

Public Service Commission

of the

District of Columbia

Bi-Annual Report on Fuel Mix

July 1, 2019

Executive Summary

The Retail Electric Competition and Consumer Protection Act of 1999 requires the Public Service Commission of the District of Columbia (“Commission”) to report to the Council of the District of Columbia (“District Council”) every two years, beginning July 1, 2003, on fuel mix information for the electricity sold in the District of Columbia (“District”), the amount of electricity sold in the District that comes from renewable sources, and on the feasibility of requiring each licensed electricity supplier doing business in the District to provide a minimum percentage of electricity sold from renewable sources.¹ To collect the information necessary for this report, the Commission has adopted fuel mix disclosure regulations that require suppliers serving load in the District to report their most current fuel mix statistics supplied by the Regional Transmission Organization (“RTO”) that provides service to the District, i.e. PJM Interconnection, L.L.C. (“PJM”). Electricity suppliers (including Pepco) serving customers in the District are required to report their fuel mix statistics to the Commission by the June 1, 2019 due date. These reports are related to the PJM System Fuel Mix for 2018, which follows:²

<u>Fuel Source</u>	<u>Share</u>
Coal	28.7%
Nuclear	34.5%
Natural gas	31.1%
Oil	0.2%
Total Renewables	<u>5.4%</u>
Total	100.0%

In 2018, the share of natural gas used to provide electricity increased to 31.1 percent from 26.7 percent in 2017, while the share of coal decreased to 28.7 percent from 32.2 percent in 2017. The share of renewable resources also continues to rise, although its share of generation still remains relatively small—around 5.0 percent in 2017 compared to 5.4 percent in 2018—with wind energy representing the largest share with 2.6 percent, followed by hydroelectric power at 1.5 percent.

The impact of renewable resources is not easily accounted for in the fuel mix reporting. The renewable resources component in the fuel mix for any particular year may be different from the same component in the RPS report for that same year because of the manner in which the RPS requirement is implemented. In particular, renewable energy credits (“RECs”) are generally valid for three years from the date of generation.³ To the extent that an electricity supplier meets its RPS compliance requirement using RECs from a year different from the fuel mix reporting period, the renewable component should not be reflected in the report due to the difference in the date of generation.⁴ In addition, District

¹ D.C. Code § 34-1517(c) (2).

² <https://gats.pjm-eis.com/gats2/PublicReports/PJMSystemMix>

³ Effective with the *CleanEnergy DC Omnibus Amendment Act of 2018*, solar RECs are valid for five years from the date of generation. RECs for other fuel sources remain valid for three years from date of generation.

⁴ For example, if the fuel mix reporting period is for calendar year 2018 and the electricity supplier acquired some RECs associated with generation in 2017 to comply with the renewable portfolio standard, then

consumers may enter into purchase power agreements for renewable resources that may not be directly reflected in the fuel mix reported by suppliers.

The District Council also enacted the *Omnibus Utility Amendment Act of 2004* that, among other things, requires the Commission to determine the feasibility of requiring an electricity supplier to disclose every six months the emissions on a pound per megawatt-hour basis and the fuel mix of the electricity sold by that supplier in the District.⁵ In September 2008, the Commission adopted final rules that require the electricity suppliers to file reports showing their emissions in pounds per megawatt-hour for carbon dioxide, nitrogen oxide and sulfur dioxide. The 2018 emissions disclosure available from PJM-EIS show a decrease in the amount of emissions from carbon dioxide, nitrogen oxide, and sulfur dioxide, compared to 2017. Based on the PJM System Fuel Mix, the 2017 and 2018 emissions are as follows:

Average Emissions (lbs. per MWH)

	<u>2017</u>	<u>2018</u>
Carbon dioxide	948.43	924.26
Nitrogen oxide	0.66	0.53
Sulfur dioxide	0.79	0.70

The fuel mix and emissions information can help the District's customers make more informed choices when selecting their electricity supplier and help the District community monitor the environmental impacts of the fuel choices that are being made. This is becoming more important as residential consumers continue to choose alternative electricity suppliers. Currently, about 16 percent of the District's residential customers receive electricity supplied by a licensed alternative electricity supplier. The Commission will continue to monitor the fuel mix and emission reports to ensure that the information is being properly disclosed and to improve upon the reporting.

the supplier's fuel mix report should not count the renewable resources associated with generation in 2017. The only RECs that should be included in the fuel mix report would be those renewable resources associated with generation in 2018.

⁵ D.C. Code § 34-1504(c) (2)(A).

I. Introduction

The Retail Electric Competition and Consumer Protection Act of 1999 requires the Commission to report to the District Council every two years, beginning July 1, 2003, on fuel mix information for the electricity sold in the District. In the next section, Section II, we describe the reporting requirements for fuel mix and emissions that the Commission has implemented in the District. In Section III, we provide information on the PJM Interconnection's ("PJM")—the Regional Transmission Organization ("RTO") that coordinates the delivery of wholesale electricity to the District—fuel mix and renewable resources.⁶ Finally, Section IV summarizes the Commission's ongoing activities. Selected orders relating to the Commission's rules on fuel mix and emissions reporting are included in Attachment 1.

II. Reporting Requirements for Fuel Mix and Emissions

A. Fuel Mix

Section 34-1517(c)(2) of the D.C. Code states that before July 1, 2003, and every two (2) years after that date, "the Commission shall provide a report to the Council on the overall fuel mix of the electricity sold in the District of Columbia, the amount of electricity sold in the District of Columbia which comes from renewable energy sources, and on the feasibility of requiring each licensed electricity supplier doing business in the District of Columbia to provide a minimum percentage of electricity sold from renewable energy sources."⁷ In addition, Section 34-1517(b) of the D.C. Code states that every six (6) months, "each licensed electricity supplier doing business in the District of Columbia shall report to the Commission on the fuel mix of the electricity sold by the electricity supplier, including categories of electricity from coal, natural gas, nuclear, oil, hydroelectric, solar, biomass, wind, and other resources, and on the percentage of electricity sold by the electricity supplier which comes from renewable energy sources."

In Order No. 12765, issued June 13, 2003, the Commission adopted interim fuel mix disclosure regulations and approved the Retail Competition Working Group's recommendation that suppliers serving load in the District should report the most current PJM-supplied or self-determined fuel mix statistics by June 1 and December 1 of each year. In addition, the Commission directed suppliers to report to their District customers the fuel mix information in the June and December billing cycles of each year. Subsequently, in Order No. 13391, issued September 21, 2004, the Commission directed active suppliers to file a June fuel mix report that includes information for the previous calendar year and a December fuel mix report that covers the period January through June of the current year.

B. Emissions Disclosures

On January 31, 2005, the District Council enacted the *Omnibus Utility Amendment Act of 2004* ("Omnibus Act"), which became effective on April 12, 2005.⁸ The Omnibus Act, among

⁶ This information is provided through PJM Environmental Information Services, Inc. ("PJM-EIS"), which was formed to provide environmental and emissions attributes reporting and tracking services to its subscribers. PJM-EIS owns and administers the Generation Attribute Tracking System ("GATS").

⁷ The Commission provides an annual report to the District Council on the electricity suppliers' compliance with the District's Renewable Energy Portfolio Standard.

⁸ See D.C. Law 15-342, *Omnibus Utility Amendment Act of 2004*.

other things, amended several sections of the Electric Restructuring Act and required the Commission to determine the feasibility of an electricity supplier to disclose every six months emissions on a pound per megawatt-hour basis and the fuel mix of the electricity sold by that supplier in the District. In Order No. 13589, issued May 19, 2005, the Commission determined that the emissions information required by law is available from PJM. In addition, the Commission concluded that since suppliers are already providing the fuel mix information, it would be administratively efficient to require electricity suppliers to disclose the emissions information at the same time that they provide their fuel mix report. Based on information readily available from PJM, the Commission directed that electricity suppliers report on carbon dioxide, nitrogen oxide, and sulfur dioxide emissions by June 1 and December 1 of each year. Active electricity suppliers were also directed to provide this emissions information to their customers.

The Commission finalized the interim disclosure requirements in a rulemaking process. A Notice of Proposed Rulemaking ("NOPR") appeared in the *D.C. Register* on July 11, 2008, proposing rules governing the submission of fuel mix and emission disclosure reports by the Potomac Electric Power Company ("Pepco") and electricity suppliers and replacing the interim regulations recommended by the Retail Competition Working Group and later adopted by the Commission in Order No. 12765 (issued June 13, 2003), as well as other Commission directives. No comments were filed in response to the NOPR. A Notice of Final Rulemaking appeared in the *D.C. Register* on September 12, 2008, adopting the rules that appeared in the NOPR. The rulemaking notices are also included in Attachment 1. As a result of the final rules, electricity suppliers will provide more supplier-specific information about their fuel mix and will supply data about carbon dioxide, nitrogen oxide and sulfur dioxide emissions in pounds per megawatt hour.

III. Fuel Mix, Renewable Resources and Emissions Disclosures

A. Fuel Mix

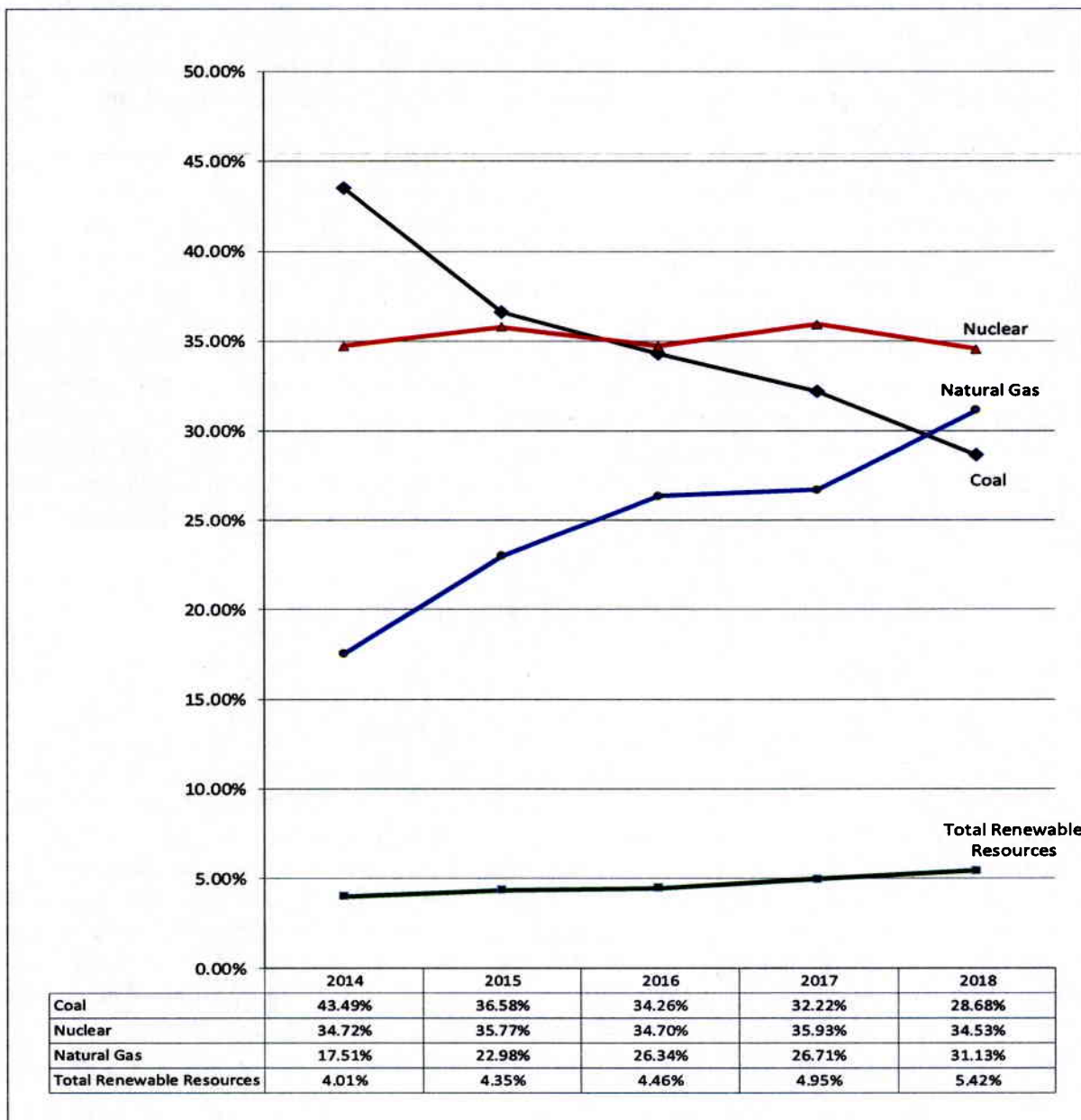
Figure 1 below provides the fuel mix available in the PJM region for 2014 through 2018.⁹ Since the District relies on the import of electricity, the PJM fuel mix generally represents the resources being used. Figure 1 provides a perspective on the share of renewable resources in the PJM region associated with the generation of electricity. Based on Figure 1, the overall renewable resources in the PJM region in 2018 represents more than five percent of the available fuel resources.¹⁰ Moreover, the percentage of generation from coal has declined as natural gas generation continues to replace it. Figure 2 below provides additional details about the renewable resources in the PJM System Mix from 2014 – 2018. As of 2018, wind energy accounts for the largest share among renewable resources, about 2.6 percent. Among other renewable resources, hydroelectric power represents the second largest resource in 2018 and comprises roughly 1.5 percent. Hydroelectric power is counted as a Tier II resource under the

⁹ The PJM system mix represents the distribution of generating resources used to produce electricity in the PJM region and is used as a proxy to represent the fuel mix for the District of Columbia. A certificate is created for each megawatt hour of electricity generated. Suppliers may claim certificates from specific generators. Unclaimed certificates represent the residual mix of generation.

¹⁰ The District's Renewable Energy Portfolio Standard requirement for 2018 called for 15.5 percent from Tier I resources, with 1.15 percent from solar energy resources, and 1.0 percent from Tier II resources.

District's renewable energy portfolio standard.¹¹ Methane and other biomass gas and wood-related fuels account for approximately 0.3 and 0.2 percent, respectively, in 2018.¹² Overall, Tier I related resources—such as methane gas, solar and wind—still represent a very small share of the current fuel mix in the PJM system—about 4.9 percent in 2018.

**Figure 1: PJM System Fuel Mix
2014 – 2018**



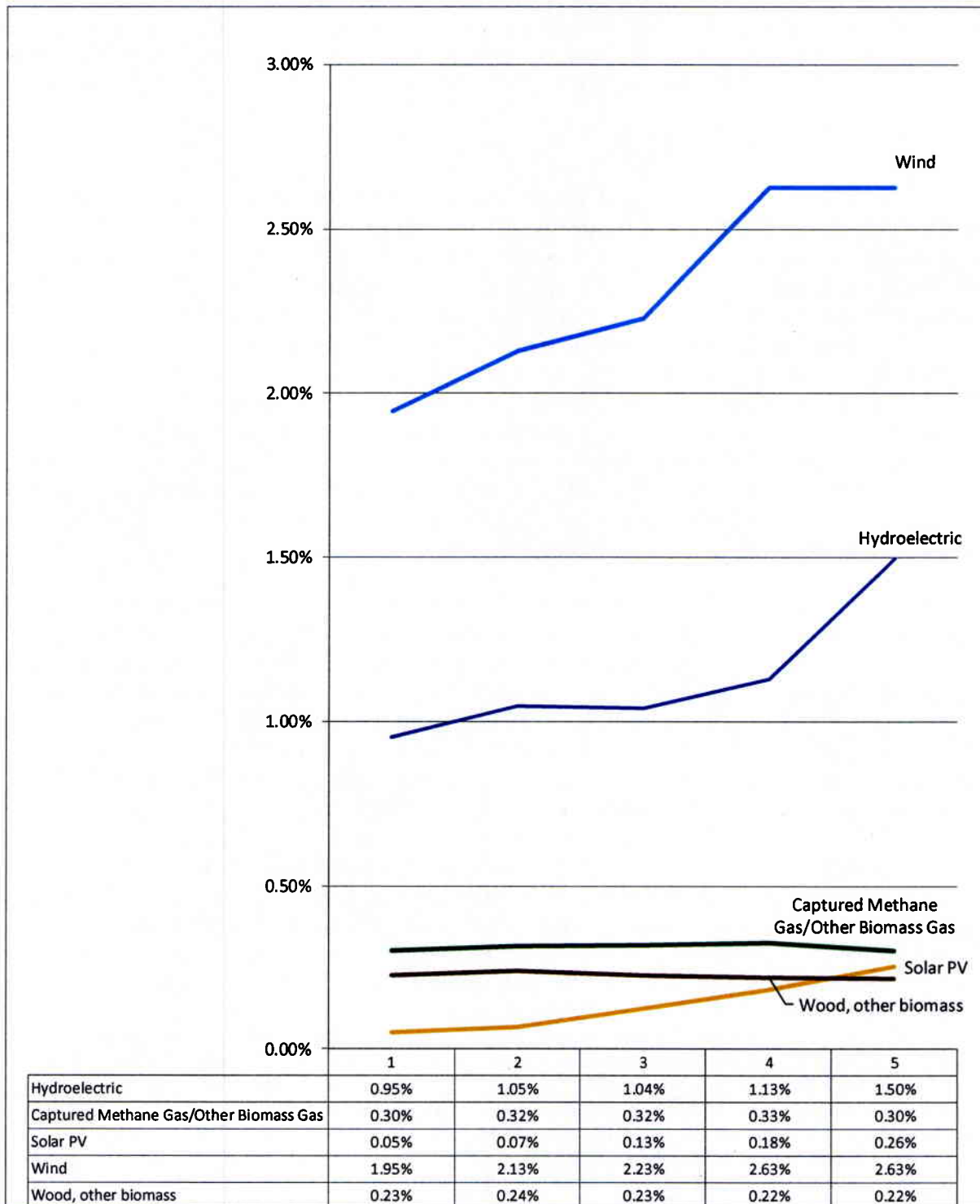
Source: PJM-EIS GATS

* Total renewable resources available in PJM include: methane and other biomass gas, fuel cells, geothermal, hydroelectric, solar PV, solid waste, wind, and wood/other biomass.

¹¹ Municipal solid waste is no longer eligible to meet the District's RPS requirement as of 2013.

¹² Coal mine methane gas is not generally eligible under most RPS policies.

**Figure 2: Renewable Resources in PJM System Mix
2014 – 2018**



Source: PJM-EIS GATS

* These percentages do not reflect solid waste, which is no longer considered a renewable resource for the District's RPS program.

PJM has also been incorporating the impact of distributed solar photovoltaic (“PV”) generation into its long-term load forecast. PJM uses the behind-the-meter (“BTM”) solar PV data from its Generation Attributes Tracking system—adjusting for various factors—to remove the solar generation impact from its load forecast. This distributed solar impact is separate from the solar generation that is being transmitted in the wholesale market.

B. Renewable Legislation

The District Council enacted the *Renewable Energy Portfolio Standard Act* (“REPS Act”), on January 19, 2005, which established a renewable energy portfolio standard (“RPS”) that sets the minimum percentage of a District electric provider’s supply source that must be derived from certain types of renewable energy resources beginning January 1, 2007.¹³ The RPS minimum requirements, among other things, were amended by the Clean and Affordable Energy Act (“CAE Act”) of 2008.¹⁴ Subsequently, the District Council adopted new legislation, the *Distributed Generation Amendment Act of 2011* (“DGAA”), which substantially increased the RPS requirement for solar energy—up to 2.5 percent by 2023, compared to the previous requirement of 0.4 percent by 2020.¹⁵ In addition, the DGAA generally prohibited certifying solar energy systems located outside the District of Columbia for RPS purposes. However, through the enactment of the *Fiscal Year 2015 Budget Support Act of 2014*, solar energy resources from other states are now able to meet the Tier I portion of the RPS requirement, but not the District solar carve-out requirement.

The enactment of the *Renewable Portfolio Standard Expansion Amendment Act of 2016* raised the RPS requirement to 50.0 percent from Tier I resources by 2032, with not less than 5.0 percent from solar energy. In addition, among other things, the 2016 Act amended the solar compliance fee and kept it at 50 cents per kilowatt-hour (“kWh”) shortfall through 2023, before decreasing to 5 cents per kWh by 2033. Previously, the solar compliance fee was set to begin decreasing in 2017.¹⁶ The 2016 Act also enables 15 MW solar energy systems in the District or in a location served by a distribution feeder serving the District, and no cap on the size of solar installations owned by District agencies, to be eligible for certification.

Subsequently, the *CleanEnergy DC Omnibus Amendment Act of 2018* (“CleanEnergy Act”), once again increased the RPS requirement to 100.0 percent from Tier I resources by 2032 and thereafter, with not less than 5.5 percent from solar energy in 2032. However, the solar energy requirement continues to increase to 10.0 percent by 2041. In addition, among other things, the CleanEnergy Act restricted the geographical location of renewable generators to the

¹³ Renewable energy resources are separated into two categories, Tier I and Tier II, with Tier I resources including solar energy, wind, qualifying biomass, methane, geothermal, ocean, and fuel cells, and Tier II resources including hydroelectric power other than pumped storage generation, other qualifying biomass, and waste-to-energy. Minimum percentage requirements are specified for Tier I and Tier II resources, but Tier I resources can be used to comply with the Tier II standard. In addition, a minimum requirement is carved out specifically for solar energy.

¹⁴ The RPS requirement increased to 20 percent by 2020, up from 11 percent by 2022.

¹⁵ On August 1, 2011, the *Distributed Generation Emergency Amendment Act of 2011* became law (See D.C. Act 19-126). The permanent version of this legislation, the *Distributed Generation Amendment Act of 2011*, became law on October 20, 2011 (See D.C. Law 19-0036).

¹⁶ Under the DGAA, the solar energy compliance payment was set to decrease from 50 cents per kWh in 2016 to 35 cents in 2017; then 30 cents in 2018; then 20 cents in 2019 through 2020; then 15 cents in 2021 through 2022; until reaching 5 cents in 2023 and thereafter.

PJM Interconnection region, but allowed existing generators certified for RPS to continue to create RECs until January 1, 2029.

C. Renewable Resources

The impact of renewable resources is not easily accounted for in the fuel mix reporting. The renewable resources component in the fuel mix for any particular year may be different from the same component in the RPS report for that same year because of the manner in which the RPS requirement is implemented. In particular, pursuant to the Commission's RPS rules, RECs are generally valid for three years from the date of generation.¹⁷ To the extent that an electricity supplier meets its RPS compliance requirement using RECs from a year different from the fuel mix reporting period, the renewable component should not be reflected in the report due to the difference in the date of generation.¹⁸ In addition, District consumers may enter into purchase power agreements for renewable resources that may not be directly reflected in the fuel mix reported by suppliers.¹⁹

The District has made significant progress in certifying renewable energy facilities for the RPS program. As of June 1, 2019, 7,517 renewable energy systems—including solar photovoltaic ("PV") and solar thermal—have been certified and are now eligible to participate in the District's RPS program. Solar energy systems account for the vast majority of these approved renewable systems—7,179 as of June 1. Within the District, as of June 1, there are currently 4,541 certified solar PV systems and 115 certified solar thermal systems. There continues to be out-of-District solar energy systems certified for RPS purposes, with 2,523 systems still "grandfathered" into the RPS program under the DGAA or in locations served by a feeder serving the District.²⁰ The total capacity associated with these solar energy systems is about 89.9 megawatts ("MW"), of which about 65.2 MW is located in the District. This is somewhat below the 97.5 MW of estimated solar capacity necessary to meet the current statutory RPS requirements of 1.15 percent in 2018. In 2019, the solar requirement climbs to 1.85 percent and the estimated solar capacity needed to meet this requirement would jump to over 154 MW.

The Commission has approved DC Water's 14 MW generating facility for the RPS program. This facility uses methane produced from its wastewater treatment process. In addition, the Commission also approved, pursuant to the RPS Expansion Act that allowed waste water used as heat source or sink for a heating or cooling system, a DC Water facility that uses the thermal energy from wastewater and is located above its O Street Pump Station. The installed system provides both heating and cooling to help reduce the carbon emissions that would otherwise have been associated with conditioning the building's interior.

¹⁷ The CleanEnergy Act extended the life of solar RECs to five years from the date of generation.

¹⁸ For example, if the fuel mix reporting period is for calendar year 2018 and the electricity supplier acquired some RECs associated with generation in 2017 to comply with the renewable portfolio standard, then the supplier's fuel mix report should not count the renewable resources associated with generation in 2017. The only RECs that should be included in the fuel mix report would be those renewable resources associated with generation in 2018.

¹⁹ For example, there have been online reports of universities in the District that have entered in power purchase agreements for solar energy.

²⁰ This does not include solar energy resources that are eligible to meet the Tier I requirement only and not the solar carve-out.

In terms of the availability of other resources, as part of its merger commitments, Exelon shall, by December 31, 2018, develop or assist in the development of 7 MW of solar generation in the District outside of Blue Plains. This project has been completed and is online at the Joint Base Anacostia-Bolling (“JBAB”), but has not gone through the certification process for the RPS program.²¹ In addition, Pepco shall support and expedite the interconnection for 5 MW of ground-mounted solar generation at Blue Plains that is developed, constructed and installed by a vendor selected by DC Water. Exelon also shall provide \$5 million of capital to creditworthy governmental entities at market rates for the development of renewable energy projects in the District of Columbia. Moreover, Exelon or its non-utility subsidiaries will, within five (5) years after the Merger close, conduct one or more requests for proposals (“RFP”) or other competitive process to solicit offers to purchase a total of 100 MW of renewable energy from one or more new or existing wind-generation facilities located within the PJM territory with an anticipated product delivery date beginning approximately three years following the applicable RFP date. There were also commitments relating to the enhancement of the interconnection process and support for customer-owned behind-the-meter distributed generation. Finally, as a result of the Washington Gas Light (“WGL”) merger commitment, WGL shall develop 10 MW of either electric grid energy storage or Tier I renewable resources in the District.

D. Emission Disclosures

Table 1 below shows the emissions disclosures from 2014 through 2018 based on the PJM System Fuel Mix:

**Table 1: PJM Average System Mix Emissions
2014 - 2018
(lbs. per MWH)**

	2014	2015	2016	2017	2018
Carbon Dioxide	1,107.77	1,014.29	992.04	948.43	924.26
Nitrogen Oxide	0.9	0.78	0.75	0.66	0.53
Sulfur Dioxide	2.23	1.61	1.32	0.79	0.71

Source: PJM-EIS GATS

The reported emissions have improved over time, mainly due to the switch from coal to natural gas as noted above. The Sustainable DC 2.0 Plan calls for reducing greenhouse gas (“GHG”) emissions by 50 percent below 2006 levels by 2032, and achieve carbon neutrality—eliminate GHG emissions, or offset any remaining emissions by supporting initiatives outside the District that will reduce such emissions—by 2050.²² Moreover, the Plan calls for reducing the use of fossil fuels for electricity generation and heating and eliminating coal and fuel oils by 2023.²³ These objectives are also included in the CleanEnergy Act, which states that in “developing energy performance standards, [the District’s Department of Energy and Environment] shall seek

²¹ The estimated output from District-based renewable energy systems—including the 65 MW of solar energy systems, DC Water’s 14 MW generating facility, and the 7 MW of solar energy at JBAB— and the District’s wind power purchase agreement of 46 MW amounts to less than 3 percent of the District’s total retail sales in 2018 of roughly 11.3 million MWHs.

²² *Sustainable DC 2.0 Plan* (April 2019), p.76.

²³ *Ibid*, p. 76.

to help the District achieve its short- and long-term climate commitments, including reducing greenhouse gas emissions by 50% by 2032 and carbon neutrality by 2050.”

IV. Commission’s Ongoing Activities

The Commission continues to monitor the fuel mix and emissions reports that are submitted by retail electricity suppliers and Pepco every six months. The Commission will address, as appropriate, any issues arising from the recent fuel mix and emission filings for June 2019. The Commission staff also continues to monitor the regional GATS collaborative process, as appropriate, through PJM-EIS meetings. As needed in the future, the Commission will revise the regulations or issue orders to ensure that electricity suppliers disclose the fuel mix and emissions information consistent with District law and the Commission’s rules. The Commission will continue to consider ways to improve upon the reporting of the fuel mix and emissions information.

Attachment 1

Commission Orders and Rulemakings on Fuel Mix

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, D.C. 20005

ORDER

June 13, 2003

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY PRACTICES,
ORDER NO. 12765

1. INTRODUCTION

1. By this Order, and for the reasons set forth in more detail below, the Public Service Commission of the District of Columbia ("Commission") approves and adopts proposed *interim* fuel mix disclosure regulations as amended, and *interim* reporting format submitted by the Retail Competition Working Group ("Working Group").¹ The Commission also approves and adopts the June 1 and December 1 timeframes for suppliers to provide fuel mix data to the Commission pursuant to Sections 34-1517(b) and 34-1504 (c)(2)(B) of the District of Columbia Retail Electric Competition and Consumer Protection Act of 1999 ("Act").² The Commission directs that fuel mix information shall be reported to customers in the District of Columbia within the June and December billing cycles of each year pursuant to Section 34-1504(c)(2)(C) of the Act. Finally, the Commission directs the Working Group to submit recommendations on specific issues listed in ordering paragraph 13 within 10 days of this Order.

2. This particular phase of the proceeding fulfills three of the Commission's statutory obligations under the Act: (1) to establish feasibility criteria regarding an individual supplier's duty to disclose its fuel mix under Section 34-1504 (c)(2)(A)(ii) of the Act,³ (2) to provide, *inter alia*, a report to the District of Columbia City Council on the overall fuel mix of electricity sold to customers in the District of Columbia;⁴ and (3) to require the electricity

¹ For purposes of this filing, the Working Group consists of PEPCO, the Office of the People's Counsel, Pepco Energy Services, Inc., Constellation NewEnergy, and Washington Gas Energy Services.

² See §34-1517 (b) and §34-1504(c) (2) (C); and *see generally*, D.C. Code, 2001 Ed. §§ 34-1501 - 1520.

³ See D.C. Code, 2001 Ed. § 34-1504(c)(2)(A)(ii) which provides that the Commission shall make a determination of feasibility pursuant to subsection (c)(2)(A)(i) of this section within 6 months after the date an electricity supplier receives a license pursuant to § 34-1505.

⁴ See D.C. Code, 2001 Ed § 34-1517(c) (2) of the D.C. Code, which states in part, "[b]efore July 1, 2003, and every 2 years after that date, the Commission shall provide a report to the Council on the overall fuel mix of the electricity sold in DC, the amount of electricity sold in DC which comes from renewable energy sources. . ." The report to the Council should contain whether it is feasible to require licensed electricity suppliers to provide a minimum percentage of electricity sold from a renewable energy source. In order for the Commission to "track" this kind of information, the Commission requires all electricity suppliers to report their fuel mix to the Commission every 6 months after January 1, 2002. See also § 34-1517 (b) of the Act.

suppliers to disclose to customers every 6 months, fuel mix of electricity sold in the District of Columbia.⁵ These mandates are part of the Commission's efforts to restructure the District of Columbia's electricity market pursuant to the Act.

II. BACKGROUND

3. By Order No. 12003, the Commission directed the Working Group to submit proposed criteria relating to the feasibility of fuel mix reporting to customers.⁶ The Commission also reminded licensed suppliers in that Order, that they still bear the independent responsibility of reporting their fuel mix data to the Commission under Section 34-1517 of the District of Columbia Code.⁷ The Working Group submitted proposed criteria regarding the feasibility of requiring individual electricity suppliers to disclose fuel mix information, every six months, to their customers for the electricity they sell in the District of Columbia.⁸ Specifically, the Working Group proposed that the Commission adopt a regulation, which states that it is feasible for a licensed supplier to disclose its *actual* fuel mix, provided that the electricity supplied in the District of Columbia is from generation purchased under contract from specified resources or unit or system contracts. The Working Group recommended, however, that such a disclosure is not possible if the electricity supplied in the District of Columbia is purchased from the PJM Interconnection, L.L.C. ("PJM") spot market or a contract for unspecified resources.⁹

⁵ See D.C. Code, 2001 Ed § 34-1504 (c) (2) (C) which states in part, if the Commission determines that it is not feasible for an electricity supplier to disclose the fuel mix of electricity sold by the supplier in the District of Columbia, "the Commission, by regulation or order; shall require the electricity supplier to disclose to its customers every 6 months a regional fuel mix average." See also D.C. Code, 2001 Ed § 34-1504 (c) (2) (B) which states that if the Commission determines that it is feasible for an electricity supplier to disclose the fuel mix it sells in the District, then a supplier must disclose every 6 months its fuel mix of electricity, including categories of electricity from coal, natural gas, nuclear energy, oil, hydroelectric, solar, biomass, wind and other sources.

⁶ See *Formal Case No. 945, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices*, Order No. 12003, rel. May 17, 2001.

⁷ In order for the Commission to discharge its statutory duty to "track the fuel mix of the electricity sold in the District of Columbia and the amount of electricity from renewable sources sold in the District of Columbia," we deem it necessary, regardless of what a particular supplier's customer disclosure might cover (i.e., fuel mix for electricity sold in the District of Columbia or regional fuel mix average), for each licensed electricity supplier to report their fuel mix to the Commission every 6 months after January 1, 2002. See § 34-1517 (b) of the District of Columbia Code. (emphasis added for clarity).

⁸ See *Formal Case No. 945, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices*, Letter from the Retail Competition Working Group to Jesse P. Clay, Jr., Commission Secretary, filed June 22, 2001. The letter stated that the Working Group had been informed that PJM was in the process of testing a new fuel mix tracking system that may "enable more accurate reporting of fuel mix information."

⁹ *Id.* (The letter attached proposed regulations submitted by Working Group, entitled "Regulations re: Feasibility of Fuel Mix Disclosure.")

4. The Commission concluded in Interim Order No. 12065,¹⁰ issued July 18, 2001, that the Working Group's proposed criteria were consistent with the requirements of the Act and would promote the public interest by requiring individual suppliers to disclose fuel mix information to consumers. The proposed criteria were found to be in the public interest because individual suppliers have the opportunity to assess in advance, based on their procurement activity, the feasibility of disclosing the fuel mix of electricity that is sold in the District, including the origins of the electricity (i.e., coal, natural gas, and nuclear resources) and the percentage of the electricity that is sold from renewable energy sources. The proposed criteria contemplate that electricity suppliers can purchase the electricity to be sold in the District of Columbia using four types of contracts and one market source.¹¹

5. Based on the Working Group's report, the Commission adopted three interim regulations ("criteria") regarding the reporting of electricity fuel mix in Order No. 12065. First, the Commission directed individual electricity suppliers that procure electricity through contracts, which specify the origins of that electricity as being from specified resources, specified units, or a specified system, to disclose the fuel mix of the electricity sold in the District of Columbia. Second, the Commission's Order provided that, on an interim basis, individual electricity suppliers are not required to disclose the fuel mix of the electricity sold in the District, provided that the procured electricity is derived through purchases from the PJM spot market, or a contract from unspecified sources.¹² The Commission emphasized that this exemption was temporary, until such time as fuel mix disclosure becomes feasible. Third, the Working Group was directed to submit comments on the method by which suppliers should disclose their fuel mix to District customers and to report on PJM's progress in establishing its new fuel mix tracking system. The Commission ordered that its interim criteria remain in effect, until a PJM tracking system is established, in order to accurately report fuel mix information.

III. MAY 15, 2003 WORKING GROUP REPORT RECOMMENDATIONS:

6. The Commission issued Order No. 12533¹³ on August 12, 2002, which directed the Working Group to submit for the Commission's consideration, proposed interim regulations, including reporting standards and procedures that will govern the disclosure of data by suppliers of the fuel mix sold in the District of Columbia. The Order further directed the Working Group

¹⁰ See Formal Case No. 945, *In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices*, Order No. 12065, rel. July 18, 2001.

¹¹ These categories include:

- a) contracts that specify that the electricity is generated from specified resources (e.g., fuels, hydro, etc.);
- b) contracts that specify that the electricity is generated from a specified unit(s);
- c) contracts that specify that the electricity is generated from a specified system(s);
- d) purchases from the PJM spot market; and
- e) contracts for electricity from unspecified resources.

¹² *Id.*

¹³ See Formal Case No. 945, *In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices*, Order No. 12533 at 6-7, rel. August 12, 2002.

to provide recommendations on certain specific issues such as the fuel mix reporting format and on consumer bills, promulgation of enforcement rules, the timeframe for disclosure of fuel mix, and an implementation plan for reporting.¹⁴ Because the Working Group did not respond to all of the Commission's questions, the Commission again, in Order No. 12705, directed the Working Group to prepare and file an *updated* comprehensive fuel mix data report.¹⁵ The Working Group filed its report on May 15, 2003,¹⁶ which included a status report on fuel mix reporting in the District of Columbia, interim regulations, and interim reporting format.

7. Overall, the Working Group states that the fuel mix disclosure standards and procedures under development by PJM, met the requirements under the Act. The Working Group represents that the proposed interim regulations provide sufficient flexibility to incorporate the current average PJM control area data as well as any future improvements as to providing zone-specific fuel mix data. Alternatively, suppliers may submit self-generated disclosure information at any time in lieu of those provided by PJM.¹⁷

8. The Commission believes that because the interim regulations are not final rules, and PJM is still in its developmental stages, it is more beneficial to electricity suppliers to have an interim "model" to guide them in their fuel mix data disclosure reporting than not. Attachment B to the Working Group report represents PJM's fuel mix data reporting format. We agree with the Working Group that the format is consistent with other jurisdictions in the control area, and provides renewable energy resource information mandated by the Act. The Commission adopts the format in Attachment B.

9. The Working Group attached proposed regulations to its report.¹⁸ The Commission approves the proposed interim regulations as amended. First, the word "energy" found in (a), should be replaced with "electricity," to maintain uniformity and consistency in the provisions. Secondly, the Commission amends the Working Group's proposed interim regulations to read as follows (revisions in **bold**):

"On June 1 and December 1 of each year, each licensed supplier doing business in the District of Columbia, and the Electric company as the provider of Standard Offer Service for the District of Columbia, shall report to the

¹⁴ *Id.* The specific issues were: fuel mix reporting formats, timeframe for disclosure of fuel mix, and an implementation plan for reporting.

¹⁵ See Formal Case No. 945, Phase II, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices, Order No. 12705, rel. April 16, 2003.

¹⁶ See Formal Case No. 945, Phase II, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices, Status Report on Fuel Mix Reporting, filed May 15, 2003.

¹⁷ See Formal Case No. 945, Phase II, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices, Status Report on Fuel Mix Reporting, filed May 15, 2003.

¹⁸ See Formal Case No. 945, Phase II, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices, Attachment A—Proposed Regulations, filed May 15, 2003.

Commission on the fuel mix of the electricity sold in the District of Columbia by the electricity supplier or the Electric Company.

- (a) For the electricity sold by an electricity supplier or the Electric Company that is from a specific generation resource, the electricity supplier or the Electric Company shall use the specific fuel mix from that generation resource in its fuel mix report to the Commission.
- (b) For the electricity sold by an electricity supplier or the Electric Company that is not from specific generation resources, the electricity supplier or the Electric Company shall use the average fuel mix statistics for all generation resources provided by PJM in its fuel mix report to the Commission.

The fuel mix information provided to the Commission shall be in a format consistent with that provided by PJM." In addition to the fuel mix report provided to the Commission, fuel mix information shall be reported to customers of the District of Columbia within the June and December billing cycles of each year."

The inclusion of this language fulfills our duty under Sections 34-1504(c)(2)(B) and 34-1504(c)(2)(C) of the Act to require electricity suppliers to report regional fuel mix to customers every 6 months.

10. Because the Working Group did not provide responses to all of the specific issues detailed in Order No. 12533, the Commission, once again, directs the Working Group to respond to those questions listed in paragraph 13 of the Order within 10 days of the date of this Order.¹⁹ Additionally, the Commission believes that because the interim regulations are not final rules, and PJM is still in its developmental stages, it is more beneficial to electricity suppliers to have an interim "model" to guide them in their fuel mix data disclosure reporting than not. Attachment B to the Working Group report represents PJM's fuel mix data reporting format. We agree with the Working Group that the format is consistent with other jurisdictions in the control area, and provides renewable energy resource information. The Commission adopts the format in Attachment B.

11. With respect to these timeframes for reporting fuel mix data to the Commission, the Commission also approves the Working Group's recommendations that suppliers serving load in the District of Columbia report to the Commission and customers, the most current PJM-supplied or self-determined fuel mix statistics on June 1 and December 1 of each year. The Commission supports a uniform, single fuel mix reporting system that will support compliance and verification of electric generation attributes. This system will ensure accurate accounting

¹⁹ See Formal Case No. 945, Phase II, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices, Order No. 12533 at 6-7, rel. August 12, 2002.

and reporting, and facilitate efficient and transparent transaction among market participants. Further, PJM's Generation Attributes Tracking System (GATS) will be flexible enough to accommodate varied and changing policies and programs here in the District of Columbia.

THEREFORE, IT IS ORDERED THAT:

12. Consistent with the guidance set forth in this Order, and until such time as the PJM GATS is finalized, the Commission approves and adopts the following:

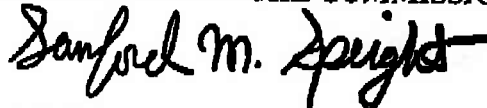
- (a) the interim fuel mix disclosure regulations as amended herein;
- (b) the interim reporting format used by PJM (Attachment B);
- (c) the fuel mix information shall be reported to customers of the District of Columbia within the June and December billing cycles of each year, pursuant to Sections 34-1504(c)(2)(B) and 34-1504 (c)(2)(C) of the Act; and

13. The Working Group shall provide recommendations on the following issues within 10 days of this Order:

- (a) Should the Commission promulgate enforcement rules and penalties for the failure to comply with the reporting requirements as set forth in the Act? And, if suppliers violate the disclosure requirements under the Act, what penalties should be assessed? Is the Commission the appropriate regulatory entity to audit electricity suppliers' compliance with environmental disclosure requirements?
- (b) How should fuel mix be reported on the consumer's bill?
- (c) Whether the renewable energy resources listed in PJM's average fuel mix statistics format (Attachment B of the Working Group report) are consistent with the definitions of the renewable sources under Section 34-1517(a) in the Act.²⁰ If the definitions are inconsistent, how or should they be reconciled?

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:



CHIEF CLERK

**SANFORD M. SPEIGHT
ACTING COMMISSION SECRETARY**

²⁰ The Working Group shall define the following sources of energy under D.C. Code, 2001 Ed. §34-1517(a): solar; wind; tidal; geothermal; biomass; hydroelectric facilities; and digester gas.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W. 2ND FLOOR, WEST TOWER
WASHINGTON, D.C. 20005

ORDER

September 21, 2004

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY
PRACTICES, Order No. 13391

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") requires Washington Gas Energy Services, Inc. ("WGES") and Baltimore Gas and Electric Home ("BGE Home") to file fuel mix reports pursuant to Order No. 12765. The Commission also requires PEPCO Energy Services, Inc. ("PES") to file a supplemental report to advise the Commission whether its customers received bill insert notification of its fuel mix. Finally, the Commission reminds all electric suppliers of their obligation to file a fuel mix report with the Commission in June and December of each year.

II. BACKGROUND

2. By Order No. 12003, the Commission directed the Formal Case No. 945 Working Group ("Working Group")¹ to submit proposed criteria relating to the feasibility of fuel mix reporting to customers.² In that Order, the Commission also reminded licensed suppliers that they still bear the independent responsibility of reporting their fuel mix data to the Commission under D.C. Code § 34-1517.³ The Working Group submitted proposed criteria regarding the feasibility of requiring individual electricity suppliers to disclose fuel mix information every six months to their customers for the electricity they sell in the District of Columbia.⁴ Specifically, the Working Group

¹ The participating members of the Working Group are PEPCO, the Office of the People's Counsel, Constellation NewEnergy, Inc. and PEPCO Energy Services, Inc.

² See *Formal Case No. 945, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices ("F.C. 945")*, Order No. 12003, rel. May 17, 2001.

³ In order for the Commission to discharge its statutory duty to track the fuel mix and the amount of electricity from renewable sources sold in the District of Columbia, we deem it necessary, regardless of what a particular supplier's customer disclosure might cover (i.e., fuel mix for electricity sold in the District of Columbia or regional fuel mix average), for each licensed electricity supplier to report its fuel mix to the Commission every six months after January 1, 2002.

⁴ See *F.C. 945*, Letter from the Retail Competition Working Group to Jesse P. Clay, Jr., Commission Secretary, filed June 22, 2001. The letter stated that the Working Group had been informed

proposed that the Commission adopt a regulation which states that it is feasible for a licensed supplier to disclose its actual fuel mix, provided that the electricity supplied in the District of Columbia is from generation purchased under contract from specified resources, unit, or system contracts. The Working Group suggested, however, that such a disclosure is not possible if the electricity supplied in the District of Columbia is purchased from the PJM Interconnection, L.L.C. ("PJM") spot market or under a contract for unspecified resources.⁵

3. By Interim Order No. 12065, the Commission concluded that the Working Group's proposed criteria were consistent with the requirements of the Act and would promote the public interest by requiring individual suppliers to disclose fuel mix information to consumers.⁶ The proposed criteria were found to be in the public interest because individual suppliers have the opportunity to assess in advance, based on their procurement activity, the feasibility of disclosing the fuel mix of electricity that is sold in the District, including the origins of the electricity (i.e. coal, natural gas, and nuclear resources) and the percentage of the electricity that is sold from renewable energy sources. The proposed criteria contemplated that electricity suppliers could purchase electricity to be sold in the District of Columbia using four types of contracts and one market source.⁷

4. Based on the Working Group's criteria, by Interim Order No. 12065, the Commission adopted three interim regulations regarding the reporting of electricity fuel mix.⁸ First, the Commission directed individual electricity suppliers who procure electricity through contracts that specify the origins of the electricity as being from specified resources, specified units, or a specified system, to disclose the fuel mix of the electricity sold in the District of Columbia. Second, the Commission's Order provided that, on an interim basis, individual electricity suppliers are not required to disclose the fuel mix of the electricity sold in the District if the procured electricity is derived through purchases from the PJM spot market, or under a contract from unspecified sources.⁹ The

that PJM was in the process of testing a new fuel mix tracking system that may enable more accurate reporting of fuel mix information.

⁵ *Id.* Attached to the letter were proposed regulations drafted by the Working Group, entitled "Regulations re: Feasibility of Fuel Mix Disclosure."

⁶ *F.C. 945*, Order No. 12065, rel. July 18, 2001.

⁷ These categories include:

- a) contracts that specify that the electricity is generated from specified resources (e.g., fuels, hydro, etc.);
- b) contracts that specify that the electricity is generated from a specified unit(s);
- c) contracts that specify that the electricity is generated from a specified system(s);
- d) purchases from the PJM spot market; and
- e) contracts for electricity from unspecified resources.

⁸ *See F.C. 945*, Order No. 12065, rel. July 18, 2001.

⁹ *Id.*

Commission emphasized that this exemption was temporary, until such time as fuel mix disclosure becomes feasible. Third, the Working Group was directed to submit comments on the method by which suppliers should disclose their fuel mix to District customers and to report on PJM's progress in establishing its new fuel mix tracking system. The Commission ordered that its interim criteria remain in effect until a PJM tracking system is established in order to accurately report fuel mix information.

5. By Order No. 12533, the Commission further directed the Working Group to submit, among other things, proposed interim regulations.¹⁰ The Commission approved the proposed regulations, as amended, by Order No. 12765.¹¹ The regulations set forth, among other things, the December and June fuel mix reporting requirements.

6. On June 23, 2003, the Working Group submitted a Fuel Mix Working Group Report in compliance with Order No. 12765. The report responded to three key questions raised by the Commission in that Order: (1) Whether the Commission should promulgate enforcement rules and penalties for the failure to comply with the reporting requirements as set forth in the Act; (2) How fuel mix should be reported on a customer's bill; and (3) Whether the renewable energy resources listed in PJM's average fuel mix statistics format (Attachment B of the Working Group report) are consistent with the definitions of the renewable sources under Section 34-1517(a) the Act. In response to the first issue, the Working Group does not believe there is any need for the Commission to promulgate enforcement rules and penalties, inclusive of the amount of any penalty, for the failure to comply with the fuel mix reporting requirements. In response to the second issue, the Working Group concludes that for residential and small commercial customers, the electricity supplier should report on its fuel mix in a mailing to each of its customers. In response to the third issue, the Working Group believes that the renewable resources listed in PJM's average fuel mix statistics are consistent with the definitions of the renewable resources under D.C. Code § 34-1517(a)(2001 ed.).

7. On December 1, 2003, PEPCO filed its fuel mix report in compliance with Order No. 12765 and also included its fuel mix information in the bill insert for its December billing cycle.¹² On December 4, 2003, PES reported on its fuel mix of electricity sold in the District of Columbia for the twelve months ending October 31, 2003.¹³ Constellation NewEnergy filed a fuel mix report which indicated that it does not purchase unit-specific energy and attached the most recent PJM Regional Average

¹⁰ See F.C. 945, Order No. 12533, rel. August 12, 2002.

¹¹ See F.C. 945, Order No. 12765, rel. June 13, 2003.

¹² See F.C. 945, Regional Fuel Mix Data for Potomac Electric Power Company, filed December 1, 2003. We note that on June 14, 2004, PEPCO also filed its required June fuel mix report. No other party filed a June report as required by the regulations.

¹³ See F.C. 945, Compliance Filing of PEPCO Energy Services, Inc., filed December 4, 2003.

Disclosure Label in compliance with Section 117(b) of the 1999 Act.¹⁴ No other electric suppliers filed their fuel mix reports.

III. DISCUSSION

8. We agree with the Working Group that each electricity supplier to residential and small commercial customers in the District should report its fuel mix in a mailing to its customers and that the renewable resources listed in PJM's average fuel mix statistics are consistent with the definitions of the renewable resources under D.C. Code § 34-1517(a). However, we reserve judgment on the necessity to promulgate enforcement rules and penalties until we have given suppliers one more opportunity to file their fuel mix reports for December 2003 and June 2004.

9. Our records indicate that WGES and BGE Home are active suppliers of electricity to District consumers and have not filed fuel mix reports for December 2003 and June 2004. By this Order, we remind all active suppliers that they are required to file fuel mix reports with the Commission in June and December of each year and to disclose such information to customers every six months. All active suppliers shall have 45 days from the date of this order to file any overdue fuel mix reports.

10. We note that PJM data for a current year is not available until December of that year and covers only the period January to June. Complete data for the year is not available until the following June but does not segregate out data for the previous July – December period. For that reason, we modify the fuel mix reporting requirements to be consistent with PJM's publication practices. Accordingly, active suppliers shall file their December fuel mix report for the period January – June of that year. Active suppliers shall file a June fuel mix report that includes information for the previous calendar year.

11. Finally, we note that in PES's December 4, 2003 filing, PES failed to mention whether it included its fuel mix report in mailings to its consumers. We direct PES to file a supplemental report within 10 days from the date of this Order stating whether it has provided this notice to its customers as required by Order No. 12765.

THEREFORE, IT IS HEREBY ORDERED THAT:

12. All active electric suppliers shall have 45 days from the date of this Order to file the overdue fuel mix reports;

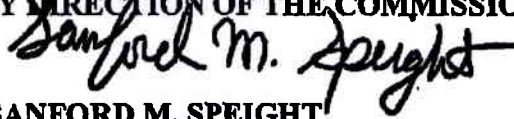
13. All future fuel mix reports shall be filed in accordance with Order No. 12765, as modified by this Order; and,

¹⁴ See F.C. 945, Constellation NewEnergy, Inc.'s Fuel Mix Reporting, filed December 4, 2004. The data attached to Constellation's filing was described as the "most recent" fuel mix average, but the data was from 2002. Constellation's filing was not in compliance with Order No. 12765 because it contained outdated fuel mix data. However, Constellation is not required by Order No. 12765 to report its fuel mix to the Commission or to its D.C. customers because it does not have any D.C. customers at this time.

14. PES is directed to file a supplemental fuel mix report within 10 days from the date of this Order stating whether it mailed its fuel mix report to its customers.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:

A handwritten signature in black ink, appearing to read "Sanford M. Speight", is written over the printed name.

CHIEF CLERK

SANFORD M. SPEIGHT
ACTING COMMISSION SECRETARY

945 - E - 1280

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., 2nd FLOOR, WEST TOWER
WASHINGTON, D.C. 20005

ORDER

May 19, 2005

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY
PRACTICES, Order No. 13589

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") directs all active electricity suppliers to disclose their emissions information semi-annually as required by D.C. Law. Suppliers are to file this information by June 1 and December 1 of each year along with their fuel mix information.

II. BACKGROUND

2. All electricity suppliers are currently disclosing their fuel mix information by filing it with the Commission by June 1 and December 1 of each year as well as reporting this information to their customers. On January 31, 2005, the District of Columbia City Council enacted the Omnibus Utility Amendment Act of 2004 ("Omnibus Act").² The Act became effective on April 12, 2005 and, in part, requires the Commission to direct each electricity supplier to disclose emissions information regarding carbon dioxide, nitrogen oxide, sulfur dioxide, and any other pollutant that the Commission deems appropriate, for electricity sold in the District of Columbia.³ According to the Act, the Commission must determine whether it is feasible for the supplier to disclose this information every six months and may direct suppliers to provide this information either by rule or by order.⁴

¹ See Formal Case No. 945, *In the Matter of the Investigation into the Electric Service Market Competition and Regulatory Practices*, Order No. 12765 rel. June 13, 2003.

² Omnibus Utility Amendment Act of 2004, Pub. L. No. 15-342 (2005). The Omnibus Act became effective on April 12, 2005. The Omnibus Act superseded the "Omnibus Utility Emergency Amendment Act of 2005" which was passed in January 2005.

³ Omnibus Act at Sec. 304.

⁴ *Id.*

III. DECISION

3. The Commission determines that the emissions information required by law is readily available from the PJM Interconnection ("PJM"), the regional transmission organization that includes the District of Columbia. Inasmuch as suppliers are already providing fuel mix information every six (6) months, we believe that it would be administratively efficient to require suppliers to disclose the additional emissions information at the same time, and in the same report, that they disclose their fuel mix. Because information on additional pollutants is not readily available from PJM, we determine that expanding the list of pollutants is infeasible at this time. Consequently, we direct all electricity suppliers to provide their emissions data for carbon dioxide, nitrogen oxide, and sulfur dioxide by June 1 and December 1 of each year.⁵

THEREFORE, IT IS ORDERED THAT:

4. All active electricity suppliers are directed to provide their emissions information by June 1 and December 1 of each year to their customers and the Commission.

A TRUE COPY:

CHIEF CLERK

BY DIRECTION OF THE COMMISSION:



**CHRISTINE D. BROOKS
COMMISSION SECRETARY**

⁵ Because the PJM Generation Attribute Tracking System ("GATS") is currently not in operation, suppliers can use information from PJM's fuel mix/emission disclosure label for their June 1, 2005 filing. PJM's Fuel Mix Disclosure Label includes information on the suppliers' fuel mix and emissions.

945-E-1898 *HH*

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005

RECEIVED *HH*

2008 JUL 11 A 10:29

NOTICE OF PROPOSED RULEMAKINGDISTRICT OF COLUMBIA
PUBLIC SERVICE COMMISSION**FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICES MARKET COMPETITION AND REGULATORY
PRACTICES**

1. The Public Service Commission of the District of Columbia ("Commission"), pursuant to its authority under D.C. Official Code § 34-1504(b) (2007 Supp.), hereby gives notice of its intent to adopt Chapter 42 of Title 15 DCMR, in not less than thirty (30) days after publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.¹

2. The proposed regulations establish the Commission's rules governing the submission of Fuel Mix and Emissions Disclosure Reports. These proposed rules replace the Interim Regulations recommended by the Retail Competition Working Group and later adopted by the Commission in Order No. 12765.²

CHAPTER 42 FUEL MIX AND EMISSIONS DISCLOSURE REPORTS

Section

4200	APPLICABILITY
4201	FUEL MIX AND EMISSIONS DISCLOSURE REQUIREMENTS
4202	WAIVER
4206-4298	[RESERVED]
4299	DEFINITIONS

4200 APPLICABILITY

4200.1 This Chapter establishes the Public Service Commission's ("Commission") regulations governing the disclosure of fuel mix and emissions applicable to an Electricity Supplier as provided in D.C. Official Code §§ 34-1504(c)(2) and 34-1517(b)-(c).

¹ D.C. Official Code § 34-1504(b) (2007 Supp.).

² *Formal Case No. 945, In The Matter Of The Investigation Into Electric Services Market Competition And Regulatory Practices*, Order No. 12765, rel. June 13, 2003.

4201 FUEL MIX AND EMISSIONS DISCLOSURE REQUIREMENTS

- 4201.1** Each active District of Columbia Electricity Supplier and the Electric Company shall report every six (6) months the fuel mix of electricity sold and the emissions produced in accordance with D.C. Official Code §§ 34-1504(c)(2)(A)(i) and 34-1517(b).
- 4201.2** Each active Electricity Supplier and the Electric Company must submit a semi-annual Fuel Mix and Emissions Report ("Fuel Mix Report") to the Commission on June 1 and December 1. The June 1 report shall provide fuel mix and emissions information for the prior calendar year. The December 1 report shall provide fuel mix and emission information for the period January through June of the current year.
- 4201.3** Each Fuel Mix Report must contain the following information in accordance with D.C. Official Code §§ 34-1504(c)(2)(A)(i) and 34-1517(b):
- (a) The percentage of electricity generated from the following energy sources:
- (1) Coal;
 - (2) Oil;
 - (3) Natural gas;
 - (4) Nuclear;
 - (5) Solar;
 - (6) Wind;
 - (7) Biomass;
 - (8) Captured methane gas from landfill gas or wastewater treatment plant;
 - (9) Water, including hydroelectric and ocean;
 - (10) Geothermal;
 - (11) Municipal solid waste; and
 - (12) Other.

(b) The emissions in pounds per megawatt-hour of:

- (1) Carbon dioxide;
- (2) Nitrogen oxides; and
- (3) Sulfur dioxide.

- 4201.4 In the Fuel Mix Report, the percentages for § 4201.3(a)(5) through (11) above should also be added together and designated as the "Renewable Energy Resources Subtotal."
- 4201.5 For electricity sold by an Electricity Supplier or the Electric Company that is from a specific generation resource, including any renewable energy credits associated with generation in the reporting period, the Electricity Supplier or the Electric Company shall include the specific generation resource in its Fuel Mix Report.
- 4201.6 For electricity sold by an Electricity Supplier or the Electric Company that is not from specific generation resources, the Electricity Supplier or the Electric Company shall include the PJM Environmental Information Services, Inc. ("PJM EIS") average residual fuel mix statistics, by generation resource, in its Fuel Mix Report. Pursuant to § 4201.2 for the Fuel Mix Reports to be submitted by December 1 covering the time period January through June of the current year, Electricity Suppliers and the Electric Company may use estimates, if the actual numbers are unavailable, when reporting residual fuel mix statistics.
- 4201.7 A Fuel Mix Report shall be in a format similar to the information provided by the PJM EIS.
- 4201.8 Each Electricity Supplier and the Electric Company shall provide a Fuel Mix Report to its customers in the District of Columbia within the June and December billing cycles each year in accordance with D.C. Official Code §§ 34-1504(c)(2)(B)-(C) and consistent with § 4201.3 of this Chapter. The Fuel Mix Report submitted to the Commission shall indicate that the information is also being disclosed to customers.
- 4201.9 If an Electricity Supplier or the Electric Company fails to file a semi-annual Fuel Mix Report or to disclose the information to its customers as required by this Chapter and D.C. Official Code §§ 34-1504(c)(2)(B)-(C), that company may be subject to Commission action. In addition, pursuant to D.C. Official Code § 34-1508, failure to file a Fuel Mix Report or disclose information to customers may result in suspension or revocation of a license to supply electricity or imposition of a civil penalty up to \$10,000 per violation.

4202 WAIVER

The Commission reserves the right to waive any provision of these rules for good cause shown.

4202-4298 (Reserved)**4299 DEFINITIONS****4299.1 For the purposes of this chapter:**

"Biomass" means a solid, nonhazardous, cellulosic waste material that is segregated from other waste materials and is derived from any of the following forest-related resources, with the exception of old growth timber, unsegregated solid waste, or post-consumer waste paper: (a) mill residue, (b) precommercial soft wood thinning, (c) slash, (d) brush, (e) yard waste, (f) waste pallet, crate or dunnage, and (g) agricultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by-products or residues.

"Commission" means the Public Service Commission of the District of Columbia.

"Electric company" means every corporation, company, association, joint-stock company or association, partnership, or person doing business in the District of Columbia, their lessees, trustees, or receivers appointed by any court whatsoever, physically transmitting or distributing electricity in the District of Columbia to retail electric customers. The term excludes any building owner, lessee, or manager who, respectively, owns, leases, or manages, the internal distribution system serving the building and who supplies electricity and other electricity related services solely to the occupants of the building for use by the occupants.

"Electricity supplier" means a person, including an aggregator, broker, or marketer, who generates electricity; sells electricity; or purchases, brokers, arranges, or markets electricity for sale to customers. The term excludes the following:

- (a) Building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to occupants of the building for use by the occupants;
- (b) Any person who purchases electricity for its own use or for the use of its subsidiaries or affiliates; or
- (c) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not:

- (1) Take title to the electricity;
- (2) Market electric services to the individually-metered tenants of the building; or
- (3) Engage in the resale of electric services to others;
- (d) Property owners who supply small amounts of power, at cost, as an accommodation to lessors or licensees of the property; and
- (e) A consolidator.

"Hydroelectric" means power produced through conventional hydroelectric turbines.

"Ocean" means power produced from currents, tides, waves, and thermal differences.

"PJM Environmental Information Services" means the wholly-owned subsidiary of PJM Technologies, Inc. that provides environmental and emissions attributes reporting and tracking services to its subscribers.

"Residual fuel mix" means the net amount of generation remaining after subtracting from the total generation occurring during a year any generation that has been removed through specific claims on such generation.

3. All persons interested in commenting on this proposed rulemaking may submit comments, in writing, no later than thirty (30) days after the date of publication of this NOPR in the *D.C. Register*. Persons interested in submitting reply comments may do so no later than forty-five (45) days after the date of publication of this NOPR in the *D.C. Register*. All comments and replies must be sent to Dorothy M. Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., Suite 200, West Tower, Washington, DC 20005. Copies of these proposed rules may be obtained, at cost, by writing to the Commission Secretary at the above address or on the Commission's website at www.dcpSC.org. Once the comment period has expired, the Commission will take final rulemaking action.

945 - E - 1932 AH

RECEIVED PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

2008 SEP 15 A 11:46
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, DC 20005DISTRICT OF COLUMBIA
PUBLIC SERVICE COMMISSION**NOTICE OF FINAL RULEMAKING****FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICES MARKET COMPETITION AND REGULATORY
PRACTICES**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Sections 2-505(a) and 34-1504(b) of the District of Columbia Official Code,¹ of final rulemaking action, adopting Chapter 42 of Title 15 DCMR governing Fuel Mix and Emissions Disclosure Reports. The Commission issued a Notice of Proposed Rulemaking ("NOPR") which was published in the *D.C. Register* on July 11, 2008, giving notice of the Commission's intent to adopt Chapter 42 of Title 15 DCMR.² No comments were filed in response to the NOPR.

2. As indicated in the NOPR, the proposed regulations establish the Commission's rules governing the submission of Fuel Mix and Emissions Disclosure Reports.³ In addition, the proposed rules replace the Interim Regulations recommended by the Retail Competition Working Group and later adopted by the Commission in Order No. 12765.⁴ The replacement of the Interim Regulations with permanent rules will facilitate the submission of Fuel Mix and Emissions Disclosure Reports by electricity suppliers and the Electric Company to the Commission consistent with the provisions of Section 34-1504 of the District of Columbia Official Code.⁵ Accordingly, the Commission hereby adopts Chapter 42 of Title 15 DCMR governing Fuel Mix and Emissions Disclosure Reports as contained in the *D.C. Register* on July 11, 2008. The rules will become effective upon publication of this Notice of Final Rulemaking in the *D.C. Register*. Copies of the rules may be obtained by contacting Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., 2nd Floor, West Tower, Washington, D.C. 20005. Copies may also be obtained from the Commission's website at www.dcpsc.org.

¹ D.C. Official Code §§ 2-505(a) (2001 Ed.) and 34-1504(b) (2008 Supp.).

² 55 *D.C. Register* 7572-7576 (July 11, 2008).

³ 55 *D.C. Register* at 7572.

⁴ *Formal Case No. 945, In The Matter Of The Investigation Into Electric Services Market Competition And Regulatory Practices*, Order No. 12765, rel. June 13, 2003.

⁵ D.C. Official Code § 34-1504(b) (2008 Supp.).