2013

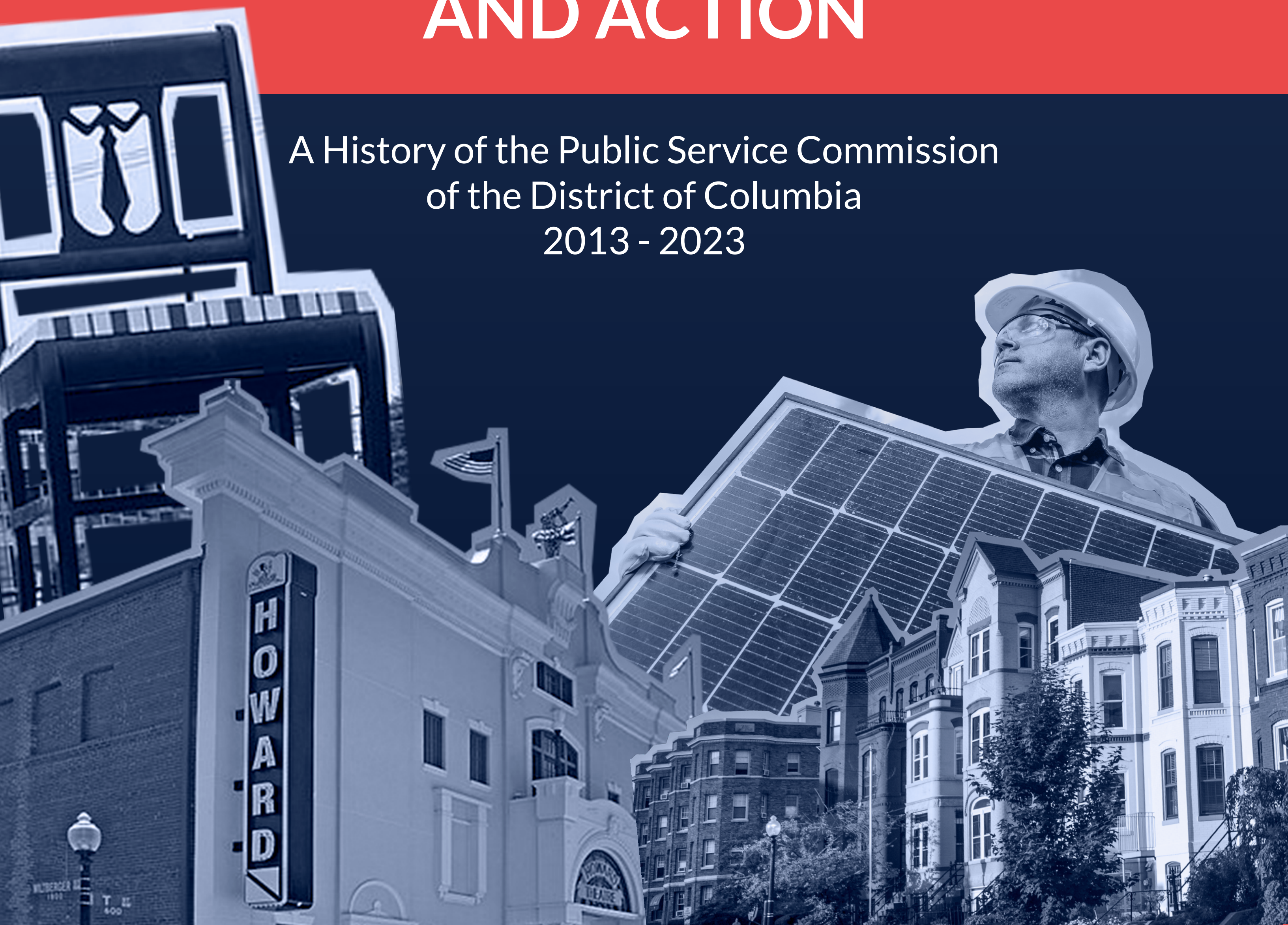
2023

PUBLIC SERVICE COMMISSION

District of Columbia

A DECADE OF CHANGE AND ACTION

A History of the Public Service Commission
of the District of Columbia
2013 - 2023



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FOREWORD

Emile C. Thompson - Chairman

On the occasion of her retirement in 2018, former Chairman Betty Ann Kane had these words of advice for the staff and members of the Public Service Commission of the District of Columbia:

You're an economic regulator, so the numbers, the bottom line, and the rates count. However, the policies will change so rapidly that you have to take a deep breath, find out the facts, learn as much as you can, and be prepared for more change.

This report on the history of utility regulation in the District of Columbia from 2013 to 2023 will show how right she was.

Our policies have changed and evolved since 2013's intense focus on safety and reliability. Today, the Commission focuses on the role of the environment and clean energy in protecting our natural resources while not forgetting that safety, reliability, and affordability remain essential. Part One will discuss changes in the Commission, its composition, its staffing, its operations, and its mission. It will also address changes in utility regulation laws and policies and show some of the most critical measurements of change.

Part Two describes the Commission's actions in three areas: electricity, natural gas, and telecommunications. It will discuss important proceedings, including a change in ownership of our two major utilities. It will show both how the Commission reacts to change and how the Commission causes change.

Part Three looks to the future and to plans for a climate-sensitive approach to utility regulation.

This report is a follow-up to The First 100 Years, the history of the Commission from its founding in 1913 to its Centennial in 2013. We hope it will be valuable to Commission employees, new and old, to the regulated utilities, and to all those wishing to understand how the Commission serves the public interest.

Emile C. Thompson,

Chairman

PART ONE – A DECADE OF CHANGE

Change is constant. However, the decade spanning 2013 to 2023 saw more than the usual changes affecting the Commission. In Part One, we will look at some of the most significant changes and improvements that have taken place, starting with a shift in the very mission of the Commission.

CHAPTER ONE: CHANGES AT THE COMMISSION

Our Mission

In 2013, the Commission's mission was similar to that of most other state public service (or utility) commissions:

> *To serve the public interest by ensuring that financially healthy electric, natural gas, and telecommunications companies provide safe, reliable, and quality services at reasonable rates for District of Columbia residential, business, and government customers.*

SPOTLIGHT: Since the late 1990s, the Commission has enhanced its mission implementation by identifying specific goals. These include: motivating employees, protecting consumers by ensuring safe and reliable service at just and reasonable rates, fostering competition, conserving natural resources and preserving environmental quality, resolving disputes between consumers and service providers, supporting the economy of the District, and educating and informing the public.

The Commission was primarily an economic regulator concerned about balancing the need for reasonable rate structures that would not overburden District consumers with the need to ensure that the companies providing service could attract investors. In addition, a significant concern for the Commission in 2013 was the reliability of the electric network. As we'll see in Part Two, major storms in 2012 knocked out power to large sections of the District for many days. This event led to changes in focus for the Commission, enhancing its oversight of vegetation management and increasing interest in placing electric distribution lines underground. The Commission revised its Electric Quality of Service Rules (EQSS), and the DC Council broadened the Commission's authority over reliability by increasing the penalty for violating performance standards from $5,000 to up to $100,000.

However, the most significant change in the Commission's mission came in 2018, with the passage by the DC Council of the Clean Energy DC Omnibus Act (CleanEnergy Act). Before that time, the Commission had been concerned with environmental quality without a specific mandate to exercise leadership in that area. With the passage of environmentally-focused legislation, such as the Renewable Energy Portfolio Standards Act of 2004, the Clean and Affordable Energy Act of 2008, and the Community Renewable Energy Act of 2013, the Commission had begun to emphasize its role in assuring development of a modern distribution grid, conservation of natural resources and environmental quality. The 2018 CleanEnergy Act specifically required the Commission to consider the effects of global climate change and the District's climate commitments in every action it takes. In 2019, then Chairman Willie Phillips created a staff Task Force to consider changes to the Commission's mission statement to reflect its new responsibilities. The Task Force consisted of staff members from every Office of the Commission to ensure that all employees would attend to environmental quality issues. The latest mission statement, in force today, reads:

> *To serve the public interest by ensuring that financially healthy utility companies provide safe, reliable, and quality services at reasonable rates for District of Columbia customers while fostering grid modernization, conservation of natural resources, preservation of environmental quality, and advancement of the District's climate policy commitments.*

Our Leadership

The Leadership of the Commission consists of a Chairman and two Commissioners, appointed by the Mayor and confirmed by the DC Council for four-year terms.

In 2013, the Chairman was **Betty Ann Kane**, who was appointed to the Commission in 2007 and became Chairman in 2009. Chairman Kane was a former member of the DC Council (At Large) and had been Executive Director of the DC Retirement Board. She retired from the Commission in 2018.

The second Commissioner was **Joanne Doddy Fort**, appointed in 2012. She left the Commission at the end of her four-year term in 2016. Commissioner Fort had been the General Counsel of the Urban Services Corporation and, as a private practitioner, had litigated cases before the Commission.
In 2013, the third Commissioner position was vacant.

In 2018, **Greer Gillis** joined the Commission. She is a Professional Engineer specializing in infrastructure projects. Commissioner Gillis was previously Chief Engineer of the DC Department of Transportation. She left the Commission in 2020.

In 2014, **Willie L. Phillips** joined the Commission. Previously, he was Assistant General Counsel at the North American Electric Reliability Corporation and practiced law at an energy firm in DC. Commissioner Phillips became Chairman of the Commission after the retirement of Betty Ann Kane in 2018. Chairman Phillips left the Commission in 2021 to join the Federal Energy Regulatory Commission (FERC), where he became Chairman in 2023.

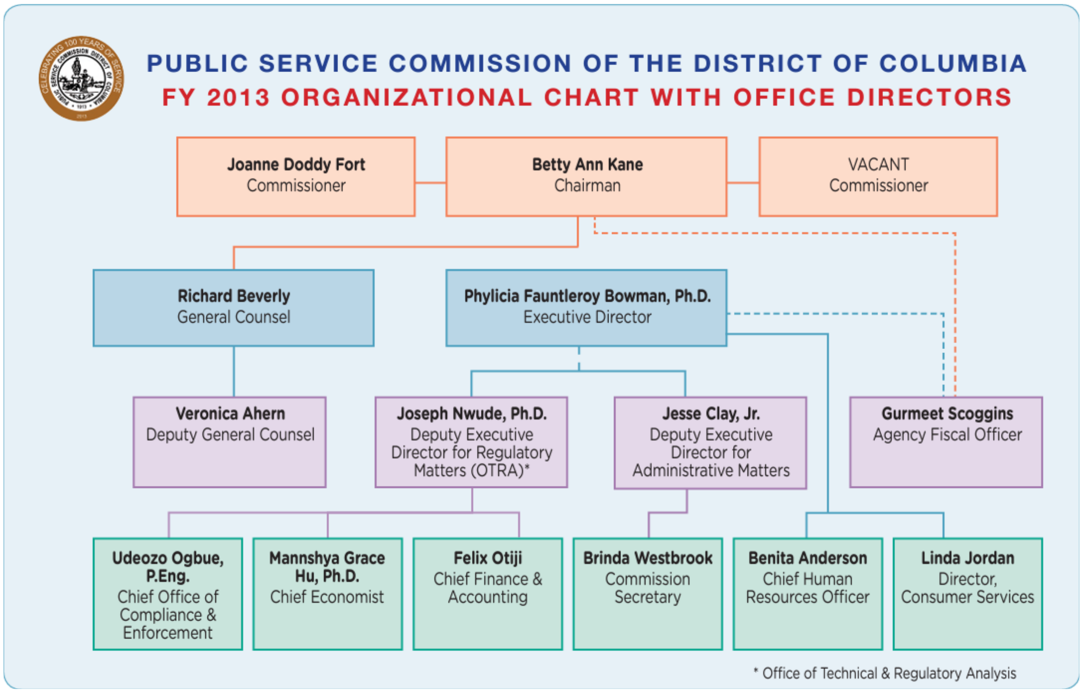
Emile C. Thompson became a Commissioner in 2021 and became Chairman in 2022 after the departure of Willie L. Phillips. Commissioner Thompson was an Assistant U.S. Attorney for DC and a member of the DC Water Board of Directors.

Richard A. Beverly became a Commissioner in 2016. Previously, he had been General Counsel of the Commission and General Counsel of the DC Office of Employee Appeals. He was reappointed in 2020 and 2024.

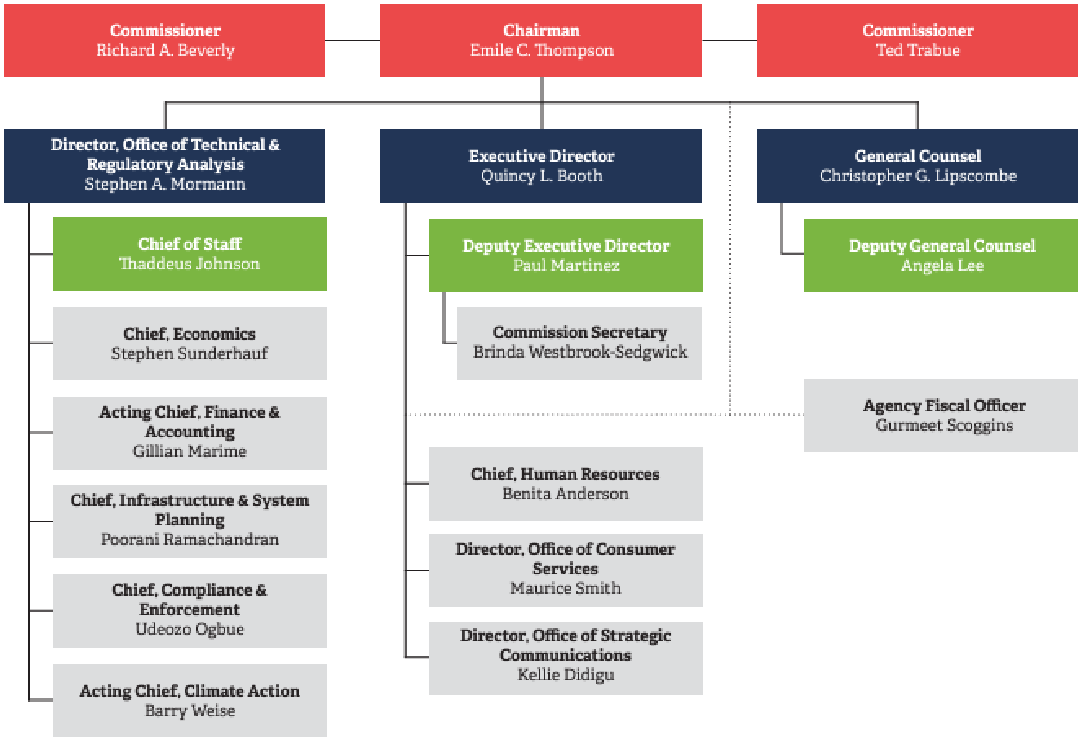
Ted Trabue joined the Commission in 2022. Previously, he was the managing director of the DC Sustainability Energy Utility.

Organizational Changes

In 2013, the Commission had a total budget of $10,823,000, with 73 FTE positions. These employees comprised a diverse workforce of attorneys, economists, engineers, accountants, researchers, policy analysts, consumer specialists, and administrative personnel. The staff was organized into offices as shown in the 2013 Organization Chart:



By 2023, the Commission's budget was $18,843,000, totaling 91 approved FTE positions. The workforce continued to be highly motivated professionals in the following offices:



Commission Staff in 2013

Commission Staff in 2023

During the decade since 2013, the Commission realigned its staff to meet changing needs. In particular, in 2019, a [Management and Organizational Assessment] was conducted by ADC Management Solutions to consider potential improvements to the Commission's business practices and operations. As a result of the recommendations contained in the ADC Report and the Commission's assessment of its needs, the Commission made some changes in its operations:

- We instituted regular "All Hands" meetings and other techniques to ensure all employees were fully aware of Commission initiatives and could work together toward common goals. Now, Chairman Thompson issues a weekly newsletter to employees highlighting significant events of the past week and alerting staff to upcoming activities. The Chairman also uses the newsletter to let all employees know of new hires and employee accomplishments;
- We developed a new "brand" for the Commission, which resulted in a vibrant, more modern logo and a cleaner look to all our promotional and consumer material;
- We began the implementation of a performance-based bonus program to help motivate employees;
- We created the Office of External Affairs (now known as the Office of Strategic Communications) to improve our communications efforts with all stakeholders;
- We moved the Office of Technical and Regulatory Analysis (OTRA) from under the Office of the Executive Director to a direct report to the Chairman. This move placed OTRA on an organizational par with the Office of the General Counsel and recognized the parallel need for technical support for the Commission's decisions. This move also helped to improve coordination between the two Offices.

SPOTLIGHT: In 2014, the Commission created two new offices within OTRA, the Office of Compliance and Enforcement and the Office of Infrastructure and System Planning. The former was designed to focus on monitoring and enforcement activities, given the concerns regarding system reliability. That Office also contains our public safety officers, including field inspectors for natural gas. The Office of Infrastructure Planning was created to centralize our oversight of significant infrastructure projects such as the Capital Grid Project, DC PLUG, and PROJECT*pipes*. In addition, in 2021, the Commission created another new office within OTRA, the Office of Climate Action, to assure consistency with the requirements of the CleanEnergy Act.

The Pandemic

The 2020 COVID pandemic caused another significant change in Commission operations. Like most others, our staff went home to wait out COVID in March of that year. Fortunately, a decision had been made years earlier to supply all personnel with laptops rather than desktop computers. That meant that all employees could work remotely. With the help of Microsoft Teams and the Office of Information Technology's excellent work, Commission staff could work from home and maintain high productivity.

Beginning in 2021, senior Commission staff made plans to return to the Office at 1325 G Street. Since 2022, employees are expected to be in the Office two days a week and attend a monthly All Hands Day.

SPOTLIGHT: In 2015, the Commission moved its offices from H Street, one block South, to 1325 G Street. The 8th-floor space provides private offices for all employees, a Hearing Room with state-of-the-art audio/visual technology, several bright conference rooms, a café, and a copy/production area. In 2019, the Commissioners decided to expand the Commission's space at 1325 to add offices on the 10th Floor for the Office of Consumer Services, with additional conference space and overflow space for the Hearing Room. Construction of the space slowed because of the pandemic, but it was completed for the return of employees in 2022.

CHAPTER TWO: CHANGES IN THE LAW AND POLICIES

Community Renewable Energy Act of 2013

In 2013, the DC Council passed the Community Renewable Energy Act to allow for the creation of Community Renewable Energy Facilities (CREFs), which would enable subscribers, often those unable to take advantage of solar energy rooftop facilities, to share in the development of renewable energy. CREFs are a form of Distributed Energy Resources (DERs), typically large solar installations on the roofs of warehouses, apartment buildings, or parking lots. Individuals can subscribe to a CREF and, by doing so, reduce their electric bills and participate in the DC clean energy policy initiatives.

By 2023, the number of CREFs certified in the District was 367, compared to 12 certified CREFS in 2019.

SPOTLIGHT: CREFs are part of the District's Renewable Energy Portfolio Standards initiatives (RPS), established by the DC Council in the Renewable Energy Portfolio Standards Act of 2005. That Act required that a minimum percentage of the District's electric suppliers' retail sales be derived from renewable energy resources. The RPS requirement may be met by obtaining Renewable Energy Credits (RECs) that equal the annual percentage requirement or by paying a compliance fee. RECs may be obtained from certified solar energy systems in the District, such as solar rooftop facilities or CREFs. As of year-end 2023, the Commission has certified 13,533 solar energy systems in DC, totaling 214.5 MW capacity. For a detailed discussion of RPS, see the Commission's 2024 Annual RPS Report to the Council. In 2023, the Local Solar Expansion Act increased the amount of solar power from local sources that electricity suppliers must obtain from 10% to 15% by 2041.

Clean Energy DC

In August 2018, Mayor Muriel Bowser released the Clean Energy DC plan, laying out a series of actions that the District Government, businesses, and residents can take over 15 years to enhance the District's role in combating climate change. The plan identifies strategies to reduce Greenhouse Gas (GHG) emissions from buildings, energy supply, and transportation and sets forth roadmaps with timelines to implement these strategies. The plan, overseen by the District Department of Energy and Environment (DOEE), works to adapt to the impacts of climate change already felt in DC. The Clean Energy DC plan proposes to reduce GHG emissions by 50% below 2006 levels by 2032 and to achieve carbon neutrality by 2050.

The plan identifies critical actions in three sectors: Buildings, Energy Supply, and Transportation.

In the **Buildings Sector**, the actions include:

- A "net-zero energy" building code that gradually lowers the total amount of energy that a new building can produce and that requires onsite renewable energy;
- Improvement in existing buildings in the form of renovations or "retrofits" to increase energy efficiency and reduce reliance on fossil fuels.

Key actions in the **Energy Supply Sector** include:

- Revisions to the Renewable Portfolio Standard to require electric suppliers to provide an increasing amount of renewable energy to District residents and businesses while assuring that energy rates remain affordable;
- Changes in the provision of Standard Offer Service, the energy contract currently managed by Pepco and offered to customers who do not choose their electricity suppliers. These changes could replace the use of fossil fuels with a mix of long and short-term contracts for renewable energy;
- Development of neighborhood-scale energy systems, such as microgrids (typically, a small power distribution system with onsite generation) and thermal energy districts (an area or number of buildings that can be heated and cooled using a single centralized piping system);
- Modernizing the electric distribution system to enhance the ability to locally generate and store energy, as with Distributed Energy Resources (DER).

Key actions in the **Transportation Sector** include:

- Increasing the use of public transit, biking, and walking to reduce the use of fossil fuel-burning automobiles;
- Reducing emissions from District transportation fleets of buses and other vehicles;
- Encouraging high-efficiency hybrid and zero-emission electric vehicles through policies that provide the necessary infrastructure, such as electric charging stations.

The complete set of actions in the Clean Energy DC plan and updates and progress on implementation can be found on the DOEE website.

SPOTLIGHT: Consistent with the mandates of Clean Energy DC, in 2021, the Commission amended its rules to integrate long-term renewable energy Power Purchase Agreements (PPAs) into the Standard Offer Service (SOS) procurement portfolio. Earlier, the Commission had established a pilot program whereby Pepco would procure renewable energy through PPAs. The pilot program was to start with a target quantity of 5% of the SOS load. In 2020, the Commission approved a Request for Proposal and a draft PPA. In 2022, the Commission approved the executed Renewable Energy Purchase Agreement between Pepco and an independent operator for the bundled sale of energy, RECs, and capacity. Unfortunately, in 2023, Pepco informed the Commission that the counterparty had invoked its contractual right to terminate because it had been unable to contract for the sale of 90% of the project. In October 2023, the Commission ordered Pepco to reissue a more flexible RFP. It is expected that the results of that solicitation will become known in 2024.

CleanEnergy Act of 2018

In 2018, the DC Council passed the CleanEnergy DC Omnibus Amendment Act (CleanEnergy Act). It is one of the country's most aggressive efforts to promote renewable energy sources. It codifies some of the Mayor's goals in the Clean Energy DC plan and specifically mandates the Commission's involvement in assuring environmental progress in DC.

Key highlights of the Act include a requirement that 100% of the District's energy supply come from renewable sources by 2032. This requirement involves expanding the Commission's RPS program, under which electricity suppliers must provide an increasing percentage of electricity from renewables, particularly solar.

The Act also requires improvement in energy efficiency for buildings, which account for nearly 75 percent of the District's greenhouse gas emissions. The Building Energy Performance Standard (BEPS), codified in Title III of the CleanEnergy Act, sets a minimum threshold of energy performance by property type.

Consistent with the Clean Energy DC plan, the CleanEnergy Act supports the transition from fossil fuel-powered vehicles to electric vehicles, including a mandate that 100% of public buses, public fleets, private fleets of more than 50 vehicles, and taxis and limousines be zero-emission by 2045 (and 50% zero emission by 2030). It also includes a provision to incentivize the development of electric vehicle charging infrastructure, including authorizing the Commission to consider an application by Pepco to own electric charging infrastructure.

Most importantly, the Act amended the factors that the Commission must consider when making its decisions:

> *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.*

This mandate has informed the Commission's decisions since the CleanEnergy Act became law on March 22, 2019. The full text of the CleanEnergy Act can be found at LAW 22-257.

SPOTLIGHT: The CleanEnergy Act also created new programs to support local businesses and residents, including the Sustainable Energy Infrastructure Capacity Building and Pipeline Program for District Certified Business Enterprises (CBEs). The program assists CBEs in acquiring new or enhanced skills and knowledge around energy efficiency and renewable energy design, construction, inspection, and maintenance. The DC Sustainable Energy Utility (DCSEU) administers this program. Since 2011, the DCSEU has delivered financial incentives, technical assistance, and information to DC residents and businesses. The DCSEU is financed by the Sustainable Energy Trust Fund, a surcharge paid by utility ratepayers, and the Renewable Energy Development Fund, payments made by competitive energy suppliers.

CHAPTER THREE: CHANGES AND IMPROVEMENTS IN COMMUNITY ENGAGEMENT

Consumer Complaints and Inquiries

Consumer protection has been part of the Commission's mandate since its inception in 1913. The Commission's Office of Consumer Services (OCS) provides a forum for investigating and resolving consumer complaints against electric, gas, and telecommunications providers. OCS Specialists meet with consumers in person, online, and by telephone to hear concerns about utility services and rates. Since 2015, when the Commission moved its offices to modern space on G Street, Specialists have been able to hold conferences in the Consumer Information Office, a private space for these consultations. Most often, consumer complaints involve billing and payment issues. The Specialists meet with consumers and utilities to determine whether charges are justified and, if so, whether a payment plan can be developed. If a complaint cannot be resolved through mediation, an informal hearing may be held, and our Consumer Specialists will preside. A formal hearing may be held at which a member of the Office of the General Counsel presides. After a decision at a formal hearing, an appeal to the full Commission is available.

The Consumer Bill of Rights (CBOR), codified in 1979 and designed for residential consumers to promote administrative efficiency and uniformity, governs the complaint process. The CBOR covers procedures and steps consumers and providers must follow regarding billing, payments, use of consumer information, disconnection/reconnection of service, consumer inquiries, and informal/formal complaints.

Winter Ready DC

In October 2016, the Commission initiated a yearly campaign, Winter Ready DC, to raise awareness about winter preparedness in DC. The campaign began with a well-attended forum presenting panels of experts discussing how utilities prepare for winter, what resources are available to District consumers, and the District government strategy for winter emergency preparedness. Since 2020, the Winter Ready website has identified steps consumers may take to realize savings on their utility bills, including:

- Tips for winterizing homes;
- Suggestions for reducing energy use (and costs) in colder months;
- Links to updates and payment assistance; and
- A list of essential supplies to have on hand.

In addition, the Commission gives away Winter Ready kits to support residents in their weatherization efforts. The kits include weatherstripping, foam pipe insulation, foam switch and outlet gaskets, and a window insulation kit.

Winter Ready DC Event

The Commission has recently promoted a corollary to Winter Ready DC, called Summer Ready DC, to help DC residents prepare their homes for high temperatures and summer storms. The Summer Ready DC initiative provides an energy efficiency kit, checklists to prepare for storm-related emergencies, and tips on remaining safe during extreme heat periods.

SPOTLIGHT: In 2016, the Commission published a book, The First 100 Years: Protecting the Public Interest 1913 – 2013, marking the centennial anniversary of the Commission's creation in March 1913. It chronicles the century of efforts by the Commission to ensure that utilities serve the public interest. The book summarizes the Commission's activities and includes a historical perspective, illustrations, and photographs. The Commission provided copies to libraries, schools, and members of the DC Council and administration officials. The book was a follow-up to a very well-received Symposium held at Gallaudet University on March 15, 2013, to celebrate the Commission's anniversary. The Symposium brought together many key figures in recent Commission history, including former Chairmen and Commissioners, staff, consumer advocates, regulated company executives and staff, and supporters of the Commission.

Advisory Council on Utility Supplier and Workforce Diversity

The Commission is committed to diversity, equity, and inclusion, not only in its own activities but also in those of the companies it regulates. In September 2019, the Advisory Council on Utility Supplier and Workforce Diversity was created. More than 50 organizations took part in the first meeting of the Council, which was formed to offer advice and recommendations for improving diversity and inclusion within the energy workforce and utility suppliers. The Council created several Working Groups that met throughout 2020 to develop a list of Best Practices in Business Development and Outreach, Job Training and Retention, and Supplier Diversity. The Council also suggested several changes to the 2012 Memorandum of Understanding on Supplier Diversity, an agreement between the Commission and Pepco, Washington Gas, and Verizon DC, which seeks to increase the diversity of companies supplying goods and services to the utilities. Those changes, made in 2021, included an aspirational goal of 25% diverse spending for all utilities and new designations for veterans, service-disabled veterans, and LGBTQ+-owned enterprises as diverse suppliers.

First Advisory Council Meeting

Former DCPSC Chairman Willie Phillips (left) and DC Water Chief Executive Officer and General Manager David Gadis attend an Advisory Council event.

SPOTLIGHT: In 2020, the Commission launched its Certified Business Enterprise (CBE) Initiative. CBEs are typically small and local businesses, or historically under-represented businesses, headquartered in the District and certified by the Department of Small and Local Business Development. CBEs receive preferential status in procurement opportunities. The Initiative was designed to help businesses become CBEs and participate in bidding for professional services, especially in engineering, accounting, economics, law, and marketing/communications. Commission procurement specialists coordinate and participate in outreach efforts to publicize procurement opportunities. The Commission has consistently met or exceeded its percentage goal of CBE procurement.

Clean Energy Summit

On September 28, 2021, the Commission held the first Clean Energy Summit, a day-long event in which panels of experts discuss clean energy in the District and the nation. Each Summit brings together federal government officials, state and local regulators, renewable energy leaders, utility executives, and climate activists to talk about their perspectives, obstacles, and solutions. Topics typically include:

- Effective decarbonization policies, programs, and strategies;
- Potential switching from fossil fuels to electricity to reduce greenhouse gas emissions;
- Ways to ensure equity and fairness in renewable energy solutions;
- Last mile clean energy issues;
- The impact of federal policies and regional market rules on local clean energy issues.

These Summits are well received and promote ongoing collaboration among public and private sector representatives.

2021 Clean Energy Summit

Exelon President and Chief Executive Officer Calvin Butler (left) joins EPRI Vice President, Energy Supply and Low-Carbon Resources Neva Espinoza (center) on a panel at the Summit moderated by former FERC Commissioner Colette Honorable (right).

Outreach Activities

In addition to the highlighted community engagement events, the Commission participates in hundreds of annual outreach activities. These include quarterly meetings with **Advisory Neighborhood Commissions (ANC)**, where the Office of Consumer Services briefs ANC Commissioners on Commission activities, mainly on how to assist their constituents with utility issues. In 2021, the Commission noted a dramatic increase in scamming, particularly where scammers would call Pepco customers, pretending to be from the Commission or Pepco, and demand cash or prepaid credit cards to prevent service disconnection. The Commission revitalized its **Fight Utility Scams** Initiative to provide tips and resources to help protect customers from these scams.

Other outreach activities include participation in **PARK(ing) Day**, which allows businesses and residents to convert on-street parking spaces to pop-up parks for a day. OCS engages residents with games, energy efficiency coloring books, and information about the Commission's consumer services. In 2023, our PARK(ing) Day activities included a bicycle-powered electric display that challenged riders to power a light bulb.

2023 PARK(ing) Day

Ward 1 Councilmember Brianne Nadeau visits the DCPSC PARK(ing) Day spot.

During the COVID-19 pandemic, the Commission launched the #Here2HelpDC campaign to address utility-related challenges faced by residents. The initiative, designed to raise awareness and provide access to essential relief resources, was a collaborative effort involving key partners like the DC Sustainable Energy Utility (DCSEU), Office of the People's Counsel for the District of Columbia, DC Water, Pepco, and Washington Gas. By leveraging the DC311 call center and a centralized digital platform, the initiative connected consumers to various support services, including bill payment assistance, consumer protection programs, and energy efficiency guidance.

This outreach effort emphasized equitable access to utility services and aimed to mitigate financial strain during the public health emergency. Through partnerships and community engagement, #Here2HelpDC underscored the Commission's commitment to safeguarding the welfare of District residents, particularly vulnerable populations, during an unprecedented crisis.

Additionally, the Commission launched DC Power Connect, an innovative online platform designed to help District consumers explore their energy supply options. It empowers users by providing tools to compare electricity and gas supplier rates, understand energy usage, and make informed decisions about their energy providers. The platform emphasizes transparency and consumer choice, allowing users to switch suppliers seamlessly while understanding the terms of their energy contracts.

Visitors to DC Power Connect can review their current utility charges, search for competitive supplier offers, and access resources on energy-saving tips and billing comprehension. By supporting informed energy decisions, DC Power Connect aligns with the Commission's commitment to energy equity and consumer empowerment.

The Commission gives back to the Community annually by participating in various volunteer events. Each year, the Commission staff contributes to the DC-wide One Fund campaign, administered by the United Way of the National Capital Area and The United Black Fund Inc. of Greater Washington, DC. Commission employees also support the Capital Area Food Bank by donating non-perishable food items during the holiday season. In 2019, the Commission organized a drive to collect winter coats for the organization *StreetSense*, which is located next to the Commission, as part of our **Good Neighbor Initiative**. We also hosted the *StreetSense* Holiday Luncheon, which has continued each year (except during the pandemic). Also, in 2019, we partnered with the DCSEU and Unity Healthcare for a **Winter Ready DC Coat Drive**, where we collected over 1,000 coats, hats, scarves, gloves, and socks to distribute to DC residents in need. We have continued this holiday tradition, most recently with the Salvation Army, to distribute toys to District children.

In addition, the Commission is active on social media, particularly Facebook and Instagram. The Commission is a frequent poster informing the public about community outreach events, Commission orders, policies, and staff activities. In sum, our outreach activities are designed to inform, assist, and engage DC residents.

CHAPTER FOUR: MEASUREMENTS

One way to measure changes in the decade is to look at the various statistics compiled by the Commission annually in our Annual Statistical Report. This chapter will consider electricity, gas, and telecom price changes and reliability statistics.

Electricity Prices

Every year, the Commission compares the average monthly residential electricity bills with bills from Virginia and Maryland. The bill, using an average monthly consumption varying yearly, usually between 610 and 650 kWhs, includes generation, transmission, distribution, and all additional charges, including DC and federal taxes and surcharges. (Shown in dollars.)

Jurisdiction	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
DC	92.95	85.74	79.91	74.62	74.62	79.32	74.59	77.24	81.64	96.21	90.96
MD	95.54	94.96	94.40	89.62	89.62	103.58	97.79	89.56	96.72	110.87	114.44
VA	80.59	85.08	79.61	73.72	73.72	83.50	85.22	78.23	81.29	81.83	82.87

Each year, the DC average monthly bill is lower than in Maryland, where Pepco also distributes electricity. Dominion Power provides service in Virginia, where the amount of the bills is similar to DC. Variations in monthly billing are generally caused by the effect of rate cases, generation and transmission cost changes, and, for the District in 2022, by a higher Sustainable Energy Trust Fund contribution mandated by the Clean Energy Act (a 17.8% increase).

Natural Gas Prices

The Commission also compares average monthly gas bills in DC, Maryland, and Virginia, based on 200 therms of usage. The bill includes the Purchased Gas Charge, transmission costs, and applicable fees and charges. (Shown in dollars.)

Jurisdiction	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
DC	220.65	219.18	220.22	178.60	201.68	200.06	219.48	203.90	196.78	263.01	319.85
MD	192.45	202.47	187.56	192.51	171.10	174.51	178.00	186.99	183.6	239.06	296.64
VA	173.15	189.03	191.55	142.61	154.20	177.79	221.14	197.44	170.83	236.39	311.79

The bill in DC is higher than in the other two neighboring jurisdictions, primarily due to higher taxes and "right-of-way" fees. Generally, average residential bills have increased in all jurisdictions because higher gas commodity prices reflect volatile gas market conditions.

The Commission also calculates the "real" vs. "nominal' prices of gas and electricity, using the Consumer Price Index as a measure of inflation. The following table shows the real and nominal prices of gas and electricity 2014 through 2023, based on dollars per Therm and kWh.

Year	Nominal Electricity	Nominal Natural Gas	CPI Base 2013	Real Electricity	Real Natural Gas
2014	0.1274	1.305	101.622	0.1295	1.3262
2015	0.1299	1.198	101.743	0.1320	1.2174
2016	0.1229	1.09	103.026	0.1249	1.1077
2017	0.1294	1.253	105.221	0.1315	1.2733
2018	0.1284	1.178	107.791	0.1305	1.1971
2019	0.1298	1.281	109.744	0.1319	1.3018
2020	0.1263	1.192	111.098	0.1283	1.2113
2021	0.1309	1.429	116.318	0.1330	1.4522
2022	0.1418	1.668	125.626	0.1441	1.6951
2023	0.1635	1.679	130.798	0.1662	1.7062

Telecommunications Prices

The charges for basic local telephone (non-centrex) landline service provided by Verizon in the three jurisdictions have remained relatively steady for the last decade. (Shown in dollars.)

Jurisdiction	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
DC	13.78	13.78	13.78	13.78	13.78	13.78	13.78	14.78	14.78	14.78	15.78
MD	19.89	19.89	19.89	19.89	19.89	19.89	19.89	19.89	19.89	19.89	NA
VA	20.37	22.37	22.37	22.37	27.37	27.37	27.37	27.37	27.37	27.37	NA

However, the right-of-way fees per line per month for non-centrex lines in the District of Columbia have increased dramatically over the decade, primarily because of the decrease in access lines. As the number of lines decreases, the price per line goes up. (Shown in dollars.)

ROW Fees	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
	3.99	3.99	3.99	3.99	5.66	8.30	8.11	9.77	11.67	11.67	12.34

The Commission has asked the DC Council to amend the law to allow the right-of-way fees to be borne by all Verizon customers rather than only those using "utility" lines. So far, the Council has not acted.

Electric Reliability Measures

The Commission uses two primary measures to track electric reliability: the System Average Interruption Frequency Index (SAIFI) and the System Average Interruption Duration Index (SAIDI). SAIFI measures the average number of customer outages, and SAIDI measures the duration of those outages in the number of hours. Pepco's performance in both areas has improved dramatically since the 2012 storms, and in the years since the performance standard commitments made in the Pepco/Exelon merger. In recent years, Pepco has consistently met those standards and has outperformed the industry average in both SAIFI and SAIDI.

	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
SAIFI	1.14	0.88	0.69	0.69	0.82	0.55	0.53	0.59	0.40	0.45	0.30	0.56
Ind. Avg.	0.96	0.88	0.64	0.64	1.05	1.1	1.1	1.09	1.10	1.05	1.10	1.10
SAIDI	3.57	2.07	1.61	1.87	1.92	0.96	0.86	1.29	0.73	0.86	0.56	1.52
Ind. Avg.	2.21	2.06	1.36	1.36	1.88	2.08	2.08	2.08	2.08	2.08	2.10	2.10

PART TWO – A DECADE OF ACTION

As we saw in Part One, the years 2013 to 2023 saw important changes in the Commission and the field of utility regulation. Those years also saw significant actions taken by the Commission to address the changing environment. Part Two discusses important highlights in regulating electric and natural gas distribution and telecommunications.

SECTION ONE: ACTIONS IN THE ELECTRIC DISTRIBUTION FIELD

CHAPTER ONE: THE MERGER OF PEPCO AND EXELON: FORMAL CASE 1119

The 2014 Merger Application

On June 18, 2014, the Commission received an application for the Potomac Electric Power Company merger with the Exelon Corporation. The merger would be among the Commission's most challenging, contentious, and important cases ever handled. It would also be the source of progress in grid modernization, transportation electrification, and energy efficiency.

The Application described the transaction:

- Exelon would merge with PHI (the Pepco holding company) for about $6.8 billion in cash, allowing each PHI shareholder to receive $27.25 for each share of PHI common stock.
- The merger would offer immediate direct benefits to District of Columbia customers of $14 million (the District's portion of an Exelon-funded Customer Investment Fund (CIF)) as well as enhanced reliability, additional expertise in renewable energy, energy efficiency, and demand response, and cost savings attributable to synergies and efficiencies. (In the proceedings, the $14 million offer was increased to $33.75 million based on estimated ten-year synergy savings. The original application was enhanced with additional changes.)
- With a completed merger, Pepco would cease to exist as a separate legal entity. Instead, PHI would become an indirect, wholly-owned subsidiary of Exelon, and PHI's subsidiaries (including Pepco) would operate as part of Exelon's holding company system.

SPOTLIGHT: At the time of the Application, Pepco served approximately 264,000 customers in the District of Columbia and 537,000 in Montgomery and Prince George's Counties in Maryland. Its headquarters were in the District of Columbia, where it was incorporated in 1896. For the most part, Pepco was considered a local company, a hometown citizen with deep ties to the community and a history of supporting local charities.

SPOTLIGHT: Exelon Corporation is a utility services holding company incorporated in Pennsylvania and headquartered in Chicago. Exelon operates through its subsidiaries and several energy distribution utilities, including Baltimore Gas and Electric, Commonwealth Edison, and PECO Energy Company. Its distribution companies serve about 7.8 million customers. In addition, Exelon's generation business – Exelon Generation – operates the nation's largest fleet of nuclear plants.

Reaction to the Application

The reaction to the proposed merger was fast and furious. The proceeding generated more interest and active participation than any other proceeding in the Commission's long history. Most commenters opposed the merger and asked the Commission to deny the Application. Alternatively, the commenters asked the Commission to impose conditions to mitigate their concerns.

The Commission held four hearings seeking input from community members, at which over 178 interested persons testified. In addition, 3,207 people submitted written testimony. The Commission also held eleven days of evidentiary hearings. Finally, on May 27, 2015, the record closed, and the merger question was ripe for the Commission's decision.

SPOTLIGHT: Commenters on the Application included The Office of the People's Counsel (OPC); the Apartment and Office Building Association of Metropolitan Washington (AOBA); the DC Government, DC Solar United Neighborhood (DC SUN); DC Water; The United States General Services Administration (GSA); GRID2.0 Working Group; Maryland DC Virginia Solar Energy Industries Association (MDV-SEIA); Mid-Atlantic Renewable Energy Coalition (MAREC); Monitoring Analytics, Inc (as the Market Monitor for PJM); the National Consumer Law Center, National Housing Trust and National Housing Trust-Enterprise Preservation Corporation (NCLC/NHT); and NRG Energy, Inc.

8/27/15 Meeting

The Commission Denies the Application

On August 27, 2015, the Commission denied the Application at a well-attended Open Meeting. There was an audible gasp of surprise because many – especially the applicants – believed that the Commission would join the other involved regulatory agencies (Delaware, Maryland, New Jersey, and the federal government) in approving the Application. However, after considering how the merger would affect seven factors, the Commission determined it would not be in the public interest (Order 17947).

Vital to the Commissioners, all three of whom agreed that the transaction, as proposed, was not in the public interest, was the context in which they must view the Application: that is, a mandate that the District must pursue a cleaner and greener future and an environment where District law requires the electric company to be focused on distribution only, and to operate safely and reliably on a non-discriminatory basis for all customers and suppliers. In short, the Commission took its role in promoting clean energy, regulating Pepco, and protecting a competitive market very seriously.

The Commission found that the merger would have some benefits: the premium paid to PHI shareholders and the $33.75 million Customer Investment Fund (although allocation and future use of the CIF would prove to be problematic). But other aspects of the transaction would be neutral, harmful, or have the potential for harm:

- The offer of enhanced reliability relies on a pre-existing initiative, DC PLUG;
- The proposed management structure would diminish the influence of locally owned Pepco and make regulation more difficult and
- A management bureaucracy would constrain Pepco's ability to adapt to changes in the energy field.

In addition, the Commission noted nothing in the proposed merger for low-income ratepayers, although such benefits were included in Maryland and Delaware. Nor was there any guarantee that ratepayers would pay lower rates based on synergy savings. Moreover, there was no evidence of a noticeable positive effect on the economy of the District. Instead, the overall impact appears to be neutral or only slightly positive. However, the Applicants had committed to maintaining PHI corporate headquarters in the District and to give $1.6 million in annual charitable contributions for the next ten years. Further, the Commission found that Exelon's operations and ownership of nuclear facilities could be impacted without adequate ring-fencing provisions. For these reasons, the Commission found that the proposed merger would not be in the public interest and denied the Application.

SPOTLIGHT: Ring-fencing occurs when a regulated public utility separates itself from a parent company that engages in non-regulated businesses without becoming a separate entity.

The Applicants Try Again

The stunned Applicants filed a Petition for Reconsideration of the Denial Order, but more importantly, they returned to the bargaining table with the other stakeholders. In renewed negotiations, the applicants sweetened the pot and agreed on several additional commitments with most parties. On October 6, 2015, they filed a motion to reopen the record to allow consideration of a Nonunanimous Settlement Agreement (NSA).

The critical new commitments of the NSA included:

- An increase in the CIF from $33.75 million to $72.8 million;
- A Residential Customer Base Rate Credit that would insulate residential customers from a rate increase through March 2019;
- A residential bill credit;
- An earmark of CIF funds and arrearage forgiveness for low-income customers;

- An expanded Exelon corporate presence in the District;
- A stronger voice for an independent PHI and Pepco;
- A contribution of $5.2 million to District workforce development programs;
- A commitment to hire at least 102 union employees and to ensure the merger has a net jobs-positive impact in the District;
- A commitment to perform better than existing reliability standards with self-executing financial penalties for failure to do so;
- A commitment to support renewable generation, grid innovations, and energy efficiency;
- Development of up to 10 megawatts (MW) of solar generation in the District and coordination with the DC Government to plan for interconnection of renewable generation at government and public facilities;
- A commitment to provide $5 million for the development of renewable projects;
- A CIF allocation of $3.5 million to support energy efficiency efforts;
- A CIF allocation of $10.05 million to support the District's Green Building Fund;
- A commitment to conduct competitive procurements of 100 MW of wind-generated energy, capacity, and ancillary services;
- Various measures to promote effective post-merger regulation; and
- Continued charitable contributions exceeding 2014 levels.

In sum, the applicants asked that the Commission recognize the considerable benefits of the merger and consider the Nonunanimous Settlement Agreement expeditiously.

SPOTLIGHT: Settling Parties: OPC, DC Government, DC Water, National Consumer Law Center, National Housing Trust, and AOBA.

SPOTLIGHT: Non-settling Parties: DC SUN, GSA, Grid 2.0, MDV-SEIA, Monitoring Analytics: NRG Energy.

2/26/16 Meeting

The Commission Again Rejects the Merger

On February 26, 2016, Chairman Kane and Commissioner Fort, representing a majority of the Commission, voted again to reject the merger as not being in the public interest. Commissioner Phillips dissented from that decision, concluding instead that the NSA is in the public interest and should be approved as submitted. The majority found the NSA lacking in four respects:

- Non-residential ratepayers were excluded from Customer Base Rate Credit relief, thereby undermining the Commission's expressed policy of addressing the negative class rate of return that exists for residential ratepayers and the resulting subsidies borne by non-residential customers;
- The NSA assigns roles to Exelon and Pepco that undermine competition and grid neutrality;
- The proposed uses of the CIF do not improve Pepco's distribution system or advance the modernization of the energy grid, and
- The proposed method of allocating CIF funds deprives the Commission of the ability to enforce compliance and ensure the funds are being used to further the Commission's objectives (Order 18109).

However, as a procedural matter, Commissioners Fort and Phillips voted to offer alternative terms as reflected in a Revised Nonunanimous Settlement Agreement (RNSA) drafted by Commissioner Fort. If the parties accepted the revised terms, two of the three Commissioners (Fort and Phillips) would agree that the merger serves the public interest and should be approved. Chairman Kane disagreed that acceptance of the RNSA would be sufficient, and she voted against proceeding with alternative terms.

SPOTLIGHT: For many years, the Commission had allowed a subsidy from commercial ratepayers (typically government entities and large and small businesses) to residential ratepayers. In this way, residential customers paid less than the actual service costs, and commercial ratepayers paid more. However, the Commission has gradually reduced the subsidy over the last decade. Chairman Kane and Commissioner Fort rejected the merger in part because it appeared that the Nonunanimous Settlement Agreement would undermine this policy of gradually reducing the subsidy.

The Revised Nonunanimous Settlement Agreement

Commissioner Fort's revised terms for the NSA included the following:

- Revising Paragraph 4 of the NSA to defer a decision on the allocation of the $25.6 million Customer Base Rate Credit until the subsequent base rate case proceeding, thereby allowing the Commission to determine how the Customer Base Rate Credit should be allocated between residential and commercial customers;
- Revising Paragraph 118 to remove Exelon as "developer" of 5 MW of solar generation at the Blue Plains Water Treatment facility and requiring a commitment to expedite interconnection of a solar facility at that location;
- Revising several paragraphs to ensure enforceability and accountability, including the transfer of funds to a Commission-controlled escrow account to be used to support pilot projects related to grid modernization ($21.55 million), energy efficiency, and energy conservation initiatives ($11.25 million) and
- Removing Paragraph 128 and revising Paragraph 129 to add a commitment to support and facilitate the pilot projects.

The Commission directed the settling parties to file a notice within 14 days indicating whether they accept the RNSA or request other relief. If accepted, the Joint Application, as amended by the RNSA, would be considered approved without further action.

The Applicants Try for the Third Time

On March 7, 2016, the Joint Applicants filed a Request for Other Relief. They claimed the merger was on the brink of failure over a disagreement about allocating the CIF. Some of the Settling Parties became unsettled because of the deferral of the $25.6 million rate credit until the next rate case. Battling out allocation issues in a rate case, where the Commission would have the final say rather than deciding them in the context of a settlement, was unacceptable to OPC and the District Government. The Applicants asked the Commission to approve the merger based either on the NSA, the RNSA, or some middle ground, which would entail a revision of the RNSA to address the allocation issue. According to the applicants, that middle ground would preserve the Residential Base Rate Credit function by moving $20 million from the Pilot Project subaccount to a separate Consumer Base Rate Credit Fund. That fund could be used to give commercial customers rate relief or to restore funding to other programs if the Commission so determined in the next rate case.

The Commission Approves the Merger

On March 23, 2016, the Commission acted and stood with the Revised NSA (Order 18148). Commissioners Fort and Phillips agreed that the "middle ground" option was unacceptable and provided no rationale, other than the objections of OPC and the District Government, to justify allocating the entire base rate credit to the residential class. The shifting of funding from the pilot projects would reduce funds available for experimentation and likely make the distribution grid less able to handle new Distributed Energy Resources (DER). With that, Commissioners Fort and Phillips found that the merger, taken as a whole and subject to the conditions of the Revised Nonunanimous Settlement Agreement, was in the public interest. Chairman Kane again dissented. She continued to be concerned about the fundamental inherent conflict between the interests of Exelon and Pepco.

Exelon and Pepco effectuated the merger later that day.

SPOTLIGHT: A Distributed Energy Resource (DER) is a resource sited close to the customer's load that can provide all or some of the customer's energy needs and can also be used by the system to either reduce demand (such as demand response) or increase supply to satisfy the energy, capacity and ancillary service needs of the distribution or transmission system. Types of DER include but are not limited to photovoltaic solar, wind, cogeneration, energy storage, demand response, electric vehicles, microturbines, biomass, waste-to-energy, generating facilities, and energy efficiency. See 15 DCMR §999 (2018).

The Commission Reconsiders and the Court Decides

A case of this importance, mired in controversy, would likely require total exhaustion of administrative procedures. Several parties filed requests that the Commission reconsider its decision in Order 18148. On June 17, 2016, the Commission denied these requests (Order 18243).

Not surprisingly, the losing parties headed to court. On July 20, 2017, in Office of People's Counsel v. Public Service Commission, the District of Columbia Court of Appeals affirmed the Commission in all respects. In particular, the Court approved the adequacy of the Commission's explanations of its rulings, including those related to the protections afforded to commercial and residential customers and the basis for the amount of the CIF. With this decision, the last challenge to the most significant proceeding the Commission had ever undertaken was rejected.

SPOTLIGHT: Senior Judge Farrell, concurring, applauded the "gruelingly conscientious work of the Commission in treating and resolving the issues in this case, one it is recognized as importantly affecting the welfare of the District's residents going forward. The succession of administrative orders and findings, especially those bearing the signature of Commissioner Fort, are of a clarity and quality any appellate judge could be proud of."

The Commission Tracks the Commitments Made

Recognizing that the multiple commitments and promises made by the Applicants would need to be overseen, the Commission created a Pepco/Exelon Merger Commitment Tracker. To keep the public informed of progress on the 128 commitments, the Commission updates the Tracker on its website. While many of the commitments in FC1119 are continuing, as of the close of 2023, Pepco and Exelon have completed all those commitments with specific completion dates.

CHAPTER TWO: GRID MODERNIZATION

The Customer Investment Fund

The $72.8 million CIF included an amount to be held in an escrow account for several purposes: a fund for Pilot Projects ($21.5 million), a fund for energy conservation projects ($11.5 million) and a fund to write off accounts receivable (about $400,000). Of these, the most far-reaching, forward-looking, and potentially impactful was the fund for Pilot Projects and its home, known originally as MEDSIS, or Formal Case 1130, **M**odernizing the **E**nergy **D**elivery **S**ystem for **I**ncreased **S**ustainability.

MEDSIS – The Creation of Formal Case 1130

After filing the merger application in 2014, but before the ultimate approval of the merger in 2016, the Commission opened a proceeding to identify technologies and policies to modernize the energy delivery systems for increased sustainability and to make those systems more reliable, efficient, cost-effective, and interactive (Order 17912). The case was opened on June 12, 2015, in response to stakeholders' interest in ensuring that the system and policies support the goals in the Mayor's Plan for a Sustainable DC and the Clean and Affordable Energy Emergency Act. Comments on the scope of the proceeding were filed in August, and a kick-off workshop was held on October 1, 2015. This kick-off was only the start of a process that would last the next eight years and continues today.

SPOTLIGHT: MEDSIS Commenters and Participants included the DC Department of Energy and the Environment (DOEE), OPC, GSA, WGL, Pepco, Grid 2.0, MD-DC-VA Solar Energies Industry Association, DC Water, Georgetown University, Downtown DC Business Improvement District, District Department of General Services, PJM Interconnection, Solar City, Institute of Electrical and Electronics Engineers, Urban Ingenuity, USS Department of Energy, Energy Storage Association, DC Climate Action, Sierra Club, NRG Energy, and National Electric Manufacturers Association.

The Commission sponsored three workshops and reviewed thousands of comments before releasing, on January 25, 2017, a Staff Report to summarize activities to date, identify barriers to modernization, and provide actionable solutions to removing those barriers. The staff recognized that the MEDSIS dialog does not exist in a vacuum and that the Commission must balance the interests of ratepayers and stakeholders in various proceedings. The staff Report identified other Commission proceedings and reports that may impact the MEDSIS initiative. The Staff also, and importantly, reviewed the legal and regulatory framework needed to support a modern energy system that includes Distributed Energy Resources. The increased availability of DER is essential to creating a modern distribution system. The staff identified legal barriers to DER penetration and proposed regulatory changes needed to further the goals of MEDSIS. The staff also proposed a Draft Notice of Proposed Rulemaking to address needed changes in definitions.

The staff acknowledged that many commenters envision the implementation of a Pilot Program that would identify initiatives and projects that could yield tangible and long-lasting benefits for District ratepayers. For this purpose, the $21.5 million subaccount established in the Pepco-Exelon merger could be used. The staff proposed the creation of an independent board of stakeholders to review proposed pilot projects submitted for MEDSIS funding using parameters adopted by the Commission. The staff also proposed an implementation timetable and requested that the Commission convene a town hall meeting to garner comments on the MEDSIS Pilot Project funding parameters.

SPOTLIGHT: Shortly after the release of the Staff Report, the Commission followed staff's recommendation and began the rulemaking process. Numerous Notices of Proposed Rulemaking followed, and eventually, in September 2018, the Commission adopted new rules in Chapters 9, 13, 29, 36, 40, 41, 42, 44, 46, and 47.

MEDSIS – The Vision Statement

Comments on the Staff Report were detailed and varied; a common thread in many comments was the need to develop a "vision" for the MEDSIS initiative. On October 18, 2017, the staff proposed a Vision Statement and defined many terms. The Commission requested comments on the staff's Vision Statement and whether an independent consultant should be hired to expeditiously move the MEDSIS initiative forward.

On February 14, 2018, after considering the comments received, the Commission adopted a revised Vision Statement and hired a consultant to ensure that stakeholder interests were considered. The Commission encouraged using Working Groups to ensure stakeholders' voices would be heard (Order 19275).

SPOTLIGHT: THE MEDSIS VISION STATEMENT: The District of Columbia's modern energy delivery system must be sustainable, well planned, encourage distributed energy resources, and preserve the financial health of the energy distribution utilities in a manner that results in energy delivery system that is safe and reliable, secure, affordable, interactive, and non-discriminatory.

MEDSIS and SEPA

After a procurement search, the Commission hired the Smart Electric Power Alliance (SEPA) as a consultant to establish six Working Groups (WG) to move forward with Phase 2 of the MEDSIS Initiative (Order 19432). On August 9, 2018, the Commission directed SEPA to collaboratively develop charters, goals, and expected outcomes for each WG and submit quarterly reports on WG activities. SEPA was directed to file a final report within one year.

SPOTLIGHT: The Working Groups established were (1) Data and Information Access and Alignment; (2) Non-wire Alternatives to Grid Investments; (3) Future Rate Design; (4) Customer Impact; (5) Microgrids; and (6) Pilot Projects.

On May 31, 2019, SEPA filed its Final Report. It described the working group process and its high participation level. (On average, there were 132 participants at the WG meetings every month.) Over 200 documents were developed to help shape the recommendations, many of which were interrelated. In total, the WG members came up with 32 recommendations and 10 learnings for consideration by the Commission. The extensive Report reflects the strenuous effort to conceptualize the far-reaching issues required to modernize the District's distribution system.

On August 2, 2019, the Commission Staff put out for comment a Proposed Order dealing with the Final Report and WG Recommendations and Learnings. Numerous comments were received.

SPOTLIGHT: In this context, recommendations are concepts, actions, programs, initiatives, or projects thoroughly vetted by the working group. Recommendations were defined with specificity or sufficient detail to be actionable by the Commission.

Learnings are concepts, actions, programs, initiatives, or projects discussed by the Working Group for which there was not enough detailed information to make a recommendation.

POWERPATH DC

On January 24, 2020, the Commission took the first steps to bring grid modernization to fruition (Order 20286). The Commission first recognized that if the District is to meet its 2032 climate goals, it must abandon any "business as usual" approach and shift the regulatory paradigm. Distributed Energy Resources should play a vital role and must be integrated into the planning and operation of traditional energy distribution systems. Deployment of DER challenges the conventional utility business model and requires that the system's operation – and regulation – become more customer-centric.

To that end, the Commission adopted seven decisions proposed by the staff in August:

1. Establishment of a process for collecting input for Distribution System Planning and Non-Wires Alternatives;
2. Creation of a secure web portal for data flow between third parties and the utilities;
3. Creation of a customer microsite for energy service providers;
4. Establishment of a rate design working group and creation of a time of use rate;
5. Establishment of a microgrid proceeding;
6. Formation of a Pilot Project Governance Board; and
7. Funding of various studies from the MEDSIS Pilot Project Subaccount.

These were to be the first steps in a reimagined regulatory environment, which the Commission rebranded "PowerPath DC."

In two subsequent Orders, the Commission addressed additional Recommendations and Learnings. First, on June 5, 2020, the Commission considered several recommendations, including enhancements to customer data access ("Green Button Connect My Data"); the issuance of a Notice of Inquiry related to the implementation of energy storage; modifications to the Vision Statement; and creation of a process for the utilities to provide system-level data (Order 20364).

> SPOTLIGHT: Green Button is an outgrowth of a 2012 White House initiative to provide utility customers with secure and easy access to their energy usage information in a consumer-friendly and electronic-friendly format.

On April 9, 2021, the Commission adopted the third "next steps" order, addressing the remaining recommendations (Order 20724). These included enhancing consumer education materials, such as information on low-income discount programs; revising the Consumer Bill of Rights to align them with the MEDSIS Vision; and creating Home Energy Reports that display the customer's carbon impact information.

The PowerPath DC initiative continues to affect the energy distribution systems through a series of continuing formal cases and rulemakings. Most important among these will be the Pilot Project program, which will bring environmentally sensitive technologies and programs to the District. As of the end of 2023, the Pilot Project Governance Board has recommended, and the Commission has issued, RFPs for projects involving community heat pumps and advanced inverters. In October 2023, the Commission awarded a contract worth $2.5 million to Preservation Of Affordable Housing (POAH) for a geothermal heat pump pilot project at the Barry Farm Redevelopment in Ward 8. Other projects are expected to be awarded in 2024.

CHAPTER THREE: TRANSPORTATION ELECTRIFICATION: FORMAL CASE 1155

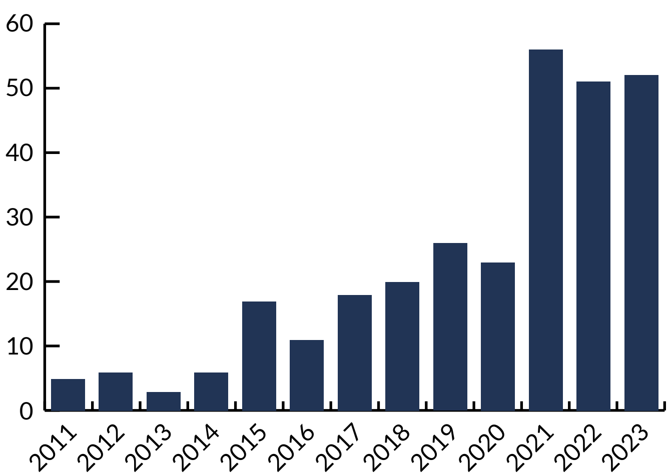
For many years, it has been clear that one of the essential steps toward reducing Greenhouse Gas (GHG) emissions has been moving away from internal combustion engines towards electric vehicles, both for consumer and commercial uses. The lack of expansive charging infrastructure is an obstacle to greater use of electric vehicles in the District. The high cost of creating an expansive charging infrastructure has hobbled Electric Vehicle Charging Station (EVCS) installation, hindering electric vehicle adoption. Efforts to remedy this have been many, including the Energy Innovation and Savings Amendment Act of 2012. With the promise of Grid Modernization, Transportation Electrification (TE) has been given a fresh start.

The Pepco 2018 Transportation Electrification Program

Citing the need for charging infrastructure, in September 2018, Pepco filed a TE program in FC1130, the grid modernization proceeding. The program consisted of thirteen components (called Offerings) designed to serve the market's residential, commercial, and public sectors (FC1130-363). For the Standard Offer Service (SOS) residential consumer, Pepco proposed a Whole House Time of Use rate (Offering 1), under which customer bills would be determined by how much energy they use and when they use it. Other residential Offerings included Electric Vehicle Supply Equipment (EVSE, also called Electric Vehicle Charging Station (EVCS)) for Multi-Dwelling Units (Offering 5) and EVSE for Workplaces (Offering 6). Commercial customers could benefit from Offerings 9, 10, and 11 for electric fleets, taxis, and buses. Public customers could benefit from neighborhood and fast chargers (Offerings 7 and 8). According to Pepco, cost recovery for the TE program would occur in a base rate case. It would involve cost-sharing among distribution service ratepayers, EV owners, owners of the EVSE, and a contribution from MEDSIS funds.

SPOTLIGHT: In 2018, only 91 Electric Vehicle Charging Stations were in the District. By 2023, there were 324.

EV Chargers Installed Each Year



Commission Order 19898

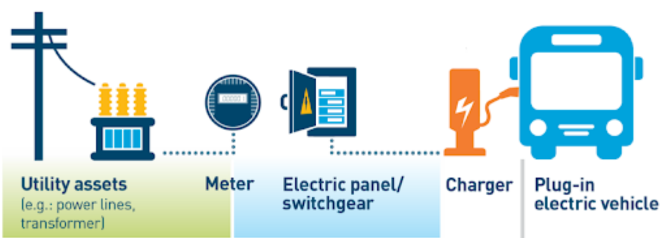
As expected, parties filed numerous comments and pleadings in response to the Pepco TE Program. After consideration of these, the Commission granted, in part, the Pepco TE Program in Order No. 19898 (Order 19898). The Commission addressed the jurisdictional issues surrounding the Pepco TE Program and concluded that Pepco cannot offer a new service without first securing its approval. The Commission also determined that charging station owners that sell electricity must fall under the Commission's jurisdiction. Moreover, the Commission found that Pepco cannot own EVCS because there is no need for utility ownership. However, the Commission agreed that Pepco could provide "make-ready" infrastructure.

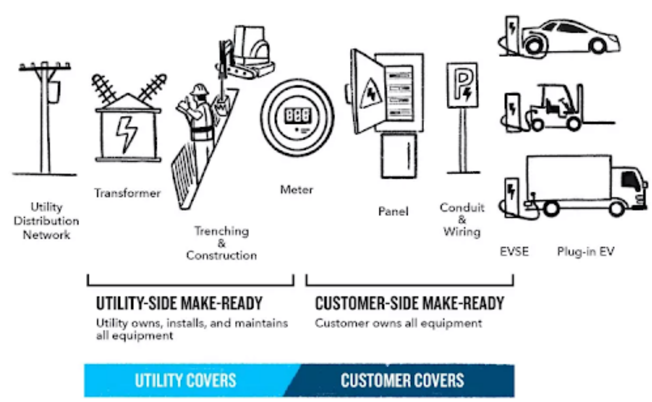
In sum, the Commission approved:

- Development of Residential Whole House Time of Use rates for EVs (Offering 1);
- Make-Ready infrastructure for Offerings 7, 8, 10, and 11;
- Pepco's sale of electricity from an EVCS only through an affiliate and
- Establishment of a TE working group to explore Offerings 4 and 5 further.

The Commission sought to preserve a competitive market for charging stations while balancing the need for investment in underserved communities.

SPOTLIGHT: In Order 19898, the Commission defined Make-ready Infrastructure, consisting of the service connection and supply infrastructure from the distribution circuit to the stub of the EVCS. However, the definition was controversial because of uncertainty about where 'Pepco's ownership' would begin and end. It would take over four years for the controversy to end.





Pepco's Application for Reconsideration and the Commission's Response

Pepco sought reconsideration and clarification of the Commission's decision (Order 19983). In Order 19983, the Commission partially granted the request but denied Pepco's desire to own and operate EVCS because there was no showing that the public interest required it. Again, the Commission sought to establish a competitive market for EVCS. Concerning EVCS growth in the District, the Commission recognized that there has not been impressive growth and agreed that additional action may be needed to ensure that the supply of EVCS meets demand. To that end, the Commission decided to convene a hearing to explore further the EVCS market in the District concerning underserved communities, especially those in Wards 5, 7, and 8. Ultimately, the Commission affirmed its prior conclusion that EVCS owners and operators who sell electricity are electricity suppliers subject to the Commission's jurisdiction. The Commission also clarified the timing of Pepco submissions, including its implementation plan and cost information. The Commission also directed Pepco to work with stakeholders in the TE Working Group to define better plans for make-ready infrastructure.

Pepco's Implementation Plans, Tariffs, and Reports

On October 31, 2019, Pepco filed its first implementation Plan, including proposed modifications to its tariff to accommodate make-ready infrastructure and to establish a Whole House Time of Use Rate (FC1155-18). Pepco also filed, on January 29, 2020, a report on the progress of the TE Working Group (TEWG) (FC1155-28). In addition, Pepco filed numerous tariffs to implement aspects of its TE Program and quarterly status reports. In March 2020, Pepco began providing a service under its approved offerings. On March 30, 2022, Pepco filed an EV Market Penetration Study it had commissioned to review "gap analyses" (FC1155-81). Pepco also filed its Program Analysis Evaluation and Assessment Report on that date (FC1155-82).

Commission Order 21162

On June 3, 2022, the Commission issued an Order reviewing the various Pepco filings and the comments filed on them (Order 21162). Critical decisions made included:

- Requesting comment on a proposed definition of make-ready infrastructure;
- Denying Pepco's request to provide a $500 rebate to customers for Charging Equipment;
- Denying Pepco's request to give a discount on charging equipment for Multi-Dwelling Units (MDU);
- Directing Pepco to provide a Time-of-Use Rate for MDUs;
- Allowing submetering of parking spaces at MDUs for electric vehicle charging;
- Approving criteria for evaluating sites for public neighborhood charging; and
- Requesting comment on Pepco's budget reallocation proposals.

The May 2, 2023 Technical Conference

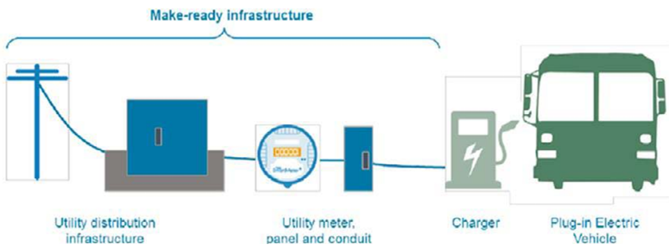
The Commission convened a Technical Conference to discuss whether the definition of "make-ready" infrastructure should be amended to exclude ownership by Pepco of Behind-The-Meter (BTM) infrastructure and other issues concerning distribution system upgrades and funding. The District Department of Energy and the Environment and OPC made formal presentations, and commenters included other interested parties. The clear consensus among participants was that Pepco should not be allowed to own BTM infrastructure. Pepco maintained that customers have asked for flexibility so that either the customer or the utility could own BTM infrastructure. According to Pepco, this flexibility allows it to support the installation of EV charging stations (FC1155-114).

Commission Order 21901

On September 14, 2023, the Commission decided that the definition of make-ready infrastructure should make clear that Pepco should not own any BTM equipment (Order 21901). The Commission concluded that customers would bear the costs of installing and maintaining any behind-the-meter make-ready infrastructure. Once again, the Commission reinforced the view that the provision of charging stations should be a competitive offering. To that end, the Commission required Pepco to amend its tariff by including the following definition:

> *EV make-ready infrastructure means the equipment provided to support electric vehicle charging, including conduit, sufficient electrical panel service capacity, sufficient distribution transformer capacity, overcurrent protection devices, wire, and suitable termination points such as a junction box, but not the electric vehicle supply equipment. As used in this definition, the term "electric vehicle supply equipment" is defined as all the charging equipment necessary to provide electrical energy to charge an electric vehicle's battery, including cable, panel, electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically to transfer energy between the premises wiring and the EV.*

DOEE provided an illustrative example during the Technical Conference:



Increased use of electric vehicles in the District depends on adequate infrastructure. Progress has not been speedy, but it has been steady. Data derived from Alternative Fuels Data Center, Department of Energy, shows that as of 2022 there were 5900 electric vehicles and 3200 Plug-in Electric Vehicles registered in DC, making it the third most "electrified" state, after California and Hawaii, based on a percentage of all light duty vehicles. Only 1.4% of all U.S. registered vehicles were registered as electric, while the District claimed 1.8%. As the number of charging stations increases, so will the number of electric vehicles.

CHAPTER FOUR: ENERGY EFFICIENCY AND ENERGY CONSERVATION: FORMAL CASE 1148

Another outcome of the Pepco/Exelon merger was the creation of a $11.5 million Energy Efficiency and Energy Conservation (EEEC) Initiatives Fund. This fund is intended to support innovative conservation and efficiency programs for affordable multi-family units and master metered buildings, which include low and limited-income residents.

On October 19, 2017, the Commission opened Formal Case 1148, an investigation into appropriate EEEC projects (Order 19145). The Commission sought general comments on what programs should be eligible for funding. After receiving comments and sponsoring a roundtable, the Commission established an EEEC Working Group to develop further a proposal made by the National Consumer Law Center/National Housing Trust (NCLC/NHT) for a Whole Building, Deep Energy Retrofit Program (Order 19428).

SPOTLIGHT: Although there is no standard definition for a Deep Energy Retrofit Program, it is generally understood to be energy conservation measures undertaken in an existing building leading to overall energy efficiency improvement. For example, a Retrofit Program might consider insulation, air sealing, and replacing doors and windows.

EEEC Roundtable

The EEEC Working Group, in a collaborative setting, developed the NCLC/NHT proposal further, eventually deciding to hire an Implementer to finalize specific aspects of the program and run the completed program. The WG asked the Commission to issue an RFP to select the Implementer. Instead, the Commission created an EEEC Task Force to assist Pepco in preparing the RFP. On September 23, 2020, Pepco informed the Commission of the RFP process results and the International Center for Appropriate and Sustainable Technology (iCAST) selection. The Commission approved the selection and released $5.25 million of the EEEC Initiatives Fund to support the iCAST efforts.

On February 25, 2022, NCLC and NHT, as co-chairs of the Task Force, filed the first annual report of the progress made in the Retrofit Program (FC1148-106). The report showed that, in its first year, the Program completed retrofits benefiting 342 households in 5 multi-family buildings, resulting in an estimated lifetime energy savings of 56 million kWhs. After receiving this successful report, the Commission released another $3 million from the EEEC Initiative Fund.

iCAST continued its work into 2023, filing an annual report on March 30, 2023 (FC1148-133). iCAST reported that the Program exceeded its 2022 goal of 60 million kWhs of lifetime energy saving by over 26 million kWhs. In 2022, the Program served 1,317 households in 47 multi-family housing properties across the District, bringing the total number of households to 1,659.

The success of the Retrofit Program led the Commission to release the remaining $3.1 million in Initiative Funds and to direct the filing of a final report after the completion of the final project (Order 21641). By all accounts, the Whole Building Deep Energy Retrofit Project has been an unqualified success.

CHAPTER FIVE: ELECTRIC RATE CASES: FORMAL CASES 1103,1139,1150,1156 and 1176

Among the DC Public Service Commission's responsibilities is to regulate monopoly services to ensure just and reasonable rates while preserving the financial health of the utility companies. We do this by acting on utility applications to change distribution rates. Typically, these are complex proceedings, often lasting more than a year, in which the utility attempts to justify rate changes, most often rate increases, by showing that its expenses and/or rate base of capital investments have increased and/or the percentage return on its rate base is insufficient to attract investors. The Commission will hold evidentiary hearings and consider pleadings and testimony from the utility and those opposing the rate increase. Once the Commission determines the appropriate allowed rate of return and rate base, it calculates the appropriate test year operating income. The question of cost allocation among classes of customers will then be addressed. Recently, when considering electricity distribution rates, it has been the policy of the Commission to eliminate negative class rates of return, reduce subsidies between classes, and reduce disparities that have traditionally existed in class rates of return. Historically, these subsidies were used to keep residential class rates low and make up the difference by overcharging commercial class customers. Now, however, the Commission aims to gradually reduce these overcharges and establish "true" rates for each customer class in line with cost causation principles. It is a complex and politically charged process, but some progress has been made.

SPOTLIGHT: It is well settled in law that a public utility, such as Pepco, is entitled to earn a fair and reasonable rate of return on its capital investments comparable to that of investments of similar corresponding risks, a return sufficient to assure confidence in the financial integrity of the utility such that it will maintain its credit and attract investment capital. The Commission, therefore, determines an overall allowed Rate of Return (ROR) on rate base, including a Return on Equity (ROE) designed to attract investors.

Formal Case 1103

The first rate increase application filed in the decade 2013 to 2023 was filed by Pepco on March 8, 2013, requesting authority to increase rates by $52.1 million, or 11.8%, to collect $495 million in total distribution revenues. Pepco asked for a Rate of Return (ROR) of 8.23%, including a return on common equity (ROE) of 10.25%.

On March 26, 2014, after evidentiary hearings and procedural rulings, the Commission found that an increase of $23,448,000 was appropriate and allowed Pepco to earn a 7.65% rate of return (Order 17424). The Commission also found that "wide disparities" still exist in customer class RORs, including negative RORs for some of Pepco's residential customers. The Commission moved more aggressively to eliminate negative RORs and increase residential customer charges. Consequently, the Commission assigned 47% of the $23.448 million increase to the residential classes, higher than the last Pepco rate case allocation. The Commission recognized that residential rates continue to be highly subsidized, more than in any other jurisdiction, and that the situation would worsen as the District's population grows.

Reconsideration of Order 17424

Several parties filed requests for reconsideration and or clarification of Order 17424. Pepco objected to numerous detailed studies required by the Commission and to several of the Commission's specific findings. OPC also objected to several of the Commission's findings but primarily complained of the onerous burden placed by the Commission on residential ratepayers. In its decision (Order 17539), the Commission relieved Pepco of some of its reporting and other requirements but denied most of Pepco's reconsideration requests. Concerning OPC's requests, the Commission granted OPC's request for clarification, denied its objections to the Commission's findings, and denied OPC's complaints about the burden imposed on the residential ratepayer. While the Commission regretted the impact that increased rates might have on those least able to afford them, it noted that only 19% of any customer's bill would be affected. Moreover, residential rates would continue to be subsidized even after the modest adjustments in this case.

SPOTLIGHT: It is important to note that the Commission regulates only electric distribution rates, consisting of construction, improvement, and maintenance of the physical infrastructure used to deliver electricity, as well as operational costs. This amount represents a small portion of a ratepayer's bill (generally less than 25%). The remaining bill comprises energy supply charges, taxes, and other fees imposed by different sources.

SPOTLIGHT: Another issue in FC 1103 was the treatment of the Residential Aid Discount (RAD). Although Order 17424 increased the customer charge for RAD customers, the Commission recognized that RAD issues were complicated and could impact competition since RAD customers would lose the discount if they chose a competitive supplier. Consequently, the Commission initiated a new proceeding to assess all RAD issues, FC 1120. In Order 18059, issued on December 15, 2015, the Commission determined that the monthly Residential Aid Credit (RAC) should equal the full distribution charge and would thus be available to all eligible customers, no matter which supplier they chose.

Formal Case 1139

In the first rate case after the Pepco/Exelon merger, on June 30, 2016, Pepco asked for a rate increase of $85.5 million, with a Rate of Return of 8% and a Return on Equity of 10.6%. Pepco argued that the increase was warranted because of the three-year delay in filing a rate case and the costs incurred in improving electrical system reliability.

Pepco Evidentiary Hearing

After a lengthy evidentiary hearing, several community hearings, and multiple pleadings from all parties, the Commission granted Pepco an increase of $36.88 million, representing an average monthly increase of $2.06 for the average residential consumer (Order 18846). However, the Commission determined that the increase would be offset for residential customers for two years by using $15 million of the merger-derived funds, the Customer Base Rate Credits (CBRC). The Commission also decided to use an additional $2.3 million of the CBRC to give rate relief to certain small commercial-class customers.

The July 25, 2017 decision reduced Pepco's requested overall allowed Rate of Return from 8% to 7.46% and Return on Equity from 10.6% to 9.5%, which the Commission found sufficient to attract investors and raise capital. Regarding the negative class rates of return, Pepco had proposed a three-rate case "glide path "where 1/3 of the negative return would be eliminated in each case. After three rate cases, the negative return for the residential classes would be eliminated. OPC argued that a different approach should be taken, where the Commission should defer eliminating the negative class return until it is possible to assign cost responsibility on a more granular basis that is reflective of the actual use of the system. OPC believed that commercial and industrial customers receive more value from reliability investments and should pay more for them. The Apartment and Office Building Association (AOBA), representing commercial class customers, submitted that the perpetuation of negative class rates cannot be justified.

In its decision, the Commission rejected Pepco's approach and decided that the rate increase should be distributed among classes of customers so that the increase would not significantly impact residential ratepayers. A monthly increase of $4.32 for the average residential consumer would result from Pepco's three-rate case glide path. Instead, the Commission determined that the approach should be more gradual to minimize rate shock. The Commission also recognized that additional reliability expenses would be forthcoming and charged to the ratepayer. In particular, a portion of the DC PLUG undergrounding project would soon be charged to DC ratepayers under a statutory formula set by the DC Council.

The decision also recognized that exploring certain issues raised in this case would be beneficial. To this end, the Commission convened Technical Conferences:

- To discuss improvements to Pepco's Class Cost of Service Study (CCOSS);
- To discuss the creation of a new customer class for senior citizens and disabled persons;
- To discuss rate design for Master Metered Apartments; and
- To discuss Pepco's load forecasting methodology.

Finally, and importantly, the Commission expressed its interest in exploring whether an alternative to traditional rate cases would be beneficial. Specifically, the Commission allowed Pepco to request an Alternative Form of Regulation (AFOR), including a multi-year rate plan, in its next rate case.

Reconsideration of Order 18846

As is usual, the parties asked the Commission to reconsider aspects of its decision. On October 6, 2017, the Commission denied all these requests (Order 19130). Among other issues, it found that its decision to consolidate residential rate classes, which OPC had found too simplistic, was based upon its independent analysis of the record in this case and, therefore, appropriate. OPC also objected to the Commission's allocating a portion of the CBRC to offset any losses from the consolidation. Again, the Commission found this allocation justified. AOBA objected to allocating a portion of the CBRC to small commercial customers while failing to provide credits for large commercial customers. The Commission found that the merger agreement gave the Commission discretion to allocate the CBRC between residential and commercial customers. AOBA and GSA also argued that the decision in Order 18846 increased the magnitude of the residential class's negative rate of return, continuing the unfair burden on commercial customers.

In response to this argument, the Commission observed that it is continuing its policy of lessening the disparities between residential and commercial class returns. Yet, considerations of equity, value of service and ability to pay, gradualism, and the avoidance of rate shock led it to move less aggressively than AOBA would like. The Commission reaffirmed its policy of gradually eliminating negative class ROR but will move moderately toward these policy goals.

SPOTLIGHT: None of the increases in Order 18846 affected low-income customers enrolled in the Residential Aid Discount (RAD) Program. RAD provides customers enrolled in the program with a credit equal to the total distribution rate. To be eligible for the program, a customer's income must not exceed 60% of the District's median income. In other words, RAD customers receive free distribution service, paid for by a surcharge imposed on all other customers.

Formal Case 1150: The Tax Cut and Jobs Act

On December 19, 2017, Pepco filed another application for increased rates in Formal Case 1150. This time, it requested an increase of $66.209 million and a Return on Equity of 10.10%. The Tax Cut and Jobs Act of 2017 (TCJA) was enacted shortly after this filing. The TCJA reduced the maximum corporate tax rate from 35% to 21%. This reduction would significantly impact both Pepco and WGL's operational expenses. As a result, on January 23, 2018, the Commission established Formal Case 1151, a single-issue rate proceeding to consider the impact of the TCJA on Pepco and WGL (Order 19247).

After discussions among the parties, it became clear that a settlement agreement was possible in FC1150. Indeed, a Nonunanimous Settlement Agreement was filed on April 17, 2018. In the Agreement, the settling parties agreed to a reduction in Pepco's rates of $24,100,000, which would be allocated among all classes according to a four-step process.

Once again, the issue of cost allocation was a sticking point. The non-settling parties, the Healthcare Council of the National Capital Area (HCNCA), joined by DC Water and GSA, argued that because the residential class has consistently paid rates that did not include a federal tax expense, that class should not share in the rate reduction allocation. HCNCA claimed that where customers have overpaid for a component of a total charge, the overpayment should be refunded to the customers who overpaid, not to the customers who underpaid the total charge.

By Order 19433, on August 8, 2018, the Commission rejected the HCNCA argument (Order 19433). It found that the result of the Settlement Agreement would narrow the disparity among classes and that a Class Cost of Service Study is a "guide," not the sole basis through which the Commission determines rates. Hence, the Commission approved the allocation proposal in the Settlement Agreement.

Formal Case 1156: The Multi-Year Rate Plan (MRP) Application

Although the Commission had agreed that Pepco could file a multi-year rate plan in its decision in FC 1139, Pepco did not do so in its next rate case, FC 1150. Instead, it waited until May 30, 2019, to file its first MRP in Formal Case 1156. The decision to delay asking for this new approach was likely caused by uncertainty about the impact of tax cuts and a desire to "socialize" the new rate case. Indeed, Pepco held four formal Technical Conferences between June 2018 and March 2019 to explain the background, reasoning, and structure of the MRP to interested parties. Pepco may have hoped that these Technical Conferences would help reduce the complexity of its proposal and lessen the time required to make a decision. If so, Pepco would be disappointed.

The May 2019 Pepco proposal was for a three-year plan totaling an increase of $162 million, whereby the first rate adjustment of 7.1% in an average monthly bill would occur on May 1, 2020 (the date Pepco proposed for the issuance of the Order in this case), the second increase of 4.2% would take place on January 21, 2021, and the third increase of 3.7% would take place on January 1, 2022. The Pepco plan forecasted expected capital investments and operating and maintenance costs for the three years. This forward-looking approach differs from a traditional rate case, where a historical test period determines investments and expenses.

Pepco's Application claimed that the MRP would enable the Company to make the investments necessary to allow greater customer "optionality" and to better align its investments with the policy goals set by the District and the Commission, particularly those relating to clean energy and grid modernization. Key to this would be the introduction of Performance Incentive Mechanisms (PIMs) to promote Pepco's performance in those areas. Pepco proposed five financial PIMS and a sixth PIM collecting Customers Experiencing Multiple Interruptions (CEMI) data.

Overall, Pepco argued that moving from the traditional, retrospective ratemaking process to a prospective MRP would streamline the regulatory process, allow greater transparency into the Company's investments, reduce the number of rate cases, and provide more rate predictability for consumers.

SPOTLIGHT: Pepco also included a traditional rate case filing in its application in case the Commission rejected its MRP proposal. This filing would increase base distribution rates by $88.6 million, based on a June 30, 2019 test period. Pepco asked for a 7.81% ROR, including an ROE of 10.3%.

The Commission Approves an Enhanced Multi-Year Rate Plan

As expected, numerous parties sought to intervene in the proceedings. However, Pepco's hope for a swift resolution was confounded by the public health emergency caused by the COVID pandemic. In Order 20349, the Commission directed parties to submit their views on the impact of COVID-19 on the evaluation of Pepco's MRP proposal. In response, on June 1, 2020, Pepco submitted an Enhanced Multi-Year Rate Plan (EMRP), reducing its increase request to $135.9 million over three years and providing various offsets/credits to mitigate any rate impact.

After reviewing many comments, procedural motions, testimony, briefs and reply briefs, a virtual public hearing, and a virtual evidentiary hearing, the Commission issued its decision on June 8, 2021, in Order 20755 (Order 20755). First, the Commission rejected the original 2019 MRP but found that the 2020 EMRP met the statutory requirements for an Alternative Form of Regulation.

Next, it approved the EMRP as a Pilot Program to include these overarching terms:

- A cumulative revenue requirement of $108.6 million;
- An authorized ROE of 9.275% and an overall ROR of 7.7%;
- A package of $11.4 million of Pepco shareholder-funded customer benefits, including $7.8 million for residential and streetlight bill offsets and $3.6 million of Customer Base Rate Credits for residential customers;
- A $5 million small commercial customer energy efficiency program encompassing rebates and loans;
- A set of tracking PIMS focused on the District's Climate and Clean Energy goals; and,
- A stay-out provision that prevents Pepco from filing a new MRP application until at least January 2023.

Regarding the PIMS, the Commission recognized their importance in any multi-year rate plan and proposed a set of PIMS to track Pepco's performance. These include:

- A Green House Gas emission tracker;
- An Energy Savings tracker;
- A Peak Demand Reduction tracker;
- A total DER deployment tracker; and
- A CEMI-3 performance tracker.

The Commission recognized that further work on data measurement technologies would require reconvening the PIMS Working Group, which Pepco was ordered to do. The goal would be to convert these tracking PIMS into fully functioning PIMS with incentive and penalty provisions.

The Commission also addressed the issue of revenue allocation among classes. The Commission again emphasized its discretion in gradually lessening the disparities among rate classes. It rejected a proposal by AOBA that would result in a drastic rate increase for residential customers. Given the impact of COVID-19 on District consumers and the principles of equity and gradualism, the Commission decided to make no change in the allocation determined in FC1139. However, the offsets included in the Modified EMRP are primarily for the non-residential classes, somewhat reducing the disparity between the commercial and residential classes.

Reconsideration of the Approval

Once again, the parties asked the Commission to reconsider aspects of its decision. Pepco argued that the record does not support the stay-out provision and is contrary to law, as well as that certain tax provisions should be reconsidered. OPC argued that the Commission erred in various ways, including allowing recovery of costs associated with the Benning Road Generation Station and authorizing Pepco to establish energy efficiency and loan programs. AOBA sought reconsideration of several Commission rulings, including revenue offsets and allocation of costs and revenue requirements. GSA also asked the Commission to reconsider the class allocation issue. GSA claimed the Commission had abandoned its policy of gradually lessening the disparity without explanation.

The Commission denied all requests for reconsideration but did clarify certain matters (Order 21042).

Appeal of the Commission's Decision

OPC appealed the Commission Reconsideration Order to the DC Court of Appeals. On November 10, 2022, the court vacated and remanded two issues to the Commission. The court found that the Commission should not have permitted Pepco to recover costs incurred in investigating possible environmental damage at the Benning Road Generating Station. The court also found that the Commission should not have included two energy efficiency rebates and loan programs in the Modified EMRP, which would permit Pepco to recover the costs of those programs in a future rate case (DCCA November 10, 2022, decision).

Commission Decision on Remand

On July 27, 2023, the Commission issued its order satisfying the court's remand order. A footnote addressed the court's vacating the energy efficiency programs by stating that their approval had been vacated. Pepco had been granted regulatory asset status for remediation costs concerning the Benning Road site. However, the Commission denied Pepco's request for cost recovery (Order 21884).

> SPOTLIGHT: A regulatory asset is a tracking mechanism that allows the examination of which of the company's costs were associated with a particular item.

Pepco sought reconsideration of this decision. On September 25, 2023, the Commission denied that request, finding, as the Court did, that a 1999 Settlement Agreement between Pepco and the District of Columbia Government barred recovery of costs associated with the remediation of the Benning Road site (Order 21904).

On November 21, 2023, Pepco sought judicial review of the Commission's denial of its reconsideration request. In August 2024, the DC Court of Appeals vacated and remanded Order 21904. The Court sought a more detailed analysis of cost recovery. In Order 22292, in September 2024, the Commission directed the parties to advise the Commission on whether the record should be reopened and what further process should be considered.

SPOTLIGHT: The Bill Stabilization Adjustment, an important issue in FC1156, is a revenue decoupling mechanism. Decoupling is a regulatory tool designed to separate a utility's revenue from changes in energy sales. Under traditional regulation, a utility's profitability depends on its sales volume. Decoupling is a tool that can be used to further public policy goals of encouraging the development of energy efficiency or to make a utility indifferent concerning promoting reduced energy consumption initiatives. In FC 1156, the Commission required Pepco to hire an independent auditor to evaluate its BSA.

Formal Case 1176: the Second Multi-Year Rate Plan

On April 13, 2023, Pepco filed its second multi-year rate plan, the Climate Ready Pathway. This plan, too, would be a three-year plan from 2024 to 2026, incorporating three rate adjustments. The cumulative rate increase proposed was $190.7 million, with a rate of return of 7.66% and a return on equity of 10.5%. Pepco also proposed a rate design that would allocate more of the incremental revenue requirement to "under-earning" rate classes, i.e., the residential consumer. To compensate, Pepco proposed enhancements to the Residential Aid Discount (RAD) program and the Arrearage Management Program, which allows some debt forgiveness for qualifying consumers.

The Commission expects to act on the Climate Ready Pathway in 2024.

Summary of Rate Case Requests and Results

Application/Decision	Date	Increase	ROR	ROE
FC 1103	3/8/13	$52.1m	8.23%	10.25%
Order 17424	3/26/14	$23.448m	7.65%	9.4%
FC 1139	6/30/16	$85.5m	8%	10.6%
Order 18846	7/25/17	$36.88m	7.46%	9.5%
FC 1150/FC 1151	12/19/17 and 1/23/18	$66.209m	7.74%	10.10%
Order 19433(Settlement)	8/8/18	-$24.1m	7.45%	9.525%
FC 1156 (MRP)	5/30/19	$162m	7.81%	10.3%
FC 1156 (EMRP)	6/1/20	$135.9m	7.81%	10.3%
Order 20755	6/8/21	$108.6m	7.7%	9.275%
FC 1176	4/13/23	$190.7m	7.66%	10.5%

CHAPTER SIX: ELECTRIC INFRASTRUCTURE IMPROVEMENTS: FORMAL CASES 1116, 1121, 1144 and 1159

The Undergrounding Task Force

In June of 2012, two major storms hit the Washington, DC, area, the second of which, on June 29, was caused by an unusual weather event, a derecho. Almost 76,000 Pepco customers lost power. For many, power was not restored for many days. Indeed, the last restoration occurred on July 7, nine days after the storm. Public reaction was, understandably, overwhelmingly negative. Both the DC Council and the Commission held hearings to consider why restoration took so long and how future major service outages might be prevented or mitigated.

SPOTLIGHT: A derecho is a widespread, long-lived, straight-line windstorm often causing severe thunderstorms, hurricane-level winds, and torrential rains.

It quickly became apparent that a significant problem was that many trees had been uprooted by the winds, causing power lines to be severed. In 2012, most distribution lines in DC residential areas were overhead. All lines were placed underground only in the downtown business district. Responding to the severe outages, then-Mayor Vincent Gray established a Power Line Undergrounding Task Force to examine how electric reliability might be improved by underground power lines. The first meeting of the 18-member Task Force took place on August 23, 2012, and was co-chaired by the City Administrator and the Chairman of the Board of Directors of Pepco. The Task Force's final report was issued in October 2013.

SPOTLIGHT: This was not the first time the problem of overhead lines was considered. In 2005, the Commission ordered Pepco to study whether conversion to underground lines might help mitigate storm damage in certain areas. In 2009, the Commission engaged Shaw Consultants International to conduct an independent study of undergrounding electric distribution lines' economic and technical feasibility and reliability implications in the District of Columbia. Every time undergrounding was studied, cost was always the stumbling block.

On May 5, 2014, the Electric Company Infrastructure Improvement Act (ECIIA) was enacted, having been introduced by Chairman Mendelson at the request of Mayor Gray. It authorized the financing and implementation of a power line undergrounding program through the issuance of revenue bonds, as well as reimbursement of Pepco's costs through financing orders from the Commission.

Formal Case 1116: The First DC Plug Application

On June 17, 2014, Pepco and DDOT filed the first application for approval of undergrounding of all or parts of 37 feeders (21 feeders to be totally undergrounded) in the program's first three years. A portion of the cost (Pepco's costs only) would be financed through an Underground Project Charge paid by ratepayers. A second application establishing the bond financing plan would shortly be filed.

The Apartment and Office Building Association soon objected, claiming, among other things, that the allocation method proposed by Pepco and DDOT did not conform to the requirements of the ECIIA and would unduly burden commercial customers while greatly benefiting residential customers. AOBA calculated that the commercial class would bear 87% of the cost of undergrounding. This allocation appeared grossly unfair given that the principal beneficiaries of undergrounding would be residents in tree-lined streets, not downtown commercial customers where feeders are already underground.

Nevertheless, after community hearings and an evidentiary hearing where the only issue was the residential/commercial cost allocation, the Commission approved the Application on November 12, 2014, in Order 17697. After seeking reconsideration, AOBA appealed to the District of Columbia Court of Appeals. On January 14, 2016, the court affirmed the Commission. AOBA sought a rehearing, which the court denied.

On September 30, 2016, as required by the law, Pepco and DDOT filed their second Application. However, they asked the Commission to hold the Application in abeyance. It seemed that a major stumbling block had emerged: the financing of the projects.

The Bond Financing Controversy

In the meantime, on August 8, 2014, in Formal Case 1121, Pepco filed its promised financing plan, allowing the District to issue bonds up to $375 million to pay costs associated with the undergrounding program. In its comments, the United States General Services Administration (GSA), representing federal government agencies – major commercial customers of Pepco – joined AOBA in objecting to the cost allocation proposal in the financing plan. Importantly, GSA also signaled its concern that the recovery of the bonds under the Act might represent a "tax" to be collected from Pepco customers. In June 2015, GSA officially informed the District that it viewed the DDOT Underground Electric Company Infrastructure Improvement Charge (DDOT Surcharge) as a tax from which the federal government is immune. Many disagreed with GSA. Nevertheless, the GSA position and, to a lesser extent, the uncertainty stemming from the AOBA appeal caused DC PLUG to grind to a halt.

The ECIIFEAA

Eventually, all parties realized that a bond financing mechanism – opposed by GSA representing all US government agencies – was a no-go. A solution, supported by the Commission, was created by the DC Council through an amendment to the 2014 Act. The Electric Company Infrastructure Improvement Financing Emergency Amendment Act (ECIIFEAA) was signed into law on May 17, 2017. The new legislation changes a portion of the funding structure for DC PLUG from bonds issued by the District and securitized by the ratepayers to a "pay-as-you-go" structure with the costs imposed on Pepco and recoverable through a tariff rider. Under this new approach, the District will impose the DDOT charges on Pepco. Pepco will recover the amount remitted to the District through an "Underground Rider," an annually adjusted rider to distribution rates. The ECIIFEAA also reduced the scale of DC PLUG by halving the overall amounts spent and reducing the number of underground feeders.

The Biennial Applications

On July 3, 2017, Pepco and DDOT filed the first Biennial Plan application under the new law. They sought approval for undergrounding six feeders and approval of the Underground Project Charge (UPC) and the Underground Rider (UR). After community hearings and over the objections of AOBA and GSA, which protested the allocation of DC PLUG costs, the Commission granted the applications on November 9, 2017 (Order 19167). AOBA again appealed to the District of Columbia Court of Appeals, which affirmed the Commission's decision on March 7, 2019.

On September 30, 2019, Pepco filed the Second Biennial Plan applications for undergrounding ten additional feeders. The applications also included increases in the UPC and the UR. No one filed objections, and the Commission granted the applications on January 24, 2020 (Order 20285).

On September 30, 2021, Pepco and DDOT filed the Third Biennial Plan application for undergrounding four additional feeders. The applications also included increases in the UPC and the UR. Again, no objections were filed, and the Commission granted the applications on January 22, 2022 (Order 21105).

Undergrounding Progress To Date

The scaled-down version of DC PLUG will underground a total of 20 feeders. The undergrounding of Feeder 308, serving about 600 customers in American University Park and Friendship Heights, was completed in early 2021. Feeder 14900, serving 1400 customers in Hawthorne, Barnaby Woods, and Chevy Chase, went into service on April 19, 2023. Construction of Feeder 368, serving 700 customers in Fort Davos Park, Benning Ridge, and Marshall Heights, was completed at the end of 2023.

The Capital Grid Project

On May 5, 2017, Pepco filed a Notice of Construction (NOC) seeking to reconfigure parts of the distribution system to address aging infrastructure, system resiliency, reliability, and load growth in the District. The construction project would also address and accommodate more consumer-produced power through Distributed Energy Resources. Although Pepco initially intended the project to be the subject of two separate NOCs, the Commission decided that it would be preferable to holistically view the proposal, known as the Capital Grid Project. On June 29, 2018, Pepco filed a single NOC, which involved the construction of new substations at Harvard Street and Champlain Street and the construction of additional transmission lines and improvements at the Mount Vernon substation, including battery energy storage. The anticipated cost of the two phases of the Capital Grid Project was $851 million.

After receiving comments and conducting community hearings, the Commission granted Phase I of the project. It postponed consideration of the Mount Vernon part of the project and focused on aging infrastructure needs. Phase I costs would be about $707 million (Order 20203). OPC asked the Commission to reconsider its decision, citing a need to consider load growth and clean energy needs. The Commission denied OPC's request.

On December 20, 2019, the Commission granted Pepco's request for Phase II of the project at an additional cost of $143 million (Order 20274). The Commission found that without upgrading the Mount Vernon substation, Pepco's facilities in that area would be exposed to possible overloading during extreme weather. Potential overloads during extreme hot weather could present a significant risk of widespread outages affecting many customers in this fast-growing part of the District. The Commission also found that Pepco's proposal to install a battery energy storage unit at the Mount Vernon substation could be used to understand the impacts of battery energy storage and could defer the need for an additional transformer. Finally, the Mount Vernon substation improvements would increase the hosting capacity for DER, a goal the Commission recognizes in its grid modernization efforts. In short, the Commission found that the Capital Grid project will increase reliability and help the Commission meet its clean energy goals.

The Capital Grid Project is scheduled to be completed by 2028.

Conclusion

As seen in this Section One, the Commission has devoted much of its efforts from 2013 to 2023 to assuring electric reliability. As reliability concerns have eased, the Commission has emphasized environmental issues as it considers proceedings like the Pepco/Exelon merger, the determination of rates, and the development of modern electric distribution infrastructure.

In the next Section, we shall see the same themes occurring in the natural gas field.

SECTION TWO: ACTIONS IN THE NATURAL GAS FIELD

CHAPTER SEVEN: THE MERGER OF WGL AND ALTAGAS: FORMAL CASE 1142

The 2017 Merger Application

On April 24, 2017, the Commission received an application for a Washington Gas Light Company (WGL) merger into AltaGas Ltd. (AltaGas). In designing the Application, the companies studied the Commission's concerns about the merger of Pepco and Exelon and crafted their request to satisfy those concerns.

The Application described the transaction:

- AltaGas would acquire WGL as an indirect subsidiary for an all-cash purchase price of $4.5 billion. Each WGL shareholder would be entitled to $88.25 for each share of WGL common stock. After the merger, WGL stock would not be publicly traded;
- WGL would continue to be headquartered in DC, and the existing management structure would remain substantially the same, with local management establishing priorities for the company and responding to local conditions. There would be no reduction in Commission oversight over the operations of WGL;
- Commitments proposed by the applicants would enhance the capabilities of WGL to continue to fulfill its obligations to provide safe, adequate, and reliable service;
- Benefits to WGL customers would include a one-time bill credit of $12.25 million, $2 million to fund and develop an Affordable Housing Multifamily Natural Gas Initiative, and $2.2 million to fund and establish low-income weatherization programs. AltaGas would also provide $1.5 million to the Washington Area Fuel Fund to provide emergency gas utility bill assistance to qualifying low-income and moderate-income WGL customers;
- The applicants also agreed to continue commitments to the local community, including $1.2 million in charitable contributions for the next ten years, a 20% increase over previous contributions;
- To benefit the local economy, the applicants committed to relocating the headquarters of the AltaGas power business to the Greater DC area, increasing the number of employees within the Greater DC area, contributing $700,000 to workforce development initiatives, and increasing spending with diverse suppliers; and,
- The applicants also committed to develop or cause to be developed 5MW of either electric grid energy storage or Tier One renewable resources in the Greater DC area.

The total financial benefits for DC and area consumers totaled $19.85 million.

SPOTLIGHT: At the time of the Application, WGL had been engaged in the natural gas distribution business since 1848, serving 158,000 customers in the District of Columbia, 473,000 customers in Maryland, and 520,000 customers in Virginia. WGL owned unregulated subsidiaries (WGL Energy Services, Inc., WGL Energy Systems, Inc., WGSW, Inc., and WGL Midstream) providing retail energy marketing to residential, commercial, and industrial customers in Maryland, Virginia, Delaware, Pennsylvania, and the District, as well as clean energy options and energy storage.

SPOTLIGHT: AltaGas is a diversified energy infrastructure business with corporate headquarters in Alberta, Canada. It was founded in 1994 and has 1600 employees, focusing on three business segments: (1) Utilities, with 570,000 customers in the US and Canada; (2) Gas, including natural gas gathering and processing, extraction, separation, transmission, storage, and marketing; (3) Power, including electric generation assets located across North America.

Reaction to the Application

The initial reaction to the merger application was opposition and concern. Generally, commenters were concerned that the proposed benefits to the public were insufficient, that AltaGas had a lower credit rating than WGL (which might affect the required return in a rate case), and that AltaGas' lack of experience with urban gas distribution companies might affect gas pipeline leak protection.

On May 8, 2018, after the conclusion of an evidentiary hearing held in December 2017 and after four community hearings to solicit the views of the public, AltaGas and WGL filed a Consent Motion seeking Commission approval of a Settlement Agreement reached with most of the parties. (Two parties did not sign the Settlement Agreement but did not oppose it. Therefore, the Agreement could be considered "unanimous.")

SPOTLIGHT: The Settling Parties were WGL and AltaGas, the Office of the Peoples Counsel (OPC), the Apartment and Office Building Association (AOBA), DC Government (DCG), the Department of Defense and other Federal Agencies, the National Consumer Law Center/National Housing Trust, the Baltimore Washington Construction and Public Employees Laborer' District Council (BWLDC), and the Office and Professional Employees International Union Local 2, AFL-CIO (OPEIU).

The Commission solicited comments on the proposed settlement, held both a public interest and community hearing, and considered data responses and other documents filed after the Settlement Agreement. The record closed on June 18, 2018. On June 29, the Commission issued its Order approving the Settlement Agreement and merger, with conditions.

The Approval Order

Order 19396 approved the merger, noting that the settling parties had agreed to enhancements of the original merger proposal sufficient to mitigate opposition and concerns. With these enhancements and further conditions, the Commission deemed the Application in the public interest.

Highlights of the enhancements and conditions included:

- A one-time bill credit of $20.5 million for residential customers and $5.4 million for non-residential customers;
- Energy efficiency and conservation initiatives for low and limited-income customers totaling $4.2 million;
- Supplemental funding to the Washington Area Fuel Fund of $260,000;
- $13 million in funding for one additional damage protection educator/trainer; incremental funding for additional damage protection materials; extra funding for workforce initiatives; and an increase in charitable contributions;
- Construction of 10MW of electric grid energy storage or Tier One renewable resources in the District of Columbia, using best efforts to locate the 10MW project in constrained electric distribution areas;
- Funding a study of the development of renewable gas facilities in the greater DC area;
- Local control of WGL post-merger;
- Ring-fencing and credit rating protections;
- Acknowledgment of climate change and development of a Climate Business Plan; and
- A commitment to file a new rate case no earlier than January 2020.

As a result of the Settlement Agreement, direct financial benefits to DC and area consumers totaled $43.4 million, a 118% increase over the amount included in the original Application.

The Commission found that commenters' concerns about the merger had been generally satisfied and that, with the modifications proposed by the Commission, the Settlement Agreement was in the public interest, and the merger was approved. The Joint Applicants accepted the Commission's conditions and notified the Commission on July 9, 2018, that AltaGas and WGL had consummated the merger.

Post-Merger Commitment Tracker

Understanding that the multiple commitments made by AltaGas and WGL would need to be overseen, the Commission created an AltaGas/WGL Merger Commitment Tracker similar to the one created after the Pepco/Exelon merger. The Commission updates the Tracker on its website to inform the public of progress in meeting the 85 commitment terms.

During the months following the merger's consummation, AltaGas and WGL filed compliance reports detailing their progress in meeting the merger commitments. These reports form the basis of the Merger Tracker and reveal that the path to compliance has not been smooth. Issues related to the financial health of the companies, the WGL customer service commitments, acceleration of PROJECT*pipes*, and cybersecurity, among others, arose. However, as of the end of 2023, the Commission found only one significant breach of the Settlement Agreement: failure to satisfy Term 5.

Term 5 Compliance

Among the commitments in the Settlement Agreement was Term No. 5, which reads:

> *AltaGas shall, within five years after the Merger Close, develop or cause to be developed 10MW of either electric grid energy storage or Tier One renewable resources in Washington, DC. If AltaGas or one of its affiliates develops the project, the construction of the project shall be competitively bid. AltaGas may retain the renewable energy certificates ("RECs") and tax attributes for the Tier One resource. AltaGas will use reasonable best efforts to ensure at least twenty percent of the operational jobs for the 10MW are sourced from the local workforce. The costs of this project shall not be recovered through Washington Gas's utility rates. AltaGas shall use its best efforts to target this project in capacity-constrained electric distribution areas. The Joint Applicants shall file its plan for the 10MW project for approval by the Commission within 180 days of Merger Close and an annual progress report following approval of this plan.*

The development of 10MW of battery storage or renewable resources was one of the most significant conditions of the merger, consistent with the Commission's commitment to clean energy goals. The original plan for compliance with Term No. 5, developed by AltaGas and filed on January 2, 2019, was scant. On April 5, 2019, the Commission issued Order 19883, requiring AltaGas to file a complete plan, including timelines, measurements, and technical scope, to complete the Term No. 5 obligations. AltaGas complied, and on November 7, 2019, the Commission conditionally accepted the plan but required quarterly reporting and specific information on efforts to locate the 10MW facility in the capacity-constrained area around Mt. Vernon Square.

Over the next few years, AltaGas reported on unsuccessful efforts to locate the facility near Mt. Vernon Square and to satisfy the Term No. 5 commitment. In June of 2022, AltaGas proposed that it could fulfill the commitment by purchasing Renewable Energy Certificates from an existing solar energy provider, which would fund the development of solar facilities. The DC Government objected to this proposal, and after motions, cross-motions, reconsiderations, and clarifications, the Commission finally determined that the AltaGas proposal was not inconsistent with Term No. 5. However, the Commission found that AltaGas had only funded 2.4 MW of the 10 MW of solar projects within the five-year deadline. Hence, the Commission found that AltaGas breached the Settlement Agreement (Order 21890). The Commission gave the parties 90 days to establish the appropriate penalty through compromise.

The parties were unable to reach a compromise on the penalty. AltaGas proposed a penalty of between $489,620 and $635,682, depending on when AltaGas satisfies the entire Term 5 obligation, which it proposes to do. The DCG, supported by OPC, recommended a penalty of $8.36 million based on the monetized value of the 7.6 MW that AltaGas could not complete before the deadline.

Order 21966

On March 8, 2024, the Commission issued a Show Cause Order finding that AltaGas failed to meet the Term No. 5 obligation and requiring AltaGas to show cause why it should not be required to pay a penalty of $5,000 a day from July 7, 2023 (the date on which the Term 5 obligation should have been satisfied) to the completion of the obligation through specific performance (Order 21966). The Commission based its decision on the general penalty provision of the Settlement Agreement Term No. 83, which explicitly references DC Code § 34-706, the Commission rule governing penalty provisions.

> SPOTLIGHT: DC Code § 34-706 provides: If any public utility shall violate any provision of this subtitle, or shall do any act herein prohibited, or shall fail or refuse to perform any duty enjoined upon it for which a penalty has not been provided, or shall fail, neglect, or refuse to obey any lawful requirement or Order made by the Commission, … for every such violation, failure or refusal such public utility shall forfeit and pay to the District of Columbia the sum of $5,000 for each offense.

The Commission gave AltaGas 15 days to respond to the Show Cause Order, with comments and reply comments due 10 and 20 days after that. Three extensions of time have been granted while the parties discuss possible settlement terms. The Commission expects to decide on the appropriate penalty in 2024.

Term 73 Compliance

For several years, leakage from gas pipelines has been controversial and concerning. To ensure that WGL improved its record on leak reduction, Term No. 73 of the Settlement Agreement imposed Grade 2 leak reduction targets for 2019 through 2023.

> SPOTLIGHT: Grade 2 leaks are recognized as non-hazardous at detection but require repair based on probable future hazards. Grade 2 leaks are monitored and scheduled for repair but do not require immediate action. Grade 2 leaks are contrasted with Grade 1 leaks, which represent an existing or probable hazard to persons or property and require immediate repair or remediation. Grade 3 leaks are non-hazardous at detection and are reasonably expected to remain non-hazardous.

In 2023, WGL reported meeting the 2022 leak reduction targets in Term No. 73. This was the first time that WGL met its targets. OPC and DCG questioned WGL's methodology, claiming it was not transparent. OPC and DCG asked for further proceedings, such as a working group or technical conference. In Order 21969, the Commission found that WGL had used the same methodology in the past when they were required to pay fines for noncompliance. The Commission found that WGL had met the Term No. 73 target in 2022 (Order 21969). The Commission saw no need to establish a working group or technical conference to discuss Term No. 73. Still, it acknowledged the OPC request to investigate WGL's process to identify and repair leaks. The Commission indicated it would address OPC's request in a separate order. On June 12, 2024, the Commission partially granted OPC's request and launched an investigation into WGL's system leak reduction practices in FC 1178 (See SPOTLIGHT in Chapter Nine below).

CHAPTER EIGHT: WGL RATE CASES: Formal Cases 1093, 1137, 1151, 1162 and 1169.

Formal Case 1093

The first WGL rate case decided in the decade 2013 to 2023 was Formal Case 1093, issued on May 15, 2013. WGL had applied to increase rates on February 29, 2012. In that Application, WGL requested an increase of $29 million in annual revenues, an overall allowed Rate of Return of 8.91%, including a Return on Equity of 10.9%. Intervenors included the DCG, AOBA, and OPC. After community and evidentiary hearings, the Commission issued its decision (Order 17132). The Commission granted an increase of $8,381,089, with a ROR of 7.93% and a ROE of 9.25%.

An essential issue in this rate case, as in all the recent electric rate cases, was the movement toward parity of rates of return for each class. Traditionally, commercial and industrial customers paid more than their fair share, while residential customers paid less. The Commission's policies would move all customer classes toward parity. The movement would be gradual to avoid rate shock. In FC1093, the Commission continued this policy, assigning more of the revenue increase to the residential class than to the commercial class.

Another critical issue was the consideration of a proposed Accelerated Pipeline Replacement Program (APRP) for which WGL had sought approval. WGL maintained that safety and reliability required faster replacement of its aging pipeline infrastructure. It sought $119 million, to be recovered through a Plant Recovery Mechanism charged monthly to all ratepayers. Approval of the APRP would allow WGL to double the number of mains and triple the number of service lines it could replace over 50 years. OPC and AOBA opposed the APRP, citing the lack of detail in the plan and the cost. The Commission denied the APRP but allowed WGL three months to refile a more detailed plan for reassessing its risks and priorities. A more detailed description of the APRP and its follow-on plan, called PROJECT*pipes*, is found in Chapter Nine.

Reconsideration

AOBA filed a request for reconsideration of Order 17132. WGL filed a request for reconsideration or clarification. In its decision, the Commission granted WGL's request for clarification on calculating pension and other benefits. Still, the Commission reaffirmed its decisions on depreciation, return on equity, a cap on Residential Essential Service funding, and other matters (Order 17204). AOBA argued that the revenue increase distribution in Order 17132 did not produce results consistent with moving toward parity among customer classes. The Commission found that the rate of return for each class is moving in the right direction, although not as fast as AOBA would like. Nevertheless, AOBA raised issues concerning a more precise allocation of rate increases that are worthy of attention. The Commission directed WGL to address those issues in its next rate case.

> SPOTLIGHT: Residential Essential Service (RES), a Utility Discount Program, allows eligible households to qualify for a discount on the price of natural gas they use each month from November to April. RES is similar to the Utility Discount Program for electricity, known as the Residential Aid Discount (RAD).

Formal Case 1137

WGL filed the next rate case on February 26, 2016. In the Application, WGL requested an increase of $17.4 million, including $4.5 million in already approved system upgrades. WGL asked for a Rate of Return of 8.23% and a Return on Equity of 10.25%. WGL also requested a Revenue Normalization Adjustment (RNA).

> SPOTLIGHT: A Revenue Normalization Adjustment is a billing adjustment factor that reflects the difference between the actual revenues collected by the company and the revenues the company is authorized to collect. An RNA, like a Bill Stabilization Adjustment for Pepco, is a "decoupling mechanism." Decoupling mechanisms have been adopted to remove disincentives for utilities to invest in energy efficiency measures by insulating the utilities' revenues from such factors as changes in sales volume, weather, and economic activity.

Intervenors in the rate case included OPC, DCG, the General Services Administration (representing US government agencies, collectively WGL's most significant customers), and DC Climate Action (DCCA). This may have been the first time an organization focused primarily on climate change participated in a gas rate case in the District. It would not be the last. DCCA's recommendations centered on WGL's proposed Multifamily Piping Program (MPP), which, according to DCCA, is expressly intended to increase the use of natural gas in multifamily residential buildings by incentivizing developers and builders to use natural gas as an energy source. DCCA argued that electricity is a cleaner, more efficient, more environmentally responsible energy source than natural gas. Therefore, a policy promoting greater use of natural gas is antithetical to the District's climate goals (later codified in the Clean Energy DC Omnibus Amendment Act of 2018).

SPOTLIGHT: DC Climate Action is a local civic organization advocating for policies to mitigate climate change. Most of its efforts before the Commission have been in modernizing energy delivery systems to provide clean, affordable, and reliable energy for District residents.

On March 3, 2017, after evidentiary and community hearings, the Commission granted WGL a rate increase of $8,510,251, with an ROR of 7.57% and a ROE of 9.25%. The Commission estimated that a typical residential customer using 811 therms of natural gas per year would see an increase of $3.20 per month, or 3.9% (Order 18712).

Concerning the Multifamily Piping Program, the Commission considered the oppositions of DCCA, AOBA, and DCG but decided it would approve a two-year MPP pilot program.

Regarding the RNA, OPC, GSA, and AOBA opposed its introduction, while the DCG pointed out potential hazards to RES customers should the RNA be adopted. In its Order, the Commission rejected the RNA because it was not persuaded that adoption of the RNA would promote energy efficiency, better align rates and costs, and provide more stable and predictable bills.

Once again, revenue allocation among customer classes was a contentious issue, with AOBA attempting to achieve immediate parity in the rate of return for the residential and commercial classes. Instead, the Commission continued its policy of gradually increasing the revenue requirement for the residential class with a negative rate of return. It was concerned that a significant charge increase would seriously impact residential customers on a fixed income.

Reconsideration

AOBA and DCCA sought reconsideration of the Commission's decision. AOBA asked the Commission to reconsider decisions regarding the treatment of debt. The Commission was unpersuaded and denied AOBA's request for reconsideration. DCCA argued that the Commission failed to properly consider the conservation of natural resources and the preservation of environmental quality when considering the proposed Multifamily Piping Program. Further, DCCA disagreed with the Commission's proposed pilot program for MPP because there was no neutral mechanism or quantifiable criteria for evaluating the pilot. The Commission affirmed its approval of the two-year pilot program but directed the staff to develop proposed evaluation criteria (Order 18768).

SPOTLIGHT: In Order 20263, issued on December 5, 2019, the Commission denied WGL's request to extend the Multifamily Piping Program. The Commission found that it was unnecessary to expand the pilot program to collect data to support the viability of the MPP. Further, the Commission hesitated to extend the MPP until after it had the opportunity to assess WGL's Climate Business Plan.

Formal Case 1151

On January 12, 2018, WGL filed an Application to reduce rates to reflect the impact of the Tax Cuts and Jobs Act of 2017, which reduced the corporate income tax rate from 35% to 21%. WGL calculated the effect of the revised gas rates on the average residential consumer to be $2.10 per month. On January 23, the Commission opened a single issue rate case to consider the impact of the Act on Pepco and WGL rates. It stated that it intended to reduce rates across the board for all customers. AOBA objected to this intention in an Application for Reconsideration of February 22, 2018. It stated that applying an across-the-board reduction would contradict the Commission's commitment to eliminate negative class rates of return. On March 7, 2018, the Commission denied AOBA's Application, finding that the decision to apply a single issue rate case reduction across the board is based on long-standing Commission precedent dating back to the tax cuts of 1986. However, the Commission promised to consider AOBA's arguments in the next full rate case.

Meanwhile, the parties met and agreed on a settlement of the case. On June 29, 2018, the Commission approved a Unanimous Settlement Agreeement, providing an $8,226,090 reduction in distribution rates (Order 19395).

Formal Case 1162

On January 13, 2020, WGL filed its next request for a rate increase. WGL asked for a revenue increase of $35.2 million, of which $9.1 million would represent revenues collected through the PROJECT*pipes* surcharge or an incremental increase of $26.1 million. WGL requested an overall Rate of Return of 7.56% and a Return on Equity of 10.4%. Once again, WGL requested a Revenue Normalization Adjustment (RNA).

SPOTLIGHT: Chapter Nine discusses PROJECT*pipes* and the Accelerated Pipeline Replacement Program (APRP).

In addition to the customary parties (OPC, DCG, AOBA, and GSA), the Commission also granted the Petition to Intervene of the Sierra Club, a national environmental organization founded in 1892. Like DC Climate Action before it, the Sierra Club sought to participate in the rate case to reduce the adverse climate and environmental impacts of using natural gas in the District. Two additional parties sought to intervene in the case: the Baltimore Washington Construction and Public Employees Laborer's District Council (BWLDC) and the Environmental Defense Fund (EDF), another environmental organization concerned about the climate impact of natural gas.

After submitting testimony, exhibits, and a virtual community hearing, the parties met, and most agreed to settle the case. On December 8, 2020, WGL filed a Joint Motion of Approval of a Non-Unanimous Settlement Agreement. WGL, OPC, AOBA, GSA, DCG, and BWLDC were settling parties. The remaining parties, the Sierra Club and the Environmental Defense Fund, did not oppose the Settlement Agreement. The Commission held a public interest hearing on January 27, 2021, to hear testimony on whether the Settlement Agreement was in the public interest.

Commission Order 20705

On February 24, 2021, the Commission approved the Settlement Agreement (Order 20705). The parties agreed to a revenue increase of $19.5 million, an overall allowed Rate of Return of 7.05%, and a Return on Equity of 9.25%. The Settlement Agreement included transferring $99.5 million in plant in service from PROJECT*pipes* to rate base net of applicable retirements. WGL agreed to withdraw its request for an RNA without prejudice to a refiling (likely in the next rate case, which WGL agreed not to file before August 31, 2021). Significantly, the Residential Essential Service credit was increased from covering 90% of the distribution portion of the bill to covering 100% of the distribution portion. The Commission found this change significant for eligible low-income customers during the COVID pandemic. WGL also agreed to file an annual report that discusses greenhouse gas (GHG) emissions associated with gas delivery within the District. This element of the Settlement Agreement will assist the Commission and the District by quantifying GHG emissions so that these may be targeted. With this commitment, the Commission found that the Agreement would help to advance the District's climate goals. In addition, the Commission committed to reviewing WGL's ongoing leak survey and repair activities and initiating appropriate actions to ensure public safety and the advancement of the District's climate goals.

Formal Case 1169

On April 4, 2022, WGL filed its next application for a rate increase. It sought an increase of $53 million in total annual revenues, including a $5.3 million transfer from the PROJECT*pipes* surcharge, for an incremental increase of about $47.7 million. WGL requested an overall allowed rate of Return of 7.39%, including a Return on Equity of 10.4%. WGL also requested a Climate Progress Adjustment (CPA), a decoupling mechanism similar to the RNA, and a Climate Action Recovery Tariff (CART) to recover costs associated with supporting the District's climate goals.

Intervenors and parties included OPC, AOBA, DCG, GSA, the Sierra Club, and DC Water.

OPC quickly filed a Motion to Hold in Abeyance the rate case based on WGL's noncompliance with specific Natural Gas Quality of Service Standards (NGQSS), particularly call center performance. WGL responded that a grant of OPC's Motion would harm it and that it has consistently met the relevant standards for the first three months of 2022. The Commission denied the OPC Motion in Order 21146, finding that since WGL had met the NGQSS Standards for the first quarter of 2022, there was no reason to hold the rate case in abeyance. However, should WGL fail to meet the standards in the future, the Commission could hold the rate case in abeyance.

SPOTLIGHT: The Commission's rules require WGL to answer 70% of all customer phone calls within 30 seconds and keep the call abandonment rate below 10%. During the pandemic, WGL consistently failed to meet these standards. Call center performance became an important issue in 2020 as more customers had difficulty paying WGL's bills and tried contacting the company to arrange payment plans. Unable to do so, these customers faced disconnection of service. The Commission stepped in and required that WGL take corrective actions and cease disconnections until call center performance met the NGQSS standards. In Order 21142, the Commission found that for the first quarter of 2022, WGL had met those standards and could resume disconnections for non-payment. However, the Commission required monthly reports and cautioned that it would take further action should performance decline.

AOBA and Sierra Club also filed Motions to Hold in Abeyance. The former argued that the case did not adequately show costs associated with service provision to affiliated entities. The latter argued that it is premature to consider WGL's climate initiatives (the CPA and CART) until the resolution of climate-related issues in other proceedings. By Order 21420, the Commission granted the AOBA Motion to the extent that it sought supplemental testimony on affiliate transactions. The Commission denied the Sierra Club Motion.

The Commission held three community hearings to discuss FC1169. Most commenters opposed the rate increase and strongly emphasized the detrimental impact of natural gas on the environment. Some commenters called upon the Commission to cause the "electrification" of DC heating and cooling systems, effectively asking that

WGL be put out of business. Commenters also focused on the problem of leaking gas lines, claiming to have found hundreds of leaks across all eight DC Wards. One commenter memorably summed up these complaints: "Gas is not the fuel of the future but of the past."

Unusually, the Commission decided not to hold an evidentiary hearing in this case. (Order 21582). The Commission determined that there were no material issues of fact requiring such a hearing. Instead, the issues identified by the parties were matters of law or policy. The Commission decided to hold a "legislative style" hearing to address these issues. To accommodate the parties' concerns, the Commission permitted the filing of additional testimony in Order 21602.

> SPOTLIGHT: In an evidentiary hearing, issues of fact are addressed by witnesses under oath and subject to cross-examination by opposing parties. In a legislative-style hearing, witnesses present the positions of the parties. The Commissioners question the witnesses, like in an Oral Argument before a Court. No cross-examination is permitted.

On September 13, 2023, the Commission held a legislative-style hearing called a "Procedural Hearing for Oral Arguments." This approach allowed each party to make their case before the three Commissioners and the Commissioners a chance to ask the parties questions. It appeared that the Commissioners liked this approach and may use it again when there are no material issues of fact in a case.

Commission Order 21939

On December 22, 2023, the Commission issued its decision in Order 21939, which granted in part and denied in part WGL's Application requesting authority to increase existing rates and charges for gas service in the District of Columbia. The Order partially granted the Application, allowing a gross revenue increase of $24.6 million, including a $4.7 million PROJECT*pipes* transfer. This amount represented a 54% decrease from WGL's original $53 million request. The Commission also approved a Return on Equity of 9.65% and an overall allowed Rate of Return of 7.11%. The effect of this decision on the average residential customer would be an increase in the average monthly bill of $7.63, or 7.9%.

The Commission rejected WGL's proposed Climate Progress Adjustment (CPA). The Commission found that WGL had not shown that the CPA decoupling mechanism would treat all customers equitably for lost sales revenues. However, the Commission recognized that appropriately designed decoupling mechanisms could incentivize WGL to engage in energy efficiency activities. Therefore, the Commission encouraged the parties to explore the design and parameters of a gas decoupling mechanism.

The Commission also rejected the Climate Action Recovery Tariff (CART) because the projects proposed to be funded by the CART have not yet been approved. Until the Commission approves the projects, there is no need for cost recovery.

Regarding allocating revenue increases across customer classes, the Commission continued its policy of gradually shifting the burden from commercial classes to residential classes while recognizing the need for bill stability.

Reconsideration

On January 22, 2024, WGL and AOBA applied for reconsideration of Order 21939. WGL argued that the Commission should not have disallowed recovery of $8,787,212 in late payment and disconnection fee revenues based on poor performance at the WGL Call Center. WGL maintained that disallowance was an unreasonable penalty. The Commission denied the reconsideration request, citing the egregious nature of the Call Center failures by Order 21959.

AOBA requested that the Commission reconsider its decisions regarding affiliate transactions, which the Commission found prudent and reasonable. The Commission denied AOBA's request and affirmed the requirement that WGL file an Affiliate Cost of Service Study to bring more clarity to affiliate transactions.

Summary of Rate Case Requests and Results

Application/Decision	Date	Increase	ROR	ROE
FC 1093	2/29/12	$29m	8.91%	10.9%
Order 17132	5/15/13	$8.381	7.93%	9.25%
FC 1137	2/26/16	$17.4m ($4.5m)	8.23%	10.25%
Order 18712	3/3/17	$8.510m ($4.5m)	7.57%	9.25%
FC 1151 (Tax Act)	1/12/18	-$6.2m		
Order 19395(Settlement)	6/29/18	-$8.226m		
FC1162	1/13/20	$35.2m ($9.1)	7.56%	10.4%
Order 20705 Settlement	2/24/21	$19.5m ($8.3m)	7.05%	9.25%
FC 1169	4/4/22	$53m ($5.3m)	7.39%	10.4%
Order 21939	12/22/23	$24.6m ($4.7m)	7.11%	9.65%

CHAPTER NINE: NATURAL GAS INFRASTRUCTURE: Formal Cases 1093, 1115, 1154 and 1175

APRP: Formal Case 1093

WGL had included in its FC1093 rate case a proposal for an Accelerated Pipeline Replacement Program (APRP). The Commission initially denied the APRP, but WGL refocused its efforts and filed a new proposal on August 15, 2013. The new plan addressed the first five years of a proposed 40-year accelerated replacement program, with an estimated five-year cost of $110 million. In that period, WGL estimated it would replace 20 miles of cast iron main lines and 18 miles of bare and unprotected steel main. The selection of which pipes to replace would be made year-by-year based on circumstances and risk profiles, using the Optimain assessment tool. Cost recovery would occur via a monthly Plant Recovery Charge, as proposed in the original FC1093 rate case application. WGL estimated the total cost of the 40-year program to be $1 billion.

OPC and AOBA filed comments on the revised APRP. OPC argued that the revised plan is almost identical to the plan the Commission rejected in FC1093. In particular, the pace of replacements is essentially the same as initially proposed, the setting of priorities continues to be mysterious, there is no implementation plan for the management of the APRP, and there is no adequate explanation of proposed costs. AOBA argued that the APRP should be considered in the context of a traditional rate case proceeding, and cost recovery should be deferred until the issuance of an Order in the following base rate case.

SPOTLIGHT: A main line is a pipe that carries natural gas throughout a large area and distributes it to smaller lines. A service line carries natural gas from a main line to an individual customer. A service line ends at the outlet of a customer's meter or the connection to the customer piping if there is no meter.

Approval of APRP: Formal Case 1115

On March 31, 2014, the Commission granted, in part, the WGL APRP proposal. Procedurally, the Commission determined that the APRP should be considered in a separate case to avoid confusion with the rate case elements of FC1093 and opened a new docket, FC1115. The Commission recognized that aging pipeline infrastructure resulting in increased gas leaks is a severe problem in the District and concluded that the District would benefit from a pipeline replacement program that targets pipes with the highest risk and leak rates. In particular, two types of pipes pose the most significant risk: bare or unprotected steel pipes and cast iron pipes (some of which date back to the 1880's). The Commission found WGL's proposal to replace these pipes with more durable plastic mains and service lines a reasonable industry-accepted resolution. Consequently, the Commission approved the first five-year segment of the 40-year APRP, understanding that the Commission will assess WGL's performance to ensure that the APRP is satisfying the promises WGL has made. Approval of subsequent 5-year increments will depend on prior performance.

The Commission established that WGL must meet specific criteria to use the Plant Recovery Charge (PRC) cost recovery mechanism. Failure to meet those criteria will mean projects will be funded through a traditional rate case proceeding. To enable the Commission's close monitoring of WGL's progress, WGL was required to file detailed information on program expenditures and progress, reflecting the Commission's concern with the slow progress WGL has made in replacing vintage mechanical couplings (90% of the budget expended with less than 50% of the work completed).

The Commission further determined that it would not approve the PRC but would hold an evidentiary hearing to allow parties to raise questions about the conditions imposed by the Commission on the APRP, including the cost recovery mechanism (Order 17431).

Settlement

After the customary procedural negotiations and delays, WGL, OPC, and AOBA informed the Commission that they had agreed to settle the issues surrounding the first 5-year APRP. On December 10, 2014, WGL filed a Joint Motion for Approval of a Unanimous Agreement of Stipulation and Full Settlement. The parties agreed to a surcharge cost recovery mechanism shown as a separate line item on customer bills, filing an Annual Project List, a financial reconciliation process comparing the amount collected through the surcharge and funds expended, and a completed project reconciliation.

On January 29, 2015, the Commission approved the Settlement Agreement and gave final approval to the APRP in general and to the plan's first five years (Order 17789). The Commission required audits of the program and the development of a "Customer Education Plan" to keep affected communities aware of construction activities. Shortly after the approval of the APRP, WGL changed the program's name to "PROJECT*pipes*."

As the construction of PROJECT*pipes* proceeded, the Commission kept a close eye on PROJECT*pipes* activities through required reporting and technical conference discussions and inspections. On June 20, 2017, more than three years after the initial approval of the program, DC Climate Action (DCCA) sought to intervene. DCCA asserted its interest in the environmental threat caused by methane leakage from gas pipelines and noted that, although FC1115 has significant ecological ramifications, no environmental group appears among the parties. Therefore, DCCA sought to participate as an intervenor. The Commission recognized DCCA's unique and substantial interest in FC1115 but noted that the evidentiary portion of the proceeding, which resulted in the Settlement Agreement, was closed. Consequently, the Commission granted DCCA's request, but only for limited participation in the implementation phase (Order 19090).

By the time of WGL's 2017 Completed Projects Reconciliation Report, the Commission was concerned about overspending and underperforming. WGL had spent 133% of its approved budget and had completed only 88% of the planned projects. The Commission declined to make any changes in its reporting requirements but left open the possibility that it would do so, likely based on future program audits.

SPOTLIGHT: A management audit of the PROJECT*pipes* 1 program was conducted by Liberty Consulting Group and filed with the Commission on April 19, 2019. The audit found that Years 1 and 2 were problematic and lacked appropriate program management. However, Years 3 and 4 showed significant improvement. Liberty provided 24 recommendations to continue improvements in cost and schedule performance.

PIPES 2: Formal Case 1154

On December 7, 2018, WGL filed an Application for approval of the second five-year phase of PROJECT*pipes*, known as PIPES 2. The five-year period would run from October 1, 2019 (after the expiration of PROJECT*pipes* 1) to December 31, 2024. WGL sought to continue the PROJECT*pipes* program under the terms and conditions established by the Commission when it approved the Settlement Agreement and in further implementation orders. PIPES 2 would consist of 15 distribution and transmission programs to replace 22 miles of main and 8,274 service lines over five years, costing $374 million. Cost recovery would continue to be through the Plant Recovery Charge. To consider the Application, the Commission established a new proceeding, FC1154. Implementation of PROJECT*pipes* 1 continued in FC1115. In addition, issues relating to the Plant Recovery Charge were to be considered in FC1162, the then-pending WGL rate case.

PIPES 2 Approval

On December 11, 2020, after two years of procedural wrangling, the Commission granted, in part and subject to conditions, the PROJECT*pipes* 2 application (Order 20671).

Parties to the proceeding included OPC, AOBA, the DCG, BWLDC, and three environmental organizations, DCCA, the Environmental Defense Fund (EDF), and the Sierra Club. Except for BWLDC, the parties opposed the request for a further five-year program, arguing that, while timely and economical pipe replacement activities are necessary, PIPES 1 has failed to produce the required improvements and is inconsistent with the District's climate goals.

After reviewing the parties' comments, the Commission recognized the changes in the District regarding the importance of environmental considerations. The Commission also recognized that decisions about the future of gas service will not happen overnight and will require a series of conversations and decisions on complex and evolving long-term issues. The Commission concluded that there is a need for a balance between the ongoing transition to a clean energy environment and the elevated risk in the District's aging gas infrastructure distribution system. Therefore, the Commission found that approval of a three-year PIPES 2 program would be in the public interest with an expenditure cap of $150 million. The Commission also required continued reporting and an independent management audit similar to the Liberty audit.

Reconsideration

On January 11, 2021, OPC filed a Petition for Reconsideration or Clarification of Order 20671. By Order 20702, the Commission granted clarification of its Order by assuring that the AltaGas Climate Business Plan was neither approved nor disapproved in Order 20671 but is subject to discussion in FC1167.

SPOTLIGHT: On April 27, 2021, OPC filed a Petition for Investigation into the Reasonableness, Safety, and Prudence of WGL's Handling of Natural Gas Leaks on its Distribution System. OPC claimed that since the start of PROJECT*pipes*, hazardous gas leaks have increased, not decreased. By Order 20762, the Commission held the Petition in abeyance but scheduled a series of technical conferences to discuss the issues raised. On April 8, 2022, OPC renewed its request, claiming that since the Commission had held the original petition in abeyance, technical conferences and reports had been filed, but gas leaks had worsened. In June 2022, the Commission denied the OPC renewed Petition, stating that a separate proceeding is unnecessary in light of other proceedings in which the issue of gas leaks is considered, particularly FC1154. However, in June 2024, the Commission decided that circumstances had changed and granted the OPC Petition, in part, opening Formal Case 1178 (Order 22004).

Implementation of PIPES 2

Implementation of PIPES 2 has proven to be contentious. Issues regarding gas leaks have continued, particularly regarding Advanced Leak Detection (ALD) technology. A study of gas leaks in the District was commissioned by the District Department of Energy and Environment (DOEE) and filed in FC1154 on November 30, 2021. The study found methane emissions from gas pipes are widespread and growing despite pipeline replacement efforts. The Commission continued to review filings on the progress of PIPES 2 and scheduled technical conferences specifically to discuss ALD. At these conferences, WGL revealed that it intends to use a satellite-based leak detection technology rather than a vehicle-based approach. Commenters questioned the prudence of this approach.

On December 14, 2022, DOEE filed a second study of methane emissions in the District. This study created seven neighborhood case studies comparing strategic electrification to pipe replacement from a cost and climate mitigation perspective. The study developed a "triage and transition" strategy wherein an existing pipeline network is managed for retirement and moved toward electrification.

PIPES 3: Formal Case 1175

On December 22, 2022, WGL filed an Application for Approval of PROJECT*pipes* 3 (PIPES 3) in Formal Case 1175. Given delays in approval, WGL sought approval for an extension of PIPES 2 on November 6, 2023. On February 23, 2024, the Commission granted a one-year extension of PIPES 2 and noted that WGL's total number of Grade 1 and Grade 2 reported leaks has declined by approximately 30% since 2019. The Commission capped additional spending at $50 million. Commissioner Beverly dissented from the majority opinion, noting the large number of consumer comments filed in opposition to the extension. He also stated that he has not seen evidence that the cumulative GHG emissions from this program represents a meaningful reduction in WGL's overall footprint or that the GHG reduction program is cost-effective (Order 21960).

SPOTLIGHT: On December 13, 2023, Continuum Capital filed its Management audit of PIPES 2, finding that WGL implemented PIPES 2 in a way that reduced risk and enhanced safety in the Washington DC area. At least one other study, filed by DCG and performed by Synapse Energy Economics, found that PIPES 2 is not accelerating pipe and service replacements, is expensive and may not be cost-effective, and is not well-designed and managed.

The 2022 WGL Application for the third phase of PROJECT*pipes*, PIPES 3, consists of 8 programs for the five years from January 1, 2024, through December 31, 2028, at a spending level of $431.3 million, and an additional $240.5 million for work compelled by the Pepco DC PLUG project. WGL anticipates replacing 28 miles of main and 7,637 service lines. The Application proposes to continue cost recovery through the Plant Recovery Charge surcharge mechanism.

In response to the Application, the Commission has received hundreds of comments opposing PIPES 3. Most of these are identical messages from consumers, and most argue that further extension of PROJECT*pipes* conflicts with the District's decarbonization climate goals and is expensive, unnecessary, and wasteful. The Commission also received a letter from 10 DC Councilmembers opposing PIPES 3 because it does not align with the new, fossil-free future that the Council has charted for the District. Moreover, the council members assert that all residents will not bear the cost burden equally. As more households replace gas appliances with electric appliances, the costs of PIPES 3 will be absorbed by residential households without the resources to make that change. Repair, rather than replacement, would be a less costly way to assure safety.

On June 12, 2024, the Commission dismissed the PIPES 3 application and ordered WGL to submit a restructured plan that ensures the safe and reliable operation of the natural gas infrastructure to meet the energy needs of all District consumers, aligning with the District's climate goals.

Conclusion

Again, we see that the Commission, while attentive to issues regarding safety and reliability, has intensified its focus on environmental considerations.

SECTION THREE: ACTIONS IN THE TELECOMMUNICATIONS FIELD

CHAPTER TEN: TRANSITION TO FIBER: FORMAL CASE 1102, RM27-2016-02

Compared to the flurry of activity in the electric and natural gas fields, the Commission has addressed only a few telecommunications issues from 2013 to 2023. This is because a significant paradigm shift occurred in telecommunications, partly due to the 1982 Consent Decree mandating the divestiture of AT&T, which created incumbent local exchange carriers such as Verizon and ushered in the beginnings of competitive provision of local telephone service. The federal Telecommunications Act of 1996 codified this paradigm shift and provided a framework for multiple local service providers in the District.

SPOTLIGHT: The 2022 Statistical Report of the Commission shows 47 competitive local exchange carriers (CLECs) serving non-residential customers and 3 CLECs serving residential customers. The percentage share of total telecommunications revenues earned by CLECs was 36%.

With competition came reduced need for regulation, particularly price regulation, and a focus on consumer protections. However, one major issue involved transitioning from the technology used to provide local telephone service from copper to fiber optic facilities. The Commission has determined that the Verizon fiber optic facilities are used to provide Internet Protocol service and are therefore exempt from Commission regulation.

SPOTLIGHT: DC Code §34-2006 exempts from Commission regulation "provision, rates, charges or terms of service of Voice Over Internet Protocol Service or internet Protocol-enabled Service." Also exempted from Commission regulation are wireless services, such as cell phone service.

SPOTLIGHT: The Utility Discount Program for telephone, known as Economy II, or Lifeline, provides unlimited local calling for $3 per month for eligible consumers and $1 per month for those over 65.

Formal Case 1102

On January 17, 2013, the Commission opened Formal Case 1102 to investigate Verizon's continued use of copper infrastructure to provide telecommunications services in the District and whether and under what circumstances the company plans to transition customers from copper to fiber. After the filing of comments by Verizon, OPC, and the Communications Workers of America (CWA), the Commission held evidentiary and community hearings and a Technical Conference to discuss the operation and attributes of switched copper service and Verizon's FiOS Digital Voice (FDV) service.

Verizon urged the Commission to encourage fiber deployment as the most advanced telecommunications technology available, providing increased reliability and enhanced services. OPC agreed that a copper-to-fiber transition brings benefits but also has shortcomings. Further, OPC noted a public outcry over Verizon's transition practices, allegedly "strongarming" consumers into switching to fiber and neglecting to repair copper facilities. An essential issue in the proceeding concerned the difference in power supply between the two technologies. Simply put, copper usually does not depend on customer-provided electricity, while fiber does. In other words, if the power supply is interrupted, fiber won't work, putting the safety of users at risk.

Order 17952

On September 1, 2015, the Commission decided the nine issues raised in the proceeding. Critical among these were (1) that switched fiber voice service must include the same services, capabilities, and functionalities as switched copper voice service, including access to power through the central office or a Battery Backup Unit (BBU);

(2) that FDV is an Internet Protocol-enabled service and is not regulated by the Commission;

(3) that Verizon must amend its customer information to include information about the BBU and to disclose that the Commission does not regulate FDV service; and

(4) that Verizon must permit customers to retain or return to copper facilities for as long as the current Price Cap Settlement Agreement is in effect or until otherwise ordered by the Commission (Order 17952).

SPOTLIGHT: A form of alternative price regulation known as Price Cap Regulation was implemented in the District after the passage of the DC Telecommunications Competition Act of 1996. In the Settlement Agreement on the 2008 Price Cap Plan, filed in FC 1057 on March 5, 2008, the parties agreed that "until FiOS is deployed, and afterward, Verizon will maintain the copper infrastructure in use and serving customers." Notably, the Settlement Agreement did not require the continued deployment of copper facilities. Instead, the Settlement Agreement has been interpreted to mean that Verizon will maintain it if a copper network is available in any location. However, the Settlement Agreement does not prevent Verizon from replacing copper facilities with fiber facilities.

Rulemaking 27-2016-02

In Order 17952, the Commission also determined that it should provide notice requirements for abandoning copper facilities to protect District consumers. It opened a rulemaking proceeding, RM27-2016-02, on April 15, 2016. Verizon objected to the adoption of copper abandonment rules, claiming that the rules established by the FCC were sufficient and that District-only rules would only add confusion. Since Verizon must communicate with customers directly regarding migration to fiber facilities, a customer notification rule is unnecessary. OPC supported the Commission's efforts to adopt regulations that balance the interests of telecom providers and consumers.

On May 16, 2019, the Commission adopted amendments to its rules that required customer notice but specifically eliminated any opportunity to comment on the abandonment. In adopting new Section 2707, the Commission noted that it could not, and does not, seek to delay the deployment of advanced technologies but does seek to ensure that customers are informed so they will know how to make choices about their telecommunications service. Most importantly, the Commission found that abandonment of copper facilities should be a notice-based rather than an approval-based process (Order 19931).

Transition Completion

By letter of July 8, 2022, Verizon notified the Commission that all remaining wire center locations in the District would be transitioned to fiber, effective no later than March 8, 2023.

CHAPTER ELEVEN: AREA CODE 771

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Formal Case 1165

On June 16, 2020, the North American Numbering Plan Administrator (NANPA) filed a Petition on behalf of the District telecommunications industry for relief for the 202 numbering plan area (NPA or area code). NANPA stated that the supply of telephone numbers in the 202 area code would be exhausted by the third quarter of 2022. NANPA proposed the addition of another area code to overlay all services in the District.

SPOTLIGHT: The North American Numbering Plan Administration was created by the Federal Communications Commission after the AT&T divestiture to oversee control of telephone numbering resources. Previously, AT&T had performed the function.

After receiving comments on the Petition and a community hearing, the Commission granted the Petition (Order 20627). The Commission noted that with this overlay, existing customers would not have to change telephone numbers, and new customers would receive a telephone number with the new area code. The only substantive change would be that customers dialing within the District of Columbia must dial a ten-digit number, including the area code, instead of a seven-digit number.

The Commission launched an extensive consumer education program to ensure all users in the District would make the necessary preparations for ten-digit dialing. Rollout of the 771 area code began in November 2021 and continues today.

Conclusion

Direct regulation of telecommunications services has diminished significantly from 2013 to 2023, as the number of landline customers has decreased and the transition to fiber has occurred. However, the Commission continues to support retail competition and consumer protection.

PART THREE - LOOKING TO THE FUTURE

CHAPTER ONE: CLEANENERGY ACT IMPLEMENTATION

As we have seen in Part Two, with considerable improvements in infrastructure safety and reliability, the Commission's focus over 2013-2023 shifted to protecting the environment and advancing the District's climate goals. In this Part, we look at how the Commission lays the groundwork for a carbon-free future.

General Docket 2019-04

As discussed in Part One, the DC Council enacted a series of laws addressing the District's aggressive climate commitments. Chief among these is the Clean Energy Amendment Act of 2018, enacted on March 22, 2019 (CleanEnergy Act). That Act required that the Commission consider "effects on global climate change and the District's climate commitments" when regulating utilities. In September 2019, the Commission issued a Notice of Inquiry inviting public comment on the analytical approach to take when making regulatory decisions, including whether to use specific greenhouse gas (GHG) emission reporting requirements, GHG emission reduction metrics, and carbon footprints. Numerous comments were filed, Technical Conferences were held, and a Clean Energy Act Implementation Working Group (CEAIWG) was created to address three subjects: (1) Underlying Measurements and Metrics, (2) Selection of Benefit/Cost Analysis (BCA) Framework, and (3) Utility Reporting Requirements.

SPOTLIGHT: Participants in the GD2019-04 proceeding included the Center for Biological Diversity, Solar United Neighbors of DC (DCSUN), Pace Energy and Climate Center, District Department of Energy and Environment (DOEE), Environmental Defense Fund, Office of the People's Counsel (OPC), Apartment and Office Building Association (AOBA), DC Climate Action, DC Sustainable Energy Utility, GRID 2.0, Pepco, and WGL.

On November 16, 2021, the CEAIWG released its Report. The Report contains majority and non-majority recommendations concerning the work of the three subject Working Groups: Metrics, BCA Framework, and Reporting Requirements.

Commission Order 21938

On December 8, 2023, the Commission adopted several of the recommendations of the CEAIWG and initiated Phase 2 of the proceeding (Order 21938). In Phase 2, the Commission will employ a consultant to develop an interim BCA model, using the costs and benefits approved by the Commission upon recommendation by the CEAIWG. Secondly, the consultant will quantify and incorporate additional costs and benefits into the model. The Commission also expects refinements and improvements to the model to be made over time.

The Commission will award the consultant contract in 2024.

CHAPTER TWO: WGL's Climate Business Plan: FC1142

WGL's CBP

On March 16, 2020, under Term 79 of the AltaGas/WGL Merger Settlement Agreement, WGL filed its Climate Business Plan to serve as a "bold blueprint to achieve carbon neutrality in support of the District of Columbia's long-term climate goals." The Climate Business Plan (CBP) includes studies conducted by ICF, its consultant, to support its conclusions. WGL proposes a "Fuel Neutral Decarbonization" approach in three key areas:

1. End Use: WGL states that the cleanest and lowest-cost energy is energy that is not used. Increasing energy efficiency is the first step to reducing energy use and the associated GHG emissions. To do this, WGL proposes to expand DCSEU programs and develop WGL programs supporting demand reduction, high-efficiency appliances, gas heat pumps, and Combined Heat and Power (CHP) deployments. WGL also plans to explore electric/gas hybrid heating approaches to reduce economic disincentives through decoupling and accelerating advanced technology development.
2. Transmission and Distribution: WGL's Plan proposes strengthening infrastructure and advanced leak detection. According to the CBP, fugitive methane emissions, attributable to pipeline transmission and distribution, account for the most minor source of emissions relating to natural gas. However, their community impacts – including odor, noise, and disruptions during repairs, planned construction, and proactive pipeline replacements – make them most visible to the public. WGL plans to prioritize pipeline replacement projects, promote advanced leak detection, recover gas using drawdown compressors, and evaluate the efficacy of promising methane detection systems.
3. Sourcing and Supply: WGL proposes decarbonizing the energy supply by introducing low/no carbon non-fossil fuel-based gases into the delivery system and avoiding methane

emissions from the upstream natural gas extraction. WGL proposes using certified natural gas, which has been deemed responsibly produced according to criteria determined by an independent third party. WGL also plans to use Renewable Natural Gas and green hydrogen, two carbon-neutral fuels with a strong emissions reduction potential and compatibility with existing infrastructure and customer end-use equipment and appliances.

Importantly, WGL's CBP proposes to meet the District's climate goals, saving an estimated $2.7 billion compared to approaches that rely solely on electrification and enhancing energy reliability to District consumers.

SPOTLIGHT: Renewable Natural Gas is a pipeline-compatible gaseous fuel derived from biogenic or other renewable sources, including animal manure, that has lower lifecycle carbon dioxide equivalent emissions than geological natural gas. Green Hydrogen is hydrogen produced by splitting hydrogen and oxygen using renewable electricity. Hydrogen is a potential power source in many industrial applications.

SPOTLIGHT: Electrification means switching from fossil fuels, including natural gas, to electricity derived from renewable sources such as solar and wind energy.

Reaction to the CBP

Reaction to the WGL CBP was almost all negative. On June 15, 2020, the Sierra Club filed comments that claimed that the Plan does not meet the climate commitment for 2050 because it continues to rely on burning climate-damaging fossil gas, does not introduce new and innovative services and products, and offers unrealistic and unsupported assumptions. Further, the Sierra Club claimed that other credible sources of analysis regarding the electrification costs reach far different conclusions than WGL. Sierra Club asked the Commission to open an evidentiary proceeding to resolve issues that have arisen, particularly because WGL has refused to respond to data requests.

On June 26, 2020, six members of the DC Council filed a letter attacking the CBP because it does not provide for a carbon-neutral environment by 2050. Moreover, the letter stated that methane gas supplied by WGL burned and leaked across DC accounts for almost 20 percent of DC's greenhouse gas emissions, and gas used for heating, cooking, and clothes drying poses a significant health threat—the Councilmembers' letter concluded by reminding the Commission that the Council has tasked it with climate leadership.

Other commenters on June 26 included DOEE, EDF, OPC, and AOBA. DOEE argued that the CBP fails to meet Term 79 of the merger commitments. First, it ignores the District's vision of a decarbonization future. Second, it is technically deficient and has significant errors. Third, according to DOEE, it does not include an actual business plan. DOEE agreed with the Sierra Club assessment that the Plan assumes that about 42% of total gas demand in 2050 will come from selling conventional natural gas; this alone demonstrates that the CBP will not lead to carbon neutrality.

EDF did not directly oppose the Plan but was concerned about accountability and long-term planning. EDF advocated for increased reliance on Advanced Leak Detection, which should quickly reduce methane emissions from the WGL distribution system. To that end, EDF recommended that the Commission refine gas planning procedures and open a new proceeding to consider a long-term planning process for both the District's electric and gas systems.

OPC maintained that the CBP, while a first step in a long conversation, is technically flawed and does not account for critical concerns of equity and affordability. The Plan continues to rely on the sale of natural gas, reviews only a narrow set of potential solutions, and rejects others, such as electrification. It fails to account for technical considerations relating to mixing renewable natural gas and hydrogen with fossil-based natural gas and overestimates the availability of these alternative fuels. Finally, OPC decried the Plan's reliance on rate-based cost recovery, leaving ratepayers vulnerable to unaffordable and inequitable costs. OPC joined others in asking for a comprehensive proceeding into energy transformation in the District.

AOBA focused on the significant financial commitments necessary if WGL's natural gas distribution operations are to be sustained, including capital expenditures for safety and climate-related investments totaling more than $7 billion. Like others, AOBA pointed out the significant continued use of fossil-based natural gas through 2050. Further, AOBA emphasized safety issues and argued that investing in fuel-neutral decarbonization for a system that cannot be operated safely makes no sense. According to AOBA, the WGL system has major ongoing leak problems that must be part of the Commission's consideration of the CBP. In sum, the WGL fuel-neutral decarbonization scenario, with an estimated cost to ratepayers of $3.8 billion, is not supported by the evidence in industry and regulatory data.

The Baltimore-Washington Construction and Public Employees Laborer's District Council (BWLDC) did not view the CBP negatively but asked the Commission for a detailed plan that measures workforce needs and impacts.

Reply Comments

On September 26, 2020, parties filed Reply Comments. In its reply, WGL stated that the Plan does meet the requirements of Term 79 in that it contains a long-term business plan; it provides an evolving business model with innovative new products and does not rely on selling only natural gas; it serves the 2050 climate goals; and, that WGL has begun holding public meetings on the Plan. Further, DC's climate goals do not require phasing out all-natural gas but include using carbon-neutral biomass or biogas, a Renewable Natural gas source. The CBP demonstrates that reaching carbon neutrality can be achieved without eliminating all gas use. Indeed, according to WGL, while the final balance between decarbonized gas (such as RNG and hydrogen) and other emission reduction pathways (such as demand reductions and offsets) can and will be adjusted, it is clear that gas can be decarbonized, and that decarbonized gas is expected to play an essential role in a carbon neutral future.

WGL pointed out that many parties assume that electrification will be the principal strategy for decarbonization. However, no one has developed or shared an analysis that uses relevant local conditions or ratepayer analyses to support this assumption. Electrification proponents appear to advocate fundamental and irreversible decisions about long-term energy policy without analysis of the cost to District ratepayers. Moreover, a biased focus on electrification also raises issues regarding energy availability during peak demand.

Concerning calls for an evidentiary or investigatory hearing, WGL stated that such a hearing is unnecessary because the CBP was designed to evolve through public meetings. The biannual meetings hosted by WGL will report on and discuss progress over time, allowing stakeholders to express their views, ideas, and concerns. Nor are Commission proceedings that integrate long-term electricity and gas planning necessary because of the ongoing efforts in General Docket 2019-04.

In conclusion, WGL maintained that the CBP is the first step in an ongoing conversation about the role of natural gas and its infrastructure to support the District's transition to a decarbonized energy scenario that also addresses the holistic view on the importance of cost, reliability, resilience, and other factors.

Others filing reply comments included OPC, AOBA, EDF, DCG, and the Sierra Club. Most of the reply commenters noted that there is substantial agreement that the WGL Plan is fatally flawed because it does not comport with the District's climate goals. The commenters assert that the continued reliance on natural gas beyond 2050 alone demonstrates that the Plan is non-compliant. Further, most commenters believed that WGL is overly optimistic about the availability of RNG and other alternatives to fossil-based gas, that there are severe errors in the ICF study, and that the issue of affordability is not sufficiently addressed. Finally, most reply comments noted that there is common ground on the need for a long-term planning proceeding looking into decarbonization of the energy distribution system.

CHAPTER THREE: Climate Policy Proceeding: Formal Case 1167

Commission Order 20662

In November 2020, after reviewing the comments and reply comments filed in response to the WGL CBP, the Commission opened a new, broader proceeding to consider whether and to what extent all utility or energy companies are meeting and advancing the DC energy and climate goals, and then act, where necessary, to guide the companies in the right direction (Order 20662). First, the Commission notes that because the CBP was filed in compliance with the WGL/AltaGas Merger Settlement Agreement and because the Settlement Agreement did not include a mandate that the Commission act on the CBP, it does not approve or reject the Plan. However, the Commission stated that it does have the authority and responsibility to promote the District's climate goals. Thus, to the extent that regulated utilities seek approval of new proposals that would assist the Commission in meeting this responsibility, those new proposals shall contain:

- A detailed description of the proposal;
- An explanation of how the proposal would accomplish and advance the District's climate change goals and
- A rigorous cost-benefit analysis (using the Commission-approved methodology), detailed cost descriptions, and a proposed recovery mechanism.

Response to Order 20662

In response to Order 20662, the Sierra Club filed a Motion asking that the Commission modify the Order by (1) making it clear that the Mayor's Clean Energy DC Plan is the roadmap to guide the evolution of the gas and electricity utilities toward implementation of the District's goals, (2) ordering that an independent consultant be retained to review the Clean Energy DC Plan and determine next steps for the utilities to meet the milestones set out in the Plan, and (3) establishing a selection committee to prepare the RFP and select the consultant. EDF also filed a Motion decrying the Order's lack of clarity on the process for utilities and stakeholders to develop and assess long-term plans. OPC filed a motion asking the Commission to establish the criteria and guiding principles it will use to review utility applications and to clarify the interplay between this new proceeding, FC1167, and GD 2019-04.

Order 20754

On June 4, 2021, the Commission responded to the criticisms of Order 20662 (Order 20754). The Commission noted that the Sierra Club, EDF, and OPC asked for additional guidance on the scope of the processes it would use in FC 1167. The Commission recognized that having multiple roadmaps guiding the proceeding would be confusing. It, therefore, determined that it would use the Clean Energy DC Plan. The Commission also decided to deny OPC's Motion as unnecessary.

Regarding the WGL CBP, it directed WGL to file additional details showing how the CBP would provide safe, reliable, affordable, and sustainable natural gas service consistent with the DC climate commitments, including a detailed cost-benefit analysis. (WGL filed its 30-Year Climate Plan on January 18, 2022, and its Climate Change Action Program on December 15, 2021.)

Recognizing that Pepco has developed a Climate Change Commitment strategy, the Commission directed Pepco to file a detailed implementation plan, including multiple scenarios with proposed projects to support the development of robust and resilient decarbonization strategies, detailed work papers, and a cost-benefit analysis for each scenario. The Commission noted the controversy over electrification and invited stakeholders to file cost models and studies.

Pepco Climate Change Commitment

Over the following months, Pepco filed a series of plans and studies responding to Order 20754, including a Climate Solutions Plan, an Electrification Study, a Five Year Action Plan, and a Thirty Year Transition Strategy. According to Pepco, together, these filings represent a robust and cost-effective path to advancing climate goals through electrification and clean energy. Pepco's core guiding principles provide the foundation for its strategy: Sustainability, Equity and Inclusion, Interactivity, Reliability, and Affordability in four market segments:

- **Electrifying Transportation** with programs directed toward charger installation, charger operational costs, EV total cost of ownership, and fleet transition;
- **Decarbonizing Buildings** through switching from direct fossil fuel use to electricity, with targeted programs to incentivize high-efficiency heating and hot water systems;
- **Activating the Local Energy Ecosystem**, including programs to activate local Distributed Energy Resources, increase solar penetration, and increase renewable energy procurement for Standard Offer Service; and
- **Enhancing Infrastructure for Climate Solutions**, focusing on the infrastructure needed to enable interactivity.

The Five Year Plan, submitted on October 8, 2021, offered Pepco's near-term strategy for achieving success in the four market segments, proposing ten initiatives and 62 programs to achieve specific climate goals. The Thirty Year Transition Strategy, filed on November 30, 2021, details emerging trends, developments contributing to climate resilience, plans to accelerate trends as part of electrification and decarbonization, and workforce and economic benefits.

Consolidated Comments on Pepco's Plans

Numerous parties filed Consolidated Comments on Pepco's filings in June 2022. Some commenters, such as DC Climate Action, Grid 2.0, and DCSEU, did not address the Pepco plans in detail. Among those who did, AOBA stated that Pepco's Climate Plans are highly problematic and comprise several uneconomic programs that would inappropriately and unnecessarily burden DC ratepayers. AOBA argued that the Plans also fail to sufficiently address critical factors, including the impact of the District's Building Energy Performance Standards (BEPS, codified at DC Code §8-1772), the role of non-utilities in supporting electric vehicle charging stations, changing work and commuting patterns, and conflicts between the proposals of Pepco and WGL. AOBA warned that the District's climate, energy, and environmental mandates should not be construed as unfettered approval of utility programs and expenditures.

The Sierra Club was encouraged by some of Pepco's proposals but stated that the proposals are too timid to achieve the transformational change needed. The Sierra Club maintained that electrification coupled with ending fossil fuel combustion is the only viable path to meeting decarbonization commitments. While Pepco's programs are a start, and the Sierra Club is encouraged that Pepco estimates that it will be able to handle load growth, Pepco's activities must be guided by electrification demand, careful regulatory oversight, and robust community feedback, in particular coordination with the DCSEU, transit organizations, non-profit and community-based partners, individual customers, building owners, innovators, academic institutions, environmental organizations, workforce development agencies, and businesses. Also, Pepco must not create barriers to DER, facilitate solar, and not penalize microgrids by making interconnection more difficult.

OPC believed the Commission should adopt a Benefit Cost Analysis (BCA) applicable to all utilities, as it intends to do in GD2019-04. The Commission must also reconcile conflicting aspects of the WGL and Pepco plans. Specifically, while Pepco advances near 100% electrification, WGL proposes to keep the gas system intact and employ transportation electrification, energy efficiency, and reliance on less GHG-intensive natural gases and hydrogen. OPC argued that Pepco's plans align with the District's climate goals, and WGL's do not. One pathway to decarbonization must be developed, not two. OPC also asked that the interconnection process be improved to connect DER to the grid more quickly, easily, and predictably.

The District of Columbia Government comments argued that many of the programs Pepco has put forward in its plan are promising and urges Pepco to develop a complete scenario planning and analysis, utilize a cost-benefit analysis developed in the CEAIWG, prioritize activities where it provides a unique advantage in meeting policy goals, and coordinate with other entities

WGL stated that the feasibility of full electrification has not been sufficiently addressed. WGL argued that a detailed planning exercise must be conducted to validate the assumptions that Pepco's distribution system can support full electrification. Also, safety, reliability, and affordability issues require more significant consideration. WGL also warned that it is unclear how full electrification will ensure system resiliency, possibly causing customers to be left without power or heat during winter peak if Pepco cannot meet demand. Energy efficiency measures may not be sufficient to offset anticipated load growth. WGL concluded that a multi-fuel integrated energy ecosystem with a robust low-carbon gas system will help ensure overall energy system reliability and resiliency at a lower cost to consumers and society.

Reply Comments

Many of the Reply Comments filed in September 2022 agreed that more work, more discussion, and more coordination are required to consider Pepco's Climate Change Commitment Plans, particularly the BCA test used by Pepco, the need for additional EV charging stations, an integrated approach to grid planning, and the need for clearly delineated roles for third parties.

Pepco's Reply Comments argued that its Climate Commitment Plan filings advanced actionable strategies, plans, and programs that align with the District's climate goals and are fully responsive to the Commission's directives in this proceeding. Pepco agreed with commenters that reducing GHG emissions is a challenge that must be addressed by multiple partners and stakeholders – public and private working together to establish programs that accelerate the energy transition and benefit residents and businesses, with considerations regarding affordability, equity, and inclusion being central. Pepco stated that it values the constructive suggestions in the Comments regarding equity and inclusion and will seek and incorporate feedback from stakeholders as it moves forward with its programs and initiatives. Although some commenters sought more detail in the Plans, such detail will become available as Pepco files applications for specific programs.

> SPOTLIGHT: Pepco filed its first program application on December 15, 2022 (Phase 1 Application). It offers detailed explanations of eleven programs supporting increased electrification and electric vehicle adoption, including make-ready incentives for (1) fast-charging stations in key corridors, (2) multifamily charging for apartment dwellers, (3) residential charging, (4) destination charging, (5) rideshare and taxi charging, and (6) public transit bus charging. Pepco estimates a total cost of $46,885,671 for all eleven programs through 2026.

Pepco also defended its BCA methodology, claiming that its Climate Policy Enable Test draws heavily from existing BCA tests and provides a comprehensive tool to assess the cost-effectiveness of programs that Pepco will propose in future applications. Further, Pepco's BCA includes substantive input from the Clean Energy Act Implementation Working Group, which has not yet developed an actionable BCA. Regarding grid readiness, Pepco stated it is best positioned to analyze the distribution system, not other commenters. Finally, Pepco's Reply Comments provided detailed program-by-program responses to criticisms of its Five-Year Action Plan. Pepco noted that it appreciates the constructive feedback in many comments and pledges to continue coordinating with stakeholders as it develops and refines its programs.

Further progress in clean energy policy-making in Formal Case 1167, like in GD 2019-04, is expected to occur in 2024.

CHAPTER FOUR: ELECTRIFICATION AUTHORITY

Call for Briefs

Heeding the many calls for electrification in the comments filed in FC1167, the Commission decided to tackle the threshold question of whether it had the legal authority to order electrification, which it considered to be the substitution of electricity for natural gas. It issued a call for briefs on the question on July 12, 2022, proposing an aggressive briefing schedule. Almost immediately, the parties asked for an extension of time to consider two new pieces of legislation passed by the DC Council. The Climate Commitment Amendment Act requires the Mayor to adopt policies to ensure that the District reduces GHG emissions by 60% compared to 2006 levels by 2030 and to achieve net zero emissions by 2045. The Clean Energy DC Building Code Amendment Act requires the Mayor to issue regulations by 2026, requiring most new and substantially renovated buildings, except for certain small residential buildings, to meet a net zero energy standard. The Commission granted the extension of time, recognizing that although the new laws do not directly address the Commission's legal authority to order electrification, the bills may indirectly impact the legal arguments advanced by the parties.

Commission Order 21593

WGL, AOBA, the DC Government, the Chesapeake Solar and Storage Association, the Grid 2.0 Working Group, the Sierra Club, and OPC filed briefs and reply briefs. Most parties, except for WGL, concluded that the Commission had the authority to order electrification, albeit implied, in its enabling statute. WGL argued that its 1848 charter, enacted by Congress, gave it the power to "manufacture, make and sell gas, to be made of coal, oil, tar, peat, pitch, or turpentine, or other material, and to be used for the purpose of lighting the city of Washington." In 1953, Congress amended the Charter to recognize that natural gas could be used for fuel purposes, not only lighting. Therefore, according to WGL, only Congress, not the Commission, could order electrification.

On April 6, 2023, the Commission agreed with WGL, finding that Congress did not intend to give the Commission authority to curtail WGL's right to sell natural gas under its Charter (Order 21593). However, the Commission found that, while it cannot directly limit WGL's sale of natural gas, it can encourage, through regulation, the development of alternative fuels by the Company, including non-combustible ones.

Reconsideration

OPC, the Sierra Club, and the DC Government sought reconsideration and clarification of Order 21593. They argued that WGL surrendered its federal Charter on March 25, 1957, and incorporated under DC law at that time. Parties submit that WGL has conceded that point on its website under "Company Profile." WGL responded that it had not surrendered its federal Charter. All it did was "incorporate" under the District of Columbia Business Corporation Act and expressly retained its rights under the federal Charter. WGL asserted there is nothing unusual about being incorporated in the District (or anywhere else) and keeping its federal Charter.

On June 1, 2023, the Commission denied the request for reconsideration but granted the request for clarification. (Order 21631). The Commission found that the statement on the WGL website is not dispositive of the legal question of whether WGL had surrendered its federal Charter. Indeed, the authority to decide whether an Act of Congress no longer applies to WGL is inherently a judicial power. Until a court makes such a determination, the Commission will assume that the federal Charter is in full force and effect. Consequently, the Commission denied the reconsideration request.

Concerning the request for clarification, the parties believe that the Commission's language in Order 21593 concerning alternative fuels implies that there are alternative fuels that can reduce WGL's GHG emissions to levels consistent with the District's climate goals. But, the parties maintain no record basis for making such a finding. The Commission granted the request for clarification by stating that it intended no such implication.

The parties have not sought a judicial appeal of the Commission's reconsideration decision.

CONCLUSION

This Report chronicles the changes – both in and out of the Commission – that have occurred in the years 2013 to 2023. Some of these changes were significant, like the change in ownership of Pepco and WGL, or the mandate by the Council for environmental leadership. This Report also describes the actions taken by the Commission – and others – in response to those changes, and that propelled those changes.

The decade also saw some significant accomplishments. The Commission's approval of the Pepco/Exelon merger improved reliability and energy efficiency, and helped to modernize the grid. The approval of the WGL/AltaGas merger increased interest in the environmental consequences of use of natural gas. Use of Alternative Forms of Regulation has led – and will lead – to more efficiency, and less cost, in the rate-making process. Undergrounding of power lines, a long-sought outcome, began to come to fruition. The Commission's efforts at community engagement have resulted in greater involvement in working groups and technical conferences and the opportunity for interested parties to participate in decision-making. Major new initiatives, like the Clean Energy Summit, Winter Ready DC and the Advisory Council, have brought greater focus to issues facing the District. Consumer protection, particularly during the pandemic, has continued to be a major driver of Commission action.

Throughout the decade, the dedicated and talented Commission staff has never wavered in its commitment to serving the public interest. As we begin the decade 2024 to 2034, we can expect that commitment to continue and, with the help of all concerned, to flourish.

GLOSSARY OF ACRONYMS

AFOR - Alternative Form of Regulation

ANC - Advisory Neighborhood Commission

AOBA - Apartment and Office Building Association

APRP - Accelerated Pipeline Replacement Program

AT&T - American Telephone and Telegraph Corporation

ALD - Advanced Leak Detection

BBU - Battery Backup Unit

BCA - Benefit-Cost Analysis

BEPS - Building Energy Performance Standards

BSA - Bill Stabilization Adjustment

BTM - Behind the Meter

BWLDC - Baltimore Washington Labor District Council

CART - Climate Action Recovery Tariff

CBE - Certified Business Enterprise

CBOR - Consumer Bill of Rights

CBP - WGL's Climate Business Plan

CBRC - Customer Rate Base Credit

CEAIWG - Clean Energy Act Implementation Working Group

CEDCA - Clean Energy DC Act of 2018

CEMI - Customers Experiencing Multiple Interruptions

CHP - Combined Heat and Power

CIF - Customer Investment Fund

CLEC - Competitive Local Exchange Carrier

CPA - Climate Progress Adjustment

CREF - Community Renewable Energy Facility

CSP - Pepco's Climate Solutions Plan

CUB - Consumer Utility Board

CWA - Communications Workers of America

DC - District of Columbia

DCCA - DC Climate Action

DCG - District of Columbia Government

DCMR - DC Municipal Regulations

DC PLUG - DC Power Line Undergrounding

DCSEU - DC Sustainable Energy Utility

DCSUN - DC Solar United Neighborhood

DDOT - District Department of Transportation

DER - Distributed Energy Resources

DOEE - District Department of Energy and the Environment

ECIIA - Electric Company Infrastructure Improvement Act

ECIIAFEAA - Electric Company Infrastructure Improvement Act Financing Emergency Amendment Act

EDF - Environmental Defense Fund

EEEC - Energy Efficiency and Energy Conservation

EMRP - Enhanced Multiyear Rate Plan

EQSS - Electric Quality of Service Standards

EV - Electric Vehicle

EVCS - Electric Vehicle Charging Station, also Electric Vehicle Supply Equipment (EVSE)

FCC - Federal Communications Commission

FDV - FiOS Digital Voice Service

FERC - Federal Energy Regulatory Commission

FC - Formal Case

FTTP - Fiber To The Premises

GD - General Docket

GHG - Greenhouse Gas

GSA - U.S. General Services Administration

HCNCA - Health Care Council of the National Capital Area

iCAST - International Center for Appropriate and Sustainable Technology

kWh - Kilowatt Hours

MAREC - Mid-Atlantic Renewable Energy Coalition

MDU - Multiple Dwelling Unit

MDV-SEIA - Maryland DC Virginia Solar Energy Industries Association

MEDSIS - Modernizing the Energy Distribution System for Increased Sustainability

MPP - Multifamily Piping Program

MRP - Multiyear Rate Plan

MW - Megawatt

NANPA - North American Numbering Plan Administrator

NCLC - National Consumer Law Center

NHT - National Housing Trust

NOC - Notice of Construction

NOI - Notice of Inquiry

GLOSSARY OF ACRONYMS

NPA - Numbering Plan Area (Area Code)

NPRM - Notice of Proposed Rulemaking

NSA - Nonunanimous Settlement Agreement

OCS - Office of Consumer Services

OPC - Office of the People's Counsel

OPEIU - Office and Professional Employees International Union

OTRA - Office of Technical and Regulatory Analysis

PEPCO - Potomac Electric Power Company

PIM - Performance Incentive Mechanism

POAH - Preservation Of Affordable Housing

PPA - Power Purchase Agreement

PRC - Plant Recovery Charge

RAD - Residential Aid Discount

REC - Renewable Energy Certificate (or Credit)

RES - Residential Essential Service

RFP - Request For Proposal

RM - Rulemaking

RNA - Revenue Normalization Adjustment

RNG - Renewable Natural Gas

RNSA - Revised Nonunanimous Settlement Agreement

ROE - Return on Equity

ROR - Rate of Return

RPS - Renewable Portfolio Standard

SAIDI - System Average Interruption Duration Index

SAIFI - System Average Interruption Frequency Index

SEPA - Smart Electric Power Alliance

SOS - Standard Offer Service

TCJA - Tax Cut and Jobs Act

TE - Transportation Electrification

TEWG - Transportation Electrification Working Group

UPC - Underground Project Charge

UR - Underground Rider

WG - Working Group

WGL - Washington Gas Light Company

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Of course, credit for errors and omissions is mine alone.

Veronica M. Ahern

Executive Director 2015 - 2022