purpose.

4 What my understanding is is Exelon
5 will pay for the development that -- not
6 through a transfer of funds but through
7 contracting as the owner in relat- -- you know,
8 certainly in an agreement with D.C. Water that
9 they'll -- they'll have to come to agreement on
10 how to do that, but that -- not that this is
11 added to the CIF.

12 CHAIRMAN KANE: Yeah.

13 THE WITNESS: This is -- they will
14 pay and do this.

15 CHAIRMAN KANE: And they will sell
16 the output into the -- to whom?

17 THE WITNESS: Well, I would presume
18 that that --

19 MR. CALDWELL: Your -- Your Honor,
20 may I suggest that that might be a --

21 CHAIRMAN KANE: Better question
22 for --

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1 MR. CALDWELL: Yeah.

2 CHAIRMAN KANE: I was just trying to
3 follow up on -- and clarify on when you used
4 the word "fund." Okay. And i will ask Mr. --
5 thank you.

6 I did want to ask you, though, you
7 mentioned about the SRECs not being available
8 till December 31st, 2018.

9 Now, what is the purpose for delay?
10 Is that because it won't be constructed till
11 then, or what is the purpose?

12 THE WITNESS: I appreciate that
13 question. That there is a similar restriction
14 in the Montgomery County agreement with public
15 -- with -- with Exelon. And when we inquired
16 why did they put the restriction in there, they
17 were concerned that it would flood the market
18 and depress the price. And we wanted to
19 protect the local businesses that were
20 participating in the SRECs. And so we delayed
21 it.

22 So, you know, obviously it's in

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1 Exelon's interest to not depress the price
2 through flooding the market and that they would
3 behave in a rational way. But we went ahead
4 and -- and borrowed the same type initiative
5 from Montgomery and Prince George's County.

6 And it is their beliefs that that
7 would help protect the market so that as not to
8 flood the market and depress price.

9 CHAIRMAN KANE: By adding
10 5 megawatts into --

11 THE WITNESS: That's right.

12 CHAIRMAN KANE: -- the system.

13 Now, you just mentioned that the
14 District Government has successfully concluded
15 a process to put 50 -- excuse me -- solar on 50
16 District Government buildings.

17 How many megawatts is represented by
18 that?

19 THE WITNESS: I -- you know, I --

20 CHAIRMAN KANE: Would -- would --
21 would you say, subject to check, it's about 11?

22 THE WITNESS: I believe --

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1 CHAIRMAN KANE: And I --

2 THE WITNESS: -- it is --

3 CHAIRMAN KANE: -- I'm doing --

4 THE WITNESS: -- at 11, yes.

5 CHAIRMAN KANE: -- that from
6 recollection.

7 And that was -- was that a
8 competitively bid --

9 THE WITNESS: Yes, it was.

10 CHAIRMAN KANE: -- undertaking?

11 THE WITNESS: Yes, it was.

12 CHAIRMAN KANE: By the city's
13 Department of General Services?

14 THE WITNESS: Yes.

15 CHAIRMAN KANE: And that's been
16 approved by the city council. It's a matter of
17 public record.

18 THE WITNESS: It's not there yet --

19 CHAIRMAN KANE: Not there yet.

20 THE WITNESS: -- I don't believe. I
21 believe -- I do not know if this has been in
22 front of the council yet.

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1 CHAIRMAN KANE: All right. I
2 believe subject to check, but it was done in --

3 THE WITNESS: Okay.

4 CHAIRMAN KANE: -- in the
5 summertime, but nevertheless, so that's --

6 THE WITNESS: In terms of an
7 award --

8 CHAIRMAN KANE: -- 11 megawatts.

9 Now, was there a -- a concern about
10 that 11 megawatts depressing the market for
11 SRECs?

12 THE WITNESS: That's a great
13 question, Madam Chair. That -- that certainly
14 the -- in the District's interest of -- of the
15 SRECs, that the -- we generate through this is
16 that we -- you know, the restrictions involved
17 in that are not in this negotiations; they're
18 not in the settlement.

19 And I believe that that's kind of
20 a -- a different issue.

21 CHAIRMAN KANE: Okay. Do you know
22 how much D.C.-based solar there is now, that is

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1 facilities certified by the Commission to --
2 that are located in the District that can
3 produce -- or can have SRECs associated with
4 them and be traded and bought by retailer
5 suppliers?

6 THE WITNESS: I can get that to you.

7 CHAIRMAN KANE: Okay. Would you
8 agree, subject to check, it's very -- it's
9 about 16 megawatts right now.

10 THE WITNESS: Yes.

11 CHAIRMAN KANE: And that, in the --

12 THE WITNESS: But --

13 CHAIRMAN KANE: -- last 12 years,
14 there's been about a 5 megawatt increase, and
15 that has -- has that had a -- depressed the
16 market for SRECs?

17 THE WITNESS: Well, it's a good
18 question because the SRECs, as you know, change
19 value in the out years. And so the market will
20 change when these SRECs will be available for
21 sale.

22 And that -- if you're suggesting the

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1 District may have advantaged itself by
2 withholding when -- or agreeing that Exelon
3 SRECs could not be sold at the same time the
4 District may be going to the market, I don't
5 know that intent at all, if that's where you're
6 doing is that the District virtually advantaged
7 itself.

8 But of course the District's -- it
9 represents the -- the people of the District of
10 Columbia.

11 CHAIRMAN KANE: Okay. That's in the
12 question more in the context of, as you know,
13 we need 200-and-some-odd megawatts of S -- of
14 D.C.-based solar by 2023.

15 THE WITNESS: That's right.

16 CHAIRMAN KANE: And that -- just
17 curious why withholding and that those -- those
18 -- RPS is satisfied by a retail provider buying
19 SRECs, correct?

20 THE WITNESS: Right.

21 CHAIRMAN KANE: For which their
22 failure to do so last year cost retail

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1 customers in the District \$6.3 million in all
2 charge and compliance fees.

3 THE WITNESS: Right.

4 CHAIRMAN KANE: And so would you
5 agree that the more solar we get, the faster,
6 the better?

7 THE WITNESS: Well, what you've laid
8 out is obviously the public policy competition
9 between how do we try to support the new
10 businesses that have grown -- I believe six
11 now -- of solar installers and so that they --
12 part of their finance packages of how they can
13 help finance that includes SRECs.

14 And of course the public interest in
15 radically and dramatically expanding the amount
16 of solar in the District. And so that was a
17 balance, which you also notice in here it says
18 "competitively bid," because, again, we're
19 trying to help support local businesses in the
20 District, but we don't want to undo the
21 financial planning they have while -- of course
22 the income tax credits are still alive for

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1 about one year exactly.

2 And so we did not want to disrupt
3 the market. But through this agreement we
4 wanted to protect local business. And that's
5 why those things are in there.

6 But you bring up -- the best point
7 is that there's a competitive public policy
8 interest because we have to get renewable
9 energy into the District of Columbia. You're
10 right.

11 CHAIRMAN KANE: I also put before
12 you the transcript from the April 21st
13 evidentiary hearing. I want to direct your
14 attention, if you would, to the first page of
15 that exhibit, which would be Page 3153.

16 Just to position this, this is
17 cross-examination of D.C. Government Witness
18 Chambers. And he is being asked, starting on
19 Line 5, Mr. Chambers, the D.C. Government:
20 You're -- You've also proposed this commission
21 require Exelon to build 50 megawatts of solar
22 in the District and 200 megawatts of wind in P

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1 -- it should say in PJM -- that would be
2 delivered to the District, right?

3 Then he confirms that that is --
4 that is correct, that they're asking for.

5 And on the following page, starting
6 on Page 6, you're answering the question: How
7 would you -- how would the cost be recovered?

8 And you said the District -- or
9 excuse me.

10 Mr. Chambers, speaking with the
11 District, would be entering into any type of
12 solar agreement likely as a power purchase
13 agreement and indicated later on on page -- on
14 Line 18 you're -- the District was not
15 proposing that joint applicants give away free
16 electrons.

17 District Government was asking for
18 50 megawatts about nine -- eight, nine months
19 ago, which obviously the District Government
20 thought -- or I would assume thought would be
21 in the public interest.

22 Explain to me why 5 or 7 megawatts

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1 compared to 50.

2 THE WITNESS: So what happened in
3 the negotiations, which is obviously far more
4 than this, that I think the merger -- if I
5 remember correctly, offered 5 megawatts. And
6 we rejected that deal.

7 In the end, I believe that we
8 doubled the amount to 10. And I certainly
9 believe that the District would love to have 50
10 megawatts. There's a lot of things we asked
11 for and at a very high degree.

12 And so we got the original offers,
13 which at some point seemed to be their last and
14 final offer because they did not continue to
15 negotiate. And Public Service Commission had
16 their ruling. So we doubled the amount but
17 also showed how it could be done.

18 And then the other part of the 200
19 megawatts of wind. As you know, we had 100
20 megawatts of wind into the PJM. And again,
21 that's to be competitively bid.

22 So we did -- you know, in any type

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1 of negotiations, you don't get everything you
2 ask for. But we got a lot, a whole lot more
3 than what had been offered before the Public
4 Service Commission made its ruling.

5 CHAIRMAN KANE: And finally, on the
6 microgrids, starting on Page 32 of your
7 testimony, you're asked to discuss the
8 provision on microgrids, which is settlement on
9 Proposal Provision No. 128.

10 Is it your understanding that these
11 microgrids would need to be approved by the
12 Public Service Commission?

13 THE WITNESS: It says midparagraph
14 on 128 on Page 31 in the agreement: The
15 development and implementation of the microgrid
16 pilot project should be competitively sourced
17 and that Pepco shall install the microgrids
18 within five years after receiving approval from
19 the Commission of the microgrid projects.

20 So it's anticipated that the
21 Commission would have to approve the
22 microgrids.

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1 CHAIRMAN KANE: Okay. Thank you.

2 One other question. Yes. On the
3 green bank.

4 Looking at your data response, would
5 be to question -- on the very last page before
6 the -- before the service list. And also you
7 mentioned the green bank in your testimony.

8 You say: This is money going to the
9 green building fund. It will allow the
10 District Government to create a green bank as
11 well as promote deeper sustain -- does the
12 green bank currently exist now?

13 THE WITNESS: No, it does not.
14 Currently DOE has a -- has a -- a study that's
15 being conducted to determine how a green bank
16 could be created for the District, like in
17 Connecticut and elsewhere.

18 But we have to look at our home rule
19 charter around issues of lending money and how
20 would we do this. And it may have to go
21 through a private entity in a way that -- you
22 know, with our own assurances.

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1 It's going to be complicated, but it
2 -- of great value if we can get a return of ten
3 to one on these funds. And I think it could be
4 a substantial innovation tool for the District.

5 CHAIRMAN KANE: Would the proposal
6 be to put the whole 10.05 million that's going
7 into the green building fund into the green
8 bank?

9 THE WITNESS: Not necessarily.

10 As you know, in the settlement
11 agreement also Exelon will commit \$5 million to
12 be lent at market rates but for the same types
13 of purpose. So how we put this together and
14 how much is needed to leverage the greatest
15 amount of funds will -- you know, certainly the
16 District's funds could -- we have greater
17 latitude of how they are -- are utilized.

18 But I would hope -- and my
19 recommendation is that we also look at any
20 other innovation investments up to 1, 2 or 3
21 million, from that fund if that is the amount
22 that we need.

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1 As you know -- and I don't want to
2 get too complicated here -- but as you know,
3 the microgrids are not known entities. We
4 don't have a microgrid of this century that's
5 been built.

6 It may be that some funds from the
7 District's needed to get it over the top
8 because we don't want those -- that cost to be
9 spread out to the ratepayers, but if it's a
10 new, you know, hardware cost to do the
11 interconnections.

12 It's also in the interest of the
13 District to create what we're trying to do --
14 the -- the solar at D.C. Water's a lot more
15 than D.C. Water's just getting solar. We would
16 love to get to a point to where we could do it,
17 as the Commission understands, islanding our
18 utilities so that, in the event that we have a
19 disastrous event, be it through climate change,
20 weather events or terrorism, that we would keep
21 our utility running.

22 And so there may be a reason for the

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1 District to add funds, because of the public
2 interest, to -- to be -- to trying to get
3 D.C. Water to energy independence of -- at
4 least being able to island in the event there's
5 an event.

6 So while the bulk of the funds for
7 the green bank is intended to help facilitate
8 the creation of a green bank for the District,
9 there could be some flexibility for innovation
10 for part of those funds.

11 CHAIRMAN KANE: And you're speaking
12 of the funds going into the green building
13 fund.

14 THE WITNESS: That's right.

15 CHAIRMAN KANE: Is it your
16 understanding --

17 THE WITNESS: I'm sorry. The green
18 building fund.

19 CHAIRMAN KANE: Yeah. Is it your
20 understanding -- I will also ask Mr. Hawkins
21 this -- that moneys can -- may come out of the
22 green building -- of this 10.5 billion that was

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1 going into the green building fund that would
2 support job training and a green infrastructure
3 program at D.C. Water?

4 THE WITNESS: I don't necessarily
5 see that happening. I mean that's something
6 that we're going to have to discuss. I mean
7 these negotiations were done to the last
8 minute. And I know that the city administrator
9 and the city exacted -- or extracted a very
10 favorable agreement from D.C. Water on a
11 infrastructure training program.

12 And there's a lot of synergy between
13 learning how to manage green infrastructure,
14 cutting trees, operating in the -- in the
15 public realm on -- in roadways and such and
16 public right-of-ways, that there could be some
17 synergy in the training.

18 So we have the \$5.8 million for the
19 training fund that we believe that D.C. Water
20 should be able to participate in to make this
21 happen because of the overlap of what the new
22 workers will need to learn.

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1 CHAIRMAN KANE: And who will make
2 the ultimate decisions on how the money in the
3 green building fund, this 10.05 million, if it
4 were to be approved to go in there -- who would
5 make the decisions on how it would be disbursed
6 and for what purposes?

7 THE WITNESS: Well, clearly the
8 mayor. But the -- the city administrator --
9 I've worked with the city administrator to
10 determine where -- to how do we accomplish the
11 purpose of -- and where would we put the funds
12 in the event that we're able to create a green
13 bank and also make some other innovation
14 investments.

15 We determined that the green
16 building fund, which already has a memorandum
17 of understanding of -- of moneys from DCRA,
18 Department of Consumer Regulatory Affairs,
19 where the fund was establish, that the funds
20 are transferred to the sustainability
21 administration under DOEE, Not all the funds
22 but an amount.

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1 And so we already have an
2 established relationship where DOEE receives
3 funds from the -- the green building fund in
4 concert with D -- with DCRA.

5 So the city administrator sits
6 between us. And the purpose of the funds to
7 that is --

8 CHAIRMAN KANE: And just one final
9 question.

10 On the green building fund, in
11 response to Question 4, we asked accounting of
12 the revenue interest during expenditures in the
13 green building fund since its inception.

14 And there's a chart that shows for
15 fiscal year 2008 through 2015 revenue, if
16 you'll agree, subject to check, little bit over
17 8.8 million and total expenditures out of the
18 fund of about 4.4 million and some change,
19 which, if my subtraction is right, would leave
20 4.3 million unspent in that fund, about 1.8 of
21 which came in in the last fiscal year.

22 Has there been a difficulty spending

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1 money out of that fund?

2 THE WITNESS: DO -- I can't speak
3 for DCRA, but I can say that DOEE does -- we
4 spend our money out of that found quite --
5 quite well, thank you.

6 But the -- I don't believe that
7 there has been an issue. I do know that --
8 that there's a -- a character difference in the
9 2. -- the 10.5 million. It was where -- what
10 fund exists in D.C.'s budget where we don't
11 have to create a new fund for the purpose of
12 doing this.

13 And it seemed that the language
14 around the green building fund was the most
15 appropriate place to park the money so that it
16 did not -- we didn't have to create a new fund
17 in -- depending on when this -- you know, the
18 Public Service Commission makes its decision
19 and Exelon is ready to write a check for the
20 fund.

21 So it's not necessarily adding to
22 that fund in a way that it's -- so that the

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1 mission of that fund is consistent with the --
2 the purpose in the settlement agreement of how
3 we want to invest it.

4 CHAIRMAN KANE: And the -- I just
5 bring your attention -- we'll put it into the
6 record -- D.C. Code 6-145107, which establishes
7 and governs the green building fund, and note
8 that it is -- the uses of the fund shall
9 continually be available for uses and purpose
10 set forth in the section subject to
11 authorization by congress in an appropriations
12 act, which means it still needs to go through
13 appropriation.

14 Thank you. I'm going to ask --
15 Commission Fort has some questions.

16 THE WITNESS: Thank you.

17 COMMISSIONER FORT: Thank you. I'm
18 going to be -- try to be respectful of your
19 time that you want to leave, but I also need
20 answers to some questions.

21 THE WITNESS: This is my first
22 priority.

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1 COMMISSIONER FORT: On Page 24 of
2 your testimony, in Lines 1 through 10, you're
3 speaking about the commitment for workforce
4 development, the \$5.2 million at that point.

5 Where will that money -- that
6 \$5.2 million, to what agency would that money
7 be allocated should the Commission approve the
8 settlement?

9 THE WITNESS: That's a great
10 question because we're working on that right
11 now, as I've mentioned, that we want to get
12 some synergy with what we agreed on D.C. Water.

13 And one of the things that we know
14 is that working in public infrastructure and
15 green infrastructure, there's no certification
16 in the country to certify our workers.

17 And so that fund will -- we will
18 look at the D.C. Community College under UDC
19 and working on can we get to an agreement with
20 them of what could happen there. But also
21 Department of Employment Services. And then
22 also looking at what works best for D.C. Water

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1 to join this effort.

2 So that's being worked on currently
3 of where -- where those funds will be invested.
4 And then we will direct Exelon that -- if -- if
5 it's a entity that's not -- if it's D.C. Water,
6 then maybe a direct payment to D.C. Water. If
7 it's D.C. Government, that's where we'll
8 allocate them.

9 COMMISSIONER FORT: And so which
10 agency in the District of Columbia government
11 will ultimately decide how those funds are
12 being allocated?

13 THE WITNESS: City administrator.
14 The city administrator has -- was the point
15 person on both negotiating with D.C. Water for
16 the green jobs program and then also was the
17 point person on negotiating this part with --
18 and I don't think that gets to the substance of
19 the negotiations, but this has been a -- the
20 city administrator has been the lead on this
21 for the city.

22 COMMISSIONER FORT: So if we were to

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1 look to one entity to track whether or not the
2 5.2 million has all been allocated, that would
3 be to the city administrator?

4 THE WITNESS: Right. And a report
5 back on all of the funds and activities here,
6 obviously that -- that would be part of the
7 report back to you of where those funds were
8 allocated and under what agreements if there's
9 MOUs involved.

10 COMMISSIONER FORT: So under the
11 settlement provision, which is also Paragraph
12 24, these are for green infrastructure training
13 programs targeted to underserved communities.

14 THE WITNESS: Yes.

15 COMMISSIONER FORT: And it's also
16 for sustainable jobs.

17 Is there a definition of what
18 sustainable jobs are?

19 THE WITNESS: Well, the --

20 COMMISSIONER FORT: I think that's a
21 reference to your testimony where you talk
22 about --

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1 THE WITNESS: Right.

2 COMMISSIONER FORT: -- for
3 sustainable jobs, there's a question --

4 THE WITNESS: And I realize that --
5 that it can be taken two ways. We mean it both
6 ways. One is jobs that are green jobs for
7 promoting sustainability in the District. And
8 also jobs that will continue --

9 COMMISSIONER FORT: Yes.

10 THE WITNESS: -- that are
11 sustainable.

12 COMMISSIONER FORT: Yes.

13 THE WITNESS: And so it means both
14 things. But yes, that we want jobs that are
15 not just one-off, project-related jobs but jobs
16 that continue.

17 COMMISSIONER FORT: Is it your
18 expectation that Pepco will be employing the
19 District residents who participate in the
20 workforce development programs that would be
21 receiving these funds?

22 THE WITNESS: Yes.

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1 COMMISSIONER FORT: Has the District
2 Government received contributions for workforce
3 development from corporat- -- other
4 corporations that do business in the city?

5 THE WITNESS: Yes.

6 COMMISSIONER FORT: And are they for
7 sustainable jobs under either definition of
8 sustainable jobs?

9 THE WITNESS: Well, in terms of
10 longer lasting jobs, if I remember correctly,
11 when Wal-Mart first came into the District,
12 Wal-Mart granted funds to I believe the
13 community college for training programs that
14 would be entry-level jobs that would hopefully
15 be sustainable, yes, and whether it be with
16 Wal-Mart or -- or other retail activities in
17 the District.

18 COMMISSIONER FORT: To your
19 knowledge, has Pepco or PHI provided workforce
20 training funds for projects -- or for
21 sustainable jobs that are currently in the
22 District in -- in coordination with anything

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1 that DOEE is doing?

2 THE WITNESS: Commissioner Fort, I
3 would have to report back to you on that. That
4 would be more likely the Department of
5 Employment Services. And I would have to
6 report back to you on that.

7 COMMISSIONER FORT: I was going to
8 ask how the 5.2 was going to be allocated
9 between the agencies, but you already answered
10 that, that that's under review.

11 THE WITNESS: It's under review.
12 And as Commissioner, I'm sure, understands is
13 that, whenever you work in a public
14 right-of-way, that there's a lot of things
15 involved, whether you're working for Department
16 of Transportation or Pepco or D.C. Water.

17 And so we believe that there's a lot
18 of overlap in the kind of training that we
19 could provide and. Hopefully we'll be
20 providing jobs to at least those three entities
21 if not more.

22 COMMISSIONER FORT: Okay. So this

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1 question is a follow-up to one that the Chair
2 raised on the use of the funds in the
3 Sustainable Energy Trust Fund.

4 Are you aware, as I will say I was
5 not until I prepared, you know, for this, that
6 D.C. -- there is a provision in D.C. Code
7 8-1774.10(d) that says: If at the beginning of
8 a fiscal year, the fund balance of the SETF
9 exceeds the projected annual cost of all
10 programs pursuant to Subsection C of this
11 section in that fiscal year by at least \$10
12 million, the fiscal agent shall suspend payment
13 and the collection of the SET Fund assessment
14 until such excess is estimated by the fiscal
15 agent to be \$5 million?

16 THE WITNESS: I'm not aware of that
17 provision.

18 COMMISSIONER FORT: I -- then I
19 can't ask the follow-up of are you aware of
20 whether or not that has ever been exercised --
21 I think, under the Act, the fiscal agent is the
22 office of the chief financial officer.

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1 THE WITNESS: That's right.

2 COMMISSIONER FORT: Where I was
3 going the ask whether or not the limitations in
4 that provision would present any problems for
5 the funds that are designated to go into the
6 SETF.

7 THE WITNESS: Commissioner Fort,
8 that's a very good question. This past year
9 we've changed the law that allows the -- the
10 \$20 million contract for the SEU to go over \$20
11 million for -- you know, certainly for
12 specified activities through a contract
13 amendment or otherwise, where before that had
14 not been allowed.

15 COMMISSIONER FORT: But I understand
16 that.

17 My concern is that, you know, it's
18 not a matter of being able to transfer the
19 money out. This money is being collected from
20 ratepayers with the assumption that it's going
21 to be used for programs for ratepayers.

22 And if they -- it's not being used,

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1 then ratepayers are overpaying for -- are
2 getting assessed surcharge for which they're
3 get no benefit. That's a statutory surcharge.

4 That is not a surcharge, I will put
5 on the record, that is done by the Commission.
6 If that was here at the Commission, we would
7 have the ability here to suspend it.

8 THE WITNESS: Right. And as you
9 know, the chief financial officer is an
10 independent entity. And they should -- there's
11 no requirement that they follow the mayor's
12 orders on something like this.

13 And so that they are also an
14 independent entity, not exactly the same kind
15 of entity as the Public Service Commission, of
16 course.

17 But the public -- there's no reason
18 why the chief financial officer could or could
19 not do that. And I think that may be an
20 awareness that they may have not read that as
21 well. And I certainly think it appropriate for
22 the Public Service Commission and my own entity

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1 to bring that to -- to the chief financial
2 officer's attention.

3 COMMISSIONER FORT: I am lucky to
4 have a policy adviser who was aware of such
5 details and -- and brought it to my attention.
6 So that's not unusual.

7 I was going to ask you a series of
8 questions because I was assuming that the joint
9 applicants' witness would go first. And then I
10 was going to ask you whether or not you agreed
11 with -- or whether or not you -- the District
12 of Columbia Government agreed with the
13 positions that they took on those questions.

14 And this may be a question to
15 counsel.

16 Is Witness Smith in a position to
17 answer those questions on behalf of the D.C.
18 Government once I ask them of the joint
19 applicant?

20 MR. CALDWELL: Having not heard
21 those questions, I don't know.

22 What -- what -- what areas are they?

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1 COMMISSIONER FORT: They were
2 general broad, questions in terms of how --
3 what parts of the settlement agreement and the
4 underlying documents were not -- if there was a
5 conflict between the settlement agreement and
6 the -- and Joint Applicants' Exhibit 4A2, which
7 ones would be controlling.

8 I will preview the questions, though
9 unfortunately during -- applicants can get
10 ready for it. But I don't want it, you know,
11 to stop us from answering the questions here.

12 And the second set of questions go
13 to whether or not if there is something in the
14 settlement agreement that is the subject of
15 pending cases here at the Commission, of which
16 there are two, interconnections and the
17 microgrids -- if there's something in the
18 settlement agreement that is different from
19 what the Commission puts in rules, how do we
20 interpret that.

21 And I may just leave that, you know,
22 for you all to contemplate over and get back to

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1 us with an answer. But I have previewed those
2 questions. Now you will all know that I will
3 ask those questions.

4 There took away my element of
5 surprise, but I don't think this -- I don't
6 think this -- this hearing is for the purpose
7 of having surprise. I think this really is a
8 hearing where the Commission is trying to get a
9 good understanding of what is in the settlement
10 agreement.

11 So having given up my surprise, you
12 know, I will still ask those questions. And
13 when we come back after a break, you know,
14 after lunch, I'll -- I'll ask the D.C.
15 Government to speak to those.

16 CHAIRMAN KANE: Commissioner Fort,
17 was your question also whether or not anything
18 that's in Director Wells's testimony that might
19 come up later that -- that Witness Smith could
20 speak to?

21 COMMISSIONER FORT: I asked him the
22 questions I had in his testimony. This -- you

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1 know, this question, which is a broader,
2 general question as to what the D.C. Government
3 is agreeing to, was the -- you know, what their
4 understanding is of the agreement is the broad
5 question I want. And I wanted to make sure
6 that someone who is not a D.C. Government
7 official is in a position to answer that. Or
8 it may be that we need an alternative way to
9 get that answer.

10 MR. CALDWELL: Yes.

11 CHAIRMAN KANE: Witness Smith is not
12 a --

13 MR. CALDWELL: Right.

14 CHAIRMAN KANE: -- member of the
15 D.C. Government.

16 MR. CALDWELL: Correct.

17 CHAIRMAN KANE: He's a consultant to
18 the government.

19 MR. CALDWELL: Correct.

20 THE WITNESS: If I understand the
21 question, I certainly can state, Commissioner,
22 that the intent was -- and this is why there's

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1 some reason for some vagueness around
2 microgrids and some of the -- the solar
3 connection things was to defer to the work of
4 the Public Service Commission, not to preempt
5 it in any way.

6 COMMISSIONER FORT: Takes one
7 question off the table, because that is the
8 question, you know, alternately. And -- but
9 thank you.

10 THE WITNESS: And I also note I
11 haven't been asked exactly what a microgrid is.
12 And that is part of what we hope comes out of
13 the work that you're doing. And we defer to
14 you.

15 CHAIRMAN KANE: Is that it? Okay.
16 Thank you.

17 Commissioner Phillips?

18 COMMISSIONER PHILLIPS: My questions
19 have been asked and answered.

20 CHAIRMAN KANE: Oh, very good.

21 COMMISSIONER PHILLIPS: So I have
22 nothing further.

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1 CHAIRMAN KANE: Thank you. Well,
2 thank you.

3 It's just a couple of minutes after
4 1:00. We will recess now for -- for lunch.

5 Thank you, Mr. Wells. Have a good
6 trip. And represent us well over there.

7 THE WITNESS: Thank you very much.

8 CHAIRMAN KANE: Oh, and we will --
9 do you have any redirect for the witness?

10 Mr. Caldwell, do you have any
11 redirect for the witness?

12 Briefly. I know we need to give the
13 stenographer a break. But I don't want to rush
14 anybody. We need to take the time we need to
15 get what we need on the record.

16 MR. CALDWELL: I was just going to
17 ask a few follow-up questions on what
18 Commissioner Fort just raised, because -- sort
19 of flush out the -- the -- the areas that I --
20 that I think the Commission is referring to.

21 REDIRECT EXAMINATION BY COUNSEL FOR DISTRICT OF
22 COLUMBIA GOVERNMENT

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1 BY MR. CALDWELL:

2 Q. So for Formal Case 1130, which is
3 basically a proceeding to sort of look at the
4 future of the grid, is it the District's intent
5 to set a -- a firming work-up now, or is it to
6 -- regarding issues such as microgrids or
7 regarding microgrids as being a -- as a good
8 example -- is it -- is it the Commission -- or
9 the District's intention to defer to whatever
10 rules and orders that come out of Formal Case
11 1130?

12 A. Absolutely. And that we also
13 recognize the -- the Commission's authority and
14 role in oversight of anybody that is a consumer
15 on the grid and that the microgrids are not an
16 attempt to evade this oversight at all or the
17 authority of the Public Service Commission.

18 Q. And if there were another proceeding
19 which has to do with interconnection of solar
20 facilities in the District of Columbia, which
21 you have testified at a public hearing on --
22 if, as a result of those proceedings, the

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1 Commission were to issue regulations or orders
2 which may be contrary to some of the provisions
3 in this agreement, is it the District's
4 position that those orders or rules take
5 precedence over what is in this agreement?

6 A. I think the most important thing is
7 where is the authority to enforce agreements or
8 rules. And authority rest in the -- in the
9 Public Service Commission.

10 And so the -- that it is in the
11 public's interest and the government fully
12 supports that we defer to the -- the rules and
13 protocols and to -- to whatever the Public
14 Service Commission decides, because this is the
15 appropriate forum to enforce them.

16 Q. And if the Commission were to decide
17 that an appropriate forum for something along
18 the lines of the low-income provisions in this
19 agreement were to be best housed within, say,
20 Formal Case 1120, which has to do with
21 low-income electricity customers, is that
22 something that the -- that the District would

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1 be willing to go along with?

2 A. I see no conflict with what we'd
3 agreed to.

4 MR. CALDWELL: Okay. Thank you.
5 That's all the questions I have.

6 CHAIRMAN KANE: Thank you.

7 We will recess.

8 I need to ask D.C. Water if your
9 witness might be available on Friday, if you
10 could check with us on that. Because what we
11 really prefer -- we need to accommodate Mr.
12 Wells. But we want to now go back and start
13 with the joint applicants' witnesses so that
14 exactly what Commissioner Fort was referring
15 to, that we have on the record that proposal.
16 Then we'll be able to ask questions of the
17 other settling parties as to their
18 understanding of that. Okay.

19 That being said, we will come back
20 in one hour.

21 Ms. White, yes. I'm sorry.

22 MS. WHITE: I just wanted to confirm

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1 that I have been in contact with Mr. Hawkins,
2 and he's available Friday morning.

3 CHAIRMAN KANE: Friday morning.

4 Thank you very much.

5 MS. WHITE: Thank you.

6 CHAIRMAN KANE: I -- I saw you
7 nodding, but we did need to get that on the
8 record. Thank you very much.

9 We're recessed until 2:10.

10 THE SECRETARY: All rise.

11 (A short recess was taken.)

12 THE SECRETARY: All rise. You may
13 be seated.

14 CHAIRMAN KANE: We are back on the
15 record in Formal Case 1119. It is 2:15 p.m.

16 We will start with the joint
17 applicants's first witness.

18 MR. BONNEY: My name is Paul Bonney,
19 I'm deputy general counsel of Exelon. We call
20 Mr. Khouzami.

21 CARIM KHOUZAMI,
22 being first duly sworn, to tell the truth, the

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1 whole truth and nothing but the truth,
2 testified as follows:

3 DIRECT EXAMINATION BY COUNSEL FOR EXELON

4 BY MR. BONNEY:

5 Q. Mr. Khouzami, would you please state
6 your employer and title for the record.

7 A. My name is Carmin Khouzami, I'm
8 senior vice president and chief integration
9 officer for Exelon Corporation.

10 Q. And do you have before you your
11 fully conformed direct testimony in support of
12 the settlement agreement filed on October 30,
13 2015 submitted on behalf of the joint
14 applicants in this proceeding consisting of 66
15 pages and four exhibits?

16 A. I do.

17 MR. BONNEY: Your Honors, as
18 previously stated, you have stipulated the
19 testimony and so I would like to mark for
20 identification Mr. Khouzami's testimony as
21 Joint Applicants Exhibit 5A and Exhibits 5A-1
22 through 4.

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1 CHAIRMAN KANE: 5A-1 through?

2 MR. BONNEY: 5A-4.

3 CHAIRMAN KANE: They are so marked.

4 MR. BONNEY: Thank you.

5 (Joint Applicants Exhibits 5A and
6 5A1-4 were marked for identification.)

7 Mr. Khouzami is available for
8 cross-examination.

9 CHAIRMAN KANE: Any questions?

10 Commissioner Fort, yes.

11 COMMISSIONER FORT: Good afternoon.

12 THE WITNESS: Good afternoon.

13 COMMISSIONER FORT: So my first
14 question which was my surprise question, not a
15 surprise. I wanted to clarify whether or not
16 the settlement agreement and the commitments
17 that are reflected in the settlement agreement
18 are intended to replace the commitments that
19 were in 4A-2, joint applicants Exhibit 4A-2, in
20 the entirety.

21 THE WITNESS: They are.

22 COMMISSIONER FORT: So there's no

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1 need to ask if there was a discrepancy between
2 the two.

3 THE WITNESS: No, ma'am.

4 COMMISSIONER FORT: My second
5 general question, which I also posed to D.C.
6 Government witness Wells this morning, is if
7 the Commission adopts new results concerning an
8 issue that's covered in the settlement
9 agreement and the new rules require the joint
10 applicants to do something that is different
11 from a commitment that is in the settlement
12 agreement, which document would be controlling?

13 THE WITNESS: Whatever Commission
14 orders are made will be what we comply to.

15 COMMISSIONER FORT: So
16 hypothetically, if the rules required certain
17 response times for an interconnection, if that
18 was different from the response time that was
19 reflected in the settlement agreement that the
20 response times the Commission ordered or rules
21 would apply?

22 THE WITNESS: They would. The one

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1 caveat I might make is if for some reason, the
2 order is less fast than the response times we
3 put forth in the settlement agreement, we'd go
4 with whatever is more available.

5 COMMISSIONER FORT: So with those
6 two general questions out of the way, I wanted
7 to walk through some of the specific paragraphs
8 in the -- in the settlement agreement and ask
9 some questions to make certain that the
10 Commission and the public and me, in
11 particular, understand how the proposed -- some
12 of those proposed provisions would operate.

13 I'm going to start with Paragraph 4
14 which is the residential customer base rate
15 credit of \$25.6 million, so if you can confirm
16 that that credit would only apply to
17 residential customers and would not apply to
18 commercial customers.

19 THE WITNESS: Residential as well as
20 master meter accounts.

21 COMMISSIONER FORT: Master meter
22 residential customers.

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1 THE WITNESS: That is correct.

2 COMMISSIONER FORT: And it does
3 cover RAD customers whether or not a RAD
4 customer is in a residential -- what we
5 consider a residential customer or a master
6 meter apartment or customer.

7 THE WITNESS: That is correct.

8 COMMISSIONER FORT: Would Exelon
9 actually transfer the \$25.6 million in cash to
10 the -- to Pepco in some fashion?

11 THE WITNESS: They would. So Exelon
12 would reimburse Pepco for the lost revenue
13 keeping the RECRI ratio in the same spot. I
14 think the important thing is from a customer
15 perspective, it is \$25.6 million of rates that
16 they will never pay, so there is never a
17 lookback to try to recover those rates over
18 some period of time. The 25.6 million will be
19 the benefit that customers realize.

20 COMMISSIONER FORT: So the --
21 focusing again on how that transfer takes place
22 of funds between Exelon and Pepco, so that we

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1 can track it from an accounting point of view,
2 would we see that in a lump sum transfer and
3 then there is an account created at Pepco that
4 is assessed against, or is that a transfer that
5 would occur on a periodic basis and if so, what
6 is the periodic basis?

7 THE WITNESS: I'm only pausing that
8 it would be at a minimum periodically as
9 incurred or potentially lump sum upfront, so in
10 other words, either it will be received earlier
11 than incurred or as it's incurred. It won't be
12 afterwards. I'm not sure we decided exactly
13 how we're going to transfer the funds.

14 COMMISSIONER FORT: Has a decision
15 been made about the final accounting treatment
16 for the credit?

17 THE WITNESS: It would be an equity
18 infusion from Exelon to Pepco.

19 COMMISSIONER FORT: If Pepco earned
20 -- will Pepco earn interest or will be there
21 interest earned on the amount of money once it
22 is transferred before the credit is used up by

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1 customers? Would this be in an account that is
2 earning interest?

3 THE WITNESS: No, I think it would
4 be as incurred, so there would not be any
5 interest.

6 COMMISSIONER FORT: Can you confirm
7 that the \$25.6 million credit has two
8 components, the \$4.3 million credit that's
9 applied to the master meter apartment units,
10 while the remaining 21.3 million would be
11 applied to all other residential customers,
12 that's correct?

13 THE WITNESS: Sorry. Could you
14 repeat your question.

15 COMMISSIONER FORT: Can you confirm
16 that there are two components to the \$25.6
17 million. There is a \$4.3 million component,
18 which is to be used for credit for the master
19 meter apartment part of the program, and then
20 the remainder, if my math is right, \$21.3
21 million is to be used as a credit for all other
22 residential customers?

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1 THE WITNESS: That is what we
2 expect.

3 COMMISSIONER FORT: Will Pepco
4 separately track the credits for the two groups
5 against the total amount of a credit?

6 THE WITNESS: I think it will be
7 transparent because you will see the offsets by
8 residential -- or by rate class, so you will be
9 able to see the offsets that are taking place.

10 COMMISSIONER FORT: Does that mean
11 that one group might use up its allotted credit
12 before the other group uses up its allotted
13 credit?

14 THE WITNESS: I don't --
15 irrespective of when the amount is used up,
16 there is an incremental offset provision so in
17 any scenario, no customers, residential
18 customers or MMA will be facing a distribution
19 rate increase prior to March 31, 2019.

20 COMMISSIONER FORT: But in terms of
21 -- again, so you are saying that customers will
22 not see it before that day, but something

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1 different would happen on the books, would it
2 not, once the credit is used up by one of the
3 two categories?

4 I'm going to ask you a series of
5 questions a bit later about the offset.

6 THE WITNESS: So once the --

7 COMMISSIONER FORT: At some point,
8 once the credit is used up, \$4.3 million, the
9 credit is used up by the master meter
10 apartments, then something different happens,
11 even though, as you say, customers under this
12 proposal would not see an increase in their
13 bill yet.

14 THE WITNESS: But that --

15 COMMISSIONER FORT: There is
16 something different that happens once that 4.3
17 million is used up.

18 THE WITNESS: Let me just clarify a
19 point. The 25.6 million is for both
20 residential and MMA. We estimate and we
21 believe that about 4.3 million of that will be
22 for MMA customers, so it will be dependent on

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1 how the rate increases are allocated through
2 the future rate cases.

3 COMMISSIONER FORT: So a count for
4 accounting purposes, we are not looking at two
5 subsets of A, with a definite number, is that
6 what you are saying?

7 THE WITNESS: We are still looking
8 at a total of 25.6.

9 COMMISSIONER FORT: Okay. I have a
10 couple questions about the portion of the
11 residential customer's bill that the credit
12 would be applied to.

13 Is it correct that the credit will
14 only be applied to the amount of any
15 residential rate increase that occurs after the
16 merger takes place and not to the whole bill if
17 the Commission approves the settlement?

18 THE WITNESS: That's correct.

19 COMMISSIONER FORT: Is it also
20 correct, will be credit be applied to all
21 elements of the customer's bill or only to
22 certain amount elements of the bill and if only

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1 to specific elements, I was going to ask some
2 questions.

3 THE WITNESS: During the rate case
4 proceeding, we would propose how the offset
5 might be applied. Ultimately, the Commission
6 would determine whether or not it will be
7 against fixed charges, value metric charges or
8 a combination of thereof.

9 COMMISSIONER FORT: So that's within
10 the distribution components. Would it apply to
11 surcharges on the bill?

12 THE WITNESS: No, just distribution.

13 COMMISSIONER FORT: And so if I said
14 would it apply to taxes on the bill.

15 THE WITNESS: It would just be
16 distribution.

17 COMMISSIONER FORT: Would it apply
18 to the taxes on the distribution portion of the
19 bill?

20 THE WITNESS: I believe anything
21 with distribution rate, it would apply to.

22 COMMISSIONER FORT: Would it apply

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1 to the transmission charges on the bill?

2 THE WITNESS: No.

3 COMMISSIONER FORT: Would it apply

4 to any of the energy costs on the bill?

5 THE WITNESS: No.

6 COMMISSIONER FORT: Would it work

7 differently with net energy metering customers?

8 THE WITNESS: I don't believe so.

9 COMMISSIONER FORT: Will the

10 customer's bill specifically identify these

11 credits?

12 THE WITNESS: Yes. There will be a

13 separate line item showing this credit.

14 COMMISSIONER FORT: So that means

15 the new billing package, Solution 1 is

16 sufficiently flexible to do that?

17 THE WITNESS: It is.

18 COMMISSIONER FORT: Just checking.

19 Again, staying with 4, you testified

20 on Page 13 on Lines 8 through -- on Lines 8

21 through 11, that moreover, the entire \$25.6

22 million residential customer base credit if not

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1 utilized by March 31, 2019, then residential
2 and RAD customers and MMA customers will
3 continue to benefit from the residential
4 customer base rate credit beyond that date,
5 right?

6 THE WITNESS: That's correct.

7 COMMISSIONER FORT: And is that
8 language -- that language is not actually in
9 the settlement agreement. That's you just
10 explaining that there is a continuing sentence
11 there; is that correct? If I were to look at
12 Paragraph 4 of the settlement agreement itself?

13 THE WITNESS: There is no expiration
14 to the \$25.6 million credit. Customers will
15 receive the \$25.6 million, we believe that will
16 be about March 31, 2019, but in the event that
17 there is dollars left by March 31, 2019 in the
18 \$25.6 million fund, that would be extended and
19 continued to be used until the fund is
20 fully-exhausted.

21 COMMISSIONER FORT: That's what you
22 reference when you say a continued benefit that

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1 could go beyond a date?

2 THE WITNESS: That's correct.

3 COMMISSIONER FORT: Is there an
4 anticipated date when the credit would begin?

5 THE WITNESS: The credit would begin
6 following the first rate case there, once the
7 final order is issued.

8 COMMISSIONER FORT: Will the date be
9 the same for all residential customers?

10 THE WITNESS: I don't understand
11 your question, sorry.

12 COMMISSIONER FORT: Would the date
13 be the same for all residential customers, so
14 for RAD customers, for MMA customers?

15 THE WITNESS: Right. When the new
16 rates go into effect, that is when the credit
17 would begin.

18 COMMISSIONER FORT: Now I want to
19 turn to what you call the incremental offset.

20 First, just so people who are
21 listening will know what that is, can you just
22 give me a definition of what that is?

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1 THE WITNESS: Sure. We are
2 guaranteeing that residential and MMA customers
3 will not be seeing a distribution rate increase
4 prior to March 31, 2019. We believe the credit
5 amount of \$25.6 million is sufficient to ensure
6 this, but in the event that the funds are
7 utilized prior to March 31, 2019, any
8 incremental distribution rate increase would be
9 placed into a regulatory asset and would be
10 recovered over a period of no less than two
11 years beginning April 1, 2019.

12 The intent here is to ensure that no
13 matter what happens, residential and MMA will
14 not see a distribution rate increase prior to
15 March 31, 2019.

16 COMMISSIONER FORT: Okay. And that
17 is actually defined in Paragraph 4.

18 THE WITNESS: That's correct.

19 COMMISSIONER FORT: So it would
20 operate as it's set out in Paragraph 4.

21 THE WITNESS: Yes.

22 COMMISSIONER FORT: Can you talk

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1 about the payback time that is contemplated.

2 THE WITNESS: So Paragraph 4
3 outlines a payback period of two years. In the
4 event that a two year amortization period
5 results in amounts that exceed \$1 million per
6 year, the period would be extended.

7 The \$1 million, as a point of
8 reference was arrived at because that is
9 approximately what these customers, MMA and
10 residential customers will be receiving through
11 synergy savings in that year -- beginning in
12 2019, so this way, any incremental increase is
13 still being offset by the synergies.

14 COMMISSIONER FORT: Okay. I didn't
15 have to ask what is the source of the \$1
16 million, you just answered that.

17 Will the customer's bill
18 specifically identify the incremental offset?

19 THE WITNESS: Yes, ma'am.

20 COMMISSIONER FORT: Is it correct
21 that the rate-based credit is only a benefit if
22 a base rate application has been filed with the

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1 Commission and the Commission has approved a
2 rate increase, that would result in the
3 increase of rates for Pepco D.C. residential
4 and RAD customers and for master meter
5 apartment -- residential customers.

6 THE WITNESS: That is when the
7 benefit will be realized. I think important is
8 the fact that there is no expiration, so at
9 some point, Pepco is going to come in for a
10 distribution rate case, whether that is this --
11 in 2016 or 2026. Either way, this \$25.6
12 million fund will always be available to offset
13 rate increases for customers, so there will be
14 a point when these are applied. There is no
15 expiration so customers will benefit from this
16 credit.

17 COMMISSIONER FORT: So that -- I
18 think it addressed my next question, which was
19 going to be how many rate increase applications
20 do the joint applicants anticipate would be
21 filed before March 31, 2019?

22 THE WITNESS: I'm not sure I can

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1 answer that question. I think that there is
2 likely a need for a filing to happen in the
3 near term, but importantly, the 25.6 million we
4 expect should get us to March 31, 2019. In the
5 event that it's not fully-utilized, they will
6 continue to benefit customers further out.

7 If it is fully-utilized prior to
8 that point, we do have incremental offsets to
9 ensure that customers, residential and MMA are
10 not seeing a distribution rate increase prior
11 to that date.

12 COMMISSIONER FORT: How would the
13 bill stabilization adjustment work with this
14 proposal? Joint applicants adjust the revenue,
15 how would they adjust the revenue calculation
16 so that the DSA does not take into account the
17 revenue that was deferred or reduced due to the
18 settlement agreement?

19 THE WITNESS: I'm not quite sure how
20 that would work.

21 COMMISSIONER FORT: Can we talk
22 about Paragraph 5 now for residential customer

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1 bill credit, the \$14 million one-time credit.

2 So I want you to confirm that when
3 this credit is provided within 60 days of the
4 merger closing, it will go to residential
5 customers including RAD customers who have
6 active accounts as of the billing cycle
7 commencing 30 days after the merger closing,
8 that's correct?

9 THE WITNESS: That's correct.

10 COMMISSIONER FORT: If an account is
11 suspended for nonpayment, is that account
12 considered to be an active account for purposes
13 of the credit?

14 THE WITNESS: I don't believe it is.

15 COMMISSIONER FORT: Are -- is there
16 any other type of account that is not
17 considered active for purposes of the one-time
18 credit?

19 THE WITNESS: Not that I know of.

20 COMMISSIONER FORT: Will the
21 customer's bill specifically identify the
22 one-time credit?

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1 THE WITNESS: Yes. There will be a
2 separate line item that will be separate from
3 the \$25.6 million credit, so there will be
4 another line on the bill.

5 COMMISSIONER FORT: Can you provide
6 an indication of the size of the credit with
7 the understanding that the number may change,
8 or would definitely change, because it's based
9 upon the number of active customers on a date
10 certain going forward?

11 THE WITNESS: It is something in the
12 50 to \$60 per customer.

13 COMMISSIONER FORT: Can you explain
14 how and when funds would be transferred from
15 Exelon to Pepco to pay for the one-time credit?

16 THE WITNESS: It would be a similar
17 methodology, an equity infusion that will take
18 place prior to the credit being made.

19 COMMISSIONER FORT: Will Exelon
20 transfer the entire \$14 million to Pepco?

21 THE WITNESS: Yes.

22 COMMISSIONER FORT: Is there any

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1 special accounting treatment that is needed for
2 the funds?

3 THE WITNESS: Not that I know of.

4 COMMISSIONER FORT: A number of
5 these questions I am asking because the --
6 should there be a rate case and -- or at any
7 other time, our auditors want to look to see
8 what is taking place, we'd want to know where
9 to look.

10 THE WITNESS: This is similar as a
11 point of reference to what Exelon did with BG
12 in Maryland when they had their rate credit, so
13 it would be a similar treatment there and
14 definitely transparent and easy to track if the
15 Commission so desired.

16 COMMISSIONER FORT: Okay. So I have
17 a couple of questions to ask about Paragraph 9,
18 which is the assistance for low and limited
19 income customers, which is \$16.15 million
20 portion of the CIF.

21 So Paragraph 9A says: "To help
22 reduce the burden of long-standing energy debt

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1 for limited income and other families, Pepco
2 shall forgive all District of Columbia
3 residential customer accounts receivable over
4 two years old as of the date."

5 Is it the intention of Paragraph 9
6 to eliminate all old debt for all residential
7 customers or is it just eliminating the debt
8 for a subset of the low and limited income
9 customers?

10 THE WITNESS: It would be for all
11 residential customers that is more than two
12 years old.

13 COMMISSIONER FORT: The funding for
14 this part of the commitment has been estimated
15 to be \$400,000. How many customer accounts
16 does that cover?

17 THE WITNESS: I would have to --

18 COMMISSIONER FORT: What is the
19 origin of that figure?

20 THE WITNESS: That is just looking
21 at the amount of accounts receivable that Pepco
22 has that is over two years old. At the time of

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1 the settlement was approximately \$400,000.

2 COMMISSIONER FORT: Is that
3 forgiving just the distribution portion of the
4 bills or is it also forgiving energy bills at
5 that point?

6 THE WITNESS: I believe it's the
7 entire bill.

8 COMMISSIONER FORT: If the energy
9 bill is included, is it SOS only or does it
10 include the bills for competitive energy
11 suppliers as well?

12 THE WITNESS: It includes both.

13 COMMISSIONER FORT: Does it have an
14 impact on the purchase of receivables program?

15 THE WITNESS: I don't believe it
16 does.

17 COMMISSIONER FORT: Has Pepco
18 received any cost recovery for the accounts
19 receivable in the form of uncollectible
20 accounts in rate case applications filed with
21 the Commission for the amount that is in the
22 settlement?

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1 THE WITNESS: I'm not sure.

2 Typically, I believe as I understand that Pepco
3 receives recovery of what is actually written
4 off. I'm not sure of how much of this 400,000
5 has been written off previously.

6 I do know that any that is written
7 off as a result of this merger agreement would
8 not be included in rates, it will be below the
9 line and therefore, we will not seek recovery
10 of it.

11 COMMISSIONER FORT: One more
12 question in anticipation of that. Has the
13 amount approved by Commission -- well, when
14 Pepco files its next rate case, how will they
15 see this on the Pepco books? Will it be shown
16 as an offset to uncollectible accounts? How
17 would they see the \$400,000?

18 THE WITNESS: It would be seen as
19 any -- on the books, would be seen as a
20 write-off but again, that would be below the
21 line. You would not seek recovery of it.

22 COMMISSIONER FORT: So Paragraph 9B

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1 says: "\$9 million of the 16.5 million for low
2 income assistance will be used for supplemental
3 funding for customers eligible for the low
4 income home energy assistance program or
5 LIHEAP."

6 And it says: "The amount will be
7 provided by Exelon within 60 days of receiving
8 direction from D.C. Government after the merger
9 closes."

10 Will the funding be provided in a
11 lump sum or could it be distributed over a
12 period of time if so directed by the D.C.
13 Government?

14 THE WITNESS: We would follow the
15 direction of the District government, but our
16 expectation is that we would likely make this
17 contribution within 60 days of close.

18 COMMISSIONER FORT: In lump sum.

19 THE WITNESS: That's correct.

20 COMMISSIONER FORT: Will the
21 availability of these funds reduce the amount
22 of funding the District ratepayer is going to

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1 need to pay for residential aid discounts, the
2 RAD program, to support energy costs for low
3 income taxpayers?

4 THE WITNESS: I don't know what
5 impact this would have on existing programs.
6 Obviously, this is a \$9 million benefit for low
7 income customers, but I'm not sure what impact
8 that has on the calculations for the other
9 programs.

10 COMMISSIONER FORT: Paragraph 9C
11 says: "6.75 million in funding for energy
12 efficiency programs developed or designated by
13 the District in consultation with the National
14 Consumer Law Center and National Housing Trust
15 will be provided by Exelon within 60 days of
16 receiving direction from the D.C. Government."

17 It says: "Developed as designed by
18 the District."

19 When it says, "in the District," is
20 that intended to mean by the District
21 government? I guess I should have asked that
22 to Mr. Wells while he was here.

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1 THE WITNESS: Where are you looking
2 exactly?

3 COMMISSIONER FORT: The actual
4 language of the -- 9C, the actual language in
5 the settlement agreement.

6 THE WITNESS: Yes, district
7 government, but obviously as Director Wells
8 mentioned, it would be in consultation with the
9 parties listed here and any other parties that
10 might be party to a discussion.

11 COMMISSIONER FORT: I was going to
12 ask that question of him but he answered it
13 before I got a chance to ask it, so it was not
14 exclusive.

15 Will there be a requirement to
16 report to the Commission on the cost
17 effectiveness of these expenditures, including
18 the number of units assisted, the type of
19 energy efficiency measures installed and the
20 amount of energy reduction that has been
21 achieved?

22 THE WITNESS: We do have in

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1 Paragraph 25 a commitment here to provide an
2 annual report for the first five years with
3 regard to the economic benefits this merger
4 brings to the District. In order to prepare
5 that report and provide that report, we will
6 need to know how these funds were utilized so I
7 would imagine that would be part of this
8 report.

9 COMMISSIONER FORT: Since you
10 mention it, because I had some questions about
11 that, so will you stay on the same topic. On
12 your Paragraph 25, how do you define economic
13 benefits for the reporting purposes here?

14 THE WITNESS: I would imagine it
15 will be a report that will detail the benefits
16 that will come from the merger and all the
17 commitments we've made here, the funding we
18 provided, the benefits that customers have
19 received. It could take the form of somewhat
20 of an in-planning type model, modeling
21 exercise, but again, it will be a report that
22 we would provide to the Commission to help show

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1 what economic impact this merger has had on the
2 District which at least that will be positive.

3 COMMISSIONER FORT: I was going to
4 ask you to describe what data will be used to
5 detail the economic benefits to the merger.

6 You said it will be something
7 similar to your in-plan?

8 THE WITNESS: That would be my
9 expectation.

10 COMMISSIONER FORT: Who would be
11 tasked to develop that report?

12 THE WITNESS: I'm not sure we
13 selected the person or group that would do that
14 at this point. I don't know the answer.

15 COMMISSIONER FORT: How would that
16 report differ from the merger-related savings
17 that Pepco will track and account for that is
18 discussed in Paragraph 28 of the proposed
19 settlement agreement?

20 THE WITNESS: So in Paragraph 28,
21 the merger-related savings will be the lower
22 cost that will be realized by Pepco because of

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1 this merger, so lower shared service costs,
2 other initiatives that -- lower cost, lower
3 cost of service for customers.

4 Paragraph 25 is broader in terms of
5 the economic impact it has to the District,
6 which could be -- result from the fact that we
7 are moving a number of jobs into the District.
8 A number of these programs providing funding
9 for numerous programs benefiting low income as
10 well as renewable generation, all of those
11 impacts and the benefits that come with for the
12 District in terms of jobs and other financial
13 benefits would be detailed in that report.

14 COMMISSIONER FORT: So it will be a
15 broader report.

16 THE WITNESS: Yes.

17 COMMISSIONER FORT: And with
18 different data sets?

19 THE WITNESS: That's correct.

20 COMMISSIONER FORT: Some of which
21 may be overlapping.

22 THE WITNESS: I was going to say

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1 that, obviously, that would also include any of
2 the synergies that are realized by customers as
3 well.

4 COMMISSIONER FORT: What
5 relationship would the economic benefits report
6 have to the quantitative benefits table that
7 the joint applicants, Ms. Tierney has prepared
8 in her Exhibit 5C-2. Are those intended to be
9 the same or different?

10 THE WITNESS: I think, and I will
11 defer to witness Tierney -- Dr. Tierney to
12 detail what she has, but this would actually be
13 the actual realized economic benefits, so this
14 would be post-merger close.

15 Dr. Tierney has undertaken I believe
16 an estimate of what is expected and I think we
17 have confidence in that, but this will be the
18 actual.

19 COMMISSIONER FORT: Take a step back
20 to Paragraph 24 on work force development.

21 Do you know whether or not Pepco,
22 PHI or -- have made contributions for work

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1 force development outside of the merger in the
2 past?

3 THE WITNESS: I'm not sure.

4 Obviously, this provision, this commitment is
5 Exelon's. Exelon will be making the \$5.2
6 million to help promote work force development
7 in the District, and we were seeking to find
8 existing programs that would help develop the
9 next generation of workers for both Pepco, as
10 well as elsewhere in the District. In terms of
11 what Pepco or PHI has provided in the past, I
12 don't know.

13 COMMISSIONER FORT: Has Exelon
14 provided work force development funding in the
15 past with other distribution companies that it
16 owns or any of its other companies?

17 THE WITNESS: I believe it has. I
18 can't provide the details but Exelon is a big
19 supporter of the communities it serves. We are
20 excited about promoting jobs in the community.
21 We want folks to have the skill set needed to
22 be able to work for either one of our utilities

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1 or somewhere else in the jurisdiction. We
2 think that makes a lot of sense so it's
3 something that we are active in in other
4 jurisdictions and we're excited about doing
5 that here in the District as well.

6 COMMISSIONER FORT: How does a
7 contribution to work force development provide
8 a direct intangible benefit to district
9 ratepayers in your opinion?

10 THE WITNESS: Well, I think the
11 District ratepayers are also residents of the
12 District, so these programs might be programs
13 that that particular customer actually takes
14 advantage of, get the skill set needed to get a
15 good paying secure sustainable job in the
16 District that will help benefit them for years
17 to come, so I think there is a true benefit for
18 customers here.

19 COMMISSIONER FORT: Have the joint
20 applicants committed to employ any of the
21 District residents who participate in the work
22 development programs that will be receiving

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1 this contribution?

2 THE WITNESS: We haven't made a firm
3 commitment to do so. I think we would expect
4 that we would. Obviously, as folks get the
5 training, they all select the job that they
6 want to work, so it will be great if they came
7 and worked for Pepco. I think we would -- we
8 have commitments to hire a number of
9 individuals here in the District, whether it
10 comes from this program or elsewhere, we will
11 meet that commitment but again, this program,
12 this commitment is really intended to provide
13 the job training needed so that individuals can
14 actually select the job they want, whether it's
15 at Pepco or somewhere else in the District.

16 COMMISSIONER FORT: I want to turn
17 to the paragraphs that talk about cost
18 accounting and synergy savings, which is really
19 Paragraph 29.

20 I just wanted to say that Paragraph
21 28 tells us that Pepco will track and account
22 for the cost to achieve a synergy savings in

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1 each of its base rate cases filed within a
2 three-year period following the cost of -- the
3 close of the merger, essentially, it will flow
4 all the synergy savings allocable to the
5 District to customers through the normal rate
6 paying process and will amortize the cost to
7 achieve over a five-year period. Are you in
8 agreement with that?

9 THE WITNESS: Yes, ma'am.

10 COMMISSIONER FORT: Then Paragraph
11 29 describes how Pepco will amortize the cost
12 to achieve the synergy savings over a five-year
13 period, commencing with the effective date of
14 the first Pepco base rate case filed after the
15 close of the merger.

16 Pepco says it will not recover the
17 cost to achieve in a rate case an amount
18 greater than the synergy savings demonstrated
19 in the test year.

20 That's kind of my summary of -- I
21 didn't read it exactly, of Paragraph 29.

22 THE WITNESS: That -- I agree with

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1 all that.

2 COMMISSIONER FORT: What happens to
3 any excess cost to achieve funds that is not
4 recovered in rates?

5 THE WITNESS: So the short answer
6 is, if we can't produce synergy to exceed the
7 cost to achieve, we will not recover them. A
8 little longer answer is the cost to achieve
9 will be spent in the first year, Year 1, Year
10 2, post-close. That's when the cost is spent.
11 That's the timing of the expenditures.

12 Amortizing that over a five-year
13 period, we estimate the cost to achieve for the
14 District to be about \$10 million in total, so
15 once we get to the total, amortizing that over
16 five years, any one year will likely not exceed
17 the 2 million estimate that we have.

18 In terms of the synergies we expect,
19 we do expect them to be in excess of \$2 million
20 so we do think we will be able to prove that
21 out.

22 Commitment 28 commits us to track

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1 these synergies for a three-year period to
2 demonstrate this very clearly. As you get
3 further out from the merger close, it becomes
4 harder and harder to track synergies. Some
5 other parties have made comments to that as
6 well. But again, we believe that within this
7 three-year period, we will demonstrate that the
8 synergies which are sustainable ongoing
9 synergies, will exceed the CTA and therefore,
10 we will be able to, at least file for recovery
11 of that.

12 Ultimately, the recovery of CTA is
13 at the Commission's discretion. This
14 commitment states that we will not seek
15 recovery, not even propose it, if we cannot
16 demonstrate that the synergies exceed the CTA,
17 but again, we have high confidence that it will
18 and customers will benefit obviously from that
19 -- from that.

20 COMMISSIONER FORT: So in your
21 testimony on Pages 21 and 22, you tell us that
22 any of the deferred amounts would be recovered

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1 through a regulatory aspect.

2 I don't know if you need to get to
3 those pages in your testimony. My question was
4 going to be, Paragraph 29 doesn't identify or
5 doesn't speak to the fact that the unrecovered
6 amount would be a regulatory asset. Is there a
7 reason for the admission of the regulatory
8 asset language in the settlement agreement?

9 THE WITNESS: There is not. Again,
10 we would not seek recovery of these costs until
11 we can prove it. The regulatory asset
12 construct is where we would place the CTA cost
13 if we were in a situation where it exceeded
14 synergy savings, but again, we don't think that
15 will be likely to happen.

16 COMMISSIONER FORT: Was the use for
17 regulatory asset to recover the deferred excess
18 CTA, an issue that was discussed and agreed to
19 by the settlement parties; is that correct?

20 THE WITNESS: I wasn't privy to all
21 the discussions, but I believe that is
22 something that the settling parties are

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1 comfortable with.

2 COMMISSIONER FORT: There would be a
3 rate of return that's earner on that regulatory
4 asset?

5 THE WITNESS: It would be the return
6 that was authorized by the Commission in the
7 rate case.

8 COMMISSIONER FORT: Just to give a
9 hypothetical. Assume the excess CTA from the
10 first rate case is \$2 million but the
11 difference between the synergy savings and CTA
12 is \$1 million, the synergy is greater than the
13 CTA, what would happen in the second rate case?

14 THE WITNESS: In your example, did
15 you say the synergies were greater than the
16 CTA?

17 COMMISSIONER FORT: I did, yes.

18 THE WITNESS: So then we would seek
19 recovery of those CTAs in that rate case and
20 there would be -- in the following rate case,
21 any new incremental CTA, we would seek to
22 recover that, if there was some.

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1 COMMISSIONER FORT: In that deferred
2 amount, what would happen?

3 THE WITNESS: It all is additive, so
4 if we -- if it's a \$2 million CTA amount, it
5 gets amortized over a five-year period. In the
6 next rate case, if someone had \$2 million, it's
7 amortized each year so two divided by five. If
8 that amount in that year, whatever other CTA
9 we've incurred, we would add that and still
10 have to have the synergies be greater than the
11 net of those two CTA amounts.

12 COMMISSIONER FORT: If the tracking
13 of the CTA, there were two rate cases within
14 three years after the merger closes, is it
15 correct that you could have excess CTA that
16 won't be offset by synergies given that the
17 savings and costs are on track for three years?

18 THE WITNESS: I think we will
19 demonstrate that the savings will exceed the
20 CTA. They will be ongoing savings and we can
21 prove that in a rate case. There is also
22 another provision that states that for a

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1 five-year period, we will provide a
2 side-by-side comparison of shared allocation
3 pre-merger versus post-merger for each year of
4 a five-year period.

5 Approximately 70 percent of the
6 synergy savings come from shared service costs,
7 so that will also be another tool we can use to
8 help demonstrate that synergies are being
9 realized and exceed CTA, but again, I think
10 within the first three years, we will be able
11 to prove that synergy exceeds CTA.

12 COMMISSIONER FORT: Why is five
13 years chosen for the amortization and three
14 years is chosen for the period of time that the
15 CTA is tracked?

16 THE WITNESS: It is one of the
17 commitments that the settling parties agreed to
18 in terms of synergies. As you get further out
19 from close, it becomes very hard to track what
20 was caused by the merger and what was caused by
21 other normal business events.

22 Three years is a period that is in

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1 my opinion a long period, but one that we could
2 reasonably and clearly demonstrate the amount
3 of synergies for. The five-year amortization
4 period was something that was proposed and we
5 were comfortable with and again, it will
6 minimize the impact on the bills and actually
7 allow customers to realize even more net
8 synergies earlier in the period, so it is just
9 another further benefit that we are offering
10 customers in terms of helping keep rates low
11 for customers.

12 COMMISSIONER FORT: What's the
13 ten-year synergy savings figure that the joint
14 applicants are using now?

15 THE WITNESS: Oh, ten-year? I'm
16 sorry.

17 COMMISSIONER FORT: Ten-year.

18 THE WITNESS: About \$51 million.
19 That's the net number.

20 COMMISSIONER FORT: So that hasn't
21 changed. That net number hasn't changed.

22 THE WITNESS: No, ma'am.

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1 COMMISSIONER FORT: Have the -- I
2 think earlier we were told that there was a
3 long-term running rate for synergies of \$7
4 million a year starting in year five.

5 Has that changed?

6 THE WITNESS: That has not changed.

7 COMMISSIONER FORT: Is it true that
8 there -- is your testimony that, from year four
9 on, it's -- the savings -- the cost achieved
10 and the savings cannot be verified?

11 THE WITNESS: Well, in year four
12 there will be no cost to achieve. Again,
13 that'll be taking place in year one, year two.

14 COMMISSIONER FORT: Okay.

15 THE WITNESS: Year four, year five,
16 the sustainable savings, again, they will
17 continue on. It will be difficult to track. I
18 think by year three we'll have proven that they
19 exceed the CTA.

20 We will continue to show a shared
21 service side-by-side comparison. That will be
22 truly just by the Department, and we have

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1 agreed to provide a report for a five-year
2 period each year detailing what the costs were,
3 if there were any changes or any explanations
4 of what a change -- why a change happened, what
5 caused that change.

6 But that would be something we -- we
7 provide for five years.

8 COMMISSIONER FORT: On -- moving on
9 down to Paragraph 35 in the settlement
10 agreement where you talk about -- where the
11 subject matter is controls and procedures
12 that'll be designed to provide reasonable
13 assurance that PHI subsidiaries will not bear
14 the cost associated with the business
15 activities of any other Exelon affiliates.

16 In the context of that paragraph,
17 can you provide examples of the types of
18 controls and procedures currently utilized
19 between Exelon and its related companies that
20 provide similar assurance?

21 THE WITNESS: Sure. So we have a
22 GSA that will determine and spell out exactly

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1 how the allocation methodologies work.

2 This is something that is reviewed
3 every year and must be signed off by every
4 operating company CFO. So they cannot
5 continue, they cannot move forward, they cannot
6 finalize their budget for the upcoming year
7 until the CFO of, in -- in our case Pepco,
8 signs off on that agreement, agrees with the
9 methodologies.

10 On a monthly basis for that
11 following year, the CFO and CEO review those
12 costs, get -- provide detail reports of any
13 variances from plan on the budget that may
14 occur, if there is any. And they have the
15 right to challenge and the right to review any
16 work papers or any map or any analysis that
17 they'd like.

18 From a systems perspective, we have
19 systems that are automated to provide this
20 solution. We have our internal audit group
21 review this on a regular basis.

22 We have also had in other states

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1 outside parties provide audits to ensure that
2 the methodologies are being followed correctly.
3 I would expect that we would have independent
4 auditor do a similar review here in D.C.,
5 such -- same as we do in Maryland for BGE, for
6 example.

7 You know, all of that provides us a
8 lot of assurance that the methodologies are
9 working and -- but -- and there is obviously a
10 number of reviews that take place on a -- on a
11 very regular basis to ensure that that takes
12 place.

13 COMMISSIONER FORT: And when would
14 these controls and procedures be designed and
15 by what -- what entity would be doing the
16 design?

17 THE WITNESS: So during the
18 integration process, we have been designing
19 these controls and procedures. Again, they are
20 very similar to those that exist for the other
21 utilities that have been subject to numerous
22 audits and have passed.

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1 In terms of the will be distinction
2 here, our internal audit group, once the merger
3 closes, will come in and validate and make sure
4 that all the system set-ups, the procedures are
5 being followed and ensure that we are following
6 what the designs are.

7 So they are in process of being
8 designed. We will finalize them. And then
9 ultimately we will have an independent auditor
10 on a -- on a regular basis, periodic basis
11 check these controls to ensure that they are
12 effective and they are ensuring that we are
13 allocating dollars correctly.

14 COMMISSIONER FORT: As I recall from
15 the evidentiary hearings, the GSA is -- uses a
16 much larger amount of direct allocations in
17 their processes than they -- Cisco did in
18 theirs.

19 THE WITNESS: Yeah.

20 COMMISSIONER FORT: Are we talking
21 about controls and procedures that are moving
22 more toward direct allocation?

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1 THE WITNESS: Thank you for bringing
2 that point up. And absolutely. We are -- at
3 EBSC, there's always an attempt to try to push
4 as far as we can in terms of the direct
5 allocations when possible.

6 Currently EBSC allocates about 70
7 percent of its total cost to the various
8 operating companies. PHI service company, by
9 contrast, is about 30 percent.

10 In terms of the transparency and the
11 ability to review the costs during those period
12 reviews, those annual and monthly reviews, the
13 direct charging makes it much easier because
14 you can see the exact service you're receiving
15 and the costs associated with that service.

16 So that is something that we're
17 always seeking to try to increase that
18 percentage and will continue to do so as we
19 move forward.

20 COMMISSIONER FORT: And what would
21 be the timetable of putting new controls and
22 procedures into effect?

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1 THE WITNESS: Surely after close.

2 So we put them immediately.

3 COMMISSIONER FORT: Now I want to
4 turn to board structure, which is Paragraph 55.

5 And Paragraph 55 says: PHI will
6 have a board of directors consisting of seven
7 or more people. And the majority of the PHI
8 board for -- of the seven will be independent
9 as defined by the New York Stock Exchange. And
10 then at least one director will be selected for
11 each of the service territories. And at least
12 one of the independent directors will be a
13 resident of the District. The CEO of Pepco
14 will be one of the PHI directors.

15 Does anything in the settlement
16 agreement change the provision that was in the
17 April 29th, 2014 merger agreement that said
18 that PHI would be converted from a corporation
19 to a limited limit company?

20 THE WITNESS: No, ma'am.

21 COMMISSIONER FORT: Is it still
22 correct that PHI would be converted to a

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1 limited liability company?

2 THE WITNESS: Yes.

3 COMMISSIONER FORT: And that was a
4 LLC under Delaware?

5 THE WITNESS: Correct.

6 COMMISSIONER FORT: I'm not sure
7 about Delaware, but in D.C. there are --
8 liabilities liability companies don't have
9 boards of directors.

10 Do they have them in Delaware?

11 I'm sorry to be technical, but --

12 THE WITNESS: No, no. Thank you.

13 I'm not quite sure. I mean we will
14 have a board of directors, whether required or
15 not.

16 I think important is the fact that
17 it's a commitment here. And we will adhere to
18 all of our commitments.

19 Obviously the Commission, we've
20 consented to jurisdiction of all these
21 commitments. So if, for example, we say we
22 weren't going to have a HPI board because the

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1 LLC laws in Delaware don't require them, that
2 wouldn't matter. We will still have a board of
3 directors.

4 COMMISSIONER FORT: Okay. And since
5 the New York Stock Exchange rules wouldn't
6 apply to an LLC that has, you know, no publicly
7 traded -- is not publicly traded, that would
8 also be voluntary to use the independent
9 rules -- or the rules on independence to the
10 members of those boards.

11 Wouldn't it be correct?

12 THE WITNESS: It would be. I think
13 most operating companies that I know of don't
14 have independent boards. This is a commitment
15 that we made with the settling parties or all
16 the settling parties made to give assurances
17 that PHI and Pepco would have that independent
18 voice, as some have referred to it.

19 This was something that many of the
20 parties had wanted and -- and requested and
21 something that the joint applicants were
22 comfortable agreeing to with the settling

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1 parties.

2 COMMISSIONER FORT: Did the
3 delegation of authority chart that is now in
4 Table 5 in the settlement agreement and that is
5 related to Paragraph 103 change from its
6 original form in 4A2 to how it now appears in
7 Commitment 71?

8 THE WITNESS: Not to my knowledge.
9 The only potential change might be Note 3 where
10 we clearly state that the Pepco CEO has the
11 authority to make rate case decisions
12 consistent with the other commitments we've
13 made in the settlement agreement. But the
14 dollar amounts I believe are the same.

15 COMMISSIONER FORT: Moving on. Oh,
16 one more about PHI.

17 Somewhere it said that -- that the
18 PHI could not have committees, that the current
19 PHI had a series of committees, compensation,
20 you know, and other committees that boards
21 normally have, but under the new format that
22 would not be the case.

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1 Is that true?

2 THE WITNESS: That is my
3 understanding.

4 COMMISSIONER FORT: Do you know what
5 happens to those committee responsibilities
6 that are normally -- the board of directors
7 normally have?

8 THE WITNESS: Typically it's at the
9 holding company level. So the Exelon board of
10 directors does have similar committees.

11 So, for example, the PHI board now
12 is a public board. I don't believe that
13 Pepco's board currently has those types of
14 committees either.

15 So again, I think those would be at
16 the Exelon board level.

17 COMMISSIONER FORT: So the
18 Commission has been known to look at
19 information that comes out of board of
20 directors, particularly when that information
21 gives some instructions about compensation or
22 performance measures, particularly if some of

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1 those costs are being assigned to District
2 ratepayers.

3 So if we were to be looking at those
4 kind of measures, if we were to approve this
5 merger, we would be looking at that information
6 coming from Exelon -- Exelon's board of
7 directors?

8 Is that where you're telling me
9 those decisions would then be made?

10 THE WITNESS: Any decision that has
11 to do with Pepco, whether it's regards to
12 compensation or any other issues, obviously the
13 Commission always has the right to review.

14 In other jurisdictions,
15 compensation, other issues like that that might
16 be decided at the Exelon board level or
17 discussed at the Exelon board level, is a
18 fairly typical data request that we do provide.
19 And we'll obviously provide that information if
20 it's necessary.

21 COMMISSIONER FORT: And one of the
22 reasons I ask about that -- I'm looking for my

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1 note too -- where we talk about -- the
2 provision that talks about having access to
3 books and records says to Exelon's affiliates.
4 And it didn't say Exelon, is my recollection,
5 was that it left out itself. It didn't say
6 Exelon and Exelon affiliates on the access to
7 books and records.

8 Can we assume that that means Exelon
9 and Exelon's affiliates.

10 THE WITNESS: Yes, you can.

11 COMMISSIONER FORT: Paragraph 56 to
12 60 talk about service reliability.

13 I want to move to Paragraph 116 to
14 17 on competition protections for affiliates --
15 affiliated transmission companies.

16 Okay. And looking at Section 116E
17 of the settlement agreement. Taking a minute
18 to get it up in front of me.

19 When -- in Page 52 of your direct
20 testimony. I'd ask you to get Page 52 of your
21 testimony in front of you.

22 THE WITNESS: I have it.

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1 COMMISSIONER FORT: Line 4 through
2 8. It says: Exelon agrees that the PJM market
3 monitor may review its demand response bids in
4 the PJM energy reserves and capacity market.

5 Does the market monitor do that
6 already?

7 THE WITNESS: I don't know if it
8 does it already. I'm not sure if they have
9 official ability to. But this is a commitment
10 made to show that we are more than willing to
11 be transparent, have the additional oversight
12 share this information.

13 Again, as making as a commitment,
14 the Commission can ensure that Exelon is
15 following this if it so chooses, but we
16 definitely will. So this is just a commitment
17 to address any concerns that we wouldn't share
18 this information.

19 COMMISSIONER FORT: In the
20 discussion of interconnection enhancement,
21 interconnection process and support for
22 customer-owned behind-the-meter generation in

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1 Paragraphs 121 to 127, those are things that
2 are new in the settlement agreement and that
3 didn't appear in 482; is that correct?

4 THE WITNESS: That's correct. This
5 is -- these are commitments that the settling
6 parties made to ensure that -- to address any
7 concerns that Exelon somehow will try to slow
8 the interconnection process for Pepco
9 customers.

10 In fact, these commitments we think
11 not only not slow down the process, should
12 actually make it open, transparent and actually
13 make it faster and easier for customers to
14 interconnect both behind the meter as well as
15 to the transmission system in the previous
16 commitments we just talked about.

17 COMMISSIONER FORT: And provisions
18 don't speak to -- to the kind of investments
19 that the joint applicants might make to under
20 -- or that the joint applicants would undertake
21 to enhance the distribution system and to allow
22 greater interconnection of distributed

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1 generation or to promote community solar.

2 Is there a reason for that?

3 THE WITNESS: I don't think there's
4 any specific reason. One of the ways we're
5 going to be able to enhance the interconnection
6 process is by Pepco working with the other
7 Exelon utilities to see what policies and
8 procedures they currently have.

9 BGE has been extremely successful in
10 improving their interconnection process since
11 the merger. And a lot of that has to do with
12 the sharing of best practices.

13 So I would expect that Pepco will
14 take advantage of that and use that to help
15 accelerate this process.

16 The commitments made here really
17 talk about the results. Again, how do we get
18 there, we will work out and we will -- you
19 know, we will meet these commitments. We have
20 to meet these commitments. We've made the
21 commitments.

22 And any failure to do so would

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1 obviously be subject to the Commission --
2 commission's jurisdiction. And whatever action
3 we see fit we would take.

4 But again, I have no doubt that
5 we'll meet these commitments.

6 COMMISSIONER FORT: So do you
7 consider that one of the commitments is to take
8 whatever actions are necessary to enhance the
9 distribution system to allow for an increasing
10 portion of distribution system of distribute
11 generation to be interconnected to the
12 distribution grid?

13 THE WITNESS: I -- I think -- I
14 think so. I think the point of this is to take
15 -- make -- make it a -- make it possible for
16 customers to interconnect to the system easier.

17 Paragraph 127 spells out
18 specifically that Pepco is going to work and
19 develop a communication plan to actively
20 promote the installation of behind-the-meter
21 generation. So obviously that communication
22 would be aimed at trying to promote this. So

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1 Pepco will work with customers that have this
2 interest and try to promote this as -- as much
3 as it can.

4 COMMISSIONER FORT: So there's a
5 communication plan, I guess, on the hardware,
6 software side, you know, beside the -- the
7 provision that speaks to the development of the
8 microgrid facilities.

9 Am I missing something if I was to
10 look at the settlement agreement where it talks
11 about the kind of investment that the joint
12 applicants are making?

13 I don't see anything other than
14 microgrids.

15 So is microgrids the only --

16 THE WITNESS: We do have on
17 paragraph 120 where Pepco will partner with the
18 District Government to facilitate the planning
19 for more interconnection of renewable
20 generation for District Government buildings.
21 So -- government buildings and public
22 facilities.

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1 So there is a commitment here to do
2 so. Again, the fact that these are all subject
3 to the Commission jurisdiction, we would fully
4 expect you to ask us, "How are you doing? What
5 are you doing?" And we would report out.

6 We have other commitments here where
7 we officially agree or commit to agree to have
8 the Exelon CEO, EU CEO, and the PHI and Pepco
9 CEO meet with you on a regular basis.

10 Even without that commitment, we are
11 always willing to meet and discuss. But that
12 commitment, again, was an attempt to assure
13 people that those lines of communication will
14 always be open.

15 COMMISSIONER FORT: On Page 61 of
16 your testimony, in lines 12 through 14, you
17 discuss rule making to incorporate reporting
18 and remedial measures in regulations of 15
19 DCMR, Chapter 40, which are the rules for small
20 generate -- small generator interconnections.
21 And I think that is picked up in Paragraph 125C
22 of the settlement agreement.

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1 125C indicates that, within 180 days
2 of merger closing, Pepco will file a request
3 for proposed rule making to add the requirement
4 with respect to the issuance of permission to
5 operate that are set forth in clause A above in
6 that provision.

7 We talked earlier about the fact
8 that the Commission has an ongoing proceeding
9 where we're looking at some of those issues.
10 So that would be an example of one of the
11 paragraphs where we have the question that we
12 talked about at the very beginning of my
13 questioning with you, with the Commission was
14 doing something different.

15 It would be a paragraph similar to
16 that in the settlement agreement that might be
17 changed or need to be changed to accommodate
18 something that the Commission does.

19 THE WITNESS: That's correct. In
20 the other jurisdictions where we have
21 utilities, we are always -- you know, we always
22 adhere and follow the orders of the Commission.

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1 Those do change from time to time. And
2 whatever the -- the current rules and
3 regulation are we will follow.

4 So you have Paragraph 125C here.
5 This is what we will commit to at close. But
6 if there is a proceeding that changes the rules
7 or changes the requirements, we would obviously
8 adhere to that.

9 COMMISSIONER FORT: Okay. And my
10 last question goes to Paragraph 130, which is
11 the procurement of a hundred megawatts of wind
12 energy under long-term contracts.

13 States that the commitment shall be
14 a single commitment made with respect to all of
15 the PHI utilities and services industries.

16 Do you expect -- do you
17 anticipate -- and this is the -- probably be
18 helpful if I go back and read a little bit
19 more.

20 In that -- in your direct testimony,
21 you state, within five years after the merger
22 closes -- and this is your testimony on Page

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1 58 -- Exelon and its nonutility subsidiaries
2 will conduct one or more requests for proposals
3 or other competitive procurement processes to
4 solicit offers to purchase a total of a hundred
5 megawatts of renewable energy capacity and
6 ancillary services and all associated
7 environmental attributes from one or more new
8 or existing wind generation facilities located
9 within the territory covered by PJM with an
10 anticipated delivery date beginning
11 approximately three years following the due
12 date of the applicable competitive procurement.

13 That's the language from the
14 testimony in the settlement agreement.

15 Do you anticipate that Exelon
16 subsidiaries would participate in the
17 procurement process as a potential bidder?

18 THE WITNESS: They -- well, this
19 would be -- so I guess -- in your question are
20 you asking whether or not Exelon will purchase
21 this PPA from Constellation?

22 COMMISSIONER FORT: I'm asking if

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1 you anticipate --

2 THE WITNESS: I -- I --

3 COMMISSIONER FORT: I didn't ask
4 that specific question.

5 THE WITNESS: Okay.

6 COMMISSIONER FORT: I don't know if
7 you want to answer that specific question --

8 THE WITNESS: No. I think --

9 COMMISSIONER FORT: -- or have that
10 as your answer, but...

11 THE WITNESS: Sure. No. I think
12 the intent of this commitment is to spur
13 additional wind development in the PJM
14 territory, providing a ten-year PPA as a
15 long-term PPA that will provide funding
16 assurances to wind developers.

17 So I would expect that Exelon and
18 its subsidiaries, most likely Constellation,
19 would be working with wind developers to either
20 contract from a new -- new facility or a
21 facility that needed the certainty of funding
22 that could provide -- provide them the cash

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1 flows to build additional wind facilities.

2 And I think this will help encourage
3 further wind development in PJM, and
4 importantly for District customers, can be some
5 renewable energy credits that we could use here
6 in the District to help meet RPS standards.

7 COMMISSIONER FORT: So that answered
8 my -- to what's the benefit -- what's the
9 specific benefit that District ratepayers would
10 receive from the procurement that's described
11 here.

12 So what role would Pepco have in the
13 procurement process?

14 THE WITNESS: I don't believe it
15 would have a role. In the procurement process
16 of the PPA for winds? Yeah, I don't think they
17 have a role.

18 COMMISSIONER FORT: Does the
19 provision mean that Exelon intends to register
20 the renewable generation with all of the PJM
21 states that have a renewable energy portfolio
22 standards, or would it just be for the

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1 District?

2 THE WITNESS: I'm not certain. But
3 obviously the commitment states that we will
4 try to use it in the District if possible.
5 Again, this is -- you know, commission can,
6 during that normal dialogue, ask us, if we're
7 not using it, why is that.

8 Our intent would be, if we can, to
9 use it here. But that'll be dependent on
10 numerous factors.

11 COMMISSIONER FORT: Would Exelon
12 seek to recover any of the costs associated
13 with this procurement from District ratepayers?

14 THE WITNESS: Well, I -- I think the
15 only way that possibly could happen would be if
16 Exelon bids into the SOS market and provides
17 wind energy with the renewable energy credits.
18 Again, that would go through the normal auction
19 process.

20 But if it were to use the -- the
21 renewable energy credits with some of its
22 retail customers in the District, for example,

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1 those would not be in customer rates.

2 COMMISSIONER FORT: Thank you. I
3 think that's about it for the questions.

4 THE WITNESS: Thank you.

5 CHAIRMAN KANE: Thank you.

6 Commissioner Phillips?

7 COMMISSIONER PHILLIPS: No
8 questions.

9 CHAIRMAN KANE: Thank you.

10 I want to go back in a little more
11 detail, first of all, about the -- both the
12 \$25 million credit and the \$14 million base
13 credit.

14 And it makes it easier for me to
15 kind of track what we're talking about if we
16 can look at an actual bill.

17 So I'm going to -- I guess I should
18 mark this as PSC Exhibit 3, preliminarily
19 marked.

20 (PSC Exhibit 3 was marked for
21 identification.)

22 This is a -- PSC 3. This is a

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1 typical residential bill. So I wasn't violated
2 anybody's privacy, it's my bill for the month
3 of June. Account number's been taken off. But
4 it's pretty typical.

5 As I recall, if you would accept
6 that the average residential monthly bill is
7 about 740, 750 kilowatt hours, this is a bill
8 for 741 kilowatt hours for May 19th to June
9 18th, 2014, which has been since the last rate
10 increase. So this is a current -- current
11 numbers.

12 And so let me ask, first of all,
13 about the \$14 -- excuse me -- the \$14 million
14 for the -- the base rate credit. As you
15 indicated in the answer to Commissioner Fort,
16 that credit will be a lump sum credit.

17 THE WITNESS: Yes, it would be.

18 CHAIRMAN KANE: Okay. And did I
19 hear correctly you said it would go against the
20 entire bill.

21 THE WITNESS: Yes, ma'am.

22 CHAIRMAN KANE: So if you look at

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1 the bill -- and I should start at right -- if
2 we look at the right side of the bill, there is
3 a category called "Distribution Services."
4 It's got "Customer Charge," "Energy Charge,"
5 which is in blocks, "Energy Assistance Trust
6 Fund," "Sustainable Energy Trust Fund," "Public
7 Space Occupancy Surcharge," "Delivery Tax,"
8 "Administrative Credit Residential," I guess
9 that is, "Residential Aid," "Discount
10 Surcharge," and then this case there's a
11 participation in the energy-wise credit
12 rewards. So there's a credit.

13 And a total of distribursed [sic] --
14 excuse me -- distribution charges, about 18.36.
15 And if you add the credit back in, because --
16 because that's not typical, you're up to
17 \$30.36.

18 And then on "Generation Charges,"
19 "Minimum Charge," "Energy Charge," "Procurement
20 Cost Adjustment," and "Total Generation
21 Charges" and then "Transmission Charges." And
22 this is a customer who happens to be at the

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1 moment in SOS.

2 So you have a total bill -- add the
3 credit back in, the -- the Energy Wise Rewards
4 Credit -- about \$96.03. It's about typical,
5 average D.C. residential customer bill, \$96,
6 \$97 a month.

7 Would you agree on that?

8 THE WITNESS: It appears so.

9 CHAIRMAN KANE: Okay. So if we're
10 talking about the one-time \$14 million base
11 credit, that would be applied to this customer
12 you said around 50 to 60 dollars one time. And
13 it would go against this bottom line \$96.03.

14 So this customer's bill would be \$46
15 in the month that it went into effect, correct?

16 THE WITNESS: Yes, ma'am.

17 CHAIRMAN KANE: Just the one time.

18 THE WITNESS: Yes.

19 CHAIRMAN KANE: Now, that would be
20 an actual credit on the bill; is that correct?

21 THE WITNESS: It would be a separate
22 line item detailing that, yes.

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1 CHAIRMAN KANE: Detailing that.

2 So in terms of where the moneys,
3 before there was a credit, would go, would you
4 agree that the -- under "Distribution
5 Services," the customer charge and the energy
6 charge go to Pepco as the distribution company?

7 THE WITNESS: Yes, I would.

8 CHAIRMAN KANE: Okay. And that adds
9 up \$23.21.

10 The Energy Assistance Trust Fund
11 goes to the District Government; is that
12 correct?

13 THE WITNESS: I believe so.

14 CHAIRMAN KANE: And the Sustainable
15 Energy Trust Fund goes to the District
16 Government?

17 THE WITNESS: Yes.

18 CHAIRMAN KANE: And the Public Space
19 Occupancy Surcharge goes to the District
20 Government?

21 Yes?

22 THE WITNESS: Yes.

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1 CHAIRMAN KANE: And the delivery tax
2 goes to the District Government?

3 THE WITNESS: I believe so, yes.

4 CHAIRMAN KANE: The administrative
5 credit is one of those things that was puzzling
6 about. But that I believe goes against the
7 distribution. That's a distribution charge.

8 And then the Residential Aid
9 Discount Surcharge goes to Pepco to fund the
10 low-income program --

11 THE WITNESS: Fund the RAD program.

12 CHAIRMAN KANE: -- funded at the RAD
13 -- the RAD program. So that goes to Pepco.

14 And then we'll skip -- we'll skip
15 the -- the Energy Wise Rewards Credit. Okay.

16 Then the generation services and the
17 transmission services go to the energy
18 supplier, in this case the SOS provider?

19 THE WITNESS: That would be my
20 understanding.

21 CHAIRMAN KANE: Okay. And if this
22 customer had ABC energy supply, that money

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1 would go to whoever that supplier was; is that
2 correct?

3 THE WITNESS: Right. I don't know
4 how the flow of funds go, if it goes to --

5 CHAIRMAN KANE: Right.

6 THE WITNESS: -- Pepco and then to
7 the --

8 CHAIRMAN KANE: But that's who it's
9 owed --

10 THE WITNESS: Eventually it gets
11 to --

12 CHAIRMAN KANE: But that's who it's
13 owed.

14 THE WITNESS: Yeah.

15 CHAIRMAN KANE: Now, my question is,
16 when you apply against this particular bill a
17 \$55 credit, say, and so you come up with the
18 customer only paying in \$41.03, how is the
19 funding going to go to all of these other
20 people, or who's going to lose out?

21 The customer's only going to write a
22 check now or have deducted from their account

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1 \$41 and some-odd cents to go to Pepco.

2 THE WITNESS: Well, so I think the
3 way I would look at it is the \$14 million will
4 ultimately effectively be paid by Exelon. So
5 Exelon will make a contribution -- equity
6 contribution to Pepco to keep their equity
7 ratio in the same perspective.

8 Because again, the way the billing
9 system works, Pepco has to flow the credit
10 through their system. So Exelon would pay it
11 going through with Pepco. And then it goes to
12 the customer.

13 In terms of the generation supplier,
14 for example, or the District Government and the
15 amount that they receive, they still receive
16 that amount because Pepco will have received
17 those funds from Exelon.

18 So the important thing is the
19 customers are seeing that full \$55 reduction.
20 And suppliers and the District Government are
21 also getting their funds as well.

22 CHAIRMAN KANE: Okay. And I wanted

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1 to bring your attention, if you could explain
2 to me then, in the -- your -- your -- your
3 responses to the DRs. And this would be the
4 one we had put into the record already as PSC
5 1.

6 I think we now need to put the next
7 one in, which would be the PSC 4, I guess we're
8 up to, preliminarily mark, which are -- it
9 would be response to staff data request No. 8.

10 (PSC Exhibit 4 was marked for
11 identification.)

12 CHAIRMAN KANE: If this is marked,
13 right? Yeah. Commission Exhibit -- and this
14 will be 5.

15 THE WITNESS: Okay.

16 CHAIRMAN KANE: The -- the -- the
17 data responses to -- to -- to the Commission.

18 THE WITNESS: I have the staff data
19 responses. I guess if you could tell me which
20 number, I could turn to that.

21 CHAIRMAN KANE: All right. Looking
22 to Question No. 21 --

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1 THE WITNESS: Okay. Thank you.

2 CHAIRMAN KANE: -- where we ask from
3 which Pepco PHI or Exelon account the \$14
4 million will be paid out. It's Page 26 of 34.

5 THE WITNESS: Yes, ma'am.

6 CHAIRMAN KANE: Okay. And you say
7 the accounting or treatment for the \$14 million
8 residential customer bill credit, which will
9 not be recovered in customer utility rates is
10 currently anticipated to be recorded as
11 follows.

12 And you have it broken down by
13 merger close, operating and maintenance
14 expense, 14 million. And then in regulatory
15 reliability, 14 million. Taxes payable, 5.6
16 million. Income tax expense, 5.6 million. And
17 assumption of a tax rate -- is that a federal
18 tax rate of 40 percent? Is that federal and
19 District?

20 THE WITNESS: It would be federal
21 and District probably.

22 CHAIRMAN KANE: And District. Okay.

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1 And then you say upon cash
2 reimbursement -- cash reimbursement from Exelon
3 \$8.4 million in cash. So that looks as if only
4 \$8.4 million is going to -- to Pepco.

5 THE WITNESS: So maybe let me
6 clarify the --

7 CHAIRMAN KANE: Yeah. Well, that's
8 why I asked you the question.

9 THE WITNESS: Absolutely. And
10 thanks --

11 CHAIRMAN KANE: If you can
12 clarify --

13 THE WITNESS: -- for bringing this
14 up.

15 CHAIRMAN KANE: -- what -- what the
16 gap is.

17 THE WITNESS: So \$14 million is the
18 amount of expense that would be recorded in the
19 books. As you get the expense on Pepco's
20 books, there is a tax benefit. Again, it
21 lowers taxable income by \$14 million. So
22 they're paying effectively 5.6 million less

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1 tax.

2 So from a cash perspective, Exelon's
3 going to keep Pepco whole. So the benefit they
4 got on the tax side by reducing their tax to
5 the federal government, you know, Exelon
6 wouldn't continue to put more dollars in. So
7 they're getting the after-tax amount of that
8 14 million.

9 So that, on net basis, when you look
10 at the earnings line item, it ends up being
11 zero, the -- the net effect. So if you take
12 the 8.4 plus the 5.6, you get the 14 million.

13 CHAIRMAN KANE: But the 5.6 isn't
14 real cash.

15 THE WITNESS: No.

16 CHAIRMAN KANE: Is that correct?

17 But for bookkeeping --

18 THE WITNESS: It is --

19 CHAIRMAN KANE: It's not real cash?

20 THE WITNESS: It's not. It's --

21 it's --

22 CHAIRMAN KANE: It's not real cash.

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1 THE WITNESS: Bookkeeping.

2 CHAIRMAN KANE: So in terms of this
3 being the fact that the customer's now only
4 paying, what, \$51 to Pepco, you know, multiply
5 by 300,000 customers making a similar
6 nonpayment, Pepco is losing \$14 million in cash
7 income and is receiving \$8.4 million in cash
8 reimbursement.

9 And my question is what does that do
10 to the operating budget?

11 THE WITNESS: So I would -- Pepco is
12 losing \$8.4 million of cash. Because, again,
13 they're still getting that tax benefit of
14 5.6 million. So when they pay their taxes,
15 they're paying less taxable income because of
16 that. So they're paying 5.6 -- 5.6 million
17 less of taxable income because they have this
18 incremental operating expense.

19 Exelon is going to make them whole
20 from a cash perspective. So they will be in
21 the same spot with or without this credit being
22 paid.

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1 In terms of the operating budgets,
2 it's really just a pass-through. It shouldn't
3 impact at all the operating budgets of Pepco
4 from a regulatory perspective.

5 And we did the same thing when we
6 were at BGE and we had a rate credit there.
7 This would be below the line. So it would not
8 be -- as we've stated clearly in the
9 commitments, we would not seek recovery of any
10 of these expenses. They will be put below the
11 line. And BGE would say we follow the same
12 methodology.

13 CHAIRMAN KANE: I really wasn't
14 asking too much about accounting --

15 THE WITNESS: Okay.

16 CHAIRMAN KANE: -- procedure. It's
17 just cash available to operate. We have
18 reliability commitments here, et cetera, hiring
19 commitment expenditures.

20 THE WITNESS: So the --

21 CHAIRMAN KANE: Cash coming is going
22 to be reduced.

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1 THE WITNESS: Well, no. Cash will
2 be -- so the net cash going out the door or not
3 being received from customers effectively is
4 \$14 million.

5 CHAIRMAN KANE: Right.

6 THE WITNESS: But then there's also
7 the reduction of taxes they have to pay -- that
8 Pepco will be paying because they have this
9 operating expense that will reduce taxable
10 income. So that's \$5.6 million.

11 And -- and the net of that is 8.4
12 million. So on a net basis, the amount of
13 cash, without Exelon doing anything, Pepco is
14 down \$8.4 million of cash.

15 Exelon will be making an equity
16 infusion equal to that amount of \$8.4 million
17 to compensate it from a cash perspective and
18 will also effectively result in the equity
19 ratio staying the same post all of these
20 transactions, because, again, the net income
21 impact without the Exelon equity infusion is
22 \$8.4 million negative.

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1 CHAIRMAN KANE: Pepco doesn't
2 actually pay taxes in the District, does it,
3 except in a paper way, I recall from previous
4 cases. The issue was not actually -- because
5 of sharing tax excesses with its other PHI
6 companies. Now, I don't know if that's going
7 to change.

8 THE WITNESS: So maybe I can answer
9 it this way to help alleviate any concern, if
10 there is any, which sounds like there is.

11 Exelon will compensate Pepco for all
12 the cash related to this credit. The
13 commitment to maintain the -- the equity ratio
14 in the contracting treatment and not having any
15 merger impact affect the accounting -- the
16 accounting -- the -- the capitalization ratio,
17 for example, that would require Exelon to make
18 an equity infusion.

19 So effectively, if Pepco isn't
20 paying any taxes, and they truly are out \$14
21 million of cash, Exelon will make a \$14 million
22 cash contribution -- equity contribution.

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1 In the case of BGE, BGE was -- it
2 was the after-tax amount, which I think is the
3 same case here. But I'm not a tax accountant,
4 so I don't want to get too far down the path.

5 I think the important takeaway is --
6 and I will assure you, and I'm here under oath,
7 and I will say it, Exelon will keep Pepco whole
8 from a cash perspective. And Pepco will not be
9 out any cash because of this credit being paid.

10 CHAIRMAN KANE: What's the
11 difference between cash and an equity infusion?

12 THE WITNESS: It's -- I don't think
13 there is a difference in terms of the equity
14 ratio is the same and the cash balance at the
15 company is the same. The only issue -- I don't
16 -- I don't think there is a difference.

17 CHAIRMAN KANE: Let me move on to
18 the \$25.6 million. And again, look at the
19 bill -- typical bill here.

20 Now, you testified that that credit,
21 when it went goes -- it went -- when it goes
22 into effect would only be against the

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1 distribution portion of the bill; is that
2 correct?

3 THE WITNESS: That's correct.

4 CHAIRMAN KANE: Okay. So just to be
5 clear, we're talking about that would be only
6 the -- on this particular bill, the \$13, the
7 2.93 and the 7.28, correct?

8 THE WITNESS: I believe that's --

9 CHAIRMAN KANE: That those -- and
10 which adds up to -- and perhaps this
11 administrative credit. So it comes around
12 \$23 --

13 THE WITNESS: That's correct.

14 CHAIRMAN KANE: -- for the typical
15 customer.

16 Now -- and then there's a -- a
17 slightly different per customer average for
18 your master metered.

19 Focusing on the -- on the single
20 meter customers, if I recall, you -- the
21 estimate was that, of the 25.6 million, about
22 4.3 would go to master meters.

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1 So about 21 million be for the
2 single meter, right.

3 THE WITNESS: That correct.

4 But I -- just --

5 CHAIRMAN KANE: Yeah.

6 THE WITNESS: -- one point of --

7 CHAIRMAN KANE: Sure.

8 THE WITNESS: Clarification.

9 CHAIRMAN KANE: Sure.

10 THE WITNESS: It wouldn't be the
11 23.21. If this is a bill, a rate case is
12 filed, a rate increase comes, it'd only be the
13 incremental increase.

14 CHAIRMAN KANE: Right.

15 But I mean it's that portion of this
16 total bill --

17 THE WITNESS: Yes, ma'am.

18 CHAIRMAN KANE: -- that is a little
19 bit over 20 percent of -- of the average bill.

20 Now, as you say, this is the current
21 bill. I want to refer to the work papers that
22 you submitted on November 13th that the joint

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1 applicants submitted, which is labeled "Pepco
2 Key Assumptions For Forecast."

3 THE WITNESS: I don't think I have
4 those.

5 CHAIRMAN KANE: Those -- those have
6 been --

7 THE WITNESS: I'm familiar with
8 them. I don't have them.

9 CHAIRMAN KANE: Those haven't been
10 entered as an exhibit yet.

11 Mr. Meier?

12 MR. MEIER: May we approach?

13 CHAIRMAN KANE: Yeah.

14 MR. MEIER: We'll bring a copy to
15 the witness.

16 CHAIRMAN KANE: Thank you.

17 This was filed on October 30th and
18 is docketed in our E-docket system as FC
19 111920-215E989A. This is the work papers you
20 submitted to go with the testimony -- the work
21 -- the public work papers related to the direct
22 testimony in support of the settlement

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1 agreement.

2 It indicates they will be
3 distributed to the parties via electronic mail.

4 2.290 -- 289A.

5 THE WITNESS: Yes.

6 CHAIRMAN KANE: Do you have that
7 now --

8 THE WITNESS: I have the --

9 CHAIRMAN KANE: -- Mr. Khouzami?

10 THE WITNESS: I have the first two
11 pages.

12 CHAIRMAN KANE: The first two pages.
13 Well, I actually need you to look at the fourth
14 page.

15 We'll have to mark this, yes, as our
16 exhibit. I -- have been put it. So we'll mark
17 this as -- as PSC -- what are we up to -- 5?
18 4? 5. Yeah. PSC 5. Yeah.

19 It's already in the record? Oh,
20 it's an attachment to the testimony, right?
21 Well --

22 MR. MEIER: It can be marked.

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1 CHAIRMAN KANE: -- it's not. It's
2 separate. So I'm going to mark it as PSC 5 so
3 there's no question about it.

4 (PSC Exhibit 5 was marked for
5 identification.)

6 CHAIRMAN KANE: And I -- these
7 are -- can you identify -- are you familiar
8 with this document?

9 THE WITNESS: Yes, I am.

10 CHAIRMAN KANE: Okay. And this is
11 labeled, after the cover letter, as "Pepco Key
12 Assumptions For Forecast."

13 THE WITNESS: Yes, ma'am.

14 CHAIRMAN KANE: And I want to bring
15 your attention to page -- one, two -- third
16 page, although they're not numbered. But it's
17 the one that goes sideways, and it says:
18 "Pepco D.C. Summary of Residential Rate
19 Deferral Balances."

20 THE WITNESS: Yes, ma'am.

21 CHAIRMAN KANE: Okay. And does this
22 purport to be a chart of how the \$25 million

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1 credit would be used up over the -- the -- the
2 time period?

3 THE WITNESS: This is the basis of
4 how we came up with the 25.6.

5 CHAIRMAN KANE: How you -- thank
6 you. How you came up with 25.6.

7 And so these are assumptions. And
8 this is, as you said, hypothetical but -- but
9 assumptions.

10 THE WITNESS: It's -- it's
11 illustrative.

12 CHAIRMAN KANE: Illustrative.
13 That's a good word. Thank you.

14 And this -- looking at the first
15 line here, schedule, it says "File."

16 Would that be filing a rate case?

17 THE WITNESS: Yes, ma'am.

18 CHAIRMAN KANE: Okay. And so July
19 1st, 2016, plan would be to file a rate case
20 effective July 1st, 2017 --

21 THE WITNESS: Yes, ma'am.

22 CHAIRMAN KANE: Giving us a whole

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1 year to make a decision.

2 And it would be 55 million -- is
3 that -- 55314, is that the dollar amount of the
4 rate case that you would request 55 million?

5 THE WITNESS: That's the assumed --

6 CHAIRMAN KANE: Assumed amount.

7 And then the residential and the
8 master meter allocation's about 22 percent.

9 THE WITNESS: Yes, ma'am.

10 CHAIRMAN KANE: That's the
11 current --

12 THE WITNESS: That's the --

13 CHAIRMAN KANE: Does that refer --
14 excuse me -- reflect the current division of
15 revenue between residential an
16 nonresidential --

17 THE WITNESS: Yes.

18 CHAIRMAN KANE: -- for the District
19 in our current rate -- okay.

20 And so in that first rate case, you
21 would assume -- you are assuming a \$12.2
22 million rate increase for residential and MMA

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1 customers, correct?

2 THE WITNESS: Yes.

3 CHAIRMAN KANE: Okay. And then you
4 file another rate case on October 1st, 2017,
5 which would be effective a year later, 2018.

6 And that would be a \$37 million
7 revenue requirement and allocating 22 percent.

8 Assuming there's no change in the
9 allocation, about \$8 million would be the
10 residential rate case, right?

11 THE WITNESS: That's correct.

12 CHAIRMAN KANE: And then on the 1st
13 of January 2019, you'd file for another almost
14 4 and a half million, correct?

15 And this is how the --

16 THE WITNESS: That third rate case
17 wouldn't --

18 CHAIRMAN KANE: Would --

19 THE WITNESS: -- would be beyond the
20 March 31st.

21 CHAIRMAN KANE: Would be beyond the
22 March 31st. Okay.

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1 So the money -- it's all -- the 25.6
2 is -- is used up by those two rate cases --
3 those first two rate cases, correct?

4 THE WITNESS: Yes.

5 CHAIRMAN KANE: Okay. So -- so this
6 -- now, your plan would be to have the -- ask
7 the Commission to approve the rate cases. The
8 rates would go into effect. And so what -- the
9 12 -- let's look at the first one. The
10 \$12.8 million -- the 12.288 -- excuse me -- for
11 residential would go into effect.

12 It would go on the customer bill; is
13 that correct?

14 And then there would be a credit on
15 the bill sort of subtracting --

16 THE WITNESS: That's correct.

17 CHAIRMAN KANE: -- that -- the
18 amount of the increase.

19 Now, do you recall what the -- the
20 last rate case that the Commission approved,
21 how much, approximately, the residential rate
22 increase was, the dollar amount?

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1 THE WITNESS: I don't recall it. I
2 seem to recall 2 to \$3, but I don't --

3 CHAIRMAN KANE: That --

4 THE WITNESS: -- know for sure.

5 CHAIRMAN KANE: Well, would you say,
6 subject to check, that -- I believe it was
7 about \$11 million total --

8 THE WITNESS: Oh, total.

9 CHAIRMAN KANE: -- and that the rate
10 increase was about \$3.75.

11 THE WITNESS: My -- that's what --

12 CHAIRMAN KANE: About in that
13 figure?

14 So let's assume it was 3.75. That
15 would mean that, starting July 1st, the bill
16 that this customer would get would have added
17 to the 23.21 \$3.75. So we'd be up to 26.95, is
18 what it would show on the bill?

19 THE WITNESS: Yes.

20 CHAIRMAN KANE: And then there'd be
21 a line and a credit of 3.75. Then the next
22 assumption or if the Commission would approve

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1 this, again allocating 22 percent, a smaller
2 rate increase, figuring it out in my head, it's
3 probably maybe 2.50 or so.

4 THE WITNESS: Closer to that.

5 CHAIRMAN KANE: So now we're up to
6 14, 9, about \$29.45, so the bill will have gone
7 up that is seen on the bill about -- close to 6
8 or \$7, correct?

9 THE WITNESS: Yes.

10 CHAIRMAN KANE: So then we get to
11 March 1 -- April 1, 2019, and the bill, the
12 customer all along has been paying \$23, then it
13 is going to pop up and getting credit, they are
14 getting a bill that says 26 or 29 but they get
15 a credit subtracted, and they are still only
16 paying 23, making the assumption that the
17 increase was only put on the customer charge.

18 Then they get a bill of \$29. So
19 that is quite an increase, isn't that? That is
20 about a 20, 30 percent increase, distribution
21 bill?

22 THE WITNESS: So we were looking at

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1 that, the Pepco regulatory team that provided
2 the work papers here or provided me the work
3 papers here and made the assumptions, did look
4 at it and if this were to be approved and
5 again, all of this is subject to the Commission
6 approval, so, this is just illustrative.
7 Ultimately, the rate cases are the
8 determination of the Commission and if what
9 they see is reasonable and prudent. It would
10 result in about a six and a half percent net
11 increase of the total bill.

12 CHAIRMAN KANE: Yeah, but we are
13 only talking about the distribution bill. We
14 have nothing to do with anything on the bill
15 except the distribution costs and the --
16 including RAD charge. Everything else is
17 determined either by the market, by the city
18 council, by the mayor, this regulatory
19 authority so all we really can't talk about
20 here, and as you said, this \$26 million is
21 against distribution charges against what we
22 control.

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1 THE WITNESS: Yes, ma'am.

2 CHAIRMAN KANE: So to go from \$23 to
3 \$29 is about a 30 percent increase; is that
4 correct?

5 THE WITNESS: It is. Again, I think
6 these would be rate cases that if we did not
7 have this credit, this will be what customers
8 would experience. I think the takeaway I make
9 at least from this is that with this
10 commitment, \$25.6 million worth of rates will
11 never be paid by customers.

12 So again, if we didn't have this
13 merger and Pepco came in for a rate case
14 seeking -- this is -- I would assume similar
15 levels of request and actually might be even
16 higher than this, because they wouldn't have
17 the benefit of the synergies flowing through
18 and reducing cost of service, customers would
19 still be subject to that without an offset, so
20 that's how I think about it.

21 CHAIRMAN KANE: So this is only for
22 residential customers, correct?

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1 THE WITNESS: And MMA.

2 CHAIRMAN KANE: It includes the
3 residential customers that live in
4 multi-metered apartments. So your assumption
5 is, subtracting the 12 million, that we would
6 be looking at a \$43 million increase for
7 nonresidential customers?

8 THE WITNESS: Subtracting the --

9 CHAIRMAN KANE: \$12 million from the
10 55.

11 THE WITNESS: So based on the
12 forecast, based on assumed ROE that was
13 consistent with the last rate case, the same
14 allegations, the same RMA adjustments, that
15 would come out to about \$43 million.

16 CHAIRMAN KANE: \$43 million. Do you
17 recall what the increase for nonresidential
18 customers in dollar amounts was last time?

19 THE WITNESS: I do not.

20 CHAIRMAN KANE: Would you agree
21 subject to check, I believe that the total
22 increase is now 22, \$23 million and if \$11

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1 million that went to residential, then the
2 nonresidential is about 12 million?

3 THE WITNESS: Yes.

4 CHAIRMAN KANE: So to go from a \$12
5 million increase to a \$43 million increase,
6 that is an increase for nonresidential
7 customers, almost four times what the last one
8 was?

9 THE WITNESS: Well, I think again --
10 first, let me say this again, it's always
11 subject to the Commission approval. Second,
12 this is really the result of Pepco continuing
13 to invest in the system and not coming in for a
14 rate case, so they haven't been in for a rate
15 case, as I understand it, the last time new
16 rates went into effect was in March of '13, I
17 believe, so -- or March of '14, I'm sorry, so
18 this would basically effectively be no rate
19 increases over a three-year period. Given the
20 level of investment that Pepco is making in the
21 system, that is a long time.

22 So the increase would again be

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1 subject to the prudence test that the
2 Commission typically goes through and again, I
3 think we would expect that Pepco would be able
4 to prove that these costs were prudent and
5 necessary, but ultimately, would be subject to
6 your approval, but the reason for the size is
7 really driven largely by the time since the
8 last rate case.

9 CHAIRMAN KANE: Okay. You agreed to
10 cap the capital expenditures?

11 THE WITNESS: For reliability
12 spending.

13 CHAIRMAN KANE: For reliability
14 spending over five years?

15 THE WITNESS: For the next five
16 years.

17 CHAIRMAN KANE: With no increase
18 there.

19 THE WITNESS: Yes, ma'am.

20 CHAIRMAN KANE: Does the current
21 rate design and current approved revenue
22 requirement support that level of expenditure?

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1 THE WITNESS: This is consistent
2 with Pepco's five-year plan that they had.

3 CHAIRMAN KANE: So -- go ahead.

4 THE WITNESS: Please go ahead.

5 CHAIRMAN KANE: The amounts of
6 dollar amounts that would be asked for, that
7 would be committed to be spent or capped for
8 reliability expenditures is covered by the --
9 is adequate revenue in the current rate
10 designed to cover that?

11 THE WITNESS: Let me try to answer
12 and see if I get to your question. The
13 analysis, the illustrative analysis that we've
14 done here contemplates this budget, if that's
15 what you are asking. It is reflective of that.
16 It is a cap on what we would seek recovery of.
17 Again, if there was a need to spend additional
18 dollars beyond that, we would just forego, we'd
19 have to be subject to the provisions that we've
20 laid out in terms of having to put money in
21 escrow and ultimately either not get recovery
22 of it or the Commission would have to approve

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1 it, but our position is we would stay within
2 the cap.

3 CHAIRMAN KANE: Couple other
4 questions. Questions about micro grids and the
5 solar and all of that. Would that be
6 appropriate to ask you or to ask Mr. Velazquez?

7 THE WITNESS: I think it depends on
8 the question. We can try.

9 CHAIRMAN KANE: A hundred megawatts
10 of wind to be -- this is Commitment No. 130 or
11 Paragraph 130.

12 How much wind generation does Exelon
13 currently own within the PJM region, the PJM
14 states?

15 THE WITNESS: So I'm not sure of the
16 exact amount of -- we could get that for you if
17 you would like. I do know that Exelon is a
18 very large developer and owner of wind. I
19 think it's it one of the largest in the
20 country, same as solar, and then if you include
21 the PPA off-takes that they have, it is even
22 larger. The actual megawatts, I don't know the

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1 answer, top of my head.

2 CHAIRMAN KANE: This speaks to a
3 request or proposal to purchase the wind,
4 purchase the energy, renewable energy capacity
5 ancillary services, to clarify, this does not
6 speak to investing in building wind power
7 plants; is that correct?

8 THE WITNESS: It is to purchase the
9 off-take from these wind facilities but we do
10 have in C, a provision that states clearly,
11 that we will enter into a ten-year PPA. The
12 thought here from the settling parties was that
13 that PPA gives certainty of cash flows and
14 funding that would allow wind developers to
15 build a facility, and for the next ten years,
16 Exelon will take the off-take and then beyond
17 ten years, either Exelon or another party would
18 have it, but the facility will pay for itself.

19 CHAIRMAN KANE: But the proposal is
20 not that Exelon would actually build them, but
21 through a PPA would facilitate someone else
22 building it?

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1 THE WITNESS: That's correct.

2 CHAIRMAN KANE: When you say Exelon,
3 which -- is that a corporate Exelon or --

4 THE WITNESS: It would most
5 likely --

6 CHAIRMAN KANE: Which entity would
7 be in the business of buying wind energy
8 through a PPA?

9 THE WITNESS: It would most likely
10 be Constellation, a nonregulated business of
11 Exelon.

12 CHAIRMAN KANE: Are you aware that
13 there is a shortage of wind credits to meet the
14 D.C. RPS? I mean, is there?

15 THE WITNESS: I don't know if there
16 is a shortage but to my understanding, there is
17 a provision that's wind that is sourced
18 anywhere in PJN can be used to meet the D.C.
19 RPS standards. One of the reasons why we think
20 this could be a benefit for D.C. residents
21 because we can use these credits to help
22 satisfy the D.C. RPS standards.

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1 CHAIRMAN KANE: You could, but there
2 is no requirement that whoever buys this wind
3 from these wind farms has to sell it to
4 residents at retail district; is that correct?

5 THE WITNESS: There is no firm
6 commitment because again, market factors will
7 dictate whether we can successfully use them in
8 the District.

9 Paragraph D does state that our
10 intention to try to use them in the District
11 and again, I would say it is a commitment we
12 are making here, fully would expect the
13 Commission if we aren't using them, to question
14 Exelon why aren't you using them, and we'd have
15 to have a reason for why we are not.

16 CHAIRMAN KANE: In terms of
17 registering them and making them available for
18 a retailer could -- but to use -- whether or
19 not they get actually used in the District as
20 opposed to simply being registered and being
21 available for a retailer to purchase would be
22 up to whether or not customers want to buy

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1 their energy from Constellation, correct?

2 THE WITNESS: That would be or
3 through the SOS options as well.

4 CHAIRMAN KANE: One more question.
5 Commitment 119, which is: "Exelon shall
6 provide \$5 million of capital to creditworthy
7 governmental entities at market rates for the
8 development."

9 Which entity or which division shall
10 I say of Exelon would be in the business of
11 providing net capital?

12 THE WITNESS: I think it would be
13 Exelon Corporation. Again, importantly, none
14 of this would be recovered through utility
15 rates in the District or anywhere else. And
16 again, it is capital that we think is important
17 and it's just another commitment that we think
18 is good to help spur additional renewable
19 projects here in the District.

20 CHAIRMAN KANE: And this would be at
21 market rates, correct?

22 THE WITNESS: Yes, ma'am.

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1 CHAIRMAN KANE: These would be D.C.
2 -- it says: "Governmental entities." Would
3 they be D.C. Government entities?

4 THE WITNESS: I would assume so. I
5 mean, they're for the energy project in the
6 District. I'm not sure what other government
7 entities would --

8 CHAIRMAN KANE: I probably should
9 have asked this of D.C. Government, but are you
10 aware that the District government has any
11 problems making borrowings at tax exempt rates?

12 THE WITNESS: I don't know.

13 CHAIRMAN KANE: Are tax exempt rates
14 lower than market rates.

15 THE WITNESS: Well, they would be
16 their market rates, right, so I think the
17 intent here is to streamline the process to
18 give these creditworthy entities the ability to
19 get funding, to avoid having to go through the
20 process with a bank, which could take time.
21 Also to avoid the financing costs that a lot of
22 times you have to pay, as you seek a loan.

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1 This is -- the intent here is to get
2 \$5 million to start to be invested, so that we
3 can develop additional renewable energy
4 projects here in the District. Something that
5 Exelon is extremely supportive and obviously,
6 there is a number of commitments that are
7 providing funding for these types of projects
8 in this merger.

9 CHAIRMAN KANE: These would be loans
10 that would be paid back, correct?

11 THE WITNESS: Yes.

12 CHAIRMAN KANE: Those are my
13 questions for the moment. Thank you.

14 THE WITNESS: Thank you.

15 CHAIRMAN KANE: Redirect?

16 MR. BONNEY: Yes, briefly, Your
17 Honor. Thank you.

18 BY MR. BONNEY:

19 Q. Mr. Khouzami, do you recall at the
20 outset of your examination, some questions from
21 Commission Fort regarding Paragraph 4, the
22 residential customer base rate credit?

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1 A. Yes.

2 Q. And in particular, questions
3 regarding whether the company would separately
4 track MMA versus residential. I just want to
5 focus attention on the specific language here
6 and in particular: "4.3 million of the 25.6
7 million shall be allocated for application of
8 the credit for master meter," and focusing on
9 that language, I just wanted to ask you to
10 clarify how that will be tracked as part of the
11 25.6 million?

12 A. Sure. We will track the MMA
13 separate from the residential. I apologize if
14 I was not clear earlier.

15 Q. Commissioner Fort also asked you a
16 question about the bill stabilization
17 adjustment and potential interplay of that with
18 the rate credits. And this is the decoupling
19 mechanism for revenue decoupling.

20 Do you understand that there is any
21 intent that the credits that will be made will
22 be somehow recovered or reflected in that

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1 adjustment mechanism?

2 A. They would not be.

3 MR. BONNEY: That is all I have,
4 Your Honors. Thank you.

5 CHAIRMAN KANE: Thank you. All
6 right.

7 MR. BONNEY: Your Honors, at this
8 time, I would move the testimony and exhibits
9 of Mr. Khouzami into the record.

10 CHAIRMAN KANE: They are so moved.
11 I will move the exhibits of the Commission into
12 the record.

13 (Exhibits JA 5A and 5A1-4 were
14 received into evidence.)

15 MR. BONNEY: Your Honor, one note
16 there. By my notes, I think we are up to
17 Exhibit No. 6 and I --

18 CHAIRMAN KANE: For PSC, yes.
19 Secretary is keeping track.

20 MR. BONNEY: Very good. Thank you.

21 CHAIRMAN KANE: Mr. Caldwell.

22 MR. CALDWELL: Yes, Your Honor, I

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1 apologize. I forgot to move into the record
2 Director Wells's testimony which is marked as
3 Exhibit DCG H.

4 CHAIRMAN KANE: We were so anxious
5 to get him off and off to the airport.

6 MR. CALDWELL: Okay. Thank you.

7 (Exhibit DCG H was received into
8 evidence.)

9 CHAIRMAN KANE: We're going to take
10 a quick break before your next witness.

11 THE SECRETARY: All rise.

12 (A short recess was taken.)

13 CHAIRMAN KANE: We are back on the
14 record. This is FC 1119.

15 If you would call your next witness,
16 Mr. Velazquez.

17 MS. STARK: Sure.

18 CHAIRMAN KANE: We will take Mr.
19 Velazquez today and I think that will be it for
20 the day.

21 DAVID VELAZQUEZ,
22 being first duly sworn, to tell the truth, the

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1 whole truth and nothing but the truth,
2 testified as follows:

3 DIRECT EXAMINATION BY COUNSEL FOR PEPCO

4 BY MS. STARK:

5 Q. Good afternoon.

6 A. Good afternoon.

7 Q. Can you please state your name for
8 the record.

9 A. David Velazquez.

10 Q. And can you tell us by whom you are
11 employed and your current position?

12 A. I'm the executive vice president of
13 Power Delivery, working for Pepco Holdings,
14 Incorporated.

15 Q. And do you have before you your
16 fully conformed direct testimony in support of
17 the settlement agreement filed on October 30,
18 2015, submitted on behalf of the joint
19 applicants in this proceeding, which consists
20 of 37 pages?

21 A. I do.

22 MS. STARK: And we previously

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1 stipulated to the authentication of that, so at
2 this time, I would like to mark for
3 identification Mr. Velazquez's fully conformed
4 testimony as Joint Applicants' Exhibit 5B.

5 CHAIRMAN KANE: So marked.

6 (Joint Applicant Exhibit 5B was
7 marked for identification.)

8 MS. STARK: Thank you. I have just
9 a few rejoinder questions for Mr. Velazquez.

10 BY MS. STARK:

11 Q. In Paragraph 129 of the settlement
12 agreement, Exelon and Pepco commit to
13 supporting the Commission's objectives in
14 Formal Case 1130, which, as you know, is the
15 Commission's investigation into modernizing the
16 energy delivery structure for increased
17 sustainability.

18 Now in the testimony of Mr. Martin,
19 he maintains at Page 9, that this commitment is
20 just compliance with the law and is simply a
21 statement that Pepco will continue to express
22 its opinion in that proceeding.

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1 Do you agree with that
2 characterization?

3 A. I do not. This commitment was put
4 in there just to make sure that we were
5 addressing concerns that we had heard expressed
6 that we were not going to be an active
7 participant, unenthusiastic, if you will,
8 supporter of where Formal Case 1130 is moving
9 forward for not subjecting the objectives. We
10 have every intention and so far in the case
11 have been more than an active supporter.

12 We have been present at both of the
13 sessions that were held. We had testimony
14 presented by our senior vice president. I will
15 say fairly extensive testimony was also
16 available at the second meeting and responded
17 to questions as well and both us and Exelon
18 intend to be more than active participants, but
19 also very -- I will say, very much strong
20 supporters of where this is headed.

21 Q. Thank you. Mr. Martin also contends
22 at Page 8 of his testimony that the micro grid

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1 provisions of the settlement agreement grant to
2 the monopoly distribution retailer business, by
3 that he means Pepco, an insider role in
4 defining how the strategy will be explored and
5 developed and that should be entirely
6 disallowed.

7 Do you agree with Mr. Martin's
8 concern?

9 A. Again, I do not agree. This
10 provision was actually put in the settlement
11 agreement at the request of the D.C. Government
12 early on in the testimony they had filed. They
13 had filed something very similar, a request
14 very similar to this and this was designed to
15 be responsive to that, and really was designed
16 to -- I will say help move the market forward,
17 help bring the right questions onto the table
18 and make sure that they are being considered in
19 a thoughtful way.

20 I can see a lot of the elements that
21 are in here around the micro grid proposal is
22 also being addressed as part of Formal Case

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1 1130.

2 But specifically to the question,
3 there's nothing in here, in fact, it is
4 explicit that the D.C. Government is not
5 entering any exclusive relationship with Pepco,
6 but rather, they can talk to any other
7 developer, develop projects with anyone else,
8 and develop their own proposals and bring them
9 to the District government, can bring them to
10 other -- I will say real estate developers in
11 the city or other customers in the city.

12 Anything that we would do here, and
13 I think we've talked a little bit about that,
14 anything we would do under this along with the
15 District government, we would bring them before
16 the Commission for their approval before we
17 proceed to go forward, so I do not agree with
18 his comment.

19 Q. Thank you.

20 MS. STARK: The witness is now
21 available for cross-examination.

22 CHAIRMAN KANE: Thank you. Anybody?

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1 COMMISSIONER FORT: I just have a
2 few questions, although I could ask a general
3 question. Were you in the room when Mr.
4 Khouzami was testifying?

5 THE WITNESS: I was.

6 COMMISSIONER FORT: Was there
7 anything that Mr. Khouzami said in his
8 testimony that you wanted to add to, correct or
9 modify?

10 THE WITNESS: No, there isn't.

11 COMMISSIONER FORT: Just checking.
12 My first question to you goes to your testimony
13 on Page 19 and to Paragraph 56 of the
14 settlement agreement, and that is one we were
15 talking about reliability, so if you would get
16 your testimony on 19, Lines 8 through 12.

17 THE WITNESS: Yes, ma'am.

18 COMMISSIONER FORT: You say there:
19 "Pepco's 2014 reliability results SAIFI of .69,
20 SAIDI of 96 minutes for the District were the
21 best ever and we are proud of the
22 accomplishments, but maintaining and improving

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1 this level of performance in the future will
2 require continuous improvements in work
3 practices and operating procedures as well as
4 new and innovative system design changes."

5 Can you describe here the work
6 practice improvements that you were referring
7 to in that response?

8 THE WITNESS: I think it was a
9 general statement designed to address the fact
10 that along with Exelon, we were going through a
11 process after the merger is concluded to work
12 through best practices which will include all
13 those areas around -- whether it's work
14 practice, operating procedures, whether there's
15 changes to the system design or improvements to
16 the way we currently design our system and
17 leveraging off of their knowledge and
18 experience.

19 As you know, they have three very
20 large utilities that work in urban settings,
21 just like Pepco does, so we are looking forward
22 to being able to use that to drive our

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1 improvements forward.

2 COMMISSIONER FORT: Are there
3 specific design changes that are being
4 considered for Pepco D.C. now as part of an
5 integration process?

6 THE WITNESS: We haven't gotten to
7 the stage yet in the process to really go down
8 to that level of detail. We are going through
9 all the -- all the very different design
10 factors to figure out exactly what it will be
11 that will change. But again, in some general
12 conversations, there are some things, for
13 instance, you know, one example has come up is
14 the use of reclosers which is basically a
15 circuit breaker out on the system that I think
16 -- there is some better design practices or
17 appear to be some better design practices based
18 on the performance of the Exelon utilities that
19 they've also used at BG&E to drive its
20 improvements and reliability that we would look
21 to, to talk with them about, to understand the
22 detail, to see if we comply.

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1 COMMISSIONER FORT: So which entity
2 or entities do you anticipate will make these
3 improvement recommendations?

4 THE WITNESS: I think it will be a
5 combination of Exelon's expertise and also
6 Pepco's expertise. So for instance, after the
7 merger closes, there will be a senior
8 executive, actually his name is John McDonald
9 out of Philadelphia Electric, who will come
10 here and be working full-time for me along with
11 the team, and other -- I will say more senior
12 managers from across the Exelon system, and
13 they will be integrated with some of our folks
14 here. It's that team that will help drive and
15 develop best practices.

16 COMMISSIONER FORT: The specifics of
17 those are not reflected anywhere in the
18 settlement agreement; is that correct?

19 THE WITNESS: No, we have not, at
20 the point yet where we will lay out exactly
21 what each of those practices will be. And I
22 should also say, they will change over time.

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1 It is not a static thing where, you
2 know, we look at something today and then three
3 years from now that's not going to change,
4 we're not going to figure out a way to improve
5 it. Our hope is and the way best practices
6 tends to work over time, they evolve, so it
7 will be a continuous process for us to keep
8 improving.

9 COMMISSIONER FORT: Is there a time
10 table for improvements?

11 THE WITNESS: Yes. The improvements
12 I guess are embedded in the -- I guess in the
13 merger agreement if you looked at Paragraph 56,
14 which was the other place you had referenced,
15 and the improvements are embedded in -- the
16 improvements that we have, have their -- or if
17 you went to my testimony, I believe it's on the
18 prior page if I can get there. On the prior
19 Page 18. On Table 2 where it shows how, with
20 the improvements we have, we're going to be
21 able to drive improvements in frequency of
22 outages so that we are first quartile by 2017

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1 and actually first decile by 2020 and with
2 duration of outages, first quartile by 2020.

3 COMMISSIONER FORT: So if I can turn
4 you now to Paragraph 24, which is the paragraph
5 that deals with work force development.

6 You remember you heard me ask
7 questions about that paragraph to D.C.
8 Government Witness Wells as well as to Mr.
9 Khouzami for the joint applicants.

10 I asked him to describe how the
11 contribution for work force development
12 provides a direct and tangible benefit to
13 district ratepayers. He gave an answer. Do
14 you have an answer to that question?

15 THE WITNESS: I do. In addition to
16 what Mr. Khouzami said, it is our hope, my
17 hope, that through this program, we will also
18 be working with the District and having a
19 discussion around the type of jobs that Pepco
20 will need as we move forward with I will say
21 the grid of the future. We continue to drive
22 improvements to that grid whether it's through

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1 the smart grid or micro grid, whatever, and
2 that we're going to be the ones that are able
3 to hire some of the people that come through
4 the different training programs that are
5 created.

6 COMMISSIONER FORT: I asked him if
7 he could define sustainable jobs as it is used
8 in the context of the -- talking about this
9 Paragraph 24 commitment.

10 Do you have a definition of that?

11 THE WITNESS: I probably don't have
12 a real good one, but in a general sense, these
13 sustainable jobs would be jobs, I'll say, that
14 are related to helping drive, whether it's
15 renewable energy, driving energy efficiency,
16 driving micro grids, driving the smart grid,
17 all those things are going to help create, I'll
18 say, a more sustainable electric grid, more
19 sustainable use of electric energy.

20 COMMISSIONER FORT: And are those
21 type of jobs that you just described, the type
22 of jobs that Pepco would be seeking to employ

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1 district residents in if they participate in
2 the work force development programs that are
3 being funded by this proposal?

4 THE WITNESS: Again, I would hope
5 that we are able to attract some of them in.
6 Some of these jobs certainly they will be
7 trained for, will be, I'll say, in the other
8 contractors, other vendors as well I think. I
9 think there will be a demand for the folks that
10 are coming out of this, and we hope to compete
11 with that demand and be able to hire some of
12 them.

13 COMMISSIONER FORT: In the past five
14 years, I don't know, past three years, how many
15 district residents have participated in work
16 force developments that Pepco has been engaged
17 in?

18 THE WITNESS: I do not know.

19 COMMISSIONER FORT: Do you know
20 whether or not there are any work force
21 development undertakings that Pepco currently
22 has in the District of Columbia?

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1 THE WITNESS: We do a number of
2 things with internships, things like that, but
3 a formal job training program like this, I
4 don't believe we have been funded.

5 COMMISSIONER FORT: So this is
6 something that would be new.

7 THE WITNESS: Yes.

8 COMMISSIONER FORT: If I can refer
9 you to Paragraph 62 in the settlement agreement
10 and to Page 25 of your direct testimony, the
11 paragraph -- and on Page 25, I want to talk
12 about your Lines 15 to 21, no, 16 through 19.
13 Wait a minute while I get to Paragraph 62.

14 There, the settling parties have
15 added a commitment to strive, to achieve and
16 maintain first quartile safety and performance.
17 I'm paraphrasing here.

18 Pepco will file annual reports on
19 the safety performance and safety initiatives
20 with the Commission as part of the annual
21 consolidated report which is the substance of
22 Paragraph 62.

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1 THE WITNESS: Yes.

2 COMMISSIONER FORT: What is Pepco's
3 current safety performance? Which quartile?

4 THE WITNESS: Currently, I think
5 it's moved a little bit year over year, but in
6 general, over the last four or five years, it
7 has been the second quartile performance, and
8 that is measured across a national benchmark.

9 COMMISSIONER FORT: That's the same
10 benchmark that we are talking about using to
11 measure to get to the first quartile?

12 THE WITNESS: Yes.

13 COMMISSIONER FORT: Safety
14 performance. Do the joint applicants propose
15 that the Commission take any action if Pepco
16 doesn't achieve and maintain first quartile
17 safety performance?

18 THE WITNESS: I think along with the
19 rest of the information we file with the
20 Commission, that would be entirely at the
21 discretion of the Commission. It's something
22 that over time, we at Pepco and PHI have been

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1 working hard to improve our safety record and
2 have made some improvements but again, in the
3 reliability side, very much looking forward to
4 joining with the Exelon family of companies as
5 their utilities cross the board, perform in the
6 first quartile and being able to learn so we
7 can get there more quickly.

8 COMMISSIONER FORT: What is the
9 benefit to district ratepayers of this
10 commitment?

11 THE WITNESS: I think there is --
12 the largest benefit is probably the fact that
13 if we have a safer work force, first of all for
14 me personally, it's the fact that people are
15 going home every day without being hurt or
16 injured and are able to enjoy the rest of their
17 life, but it does translate directly into also
18 lower costs, if the worker is out because of
19 injury and it's a cost that we have to bear, so
20 there are additional cost benefits as well, but
21 again, to me, the most important thing, I don't
22 want to minimize the cost. But the most

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1 important thing is our ability to be able to
2 send people home safely every day.

3 COMMISSIONER FORT: Could this
4 achievement moving to first quartile safety
5 performance be done absent the proposed merger?

6 THE WITNESS: I think it is our
7 aspirational goal at Pepco and PHI absent the
8 merger, but again, being able to leverage off
9 the experience that Exelon has and also as
10 demonstrated with BGE, was moved from -- like
11 us a second quartile, the first quartile
12 performance over a couple of years. I think it
13 will definitely get us there quicker.

14 COMMISSIONER FORT: If I can get you
15 to look at Paragraph 61 in the settlement
16 agreement, and you talk about it on Page 26 of
17 your testimony, kind of Lines 8 through 15, and
18 that is a provision that talks about customer
19 satisfaction just generally, that in addition
20 to enhanced safety and reliability commitments,
21 the joint applicants agree to have Pepco
22 perform a root cause analysis of and develop an

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1 action plan to help -- an action plan to
2 improve Pepco's customer satisfaction scores in
3 the District of Columbia.

4 The action plan will be filed with
5 the Commission within six months after the
6 merger closing and also will be presented to
7 stakeholders participating in the PIWG case.

8 What are Pepco's current customer
9 satisfaction scores?

10 THE WITNESS: There is a couple
11 different measures that are used. I probably
12 can't quote all the numbers to you from it.
13 JDPower ranks us, and in addition to that, we
14 also do a survey with the national firm called
15 MSI Market Strategies, Incorporated, I believe
16 is their name, and we tend to use for internal
17 benchmarking purposes, the MSI survey because
18 they give us a lot more detail than JDPower
19 does and on that survey, we have seen our
20 scores at Pepco improve over the last few
21 years, so we are probably compared to the peer
22 companies they survey, they survey across the

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1 country, we would probably be somewhere I think
2 in the second quartile, possibly third, I can't
3 remember exactly.

4 But there is room for -- there is
5 certain room for improvement there, and this
6 provision was designed to address any concerns
7 anyone would have with our customer
8 satisfaction of what we are doing proactively
9 to drive forward and make sure that when we
10 talk about quality of service for us, it is a
11 lot of things. It's safety, it's reliability,
12 it is also our customers believe we are
13 providing service to them and certainly improve
14 that as well.

15 COMMISSIONER FORT: So I asked what
16 the measurements were or the standards or what
17 you're using because I don't know how we would
18 interpret or how we would determine if there
19 was improvement so that commitment -- we could
20 determine whether or not that commitment was
21 met unless we know what the starting point is,
22 the baseline is.

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1 THE WITNESS: And we have the data
2 both for the MSI survey and the JDPower survey
3 and can certainly provide it and I think that
4 is why this was presented in the context of
5 PIWG group so that we'd be presenting it, it
6 could turn into a fairly technical discussion
7 if you will around the statistics and present
8 that to the PIWG group and allow through that
9 process, I'll say the correct metrics that
10 everyone agrees would be the right ones to
11 measure, but I want to assure you, we do have
12 the historical data to do that.

13 COMMISSIONER FORT: You anticipated
14 my next question, which is what happens with
15 the plan after it's filed with the Commission
16 and after it's presented to the stakeholders
17 who are participating in PIWG again, so you
18 said you -- they could look at some of the
19 metrics. Is there something else they would do
20 with it?

21 THE WITNESS: Well, I assume coming
22 out of the discussions with PIWG, there would

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1 be this action plan and then we would report
2 periodically to the PIWG group as well as to
3 the Commission, if you wanted us to, around our
4 improvements and the actual actions we're
5 taking and also how the statistics are moving.

6 COMMISSIONER FORT: There are
7 currently customer service standards applicable
8 to Pepco that are codified in 15 CMR Section
9 3602 which among other things, require Pepco to
10 report its actual performance obtained during
11 the reporting period which you are all doing in
12 the annual consolidated report the following
13 year, and to file a corrective plan if Pepco
14 fails to maintain certain things, we'll call
15 them, upgrades, below ten percent, for example.

16 Is this commitment in addition to
17 the standards that are already in place in
18 Commission rules or is it intended to
19 accomplish another objective?

20 THE WITNESS: I think this is -- I
21 will say in addition to. We would be filing
22 this action plan even if we met all the

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1 standards and didn't need to file a corrective
2 action plan, we would still be filing an action
3 plan. We would continue to drive customer
4 satisfaction forward.

5 COMMISSIONER FORT: Just checking my
6 other list, I think that is all that I have.

7 Oh, on consent to jurisdiction. In
8 your direct testimony, you state that Exelon
9 consents to the Commission's jurisdiction on
10 all matters related to Pepco's operation and
11 affiliate transactions with the additional
12 commitment that provides for the Commission's
13 access to Exelon's records.

14 You cite Paragraphs 31 and 84 of the
15 settlement agreement, the footnote. Just
16 looking at that, neither of those appear to
17 relate to consent to jurisdiction as Paragraph
18 111 does.

19 THE WITNESS: Could you point to my
20 testimony where? I'm sorry, I can't find it
21 right away myself.

22 COMMISSIONER FORT: I don't have --

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1 it doesn't have a page number.

2 THE SECRETARY: Is that Page 28,
3 Page 28.

4 COMMISSIONER FORT: Page 28. Would
5 you agree that Paragraph 111 -- or were you
6 intending to cite to a different paragraph? 84
7 I think deals with provisions related to the
8 inclusion of debt or credit agreements related
9 to Exelon 31, that was something else.

10 THE WITNESS: I can't find it but I
11 will agree that 111 is the proper one about
12 consent to jurisdiction. And if there is an
13 error in the testimony, whatever procedure we
14 use to fix that, we will do that. I apologize
15 for that.

16 COMMISSIONER FORT: Just correct it
17 here on the record will be sufficient if you
18 can talk to your counsel before you agree or
19 confirm that that should be something
20 different.

21 In Paragraph 122, that's the next
22 one I wanted to ask a question about. Should

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1 the Commission -- 122 in the settlement
2 agreement, you have that?

3 THE WITNESS: Yes, ma'am.

4 COMMISSIONER FORT: Should the
5 Commission interpret the language of Paragraph
6 122 to be to mean that Pepco will make the
7 green button connect line data available to all
8 customers in the District of Columbia?

9 THE WITNESS: Yes. I believe it is
10 already available to some customers, but I
11 would have to check that and I see the Chair
12 gave me a look, maybe not. I'm a customer in
13 Maryland and I know it is available to me and
14 I've used it, but it may not be available in
15 the District.

16 COMMISSIONER FORT: Okay. Let me
17 make sure that that is --

18 THE WITNESS: We will be making it
19 available, yes.

20 COMMISSIONER FORT: Thank you.
21 Those are all I have.

22 CHAIRMAN KANE: Mr. Velazquez, if

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1 you would look at Page 20, Lines 1 to 10 of
2 your testimony.

3 THE WITNESS: Yes, ma'am.

4 CHAIRMAN KANE: And this is again in
5 regard to reliability. And you say there,
6 starting on Line 1 at the top that: "The
7 commitments in the settlement agreement that
8 I've described regarding reliability goals are
9 not contingent on the timing of the Commission
10 DCPLUG achieving first quartile reliability in
11 the performance that Pepco has committed to
12 will require significant enhancements in both
13 our work practices and design standards,
14 regardless of whether the DCPLUG project moves
15 forward as planned or is further delayed," and
16 I want to -- last two sentences, I want to
17 focus on.

18 If the DCPLUG project is further
19 delayed, then other program improvements will
20 need to be developed and however, in any case,
21 the joint applicants have accepted that risk in
22 the settlement agreement. The reliability

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1 commitments will either be increased nor
2 decreased based on the progress of the DCPLUG
3 initiative. So either increased nor decreased.
4 Can you explain? I'm not sure I am following
5 the grammar. That the reliability commitments
6 will either be increased nor decreased based --
7 what do you mean?

8 THE WITNESS: Most simply stated,
9 reliability commitments will not change.

10 CHAIRMAN KANE: Okay. Now, you
11 also, then on Page 22 have a table and it is
12 referenced on the page before Page 21, starting
13 at Line 11.

14 The question is: Did the joint
15 applicants agree to any limits on Pepco's
16 spending levels to achieve these commitments
17 and these are the reliability commitments.
18 Yes, the joint applicants have committed that
19 Pepco will achieve the reliability standards I
20 described without exceeding the annual
21 reliability related capital and O and M
22 spending levels shown in Table 3 below.

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1 Now the Table 3 is labeled
2 reliability-driven capital expenditures 26 to
3 20.

4 Is there a chart that shows
5 reliability-driven O and M expenditures?

6 THE WITNESS: We were --

7 CHAIRMAN KANE: Line 13 on the
8 previous page refers to capital and O and M
9 spending levels.

10 THE WITNESS: I apologize for the
11 error. There should have been a reference as
12 well to the O and M spending, which is
13 contained in Table 4, Page 23.

14 CHAIRMAN KANE: Thank you.

15 Now let me ask you about this.
16 First of all, in your original commitments in
17 4A-2, that commitment as originally proposed
18 contained explicit language making the
19 commitment to meet the reliability standards
20 contingent on the timely release of DCPLUG, and
21 in the current agreement, both what I just read
22 and in Paragraph 56 to 60, is silent as the

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1 commitment relationship with DCPLUG, in 56 to
2 60, but you have now added that in your
3 testimony; is that correct?

4 THE WITNESS: I'm not quite sure I
5 understand the question, but I will answer.

6 CHAIRMAN KANE: Go to 56 and 60 in
7 the -- there is no mention specifically of that
8 original contingency that it was contingent on
9 DCPLUG --

10 THE WITNESS: It is not contingent.
11 The commitments that are contained are not
12 contingent on DCPLUG moving forward or not.

13 CHAIRMAN KANE: Now Table 3 shows
14 budget commitment, flow reliability, net of
15 DCPLUG and emergency restoration and shows
16 dollar amounts for years 2016 through 2020,
17 which increase from 93 million -- these are
18 calendar years?

19 THE WITNESS: Yes, ma'am.

20 CHAIRMAN KANE: From 93.6 million,
21 about the same in 2017, increasing a projective
22 all the way up to 163 million in 2020.

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1 Do you see that?

2 THE WITNESS: Yes.

3 CHAIRMAN KANE: Now my question is,
4 first of all, does the current rate structure
5 and rate design that is in place, the current
6 rates in place, support this escalation of
7 spending from 2016 to 2020 or would a rate
8 increase be needed to meet these budgets?

9 THE WITNESS: The current rates do
10 not include the capital, that is included on
11 this plan in our rate base, so as we move
12 forward in time and make whatever the actual
13 investments are in our forward-looking rate
14 case, our rate cases in the future, we would
15 seek recovery for the investment, continued
16 investments we would make that are shown on
17 Table 3.

18 CHAIRMAN KANE: That would be the
19 return on investment related to these increased
20 capital expenditures. You are saying they are
21 not included in the currently approved rates.

22 THE WITNESS: That's correct.

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1 However, as Mr. Khouzami pointed out, as we're
2 walking through the his schedule, that showed
3 future rate cases, those do contemplate the
4 capital expenditures that are included here.

5 CHAIRMAN KANE: So that part of that
6 55 million, 37 million, that was projected in
7 your illustrative exhibit or illustrative work
8 papers for future rate cases was in order to
9 meet these budget expenditures; is that
10 correct?

11 THE WITNESS: Yes.

12 CHAIRMAN KANE: That's the return on
13 investment if there were investments at this
14 level.

15 THE WITNESS: Yes.

16 CHAIRMAN KANE: Were the Commission
17 not to approve rate increases at those levels,
18 would you be able to meet these budget levels?
19 That is a rhetorical question or a theoretical
20 question.

21 In other words, we established you
22 said that meeting the reliability commitments

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1 is no longer contingent on DCPLUG staying on
2 schedule. My question is, is making these
3 expenditures and therefore meeting the
4 reliability commitments contingent on the
5 Commission approving rate increases that would
6 support these dollar amounts?

7 THE WITNESS: No. The reliability
8 commitments stand as they are.

9 COMMISSIONER KANE: Even if we never
10 approved a rate increase, theoretically, or
11 approved something significantly lower?

12 THE WITNESS: Yes, they are not tied
13 together.

14 CHAIRMAN KANE: They are not tied
15 together.

16 THE WITNESS: They are not.

17 CHAIRMAN KANE: But you have said
18 that these are the amounts of dollars that are
19 needed to meet the reliability?

20 THE WITNESS: Yes, and we have full
21 confidence that when we come in for the rate
22 case and you look at these expenditures, you

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1 will agree with us that they are prudent and
2 reasonable and therefore we should get recovery
3 for them, because we will be driving big
4 improvements in reliability and it will be
5 noticeable.

6 CHAIRMAN KANE: I won't commit to a
7 rate case. There will be several more while I
8 am still here, while we are all here.

9 But I did want to -- when you say
10 that you are not going to exceed the budget,
11 you are talking about you are not going to
12 expend any more money than -- you're going to
13 meet the reliability commitments at no more
14 than these spending levels.

15 THE WITNESS: Yes.

16 CHAIRMAN KANE: My question is: Can
17 you meet the reliability commitments at lower
18 spending levels or investments?

19 THE WITNESS: I don't believe so.
20 This is the plan we put together that will take
21 us there. I should also point out that in the
22 settlement agreement, there is a provision, if

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1 we were to reach some year, 2018, in our
2 opinion, an estimation, say, you know, we
3 should spend another \$2 million above the
4 number that is here, it is exactly the right
5 thing to do for customers and we believe that
6 when we come and talk with you about it, after
7 the end of the period, that you would agree
8 with that. We do have, I will say, the right
9 provided we decide in escrow to return, that
10 will be on that investment.

11 CHAIRMAN KANE: So you'd come back
12 and ask for more. Wouldn't that be a
13 regulatory asset or escrow?

14 THE WITNESS: I think it says it
15 will be in an escrow. I can clarify that if
16 you want, but I'm pretty sure that's what it
17 says.

18 CHAIRMAN KANE: When we talk about
19 not exceeding a budget, I didn't see anything
20 about not exceeding current rates. You will
21 need more money in order to do this.

22 THE WITNESS: Yes, we will.

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1 CHAIRMAN KANE: Thank you. I just
2 wanted to clarify if O and M is the same thing.
3 The O and M over on Page 23 does not vary that
4 much year to year. It does not change from
5 year to year.

6 THE WITNESS: No, we increased it as
7 it notes there, just a little bit by inflation.

8 CHAIRMAN KANE: About three percent
9 a year.

10 THE WITNESS: Yes.

11 CHAIRMAN KANE: I want to go back to
12 your statement that I quoted from your
13 testimony, where you say if the DCPLUG project
14 is further delayed, then other program
15 improvements will need to be developed. What
16 are you referring to here?

17 THE WITNESS: When we laid out the
18 reliability goals, in order to achieve top
19 decile's performance in the numbers we put
20 there, we said DCPLUG is part of that, that
21 drive to get there, so if DCPLUG were not to go
22 forward, we would sit down based on our

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1 expertise and the expertise of the other Exelon
2 utilities and say, we've got to come up with
3 some other programs, a plan, to be able to
4 drive the improvements but the commitment is
5 firm on driving these improvements.

6 CHAIRMAN KANE: And the DCPLUG has a
7 surcharge directly associated with the -- to
8 cover those costs of DCPLUG; is that correct,
9 for the record?

10 THE WITNESS: Yes.

11 CHAIRMAN KANE: So if that is --
12 that has its own dedicated funding, you might
13 say?

14 THE WITNESS: Yes.

15 CHAIRMAN KANE: If you need to look
16 at these other program improvements and say
17 that it is delayed, would they be able to be
18 accomplished or would it be your intention to
19 accomplish those other program improvements,
20 whatever they are, within these budget levels
21 for capital expenditures and O and M?

22 THE WITNESS: It would be our

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1 intention and we will try to do everything we
2 could to do it within the budget. Again, if we
3 couldn't, we would be in a position of having
4 to come back to the Commission and saying we
5 exceeded the budget by whatever amount it was
6 in whatever year, and then make a very strong
7 case to you about why that was a prudent
8 expenditure, we should be allowed to recover it
9 in rates.

10 CHAIRMAN KANE: So the statement in
11 Page 20, Lines 1 through 10, that your
12 commitment to meet the QSS without exceeding
13 certain spending levels are not contingent on
14 the timing of completion, but they might be
15 contingent on something else? I'm not
16 following.

17 You said if DCPLUG was delayed and
18 you needed to do other program -- you might
19 have to look at other program improvements,
20 those other program improvements might incur
21 costs that would be beyond the capital or --
22 and/or the O and M that is listed here,

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1 correct?

2 THE WITNESS: Yes.

3 CHAIRMAN KANE: Yes.

4 THE WITNESS: Again, the point I was
5 trying to make, not to be confusing was that
6 the limits that are shown on Table 3 remain
7 even if DCPLUG doesn't go forward if we had to
8 spend -- if we believe it was prudent to spend
9 anything about that, there is a mechanism that
10 puts the return on that investment in escrow
11 and then we have to come back and ask for that
12 or make a justification for why it was there.

13 CHAIRMAN KANE: Thank you for that
14 clarification.

15 I asked Mr. Khouzami about the \$5
16 million in capital to creditworthy government
17 agencies and he clarified that they were D.C.
18 Government agencies at market rates. Are you
19 aware -- how does the District benefit from
20 this? I asked him the same question, when the
21 District can borrow at tax exempt rates, issue
22 whatever the bonds issue, issue general

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1 obligation bonds, which you believe are small
2 matters, the District government has a billion,
3 billion dollar budget and borrows all the time,
4 what is the significance of the value of this
5 \$5 million at market rate?

6 THE WITNESS: I think as Mr.
7 Khouzami said, there are other out-of-state
8 transaction costs which are both time and could
9 be money in order to set up a loan for
10 something like this and as you pointed out, for
11 a small amount, it might be more expedient or
12 cheaper to take Exelon up on the offer to
13 finance it this way.

14 Again, it was designed -- part of
15 the commitment was designed to show the strong
16 and deep commitment that we have to try and to
17 drive sustainable energy resources and energy
18 efficiency across the District is another way
19 to, I guess, present something that may be of
20 value to show that commitment.

21 CHAIRMAN KANE: Okay. I don't have
22 any more questions. Thank you. Commissioner

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1 Fort.

2 COMMISSIONER FORT: I thought I was
3 a little short. If you turn to Page 11 of your
4 testimony where you are talking about overall
5 job commitments, and this is the language that
6 relates to Paragraph 20 in the settlement
7 agreement. In the settlement agreement,
8 Paragraph 20 says: "As a result of the
9 commitment in Paragraph 14 through 19, Exelon,
10 PHI and Pepco commit that the merger impact
11 will be net job positive for the District
12 through at least January 1, 2018."

13 THE WITNESS: Could you give me a
14 paragraph reference?

15 COMMISSIONER FORT: Paragraph 20 of
16 the settlement agreement. So it will be net
17 job positive for the District through at least
18 January 1, 2018, and then it goes on to say:
19 "Exelon, PHI and Pepco also commit that the
20 merger will not become net job negative through
21 involuntary attrition as a result of the merger
22 integration process through December 31, 2019."

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1 I think your testimony, that is in
2 20, your testimony on Page 11 says: "Exelon,
3 PHI and Pepco will not become" negative job --
4 "net jobs negative through involuntary
5 attrition as a result of the merger integration
6 process until 2020 at the earliest."

7 So this is one question. There is a
8 discrepancy between the language in the
9 testimony and the language in the settlement
10 agreement. I assume that the settlement
11 agreement language is what we are looking at?

12 THE WITNESS: Yes. The settlement
13 language is through December 31, 2019 which in
14 effect means until January 1, 2020. I was
15 being a little too colloquial. I apologize.

16 COMMISSIONER FORT: I'm just
17 looking. Talk to me about what that means. So
18 in the second sentence or the last sentence I
19 read, will not become net job negative through
20 involuntary attrition as a result of the merger
21 integration process. Is that a phrase that all
22 stays together?

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1 THE WITNESS: Yes, it is.

2 COMMISSIONER FORT: So does that
3 mean that employment levels could become net
4 job negative but as long as it's not due to
5 involuntary attrition that are related to the
6 merger integration process, it would not be
7 violating that provision; is that correct?

8 THE WITNESS: Yes. The way I look
9 at this is, if you look at that entire
10 paragraph starting on Line 7 through 11, is
11 that it will be net jobs positive through at
12 least January '18, so for almost the next two
13 years. Then after that up until at least 2020
14 or up through December 31, 2019, because of any
15 sort of involuntary attrition as a result of
16 the merger, it will not be jobs negative. So
17 there could be something else that -- something
18 else I will say a business perspective
19 unrelated to that that could have an impact.

20 COMMISSIONER FORT: What would be
21 examples of that something else?

22 THE WITNESS: Well, for instance,

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1 like when we went to deploy the smart grid,
2 that had an impact on our meter reading force
3 where we didn't need as many meter readers as
4 we did prior to that. Again, very good
5 program. One that continues to bear tremendous
6 benefits for our customers, but over time, we
7 had to work our way through finding other jobs,
8 placing, letting people retire to kind of
9 transition that work force to other things, and
10 so maybe something like that could be in there.

11 COMMISSIONER FORT: So it says:
12 "Exelon will file a report" -- this is again in
13 Paragraph 20 -- "with the Commission by April
14 1, 2018 demonstrating satisfaction of this
15 commitment," and that's the first commitment
16 that -- in the net jobs positive.

17 And then you'll also file a report
18 with the Commission by April 1, 2020
19 demonstrating the satisfaction with the second
20 part of that commitment, which is that you are
21 not net jobs negative through involuntary
22 attrition.

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1 Would that report also show if there
2 is a loss of jobs and with the description of
3 why there may be a loss and the question would
4 just be whether or not it is related to merger
5 integration versus some other business reason?

6 THE WITNESS: I haven't thought
7 through exactly what the report would contain,
8 but sitting here, I would assume we'd probably
9 give you a list of year by year, and it may be
10 department level or something like that that
11 shows employment levels with an explanation for
12 what is happening in every single one of them.
13 I mean, it could be as simple as involuntary
14 attrition as a result of the merger, simply
15 somebody decides to retire or something, and
16 that is attrition as well.

17 COMMISSIONER FORT: If I decide to
18 retire, is that involuntary attrition?

19 THE WITNESS: No, that is voluntary.

20 COMMISSIONER FORT: So that would be
21 excluded from the reporting.

22 THE WITNESS: Yes. Now, just as a

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1 general comment and this maybe gets back to
2 some of the stuff we have been talking about,
3 when you look at all the commitments we have,
4 to improve reliability, customer satisfaction,
5 what we are talking about doing as we continue
6 to employ the smart grid and continue to become
7 more sustainable, I'm really hopeful that -- we
8 have a company and our goal is to have a
9 company that is continuing to grow, that it's
10 not a case where the company is shrinking. We
11 are continuing to employ more people, we're
12 continuing to bring more value to our customers
13 in the District. That is really our goal.

14 COMMISSIONER FORT: My other
15 question for you is on Page 34 of your
16 testimony where we are talking about
17 interconnection process for behind the meter
18 generation.

19 On Page 34 at Lines 8 through 10, it
20 repeats part of the settlement agreement
21 provision in Paragraph 129 that within six
22 months after merger closing, Pepco will also

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1 implement an automated online interconnection
2 application process to enable customers to
3 securely complete interconnection applications
4 online, track application status and resolve
5 inquiries.

6 Is that part of a commitment that
7 D.C. ratepayers would not pay for?

8 THE WITNESS: I think the -- and I
9 can't find the exact reference in the
10 settlement agreement. I think what we'd do
11 here would be things that we would if there is
12 additional cost that we would apply to put them
13 in grids.

14 COMMISSIONER FORT: That you would
15 put them into grids.

16 THE WITNESS: Into grids.

17 COMMISSIONER FORT: And then
18 finally, you are talking about the kind of --
19 that if the Commission did approve the merger,
20 then there'd still may be rate increase
21 applications filed. If the Commission does not
22 approve the merger, does Pepco intend to file

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1 one or more distribution base rate applications
2 with the Commission to request increases in its
3 revenues between now and March 31, 2019, which
4 is the same time frame we were talking about?

5 THE WITNESS: I believe in either
6 event, we will be filing rate increases. As
7 was noted earlier, we have continued to invest,
8 continue to improve service in the District.
9 That comes at a cost and we have not had an
10 increase in rate since March of '14 so we will
11 need to file a rate increase or request for a
12 rate increase in order to allow us to continue
13 to make the investments that we talk about
14 here.

15 COMMISSIONER FORT: Thank you.

16 CHAIRMAN KANE: Thank you. I did
17 find one that I skipped, too. I wanted to ask
18 for a clarification on Commitment No. 9 on the
19 assistance for low and limited income
20 customers.

21 And particularly on 9A, the
22 forgiving of residential customer accounts

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1 receivable over two years old. I believe Mr.
2 Khouzami clarified that that would not be
3 limited to low income residential customers but
4 to all residential customers with accounts over
5 two years old.

6 THE WITNESS: That is correct.

7 CHAIRMAN KANE: Even though it says
8 limited income in other families. Is there a
9 problem with -- or do small businesses also
10 have some arrearage problems in old account
11 problems?

12 THE WITNESS: I don't know offhand
13 how many commercial customers are -- have more
14 -- have receivables that are over two years
15 old.

16 CHAIRMAN KANE: And would this be
17 just for single meter residential customers or
18 would it include master meter accounts?

19 THE WITNESS: Well, I don't think on
20 the master metered accounts if that is included
21 in their rents or whatever, we would not see
22 that as an arrearage. I think the account

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1 holder is paying the bill.

2 CHAIRMAN KANE: Well, the landlord
3 could be fined.

4 THE WITNESS: Yes.

5 CHAIRMAN KANE: A landlord who had
6 low income tenants in their building and was
7 perhaps not collecting rents at a level, I
8 mean, landlords do get behind in their bills,
9 particularly in low income buildings, so my
10 question is: Will -- is your intent that in
11 those situations, where there might be a
12 landlord or even, you know, two or three unit
13 building that was behind, had arrearages,
14 whether it was low income or other families,
15 whether this benefit would be extended to that
16 situation.

17 THE WITNESS: I don't believe so.

18 CHAIRMAN KANE: That is not the
19 intention. It wasn't clear in here. It just
20 says residential customer accounts. Sometimes
21 that is meant to include only single meter
22 accounts, single meter accounts versus master

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1 meter, so the intention is not to include
2 master meter in this.

3 THE WITNESS: That's correct. If I
4 am wrong, I will have someone respond to you,
5 but I don't believe so.

6 CHAIRMAN KANE: Thank you. That is
7 all I have. Thank you. Anything else?

8 BY MS. STARK:

9 Q. I have just one question on redirect
10 for you, and following up on Commissioner
11 Fort's question, if you can turn back to Page
12 28 and that Footnote 45.

13 A. Yes.

14 Q. I think if you do look at Paragraph
15 111 of the settlement agreement, that you would
16 agree that that footnote should be revised to
17 indicate that it would be Paragraphs 31 and
18 Paragraph 111?

19 A. Yes. Let me just check real quick.
20 Yes. Yes. Thank you.

21 Q. Thank you. So we would correct your
22 testimony to make that correction to the

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1 footnote reference.

2 And that is all I have. At this
3 point, we would like to move into the record
4 Mr. Velazquez's fully conformed testimony as
5 Exhibit 5B.

6 CHAIRMAN KANE: So moved.

7 (Joint Exhibit 5B was received into
8 evidence.)

9 CHAIRMAN KANE: The witness is
10 excused.

11 We will adjourn for the day. We
12 announce we have made a couple of bench
13 requests and if we do any more forward, I'm
14 going to ask that we get the responses to bench
15 requests by close of business on Monday.

16 Now if we have to do something
17 Friday afternoon, we will adjust that, but as
18 we go along, we ask bench requests. Ms. White.

19 MS. WHITE: I have one minor
20 administrative matter. I would like to, on the
21 appearance of Robert White also with Squire
22 Patton Boggs also representing D.C. Water.

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1 CHAIRMAN KANE: Any relation?

2 MS. WHITE: He is my husband as well
3 as my partner, yes, and he will be sitting in
4 for me tomorrow morning. I gave those details
5 to the court reporter.

6 CHAIRMAN KANE: Yes. Thank you.
7 Any other matters? Very good. Thank you.

8 We will see you all tomorrow morning
9 at 10 a.m.

10 THE SECRETARY: All rise.

11 (Whereupon, the hearing was
12 adjourned at 5:08 p.m.)

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1 CERTIFICATE OF COURT REPORTER

2

3 I, Bonnie L. Russo, do hereby certify that
4 the foregoing transcript is a true record of
5 the proceedings to the best of my ability, that
6 I am not related to or employed by any of the
7 parties involved in these proceedings, and,
8 further, that I am not a relative or employee
9 of any attorney or counsel employed by the
10 parties hereto, or financially interested in
11 the proceedings.

12

13

Bonnie L. Russo

14

Notary Public

15

16 My Commission Expires:

17 June 30, 2020

18

19

20

21

22



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