

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

ORDER

October 2, 2015

FORMAL CASE NO. 1119, IN THE MATTER OF THE JOINT APPLICATION OF EXELON 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, Order No. 17993

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) pursuant to Commission Rule 146.1,¹ waives the 10 day period for filing responses to the Joint Motion of the District of Columbia Government (“District Government”) and Exelon Corporation, Pepco Holdings, Inc., Potomac Electric Power Company, Exelon Energy Delivery Company, LLC and New Special Purpose Entity, LLC (“Joint Applicants”) for a Stay or, in the Alternative, for an Extension of Time to Respond to the Application for Reconsideration of Order No. 17947 (“Joint Motion”) and directs parties to file their responses to the Joint Motion by close of business October 6, 2015.²

2. Responses to the Joint Applicants’ Application for Reconsideration of Order No. 17947 (“Application for Reconsideration”) will be due on a date to be set by the Commission when it rules on the merits of the Joint Motion on October 7, 2015, but in no event will the responses be due earlier than October 9, 2015.³

II. BACKGROUND

3. On April 30, 2014, Exelon Corporation announced Exelon’s purchase of Pepco Holdings, Inc. (“PHI”). On June 18, 2014, the Joint Applicants filed the Joint Application for approval by the Commission, pursuant to D.C. Code §§ 34-504 and 34-1001, for a change of

¹ 15 DCMR § 146.1 (1981). “The Commission may, in its discretion, waive any of the provisions of Chapters 1 and 2 of this title in any proceeding after duly advising the parties of its intention to do so.”

² *Formal Case No. 1119, In the Matter of the Joint Application of Exelon 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 (“Formal Case No. 1119”)*, Joint Motion of Time to District of Columbia Government and Joint Applicants for a Stay or, in the Alternative, for an Extension of Time to Respond to the Application for Reconsideration of Order No. 17947, filed September 30, 2015 (“Joint Motion”).

³ *Formal Case No. 1119, Application of the Joint Applicants for Reconsideration of Order No. 17947*, filed September 28, 2015.

control of Pepco to be effected by the Proposed Merger of PHI with Merger Sub, a wholly owned subsidiary of Exelon.⁴

4. The Commission convened four (4) community hearings seeking input from the public on the Joint Application. The hearings were held between December 17, 2014, and January 20, 2015, at various times and locations throughout the District of Columbia. Eleven days of evidentiary hearings were held on March 30–April 8, 2015 and April 20–22, 2015. On May 27, 2015, the record closed.

5. On August 27, 2015, the Commission issued Order No. 17947, which denied the Joint Application and found that the proposed merger was not in the public interest.⁵ On September 28, 2015, the Joint Applicants filed an Application for Reconsideration of Order No. 17947. Commission Rule 140.3 prescribes that responses to applications for reconsideration shall be filed within five (5) business days after receipt of the application.⁶

6. On September 30, 2015, the District Government and Joint Applicants filed their Joint Motion. The Joint Motion states, “Given that the five-day period for comments on the [Application for Reconsideration] closes imminently, on Monday[,] October 5, 2015, the District and Joint Applicants respectively request that the Commission act expeditiously to grant this request.”⁷ In the Joint Motion, the District Government and Joint Applicants request, as alternatives to the Commission granting a stay in the proceeding: “(i) grant the District a 30-day extension of time to respond to the Reconsideration Application, and (ii) issue an order tolling the 30-day period for Commission reconsideration set forth in 34 D.C. Code Section 604(b)[,]” or (iii) “provide the parties with three additional business days from the date of that Order to respond to the Application for Reconsideration.”⁸ The Joint Motion indicates that DC Water and MDV-SEIA “do not object to the relief requested” while OPC “takes no position.”

7. On October 1, 2015, the Apartment and Office Building Association of Metropolitan Washington (“AOBA”) and DC Solar United Neighborhoods (“DC SUN”) filed a Joint Reply in Opposition to the Joint Motion (“Joint Opposition”).⁹ While generally opposing

⁴ See *Formal Case No. 1119*, Joint Application of Exelon 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, p. 1, filed June 18, 2014 (“Joint Application”).

⁵ *Formal Case No. 1119*, Order No. 17947, rel. August 27, 2015.

⁶ See 15 DCMR § 140.3 (1981). “Responses to applications for reconsideration or modification shall be considered by the Commission only if filed with the Commission within five (5) business days after receipt of the application.”

⁷ *Formal Case No. 1119*, Joint Motion at 2.

⁸ *Formal Case No. 1119*, Joint Motion at 1-2.

⁹ *Formal Case No. 1119*, Joint Response of the Apartment and Office Building Association of Metropolitan Washington and DC SUN to the Joint Motion of the District of Columbia Government and Joint Applicants for a Stay or, in the Alternative, for an Extension of Time to Respond to the Application of Reconsideration of Order No. 17947, filed October 1, 2015 (“Joint Opposition”).

the Joint Motion, AOBA and DC SUN state in footnote number 1, that they “would not oppose this request for an additional three days for the filing of responses to the Joint Applicants’ Application for Reconsideration as long as the Commission’s order is issued in accordance with the thirty-day requirement in D.C. Mun. Regs. Tit. 15 §140.5.”¹⁰ Additionally, AOBA and DC SUN stated that they “request that the Commission waive the ten-day response time provided for responding to the Joint Parties’ Motion and issue an expedited order denying the relief sought in the Motion with the exception of the relief that the Joint Respondents do not oppose as set forth *supra* in footnote number 1.”¹¹

8. On October 2, 2015, GRID2.0 Working Group filed a reply in opposition to the Joint Motion.¹² GRID2.0 asks the Commission to deny the Joint Motion. GRID2.0 further added that it has no objection to the request in the Joint Motion that a three day extension be granted if the Commission denies the alternative forms of requested relief.¹³

III. DISCUSSION

9. Under Commission Rule 140.3, parties’ responses to the Application for Reconsideration would be due within five business days after receipt, or October 5, 2015. Additionally, under Commission Rule 105.8, responses to the Joint Motion would be due no later than ten calendar days after the motion is served, or October 12, 2015.¹⁴ In order to expedite action on the Joint Motion, the Commission, pursuant to Commission Rule 146.1, waives Commission Rule 105.8 and directs parties to file their responses to the Joint Motion by October 6, 2015.

10. Additionally, in order to provide clarity regarding the earliest time that parties would be required to respond to the Application for Reconsideration given the pending motions, responses to the Joint Applicants’ Application for Reconsideration will be due on a date to be set by the Commission when it rules on the merits of the Joint Motion on October 7, 2015, but in no event will the responses be due earlier than October 9, 2015.

THEREFORE IT IS ORDERED THAT:

11. Responses to the Joint Motion of the District of Columbia Government and Joint Applicants for a Stay or, in the Alternative, for an Extension of Time to Respond to the Application for Reconsideration of Order No. 17947 are due by October 6, 2015; and

¹⁰ *Formal Case No. 1119*, Joint Opposition at 3.

¹¹ *Formal Case No. 1119*, Joint Opposition at 10.

¹² *Formal Case No. 1119*, Response of the GRID2.0 Working Group to the Joint Motion of the District of Columbia Government and Joint Applicants for a Stay or, in the Alternative, for an Extension of Time to Respond to the Application of Reconsideration of Order No. 17947, filed October 2, 2015 (“GRID2.0 Opposition”).

¹³ *Formal Case No. 1119*, GRID2.0 Opposition at 1.

¹⁴ 15 DCMR § 105.8 (1981). “Responses to a written motion shall be filed no later than ten (10) calendar days after a motion has been served.”

12. Responses to the Application of the Joint Applicants for Reconsideration of Order No. 17947 will be due on a date to be set by the Commission when it rules on the merits of the Joint Motion on October 7, 2015, but in no event will the responses be due earlier than October 9, 2015.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:

A handwritten signature in black ink, reading "Brinda Westbrook-Sedgwick". The signature is written in a cursive style with a large initial 'B'.

CHIEF CLERK:

**BRINDA WESTBROOK-SEDGWICK
COMMISSION SECRETARY**