

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1325 G STREET, N.W., SUITE 800
WASHINGTON, D.C. 20005**

AMENDED NOTICE

**TECHNICAL CONFERENCE III – FRAMEWORK FOR EVALUATING
ALTERNATIVE RATEMAKING PROPOSALS
ON OCTOBER 17 AND 18, 2019**

September 26, 2019

**FORMAL CASE NO. 1156, IN THE MATTER OF THE APPLICATION OF POTOMAC
ELECTRIC POWER COMPANY FOR AUTHORITY TO IMPLEMENT A MULTIYEAR
RATE PLAN FOR ELECTRIC DISTRIBUTION SERVICE IN THE DISTRICT OF
COLUMBIA,**

1. The Public Service Commission of the District of Columbia (“Commission”) hereby amends our September 18, 2019, Technical Conference Notice concerning establishment of a framework for evaluating alternative ratemaking proposals. This amended Notice is to clarify and encourage the participation of non-parties in the Technical Conference and reschedules the two-day technical conference, for October 17 and 18, 2019. The Technical Conference will begin at 10:00 a.m. each day in the Commission’s Hearing Room at 1325 G St., N.W., Suite 800, Washington, D.C. 20005.

2. On May 30, 2019, the Potomac Electric Power Company (“Pepco”) filed its Application for approval to increase rates for its electric distribution service in the District of Columbia (“District”) (“Application”)¹ under two different rate setting methodologies pursuant to Commission directives in Order No. 18846:² (1) a Multiyear Rate Plan (“MRP”) proposal and appropriate Performance Incentive Mechanisms (“PIMs”); and (2) a traditional cost-of-service plan. To establish a foundation for assessing Pepco’s proposed MRP, the Commission, in Order No. 20204, scheduled a two-day technical conference on the establishment of a framework for evaluating alternative regulation proposals.³ Pursuant to D.C. Code § 34-1504 (d) the Commission can adopt an alternative form of regulation if the Commission finds that the alternative form of regulation: (A) protects consumers; (B) ensures the quality, availability, and reliability of regulated electric services; and (C) is in the interest of the public, including shareholders of the electric

¹ *Formal Case No. 1156, In the Matter of the Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service in the District of Columbia (“Formal Case No. 1156”), Application of Potomac Electric Power Company for Authority to Implement a Multiyear Rate Plan for Electric Distribution Service, Exhibit (B) at 50, filed May 30, 2019.*

² *See Formal Case No. 1139, In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service, Order No. 18846, rel. June 25, 2017.*

³ *Formal Case No. 1156, Order No. 20204, rel. August 9, 2019 (“Order No. 20204”).*

company.⁴ In Order No. 20204, the Commission stated that “[p]art of this technical conference will involve identifying alternative ratemaking approaches, including PIMs, that further the Commission’s MEDSIS goals and the District’s energy related objectives, such as electrification, renewable development, pipeline replacement, development of new consumer solutions, grid resiliency and others laid out in the Clean Energy DC Plan” and directed “parties to identify how any PIMs they support or propose advance the MEDSIS Vision and District’s goals as part of their submission and subsequent testimony.”⁵ Parties and other interested persons are to file comments on the Technical Conference by November 1, 2019, after which the Commission will issue a Policy Order on alternative forms of regulation.⁶

3. Beyond Pepco’s Application, the Commission has considered the specific proposal and questions proposed by the Office of the People’s Counsel (“OPC”), the Apartment and Office Building Association of Metropolitan Washington (“AOBA”), and the District of Columbia Government (“DCG”) in the Status Report,⁷ as well as Section 5.3.3 Learning – Performance Based Regulation (PBR) in the District in the MEDSIS Working Group Report.⁸ Further, Section 103 of the CleanEnergy DC Omnibus Amendment Act amended D.C. Code § 34-808.02, requiring that the Commission’s consideration of the preservation of environmental quality also include the effects on global climate change and the District’s public climate commitments in our decision-making.⁹ The Commission acknowledges its obligation to consider the effects on global climate change and the District’s public climate commitments is linked to its supervision and regulation of public utilities and energy companies, therefore in reviewing alternative forms of regulation, any policy decisions should be broad and flexible enough to be applicable to all public utilities.

⁴ See D.C. Code § 34-1504 (d) (2001), which provides:

- (1) Notwithstanding any other provision of law, the Commission may regulate the regulated services of the electric company through alternative forms of regulation.
- (2) The Commission may adopt an alternative form of regulation if the Commission finds that the alternative form of regulation: (A) Protects consumers; (B) Ensures the quality, availability, and reliability of regulated electric services; and (C) Is in the interest of the public, including shareholders of the electric company.
- (3) Alternative forms of regulation may include: (A) Price regulation, including price freezes or caps; (B) Revenue regulation; (C) Ranges of authorized return; (D) Rate of return; (E) Categories of services; and (F) Price-indexing.

⁵ *Formal Case No. 1156*, Order No. 20204, ¶ 32.

⁶ *Formal Case No. 1156*, Order No. 20204, Attachment A.

⁷ *Formal Case No. 1156*, Minutes from the June 28, 2019, Status Conference as well as the Parties’ Telephonic Conference on July 1, 2019, Attachment 2 at 3-4, filed July 8, 2019.

⁸ *Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability*, Final Report v1.0 of the DCPSC MEDSIS Stakeholder Working Groups at 129-140, filed May 31, 2019.

⁹ Section 103 of the Act amends D.C. Code § 34-808.02 (Supp. 2019) as follows: In supervising and regulating utility or energy companies, the Commission shall consider the public safety, the economy of the District, the conservation of natural resources, and the preservation of environmental quality, including effects on global climate change and the District’s public climate commitments.

4. Therefore, the Commission expects each party, and pre-registered non-party to be prepared to participate on panel(s)/roundtable(s) of interest to present data/information/proposed plans and discuss questions and issues during the course of the Technical Conference. The panels/roundtables are as follows:

Panel/Roundtable 1 – Potential Risks and Benefits of Alternative Forms of Regulation, including Multi-Year Rate Plans (“MRP”)/Performance Incentive Mechanisms (“PIMs”) Ratemaking for Ratepayers – This panel will explore the potential risks and benefits of the alternative forms of regulation. In addition, it will explore any additional designs that stakeholders want the Commission to consider such as performance-based rates, earning sharing mechanism, or other ways to unlock benefits for ratepayers. This panel should consider the interest of residential, commercial, and other specific groups of ratepayers. The following questions should be considered:

- (1) What evidence should a public utility, as defined in D.C. Code § 34-214,¹⁰ present to support alternative forms of regulation proposals?
- (2) What are the benefits of any alternative forms of regulation, including performance-based ratemaking (“PBR”) or MRP/PIM, relative to its costs/risks?
- (3) Under alternative ratemaking including MRP, how can the Commission assure ratepayers that they are paying only for prudent and efficient costs, and that the burden of proof remains with the public utility to show that a proposed rate change is just and reasonable?
- (4) What are the key decision factors (metrics or criteria) to be used to evaluate and select an alternative form of regulation which will balance the public utility’s cost recovery (including whether a decoupling mechanism should be applied), earning sharing mechanism, incentives for the public utility to improve its targeted performance, rate impact, consumer interest, grid modernization, clean energy and environmental policies/goals, affordability and reliability goals to meet public interest? Are there additional goals for which performance incentives can be developed? Are such goals applicable only to electric utilities, natural gas utilities, or both?
- (5) What specific performance outcomes and targets by the public utility should be measured and reported, inclusive of those aligned with the District’s clean energy goals, including effects on global climate change and the District’s public climate commitments, and how should performance targets and outcomes be measured? Identify and discuss other areas of public utility performance that should be measured and reported to the Commission, why

¹⁰ D.C. Code § 34-214 (2001). (“The term ‘public utility’, ‘utility’ or ‘utility company’ as used in this subtitle shall mean and embrace every street railroad, street railroad corporation, common carrier, gas plant, gas company, electric company, telephone corporation, telephone line, telegraph corporation, telegraph line, and pipeline company.”).

they should be measured and their importance to the public interest? Are such performance outcomes and targets applicable to electric utilities, natural gas utilities, or both?

- (6) Besides the following key goals of utility regulation (traditional or performance-based) which include reasonable, affordable rates, reliable service, customer service and satisfaction, and environmental performance, please identify and discuss any additional key goals for the electric utilities for which performance metrics should be developed.
- (7) Identify and discuss the extent to which those areas that are currently measured or evaluated either by public utilities or an independent third party and whether the current measurements or evaluations are sufficient to adequately evaluate the public utility's performance in those areas.
- (8) Discuss how each identified area of public utility performance should be measured, and the extent to which each can be cost-effectively verified.
- (9) Identify and discuss areas of performance that would be aided by a study of achievable potential needed to establish performance targets.
- (10) Should rate design (revenue requirement allocation to various customer classes) stay the same for all the rate years within an MRP? If not, what factors should the Commission consider in evaluating whether an alternative rate design proposal provides ratepayers with benefits that they do not receive under the traditional rate design?
- (11) If the alternative ratemaking is based on forecasted costs, what mechanisms and incentives should the Commission adopt that ensure effective review of forecast methodology and data inputs, ensure shifts in risk are appropriate and promote just and reasonable rates to end users?
- (12) What parameters should be considered in the true-up or reconciliation process (annual, semi-annual, quarterly)? What is the best practice for such a process?
- (13) Should public utilities seeking alternative forms of regulation plans acknowledge that imprudently incurred costs during MRP will be subject to refund, and be required to waive any claim that such a decision would be barred as a form of retroactive ratemaking?
- (14) Should alternative forms of regulation be designed to recover the cost of specific, clearly identified capital projects, and, as appropriate, Operations and Maintenance Costs? Should the Commission require public utilities to provide ongoing reports on the status of planned projects and, when a public utility changes its capital project plans, to propose appropriate changes to its cost recovery mechanisms?

- (15) What terms, conditions, and procedures should the Commission establish to provide ratepayers with notice of a public utility's alternative forms of regulation plan and provide opportunities for ratepayers to comment and participate in the ratemaking process?
- (16) Are there ROE and capital structure implications related to alternative forms of regulation?
- (17) Are there other issues the Commission should consider?

Panel/Roundtable – 2 - Implementation Experiences of Other States – This panel provides the Commission with an opportunity to understand what other states are experiencing in implementing alternative forms of regulation, including PBRs/MRPs/PIMs, for electric and natural gas distribution utilities. This panel will discuss whether there are any best practices, lessons learned, and pros and cons for various options of implementation. The following questions should be considered:

- (1) What have been the experiences of alternative forms of regulation, including MRP, PBR, and PIMs, in other jurisdictions?
- (2) What are the best practices being implemented to assure prudence review is adequately conducted during the reconciliation process so that it is not overburdensome but achieves the purpose?
- (3) Should an alternative form of regulation always require a proposal for base year (historical test year), a bridge year and one or more forecasted test years? What are the pros and cons for different forms and proposals?
- (4) What are the best practices for reporting requirements regarding forecasted vs. actual values, measures for reconciliation and timelines?
- (5) Based on other states' experiences, which ones have implemented a "successful" alternative ratemaking mechanism which leads to just and reasonable rates while achieving other goals such as grid modernization, Distributed Energy Resource ("DER") development, electrification, renewable expansion, grid reliability, resiliency and innovation, improvements in executing accelerated pipeline replacement programs, reduced natural gas leak rates, meeting natural gas quality of service standards, reductions in gas outages, and improvements in pipeline safety damage ratios?
- (6) Under alternative forms of regulation, what are the best practices for the true-up or reconciliation process that the Commission should consider?
- (7) Is it a best practice to require updated forecasts over the term of a MRP? If so, what specific updates are needed?

- (8) How have the credit rating agencies viewed the implementation of alternative forms of regulation for electric and natural gas distribution utilities?
- (9) What have been states' experiences with how alternative forms of regulation, and specifically an MRP, affects the public utility's incentive to improve its cost performance?
- (10) What have been states' experiences with how adopting alternative forms of regulation, and specifically an MRP, affects the public utility's non-cost related performance?
- (11) Do alternative forms of regulation change the role of the Commission and other stakeholders? If so, what if any additional resources will the Commission need?
- (12) What rules or regulations should the Commission implement if it decides to move forward with alternative forms of regulation?

5. All Parties and interested persons should file with the Commission no later than noon, October 10, 2019, any additional questions or issues related to alternative form of regulation of public utilities or a framework for evaluating alternative ratemaking proposals, which they believe should be discussed at the Technical Conference.

6. Parties and interested persons should notify the Commission of their intent to invite the panelists no later than noon, October 10, 2019. Each party and registered interested person can suggest and sponsor no more than one panelist for each panel, by sending an email including: (1) the participant(s) name, qualifications,¹¹ email address, telephone number, and organization (if applicable); (2) the panel number each participant will take part in; and (3) whether the participant will participate in-person or remotely to psc-commissionsecretary@dc.gov – subject “FC1156 Technical Conference”. The Commission expects that the parties will select industry experts as panelist as suggested by OPC/DCG/AOBA; however, the Commission would not exclude a parties' own expert witnesses.

7. In addition, interested persons who have not notified the Commission by noon, October 10, 2019 of their intent to participate, will have an opportunity to participate (present their views) at the end of each panel discussion. The time allotted for interested persons participation is 10 minutes for an organization and 5 minutes for an individual. Note that all panel participants shall be present and available to discuss issues designated for each panel at the specified time and day. Panel 1 shall be present at 10:00 AM on day one of the technical conference; Panel 2 shall be present at 10:00 AM on day two of the technical conference. If there are any procedural questions, please contact Kimberly Lincoln-Stewart, kstewart@psc.dc.gov, or Craig Berry, cberry@psc.dc.gov, or by phone at 202-626-5100.

¹¹ Each panel participant for parties shall provide their respective biographies/curriculum vitae on September 30, 2019.