

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

ORDER

November 22, 2023

**FORMAL CASE NO. 1017, IN THE MATTER OF THE DEVELOPMENT AND
DESIGNATION OF STANDARD OFFER SERVICE IN THE DISTRICT OF
COLUMBIA, Order No. 21934**

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) concludes the Biennial Review of the provision of Standard Offer Service (“SOS”) in the District of Columbia (“District”) initiated in 2023. An audit of the SOS administrative charge shall be conducted covering the last five (5) years. The Commission will issue another order with details of how the audit shall be conducted.

II. BACKGROUND

2. In accordance with 15 DCMR § 4102.2, the Commission is required to conduct a review of the SOS Administrator’s SOS program every other year to make any appropriate adjustments to SOS as competitive developments in the District change.¹ This process is referred to as the Biennial Review. The last Biennial Review was initiated in 2018,² which resulted in several changes to the SOS process.³ A Biennial Review has not taken place since that time due to the COVID-19 pandemic.

3. On August 4, 2023, the Commission issued a Notice initiating the 2023 Biennial Review by inviting comments on any appropriate adjustments to the SOS Administrator’s SOS program the Commission should consider in light of competitive developments in the District.⁴

¹ 15 DCMR § 4102.2 states that “[t]he Commission will conduct a review of the SOS Administrator’s SOS program every other year, beginning in 2010, to make any appropriate adjustments to SOS as competitive developments in the District of Columbia change. All adjustments shall be prospective and all contracts entered into prior to these changes shall remain in full force and effect pursuant to the contract terms.”

² *Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia (“Formal Case No. 1017”),* Order No. 19431, rel. August 9, 2018.

³ *Formal Case No. 1017,* Order No. 19897, rel. April 12, 2019.

⁴ *Formal Case No. 1017,* Notice, rel. August 4, 2023.

On September 5, 2023, the Office of the People’s Counsel (“OPC”) filed comments.⁵ On September 18, 2023, the Potomac Electric Power Company (“Pepco”) filed reply comments to OPC.⁶

III. DISCUSSION

4. **OPC Comments.** First, OPC states that the Commission should audit the last five (5) years of Pepco’s administrative charge true-ups to ensure that Pepco is appropriately including only allowed costs and conducting accurate true-ups.⁷ OPC explains that according to 15 DCMR 4107.12, “the Commission may audit such true-ups annually.”⁸ OPC states that in 2013 and 2016, OPC argued for a mechanism to audit SOS-related administrative costs.⁹ Second, OPC argues that the Commission should review the measures in place to guard against any conflict of interest when an Exelon affiliate bids on SOS tranches to ensure that the measures are sufficient to protect ratepayers.¹⁰ Third, OPC states that the Commission should order changes to the renewable energy power purchase agreement (“PPA”) Request for Proposals (“RFP”) recommended by OPC and other parties.¹¹ OPC states that in this Biennial Review, the Commission should ensure that the PPA pilot process does not become stalled and that the Commission should order Pepco to issue a new PPA RFP reflective of OPC’s recommendations and with due consideration of other stakeholders’ recommendations.¹²

5. **Pepco Reply Comments.** First, Pepco argues that there is already an adequate process to review the administrative charge.¹³ Pepco states that as part of the SOS process, Pepco proposes and the Commission approves SOS tariffs and rates, and within these proposed SOS rates, Pepco shows the administrative charge and its components.¹⁴ Pepco’s proposed rates, which include the administrative charge, are reviewed by both the Commission and the Commission’s

⁵ *Formal Case No. 1017*, Office of the People’s Counsel for the District of Columbia Comments, filed September 5, 2023 (“OPC Comments”).

⁶ *Formal Case No. 1017*, Potomac Electric Power Company Reply Comments, filed September 18, 2023 (“Pepco Reply Comments”).

⁷ OPC Comments at 3-4.

⁸ OPC Comments at 3 citing 15 DCMR § 4107.12.

⁹ OPC Comments at 3.

¹⁰ OPC Comments at 4.

¹¹ OPC Comments at 5.

¹² OPC Comments at 5-6.

¹³ Pepco Reply Comments at 2.

¹⁴ Pepco Reply Comments at 2.

consultant, Bates White, before the Commission approves the SOS tariffs.¹⁵ This review provides an opportunity for the Commission and its consultant to consider and question the components that go into the SOS rates.¹⁶ Additionally, the Commission allows for comments by interested persons on the SOS rate filing, but no comments were filed this past year.¹⁷ Because appropriate processes are in place to review Pepco's SOS rates, including its administrative charge, Pepco concludes that no additional action should be required.¹⁸

6. Second, Pepco argues that Pepco has no affiliates that bid into SOS auctions in the District.¹⁹ Pepco states that in a February 22, 2022, letter to the Commission in *Formal Case No. 1119*, Pepco advised the Commission that Pepco's parent company, Exelon Corporation, completed its separation transaction, which severed the relationship between transmission and distribution utilities, and the generation business.²⁰ Therefore, Pepco explains that Pepco has no affiliates that sell wholesale generation, and no action outside of the robust processes already in place needs to be taken.²¹

7. Third, Pepco argues that the Commission should direct Pepco to issue a more flexible RFP for the PPA.²² Pepco states that on April 21, 2023, Pepco filed a letter requesting the Commission issue an order directing Pepco to issue a new RFP for the PPA with more flexible terms.²³ Pepco states that the Commission issued a notice requesting comments from interested stakeholders, and several stakeholders, including OPC, filed comments.²⁴ Pepco agrees with OPC that the Commission should not let this matter stall and urges the Commission to issue an order directing Pepco to issue a new RFP with more flexible terms.²⁵ According to Pepco, a more flexible RFP would permit flexibility in both the duration of the PPA and the percentage of the SOS load and would also allow Pepco to consider existing facilities rather than unbuilt renewable projects.²⁶

¹⁵ Pepco Reply Comments at 2-3.

¹⁶ Pepco Reply Comments at 3.

¹⁷ Pepco Reply Comments at 3.

¹⁸ Pepco Reply Comments at 3.

¹⁹ Pepco Reply Comments at 3.

²⁰ Pepco Reply Comments at 3.

²¹ Pepco Reply Comments at 3.

²² Pepco Reply Comments at 3.

²³ Pepco Reply Comments at 3.

²⁴ Pepco Reply Comments at 4.

²⁵ Pepco Reply Comments at 4.

²⁶ Pepco Reply Comments at 4.

IV. DECISION

8. The administrative charge is the mechanism by which the SOS Administrator recovers its incremental costs for procuring and providing SOS, recovers uncollectible costs, earns a margin, and collects the adder.²⁷ Those four (4) items comprise the administrative charge. Consistent with 15 DCMR § 4103.3, Pepco, as the SOS Administrator, submits proposed SOS retail rates, including the administrative charge, to the Commission for approval. In addition to the Commission and the Commission's consultant's review of Pepco's filing, there is a period of seven (7) calendar days in which any interested person can comment on the SOS retail rates and administrative charge.²⁸ Thus, the current process allows for a thorough review of Pepco's administrative charge each year.

9. The administrative charge is an estimate for the upcoming SOS year, and thus, the administrative charge is trueed up each year based on the actual costs that Pepco incurred in previous years.²⁹ Moreover, the Commission has the authority to audit these administrative charge true-ups.³⁰ OPC argues that the Commission should use this authority to audit the last five (5) years of the administrative charge true-ups to ensure that only allowed costs are included and that Pepco is conducting accurate true-ups. OPC made similar recommendations in 2013 and 2016.³¹ The Commission agrees that conducting an audit at this time covering the last five (5) years is reasonable to ensure that the costs within the administrative charge are accurate and appropriate. The Commission will issue another order with details of how the audit shall be conducted.

10. OPC recommends the Commission review the measures in place to guard against any conflict of interest when an Exelon affiliate bids into the SOS auctions,³² while Pepco argues that Pepco has no affiliates that bid into SOS auctions in the District.³³ Pepco, in *Formal Case No. 1119*, explained that Exelon completed the separation of Constellation Energy Corp. (Constellation), Exelon's former power generation and competitive energy business, and that Exelon would move forward as a transmission and distribution business.³⁴ Thus, no conflict of

²⁷ *Formal Case No. 1017*, Order No. 13268, rel. August 19, 2004. *See also*, 15 DCMR § 4103.4.

²⁸ 15 DCMR § 4103.3.

²⁹ 15 DCMR § 4107.12. "The actual administrative costs for a given SOS year shall be used to true-up the estimated administrative costs for that same year. . ." *See, e.g., Formal Case No. 1017*, Pepco's Proposed Retail Rates for Standard Offer Service, March 3, 2023, Attachment D at 8.

³⁰ 15 DCMR § 4107.12. "The Commission may audit such true-ups annually."

³¹ *Formal Case No. 1017*, Office of the People's Counsel for the District of Columbia Reply Comments at 9, filed April 17, 2013. *Formal Case No. 1017*, Office of the People's Counsel for the District of Columbia Comments at 7, filed August 23, 2016.

³² OPC Comments at 4.

³³ Pepco Reply Comments at 3.

³⁴ *Formal Case No. 1119*, *In the Matter of the Joint Application of Exelon Corporation, Pepco Holdings, Inc.,*

interest exists because Pepco, as the SOS Administrator, no longer has affiliates bidding into the SOS auctions due to the separation of Constellation from Pepco and its parent company, Exelon.

11. Finally, the Commission issued Order No. 21918, as both OPC and Pepco requested, directing Pepco to file a revised RFP for the PPA with greater flexibility in the following areas: adding existing and expanding facilities to bid, adding onshore and offshore wind facilities to the type of facilities that can bid, and lowering the threshold of facilities that can bid to five (5) MW.³⁵

12. The issuance of this Order marks the close of this Biennial Review. The next Biennial Review will commence in 2025. The subject matter of the next Biennial Review will be determined at that time.

THEREFORE, IT IS ORDERED THAT:

13. The Biennial Review of the provision of Standard Offer Service in the District of Columbia initiated in 2023 is hereby **CONCLUDED**; and

14. An audit of the Standard Offer Service administrative charge shall be conducted covering the last five (5) years.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:



CHIEF CLERK:

**BRINDA WESTBROOK-SEDGWICK
COMMISSION SECRETARY**

Potomac Electric Power Company, Exelon Energy Delivery Company, LLC and New Special Purpose Entity, LLC for Authorization and Approval of Proposed Merger Transaction, Potomac Electric Power Company Letter, filed February 22, 2022.

³⁵ *Formal Case No. 1017, Order No. 21918, rel. October 26, 2023.*