



**Office of the People's Counsel  
District of Columbia**

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**Elizabeth A. Noël**  
People's Counsel

August 19, 2008

**VIA ELECTRONIC FILING**

Dorothy Wideman  
Commission Secretary  
Public Service Commission  
of the District of Columbia  
1333 H Street, N.W.  
Second Floor West  
Washington, D.C. 20005

**Re: Formal Case No. 982, In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption to Electric Energy Service**

Dear Ms. Wideman:

Enclosed for filing in the above-referenced proceeding are an original and three (3) copies of the "Response of the Office of the People's Counsel to Pepco's Reply in Opposition."

If there are any questions regarding this matter, please contact me at (202) 727-3071.

Sincerely,

Margaret Sallah  
Assistant People's Counsel  
D.C. Bar No. Pending

Enclosure

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF  
THE DISTRICT OF COLUMBIA**

**In the Matter of the )  
Investigation of Potomac Electric ) Formal Case No. 982  
Power Company Regarding Interruption ) (2008 Power Outages)  
to Electric Energy Service )**

**RESPONSE OF THE OFFICE OF THE PEOPLE'S COUNSEL  
TO PEPCO'S REPLY IN OPPOSITION**

Pursuant to Rule 105.8 of the Rules of Practice and Procedure of the District of Columbia Public Service Commission ("PSC" or "Commission"), 15 D.C.M.R. §105.8 (2004), the Office of the People's Counsel ("OPC" or "Office"), the statutory representative of the ratepayers of the District of Columbia ("District" or "D.C") in utility proceedings,<sup>1</sup> respectfully files its response to Potomac Electric Power Company's ("Pepco") Reply in Opposition<sup>2</sup> ("Reply in Opposition") to OPC's Request for Formal and Community Hearings<sup>3</sup> ("Request for Hearings"). The filing of this response is in conjunction with OPC's request for leave, which is incorporated herein.<sup>4</sup>

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<sup>1</sup> D.C. Code § 34-804 (2001).

<sup>2</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption to Electric Energy Service*, Reply of the Potomac Electric Power Company (August 12, 2008).

<sup>3</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption to Electric Energy Service*, OPC's Request for Formal and Community Hearing Regarding Pepco's Electric Distribution System Pertaining to the 2008 Unplanned Outages (Aug. 1, 2008).

<sup>4</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption to Electric Energy Service*, Request for Leave of the Office of the People's Counsel to File a Response to Pepco's Reply in Opposition (August 19, 2008).

## I. Procedural History

On June 17, 2008, the Office filed a Petition for an Investigation into the 2008 Electric Service Outages in Pepco's District service territory ("Petition").<sup>5</sup> The Commission opened Formal Case No. 1062 on June 17, 2008, in order to investigate the electric service outage that occurred in the District on June 13, 2008.<sup>6</sup> On June 18, 2008, OPC filed a supplementary motion asking the PSC to combine Formal Case No. 1062 with its Petition ("Motion to Consolidate").<sup>7</sup> Order No. 14861 was issued by the Commission on July 18, 2008, denying OPC's Petition and Motion to Consolidate.<sup>8</sup> However, the Commission formally incorporated OPC's Petition into Formal Case No. 982, stating it would address the 2008 outages as part of the investigation in this docket.<sup>9</sup> OPC filed its Request for Hearings in Formal Case No. 982 on August 1, 2008. Pepco filed its Reply in Opposition on August 12, 2008.

## II. Discussion

Pepco's Reply in Opposition is without merit and should not be considered by the Commission.

Pepco fails to state any grounds upon which the Commission should deny OPC's Request for Hearings. Instead, Pepco attempts to confuse the Commission through

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<sup>5</sup> Petition of the Office of People's Counsel for an Investigation into the 2008 Electric Service Outages in Pepco's D.C. Service Area (June 17, 2008).

<sup>6</sup> Formal Case No. 1062, *In the Matter of the Investigation into the Electric Power Outage in the District of Columbia on June 13, 2008*, Order No. 14834 (June 17, 2008).

<sup>7</sup> Formal Case No. 1062, *In the Matter of the Investigation into the Electric Power Outage in the District of Columbia on June 13, 2008*, Motion of the Office of People's Counsel Requesting the Commission to Combine OPC's June 17, 2008 Petition for an Investigation into the 2008 Electrical Service Outages in Pepco's D.C. Service area with Formal Case 1062 (June 18, 2008).

<sup>8</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption to Electric Energy Service*, Order No. 14861 (July 18, 2008).

<sup>9</sup> *Id.* at 3.

misrepresenting the clear language of Commission Order No. 14861 and OPC's Request for Hearing. OPC has not asked explicitly or implicitly for Commission revision of Order No. 14861. Nor has OPC asked the Commission for an independent investigation of electric service interruptions in the District service territory. OPC has simply asked the Commission to hold a formal evidentiary hearing in an existing docket to review service interruptions.

There is no legal impediment preventing the Commission from holding a formal evidentiary hearing in an investigation. The Commission has the authority to investigate and hold a formal hearing in any proceeding it deems necessary.<sup>10</sup> A comprehensive review is not limited to notice and comments or reports filed in accordance with quality of service standards and data requests. In fact, one could argue that a comprehensive review necessitates a formal evidentiary hearing. The Commission choosing to hold an evidentiary hearing in Formal Case No. 982 is not inconsistent with its Order No. 14861.

The Office is puzzled by Pepco's Reply in Opposition. If Pepco has nothing to hide, if "the reliability of the electric grid is fine" if "99% of the time it delivers and it delivers well;" then Pepco should welcome the opportunity to create a comprehensive picture of the current state of its distribution system through an evidentiary hearing.<sup>11</sup> It is the perfect opportunity for Pepco to convince its ratepayers, consumers and regulators that its claims are true and that the 268 outages that have occurred in the

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<sup>10</sup> D.C. Code §§ 34-403, 34-902, 34-903, 34-908 and 34-915 (200115 D.C.M.R. §§101.2 and 120.1 (2004). The Office also has the statutory authority to investigate independently the services given by Pepco. D.C. Code § 34-804(d)(4) (2004).

<sup>11</sup> Id.

District since January of 2008 are not indicative of a failing infrastructure.<sup>12</sup> Pepco's Response in Opposition should be denied.

The Community has spoken on the need for a formal review of the causes and the resolution of these outages

The Commission has received numerous emails from a variety of sources supporting OPC's Request for Hearings.<sup>13</sup> Consumer participation in the process is critical. Consumers have first hand experience about the effect of these outages on their daily lives. Unfortunately, one of the unresolved frustrations expressed by consumers is Pepco's failure to communicate. As far back as the 1999 Ice Storms and Hurricane Isabel, consumers have expressed their frustration at the inability to get information from Pepco when their power is out. The Commission held a community hearing in 2003 to hear from the community on outages caused by the August 2003 thunderstorms and Hurricane Isabel.<sup>14</sup> The current situation warrants the same kind of treatment. Pepco's consumers should be provided a forum in which to present their issues to the Commission on a public record. They should know that the Commission takes their complaints seriously, is giving them an opportunity to be heard, and -- whatever the Commission may finally decide -- has considered their views, positions and experiences in reaching any decisions in this matter. Pepco's Reply in Opposition should be denied.

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<sup>12</sup> This number includes all of the non-major and major reports OPC has received from Pepco in accordance with the Electricity Quality of Service Standards and Commission Staff issued data requests through August 14, 2008.

<sup>13</sup> This includes an ANC Commissioner, Civic Associations and residential Pepco customers.

<sup>14</sup> Formal Case No. 982, *In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption to Electric Energy Service*, Order No. 12954 (Oct. 20, 2003).

### **III. Conclusion**

WHEREFORE, for the foregoing reasons, OPC respectfully requests the District of Columbia Public Service Commission to:

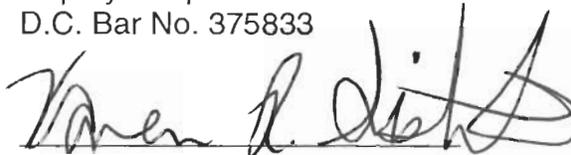
1. deny Potomac Electric Power Company's Reply in Opposition to OPC's Request for Formal and Community Hearings;
2. order a formal evidentiary hearing on the state of Potomac Electric Power Company's distribution system for the District service territory; and

3. schedule and hold a community hearing in each quadrant of the District to hear the views and concerns of Pepco ratepayers regarding the electric service outages.

Respectfully submitted,

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Dated: August 19, 2008

**CERTIFICATE OF SERVICE**

**Formal Case No. 982, In the Matter of the Investigation of Potomac Electric Power Company Regarding Interruption to Electric Energy Service**

I hereby certify that on this 19th day of August, 2008, a copy of the "Response of the Office of the People's Counsel to Pepco's Reply in Opposition" was served on the following parties of record by hand delivery; first class mail, postage prepaid; or, electronic mail:

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Patrick Leibach, Legislative Assistant  
Committee on Public Services  
and Consumer Affairs  
Council of the District of Columbia  
1350 Pennsylvania Avenue, N.W., Suite  
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