

Capital Reporting Company  
Formal Case No. 1119 12-02-2015

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PUBLIC SERVICE COMMISSION  
OF THE DISTRICT OF COLUMBIA

-----:  
IN THE MATTER OF THE JOINT : Formal Case  
APPLICATION OF EXELON : No. 1119  
CORPORATION, PEPCO HOLDINGS, :  
INC., POTOMAC ELECTRIC POWER :  
COMPANY, EXELON ENERGY :  
DELIVERY COMPANY, LLC AND :  
NEW SPECIAL PURPOSE ENTITY, LLC:  
FOR AUTHORIZATION AND APPROVAL :  
OF PROPOSED MERGER TRANSACTION :  
-----:

Washington, D.C.

Wednesday, December 2, 2015

The Public Interest Hearing in the above-  
captioned matter began at 10:20 a.m., pursuant to  
notice, at the Public Service Commission of the  
District of Columbia, 1325 G Street, N.W.,  
Washington, D.C.

BEFORE: BETTY ANN KANE - CHAIRMAN  
JOANNE DODDY FORT - COMMISSIONER  
WILLIE L. PHILLIPS - COMMISSIONER

Before: Bonnie L. Russo

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1 I N D E X

| 2 | WITNESSES:      | DIR | CROSS | RED | REC |
|---|-----------------|-----|-------|-----|-----|
| 3 | TOMMY WELLS     | 76  | 82    | 176 | --  |
| 4 | CARIM KHOUZAMI  | 180 | --    | --  | --  |
| 5 | DAVID VELAZQUEZ | 291 | --    | --  | --  |

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7

E X H I B I T S

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| 10 | JA 5A Testimony of Carim Khouzami  | 181 | 289    |
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1 P R O C E E D I N G S

2 THE SECRETARY: All rise. You may  
3 be seated.

4 CHAIRMAN KANE: Good morning. I'm  
5 going to call to order this public interest  
6 hearing of the D.C. Public Service Commission  
7 in Formal Case 1119, which is in the matter of  
8 the joint application of Exelon Corporation,  
9 Pepco Holdings, Inc., Potomac Electric Power  
10 Company, Exelon Energy Delivery Company, LLC,  
11 and New Special Purpose Entity, LLC, for  
12 authorization and approval of a proposed merger  
13 transaction.

14 For the record, I'm Betty Ann Kane,  
15 the chairman of the Public Service Commission.  
16 Seated to my right is Commissioner Joanne Doddy  
17 Fort and to my left is Commissioner Willie  
18 Phillips.

19 And for the record, today is  
20 Wednesday, December 2, 2015. We are convening  
21 this hearing at 10:25 a.m. in the hearing room  
22 of the Commission at 1325 G Street, Northwest.

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1 Today's hearing is being held to  
2 hear testimony by parties as to whether the  
3 nonunanimous settlement agreement filed on  
4 October 6, 2015 is in the public interest. The  
5 agreement was signed by the joint applicants,  
6 by the office of people's counsel, the  
7 Apartment and Office Building Association of  
8 Metropolitan Washington, the District of  
9 Columbia Government, the District of Columbia  
10 Water and Sewer Authority, the National  
11 Consumer Law Center, National Housing Trust,  
12 and the National Housing Trust Enterprise  
13 Preservation Corporation, and these parties  
14 will be referred to collectively as the  
15 settling parties.

16 The other parties in this case who  
17 did not sign the agreement will be referred to  
18 as the non-settling parties. These parties are  
19 D.C. Solar United Neighborhoods, the General  
20 Service Administration, Grid 2.0 Working Group,  
21 the Maryland, D.C., Virginia Solar Energy  
22 Industries Association, the Mid-Atlantic

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1 Renewable Energy Coalition, Monitoring  
2 Analytics, Inc., the Market Monitor for PJM,  
3 NRG Energy, Inc., and WGL Energy Systems, Inc.,  
4 and WGL Energy Services, Incorporated, which  
5 together are known as WGL Energy, and they  
6 weren't limited -- granted limited  
7 intervention.

8           The hearing is for the purpose of  
9 allowing the parties to the proceedings to  
10 submit testimony and to cross-examine the  
11 witnesses on the issue of whether the  
12 nonunanimous settlement agreement is in the  
13 public interest and also to provide the  
14 Commission an opportunity to ask questions of  
15 the witnesses pertaining to the agreement.

16           A bit of background. On April 30,  
17 2014, the Exelon Corporation announced Exelon's  
18 proposed purchase of Pepco Holdings, Inc. On  
19 June 18, 2014, the joint applicants filed a  
20 joint application for approval by the  
21 Commission, pursuant to D.C. Code 34504 and  
22 341001. Applications were a change of control

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1 of Pepco to be effected by the proposed merger  
2 of PHI with Purple Acquisition Corp, a  
3 wholly-owned subsidiary of Exelon.

4           The Commission convened four  
5 community hearings before seeking input from  
6 the public on the joint application. On  
7 December 14 to 17, 2014, and January 20 at  
8 various times and locations, there were two  
9 other dates in there which I will add for the  
10 record, but there were four community hearings,  
11 at various times and locations throughout the  
12 District of Columbia. 11 days of evidentiary  
13 hearings were held on March 30 to April 8 and  
14 April 20 through 22 and the record closed on  
15 May 27, 2015.

16           The Commission issued an order in  
17 this case on August 25th. On October 6, 2015,  
18 an order denying the application and finding it  
19 was not -- and taken as a whole, it was not in  
20 the public interest.

21           On October 6, 2015, the joint  
22 applicants filed a motion to reopen the record

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1 in formal Case No. 1119 to allow consideration  
2 for consideration of a nonunanimous settlement  
3 agreement which is attached to the motion.  
4 Among other things, the joint applicants  
5 requested that the Commission toll  
6 consideration of an application for  
7 reconsideration which had been filed for such  
8 period of time as the Commission requires to  
9 fully consider the merits of the settlement  
10 agreement and to toll the time for responses to  
11 the applicant for application for  
12 reconsideration, and that application for  
13 reconsideration is been what's filed on  
14 September 28th.

15 By order issued on October 26, the  
16 Commission tolled the deadline for action on  
17 the merits of the joint applicants application  
18 for reconsideration and the filing and  
19 responses to that application until the  
20 Commission renders a decision on the  
21 nonunanimous settlement agreement or until this  
22 Commission determines otherwise.

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1           In an order issued on October 28,  
2     the Commission granted the motion to reopen the  
3     record in Formal Case No. 1119 to allow for  
4     consideration of the nonunanimous settlement  
5     and set forth a procedural schedule pertaining  
6     to such considerations which brings us here  
7     today.

8           Now, preliminary matters for today's  
9     hearing. The first matter is the joint  
10    applicants motion for special appearance of an  
11    out-of-state attorney that was filed on  
12    November 25, 2015.

13           Does any party object to the  
14    granting of this motion? I am not hearing from  
15    any party about this so hearing none, we grant  
16    this motion.

17           Secondly, the settling parties --  
18    yesterday filed a motion regarding evidentiary  
19    hearing procedure requiring permission to, No.  
20    1, present opening statements by all the  
21    parties who wish to do so, and, two, to allow  
22    the settling parties to provide brief, live

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1 rejoinder to the testimony of the nonsettling  
2 parties.

3 Are there any objections to the  
4 granting of this motion? Hearing none, seeing  
5 none, that motion is also granted.

6 Third, Public Citizen, on November  
7 30, 2015, filed a motion to reply to the joint  
8 applicants response to Public Citizen's  
9 petition for leave to intervene. This motion  
10 was filed after the Commission had voted to  
11 deny Public Citizen's participation last  
12 Wednesday at our open meeting.

13 I am making a motion that we waive  
14 the rules to allow the reply to be put into the  
15 record because the Commission did act on the  
16 initial motion before the normal ten-day period  
17 for hearing from parties had expired, and in  
18 that motion to affirm our decision to deny  
19 intervention status to Public Citizen.

20 Call for a vote on that motion or a  
21 discussion.

22 COMMISSIONER FORT: I have no

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1 discussion. I'm prepared to vote.

2 COMMISSIONER PHILLIPS: I'm prepared  
3 to vote.

4 COMMISSIONER KANE: All in favor of  
5 the motion signify by saying aye.

6 COMMISSIONER FORT: Aye.

7 COMMISSIONER PHILLIPS: Aye.

8 COMMISSIONER FORT: I vote to -- and  
9 that motion is to allow the reply into the  
10 record and to reconfirm our vote, right?

11 CHAIRMAN KANE: Correct.

12 COMMISSIONER FORT: I vote yes.

13 COMMISSIONER PHILLIPS: Yes.

14 CHAIRMAN KANE: And the chair votes  
15 yes. The motion is approved. Thank you.

16 There's one housekeeping matter I  
17 want to also address, please be sure you've  
18 turned off your cell phones, anything else that  
19 transmits an electric signal. That does not  
20 apply to laptops that are receiving signals.  
21 It's only if sending a signal out, like a cell  
22 phone or a pager. They do interfere sometimes

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1 with our electronic system here, as well as  
2 being a distraction and we want to be sure that  
3 we do hear everything that everybody has to say  
4 today.

5 Do any of the parties have any other  
6 matters they want to address at this time? And  
7 let me -- before we do this, I'm going to ask  
8 the parties, thank you, to identify yourselves,  
9 and then I will ask if any of the parties who  
10 have identified themselves have any other  
11 preliminary matters that they want to address.

12 We'll start with the company, Mr.  
13 Meier.

14 MR. MEIER: Thank you very much,  
15 Chairman Kane. Good morning, Commissioner  
16 Fort, good morning, Commissioner Phillips.

17 My name is Peter Meier, I'm vice  
18 president of legal services for Pepco Holdings.  
19 I will be appearing on behalf of the joint  
20 applicants today. With me will be Wendy Stark,  
21 who is deputy general counsel of Pepco  
22 Holdings. Also to my left is Paul Bonney,

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1 senior vice president and deputy general  
2 counsel for Exelon, and also appearing on  
3 behalf of the joint applicants will be Tony  
4 Gay, associate general counsel, PECO Energy.  
5 Thank you.

6 MR. EILBOTT: Good morning, my name  
7 is Eli Eilbott with the law firm Duncan,  
8 Weinberg, Genzer & Pembroke. We are outside  
9 counsel for the office of the people's counsel.  
10 With me in the hearing room today is the  
11 people's counsel and several members of her  
12 staff.

13 MS. FRANCIS: Good morning, Your  
14 Honors. I am Frann G. Francis, senior vice  
15 president and general counsel for the Apartment  
16 and Office Building Association. Good morning.

17 MR. CALDWELL: Good morning, Your  
18 Honors. My name is Brian Caldwell, I'm an  
19 assistant attorney general. I'm here today on  
20 behalf of the District of Columbia Government.

21 I do have one preliminary matter  
22 that I would like to raise to the Commission.

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1 There was a list of witnesses that was handed  
2 out this morning scheduled and one of the  
3 District's witnesses, Director Tommy Wells of  
4 DOEE has prearranged travel. He's going to be  
5 leaving this evening, and if we can request  
6 that he be moved up in the order of witnesses  
7 so that he may be able to leave the hearing by  
8 no later than 1:00, if possible. That would be  
9 our request.

10 CHAIRMAN KANE: Thank you. We will  
11 take that up in just a minute.

12 MR. SPECK: Good morning, Madam  
13 Chair, Commissioner Fort, Commissioner  
14 Phillips. I'm Randy Speck with Kaye Scholer  
15 and I represent D.C. Sun in this proceeding.

16 MS. WHITE: Good morning, Madam  
17 Chair, Commissioners. My name is Nancy White  
18 with the law firm of Squire Patton Boggs. I'm  
19 appearing on behalf of the District of Columbia  
20 Water and Sewer Authority this morning.

21 MR. RORIES: Good morning, Your  
22 Honors. My name is Charles Rories and I'm here

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1 representing Grid 2.

2 MS. ELEFANT: Good morning, Your  
3 Honors. Carolyn Elefant with the law office of  
4 Carolyn Elefant. I am representing the  
5 Mid-Atlantic Renewable Energy Coalition.

6 MS. WEIN: Good morning, Your  
7 Honors. My name is Olivia Wein. I'm a staff  
8 attorney at the National Consumer Law Center  
9 and I am representing the National Consumer Law  
10 Center, the National Housing Trust and the  
11 National Housing Trust Enterprise.

12 CHAIRMAN KANE: Thank you. I see  
13 there are several nameplates where we do not  
14 currently have someone here from NDV-SEIA, from  
15 NRG or from Washington Gas Energy, just for the  
16 record. Someone is here?

17 MR. KWISIKIS: Good morning, Your  
18 Honor, matt kwisikis. I'm appearing on behalf  
19 of WGL Energy.

20 CHAIRMAN KANE: Okay, we've got a  
21 place for you right up there.

22 MR. KWISIKIS: I just had a

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1 preliminary matter. WGL Energy appreciates  
2 very much the Commission's order allowing it to  
3 participate on a limited basis in this  
4 proceeding.

5 WGL Energy has reviewed the  
6 settlement agreement, supporting testimony and  
7 elected not to file written testimony or to  
8 request cross-examination this morning.  
9 However, we reserve the right to file a brief.

10 CHAIRMAN KANE: Okay. Thank you.

11 And GSA, which is a party has  
12 informed us they will not be appearing. They  
13 have filed something for the record.

14 All right. Yes, Mr. Caldwell, in  
15 turns of schedule, what we are going to ask, we  
16 are aware of Mr. Wells's time constraints and  
17 that he's leaving the country this evening, and  
18 so we are going to take the opening statements  
19 and then I will see where we are in time and  
20 most likely will then take Mr. Wells after  
21 those opening statements, and then revert back  
22 to the regular schedule.

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1 MR. CALDWELL: Thank you, Your  
2 Honor. We appreciate that.

3 MR. MEIER: And Your Honor, we had  
4 two preliminary matters as well. At the  
5 appropriate time, we wanted to mark the first  
6 exhibit as the settlement agreement and we also  
7 wanted to address with the Court's --  
8 Commission's permission, to stipulate into the  
9 record evidence so we don't have to do the  
10 authentication questions as we have done in  
11 previous hearings, if that is acceptable to the  
12 Commission.

13 CHAIRMAN KANE: Yes, that is. It  
14 will save us some time. So if you want to  
15 proceed.

16 MR. MEIER: Thank you very much,  
17 Chairman.

18 My name is Peter Meier, I'm  
19 appearing on behalf of the joint applicants.  
20 The chairman summarized the history of this  
21 case. I will just point out that as you know  
22 when we appeared here last at the evidentiary

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1 hearing in April, it was a very contentious  
2 hearing. None of the other parties supported  
3 the merger of Exelon and Pepco. There was  
4 considerable testimony against that merger from  
5 a number of parties, including the office of  
6 people's counsel and the D.C. Government.

7 While we had obtained approval from  
8 the Commission of Maryland and Delaware as well  
9 as the Board of Public Utilities that approved  
10 the merger, those approvals were predicated on  
11 detailed, comprehensive settlement agreements  
12 with major parties to those proceedings. We  
13 did not have a settlement agreement in the  
14 District of Columbia. On August 27, the  
15 Commission issued its order denying the merger.

16 In retrospect, we realized that our  
17 failure to present a settlement agreement made  
18 a very difficult task for this Commission to  
19 find that the merger was in the public  
20 interest. Indeed, in your August 27 order, you  
21 criticized the joint applicants for failing to  
22 bring forward a settlement that evidenced the

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1 general agreement of the parties on mitigation  
2 factors that would address their concerns.

3 That was a tough order for the joint  
4 applicants to read and I suspect it was a  
5 challenging order for the Commission to write.  
6 But it was a well written order, and it  
7 carefully explained the reasoning of the  
8 Commission and identified their expectation for  
9 what was required to present a merger that was  
10 in the public interest.

11 That decision galvanized the joint  
12 applicants to try again to consider whether  
13 they could achieve a settlement for this  
14 merger. Indeed, we are here today because a  
15 settlement was agreed to among the settling  
16 parties that meets their concerns and that  
17 addresses the Commission's standards for  
18 mergers in the public interest.

19 The chairman reviewed the parties to  
20 the settlement agreement, they include the D.C.  
21 Government represented by the mayor of the  
22 District of Columbia, the attorney general of

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1 the District of Columbia, the director of the  
2 Department of Energy and the Environment. It  
3 includes the office of people's counsel, the  
4 statutory representative of utility customers  
5 and ratepayers in the District of Columbia.

6 The settlement agreement includes  
7 AOBA, the association that represents  
8 significant commercial interests in the  
9 District of Columbia. The settlement includes  
10 D.C. Water, one of the largest customers of  
11 Pepco in the District of Columbia, and finally,  
12 it includes the NCLC and the National Consumer  
13 Law Center and the National Housing Trust, an  
14 advocacy organization that advocates on behalf  
15 of low income and limited income customer  
16 citizens.

17 We're excited to have this  
18 opportunity to put our best foot forward to  
19 meet our burden of proof that this merger,  
20 predicated on the settlement agreement,  
21 satisfies the public interest test.

22 I won't go through the commitments

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1 included in any detail, that will I'm sure be  
2 covered in cross-examination, but I will  
3 highlight just a couple of commitments.

4           Where the Commission was previously  
5 concerned that the customer investment fund or  
6 CIF did not adequately address the needs of the  
7 Commission, the joint applicants through the  
8 settlement agreement with their other settling  
9 parties, increased the CIF to \$72.8 million,  
10 more than doubling the previous amount. The  
11 CIF has been earmarked for a number of  
12 important measures that promote affordability  
13 and sustainability including a \$25.6 million  
14 fund to offset residential rate increases,  
15 including for master meter departments, and to  
16 be clear, that \$25.6 million will never be  
17 charged to the customers of the District of  
18 Columbia. In fact, none of the \$72.8 million  
19 will be charged to the customers of the  
20 District of Columbia.

21           There is \$14 million for an  
22 immediate rate credit to appear on customer's

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1 bills. There is about \$17 million for  
2 renewable generation, energy efficiency and  
3 sustainability to be directed by the District  
4 and finally, about \$16 million for low income  
5 customers through LIHEAP and bill forgiveness  
6 and other measures.

7           We've improved the reliability  
8 commitment to exceed the Commission's  
9 standards, and to do so without increasing a  
10 specified budget for capital and O and N  
11 expenditures. We've agreed to significant  
12 penalties for noncompliance including financial  
13 penalties.

14           Exelon and Pepco have also agreed to  
15 specific enforceable commitments that will  
16 promote distributed generation interconnection  
17 in the District of Columbia, that will result  
18 in the construction of solar generation within  
19 the District of Columbia that will result in  
20 the contracting for a hundred megawatts of wind  
21 power and that will assist the District of  
22 Columbia as it examines opportunities to build

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1 micro grids in the District of Columbia. These  
2 measures clearly signal that Pepco and Exelon  
3 are aligned with the public policy objectives  
4 of the District.

5 Other commitments promote a strong  
6 local voice for Pepco both within the Exelon  
7 organization and within the District of  
8 Columbia, including a commitment for not less  
9 than ten years to maintain the headquarters of  
10 Pepco and Pepco Holdings in the District. A  
11 provision to create a board of directors of  
12 Pepco Holdings, Inc., the majority of which  
13 will be independent and will include at least  
14 one district resident.

15 Finally, the settlement agreement  
16 includes measures to promote employment in the  
17 District of Columbia, notably \$5.2 million for  
18 a work force development fund that is in  
19 addition to the 72.8 million but like the CIF,  
20 cannot be recovered from customers.

21 Obviously, the support of the  
22 settling parties is very important to the joint

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1 applicants, but this settlement agreement has  
2 also garnered broad support from a variety of  
3 other citizens and interests in the District of  
4 Columbia. At your community hearings, at our  
5 community hearings on October -- November 17  
6 and 18, you heard from dozens of citizens and  
7 representatives of organizations who support  
8 the merger because of the benefits the  
9 settlement agreement brings. That included,  
10 for example, the Alliance for Solar Choice, a  
11 group that represents solar developers.

12           You've also received more than 3,000  
13 letters from citizens and representatives who  
14 support the settlement. One of those letters,  
15 for example, was signed by a majority of the  
16 members of the Council of the District of  
17 Columbia, who requested that the Commission  
18 approve the merger on the basis of the  
19 settlement agreement.

20           The settling parties recognize that  
21 the Commission has a difficult job as an  
22 independent agency to reach its own conclusion,

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1 and we know you will weigh the evidence, you  
2 will examine the witnesses, you will consider  
3 the facts, you will apply the same rigor and  
4 scrutiny and analysis that you did in your last  
5 order.

6 The joint applicants believe they  
7 have learned from the August 27 order, and that  
8 they have put together a package with the other  
9 settling parties that meets the public interest  
10 standard for the settlement agreement and  
11 indeed for the merger.

12 Pepco and Exelon are eager for the  
13 opportunity to work with the District and other  
14 stakeholders as the District pursues a greener  
15 and cleaner future. We urge you to approve the  
16 settlement agreement. Thank you very much.

17 CHAIRMAN KANE: Thank you, Mr.  
18 Meier.

19 People's counsel -- let me just ask  
20 who else has an opening statement. People's  
21 counsel, D.C. Government, D.C. Sun, not D.C.  
22 Water Grid, MAREC and Housing Trust. Okay.

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1 Thank you. Get a sense of timing.

2 MS. SISTRUNK: Good morning.

3 CHAIRMAN KANE: Good morning.

4 MS. SISTRUNK: Good morning,

5 Chairman Kane, Commissioner Fort and

6 Commissioner Phillips.

7 For the record, I am Karen Sistrunk,  
8 deputy people's counsel, appearing on behalf of  
9 the Office of the People's Counsel. I would  
10 also like to recognize assistant people's  
11 counsel Eric Sears who assisted in preparing  
12 the office's opening statement.

13 Throughout this proceeding, the  
14 people's counsel's sole focus has been to  
15 ensure that residential consumers interests are  
16 protected and that Exelon provides substantial  
17 and meaningful benefits to district ratepayers.  
18 Nothing has changed. The office's mission and  
19 objective remains the same.

20 As you are aware, OPC is by law the  
21 advocate for consumers of natural gas, electric  
22 and local telephone services, and in developing

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1 its positions on public utility matters, the  
2 office is required to consider public safety,  
3 the economy of the District, the conservation  
4 of natural resources and preservation of  
5 environmental quality. The office take its  
6 mission seriously and recognizes the need to  
7 balance the interest of all constituents in all  
8 eight wards.

9 At the same time, OPC recognizes the  
10 diversity of the city and encourages public  
11 participation at all levels, even where there  
12 is disagreement. Accordingly, consistent with  
13 our usual practice, OPC has zealously advocated  
14 on behalf of D.C. ratepayers in this proceeding  
15 conducting an extensive review of the merger  
16 application presented during the course of the  
17 trial.

18 We adamantly urge the Commission to  
19 reject the merger application filed by the  
20 joint applicants. The proposal as filed did  
21 not provide significant consumer benefits or a  
22 firm commitment from the joint applicants. OPC

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1    applauded the Commission's denial of the joint  
2    applicants' original application this past  
3    August.

4                    However, a few weeks later after the  
5    Commission's denial of the joint applicants'  
6    merger proposal, OPC was approached by the D.C.  
7    Office of Energy and the Environment with a new  
8    and revised settlement agreement. It was  
9    proffered by the joint applicants. We  
10   cautiously, critically and with a healthy  
11   degree of skepticism evaluated the new proposal  
12   to determine whether there were any material  
13   changes that the applicants offered -- changes  
14   to what the applicants offered at trial and  
15   more importantly, whether the new agreement  
16   satisfied OPC's and the requirements and the  
17   Commission's public interest requirements.

18                   In our review, we determined that  
19   the revised proposal appeared to be an honest  
20   attempt to address the issues raised by the  
21   Commission, OPC and the intervening parties.  
22   Nonetheless, OPC actively negotiated for more

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1 benefits, firmer commitments and strong  
2 enforcement measures.

3           The end result is the revised merger  
4 proposal now before the Commission, which is  
5 five times over the initial offer of \$14  
6 million and more than twice its last -- Exelon  
7 and Pepco's last and final trial offer of  
8 \$33.75 million and it offers benefits that meet  
9 or exceed OPC's proposal in its case in chief.

10           It has been suggested that OPC and  
11 the other settling intervenor parties, quote,  
12 change their positions. As the record will  
13 reflect, it is the joint applicants who changed  
14 their position and are now taking seriously the  
15 concerns raised by D.C. policymakers, OPC and  
16 D.C. citizens.

17           I will now briefly address some of  
18 the key settlement provisions, specifically the  
19 customer investment fund, reliability and  
20 sustainability provisions. At trial, the  
21 office challenged the sufficiency of the CIS  
22 value as well as the lack of any specific

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1 allocation plan, while the Commission expressed  
2 concern about the applicant's intention to flow  
3 through future savings to D.C. ratepayers and  
4 the lack of additional assistance to the  
5 District's low income consumers.

6           OPC believes the proposed settlement  
7 agreement addresses the concerns raised -- to  
8 be raised regarding the CIF. First, the value  
9 of the CIF has been raised to 72.8 million,  
10 which is 420 percent -- an increase of 420  
11 percent from the original offer of 14 million  
12 and approximately 116 percent increase from the  
13 revised proposal of \$33.75 million.

14           This is significant in that the CIF  
15 can be thought of as a down payment on future  
16 synergy savings if the merger is approved. The  
17 increase in the CIF is an upfront payment to  
18 consumers. The increased CIF ensures that  
19 ratepayers will see substantial, immediate and  
20 tangible financial benefits from this merger.

21           Second, the settlement agreement now  
22 presents a clear allocation plan for the

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1 customer investment fund. In addition to the  
2 direct bill credits and funds to offset future  
3 rate increases, portions of the CIF will be  
4 used to enhance the District's programs for  
5 renewable energy development, energy efficiency  
6 and sustainability.

7 Low income consumers will also  
8 receive additional benefits under the CIF  
9 allocation in the form of \$9 million in  
10 supplemental LIHEAP funding, an arrearage  
11 management plan that will provide matching  
12 payment or bill credits for qualified  
13 customers. The elimination of residential  
14 account receivables more than two years old and  
15 \$6.75 million to fund innovative energy  
16 efficiency programs developed by the District  
17 and the National Consumer Law Center and  
18 National Housing Trust. These are tangible  
19 benefits that will directly benefit consumers  
20 where the need is greatest.

21 Finally, with respect to the CIF, to  
22 address the Commission's concerns about future

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1 synergy savings benefiting ratepayers, the  
2 merger agreement requires Pepco to flow all  
3 synergy savings applicable to the District  
4 through the rate making process, to reclassify  
5 the regulatory support costs incurred to  
6 approve this merger as transaction costs and to  
7 not recover its costs to achieve in excess of  
8 the documented synergy savings in future rate  
9 cases.

10 With respect to reliability, as we  
11 all know, Pepco's reliability performance has  
12 been a major issue in recent years due to the  
13 frequent and prolonged outages D.C. residents  
14 have experienced. To address this problem, the  
15 Commission in 2012 implemented more stringent  
16 reliability standards. At trial, during the  
17 merger, OPC was adamant that any new merger  
18 proposal include incremental improvements above  
19 and beyond the Commission-mandated reliability  
20 standards.

21 The office believes the current  
22 agreement addresses many of OPC's and the

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1 Commission's concerns regarding Pepco's  
2 reliability performance post-merger.

3 In its order rejecting the revised  
4 merger application, the Commission expressed  
5 concern that for the years 2015 to 2017, there  
6 were no reliability commitments and that the  
7 commitments for the years 2018 through 2020  
8 employed an averaging method inconsistent with  
9 the current reliability standards.

10 Additionally, the Commission found  
11 the inflated reliability budget commitment to  
12 be potentially harmful and the return on equity  
13 penalty to be weak.

14 Based on these criticisms, the  
15 settling parties negotiated more robust  
16 reliability commitments. First, the joint  
17 applicants have committed to not only meet but  
18 to exceed the Commission's standards on an  
19 annual basis, from 2016 to 2020.

20 Second, the reliability related  
21 capital budget commitment has been revised to  
22 exclude emergency restoration expenditures and

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1 D.C. power line undergrounding projects.

2 Third, the return on equity penalty  
3 has been eliminated and it's been replaced with  
4 automatic penalty payments of \$2 million in  
5 2018, \$3 million in 2019, and \$6 million in the  
6 year 2020, for a failure to meet either SAIFI  
7 or SAIDI requirements.

8 Finally, the proposed settlement as  
9 penalty for overspending both the  
10 reliability-related capital budget and the  
11 reliability-rated O&M budget.

12 For the reliability-related capital  
13 budget, Pepco would be required to place in  
14 escrow \$63,000 for every \$1 million spent in  
15 excess of the budget target for that year. OPC  
16 believes that the reliability commitment  
17 contained in this proposed agreement will  
18 produce incremental improvements in reliability  
19 greater than the current reliability standards  
20 and that the revised financial penalties  
21 provides a company sufficient financial  
22 incentive to meet the enhanced standards.

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1                   With respect to sustainability. In  
2                   accordance with the Clean and Affordable Energy  
3                   Act, the Commission designated the public  
4                   interest factor to examine conservation of  
5                   natural resources and preservation of  
6                   environmental quality. The Commission found  
7                   that neither the initial nor the revised merger  
8                   application contained sufficient commitments to  
9                   support the growth of distributed generation  
10                  and the use of renewables in the District.

11                  The proposed settlement agreement  
12                  now contains several provisions that enhance  
13                  and support the policy objectives contained in  
14                  the Clean and Affordable Energy Act, the  
15                  Distributed Generation Amendment Act and the  
16                  sustainable D.C. plan.

17                  In addition to the contribution to  
18                  the sustainable energy trust fund, the  
19                  renewable energy development fund and the green  
20                  building fund, the joint applicants have  
21                  committed to develop ten megawatts of solar  
22                  generation, enhanced Pepco's interconnection

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1 process and waive the hundred dollar  
2 interconnection applications fee, establish a  
3 reasonable time frame for interconnection,  
4 procure 100 megawatts of wind energy from wind  
5 generation facilities located in the PJM  
6 footprint, and provide \$5 million in capital to  
7 government entities for the development of  
8 renewable energy projects in the District.

9 In conclusion, the terms and  
10 conditions of this merger proposal provide  
11 direct and tangible benefits to ratepayers  
12 through direct bill credits, several years of  
13 rate stability, improved service reliability  
14 and support for distributed generation and  
15 renewables in the District. The cost of these  
16 benefits will not be recovered from D.C.  
17 ratepayers but rather will be paid for by  
18 Exelon shareholders.

19 Based on the foregoing, OPC  
20 respectfully submits that the merger of PHI and  
21 Exelon based on the terms of the settlement  
22 agreement should be approved as being in the

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1 public interest. Thank you.

2 CHAIRMAN KANE: Thank you. Ms.

3 Francis? No, Mr. Caldwell.

4 MR. CALDWELL: Thank you, Your

5 Honor.

6 Good morning, Chairman Kane and

7 Commissioners Fort and Phillips. I am

8 assistant attorney general Brian Caldwell and

9 I'm appearing on behalf of the District of

10 Columbia Government today.

11 At the outset, the District of

12 Columbia Government would like to thank the

13 Commission for its thorough analysis of this

14 matter in Order No. 17947 issued on August 25,

15 2015.

16 Indeed, the proposed settlement

17 agreement that is before you today is the

18 direct result of the Commission rejecting the

19 joint applicants' initial proposal. It was

20 precisely that rejection that caused the joint

21 applicants to respond by offering a far more

22 substantial set of benefits than what they

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1 previously proposed.

2 Order 17947 recognizes the numerous  
3 deficiencies that the D.C. Government, Office  
4 of People's Counsel, AOBA and others raised in  
5 connection with the joint applicants' proposed  
6 application to merge. That order laid the  
7 foundation upon which the proposed settlement  
8 agreement was constructed.

9 As a result, the District government  
10 is pleased to be a signatory to the settlement  
11 agreement which cures many of the previous  
12 shortcomings and pushes the proposed merger  
13 squarely into net benefit territory for  
14 district residents.

15 For example, in contrast to the  
16 joint applicants' previous merger proposal,  
17 which the Commission found contained no  
18 incremental benefits for low income residents,  
19 many of whom are elderly and on fixed incomes,  
20 the agreement before you now provides for over  
21 \$16 million in energy assistance funds. This  
22 exceeds by \$2 million the \$14 million total

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1 customer investment fund that joint applicants  
2 originally proposed for the entire District of  
3 Columbia jurisdiction.

4 As Department of Energy and  
5 Environmental Director Tommy Wells testified,  
6 \$9 million of this money will be used to fully  
7 fund the District's low income home energy  
8 assistance program or LIHEAP. For a period of  
9 years, it represents a vital lifeline for low  
10 income families struggling to keep their homes  
11 warm in the winter and cool in the summer, and  
12 who are regularly turned down for LIHEAP  
13 assistance due to a lack of available funds.

14 As Director Wells further testifies,  
15 \$6.75 million of these funds will be used for  
16 weatherizing the homes of low income families  
17 to reduce their energy bills by making their  
18 homes more energy efficient. This program will  
19 extend to the homes of low income families  
20 living in master meter apartments and other  
21 multifamily dwellings.

22 Finally, Pepco has agreed in the

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1 settlement to forgive any existing customer  
2 debts that are more than two years old and  
3 develop an arrearage management program for  
4 LIHEAP qualifying customers to help them pay  
5 down their outstanding balances. The benefits  
6 to low income customers contained in the  
7 settlement agreement are tangible and are above  
8 and beyond what is currently provided by law.

9           These commitments are in addition to  
10 the benefits that all residential ratepayers  
11 will receive from direct bill credits in  
12 offsets to rate increases. Such offsets will  
13 also be offered to master metered apartment  
14 buildings where many low income families  
15 reside.

16           A second major area of deficiency  
17 cited by the Commission involved the joint  
18 applicants' failure to offer any incremental  
19 benefits with respect to Public Interest Factor  
20 7, the conservation of natural resources and  
21 environmental quality.

22           In contrast to the joint applicants'

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1 previous merger proposal, the settlement  
2 agreement now provides a number of financial  
3 and nonfinancial commitments to cure this  
4 Commission cited deficiency. As Director Wells  
5 testifies, the joint applicants now commit to  
6 allocating \$10 million to the District's green  
7 building funds to establish a green bank which  
8 will spur innovation and sustainable  
9 technologies. \$3.5 million will go to the  
10 District's sustainable energy trust fund to  
11 expand the size and the scope of the  
12 sustainable energy utilities programs and  
13 offerings. Another \$3.5 million will go to the  
14 District's renewable energy development funds  
15 to develop new solar installations in the  
16 District.

17 In addition, as Director Wells  
18 testifies, the joint applicants now commit to  
19 among other things developing between seven and  
20 ten megawatts of solar in the District. The  
21 cost of which will not be recovered in  
22 distribution rates, an enhanced solar

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1 interconnection procedure which should help the  
2 District move closer to achieving its renewable  
3 portfolio standard requirements.

4           Although these commitments will not  
5 guarantee that the District meets its renewable  
6 portfolio standard requirements, there can be  
7 no doubt that these commitments move the  
8 District in the right direction and represent a  
9 tangible benefit not present in the joint  
10 applicants' earlier proposal.

11           The Commission also found deficient  
12 the joint applicants' previous commitments to  
13 system reliability. As District of Columbia  
14 witness Ralph Smith testifies, the reliability  
15 commitments in the settlement agreement have  
16 been enhanced significantly. For instance, the  
17 settlement agreement requires Pepco's  
18 compliance with annual SAIDI and SAIFI targets  
19 rather than a three-year rolling average.

20           Pepco must meet these targets or  
21 face automatic noncompliance payments rather  
22 than a one-time return on equity penalty that

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1 would not be incurred until 2021 as previously  
2 committed.

3           The settlement agreement decouples  
4 Pepco's reliability commitments from a pre-set  
5 D.C. plug construction schedule. In addition,  
6 the settlement agreement provides that Pepco  
7 must reach its enhanced SAIDI and SAIFI targets  
8 within a specific budget. These are tangible  
9 reliability benefits that would not exist in  
10 the absence of the settlement agreement.

11           There are a number of other benefits  
12 incurred upon ratepayers by the settlement  
13 agreement, not the least of which is the \$72.8  
14 million customer investment fund, a separate  
15 \$5.2 million work force development fund and  
16 Pepco's commitment to donate at least \$19  
17 million over ten years to charitable  
18 organizations located in the District.

19           The settlement agreement devotes \$14  
20 million from the customer investment fund which  
21 was the total amount that the joint applicants  
22 proposed to the District in their initial

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1 application, for direct bill credits to  
2 residential customers including low income  
3 customers.

4           There was also a provision for \$25.6  
5 million dollars in credits to offset future  
6 rate increases so that all residential  
7 customers including residents in master metered  
8 apartments enjoy benefits similar to a rate  
9 increase for a period of three years.

10           As the foregoing examples  
11 illustrate, the Commission's comprehensive  
12 analysis in Order No. 17947 has led to a  
13 proposed settlement agreement from the joint  
14 applicants that is far superior in a number of  
15 material respects. The District government  
16 expects that an Exelon-owned Pepco will be a  
17 good corporate partner with the District and  
18 will honor its obligations. Over the  
19 settlement agreement, it preserves Pepco as a  
20 separate local company which will be regulated  
21 by and accountable to this Commission.

22           With the foregoing understanding,

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1 the District government believes that approval  
2 of the settlement agreement will promote the  
3 merger on the conditions of the settlement  
4 agreement is now in the public interest. Thank  
5 you very much.

6 CHAIRMAN KANE: Thank you, Mr.  
7 Caldwell. Mr. Speck?

8 MR. SPECK: Good morning, Madam  
9 Chair, Commissioner Fort, Commissioner  
10 Phillips.

11 As this Commission found in its  
12 August 27 order, Exelon has an inherent  
13 conflict of interest that permeates every  
14 aspect of its proposed acquisition of our local  
15 utility. A very -- a few small rapidly  
16 evaporating rate concessions will not rectify  
17 that this basic conflict with electric  
18 customers interests that conflict and that  
19 conflict creates unacceptable risks.

20 Exelon still derives half of its  
21 revenue from its merchant generation fleet,  
22 most of which consist of aging nuclear plants

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1 that are rapidly becoming economically  
2 obsolete. Exelon will still seek to maximize  
3 profits from that essential component of its  
4 business. In other words, it will adopt  
5 corporate policies that are designed to prop up  
6 the price customers pay for energy, very much  
7 to customer's detriment. Regardless of the  
8 ring-fencing provisions, Exelon's distributed  
9 utilities will still be vulnerable to one of --  
10 to the structural weaknesses of its generation  
11 business and Pepco will still be one of the  
12 cash cows that subsidize the rest of Exelon's  
13 portfolio.

14           The Commission should not be misled  
15 by the essentially trivial short-term payments  
16 that Exelon can easily afford to make so that  
17 it can appropriate the District's electric  
18 franchise and then milk its customers for years  
19 to come. Nor do hollow self-serving promises  
20 to develop a few renewable resources undo  
21 Exelon's clearly stated corporate policies that  
22 are antithetical to the District's commitment

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1 to conserve natural resources and preserve  
2 environmental quality.

3 Exelon still seeks to control the  
4 development of renewable next generation with  
5 an outdated centralized control paradigm.  
6 Exelon still views distributed generation as an  
7 essential threat that it must control including  
8 through its opposition to facilitating  
9 legislation. Exelon will gladly agree to build  
10 a token number of profitable solar or wind  
11 generation facilities or to develop rate-based  
12 micro grids if by doing so, it displaces more  
13 competitive suppliers and impedes an already  
14 vibrant market.

15 Nothing in the proposed settlement  
16 agreement suggests that Exelon has been  
17 miraculously transformed into the kind of  
18 enthusiastic partner that will carry out  
19 policies and operations for a local  
20 distribution system with a greater amount of  
21 distributed generation.

22 As evidence of Exelon's true

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1 character, the Commission should need look no  
2 further than Formal Case 1130, which is  
3 examining ways to modernize the grid to better  
4 accommodate new technologies.

5 Four days after Order 17947, Pepco,  
6 already in the throws of Exelon, submitted a  
7 terse two-page recitation of problems and  
8 concerns about the cost and impediments to  
9 integrating new technologies. The same kind of  
10 nay-saying that Exelon pushed in New York's rev  
11 proceeding and that D.C. Sun summarized in  
12 Appendix A to its initial post-hearing brief.

13 The Commission should contrast  
14 Pepco-Exelon's position in August 2015 with  
15 Pepco's pre-Exelon plans for Utility 2.0 for  
16 the grid of the future, which is represented in  
17 D.C. Sun, Cross Exhibit 2, when this  
18 pre-Exelon, Pepco enthusiastically embraced new  
19 technological developments and outlined an  
20 ambitious plan to make the grid of the future  
21 fully-compatible with customer needs.

22 That is the kind of distribution

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1 company that the District needs and currently  
2 has with Pepco, but it will relinquish that if  
3 the Commission permits Exelon to acquire Pepco.

4 Paragraph 129 of the settlement  
5 agreement which addresses Formal Case 1130 is  
6 pathetically weak tea. And particularly in  
7 light of Exelon's track record, offers no  
8 assurance of the enthusiastic support that the  
9 Commission and the District require.

10 Before Order 17947, the District  
11 government and OPC raised urgent alarms over  
12 Exelon's inherent conflict of interest, but  
13 they have apparently been nullified by Exelon's  
14 ability to use its money and influence to bend  
15 opinions. The Commission should not be swayed  
16 by such tactics. Exelon will always be able to  
17 overwhelm its underfunded oppositions with  
18 saturation advertising, political  
19 contributions, a cadre of lobbyists or by  
20 offering \$25 million side deals for unspecified  
21 naming rights.

22 The Commission's job is to protect

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1 the public interest realizing that this  
2 decision in this proceeding will be forever.  
3 It would be imprudent and unconscionable to  
4 saddle customers with intolerable long-term  
5 risks in return for a few quickly dissipated  
6 bubbles.

7           As D.C. Sun advised the Commission  
8 on November 4, the accelerated schedule makes  
9 it impossible for D.C. Sun with its limited  
10 resources to conduct meaningful discovery, file  
11 supplemental testimony or conduct productive  
12 cross-examination. Rather, D.C. Sun will rely  
13 on the comprehensive record that the Commission  
14 has already compiled, including the extensive  
15 testimony from customers and on the  
16 Commission's own interrogation of the  
17 settlement parties witnesses.

18           The Commission has demonstrated  
19 through this proceeding its ability to test  
20 assertions and to reach its own conclusions,  
21 and we are confident that it will be so with  
22 respect to the proposed settlement agreement.

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1 The standard is clear, Order 17947 lays out the  
2 requirements and how the Commission will apply  
3 them in this proceeding.

4 The Commission's task now is to  
5 assess whether the proposed settlement  
6 satisfies that standard. We submit that it  
7 does not. Relying on Order 17947 and the  
8 abundance of evidence in the record, D.C. Sun  
9 will show in its brief that the settlement  
10 agreement is deficient with respect to each of  
11 the seven public interest factors, and that the  
12 defects that led the Commission to reject the  
13 application before, warrant rejection again.

14 Let me briefly go through each of  
15 the public interest factors.

16 With respect to Factor 1, the  
17 so-called customer investment fund, the CIF.  
18 The benefit for customers is short-lived at  
19 best and completely illusory or inconsequential  
20 at worst. The reported rate credit excludes  
21 the largest class of customers including the  
22 federal government, and masks residential rate

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1 increases that will come home to roost in April  
2 2019 producing unbearable rate shocks. The \$14  
3 million one-time bill credit is, by any  
4 measure, trivial fleeting compensation for the  
5 long-term economic and environmental risks that  
6 those customers will be required to assume.

7 Most of the remaining CIF payments  
8 will go to the District government where they  
9 will either displace taxpayer funds that would  
10 otherwise be used for those purposes or will,  
11 as with past earmarked funds, be subject to the  
12 council's re-appropriation to the District's  
13 general fund.

14 There is no evidence that this now  
15 somewhat larger CIF will provide any  
16 incremental benefit. Moreover, the increased  
17 CIF will still leave the District in the same  
18 unequal position vis-a-vis other PHI  
19 jurisdictions, because the Most-Favored-Nation  
20 Provisions in Maryland, New Jersey and Delaware  
21 will ensure that the District's share of the  
22 total CIF will be allocated based on the number

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1 of meters, not on an appropriate basis, either  
2 the local operating company sales, rate base or  
3 net income. Nor will the settlement agreement  
4 assure any more long-term jobs than the earlier  
5 application that the Commission rejected.

6 Indeed, a utility that supports and  
7 encourages competitive development of new  
8 technological resources will create far more  
9 local jobs than proffered in this settlement  
10 agreement.

11 As to Factor 2, despite some window  
12 dressing, control of our utility will  
13 unequivocally rest with Exelon in Chicago.  
14 When vital corporate interests are at stake,  
15 like the interest in projecting murky  
16 generation revenues, none of the settlement  
17 agreement's provisions will prevent Exelon from  
18 exercising its will to the detriment of  
19 district customers.

20 Unfortunately, the joint applicants  
21 chose not to submit supplemental testimony from  
22 Exelon's CEO Mr. Crane, from PHI's CEO Mr.

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1 Rigby, or even Exelon Utility's CEO Mr.  
2 O'Brien, the top executives who are most  
3 qualified to testify about the extent of  
4 Exelon's control over Pepco. Those executives  
5 made it clear in earlier testimony, however,  
6 that Exelon will dictate key policies and  
7 nothing in the settlement agreement renounces  
8 that testimony.

9           With respect to Factor 3, the  
10 settlement agreement's reliability provisions  
11 will not provide material improvements over the  
12 joint applicants' previous rejected proposal.  
13 While some provisions are tightened up, the key  
14 fact remains, Pepco has already made  
15 substantial reliability improvements and  
16 reliability will improve due to D.C. plug  
17 whether PHI remains as a standalone utility or  
18 becomes an Exelon subsidiary.

19           Nor does the settlement agreement or  
20 the testimony give any clue as to how Exelon  
21 and Exelon Utility will act differently or what  
22 Exelon will actually do that will produce

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1 greater reliability or safety.

2           For Factor 4, Exelon's inherent  
3 conflict of interest cannot be completely cured  
4 by the ring-fencing provisions proffered in the  
5 settlement agreement, which are largely  
6 unchanged from the application that the  
7 Commission denied. I will point the Commission  
8 to the recent energy future bankruptcy  
9 proceeding in Texas which provides a cautionary  
10 lesson that bankruptcy can threaten to displace  
11 ring-fencing provisions, even if they are much  
12 more robust than the ones in this settlement  
13 agreement.

14           For instance, in the Texas  
15 proceeding, the ring-fencing provisions  
16 included mandatory minority ownership of the  
17 utility. Like energy future, Exelon will be  
18 particularly susceptible to the vagaries of the  
19 energy market and could well see the same fate  
20 which would create intolerable risks for Pepco  
21 customers and will not be mitigated by these  
22 ring-fencing arrangements.

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1           The settlement agreement's purported  
2   failsafe break-up provision offers no solace,  
3   because by the time Exelon files for  
4   bankruptcy, the damage will have been done, and  
5   the fate of Pepco will be within the providence  
6   of the bankruptcy court, not the Commission.

7           In any case, there is no way that  
8   Exelon's acquisition of Pepco could provide a  
9   net benefit with respect to Factor 4 since the  
10   status quo with no potential detriment from a  
11   conflicted parent company is unambiguously  
12   preferable to the proposed merger.

13           With regard to Factor 5, the  
14   processes we've all witnessed since the  
15   Commission issued Order 17947 demonstrate the  
16   difficulties that the Commission will face in  
17   attempting to regulate Exelon.

18           Exelon has tried to use its  
19   disproportionate financial muscle by blanketing  
20   the media in an attempt to reverse perceived  
21   public opinion by making payments for nebulous  
22   naming rights, by dangling forthcoming

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1 political contributions and by using charitable  
2 contributions to secure support, all as part of  
3 an effort to reverse the Commission's order.

4           The nuts and bolts of regulation  
5 will be more difficult as a result of the added  
6 layer above PHI. But more importantly, Exelon  
7 will always been the largest elephant in the  
8 room. And it has shown in other jurisdictions  
9 how it seeks to achieve its corporate policy  
10 objectives through brut political influence  
11 rather than through transparent regulatory  
12 channels.

13           For Factor 6, the settlement  
14 agreement does not adequately address the  
15 Commission's concerns about Exelon's inherent  
16 conflict of interest and the effect it will  
17 have on distributed generation.

18           Indeed, by putting Exelon in a  
19 preferred position for solar and microgrid  
20 development, the settlement agreement  
21 exacerbates rather than alleviates these  
22 concerns. The settlement agreement is

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1 anticompetitive and would permit Exelon to  
2 stifle other interests seeking to develop new  
3 technology resource that would stimulate a  
4 competitive market and provide greater benefit  
5 for customers.

6 Even the decision about whether  
7 Exelon will remain in PJM, which is in the  
8 settlement in Paragraph 116, which provides  
9 some check on anticompetitive behavior, is not  
10 ironclad and can be made without any input from  
11 this commission.

12 Finally, with respect to Factor 7,  
13 there is no evidence that the settlement  
14 agreement will produce any incremental benefit  
15 over what Pepco could achieve relying on the  
16 natural operation of the District's vibrant  
17 competitive market.

18 First, as I noted, the CIF payments  
19 to the District ostensibly for clean and --  
20 energy and sustainability may not provide any  
21 net benefit because the funds may be either  
22 replaced -- may either just replace funds that

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1 the District would otherwise spend, or they may  
2 simply be diverted to the District's general  
3 funds.

4 Second, the settlement agreement's  
5 interconnection provisions are virtually  
6 identical to those adopted in other  
7 jurisdictions and, at best, simply reflect  
8 minimum prudent behavior. Moreover, Exelon  
9 Utilities' CEO has testified that he could  
10 identify no best practices that Exelon would  
11 bring to Pepco's interconnection procedures and  
12 agreed that Exelon may actually learn from  
13 Pepco rather than the other way around.

14 Third, the commitment to build  
15 between 7 and 10 megawatts of solar generation  
16 is illusory and even counterproductive for  
17 several reasons. This commitment takes credit  
18 for the 5 megawatts of solar that D.C. Water  
19 has already been planning to install and that  
20 it will likely be -- that likely will be  
21 installed without Exelon if it makes economic  
22 sense. If the project doesn't make sense, it

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1 won't be built, with or without Exelon.

2           No solar will be built under this  
3 provision unless Exelon receives what it  
4 considers commercially reasonable terms. In  
5 other words, unless it can make a profit.

6           In short, nothing about the merger  
7 will change the economics of the Blue Plain  
8 solar project or any other solar project  
9 contemplated by the settlement agreement, and  
10 there will be no merger benefits above what  
11 would occur anyway.

12           Moreover, if Exelon builds this 7 to  
13 10 megawatts of solar generation at  
14 commercially reasonable terms, it will displace  
15 competitive development from the private sector  
16 and will build it anyway because the market  
17 makes those installations worthwhile.

18           Fourth, Exelon's commitment to  
19 purchase new or existing wind energy capacity  
20 and ancillary services located anywhere in the  
21 PJM territory will, like any solar  
22 installation, merely meet existing RPS

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1 requirements and will not provide an  
2 incremental environmental benefit.

3 Fifth, the arbitrary commitment to  
4 develop four microgrids fails to provide a  
5 benefit for a number of reasons. It sidesteps  
6 the Commission's regulation because it permits  
7 the cost to be recovered from customers through  
8 rates even though the Commission has made no  
9 determination whether the benefits of those  
10 families justify the costs or whether other  
11 alternatives would be more beneficial.

12 It gives Exelon an unfair advantage  
13 in developing emerging technology by keeping  
14 competitors out of the market, which will tend  
15 to stifle microgrid development or increase its  
16 costs. There is no evidence that Pepco could  
17 not provide exactly the same services as  
18 provided by Exelon.

19 In sum, this proposed deal suffers  
20 from the same deficiencies that the Commission  
21 found in Order 17947 that required it to reject  
22 the application as inconsistent with the public

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1 interest.

2 D.C. Sun urges the Commission to be  
3 vigilant in scrutinizing the settlement -- the  
4 settling party's case. While this iteration of  
5 commitments marginally improve some aspects of  
6 the deal, like the CIF, it still falls short of  
7 the Commission's standard for a transaction  
8 that is in the public interest.

9 The two key deficiencies that the  
10 Commission -- that led the Commission to deny  
11 this application, the loss of control and  
12 Exelon's inherent conflict of interest, still  
13 loom as critical detriments to the public  
14 interest.

15 The Commission should not risk the  
16 District's electricity future and the welfare  
17 and security of our children and grandchildren  
18 by turning over our local distribution utility  
19 to an owner that will never be in sync with the  
20 District's interest.

21 PHI's CEO testified that Pepco can  
22 meet all of the customers' needs without this

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1 merger but that he pursued a deal with Exelon  
2 because it provided \$1.6 billion in added  
3 shareholder value.

4 If PHI believes that its  
5 shareholders need a substantial premium that  
6 can only be achieved through a sale, there are  
7 other suitable suitors. Exelon, however, comes  
8 with unacceptable baggage that creates  
9 intolerable long-term risk for customers in the  
10 District.

11 The Commission should again deny  
12 this application because, taken as a whole, it  
13 is not in the public interest.

14 Thank you.

15 CHAIRMAN KANE: Thank you, Mr.  
16 Speck.

17 Ms. White.

18 MS. WHITE: D.C. Water does not have  
19 an opening statement. We enthusiastically  
20 endorse the opening statements of the District  
21 Government and OPC.

22 CHAIRMAN KANE: Thank you.

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1 MR. RORIES: The same is true for  
2 Grid 2.

3 CHAIRMAN KANE: That you don't have  
4 a statement.

5 MR. RORIES: That we have no  
6 statement, and we enthusiastically endorse the  
7 statements that were just referred --

8 CHAIRMAN KANE: Of D.C. Sun.

9 MR. RORIES: Of Mr. Speak and of the  
10 others that are in opposed to the settlement  
11 agreement.

12 CHAIRMAN KANE: Thank you for  
13 clarifying. Thank you.

14 MS. ELEFANT: Good morning, Your  
15 Honors.

16 Nothing has changed. Nothing has  
17 changed since MAREC and the other parties here  
18 sat here many months ago. The same concern  
19 that MAREC had back when the merger was  
20 proposed remains.

21 As MAREC wrote in its brief in  
22 response -- in its post-hearing briefs, the

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1 proposed merger will entrench Exelon as a  
2 dominant utility in the Mid-Atlantic region.  
3 It will expand it's influence in PJM even as  
4 Exelon's animosity to renewables as a means to  
5 insulate its struggling nuclear assets from  
6 competition are directly at odds with the  
7 D.C.'s aggressive and robust renewable  
8 policies.

9           There's nothing -- as D.C. Sun has  
10 stated very extensively, there's nothing in  
11 this proposal that addresses those concerns,  
12 which the Commission as well found to be  
13 problematic in its order denying the merger.

14           Rather than reiterate many of the  
15 points that D.C. Sun has already raised, I'll  
16 focus on a few other matters.

17           In this merger proceeding, the  
18 Commission established, at the behest of the  
19 parties, Public Interest Factor 7, which is  
20 intended to examine the impact of the merger on  
21 renewables and -- renewables and the  
22 environment and energy matters.

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1           Despite having proposed this new  
2 public interest factor, the applicants did not  
3 offer any commitments initially that would  
4 address Public Interest Factor 7. At most,  
5 there may have been an opportunity where they  
6 had proposed that part of the consumer  
7 investment fund could be used to address  
8 renewable issues.

9           But notwithstanding this newly  
10 announced policy, the joint applicants showed  
11 their true colors by testing it out and not  
12 proposing anything in response to it.

13           I think it also bears noting that  
14 the nonsettling parties in this proceeding are  
15 comprised of groups with a mission to -- to  
16 support and promote renewable energy:  
17 D.C. Sun, Grid 2.0, MAREC, MDV-SEIA. And the  
18 fact that these parties are the ones that  
19 aren't settling suggests that the policies that  
20 are being proposed by the joint applicants are  
21 incompatible with the goals of renewable  
22 energy.

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1                   Now, I'll admit that the Commission,  
2     in its order, found that the impact with regard  
3     to Public Interest Factor 7 was neutral.  
4     However, there are still other problems with  
5     other factors.

6                   The new proposals that the applicant  
7     has made in response to Public Interest Factor  
8     7 are commitments without any teeth that  
9     counsel for the applicants described these  
10    commitments as binding. And yes, they are.  
11    But they also, by their own terms, have  
12    loopholes and escape clauses.

13                  For example, Mr. Speak already  
14    discussed some of the loopholes in the  
15    development of the 10 megawatt solar project.  
16    With regard to the wind contract, Exelon is not  
17    even required to issue an RFP for five years  
18    until after the Commission's order on the  
19    merger is -- is issued.

20                  So these commitments are things that  
21    are very far down the line an most likely  
22    undertakings that Exelon -- that the new

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1 company would have to undertake anyway in order  
2 to comply with RPS -- with RPS standards.

3 And finally, these commitments are  
4 also a drop in the bucket compared to Exelon's  
5 22,000-plus megawatts of generation that it  
6 owns or controls within the region. So these  
7 proposal that the applicant has belatedly come  
8 forward with to comply with Public Interest  
9 Factor 7 don't even do that much.

10 The other matter that I would ask  
11 the Commission to evaluate in this proceeding  
12 is the applicants seem to suggest that there's  
13 no harm, no foul. The Commission denied the  
14 merger. The applicant comes back with these  
15 new settlement or offers to placate parties.

16 But I would submit that there is  
17 substantial foul. Because if this is what it  
18 takes to get Exelon to come to the table and to  
19 propose -- to propose measures that would even  
20 purport to satisfy D.C. ratepayers, then that's  
21 too much.

22 We spent days, weeks at these

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1 hearings. The rate -- taxpayer dollars went to  
2 pay for the D.C. Government participation.  
3 Individuals groups came forward with attorney  
4 fees.

5 None of those costs, none of the  
6 extensive costs of these hearings will ever be  
7 recovered. And yet, if it takes that much in  
8 order to get Exelon to even come forward  
9 halfway with what it could have done at the  
10 beginning, that's too much.

11 As the Commission evaluates these  
12 new proposals and evaluates the testimony in  
13 this case, one of the questions that it should  
14 ask itself is whether the applicant's conduct  
15 and its manner of doing business in this  
16 proceeding is reflective of turning a new page  
17 or if this is just a harbinger of things to  
18 come if this is what we can expect as business  
19 as usual from Exelon, a war of attrition and  
20 fighting and wasted fees and costs just to get  
21 action to be taken that could have been done at  
22 the outset.

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1           We would submit that the latter is  
2 true, that -- and that this -- and that for the  
3 other reasons that I've discussed already and  
4 that D.C. Sun has discussed, that this merger  
5 does not satisfy the public interest and should  
6 be denied.

7           Thank you.

8           CHAIRMAN KANE: Thank you.

9           MS. WEIN: Good morning, Your --

10          CHAIRMAN KANE: Morning.

11          MS. WEIN: Good morning, Your  
12 Honors.

13                 Again, my name is Olivia Wein. I'm  
14 a staff attorney at the National Consumer Law  
15 Center representing NCLC, the National Housing  
16 Trust and National Housing Trust Enterprise.

17                 NCLC and NHT are mission-driven  
18 nonprofit organizations that seek to improve  
19 the lives of low-income families. NCLC  
20 advocates on behalf of the interest of  
21 low-income residential energy consumers. And  
22 NHT is a developer and owner of affordable

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1 housing and a lender to other organizations  
2 that development affordable housing.

3 In our initial petition to  
4 intervene, we were seeking to ensure that there  
5 were clearly identified and substantial  
6 benefits for the families in the District who  
7 live in affordable multifamily housing. In  
8 particular, we had a focus on improving the  
9 energy efficiency of affordable multifamily  
10 housing both to reduce the bills for the  
11 tenants who pay directly for the utilities and  
12 to help maintain housing as affordable in the  
13 long run.

14 We noted that keeping energy costs  
15 low in multifamily housing is critical to  
16 maintaining affordable homes for low-income  
17 families in the District.

18 In the earlier phase of this  
19 proceeding, we filed a brief opposing the  
20 merger precisely because it did not include  
21 substantial benefits for the most vulnerable  
22 consumers. We also recommend that the

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1 Commission not approve the merger unless there  
2 were, in fact, substantial investments for  
3 energy efficiency and affordable multifamily  
4 housing and direct and tangible benefits for  
5 low-income households.

6 As touched upon in the prior opening  
7 statements by OPC and the District of Columbia  
8 Government and the testimony of our witness,  
9 the settlement agreement includes identifiable  
10 and substantial benefits for low-income  
11 households in the District, and we therefore  
12 fully support the Commission approving the  
13 settlement agreement.

14 Thank you.

15 CHAIRMAN KANE: Thank you, Ms. Wein.

16 All right. That concludes our  
17 opening statements.

18 We will mark company -- applicants  
19 want to put your application in?

20 MR. MEIER: Yes, ma'am.

21 CHAIRMAN KANE: Marked as an  
22 exhibit?

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1 MR. MEIER: We would like to mark  
2 and stipulate the admission of the settlement  
3 agreement as Joint Applicant NSA 1.

4 And -- and everyone should have  
5 received that. I think that will facilitate  
6 the proceedings going forward.

7 CHAIRMAN KANE: Thank you. That  
8 will be so marked -- entered and so marked.

9 (Joint Applicant Exhibit NSA 1 was  
10 marked for identification and received into  
11 evidence.)

12 CHAIRMAN KANE: Now, we will -- as I  
13 said, it's 11:30. I think we will need to  
14 proceed with D.C. Government, would be our  
15 first witness, so that -- Mr. Wells -- we have  
16 adequate time to cross-examine and ask  
17 questions of Mr. Wells and get his testimony,  
18 et cetera, into the record.

19 So Mr. Caldwell.

20 MR. CALDWELL: Thank you very much,  
21 Your Honors. And appreciate that  
22 accommodation.

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1           The District Government at this time  
2           calls Director Tommy Wells to the stand.

3           TOMMY WELLS,

4                   being first duly sworn, to tell the  
5           truth, the whole truth and nothing but the  
6           truth, testified as follows:

7           DIRECT EXAMINATION BY COUNSEL FOR DISTRICT OF  
8                                   COLUMBIA GOVERNMENT

9                                   BY MR. CALDWELL:

10          Q.       Can you please state your name for  
11          the record.

12          A.       Yes. I'm Tommy Wells, the director  
13          of the District Department of Energy and  
14          Environment.

15          Q.       And on whose behalf are you  
16          appearing today?

17          A.       Actually on behalf of the Department  
18          of Energy and Environment for D.C. and the D.C.  
19          Government.

20          Q.       Are you the same Tommy Wells that  
21          submitted testimony in support of the  
22          settlement agreement on October 30th, 2015, the

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1 test --

2 A. Yes.

3 Q. -- the testimony being premarked as  
4 Exhibit DCG H?

5 A. Yes, I am.

6 MR. MEIER: I'd like to have marked  
7 for the record DCG H.

8 CHAIRMAN KANE: So marked.

9 (Exhibit DCG H was marked for  
10 identification.)

11 BY MR. CALDWELL:

12 Q. And if I were to ask you the same  
13 questions today, would your answers be the  
14 same?

15 A. Yes.

16 Q. And was the testimony prepared by  
17 you or under your direct supervision?

18 A. Yes, it was.

19 MR. CALDWELL: Thank you.

20 Your Honors, I believe, as we were  
21 granted opportunity to provide some brief  
22 rebuttal, I'm going to ask the witness a few

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1 questions on nonsettling parties' testimony.

2 CHAIRMAN KANE: Certainly.

3 BY MR. CALDWELL:

4 Q. Mr. Wells, Witness Burcat on behalf  
5 of MAREC, testifies on Exhibit MAREC A, Page 7,  
6 at Lines 13 through 15, that, in reference to  
7 the commitments made for renewable generation,  
8 he says that the first thing you'd like to  
9 note, quote: I note that the proposed merger  
10 remains opposed by all of the intervenors that  
11 support and promote renewable energy. That  
12 fact alone should give the Commission pause as  
13 it considers whether the applicants have  
14 satisfied Public Interest Factor 7.

15 Do you have anything to say in  
16 response to that statement?

17 A. Well, I just have to say that, as  
18 the District of Columbia, through the  
19 Department of the Environment and Department of  
20 Government Services, this is the largest  
21 investor in pushing forward renewable energy in  
22 the District of Columbia.

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1           We -- I cannot agree that -- that  
2     the -- the other entities are the only ones  
3     that represent an interest in renewable energy.

4           We have also the Department of  
5     D.C. -- well, we have D.C. Water. They have  
6     just unveiled one of the largest anaerobic  
7     digesters in the world, and that's renewable  
8     energy. And we're working with them to realize  
9     an expansion of more renewable energy through  
10    solar power.

11           So those two entities alone I  
12    believe are the largest investors in renewable  
13    energy and will continue to be, along with  
14    the -- the new initiative that was unveiled  
15    yesterday by the mayor to put solar power on 15  
16    D.C. buildings, which will be a substantial  
17    investment, one of the largest in the country,  
18    of solar investment.

19           Q.     Thank you.

20           Now I'd like to turn your attention  
21    to the testimony of Scott Hempling where at  
22    Page 52, Line 18, it begins, in reference to

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1 Joint Applicants' NSA 1, which is the  
2 settlement agreement, at Paragraph 9(a) -- I'm  
3 sorry -- 9(c) -- that's the provision that  
4 provides for \$6.75 million for energy  
5 efficiency programs developed or designated by  
6 the District in consultation with the National  
7 Consumer Law Center and National Housing Trust  
8 targeted towards both affordable multifamily  
9 units and master-metered multifamily buildings  
10 which include low- and limited-income  
11 residents -- Mr. Hempling states that, in  
12 reference to that provision: Asking this  
13 commission to approve and arrangement where  
14 private parties who support Exelon's private  
15 business strategy give preferred access to  
16 governmental decision-makers is inconsistent  
17 with democratic principles. Excluding someone  
18 from these government-held meetings, excluding  
19 them from the promised consultation merely  
20 because they decline to sign this defective  
21 document is to turn to -- government function  
22 over to private parties, something one sees in

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1 undemocratic nations but not something  
2 appropriate in the capital of our nation.

3 A. One --

4 Q. Do you have anything to say about  
5 that?

6 A. Yes. NCLC, as recognized by the  
7 Public Service Commission, has an interest, and  
8 they are a intervening party. They are -- have  
9 shown to be -- that this is a value added and  
10 that in no way would this exclude having all  
11 the other parties that are interested in  
12 helping shape the investment of the  
13 \$6.75 million from being at the table.

14 It is not an exclusive agreement.  
15 It's just an assurance that NCLC will be at the  
16 table as well as other parties in the District.  
17 We want and encourage and will have other  
18 parties in the District at the table in  
19 determining the investment of those funds.

20 So that is not an exclusive  
21 arrangement. And it would not be in the  
22 public's interest for that to be an exclusive

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1 arrangement.

2 MR. CALDWELL: Thank you very much.

3 And with those two questions, the  
4 witness is available for cross-examination.

5 CHAIRMAN KANE: Thank you.

6 Cross-examination? Anyone?

7 MS. ELEFANT: Yes. I --

8 CHAIRMAN KANE: Yes. MAREC. Go  
9 ahead.

10 CROSS-EXAMINATION BY COUNSEL FOR MAREC

11 BY MS. ELEFANT:

12 Q. Good afternoon, Mr. Wells -- or is  
13 it Dr. Wells?

14 A. No. It's Mr. Wells.

15 Q. Okay. Well, then I elevated you.  
16 So do you have your -- a copy of  
17 your testimony with you?

18 A. Yes, I do.

19 Q. Okay. So -- and actually, before  
20 we -- we address that, I just wanted to ask you  
21 about some of the District of Columbia's  
22 policies.

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1           Now, you testified before that D.C.  
2 is one of the largest -- was it developers  
3 or --

4           A.     Investors in -- in renewable energy  
5 in the District of Columbia, yes.

6           Q.     And you also testified that D.C.  
7 Government supports and promotes renewable  
8 energy; is that accurate?

9           A.     Absolutely.

10          Q.     Now, the D.C. Government, in  
11 addition to supporting and promoting renewable  
12 energy, has other interests that it supports  
13 and promotes; isn't that right?

14          A.     Of course.

15          Q.     So -- so supporting and promoting  
16 renewables is not the District's sole mission,  
17 is what I'm getting at; is that right?

18          A.     No. We're -- we're a government.

19          Q.     Okay. Okay. I wanted to now turn  
20 your attention to your testimony, specifically  
21 the pages that begin at -- beginning at Page 13  
22 where you discuss the consumer -- the CIF fund

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1 allocations for renewable generation.

2 A. Yes.

3 Q. Okay. And so in your testimony you  
4 discussed one of the provisions at Line 9.

5 You said that the applicants will  
6 provide \$3.5 million for the District  
7 Government's renewable energy programs; is that  
8 right?

9 A. Yes. That's right.

10 Q. And you deter- -- did you determine  
11 that to be a benefit of the merger?

12 A. Yes.

13 Q. Okay. And then, in addition to  
14 that, you also discussed on Page 14 that --  
15 Line 12 -- there would be another \$3.5 million  
16 not recoverable in rates for the District  
17 Government's Sustainable Energy Trust Fund; is  
18 that right?

19 A. That's right.

20 Q. And you also determined that would  
21 be a benefit of the merger?

22 A. Yes.

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1 Q. And are these benefits that you  
2 determined were specifically related to Public  
3 Interest Factor 7 relating to energy in the  
4 environment or relating to the environment and  
5 renewables?

6 A. I believe that it does come under  
7 that, yes.

8 Q. Now, prior to -- now, in the  
9 original merger proceeding, the District of  
10 Columbia had certain conditions in mind; isn't  
11 that right?

12 A. Yes.

13 Q. Do you recall what those were?

14 A. Well, the original conditions were  
15 from the previous administration. I know that  
16 they were filed. And I'm -- I'm aware of the  
17 previous conditions somewhat. I mean we  
18 inherited that, yes.

19 Q. Do you -- I'll just ask you.

20 Do you recall, for example, the --  
21 one of the conditions that was proposed, as  
22 part of your file -- as part of the filing, was

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1 a sustainable energy fund -- a sustainable  
2 development fund under which Exelon would --  
3 shall invest \$95 million over a five-year  
4 period in sustainable -- in a sustainable  
5 development fund?

6 Does that sound like one of the --

7 A. Yes.

8 Q. -- conditions you proposed --

9 A. Yes.

10 Q. -- previously? Okay.

11 And then, as another condition that  
12 was previously proposed by the District, it  
13 was: Exelon shall provide, within 90 days  
14 after notification to FERC of consummation of  
15 the merger \$70 million in funding for the  
16 District of Columbia to advance the purposes  
17 and accelerate implementation of the Clean and  
18 Affordable Energy Act of 2008.

19 Does that --

20 A. Yes.

21 Q. -- ring a bell?

22 And then finally, you -- D.C. had

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1 also proposed as a condition that Exelon shall  
2 develop \$2 million to an institution to --  
3 selected by the Department of Energy -- the  
4 District Department of Energy and Environment  
5 to support research and development of  
6 renewables.

7 Does that --

8 A. That sounds right.

9 Q. Okay. Now, would you agree that  
10 those conditions that were proposed in the  
11 original proceeding were substantially of  
12 greater dollar value than the conditions that  
13 you just discussed in your testimony in -- in  
14 your testimony that's been presented in this  
15 hearing?

16 A. Yes.

17 Q. Can you tell me what accounts for  
18 the change in position?

19 A. Well, in negotiating and/or in -- in  
20 getting to a deal that, as you know, the  
21 District opposed the -- vigorously opposed the  
22 -- the settlement -- or not the settlement but

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1 the -- the merger.

2 And so we did not come to an  
3 agreement but only because of the decision of  
4 the Public Service Commission did we have the  
5 opportunity to really substantially move the  
6 joint applicants in the direction of what the  
7 District originally wanted.

8 And certainly, of course, as -- as a  
9 government entity, we would ask for far more in  
10 initially to -- to try to get the best deal for  
11 the citizens.

12 I believe we've done that with the  
13 settlement agreement. But it really -- I just  
14 have to say that it's -- we opposed the -- the  
15 merger when there was no agreement. And so did  
16 the Public Service Commission.

17 Q. Now, at the time that you proposed  
18 the merger, would it be fair to say that your  
19 position was that the District opposes the  
20 merger, but it's something that could be  
21 salvaged if these conditions, the \$95 million  
22 payment to the sustainable energy fund, the

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1 \$70 million fund, were adopted?

2 Wasn't that your prior position?

3 A. If that -- if that amount of money  
4 had been there along with the other interests  
5 of the District, I believe that the District --  
6 you know, obviously I'm speaking on behalf of  
7 the earlier administration where we did not  
8 have the opportunity to form these numbers  
9 until of course we -- we came in in January.  
10 But that -- that sounds like a reasonable  
11 position.

12 Q. And so, however, now your position  
13 is that the merger does meet -- meets the  
14 public interest and satisfies Factor 7 with the  
15 various -- the \$10.5 million commitment, or  
16 roughly to 10.5 million, to various renewable  
17 and energy efficiency and clean energy  
18 programs.

19 A. Well, it's not just about the money  
20 as well. It's about the commitment to build  
21 more solar in the District of Columbia, to  
22 partner with D.C. Water, and also to purchase

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1 into PJM grid a hundred megawatts of -- of wind  
2 power. So there's a lot more to that than just  
3 the CIF investments that's been agreed upon.

4 And so the -- as you know, I guess  
5 the final offer was something like \$34 million  
6 to the District in terms of CIF fund. Now  
7 we're at 72 plus the 5 million for -- for the  
8 workforce development fund.

9 So we're at a substantially  
10 different place through the settlement  
11 agreement.

12 Q. Now, you just testified before that  
13 D.C. was -- I -- I didn't take very good notes.

14 You testified about D.C. solar --  
15 they're going to be putting -- installing solar  
16 on 50 buildings.

17 That -- is that an initiative of the  
18 D.C. Government?

19 A. Yes, it is.

20 Q. And so that's something that D.C.  
21 Government would be doing with or without  
22 Exelon's involvement; isn't that right?

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1           A.       That's right.  There's only an  
2       example of interest in -- in renewable energy  
3       that the District I don't think really is equal  
4       in that and at least any other city in the  
5       country right now.

6           Q.       Do you know roughly how many  
7       megawatts of -- of energy that initiative will  
8       comprise?

9           A.       We will have to get back to you on  
10      how much that will be.

11          Q.       Okay.  Now, in terms of the  
12      10 megawatt solar proposal, isn't it true that  
13      5 of those megawatts were already under  
14      development prior to when this settlement  
15      agreement was adopted?

16          A.       Actually, it was much earlier.  
17      You're exactly right.  And I met with George  
18      Hawkins to discuss this and why high didn't it  
19      happen.  He said that Pepco was unable to be a  
20      partner in a way that would make it feasible  
21      for them, so they dropped the plans, but that  
22      they really thought that it would be a good

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1 idea to do it.

2 So I saw this as an opportunity to  
3 take -- they actually planned 10 megawatts.  
4 And so I saw this as an opportunity to offer 5  
5 to try to make the deal work.

6 The interconnection problems that  
7 Pepco's had chronically has prevented deals  
8 like this to go on before. There's been a --  
9 some other solar that's been installed at  
10 D.C. Water that I don't believe's ever been  
11 hooked up on one of their buildings. At least  
12 that was my understanding from Mr. Hawkins.

13 So the -- the other parties and --  
14 and capacity that Exelon brings gives greater  
15 assurance to D.C. Water that this actually  
16 could happen. And D.C. Water did their own due  
17 diligence to see what's different about working  
18 with Exelon than with Pepco on this or at least  
19 having the -- the solar with Pepco but have the  
20 backup and expertise of Exelon's and their sub-  
21 -- subsidiaries.

22 So that gave greater confidence to

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1 D.C. Water. So I figured that, while we were  
2 looking at 7 megawatts, let's up it up to --  
3 to 10, offer 5 to D.C. Water to see if that  
4 would leverage actually 10 more megawatts in  
5 total.

6 So that is why that, if they can't  
7 get the deal done again, if it fails again,  
8 then we drop back down to 7 megawatts for the  
9 rest of the city.

10 But this was a way to try to  
11 leverage the goal and the plans for D.C. Water  
12 to begin with.

13 Q. Now, you said earlier that one of  
14 the reasons that the -- there were problems  
15 with this deal was because of Pepco's  
16 interconnection issues?

17 A. I believe that was part of it in my  
18 understanding and the conversation I had with  
19 George Hawkins, the director of D.C. Water.

20 Q. Now, as you're aware, Exelon is a  
21 generation company; isn't that right?

22 It doesn't own or have control over

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1 the distribution.

2 A. That's right. But they also own P  
3 -- I guess P&G in Baltimore where they've had a  
4 much better track record of doing  
5 interconnection with solar.

6 Q. So it was your feeling that having  
7 Exelon -- now -- having Exelon involved in the  
8 merger would get Pepco to do what it was  
9 obligated legally to do already?

10 A. I know that Mr. Hawkins talked with  
11 representatives from Pepco and Exelon and felt  
12 reassured that this gave greater assurance that  
13 they could get this done where they had  
14 essentially felt like they could not get it  
15 done.

16 Q. Now, at what point in time did the  
17 D.C. Government -- how did it come to change  
18 its position from opposing the merger to  
19 supporting the merger?

20 Do you recall when that --

21 A. Well --

22 Q. -- change took place?

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1           A.       We knew that, after -- at least I  
2       knew that, after the Public Service Commission  
3       had denied approval of the merger, that we were  
4       in a very different place than we'd been  
5       before.  Essentially, as -- as I believe the  
6       representative from Pepco had noted, that there  
7       was almost no negotiations going on, at least  
8       between my office and the joint applicants.

9                    After the Public Service Commission  
10       denied the merger, then we were in a completely  
11       different world.  And it would be clear that,  
12       if this were going to happen, that we were  
13       dealing with a party in a very different  
14       position and so thought it most responsible to  
15       at least hear what they had to offer.

16                   They made substantial changes.  And  
17       a lot of it was along the lines of the  
18       direction from the Public Service Commission of  
19       why they do not believe the merger was in the  
20       public's best interest.

21                   And it seemed that, in the first  
22       offer, of how far they had come from

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1 co-locating their headquarter in D.C. and --  
2 and substantially upping the -- the consumer  
3 investment funds and some other things, that it  
4 seemed like it was now in good faith.

5           So we began negotiations, and we  
6 came to a preliminary area where we thought we  
7 could agree. But the mayor made it clear that  
8 she wanted the other intervenors to be  
9 consulted, approached, and to see what the  
10 other intervenors would need in order to come  
11 into this deal.

12           And so I -- I -- I met with all the  
13 other intervenors, either by phone or  
14 otherwise, except D.C. Sun, where that was  
15 indicated that that would not be protective.  
16 And then we kept hammering out a deal and a  
17 settlement that, as you can image, these types  
18 of negotiations go right up to the end.

19           And so another condition of the  
20 mayor is that there had to be a transparent,  
21 publicly involved hearing process and  
22 initially, along with other intervenors, had

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1 said that this really should be a new filing  
2 and -- because there are elements in the new  
3 filing that provided for public input and  
4 transparency.

5           And so, when the Public Service  
6 Commission came with an alternative but  
7 assuring the public input, then that  
8 was another condition that was met. So this  
9 was moving all along in a particular direction  
10 until the -- the District was satisfied, along  
11 with the other intervenors, especially the  
12 major -- the major intervenors, that we had  
13 negotiated a settlement agreement that was not  
14 only in the best interest of the District today  
15 but is in the best interest of the District  
16 tomorrow.

17           Q.     Do you have any idea how much money  
18 the District government spent on its  
19 participation in the initial merger proceeding  
20 up through the Commission's denial?

21           A.     Yes.

22           Q.     Can you --

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1           A.       It's approximately a million  
2 dollars.

3           Q.       Okay. Does it -- and you testified  
4 before that, once the Commission denied the  
5 merger, the District felt that it was in a  
6 different place in terms of its ability to be  
7 able to negotiate an agreement; is that right?

8           A.       That absolutely right. It -- it  
9 certainly -- after expending those kind of  
10 funds, there was, you know, interest or that it  
11 would be possible that, if we entered and  
12 agreed to a settlement with the -- the joint  
13 applicants before the Public Service Commission  
14 made their decision, we would have recouped  
15 those funds. But we did not do that. We did  
16 not believe it was in the District interest.  
17 And so we -- we continued to oppose.

18          Q.       But these -- as I understand from  
19 your testimony, the proposal that the District  
20 has made in the settlement agreement were not  
21 something that were even on the table before.

22                    It wasn't something you could have

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1 agreed to before; isn't that right?

2 A. Well, in -- pretty much. I mean  
3 some things they -- they had offered \$34  
4 million. That was on the table. That's about  
5 half of what we ended up with.

6 So we could have agreed to \$34  
7 million. We could have agree to one microgrid.  
8 We could have agreed to 5 megawatts of solar.  
9 But we didn't.

10 And so those things were on the  
11 table, but we just substantially and materially  
12 changed the settlement agreement, and also with  
13 guidance from the ruling from the Public  
14 Service Commission.

15 Q. And so I just want to ask one final  
16 question.

17 Is it at all troubling to you that  
18 it cost D.C. taxpayers a million dollars to be  
19 able to reach a point in a proceeding where you  
20 can get what will become the home utility to --

21 MR. CALDWELL: Your Honor, so I'm  
22 going to -- I'm going to object to this -- this

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1 line of questioning. It's really getting into  
2 the substance of the negotiations and -- and  
3 matters that are, you know, privileged and are  
4 protected by -- under the rules of -- the  
5 Commission's rules under settlement  
6 negotiations.

7 CHAIRMAN KANE: Would you repeat the  
8 question.

9 BY MS. ELEFANT:

10 Q. My final question -- and this is my  
11 final question -- is just to ask whether it is  
12 at all troubling that the District of Columbia  
13 taxpayers and the D.C. Government paid a  
14 million dollars in order to secure settlement  
15 provision -- in order to get the -- what will  
16 become the local utility to comply with the  
17 public interest.

18 MR. CALDWELL: I'm going to also  
19 object on the grounds of relevance. I don't --  
20 like what is -- whether or not it's troubling  
21 to the witness is not something that is of --  
22 of relevance.

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1 CHAIRMAN KANE: Well, the witness  
2 can answer --

3 THE WITNESS: Yes. I --

4 CHAIRMAN KANE: -- his opinion on  
5 that or not. But I don't think the question  
6 went to anything that occurred during the  
7 settlement. And you are correct that, under  
8 our rules, the actual give and take during a  
9 settlement process is confidential.

10 But I believe the million dollars  
11 you're referring to refers to money that was  
12 spent during the evidentiary hearing process;  
13 is that correct?

14 MS. ELEFANT: Yes.

15 CHAIRMAN KANE: Thank you.

16 MS. ELEFANT: Per the testimony.

17 And I will be careful. I will --

18 CHAIRMAN KANE: Thank you.

19 LAWYER2: -- keep that in mind in  
20 terms of --

21 CHAIRMAN KANE: Thank you.

22 MS. ELEFANT: -- questioning about

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1 settlement. I apologize if I've overstepped.

2 CHAIRMAN KANE: You could talk about  
3 the outcome of the settlement where --

4 MS. ELEFANT: Sure. Well taken.

5 THE WITNESS: And what I'll say  
6 is -- is that New Jersey, Delaware, our  
7 neighboring counties, most populous counties to  
8 the District in Montgomery County, Princes  
9 George's County, they spent money on this as  
10 well. And they came to agreement.

11 And we had offered whatever they  
12 got. And we decided that was not enough. And  
13 so we had a different opinion than the other  
14 jurisdictions. And every jurisdiction, from  
15 New Jersey down, that's part of what we do. We  
16 -- we spend public money on the people's  
17 council to protect the ratepayers. We spend,  
18 you know, taxpayers moneys on this process.

19 That -- the matter of degree I  
20 believe is what you're asking, is that does it  
21 seem that the matter of degree and then not get  
22 an agreement.

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1           We had the same offer that Maryland  
2 had, but we -- we turned it down and -- and at  
3 risk. But it was the right thing to do, and  
4 now we're in a far, far different place on  
5 behalf of the District residents. But we had  
6 to make a judgment call.

7           And so that's -- you know, I -- I  
8 think that possibly even the joint parties,  
9 joint applicants, did not believe that they  
10 would end up at this spot.

11           MS. ELEFANT: Thank you.

12           I have no further questions for the  
13 witness.

14           CHAIRMAN KANE: Thank you.

15           I -- commissioners have some  
16 questions for Mr. Wells.

17           First of all, I want to move into  
18 the record as Commission Exhibit -- PSC Exhibit  
19 1 the data responses --

20           COMMISSIONER FORT: It's not marked.

21           CHAIRMAN KANE: Would be to mark  
22 it -- mark it Exhibit -- yes -- would be to

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1 mark it as Commission Exhibit 1, which are the  
2 responses -- D.C. Government/Wells responses to  
3 D.C. Government data Request No. 2. That would  
4 consist of 13 pages. And ask some questions  
5 about that.

6 (Exhibit PSC 1 was marked for  
7 identification.)

8 CHAIRMAN KANE: I also want to  
9 present -- which I'm going to ask questions on,  
10 which hopefully the parties have it. I'll pass  
11 it out now -- which will be preliminary marked  
12 as PSC 2.

13 And it is, for identification, an  
14 excerpt from the transcript of the evidentiary  
15 hearings that were held in this case on April  
16 21st, 2015. And it is pages 3153 through pages  
17 3158, a six-page excerpt from that.

18 (Exhibit PSC 2 was marked for  
19 identification.)

20 CHAIRMAN KANE: Give that to the  
21 secretary. Give one to the -- give one to the  
22 witness also.

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1           Yeah. And make sure that everyone  
2 has it.

3           Mr. Wells, if you have the -- the  
4 data responses -- the 13-page data response.

5           MR. CALDWELL: Your Honor, I'm  
6 sorry. That was marked --

7           CHAIRMAN KANE: PSC 1 -- the data  
8 response, PSC 1. And the excerpt from the  
9 April 21st transcript as -- preliminarily  
10 marked as PSC 2.

11          MR. CALDWELL: Thank you.

12          THE WITNESS: Madam Chair, I have  
13 something that's titled data response -- was a  
14 response to staff data request No. 2.

15          CHAIRMAN KANE: Yes.

16          THE WITNESS: And let me make sure  
17 that there's 13 pages.

18                 Including certificate of service?

19          CHAIRMAN KANE: That would  
20 include --

21          THE WITNESS: And --

22          CHAIRMAN KANE: Yes. The

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1 certificate page, yes.

2 THE WITNESS: Okay.

3 CHAIRMAN KANE: Includes the  
4 certificate page.

5 Do you have a --

6 THE WITNESS: Got the --

7 CHAIRMAN KANE: Transcript excerpt,  
8 yes. The six pages, which is PSC 2. Okay.

9 I wanted to ask some questions,  
10 first of all, about these data responses to --  
11 did you prepare these? Are you the sponsor of  
12 these data responses?

13 THE WITNESS: Yes.

14 CHAIRMAN KANE: Yes.

15 And if you were to be asked --

16 THE WITNESS: I mean they're under  
17 my --

18 CHAIRMAN KANE: They're --

19 THE WITNESS: -- direction.

20 CHAIRMAN KANE: -- under your --

21 THE WITNESS: Yes.

22 CHAIRMAN KANE: -- under your

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1 direction and sponsorship. Yes.

2 And if you were asked the same  
3 questions today, would you consider the same  
4 answers would be true today?

5 THE WITNESS: Yes.

6 CHAIRMAN KANE: Okay. Thank you.  
7 Sometimes things change in between. I like to  
8 verify as it's --

9 THE WITNESS: And also I'm just  
10 remembering I think there may have been a -- a  
11 small amendment to the data request, but I  
12 think we're okay.

13 CHAIRMAN KANE: Okay. I'm looking  
14 at your counsel.

15 If there is an amendment, please let  
16 us know.

17 THE WITNESS: Maybe not. Maybe it  
18 was fixed before it was submitted.

19 MR. CALDWELL: I don't believe there  
20 is an amendment.

21 CHAIRMAN KANE: Okay.

22 THE WITNESS: Okay.

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1 CHAIRMAN KANE: Thank you.

2 So I want to look at your testimony  
3 and stuff.

4 Yes. Question?

5 MS. FRANCIS: I just want to make  
6 sure I'm looking at the right document.

7 CHAIRMAN KANE: Yes.

8 MS. FRANCIS: It's dated November --  
9 November 13th?

10 CHAIRMAN KANE: Correct.

11 MS. FRANCIS: I only have eight  
12 pages of responses, two pages of a certificate  
13 of service, and a cover page.

14 CHAIRMAN KANE: That's correct.

15 MS. FRANCIS: Okay.

16 CHAIRMAN KANE: That's correct.  
17 It -- added all up together, including the  
18 blank page on the back, it comes to 13. But  
19 that is the same document, yes, dated November  
20 13th, submitted by the attorney general on  
21 behalf of Mr. Wells.

22 MS. FRANCIS: Thank you.

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1           CHAIRMAN KANE: I wanted to ask you  
2 some questions both on your testimony and the  
3 data responses.

4           And the first goes to Page 13 of 33  
5 of your testimony. And I want to start at Line  
6 9.

7           You were asked to describe the CIF's  
8 allocation for renewable energy development,  
9 which is Settlement Agreement No. 6. And you  
10 indicate that, within 60 days of the merger  
11 closure, the joint applicants will provide  
12 3.5 million not recoverable in customer rates  
13 for the District Government's renewable energy  
14 programs and the that the District Government  
15 intends to deposit these funds in the Renewable  
16 Energy Development Fund, D.C. Code 34-1436?

17           See that?

18           THE WITNESS: Yes.

19           CHAIRMAN KANE: And then in your  
20 data response -- or your response to the -- to  
21 the Commission's request, I want to turn to  
22 Question 2 -- Question 2.

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1           These pages are not at all numbered,  
2 actually. But it's the question Page 2. And  
3 it would be page -- after the -- after the  
4 cover letter, page -- one, two -- Page 3.

5           THE WITNESS: Okay.

6           CHAIRMAN KANE: Page 4 at the marked  
7 one. Right. Thank you.

8           See that?

9           THE WITNESS: Yes.

10          CHAIRMAN KANE: And you were asked  
11 to -- this is in regard to the Renewable Energy  
12 Development Fund.

13          THE WITNESS: Yes.

14          CHAIRMAN KANE: Asked to provide an  
15 accounting of the revenue; interest bearing  
16 uses of the fund since inception; whether any  
17 moneys have been transferred; other uses since  
18 inception, and if so, when and how much; asked  
19 for the quarterly reports on the fund that are  
20 required to be provided to the council; and  
21 asked for some additional clarifications.

22          And your response for Question A was

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1 a table in -- showing from 2008 by fiscal year  
2 through fiscal year 2015, which just included  
3 the revenue that goes into the renewable  
4 development fund.

5 What is the source of revenue for  
6 the Renewable Energy Development Fund?

7 THE WITNESS: Primarily it's the  
8 alternative compliance fund -- or the  
9 alternative compliance payments.

10 CHAIRMAN KANE: And the alternative  
11 compliance payments, for the record, are --  
12 come from where?

13 THE WITNESS: It's for generators of  
14 pow- -- or sellers of -- of power into the  
15 District that are not meeting renewable  
16 standards. This is a way that they can meet  
17 the renewable standards for this period.

18 CHAIRMAN KANE: That are not  
19 purchasing enough renewable --

20 THE WITNESS: Renewable --  
21 renewable --

22 CHAIRMAN KANE: -- energy credits.

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1 THE WITNESS: Right.

2 CHAIRMAN KANE: Okay. And subject  
3 to check, because you don't have a total here,  
4 I want to look first at -- of the -- of -- of  
5 what the totals of each of these columns is.  
6 You've got revenue interest earned and  
7 expenditures.

8 Through 2014 -- I want to start with  
9 that -- you've added it up -- and I'll ask you  
10 subject to check -- the total revenue was about  
11 1.853999 million.

12 I'm going to talk separately about  
13 2015 in a minute.

14 THE WITNESS: Okay.

15 CHAIRMAN KANE: About 1.8 million  
16 and about -- if you'll agree, subject to check,  
17 about \$5,000 in interest. So about 1.859  
18 million.

19 Is that about right?

20 THE WITNESS: I think so.

21 CHAIRMAN KANE: And then if you add  
22 up the final column on expenditures of 18456,

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1 12 -- \$128, we think, and 90,000, subject to  
2 check again, would you agree that comes to  
3 around \$331,000.

4 THE WITNESS: I'll stipulate to  
5 that, yes.

6 CHAIRMAN KANE: Now, you were asked  
7 also whether any money had been -- so that at  
8 the end of 2014, with a collection of 1.859 and  
9 expenditures of 331, there would have been, if  
10 you subtract, about 1.5 million left in that  
11 fund; is that correct, 18859 minus 331?

12 THE WITNESS: Okay.

13 CHAIRMAN KANE: Okay. And was -- is  
14 that the actual amount that was there at the  
15 end of 2014, or was any of that money  
16 transferred out of the fund?

17 THE WITNESS: I'll have to get back  
18 to you with an answer on that. That's -- I'll  
19 have to get back to you with an answer on that  
20 for 2014. I know that --

21 CHAIRMAN KANE: Well, at the end of  
22 2014, right?

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1 THE WITNESS: Right.

2 I know that, after we came into  
3 office, that we've since made expenditures out  
4 of that fund for renewable energy. But prior  
5 to that, I'll have to get back to you on that.

6 CHAIRMAN KANE: We had a question B.

7 MR. CALDWELL: We'll take that as  
8 a --

9 CHAIRMAN KANE: Has any --

10 MR. CALDWELL: -- request.

11 CHAIRMAN KANE: Yeah. Has anybody  
12 -- I believe that the answer has been provided  
13 here, actually.

14 Question B is: Have any REDF monies  
15 been transferred to other uses since inception?  
16 If so, when and how much?

17 And your answer to Question B is:  
18 See the accompanying spreadsheet.

19 So if you'll turn over to Page 6, I  
20 just want to ask you to verify what these  
21 numbers are. You have a total through 2012 --  
22 it only covers those years -- of 1,088,000 was

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1 transferred out.

2 THE WITNESS: My -- I'm looking at  
3 Page No. 6. So I don't know --

4 CHAIRMAN KANE: Let me look at the  
5 --

6 THE WITNESS: -- if we're looking at  
7 the same thing.

8 CHAIRMAN KANE: I have a copy of  
9 the -- it was -- it's -- yeah. It's -- it is  
10 -- it's Page 8 -- wait -- Page -- yeah, Page 6  
11 of 13. It's a sideways chart that's in color.

12 So if you just -- it's on the  
13 reverse of the page that has.

14 THE WITNESS: And it says "Renewable  
15 Energy Development Fund," yes.

16 CHAIRMAN KANE: Yes. Renewable  
17 Energy Development Fund. Amount transferred  
18 207,000 in '09; 19,000 in -- in fiscal '10; and  
19 another 4,000 in fiscal '10; 682,000 in fiscal  
20 '11; 217,000 redesignated -- I assume that  
21 means put back in -- in -- in December '12; but  
22 then another 174,000 taken out a day later in

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1 2012.

2 Is that correct?

3 THE WITNESS: That's -- that's  
4 exactly what the chart says. And we believe  
5 that to be accurate, yes. From the previous  
6 administration, yes. That's...

7 CHAIRMAN KANE: Okay. So instead of  
8 there being one and a half million, there might  
9 have been maybe couple hundred thousand in it;  
10 is that correct?

11 THE WITNESS: Right. I -- right.

12 CHAIRMAN KANE: As of end of 2014?

13 THE WITNESS: Yes.

14 CHAIRMAN KANE: Now, in 2015 there's  
15 a very, very large deposit into that fund,  
16 which -- is that also from the alternative  
17 compliance fees, \$6.3 million deposit?

18 THE WITNESS: Yes.

19 CHAIRMAN KANE: And interest -- a  
20 significant amount of interest earned at  
21 23,000; but in 2015, an expenditure of only  
22 859,000; is that correct?

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1 THE WITNESS: We had not -- yeah.  
2 That is correct. And that is -- but the timing  
3 of how the moneys came in, which I'm not as --  
4 as -- it may be somewhat accurately reflected  
5 here, but the timing of bringing in the 6  
6 million came in, I believe, after the  
7 allocation and commitment of the 800,000-plus.

8 I mean -- so there -- I know you're  
9 doing a running total, but in terms of what we  
10 believe that we had eligible to spend, the 6  
11 million is only being allocated now -- or  
12 committed now.

13 CHAIRMAN KANE: Yes. Would you  
14 agree, subject to subject, that -- that those  
15 payments come around the 1st of March each  
16 yeah?

17 THE WITNESS: They do start coming  
18 around the 1st of March. But I'm told by  
19 our -- our financial officer that we're not to  
20 say that we have our total amount in until  
21 sometime in May.

22 And so it was only after May that

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1 I'm certified how much we can budget for new  
2 initiatives for solar after that.

3 CHAIRMAN KANE: With the addition of  
4 three and a half million from the nonunanimous  
5 settlement into this fund and the -- well, my  
6 question is what is in place -- how -- how was  
7 the money transferred out?

8 What -- what action is necessary to  
9 transfer money out of this fund?

10 THE WITNESS: That if the money's  
11 reallocated within the District budget, it  
12 generally has to go through the Budget Support  
13 Act and a budget process through the council.

14 In terms of money being transferred  
15 out for payment for projects, we just did, as  
16 you probably know, 130 solar roofs on  
17 low-income-owner homes. And that is around  
18 750,000 right off the -- you know, out of that  
19 fund.

20 And so that -- what happens to that,  
21 of course, is we -- we amended the -- the  
22 sustainable energy utilities contract and

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1 transferred the funds out to them in order to  
2 fund the project.

3 CHAIRMAN KANE: So the money gets  
4 transferred out by request of the mayor,  
5 approval of the council in a Budget Support Act  
6 or on the initiative of council and a Budget  
7 Support Act?

8 THE WITNESS: Generally, if it's  
9 under a million dollars, we do not need to go  
10 through council to --

11 CHAIRMAN KANE: Right. Well, I'm  
12 sorry. I'm not speaking of the money that's  
13 for your expenditures. I'm -- we're talking  
14 about the transfers out --

15 THE WITNESS: If it's transferred  
16 out --

17 CHAIRMAN KANE: -- into the general  
18 fund, yeah.

19 THE WITNESS: If it's transferred  
20 into the general fund, it has to -- the law has  
21 to be changed for the per- -- for the period of  
22 the budget. And that is what occurred --

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1 CHAIRMAN KANE: That is what --

2 THE WITNESS: -- in this --

3 CHAIRMAN KANE: -- has -- has

4 occurred.

5 Is there anything in the  
6 nonunanimous settlement agreement that would  
7 prohibit the council from doing that again out  
8 of this fund?

9 THE WITNESS: No.

10 CHAIRMAN KANE: No?

11 THE WITNESS: But I would have to  
12 add, Commissioner Kane, that the mayor in good  
13 faith negotiated with a number of parties. I  
14 think I know the Public Service Commission is  
15 impressed -- or should -- at least we are -- in  
16 the number of intervening parties that signed  
17 on.

18 This was done in good faith, not  
19 just behest of the government, but on behalf of  
20 intervening parties that came on board with  
21 this.

22 And I think that it is completely in

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1 alignment with the plans and vision for this  
2 administration to expend those funds exactly as  
3 they've been negotiated. Or they've been  
4 negotiated to another pot that it is clearly  
5 the intention of the government to put the  
6 funds there.

7 We did not have to do that. We did  
8 that because we believe that another 3.5  
9 million of investment, particularly in solar,  
10 as that -- that column requires, that -- that  
11 is in align with the plans for the District.

12 But it did not have to go there, but  
13 we negotiated it there. And so I believe that  
14 the intent of the mayor, the intent of the city  
15 and also -- and as to degree to which the  
16 council recognizes that and is -- you know,  
17 that -- I can't speak to the whims of the  
18 council, but I believe the council will  
19 recognize that. This was done in good faith  
20 with our neigh- -- with our community partners.

21 CHAIRMAN KANE: Let me move on to  
22 the money that's going to go into the

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1 Sustainable Energy Trust Fund. That's another  
2 three and a half million dollars.

3 THE WITNESS: Yes.

4 CHAIRMAN KANE: And again, I wanted  
5 to -- continuing on with it -- with the data  
6 response. And we asked the same questions:  
7 How much did the mayor ask for and the council  
8 approve in diverting funds from the Sustainable  
9 Energy Trust Fund in the FY 2016 budget.

10 And your response is that they  
11 approved transferring 3.5 million in SETF funds  
12 balance to the general fund.

13 Do you see that?

14 THE WITNESS: Yes.

15 CHAIRMAN KANE: And how much does  
16 the settlement agreement say is going to go  
17 into the SETF?

18 THE WITNESS: 3.5 million.

19 CHAIRMAN KANE: Exactly same amount?  
20 The same amount that was transferred out.

21 THE WITNESS: Yes. But --

22 CHAIRMAN KANE: Same dollar amount.

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1 THE WITNESS: -- this is not  
2 supplanting. It is not intended to supplant.  
3 It is -- it is the same amount that we put 3.5  
4 in one fund and 3.5 in the other. We had 7  
5 million remaining. We split them evenly  
6 between the two accounts.

7 CHAIRMAN KANE: So the fact that  
8 three and a half million was transferred out of  
9 the SETF into the general fund had nothing to  
10 do with, through the settlement agreement,  
11 replacing three -- putting three and a half  
12 million into the fund.

13 THE WITNESS: This is not to restore  
14 that amount. I believe that the District needs  
15 to do that, as it has in previous  
16 administrations to some degree in the past.

17 And let me just say to the Public  
18 Service Commission that, as I -- we took on the  
19 new administration, we had a \$200 million  
20 deficit. I looked at my budget, and there was  
21 a -- a fund that had built up that was there  
22 and had -- and seeing that there was some

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1 barrier to even getting it out.

2 Now, because it's dedicated to the  
3 sustainable energy utility, and the sustainable  
4 energy utility was capped at \$20 million, they  
5 had underspent the their budget substantially.  
6 So when it built a reserve, at the time we  
7 could not give them more than \$20 million. And  
8 we had \$20 million to give them.

9 So that fund was there, and it could  
10 not be used other than for the sustainable  
11 energy utility. I recommended to the mayor  
12 that, to help balance the city's budget, that  
13 we use 3.5.

14 In retrospect, as I've certainly  
15 learned the depth of my duties in -- in  
16 relationship to the fealty that we have to  
17 ratepayers and such, I have represented to the  
18 city administrator that I believe I made that  
19 recommendation in error and that we need to put  
20 those funds back.

21 And that was -- now that the law has  
22 changed, as you know, that we can now exceed

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1 the \$20 million, there will not be a fund  
2 balance that just grows that can't be touched.  
3 I believe that we've fixed that.

4 But I understand the Public Service  
5 Commission's concern that that's not what the  
6 funds are for. They're not for the general  
7 budget for the District. And that was -- I  
8 believe I made that recommendation to the mayor  
9 in error.

10 CHAIRMAN KANE: Let me talk about  
11 past history before the recommendation.

12 In your response in this question,  
13 Question 3, on table -- question -- excuse  
14 me -- Response C, Item C, you've got a table  
15 showing the revenue -- the interest earned and  
16 the expenditures.

17 What is the source of the money in  
18 the SETF funds aside from the three and a half  
19 million that settlement proposes to put into  
20 it?

21 THE WITNESS: That is a -- that's a  
22 -- a surcharge or a fee on the ratepayers'

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1 bills in the District.

2 CHAIRMAN KANE: On gas and electric  
3 bills, correct?

4 THE WITNESS: And --

5 CHAIRMAN KANE: Gas and electric.

6 THE WITNESS: Exactly right.

7 CHAIRMAN KANE: Okay. That --

8 THE WITNESS: On gas and electricity  
9 as well.

10 CHAIRMAN KANE: Would you agree,  
11 subject to check, that about 80 percent of it  
12 comes from electric bills, about 20 percent  
13 from gas bills, gas --

14 THE WITNESS: Yes.

15 CHAIRMAN KANE: -- customers?

16 THE WITNESS: That's -- that's  
17 right.

18 CHAIRMAN KANE: So again, your chart  
19 doesn't have a total. But if you'll trust my  
20 math, if you add up all of the numbers from  
21 2009 -- I believe this law went into effect --  
22 the surcharge went into effect November 1st,

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1 2008. So that was just one month into fiscal  
2 2009.

3 If you add all of that up, it comes  
4 to a little over \$140 million that customers --  
5 ratepayers -- gas, electric ratepayers paid  
6 into the fund?

7 THE WITNESS: Yes.

8 CHAIRMAN KANE: Been collected.

9 And that money's collected by Pepco  
10 and by Washington Gas as a surcharge and is  
11 turned over to the District Government I  
12 believe every two weeks or on a regular basis.  
13 I looked at the --

14 THE WITNESS: Yes.

15 CHAIRMAN KANE: You provided -- and  
16 I want to be sure as we're talking about these  
17 data responses -- you provided, in answer to  
18 the question that we asked about the  
19 expenditure, a link to a place on the D.C.  
20 Government's DOEE's web site that has the  
21 quarterly reports that the department is  
22 required to provide to the council.

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1           And those quarterly reports do have  
2           every week or every two weeks how much was  
3           collected by Pepco, collected by Washington Gas  
4           and sent over. So I want to be sure, for the  
5           record, that, when we put this data request in,  
6           that the information that's in that link is  
7           also put into the record, however that is done  
8           mechanically.

9           But we add all this up. It's about  
10          140 million. You add on the interest --  
11          substantial interest last year of -- got to  
12          about 141 -- \$140.3 million. And then you have  
13          expenditures as of about 115 million in the  
14          SETF fund.

15          And then we asked about diversion of  
16          the fund to that gap. And if you look at your  
17          answer to E where you have a spreadsheet -- and  
18          I want to ask you a couple of questions on this  
19          -- but in the -- the column there that says  
20          "Out" -- and that's in red and in  
21          parentheses -- it adds up to \$34 million so  
22          that, of the 140 million that was collected, 34

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1 million was diverted into the general fund out  
2 of the SETF?

3 THE WITNESS: That's right.

4 CHAIRMAN KANE: And I see there the  
5 -- the 3.5 million.

6 Is there anything -- same question:  
7 Anything in the language of the -- and this  
8 was -- excuse me.

9 This was diverted by action of the  
10 council, usually at the request of the mayor,  
11 and not necessarily this mayor but to -- going  
12 all the way back to several mayors and several  
13 administrations?

14 THE WITNESS: That's right.

15 CHAIRMAN KANE: And several  
16 councils.

17 Is there anything in the settlement  
18 agreement that would prohibit either a future  
19 mayor or a future council or current council  
20 from again changing the law on a -- a  
21 single-item basis and diverting funds out of  
22 the SETF?

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1 THE WITNESS: As -- no. But as we  
2 said before, was that this was a fund that  
3 built up that could not be used otherwise until  
4 the law was changed.

5 And apparently the previous  
6 administrations did use it as -- you know, as  
7 you can see, they -- at times they put money  
8 back in. So they used it somewhat as a bank  
9 and not just direct payments out to -- for the  
10 general fund but also payments back in. But  
11 the remainder is, as you state, is 34 million.

12 And in reviewing all of that, since  
13 I've taken my position, I think that is clearly  
14 on bad policy. And I -- that's why I informed  
15 the mayor that I believe I had made a error in  
16 recommending the 3.5 million, that we did not  
17 want to continue the same track record as the  
18 previous administrations because that is not --  
19 clearly not in good faith with the -- the  
20 ratepayers.

21 And so that is -- you know, and the  
22 other thing that has occurred, as you know, is

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1 a substantial difference -- substantive  
2 difference is that the law has been changed.  
3 We can spend more money to the SEU than 20  
4 million a year. So there should not be a -- a  
5 -- a growing fund balance.

6 CHAIRMAN KANE: But the law, before  
7 it was changed, would you agree did  
8 specifically provide that the funds could not  
9 be used for any other purpose and that they  
10 remained without fiscal year limitation?

11 THE WITNESS: Absolutely. And --

12 CHAIRMAN KANE: And that that's  
13 still the current law.

14 THE WITNESS: Absolutely. And  
15 that's why the funds balance grew until it was  
16 used clearly as -- somewhat as a bank by the  
17 previous administrations.

18 And I will agree with the Commission  
19 that that's bad policy. And the administration  
20 no longer supports that. And I was in error in  
21 relying on past practice of previous  
22 administrations in saying this fund balance

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1 could be available in the event that the  
2 District had a deficit, as we did. And I  
3 believe that was in error.

4 CHAIRMAN KANE: I think it -- this  
5 also concerned the Commission it was -- in any  
6 merger commitment, not only must there be a  
7 judgment as to whether it's in the public  
8 interest or whether it advances the public  
9 interest as a whole but whether there is some  
10 accountability, traceability, assurance that  
11 what's promised is what's going to actually  
12 happen.

13 THE WITNESS: Absolutely.

14 CHAIRMAN KANE: Onto another  
15 question so that I understand -- and so we  
16 understand clearly what the proposals are in  
17 terms of, were it to be approved, we would know  
18 what kind of performance we would have to  
19 expect to make sure that it would -- would  
20 actually happen.

21 On the 10 megawatts of solar, I know  
22 you answered some questions. I'm now moving to

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1 Page 27 of your -- of your testimony.

2 THE WITNESS: Yes.

3 CHAIRMAN KANE: Now, as you  
4 testified -- I will also be asking Mr. Hawkins  
5 some direct questions about this in terms of  
6 the proposed solar at -- at Blue Plains.

7 As you testified or answered in  
8 order -- in answer to the questions from  
9 MAREC's counsel, D.C. Water had plans underway  
10 to build some solar at -- at -- at Blue Plains,  
11 correct?

12 THE WITNESS: Plans that they were  
13 unable to effectuate, yes.

14 CHAIRMAN KANE: Yes.

15 And you indicated the reason for  
16 that was that they could not -- the reason they  
17 could not effectuate them was that could not  
18 get an agreement from Pepco about  
19 interconnection.

20 THE WITNESS: It wasn't just  
21 interconnection. There was more to that. And  
22 I have to defer to George Hawkins on that.

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1 CHAIRMAN KANE: Okay.

2 THE WITNESS: But the -- my  
3 impression from the conversation with him is  
4 that it was due to Pepco's failure. And it may  
5 be a greater than interconnection. I don't  
6 know if it's the financing. You know, I -- I  
7 don't know what all was involved, but they --  
8 they did not say it was their own fault.

9 CHAIRMAN KANE: Okay. And I -- we  
10 will ask -- I'll ask those questions -- reserve  
11 those questions appropriate for -- for -- for  
12 Mr. Hawkins.

13 But you have now testified that,  
14 with the proposal here, in which Exelon which  
15 will own Pepco, will be doing the project, that  
16 it will be feasible.

17 THE WITNESS: That's a --

18 CHAIRMAN KANE: Perhaps I'm not  
19 interpreting what you said.

20 THE WITNESS: Right. I'm trying to  
21 think in terms of -- there's also clauses in  
22 there about competitively bid. There's a

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1 number of things in there that are involved in  
2 the criteria of -- of -- of contracting this  
3 out.

4 I'm not suggesting that we have  
5 Exelon become an energy generator directly.  
6 We'll have to -- I mean that's certainly going  
7 to be under the Public Service Commission's  
8 rules and requirements about the -- about what  
9 they can do. But what they -- Exelon, as a  
10 corporation, can help fund and see that the --  
11 the 10 megawatts was created, 5 -- 5 at  
12 D.C. Water.

13 CHAIRMAN KANE: So you are expecting  
14 Exelon to help fund it?

15 THE WITNESS: Yes.

16 CHAIRMAN KANE: Yes. Fund it in  
17 terms of a grant, I -- there was reference in  
18 here to it being commercially feasible or  
19 commercially agreeable.

20 THE WITNESS: Yes.

21 CHAIRMAN KANE: Yes.

22 THE WITNESS: The -- the reference

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1 would be better probably from the settlement  
2 agreement itself.

3 CHAIRMAN KANE: Yes. I believe that  
4 is 128.

5 MR. CALDWELL: Your Honor, I believe  
6 that's 118.

7 CHAIRMAN KANE: 118. Thank you.  
8 118.

9 It says: Develop or assist. Exelon  
10 shall, by December 31st, 2018, develop or  
11 assist in the development of 10 megawatts of  
12 solar in generation; will enter into good faith  
13 negotiations of a commercially acceptable  
14 arrangement for 5 megawatts of such generation  
15 to be conducted at the D.C. Water blue Plains  
16 advanced waste water treatment, et cetera.

17 THE WITNESS: Right.

18 CHAIRMAN KANE: So I don't see a  
19 reference in here to Exelon funding it.

20 THE WITNESS: It was my  
21 understanding that Exelon would fund it.

22 CHAIRMAN KANE: Would fund it.

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1           And by funding, you mean that they  
2 would grant some money that would not --  
3 explain to me what you mean "fund."

4           THE WITNESS: Well, for example, it  
5 says: The construction and installation shall  
6 be competitively bid --

7           CHAIRMAN KANE: Right.

8           THE WITNESS: -- with preference for  
9 local qualified businesses.

10          It was --

11          CHAIRMAN KANE: That -- that's not  
12 funding, is it?

13          THE WITNESS: Well, it's a -- it's  
14 assumed that, if you send out bids -- and  
15 Exelon was putting out the bids -- that Exelon  
16 was the funder -- that -- that they would not  
17 be RFP'ing on the District's behalf; they'd be  
18 RFP'ing on their own behalf.

19          And if they -- we also speak to  
20 whether they can sell the SRECs or not. So I'm  
21 not sure how they don't fund it but yet benefit  
22 from the SRECs so that -- I mean may -- maybe

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1 there's -- there's some gymnastics there that  
2 I'm not assuming.

3 My assumption is -- is that Exelon  
4 could only participate in SRECs by developing  
5 this solar power themselves in concert, you  
6 know, such as D.C. Water's already identified  
7 the land and how this can be done. That's half  
8 the battle in a major city, as you know.

9 But the -- the presumption was that  
10 Exelon would own the SRECs --

11 CHAIRMAN KANE: Right.

12 THE WITNESS: And there's a  
13 restriction on when they can sub them.

14 CHAIRMAN KANE: Yeah. And I'm going  
15 to ask you about that and the reason that.

16 Yes. It says: Exelon shall sell  
17 the output of solar generation constructed in  
18 fulfillment of this commitment in the market.

19 And I believe you say, think in --  
20 in -- in -- in Page 28, Line 4, of your  
21 testimony: The cost of installation will not  
22 be recoverable on rates, and Exelon is

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1 permitted to sell the output in the market.

2 THE WITNESS: Right.

3 CHAIRMAN KANE: So Exelon will be --  
4 that -- those -- they would -- they would sell  
5 it in the market.

6 Now, let me ask you --

7 THE WITNESS: And let me add --

8 CHAIRMAN KANE: I'm still trying  
9 to --

10 THE WITNESS: -- that the --

11 CHAIRMAN KANE: -- reconcile that  
12 with -- with the statement that Exelon would,  
13 quote, fund it.

14 In normal parlance, if someone's  
15 going to fund it as you're talking about  
16 funding -- funding the -- the solar that you're  
17 -- that you're building, you're giving a grant.

18 THE WITNESS: No. What --

19 CHAIRMAN KANE: Or the SCU is -- is  
20 -- is doing it through those fund --

21 THE WITNESS: No.

22 CHAIRMAN KANE: That's not the kind

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1 of funding --

2 THE WITNESS: This is not a transfer  
3 of funds to the District for this purpose.

4 What my understanding is is Exelon  
5 will pay for the development that -- not  
6 through a transfer of funds but through  
7 contracting as the owner in relat- -- you know,  
8 certainly in an agreement with D.C. Water that  
9 they'll -- they'll have to come to agreement on  
10 how to do that, but that -- not that this is  
11 added to the CIF.

12 CHAIRMAN KANE: Yeah.

13 THE WITNESS: This is -- they will  
14 pay and do this.

15 CHAIRMAN KANE: And they will sell  
16 the output into the -- to whom?

17 THE WITNESS: Well, I would presume  
18 that that --

19 MR. CALDWELL: Your -- Your Honor,  
20 may I suggest that that might be a --

21 CHAIRMAN KANE: Better question  
22 for --

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1 MR. CALDWELL: Yeah.

2 CHAIRMAN KANE: I was just trying to  
3 follow up on -- and clarify on when you used  
4 the word "fund." Okay. And i will ask Mr. --  
5 thank you.

6 I did want to ask you, though, you  
7 mentioned about the SRECs not being available  
8 till December 31st, 2018.

9 Now, what is the purpose for delay?  
10 Is that because it won't be constructed till  
11 then, or what is the purpose?

12 THE WITNESS: I appreciate that  
13 question. That there is a similar restriction  
14 in the Montgomery County agreement with public  
15 -- with -- with Exelon. And when we inquired  
16 why did they put the restriction in there, they  
17 were concerned that it would flood the market  
18 and depress the price. And we wanted to  
19 protect the local businesses that were  
20 participating in the SRECs. And so we delayed  
21 it.

22 So, you know, obviously it's in

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1 Exelon's interest to not depress the price  
2 through flooding the market and that they would  
3 behave in a rational way. But we went ahead  
4 and -- and borrowed the same type initiative  
5 from Montgomery and Prince George's County.

6 And it is their beliefs that that  
7 would help protect the market so that as not to  
8 flood the market and depress price.

9 CHAIRMAN KANE: By adding  
10 5 megawatts into --

11 THE WITNESS: That's right.

12 CHAIRMAN KANE: -- the system.

13 Now, you just mentioned that the  
14 District Government has successfully concluded  
15 a process to put 50 -- excuse me -- solar on 50  
16 District Government buildings.

17 How many megawatts is represented by  
18 that?

19 THE WITNESS: I -- you know, I --

20 CHAIRMAN KANE: Would -- would --  
21 would you say, subject to check, it's about 11?

22 THE WITNESS: I believe --

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1 CHAIRMAN KANE: And I --

2 THE WITNESS: -- it is --

3 CHAIRMAN KANE: -- I'm doing --

4 THE WITNESS: -- at 11, yes.

5 CHAIRMAN KANE: -- that from

6 recollection.

7 And that was -- was that a

8 competitively bid --

9 THE WITNESS: Yes, it was.

10 CHAIRMAN KANE: -- undertaking?

11 THE WITNESS: Yes, it was.

12 CHAIRMAN KANE: By the city's

13 Department of General Services?

14 THE WITNESS: Yes.

15 CHAIRMAN KANE: And that's been

16 approved by the city council. It's a matter of

17 public record.

18 THE WITNESS: It's not there yet --

19 CHAIRMAN KANE: Not there yet.

20 THE WITNESS: -- I don't believe. I

21 believe -- I do not know if this has been in

22 front of the council yet.

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1 CHAIRMAN KANE: All right. I  
2 believe subject to check, but it was done in --

3 THE WITNESS: Okay.

4 CHAIRMAN KANE: -- in the  
5 summertime, but nevertheless, so that's --

6 THE WITNESS: In terms of an  
7 award --

8 CHAIRMAN KANE: -- 11 megawatts.

9 Now, was there a -- a concern about  
10 that 11 megawatts depressing the market for  
11 SRECs?

12 THE WITNESS: That's a great  
13 question, Madam Chair. That -- that certainly  
14 the -- in the District's interest of -- of the  
15 SRECs, that the -- we generate through this is  
16 that we -- you know, the restrictions involved  
17 in that are not in this negotiations; they're  
18 not in the settlement.

19 And I believe that that's kind of  
20 a -- a different issue.

21 CHAIRMAN KANE: Okay. Do you know  
22 how much D.C.-based solar there is now, that is

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1 facilities certified by the Commission to --  
2 that are located in the District that can  
3 produce -- or can have SRECs associated with  
4 them and be traded and bought by retailer  
5 suppliers?

6 THE WITNESS: I can get that to you.

7 CHAIRMAN KANE: Okay. Would you  
8 agree, subject to check, it's very -- it's  
9 about 16 megawatts right now.

10 THE WITNESS: Yes.

11 CHAIRMAN KANE: And that, in the --

12 THE WITNESS: But --

13 CHAIRMAN KANE: -- last 12 years,  
14 there's been about a 5 megawatt increase, and  
15 that has -- has that had a -- depressed the  
16 market for SRECs?

17 THE WITNESS: Well, it's a good  
18 question because the SRECs, as you know, change  
19 value in the out years. And so the market will  
20 change when these SRECs will be available for  
21 sale.

22 And that -- if you're suggesting the

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1 District may have advantaged itself by  
2 withholding when -- or agreeing that Exelon  
3 SRECs could not be sold at the same time the  
4 District may be going to the market, I don't  
5 know that intent at all, if that's where you're  
6 doing is that the District virtually advantaged  
7 itself.

8 But of course the District's -- it  
9 represents the -- the people of the District of  
10 Columbia.

11 CHAIRMAN KANE: Okay. That's in the  
12 question more in the context of, as you know,  
13 we need 200-and-some-odd megawatts of S -- of  
14 D.C.-based solar by 2023.

15 THE WITNESS: That's right.

16 CHAIRMAN KANE: And that -- just  
17 curious why withholding and that those -- those  
18 -- RPS is satisfied by a retail provider buying  
19 SRECs, correct?

20 THE WITNESS: Right.

21 CHAIRMAN KANE: For which their  
22 failure to do so last year cost retail

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1 customers in the District \$6.3 million in all  
2 charge and compliance fees.

3 THE WITNESS: Right.

4 CHAIRMAN KANE: And so would you  
5 agree that the more solar we get, the faster,  
6 the better?

7 THE WITNESS: Well, what you've laid  
8 out is obviously the public policy competition  
9 between how do we try to support the new  
10 businesses that have grown -- I believe six  
11 now -- of solar installers and so that they --  
12 part of their finance packages of how they can  
13 help finance that includes SRECs.

14 And of course the public interest in  
15 radically and dramatically expanding the amount  
16 of solar in the District. And so that was a  
17 balance, which you also notice in here it says  
18 "competitively bid," because, again, we're  
19 trying to help support local businesses in the  
20 District, but we don't want to undo the  
21 financial planning they have while -- of course  
22 the income tax credits are still alive for

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1 about one year exactly.

2 And so we did not want to disrupt  
3 the market. But through this agreement we  
4 wanted to protect local business. And that's  
5 why those things are in there.

6 But you bring up -- the best point  
7 is that there's a competitive public policy  
8 interest because we have to get renewable  
9 energy into the District of Columbia. You're  
10 right.

11 CHAIRMAN KANE: I also put before  
12 you the transcript from the April 21st  
13 evidentiary hearing. I want to direct your  
14 attention, if you would, to the first page of  
15 that exhibit, which would be Page 3153.

16 Just to position this, this is  
17 cross-examination of D.C. Government Witness  
18 Chambers. And he is being asked, starting on  
19 Line 5, Mr. Chambers, the D.C. Government:  
20 You're -- You've also proposed this commission  
21 require Exelon to build 50 megawatts of solar  
22 in the District and 200 megawatts of wind in P

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1 -- it should say in PJM -- that would be  
2 delivered to the District, right?

3 Then he confirms that that is --  
4 that is correct, that they're asking for.

5 And on the following page, starting  
6 on Page 6, you're answering the question: How  
7 would you -- how would the cost be recovered?

8 And you said the District -- or  
9 excuse me.

10 Mr. Chambers, speaking with the  
11 District, would be entering into any type of  
12 solar agreement likely as a power purchase  
13 agreement and indicated later on on page -- on  
14 Line 18 you're -- the District was not  
15 proposing that joint applicants give away free  
16 electrons.

17 District Government was asking for  
18 50 megawatts about nine -- eight, nine months  
19 ago, which obviously the District Government  
20 thought -- or I would assume thought would be  
21 in the public interest.

22 Explain to me why 5 or 7 megawatts

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1 compared to 50.

2 THE WITNESS: So what happened in  
3 the negotiations, which is obviously far more  
4 than this, that I think the merger -- if I  
5 remember correctly, offered 5 megawatts. And  
6 we rejected that deal.

7 In the end, I believe that we  
8 doubled the amount to 10. And I certainly  
9 believe that the District would love to have 50  
10 megawatts. There's a lot of things we asked  
11 for and at a very high degree.

12 And so we got the original offers,  
13 which at some point seemed to be their last and  
14 final offer because they did not continue to  
15 negotiate. And Public Service Commission had  
16 their ruling. So we doubled the amount but  
17 also showed how it could be done.

18 And then the other part of the 200  
19 megawatts of wind. As you know, we had 100  
20 megawatts of wind into the PJM. And again,  
21 that's to be competitively bid.

22 So we did -- you know, in any type

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1 of negotiations, you don't get everything you  
2 ask for. But we got a lot, a whole lot more  
3 than what had been offered before the Public  
4 Service Commission made its ruling.

5 CHAIRMAN KANE: And finally, on the  
6 microgrids, starting on Page 32 of your  
7 testimony, you're asked to discuss the  
8 provision on microgrids, which is settlement on  
9 Proposal Provision No. 128.

10 Is it your understanding that these  
11 microgrids would need to be approved by the  
12 Public Service Commission?

13 THE WITNESS: It says midparagraph  
14 on 128 on Page 31 in the agreement: The  
15 development and implementation of the microgrid  
16 pilot project should be competitively sourced  
17 and that Pepco shall install the microgrids  
18 within five years after receiving approval from  
19 the Commission of the microgrid projects.

20 So it's anticipated that the  
21 Commission would have to approve the  
22 microgrids.

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1 CHAIRMAN KANE: Okay. Thank you.

2 One other question. Yes. On the  
3 green bank.

4 Looking at your data response, would  
5 be to question -- on the very last page before  
6 the -- before the service list. And also you  
7 mentioned the green bank in your testimony.

8 You say: This is money going to the  
9 green building fund. It will allow the  
10 District Government to create a green bank as  
11 well as promote deeper sustain -- does the  
12 green bank currently exist now?

13 THE WITNESS: No, it does not.  
14 Currently DOE has a -- has a -- a study that's  
15 being conducted to determine how a green bank  
16 could be created for the District, like in  
17 Connecticut and elsewhere.

18 But we have to look at our home rule  
19 charter around issues of lending money and how  
20 would we do this. And it may have to go  
21 through a private entity in a way that -- you  
22 know, with our own assurances.

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1           It's going to be complicated, but it  
2 -- of great value if we can get a return of ten  
3 to one on these funds. And I think it could be  
4 a substantial innovation tool for the District.

5           CHAIRMAN KANE: Would the proposal  
6 be to put the whole 10.05 million that's going  
7 into the green building fund into the green  
8 bank?

9           THE WITNESS: Not necessarily.

10          As you know, in the settlement  
11 agreement also Exelon will commit \$5 million to  
12 be lent at market rates but for the same types  
13 of purpose. So how we put this together and  
14 how much is needed to leverage the greatest  
15 amount of funds will -- you know, certainly the  
16 District's funds could -- we have greater  
17 latitude of how they are -- are utilized.

18          But I would hope -- and my  
19 recommendation is that we also look at any  
20 other innovation investments up to 1, 2 or 3  
21 million, from that fund if that is the amount  
22 that we need.

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1           As you know -- and I don't want to  
2 get too complicated here -- but as you know,  
3 the microgrids are not known entities. We  
4 don't have a microgrid of this century that's  
5 been built.

6           It may be that some funds from the  
7 District's needed to get it over the top  
8 because we don't want those -- that cost to be  
9 spread out to the ratepayers, but if it's a  
10 new, you know, hardware cost to do the  
11 interconnections.

12           It's also in the interest of the  
13 District to create what we're trying to do --  
14 the -- the solar at D.C. Water's a lot more  
15 than D.C. Water's just getting solar. We would  
16 love to get to a point to where we could do it,  
17 as the Commission understands, islanding our  
18 utilities so that, in the event that we have a  
19 disastrous event, be it through climate change,  
20 weather events or terrorism, that we would keep  
21 our utility running.

22           And so there may be a reason for the

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1 District to add funds, because of the public  
2 interest, to -- to be -- to trying to get  
3 D.C. Water to energy independence of -- at  
4 least being able to island in the event there's  
5 an event.

6 So while the bulk of the funds for  
7 the green bank is intended to help facilitate  
8 the creation of a green bank for the District,  
9 there could be some flexibility for innovation  
10 for part of those funds.

11 CHAIRMAN KANE: And you're speaking  
12 of the funds going into the green building  
13 fund.

14 THE WITNESS: That's right.

15 CHAIRMAN KANE: Is it your  
16 understanding --

17 THE WITNESS: I'm sorry. The green  
18 building fund.

19 CHAIRMAN KANE: Yeah. Is it your  
20 understanding -- I will also ask Mr. Hawkins  
21 this -- that moneys can -- may come out of the  
22 green building -- of this 10.5 billion that was

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1 going into the green building fund that would  
2 support job training and a green infrastructure  
3 program at D.C. Water?

4 THE WITNESS: I don't necessarily  
5 see that happening. I mean that's something  
6 that we're going to have to discuss. I mean  
7 these negotiations were done to the last  
8 minute. And I know that the city administrator  
9 and the city exacted -- or extracted a very  
10 favorable agreement from D.C. Water on a  
11 infrastructure training program.

12 And there's a lot of synergy between  
13 learning how to manage green infrastructure,  
14 cutting trees, operating in the -- in the  
15 public realm on -- in roadways and such and  
16 public right-of-ways, that there could be some  
17 synergy in the training.

18 So we have the \$5.8 million for the  
19 training fund that we believe that D.C. Water  
20 should be able to participate in to make this  
21 happen because of the overlap of what the new  
22 workers will need to learn.

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1 CHAIRMAN KANE: And who will make  
2 the ultimate decisions on how the money in the  
3 green building fund, this 10.05 million, if it  
4 were to be approved to go in there -- who would  
5 make the decisions on how it would be disbursed  
6 and for what purposes?

7 THE WITNESS: Well, clearly the  
8 mayor. But the -- the city administrator --  
9 I've worked with the city administrator to  
10 determine where -- to how do we accomplish the  
11 purpose of -- and where would we put the funds  
12 in the event that we're able to create a green  
13 bank and also make some other innovation  
14 investments.

15 We determined that the green  
16 building fund, which already has a memorandum  
17 of understanding of -- of moneys from DCRA,  
18 Department of Consumer Regulatory Affairs,  
19 where the fund was establish, that the funds  
20 are transferred to the sustainability  
21 administration under DOEE, Not all the funds  
22 but an amount.

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1           And so we already have an  
2     established relationship where DOEE receives  
3     funds from the -- the green building fund in  
4     concert with D -- with DCRA.

5           So the city administrator sits  
6     between us. And the purpose of the funds to  
7     that is --

8           CHAIRMAN KANE: And just one final  
9     question.

10           On the green building fund, in  
11     response to Question 4, we asked accounting of  
12     the revenue interest during expenditures in the  
13     green building fund since its inception.

14           And there's a chart that shows for  
15     fiscal year 2008 through 2015 revenue, if  
16     you'll agree, subject to check, little bit over  
17     8.8 million and total expenditures out of the  
18     fund of about 4.4 million and some change,  
19     which, if my subtraction is right, would leave  
20     4.3 million unspent in that fund, about 1.8 of  
21     which came in in the last fiscal year.

22           Has there been a difficulty spending

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1 money out of that fund?

2 THE WITNESS: DO -- I can't speak  
3 for DCRA, but I can say that DOEE does -- we  
4 spend our money out of that found quite --  
5 quite well, thank you.

6 But the -- I don't believe that  
7 there has been an issue. I do know that --  
8 that there's a -- a character difference in the  
9 2. -- the 10.5 million. It was where -- what  
10 fund exists in D.C.'s budget where we don't  
11 have to create a new fund for the purpose of  
12 doing this.

13 And it seemed that the language  
14 around the green building fund was the most  
15 appropriate place to park the money so that it  
16 did not -- we didn't have to create a new fund  
17 in -- depending on when this -- you know, the  
18 Public Service Commission makes its decision  
19 and Exelon is ready to write a check for the  
20 fund.

21 So it's not necessarily adding to  
22 that fund in a way that it's -- so that the

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1 mission of that fund is consistent with the --  
2 the purpose in the settlement agreement of how  
3 we want to invest it.

4 CHAIRMAN KANE: And the -- I just  
5 bring your attention -- we'll put it into the  
6 record -- D.C. Code 6-145107, which establishes  
7 and governs the green building fund, and note  
8 that it is -- the uses of the fund shall  
9 continually be available for uses and purpose  
10 set forth in the section subject to  
11 authorization by congress in an appropriations  
12 act, which means it still needs to go through  
13 appropriation.

14 Thank you. I'm going to ask --  
15 Commission Fort has some questions.

16 THE WITNESS: Thank you.

17 COMMISSIONER FORT: Thank you. I'm  
18 going to be -- try to be respectful of your  
19 time that you want to leave, but I also need  
20 answers to some questions.

21 THE WITNESS: This is my first  
22 priority.

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1                   COMMISSIONER FORT: On Page 24 of  
2 your testimony, in Lines 1 through 10, you're  
3 speaking about the commitment for workforce  
4 development, the \$5.2 million at that point.

5                   Where will that money -- that  
6 \$5.2 million, to what agency would that money  
7 be allocated should the Commission approve the  
8 settlement?

9                   THE WITNESS: That's a great  
10 question because we're working on that right  
11 now, as I've mentioned, that we want to get  
12 some synergy with what we agreed on D.C. Water.

13                   And one of the things that we know  
14 is that working in public infrastructure and  
15 green infrastructure, there's no certification  
16 in the country to certify our workers.

17                   And so that fund will -- we will  
18 look at the D.C. Community College under UDC  
19 and working on can we get to an agreement with  
20 them of what could happen there. But also  
21 Department of Employment Services. And then  
22 also looking at what works best for D.C. Water

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1 to join this effort.

2 So that's being worked on currently  
3 of where -- where those funds will be invested.  
4 And then we will direct Exelon that -- if -- if  
5 it's a entity that's not -- if it's D.C. Water,  
6 then maybe a direct payment to D.C. Water. If  
7 it's D.C. Government, that's where we'll  
8 allocate them.

9 COMMISSIONER FORT: And so which  
10 agency in the District of Columbia government  
11 will ultimately decide how those funds are  
12 being allocated?

13 THE WITNESS: City administrator.  
14 The city administrator has -- was the point  
15 person on both negotiating with D.C. Water for  
16 the green jobs program and then also was the  
17 point person on negotiating this part with --  
18 and I don't think that gets to the substance of  
19 the negotiations, but this has been a -- the  
20 city administrator has been the lead on this  
21 for the city.

22 COMMISSIONER FORT: So if we were to

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1 look to one entity to track whether or not the  
2 5.2 million has all been allocated, that would  
3 be to the city administrator?

4 THE WITNESS: Right. And a report  
5 back on all of the funds and activities here,  
6 obviously that -- that would be part of the  
7 report back to you of where those funds were  
8 allocated and under what agreements if there's  
9 MOUs involved.

10 COMMISSIONER FORT: So under the  
11 settlement provision, which is also Paragraph  
12 24, these are for green infrastructure training  
13 programs targeted to underserved communities.

14 THE WITNESS: Yes.

15 COMMISSIONER FORT: And it's also  
16 for sustainable jobs.

17 Is there a definition of what  
18 sustainable jobs are?

19 THE WITNESS: Well, the --

20 COMMISSIONER FORT: I think that's a  
21 reference to your testimony where you talk  
22 about --

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1 THE WITNESS: Right.

2 COMMISSIONER FORT: -- for  
3 sustainable jobs, there's a question --

4 THE WITNESS: And I realize that --  
5 that it can be taken two ways. We mean it both  
6 ways. One is jobs that are green jobs for  
7 promoting sustainability in the District. And  
8 also jobs that will continue --

9 COMMISSIONER FORT: Yes.

10 THE WITNESS: -- that are  
11 sustainable.

12 COMMISSIONER FORT: Yes.

13 THE WITNESS: And so it means both  
14 things. But yes, that we want jobs that are  
15 not just one-off, project-related jobs but jobs  
16 that continue.

17 COMMISSIONER FORT: Is it your  
18 expectation that Pepco will be employing the  
19 District residents who participate in the  
20 workforce development programs that would be  
21 receiving these funds?

22 THE WITNESS: Yes.

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1           COMMISSIONER FORT: Has the District  
2 Government received contributions for workforce  
3 development from corporat- -- other  
4 corporations that do business in the city?

5           THE WITNESS: Yes.

6           COMMISSIONER FORT: And are they for  
7 sustainable jobs under either definition of  
8 sustainable jobs?

9           THE WITNESS: Well, in terms of  
10 longer lasting jobs, if I remember correctly,  
11 when Wal-Mart first came into the District,  
12 Wal-Mart granted funds to I believe the  
13 community college for training programs that  
14 would be entry-level jobs that would hopefully  
15 be sustainable, yes, and whether it be with  
16 Wal-Mart or -- or other retail activities in  
17 the District.

18           COMMISSIONER FORT: To your  
19 knowledge, has Pepco or PHI provided workforce  
20 training funds for projects -- or for  
21 sustainable jobs that are currently in the  
22 District in -- in coordination with anything

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1 that DOEE is doing?

2 THE WITNESS: Commissioner Fort, I  
3 would have to report back to you on that. That  
4 would be more likely the Department of  
5 Employment Services. And I would have to  
6 report back to you on that.

7 COMMISSIONER FORT: I was going to  
8 ask how the 5.2 was going to be allocated  
9 between the agencies, but you already answered  
10 that, that that's under review.

11 THE WITNESS: It's under review.  
12 And as Commissioner, I'm sure, understands is  
13 that, whenever you work in a public  
14 right-of-way, that there's a lot of things  
15 involved, whether you're working for Department  
16 of Transportation or Pepco or D.C. Water.

17 And so we believe that there's a lot  
18 of overlap in the kind of training that we  
19 could provide and. Hopefully we'll be  
20 providing jobs to at least those three entities  
21 if not more.

22 COMMISSIONER FORT: Okay. So this

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1 question is a follow-up to one that the Chair  
2 raised on the use of the funds in the  
3 Sustainable Energy Trust Fund.

4 Are you aware, as I will say I was  
5 not until I prepared, you know, for this, that  
6 D.C. -- there is a provision in D.C. Code  
7 8-1774.10(d) that says: If at the beginning of  
8 a fiscal year, the fund balance of the SETF  
9 exceeds the projected annual cost of all  
10 programs pursuant to Subsection C of this  
11 section in that fiscal year by at least \$10  
12 million, the fiscal agent shall suspend payment  
13 and the collection of the SET Fund assessment  
14 until such excess is estimated by the fiscal  
15 agent to be \$5 million?

16 THE WITNESS: I'm not aware of that  
17 provision.

18 COMMISSIONER FORT: I -- then I  
19 can't ask the follow-up of are you aware of  
20 whether or not that has ever been exercised --  
21 I think, under the Act, the fiscal agent is the  
22 office of the chief financial officer.

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1 THE WITNESS: That's right.

2 COMMISSIONER FORT: Where I was  
3 going the ask whether or not the limitations in  
4 that provision would present any problems for  
5 the funds that are designated to go into the  
6 SETF.

7 THE WITNESS: Commissioner Fort,  
8 that's a very good question. This past year  
9 we've changed the law that allows the -- the  
10 \$20 million contract for the SEU to go over \$20  
11 million for -- you know, certainly for  
12 specified activities through a contract  
13 amendment or otherwise, where before that had  
14 not been allowed.

15 COMMISSIONER FORT: But I understand  
16 that.

17 My concern is that, you know, it's  
18 not a matter of being able to transfer the  
19 money out. This money is being collected from  
20 ratepayers with the assumption that it's going  
21 to be used for programs for ratepayers.

22 And if they -- it's not being used,

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1 then ratepayers are overpaying for -- are  
2 getting assessed surcharge for which they're  
3 get no benefit. That's a statutory surcharge.

4 That is not a surcharge, I will put  
5 on the record, that is done by the Commission.  
6 If that was here at the Commission, we would  
7 have the ability here to suspend it.

8 THE WITNESS: Right. And as you  
9 know, the chief financial officer is an  
10 independent entity. And they should -- there's  
11 no requirement that they follow the mayor's  
12 orders on something like this.

13 And so that they are also an  
14 independent entity, not exactly the same kind  
15 of entity as the Public Service Commission, of  
16 course.

17 But the public -- there's no reason  
18 why the chief financial officer could or could  
19 not do that. And I think that may be an  
20 awareness that they may have not read that as  
21 well. And I certainly think it appropriate for  
22 the Public Service Commission and my own entity

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1 to bring that to -- to the chief financial  
2 officer's attention.

3 COMMISSIONER FORT: I am lucky to  
4 have a policy adviser who was aware of such  
5 details and -- and brought it to my attention.  
6 So that's not unusual.

7 I was going to ask you a series of  
8 questions because I was assuming that the joint  
9 applicants' witness would go first. And then I  
10 was going to ask you whether or not you agreed  
11 with -- or whether or not you -- the District  
12 of Columbia Government agreed with the  
13 positions that they took on those questions.

14 And this may be a question to  
15 counsel.

16 Is Witness Smith in a position to  
17 answer those questions on behalf of the D.C.  
18 Government once I ask them of the joint  
19 applicant?

20 MR. CALDWELL: Having not heard  
21 those questions, I don't know.

22 What -- what -- what areas are they?

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1                   COMMISSIONER FORT: They were  
2    general broad, questions in terms of how --  
3    what parts of the settlement agreement and the  
4    underlying documents were not -- if there was a  
5    conflict between the settlement agreement and  
6    the -- and Joint Applicants' Exhibit 4A2, which  
7    ones would be controlling.

8                   I will preview the questions, though  
9    unfortunately during -- applicants can get  
10   ready for it. But I don't want it, you know,  
11   to stop us from answering the questions here.

12                  And the second set of questions go  
13   to whether or not if there is something in the  
14   settlement agreement that is the subject of  
15   pending cases here at the Commission, of which  
16   there are two, interconnections and the  
17   microgrids -- if there's something in the  
18   settlement agreement that is different from  
19   what the Commission puts in rules, how do we  
20   interpret that.

21                  And I may just leave that, you know,  
22   for you all to contemplate over and get back to

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1 us with an answer. But I have previewed those  
2 questions. Now you will all know that I will  
3 ask those questions.

4 There took away my element of  
5 surprise, but I don't think this -- I don't  
6 think this -- this hearing is for the purpose  
7 of having surprise. I think this really is a  
8 hearing where the Commission is trying to get a  
9 good understanding of what is in the settlement  
10 agreement.

11 So having given up my surprise, you  
12 know, I will still ask those questions. And  
13 when we come back after a break, you know,  
14 after lunch, I'll -- I'll ask the D.C.  
15 Government to speak to those.

16 CHAIRMAN KANE: Commissioner Fort,  
17 was your question also whether or not anything  
18 that's in Director Wells's testimony that might  
19 come up later that -- that Witness Smith could  
20 speak to?

21 COMMISSIONER FORT: I asked him the  
22 questions I had in his testimony. This -- you

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1 know, this question, which is a broader,  
2 general question as to what the D.C. Government  
3 is agreeing to, was the -- you know, what their  
4 understanding is of the agreement is the broad  
5 question I want. And I wanted to make sure  
6 that someone who is not a D.C. Government  
7 official is in a position to answer that. Or  
8 it may be that we need an alternative way to  
9 get that answer.

10 MR. CALDWELL: Yes.

11 CHAIRMAN KANE: Witness Smith is not  
12 a --

13 MR. CALDWELL: Right.

14 CHAIRMAN KANE: -- member of the  
15 D.C. Government.

16 MR. CALDWELL: Correct.

17 CHAIRMAN KANE: He's a consultant to  
18 the government.

19 MR. CALDWELL: Correct.

20 THE WITNESS: If I understand the  
21 question, I certainly can state, Commissioner,  
22 that the intent was -- and this is why there's

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1 some reason for some vagueness around  
2 microgrids and some of the -- the solar  
3 connection things was to defer to the work of  
4 the Public Service Commission, not to preempt  
5 it in any way.

6 COMMISSIONER FORT: Takes one  
7 question off the table, because that is the  
8 question, you know, alternately. And -- but  
9 thank you.

10 THE WITNESS: And I also note I  
11 haven't been asked exactly what a microgrid is.  
12 And that is part of what we hope comes out of  
13 the work that you're doing. And we defer to  
14 you.

15 CHAIRMAN KANE: Is that it? Okay.  
16 Thank you.

17 Commissioner Phillips?

18 COMMISSIONER PHILLIPS: My questions  
19 have been asked and answered.

20 CHAIRMAN KANE: Oh, very good.

21 COMMISSIONER PHILLIPS: So I have  
22 nothing further.

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1 CHAIRMAN KANE: Thank you. Well,  
2 thank you.

3 It's just a couple of minutes after  
4 1:00. We will recess now for -- for lunch.

5 Thank you, Mr. Wells. Have a good  
6 trip. And represent us well over there.

7 THE WITNESS: Thank you very much.

8 CHAIRMAN KANE: Oh, and we will --  
9 do you have any redirect for the witness?

10 Mr. Caldwell, do you have any  
11 redirect for the witness?

12 Briefly. I know we need to give the  
13 stenographer a break. But I don't want to rush  
14 anybody. We need to take the time we need to  
15 get what we need on the record.

16 MR. CALDWELL: I was just going to  
17 ask a few follow-up questions on what  
18 Commissioner Fort just raised, because -- sort  
19 of flush out the -- the -- the areas that I --  
20 that I think the Commission is referring to.

21 REDIRECT EXAMINATION BY COUNSEL FOR DISTRICT OF  
22 COLUMBIA GOVERNMENT

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1 BY MR. CALDWELL:

2 Q. So for Formal Case 1130, which is  
3 basically a proceeding to sort of look at the  
4 future of the grid, is it the District's intent  
5 to set a -- a firming work-up now, or is it to  
6 -- regarding issues such as microgrids or  
7 regarding microgrids as being a -- as a good  
8 example -- is it -- is it the Commission -- or  
9 the District's intention to defer to whatever  
10 rules and orders that come out of Formal Case  
11 1130?

12 A. Absolutely. And that we also  
13 recognize the -- the Commission's authority and  
14 role in oversight of anybody that is a consumer  
15 on the grid and that the microgrids are not an  
16 attempt to evade this oversight at all or the  
17 authority of the Public Service Commission.

18 Q. And if there were another proceeding  
19 which has to do with interconnection of solar  
20 facilities in the District of Columbia, which  
21 you have testified at a public hearing on --  
22 if, as a result of those proceedings, the

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1 Commission were to issue regulations or orders  
2 which may be contrary to some of the provisions  
3 in this agreement, is it the District's  
4 position that those orders or rules take  
5 precedence over what is in this agreement?

6 A. I think the most important thing is  
7 where is the authority to enforce agreements or  
8 rules. And authority rest in the -- in the  
9 Public Service Commission.

10 And so the -- that it is in the  
11 public's interest and the government fully  
12 supports that we defer to the -- the rules and  
13 protocols and to -- to whatever the Public  
14 Service Commission decides, because this is the  
15 appropriate forum to enforce them.

16 Q. And if the Commission were to decide  
17 that an appropriate forum for something along  
18 the lines of the low-income provisions in this  
19 agreement were to be best housed within, say,  
20 Formal Case 1120, which has to do with  
21 low-income electricity customers, is that  
22 something that the -- that the District would

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1 be willing to go along with?

2 A. I see no conflict with what we'd  
3 agreed to.

4 MR. CALDWELL: Okay. Thank you.  
5 That's all the questions I have.

6 CHAIRMAN KANE: Thank you.

7 We will recess.

8 I need to ask D.C. Water if your  
9 witness might be available on Friday, if you  
10 could check with us on that. Because what we  
11 really prefer -- we need to accommodate Mr.  
12 Wells. But we want to now go back and start  
13 with the joint applicants' witnesses so that  
14 exactly what Commissioner Fort was referring  
15 to, that we have on the record that proposal.  
16 Then we'll be able to ask questions of the  
17 other settling parties as to their  
18 understanding of that. Okay.

19 That being said, we will come back  
20 in one hour.

21 Ms. White, yes. I'm sorry.

22 MS. WHITE: I just wanted to confirm

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1 that I have been in contact with Mr. Hawkins,  
2 and he's available Friday morning.

3 CHAIRMAN KANE: Friday morning.

4 Thank you very much.

5 MS. WHITE: Thank you.

6 CHAIRMAN KANE: I -- I saw you  
7 nodding, but we did need to get that on the  
8 record. Thank you very much.

9 We're recessed until 2:10.

10 THE SECRETARY: All rise.

11 (A short recess was taken.)

12 THE SECRETARY: All rise. You may  
13 be seated.

14 CHAIRMAN KANE: We are back on the  
15 record in Formal Case 1119. It is 2:15 p.m.

16 We will start with the joint  
17 applicants's first witness.

18 MR. BONNEY: My name is Paul Bonney,  
19 I'm deputy general counsel of Exelon. We call  
20 Mr. Khouzami.

21 CARIM KHOUZAMI,  
22 being first duly sworn, to tell the truth, the

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1 whole truth and nothing but the truth,  
2 testified as follows:

3 DIRECT EXAMINATION BY COUNSEL FOR EXELON

4 BY MR. BONNEY:

5 Q. Mr. Khouzami, would you please state  
6 your employer and title for the record.

7 A. My name is Carmin Khouzami, I'm  
8 senior vice president and chief integration  
9 officer for Exelon Corporation.

10 Q. And do you have before you your  
11 fully conformed direct testimony in support of  
12 the settlement agreement filed on October 30,  
13 2015 submitted on behalf of the joint  
14 applicants in this proceeding consisting of 66  
15 pages and four exhibits?

16 A. I do.

17 MR. BONNEY: Your Honors, as  
18 previously stated, you have stipulated the  
19 testimony and so I would like to mark for  
20 identification Mr. Khouzami's testimony as  
21 Joint Applicants Exhibit 5A and Exhibits 5A-1  
22 through 4.

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1 CHAIRMAN KANE: 5A-1 through?

2 MR. BONNEY: 5A-4.

3 CHAIRMAN KANE: They are so marked.

4 MR. BONNEY: Thank you.

5 (Joint Applicants Exhibits 5A and  
6 5A1-4 were marked for identification.)

7 Mr. Khouzami is available for  
8 cross-examination.

9 CHAIRMAN KANE: Any questions?

10 Commissioner Fort, yes.

11 COMMISSIONER FORT: Good afternoon.

12 THE WITNESS: Good afternoon.

13 COMMISSIONER FORT: So my first  
14 question which was my surprise question, not a  
15 surprise. I wanted to clarify whether or not  
16 the settlement agreement and the commitments  
17 that are reflected in the settlement agreement  
18 are intended to replace the commitments that  
19 were in 4A-2, joint applicants Exhibit 4A-2, in  
20 the entirety.

21 THE WITNESS: They are.

22 COMMISSIONER FORT: So there's no

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1 need to ask if there was a discrepancy between  
2 the two.

3 THE WITNESS: No, ma'am.

4 COMMISSIONER FORT: My second  
5 general question, which I also posed to D.C.  
6 Government witness Wells this morning, is if  
7 the Commission adopts new results concerning an  
8 issue that's covered in the settlement  
9 agreement and the new rules require the joint  
10 applicants to do something that is different  
11 from a commitment that is in the settlement  
12 agreement, which document would be controlling?

13 THE WITNESS: Whatever Commission  
14 orders are made will be what we comply to.

15 COMMISSIONER FORT: So  
16 hypothetically, if the rules required certain  
17 response times for an interconnection, if that  
18 was different from the response time that was  
19 reflected in the settlement agreement that the  
20 response times the Commission ordered or rules  
21 would apply?

22 THE WITNESS: They would. The one

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1 caveat I might make is if for some reason, the  
2 order is less fast than the response times we  
3 put forth in the settlement agreement, we'd go  
4 with whatever is more available.

5 COMMISSIONER FORT: So with those  
6 two general questions out of the way, I wanted  
7 to walk through some of the specific paragraphs  
8 in the -- in the settlement agreement and ask  
9 some questions to make certain that the  
10 Commission and the public and me, in  
11 particular, understand how the proposed -- some  
12 of those proposed provisions would operate.

13 I'm going to start with Paragraph 4  
14 which is the residential customer base rate  
15 credit of \$25.6 million, so if you can confirm  
16 that that credit would only apply to  
17 residential customers and would not apply to  
18 commercial customers.

19 THE WITNESS: Residential as well as  
20 master meter accounts.

21 COMMISSIONER FORT: Master meter  
22 residential customers.

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1 THE WITNESS: That is correct.

2 COMMISSIONER FORT: And it does  
3 cover RAD customers whether or not a RAD  
4 customer is in a residential -- what we  
5 consider a residential customer or a master  
6 meter apartment or customer.

7 THE WITNESS: That is correct.

8 COMMISSIONER FORT: Would Exelon  
9 actually transfer the \$25.6 million in cash to  
10 the -- to Pepco in some fashion?

11 THE WITNESS: They would. So Exelon  
12 would reimburse Pepco for the lost revenue  
13 keeping the RECRI ratio in the same spot. I  
14 think the important thing is from a customer  
15 perspective, it is \$25.6 million of rates that  
16 they will never pay, so there is never a  
17 lookback to try to recover those rates over  
18 some period of time. The 25.6 million will be  
19 the benefit that customers realize.

20 COMMISSIONER FORT: So the --  
21 focusing again on how that transfer takes place  
22 of funds between Exelon and Pepco, so that we

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1 can track it from an accounting point of view,  
2 would we see that in a lump sum transfer and  
3 then there is an account created at Pepco that  
4 is assessed against, or is that a transfer that  
5 would occur on a periodic basis and if so, what  
6 is the periodic basis?

7 THE WITNESS: I'm only pausing that  
8 it would be at a minimum periodically as  
9 incurred or potentially lump sum upfront, so in  
10 other words, either it will be received earlier  
11 than incurred or as it's incurred. It won't be  
12 afterwards. I'm not sure we decided exactly  
13 how we're going to transfer the funds.

14 COMMISSIONER FORT: Has a decision  
15 been made about the final accounting treatment  
16 for the credit?

17 THE WITNESS: It would be an equity  
18 infusion from Exelon to Pepco.

19 COMMISSIONER FORT: If Pepco earned  
20 -- will Pepco earn interest or will be there  
21 interest earned on the amount of money once it  
22 is transferred before the credit is used up by

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1 customers? Would this be in an account that is  
2 earning interest?

3 THE WITNESS: No, I think it would  
4 be as incurred, so there would not be any  
5 interest.

6 COMMISSIONER FORT: Can you confirm  
7 that the \$25.6 million credit has two  
8 components, the \$4.3 million credit that's  
9 applied to the master meter apartment units,  
10 while the remaining 21.3 million would be  
11 applied to all other residential customers,  
12 that's correct?

13 THE WITNESS: Sorry. Could you  
14 repeat your question.

15 COMMISSIONER FORT: Can you confirm  
16 that there are two components to the \$25.6  
17 million. There is a \$4.3 million component,  
18 which is to be used for credit for the master  
19 meter apartment part of the program, and then  
20 the remainder, if my math is right, \$21.3  
21 million is to be used as a credit for all other  
22 residential customers?

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1 THE WITNESS: That is what we  
2 expect.

3 COMMISSIONER FORT: Will Pepco  
4 separately track the credits for the two groups  
5 against the total amount of a credit?

6 THE WITNESS: I think it will be  
7 transparent because you will see the offsets by  
8 residential -- or by rate class, so you will be  
9 able to see the offsets that are taking place.

10 COMMISSIONER FORT: Does that mean  
11 that one group might use up its allotted credit  
12 before the other group uses up its allotted  
13 credit?

14 THE WITNESS: I don't --  
15 irrespective of when the amount is used up,  
16 there is an incremental offset provision so in  
17 any scenario, no customers, residential  
18 customers or MMA will be facing a distribution  
19 rate increase prior to March 31, 2019.

20 COMMISSIONER FORT: But in terms of  
21 -- again, so you are saying that customers will  
22 not see it before that day, but something

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1 different would happen on the books, would it  
2 not, once the credit is used up by one of the  
3 two categories?

4 I'm going to ask you a series of  
5 questions a bit later about the offset.

6 THE WITNESS: So once the --

7 COMMISSIONER FORT: At some point,  
8 once the credit is used up, \$4.3 million, the  
9 credit is used up by the master meter  
10 apartments, then something different happens,  
11 even though, as you say, customers under this  
12 proposal would not see an increase in their  
13 bill yet.

14 THE WITNESS: But that --

15 COMMISSIONER FORT: There is  
16 something different that happens once that 4.3  
17 million is used up.

18 THE WITNESS: Let me just clarify a  
19 point. The 25.6 million is for both  
20 residential and MMA. We estimate and we  
21 believe that about 4.3 million of that will be  
22 for MMA customers, so it will be dependent on

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1 how the rate increases are allocated through  
2 the future rate cases.

3 COMMISSIONER FORT: So a count for  
4 accounting purposes, we are not looking at two  
5 subsets of A, with a definite number, is that  
6 what you are saying?

7 THE WITNESS: We are still looking  
8 at a total of 25.6.

9 COMMISSIONER FORT: Okay. I have a  
10 couple questions about the portion of the  
11 residential customer's bill that the credit  
12 would be applied to.

13 Is it correct that the credit will  
14 only be applied to the amount of any  
15 residential rate increase that occurs after the  
16 merger takes place and not to the whole bill if  
17 the Commission approves the settlement?

18 THE WITNESS: That's correct.

19 COMMISSIONER FORT: Is it also  
20 correct, will be credit be applied to all  
21 elements of the customer's bill or only to  
22 certain amount elements of the bill and if only

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1 to specific elements, I was going to ask some  
2 questions.

3 THE WITNESS: During the rate case  
4 proceeding, we would propose how the offset  
5 might be applied. Ultimately, the Commission  
6 would determine whether or not it will be  
7 against fixed charges, value metric charges or  
8 a combination of thereof.

9 COMMISSIONER FORT: So that's within  
10 the distribution components. Would it apply to  
11 surcharges on the bill?

12 THE WITNESS: No, just distribution.

13 COMMISSIONER FORT: And so if I said  
14 would it apply to taxes on the bill.

15 THE WITNESS: It would just be  
16 distribution.

17 COMMISSIONER FORT: Would it apply  
18 to the taxes on the distribution portion of the  
19 bill?

20 THE WITNESS: I believe anything  
21 with distribution rate, it would apply to.

22 COMMISSIONER FORT: Would it apply

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1 to the transmission charges on the bill?

2 THE WITNESS: No.

3 COMMISSIONER FORT: Would it apply

4 to any of the energy costs on the bill?

5 THE WITNESS: No.

6 COMMISSIONER FORT: Would it work

7 differently with net energy metering customers?

8 THE WITNESS: I don't believe so.

9 COMMISSIONER FORT: Will the

10 customer's bill specifically identify these

11 credits?

12 THE WITNESS: Yes. There will be a

13 separate line item showing this credit.

14 COMMISSIONER FORT: So that means

15 the new billing package, Solution 1 is

16 sufficiently flexible to do that?

17 THE WITNESS: It is.

18 COMMISSIONER FORT: Just checking.

19 Again, staying with 4, you testified

20 on Page 13 on Lines 8 through -- on Lines 8

21 through 11, that moreover, the entire \$25.6

22 million residential customer base credit if not

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1 utilized by March 31, 2019, then residential  
2 and RAD customers and MMA customers will  
3 continue to benefit from the residential  
4 customer base rate credit beyond that date,  
5 right?

6 THE WITNESS: That's correct.

7 COMMISSIONER FORT: And is that  
8 language -- that language is not actually in  
9 the settlement agreement. That's you just  
10 explaining that there is a continuing sentence  
11 there; is that correct? If I were to look at  
12 Paragraph 4 of the settlement agreement itself?

13 THE WITNESS: There is no expiration  
14 to the \$25.6 million credit. Customers will  
15 receive the \$25.6 million, we believe that will  
16 be about March 31, 2019, but in the event that  
17 there is dollars left by March 31, 2019 in the  
18 \$25.6 million fund, that would be extended and  
19 continued to be used until the fund is  
20 fully-exhausted.

21 COMMISSIONER FORT: That's what you  
22 reference when you say a continued benefit that

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1 could go beyond a date?

2 THE WITNESS: That's correct.

3 COMMISSIONER FORT: Is there an  
4 anticipated date when the credit would begin?

5 THE WITNESS: The credit would begin  
6 following the first rate case there, once the  
7 final order is issued.

8 COMMISSIONER FORT: Will the date be  
9 the same for all residential customers?

10 THE WITNESS: I don't understand  
11 your question, sorry.

12 COMMISSIONER FORT: Would the date  
13 be the same for all residential customers, so  
14 for RAD customers, for MMA customers?

15 THE WITNESS: Right. When the new  
16 rates go into effect, that is when the credit  
17 would begin.

18 COMMISSIONER FORT: Now I want to  
19 turn to what you call the incremental offset.

20 First, just so people who are  
21 listening will know what that is, can you just  
22 give me a definition of what that is?

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1 THE WITNESS: Sure. We are  
2 guaranteeing that residential and MMA customers  
3 will not be seeing a distribution rate increase  
4 prior to March 31, 2019. We believe the credit  
5 amount of \$25.6 million is sufficient to ensure  
6 this, but in the event that the funds are  
7 utilized prior to March 31, 2019, any  
8 incremental distribution rate increase would be  
9 placed into a regulatory asset and would be  
10 recovered over a period of no less than two  
11 years beginning April 1, 2019.

12 The intent here is to ensure that no  
13 matter what happens, residential and MMA will  
14 not see a distribution rate increase prior to  
15 March 31, 2019.

16 COMMISSIONER FORT: Okay. And that  
17 is actually defined in Paragraph 4.

18 THE WITNESS: That's correct.

19 COMMISSIONER FORT: So it would  
20 operate as it's set out in Paragraph 4.

21 THE WITNESS: Yes.

22 COMMISSIONER FORT: Can you talk

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1 about the payback time that is contemplated.

2 THE WITNESS: So Paragraph 4  
3 outlines a payback period of two years. In the  
4 event that a two year amortization period  
5 results in amounts that exceed \$1 million per  
6 year, the period would be extended.

7 The \$1 million, as a point of  
8 reference was arrived at because that is  
9 approximately what these customers, MMA and  
10 residential customers will be receiving through  
11 synergy savings in that year -- beginning in  
12 2019, so this way, any incremental increase is  
13 still being offset by the synergies.

14 COMMISSIONER FORT: Okay. I didn't  
15 have to ask what is the source of the \$1  
16 million, you just answered that.

17 Will the customer's bill  
18 specifically identify the incremental offset?

19 THE WITNESS: Yes, ma'am.

20 COMMISSIONER FORT: Is it correct  
21 that the rate-based credit is only a benefit if  
22 a base rate application has been filed with the

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1 Commission and the Commission has approved a  
2 rate increase, that would result in the  
3 increase of rates for Pepco D.C. residential  
4 and RAD customers and for master meter  
5 apartment -- residential customers.

6 THE WITNESS: That is when the  
7 benefit will be realized. I think important is  
8 the fact that there is no expiration, so at  
9 some point, Pepco is going to come in for a  
10 distribution rate case, whether that is this --  
11 in 2016 or 2026. Either way, this \$25.6  
12 million fund will always be available to offset  
13 rate increases for customers, so there will be  
14 a point when these are applied. There is no  
15 expiration so customers will benefit from this  
16 credit.

17 COMMISSIONER FORT: So that -- I  
18 think it addressed my next question, which was  
19 going to be how many rate increase applications  
20 do the joint applicants anticipate would be  
21 filed before March 31, 2019?

22 THE WITNESS: I'm not sure I can

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1 answer that question. I think that there is  
2 likely a need for a filing to happen in the  
3 near term, but importantly, the 25.6 million we  
4 expect should get us to March 31, 2019. In the  
5 event that it's not fully-utilized, they will  
6 continue to benefit customers further out.

7 If it is fully-utilized prior to  
8 that point, we do have incremental offsets to  
9 ensure that customers, residential and MMA are  
10 not seeing a distribution rate increase prior  
11 to that date.

12 COMMISSIONER FORT: How would the  
13 bill stabilization adjustment work with this  
14 proposal? Joint applicants adjust the revenue,  
15 how would they adjust the revenue calculation  
16 so that the DSA does not take into account the  
17 revenue that was deferred or reduced due to the  
18 settlement agreement?

19 THE WITNESS: I'm not quite sure how  
20 that would work.

21 COMMISSIONER FORT: Can we talk  
22 about Paragraph 5 now for residential customer

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1 bill credit, the \$14 million one-time credit.

2 So I want you to confirm that when  
3 this credit is provided within 60 days of the  
4 merger closing, it will go to residential  
5 customers including RAD customers who have  
6 active accounts as of the billing cycle  
7 commencing 30 days after the merger closing,  
8 that's correct?

9 THE WITNESS: That's correct.

10 COMMISSIONER FORT: If an account is  
11 suspended for nonpayment, is that account  
12 considered to be an active account for purposes  
13 of the credit?

14 THE WITNESS: I don't believe it is.

15 COMMISSIONER FORT: Are -- is there  
16 any other type of account that is not  
17 considered active for purposes of the one-time  
18 credit?

19 THE WITNESS: Not that I know of.

20 COMMISSIONER FORT: Will the  
21 customer's bill specifically identify the  
22 one-time credit?

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1 THE WITNESS: Yes. There will be a  
2 separate line item that will be separate from  
3 the \$25.6 million credit, so there will be  
4 another line on the bill.

5 COMMISSIONER FORT: Can you provide  
6 an indication of the size of the credit with  
7 the understanding that the number may change,  
8 or would definitely change, because it's based  
9 upon the number of active customers on a date  
10 certain going forward?

11 THE WITNESS: It is something in the  
12 50 to \$60 per customer.

13 COMMISSIONER FORT: Can you explain  
14 how and when funds would be transferred from  
15 Exelon to Pepco to pay for the one-time credit?

16 THE WITNESS: It would be a similar  
17 methodology, an equity infusion that will take  
18 place prior to the credit being made.

19 COMMISSIONER FORT: Will Exelon  
20 transfer the entire \$14 million to Pepco?

21 THE WITNESS: Yes.

22 COMMISSIONER FORT: Is there any

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1 special accounting treatment that is needed for  
2 the funds?

3 THE WITNESS: Not that I know of.

4 COMMISSIONER FORT: A number of  
5 these questions I am asking because the --  
6 should there be a rate case and -- or at any  
7 other time, our auditors want to look to see  
8 what is taking place, we'd want to know where  
9 to look.

10 THE WITNESS: This is similar as a  
11 point of reference to what Exelon did with BG  
12 in Maryland when they had their rate credit, so  
13 it would be a similar treatment there and  
14 definitely transparent and easy to track if the  
15 Commission so desired.

16 COMMISSIONER FORT: Okay. So I have  
17 a couple of questions to ask about Paragraph 9,  
18 which is the assistance for low and limited  
19 income customers, which is \$16.15 million  
20 portion of the CIF.

21 So Paragraph 9A says: "To help  
22 reduce the burden of long-standing energy debt

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1 for limited income and other families, Pepco  
2 shall forgive all District of Columbia  
3 residential customer accounts receivable over  
4 two years old as of the date."

5 Is it the intention of Paragraph 9  
6 to eliminate all old debt for all residential  
7 customers or is it just eliminating the debt  
8 for a subset of the low and limited income  
9 customers?

10 THE WITNESS: It would be for all  
11 residential customers that is more than two  
12 years old.

13 COMMISSIONER FORT: The funding for  
14 this part of the commitment has been estimated  
15 to be \$400,000. How many customer accounts  
16 does that cover?

17 THE WITNESS: I would have to --

18 COMMISSIONER FORT: What is the  
19 origin of that figure?

20 THE WITNESS: That is just looking  
21 at the amount of accounts receivable that Pepco  
22 has that is over two years old. At the time of

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1 the settlement was approximately \$400,000.

2 COMMISSIONER FORT: Is that  
3 forgiving just the distribution portion of the  
4 bills or is it also forgiving energy bills at  
5 that point?

6 THE WITNESS: I believe it's the  
7 entire bill.

8 COMMISSIONER FORT: If the energy  
9 bill is included, is it SOS only or does it  
10 include the bills for competitive energy  
11 suppliers as well?

12 THE WITNESS: It includes both.

13 COMMISSIONER FORT: Does it have an  
14 impact on the purchase of receivables program?

15 THE WITNESS: I don't believe it  
16 does.

17 COMMISSIONER FORT: Has Pepco  
18 received any cost recovery for the accounts  
19 receivable in the form of uncollectible  
20 accounts in rate case applications filed with  
21 the Commission for the amount that is in the  
22 settlement?

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1 THE WITNESS: I'm not sure.

2 Typically, I believe as I understand that Pepco  
3 receives recovery of what is actually written  
4 off. I'm not sure of how much of this 400,000  
5 has been written off previously.

6 I do know that any that is written  
7 off as a result of this merger agreement would  
8 not be included in rates, it will be below the  
9 line and therefore, we will not seek recovery  
10 of it.

11 COMMISSIONER FORT: One more  
12 question in anticipation of that. Has the  
13 amount approved by Commission -- well, when  
14 Pepco files its next rate case, how will they  
15 see this on the Pepco books? Will it be shown  
16 as an offset to uncollectible accounts? How  
17 would they see the \$400,000?

18 THE WITNESS: It would be seen as  
19 any -- on the books, would be seen as a  
20 write-off but again, that would be below the  
21 line. You would not seek recovery of it.

22 COMMISSIONER FORT: So Paragraph 9B

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1 says: "\$9 million of the 16.5 million for low  
2 income assistance will be used for supplemental  
3 funding for customers eligible for the low  
4 income home energy assistance program or  
5 LIHEAP."

6 And it says: "The amount will be  
7 provided by Exelon within 60 days of receiving  
8 direction from D.C. Government after the merger  
9 closes."

10 Will the funding be provided in a  
11 lump sum or could it be distributed over a  
12 period of time if so directed by the D.C.  
13 Government?

14 THE WITNESS: We would follow the  
15 direction of the District government, but our  
16 expectation is that we would likely make this  
17 contribution within 60 days of close.

18 COMMISSIONER FORT: In lump sum.

19 THE WITNESS: That's correct.

20 COMMISSIONER FORT: Will the  
21 availability of these funds reduce the amount  
22 of funding the District ratepayer is going to

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1 need to pay for residential aid discounts, the  
2 RAD program, to support energy costs for low  
3 income taxpayers?

4 THE WITNESS: I don't know what  
5 impact this would have on existing programs.  
6 Obviously, this is a \$9 million benefit for low  
7 income customers, but I'm not sure what impact  
8 that has on the calculations for the other  
9 programs.

10 COMMISSIONER FORT: Paragraph 9C  
11 says: "6.75 million in funding for energy  
12 efficiency programs developed or designated by  
13 the District in consultation with the National  
14 Consumer Law Center and National Housing Trust  
15 will be provided by Exelon within 60 days of  
16 receiving direction from the D.C. Government."

17 It says: "Developed as designed by  
18 the District."

19 When it says, "in the District," is  
20 that intended to mean by the District  
21 government? I guess I should have asked that  
22 to Mr. Wells while he was here.

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1 THE WITNESS: Where are you looking  
2 exactly?

3 COMMISSIONER FORT: The actual  
4 language of the -- 9C, the actual language in  
5 the settlement agreement.

6 THE WITNESS: Yes, district  
7 government, but obviously as Director Wells  
8 mentioned, it would be in consultation with the  
9 parties listed here and any other parties that  
10 might be party to a discussion.

11 COMMISSIONER FORT: I was going to  
12 ask that question of him but he answered it  
13 before I got a chance to ask it, so it was not  
14 exclusive.

15 Will there be a requirement to  
16 report to the Commission on the cost  
17 effectiveness of these expenditures, including  
18 the number of units assisted, the type of  
19 energy efficiency measures installed and the  
20 amount of energy reduction that has been  
21 achieved?

22 THE WITNESS: We do have in

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1 Paragraph 25 a commitment here to provide an  
2 annual report for the first five years with  
3 regard to the economic benefits this merger  
4 brings to the District. In order to prepare  
5 that report and provide that report, we will  
6 need to know how these funds were utilized so I  
7 would imagine that would be part of this  
8 report.

9 COMMISSIONER FORT: Since you  
10 mention it, because I had some questions about  
11 that, so will you stay on the same topic. On  
12 your Paragraph 25, how do you define economic  
13 benefits for the reporting purposes here?

14 THE WITNESS: I would imagine it  
15 will be a report that will detail the benefits  
16 that will come from the merger and all the  
17 commitments we've made here, the funding we  
18 provided, the benefits that customers have  
19 received. It could take the form of somewhat  
20 of an in-planning type model, modeling  
21 exercise, but again, it will be a report that  
22 we would provide to the Commission to help show

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1 what economic impact this merger has had on the  
2 District which at least that will be positive.

3 COMMISSIONER FORT: I was going to  
4 ask you to describe what data will be used to  
5 detail the economic benefits to the merger.

6 You said it will be something  
7 similar to your in-plan?

8 THE WITNESS: That would be my  
9 expectation.

10 COMMISSIONER FORT: Who would be  
11 tasked to develop that report?

12 THE WITNESS: I'm not sure we  
13 selected the person or group that would do that  
14 at this point. I don't know the answer.

15 COMMISSIONER FORT: How would that  
16 report differ from the merger-related savings  
17 that Pepco will track and account for that is  
18 discussed in Paragraph 28 of the proposed  
19 settlement agreement?

20 THE WITNESS: So in Paragraph 28,  
21 the merger-related savings will be the lower  
22 cost that will be realized by Pepco because of

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1 this merger, so lower shared service costs,  
2 other initiatives that -- lower cost, lower  
3 cost of service for customers.

4 Paragraph 25 is broader in terms of  
5 the economic impact it has to the District,  
6 which could be -- result from the fact that we  
7 are moving a number of jobs into the District.  
8 A number of these programs providing funding  
9 for numerous programs benefiting low income as  
10 well as renewable generation, all of those  
11 impacts and the benefits that come with for the  
12 District in terms of jobs and other financial  
13 benefits would be detailed in that report.

14 COMMISSIONER FORT: So it will be a  
15 broader report.

16 THE WITNESS: Yes.

17 COMMISSIONER FORT: And with  
18 different data sets?

19 THE WITNESS: That's correct.

20 COMMISSIONER FORT: Some of which  
21 may be overlapping.

22 THE WITNESS: I was going to say

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1 that, obviously, that would also include any of  
2 the synergies that are realized by customers as  
3 well.

4 COMMISSIONER FORT: What  
5 relationship would the economic benefits report  
6 have to the quantitative benefits table that  
7 the joint applicants, Ms. Tierney has prepared  
8 in her Exhibit 5C-2. Are those intended to be  
9 the same or different?

10 THE WITNESS: I think, and I will  
11 defer to witness Tierney -- Dr. Tierney to  
12 detail what she has, but this would actually be  
13 the actual realized economic benefits, so this  
14 would be post-merger close.

15 Dr. Tierney has undertaken I believe  
16 an estimate of what is expected and I think we  
17 have confidence in that, but this will be the  
18 actual.

19 COMMISSIONER FORT: Take a step back  
20 to Paragraph 24 on work force development.

21 Do you know whether or not Pepco,  
22 PHI or -- have made contributions for work

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1 force development outside of the merger in the  
2 past?

3 THE WITNESS: I'm not sure.

4 Obviously, this provision, this commitment is  
5 Exelon's. Exelon will be making the \$5.2  
6 million to help promote work force development  
7 in the District, and we were seeking to find  
8 existing programs that would help develop the  
9 next generation of workers for both Pepco, as  
10 well as elsewhere in the District. In terms of  
11 what Pepco or PHI has provided in the past, I  
12 don't know.

13 COMMISSIONER FORT: Has Exelon  
14 provided work force development funding in the  
15 past with other distribution companies that it  
16 owns or any of its other companies?

17 THE WITNESS: I believe it has. I  
18 can't provide the details but Exelon is a big  
19 supporter of the communities it serves. We are  
20 excited about promoting jobs in the community.  
21 We want folks to have the skill set needed to  
22 be able to work for either one of our utilities

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1 or somewhere else in the jurisdiction. We  
2 think that makes a lot of sense so it's  
3 something that we are active in in other  
4 jurisdictions and we're excited about doing  
5 that here in the District as well.

6 COMMISSIONER FORT: How does a  
7 contribution to work force development provide  
8 a direct intangible benefit to district  
9 ratepayers in your opinion?

10 THE WITNESS: Well, I think the  
11 District ratepayers are also residents of the  
12 District, so these programs might be programs  
13 that that particular customer actually takes  
14 advantage of, get the skill set needed to get a  
15 good paying secure sustainable job in the  
16 District that will help benefit them for years  
17 to come, so I think there is a true benefit for  
18 customers here.

19 COMMISSIONER FORT: Have the joint  
20 applicants committed to employ any of the  
21 District residents who participate in the work  
22 development programs that will be receiving

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1 this contribution?

2 THE WITNESS: We haven't made a firm  
3 commitment to do so. I think we would expect  
4 that we would. Obviously, as folks get the  
5 training, they all select the job that they  
6 want to work, so it will be great if they came  
7 and worked for Pepco. I think we would -- we  
8 have commitments to hire a number of  
9 individuals here in the District, whether it  
10 comes from this program or elsewhere, we will  
11 meet that commitment but again, this program,  
12 this commitment is really intended to provide  
13 the job training needed so that individuals can  
14 actually select the job they want, whether it's  
15 at Pepco or somewhere else in the District.

16 COMMISSIONER FORT: I want to turn  
17 to the paragraphs that talk about cost  
18 accounting and synergy savings, which is really  
19 Paragraph 29.

20 I just wanted to say that Paragraph  
21 28 tells us that Pepco will track and account  
22 for the cost to achieve a synergy savings in

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1 each of its base rate cases filed within a  
2 three-year period following the cost of -- the  
3 close of the merger, essentially, it will flow  
4 all the synergy savings allocable to the  
5 District to customers through the normal rate  
6 paying process and will amortize the cost to  
7 achieve over a five-year period. Are you in  
8 agreement with that?

9 THE WITNESS: Yes, ma'am.

10 COMMISSIONER FORT: Then Paragraph  
11 29 describes how Pepco will amortize the cost  
12 to achieve the synergy savings over a five-year  
13 period, commencing with the effective date of  
14 the first Pepco base rate case filed after the  
15 close of the merger.

16 Pepco says it will not recover the  
17 cost to achieve in a rate case an amount  
18 greater than the synergy savings demonstrated  
19 in the test year.

20 That's kind of my summary of -- I  
21 didn't read it exactly, of Paragraph 29.

22 THE WITNESS: That -- I agree with

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1 all that.

2 COMMISSIONER FORT: What happens to  
3 any excess cost to achieve funds that is not  
4 recovered in rates?

5 THE WITNESS: So the short answer  
6 is, if we can't produce synergy to exceed the  
7 cost to achieve, we will not recover them. A  
8 little longer answer is the cost to achieve  
9 will be spent in the first year, Year 1, Year  
10 2, post-close. That's when the cost is spent.  
11 That's the timing of the expenditures.

12 Amortizing that over a five-year  
13 period, we estimate the cost to achieve for the  
14 District to be about \$10 million in total, so  
15 once we get to the total, amortizing that over  
16 five years, any one year will likely not exceed  
17 the 2 million estimate that we have.

18 In terms of the synergies we expect,  
19 we do expect them to be in excess of \$2 million  
20 so we do think we will be able to prove that  
21 out.

22 Commitment 28 commits us to track

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1 these synergies for a three-year period to  
2 demonstrate this very clearly. As you get  
3 further out from the merger close, it becomes  
4 harder and harder to track synergies. Some  
5 other parties have made comments to that as  
6 well. But again, we believe that within this  
7 three-year period, we will demonstrate that the  
8 synergies which are sustainable ongoing  
9 synergies, will exceed the CTA and therefore,  
10 we will be able to, at least file for recovery  
11 of that.

12           Ultimately, the recovery of CTA is  
13 at the Commission's discretion. This  
14 commitment states that we will not seek  
15 recovery, not even propose it, if we cannot  
16 demonstrate that the synergies exceed the CTA,  
17 but again, we have high confidence that it will  
18 and customers will benefit obviously from that  
19 -- from that.

20           COMMISSIONER FORT: So in your  
21 testimony on Pages 21 and 22, you tell us that  
22 any of the deferred amounts would be recovered

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1 through a regulatory aspect.

2 I don't know if you need to get to  
3 those pages in your testimony. My question was  
4 going to be, Paragraph 29 doesn't identify or  
5 doesn't speak to the fact that the unrecovered  
6 amount would be a regulatory asset. Is there a  
7 reason for the admission of the regulatory  
8 asset language in the settlement agreement?

9 THE WITNESS: There is not. Again,  
10 we would not seek recovery of these costs until  
11 we can prove it. The regulatory asset  
12 construct is where we would place the CTA cost  
13 if we were in a situation where it exceeded  
14 synergy savings, but again, we don't think that  
15 will be likely to happen.

16 COMMISSIONER FORT: Was the use for  
17 regulatory asset to recover the deferred excess  
18 CTA, an issue that was discussed and agreed to  
19 by the settlement parties; is that correct?

20 THE WITNESS: I wasn't privy to all  
21 the discussions, but I believe that is  
22 something that the settling parties are

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1 comfortable with.

2 COMMISSIONER FORT: There would be a  
3 rate of return that's earned on that regulatory  
4 asset?

5 THE WITNESS: It would be the return  
6 that was authorized by the Commission in the  
7 rate case.

8 COMMISSIONER FORT: Just to give a  
9 hypothetical. Assume the excess CTA from the  
10 first rate case is \$2 million but the  
11 difference between the synergy savings and CTA  
12 is \$1 million, the synergy is greater than the  
13 CTA, what would happen in the second rate case?

14 THE WITNESS: In your example, did  
15 you say the synergies were greater than the  
16 CTA?

17 COMMISSIONER FORT: I did, yes.

18 THE WITNESS: So then we would seek  
19 recovery of those CTAs in that rate case and  
20 there would be -- in the following rate case,  
21 any new incremental CTA, we would seek to  
22 recover that, if there was some.

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1           COMMISSIONER FORT: In that deferred  
2 amount, what would happen?

3           THE WITNESS: It all is additive, so  
4 if we -- if it's a \$2 million CTA amount, it  
5 gets amortized over a five-year period. In the  
6 next rate case, if someone had \$2 million, it's  
7 amortized each year so two divided by five. If  
8 that amount in that year, whatever other CTA  
9 we've incurred, we would add that and still  
10 have to have the synergies be greater than the  
11 net of those two CTA amounts.

12           COMMISSIONER FORT: If the tracking  
13 of the CTA, there were two rate cases within  
14 three years after the merger closes, is it  
15 correct that you could have excess CTA that  
16 won't be offset by synergies given that the  
17 savings and costs are on track for three years?

18           THE WITNESS: I think we will  
19 demonstrate that the savings will exceed the  
20 CTA. They will be ongoing savings and we can  
21 prove that in a rate case. There is also  
22 another provision that states that for a

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1 five-year period, we will provide a  
2 side-by-side comparison of shared allocation  
3 pre-merger versus post-merger for each year of  
4 a five-year period.

5 Approximately 70 percent of the  
6 synergy savings come from shared service costs,  
7 so that will also be another tool we can use to  
8 help demonstrate that synergies are being  
9 realized and exceed CTA, but again, I think  
10 within the first three years, we will be able  
11 to prove that synergy exceeds CTA.

12 COMMISSIONER FORT: Why is five  
13 years chosen for the amortization and three  
14 years is chosen for the period of time that the  
15 CTA is tracked?

16 THE WITNESS: It is one of the  
17 commitments that the settling parties agreed to  
18 in terms of synergies. As you get further out  
19 from close, it becomes very hard to track what  
20 was caused by the merger and what was caused by  
21 other normal business events.

22 Three years is a period that is in

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1 my opinion a long period, but one that we could  
2 reasonably and clearly demonstrate the amount  
3 of synergies for. The five-year amortization  
4 period was something that was proposed and we  
5 were comfortable with and again, it will  
6 minimize the impact on the bills and actually  
7 allow customers to realize even more net  
8 synergies earlier in the period, so it is just  
9 another further benefit that we are offering  
10 customers in terms of helping keep rates low  
11 for customers.

12 COMMISSIONER FORT: What's the  
13 ten-year synergy savings figure that the joint  
14 applicants are using now?

15 THE WITNESS: Oh, ten-year? I'm  
16 sorry.

17 COMMISSIONER FORT: Ten-year.

18 THE WITNESS: About \$51 million.  
19 That's the net number.

20 COMMISSIONER FORT: So that hasn't  
21 changed. That net number hasn't changed.

22 THE WITNESS: No, ma'am.

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1                   COMMISSIONER FORT: Have the -- I  
2 think earlier we were told that there was a  
3 long-term running rate for synergies of \$7  
4 million a year starting in year five.

5                   Has that changed?

6                   THE WITNESS: That has not changed.

7                   COMMISSIONER FORT: Is it true that  
8 there -- is your testimony that, from year four  
9 on, it's -- the savings -- the cost achieved  
10 and the savings cannot be verified?

11                  THE WITNESS: Well, in year four  
12 there will be no cost to achieve. Again,  
13 that'll be taking place in year one, year two.

14                  COMMISSIONER FORT: Okay.

15                  THE WITNESS: Year four, year five,  
16 the sustainable savings, again, they will  
17 continue on. It will be difficult to track. I  
18 think by year three we'll have proven that they  
19 exceed the CTA.

20                  We will continue to show a shared  
21 service side-by-side comparison. That will be  
22 truly just by the Department, and we have

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1 agreed to provide a report for a five-year  
2 period each year detailing what the costs were,  
3 if there were any changes or any explanations  
4 of what a change -- why a change happened, what  
5 caused that change.

6 But that would be something we -- we  
7 provide for five years.

8 COMMISSIONER FORT: On -- moving on  
9 down to Paragraph 35 in the settlement  
10 agreement where you talk about -- where the  
11 subject matter is controls and procedures  
12 that'll be designed to provide reasonable  
13 assurance that PHI subsidiaries will not bear  
14 the cost associated with the business  
15 activities of any other Exelon affiliates.

16 In the context of that paragraph,  
17 can you provide examples of the types of  
18 controls and procedures currently utilized  
19 between Exelon and its related companies that  
20 provide similar assurance?

21 THE WITNESS: Sure. So we have a  
22 GSA that will determine and spell out exactly

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1 how the allocation methodologies work.

2           This is something that is reviewed  
3 every year and must be signed off by every  
4 operating company CFO. So they cannot  
5 continue, they cannot move forward, they cannot  
6 finalize their budget for the upcoming year  
7 until the CFO of, in -- in our case Pepco,  
8 signs off on that agreement, agrees with the  
9 methodologies.

10           On a monthly basis for that  
11 following year, the CFO and CEO review those  
12 costs, get -- provide detail reports of any  
13 variances from plan on the budget that may  
14 occur, if there is any. And they have the  
15 right to challenge and the right to review any  
16 work papers or any map or any analysis that  
17 they'd like.

18           From a systems perspective, we have  
19 systems that are automated to provide this  
20 solution. We have our internal audit group  
21 review this on a regular basis.

22           We have also had in other states

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1 outside parties provide audits to ensure that  
2 the methodologies are being followed correctly.  
3 I would expect that we would have independent  
4 auditor do a similar review here in D.C.,  
5 such -- same as we do in Maryland for BGE, for  
6 example.

7 You know, all of that provides us a  
8 lot of assurance that the methodologies are  
9 working and -- but -- and there is obviously a  
10 number of reviews that take place on a -- on a  
11 very regular basis to ensure that that takes  
12 place.

13 COMMISSIONER FORT: And when would  
14 these controls and procedures be designed and  
15 by what -- what entity would be doing the  
16 design?

17 THE WITNESS: So during the  
18 integration process, we have been designing  
19 these controls and procedures. Again, they are  
20 very similar to those that exist for the other  
21 utilities that have been subject to numerous  
22 audits and have passed.

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1           In terms of the will be distinction  
2 here, our internal audit group, once the merger  
3 closes, will come in and validate and make sure  
4 that all the system set-ups, the procedures are  
5 being followed and ensure that we are following  
6 what the designs are.

7           So they are in process of being  
8 designed. We will finalize them. And then  
9 ultimately we will have an independent auditor  
10 on a -- on a regular basis, periodic basis  
11 check these controls to ensure that they are  
12 effective and they are ensuring that we are  
13 allocating dollars correctly.

14           COMMISSIONER FORT: As I recall from  
15 the evidentiary hearings, the GSA is -- uses a  
16 much larger amount of direct allocations in  
17 their processes than they -- Cisco did in  
18 theirs.

19           THE WITNESS: Yeah.

20           COMMISSIONER FORT: Are we talking  
21 about controls and procedures that are moving  
22 more toward direct allocation?

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1 THE WITNESS: Thank you for bringing  
2 that point up. And absolutely. We are -- at  
3 EBSC, there's always an attempt to try to push  
4 as far as we can in terms of the direct  
5 allocations when possible.

6 Currently EBSC allocates about 70  
7 percent of its total cost to the various  
8 operating companies. PHI service company, by  
9 contrast, is about 30 percent.

10 In terms of the transparency and the  
11 ability to review the costs during those period  
12 reviews, those annual and monthly reviews, the  
13 direct charging makes it much easier because  
14 you can see the exact service you're receiving  
15 and the costs associated with that service.

16 So that is something that we're  
17 always seeking to try to increase that  
18 percentage and will continue to do so as we  
19 move forward.

20 COMMISSIONER FORT: And what would  
21 be the timetable of putting new controls and  
22 procedures into effect?

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1 THE WITNESS: Surely after close.

2 So we put them immediately.

3 COMMISSIONER FORT: Now I want to  
4 turn to board structure, which is Paragraph 55.

5 And Paragraph 55 says: PHI will  
6 have a board of directors consisting of seven  
7 or more people. And the majority of the PHI  
8 board for -- of the seven will be independent  
9 as defined by the New York Stock Exchange. And  
10 then at least one director will be selected for  
11 each of the service territories. And at least  
12 one of the independent directors will be a  
13 resident of the District. The CEO of Pepco  
14 will be one of the PHI directors.

15 Does anything in the settlement  
16 agreement change the provision that was in the  
17 April 29th, 2014 merger agreement that said  
18 that PHI would be converted from a corporation  
19 to a limited limit company?

20 THE WITNESS: No, ma'am.

21 COMMISSIONER FORT: Is it still  
22 correct that PHI would be converted to a

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1 limited liability company?

2 THE WITNESS: Yes.

3 COMMISSIONER FORT: And that was a  
4 LLC under Delaware?

5 THE WITNESS: Correct.

6 COMMISSIONER FORT: I'm not sure  
7 about Delaware, but in D.C. there are --  
8 liabilities liability companies don't have  
9 boards of directors.

10 Do they have them in Delaware?

11 I'm sorry to be technical, but --

12 THE WITNESS: No, no. Thank you.

13 I'm not quite sure. I mean we will  
14 have a board of directors, whether required or  
15 not.

16 I think important is the fact that  
17 it's a commitment here. And we will adhere to  
18 all of our commitments.

19 Obviously the Commission, we've  
20 consented to jurisdiction of all these  
21 commitments. So if, for example, we say we  
22 weren't going to have a HPI board because the

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1 LLC laws in Delaware don't require them, that  
2 wouldn't matter. We will still have a board of  
3 directors.

4 COMMISSIONER FORT: Okay. And since  
5 the New York Stock Exchange rules wouldn't  
6 apply to an LLC that has, you know, no publicly  
7 traded -- is not publicly traded, that would  
8 also be voluntary to use the independent  
9 rules -- or the rules on independence to the  
10 members of those boards.

11 Wouldn't it be correct?

12 THE WITNESS: It would be. I think  
13 most operating companies that I know of don't  
14 have independent boards. This is a commitment  
15 that we made with the settling parties or all  
16 the settling parties made to give assurances  
17 that PHI and Pepco would have that independent  
18 voice, as some have referred to it.

19 This was something that many of the  
20 parties had wanted and -- and requested and  
21 something that the joint applicants were  
22 comfortable agreeing to with the settling

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1 parties.

2 COMMISSIONER FORT: Did the  
3 delegation of authority chart that is now in  
4 Table 5 in the settlement agreement and that is  
5 related to Paragraph 103 change from its  
6 original form in 4A2 to how it now appears in  
7 Commitment 71?

8 THE WITNESS: Not to my knowledge.  
9 The only potential change might be Note 3 where  
10 we clearly state that the Pepco CEO has the  
11 authority to make rate case decisions  
12 consistent with the other commitments we've  
13 made in the settlement agreement. But the  
14 dollar amounts I believe are the same.

15 COMMISSIONER FORT: Moving on. Oh,  
16 one more about PHI.

17 Somewhere it said that -- that the  
18 PHI could not have committees, that the current  
19 PHI had a series of committees, compensation,  
20 you know, and other committees that boards  
21 normally have, but under the new format that  
22 would not be the case.

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1 Is that true?

2 THE WITNESS: That is my  
3 understanding.

4 COMMISSIONER FORT: Do you know what  
5 happens to those committee responsibilities  
6 that are normally -- the board of directors  
7 normally have?

8 THE WITNESS: Typically it's at the  
9 holding company level. So the Exelon board of  
10 directors does have similar committees.

11 So, for example, the PHI board now  
12 is a public board. I don't believe that  
13 Pepco's board currently has those types of  
14 committees either.

15 So again, I think those would be at  
16 the Exelon board level.

17 COMMISSIONER FORT: So the  
18 Commission has been known to look at  
19 information that comes out of board of  
20 directors, particularly when that information  
21 gives some instructions about compensation or  
22 performance measures, particularly if some of

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1 those costs are being assigned to District  
2 ratepayers.

3 So if we were to be looking at those  
4 kind of measures, if we were to approve this  
5 merger, we would be looking at that information  
6 coming from Exelon -- Exelon's board of  
7 directors?

8 Is that where you're telling me  
9 those decisions would then be made?

10 THE WITNESS: Any decision that has  
11 to do with Pepco, whether it's regards to  
12 compensation or any other issues, obviously the  
13 Commission always has the right to review.

14 In other jurisdictions,  
15 compensation, other issues like that that might  
16 be decided at the Exelon board level or  
17 discussed at the Exelon board level, is a  
18 fairly typical data request that we do provide.  
19 And we'll obviously provide that information if  
20 it's necessary.

21 COMMISSIONER FORT: And one of the  
22 reasons I ask about that -- I'm looking for my

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1 note too -- where we talk about -- the  
2 provision that talks about having access to  
3 books and records says to Exelon's affiliates.  
4 And it didn't say Exelon, is my recollection,  
5 was that it left out itself. It didn't say  
6 Exelon and Exelon affiliates on the access to  
7 books and records.

8 Can we assume that that means Exelon  
9 and Exelon's affiliates.

10 THE WITNESS: Yes, you can.

11 COMMISSIONER FORT: Paragraph 56 to  
12 60 talk about service reliability.

13 I want to move to Paragraph 116 to  
14 17 on competition protections for affiliates --  
15 affiliated transmission companies.

16 Okay. And looking at Section 116E  
17 of the settlement agreement. Taking a minute  
18 to get it up in front of me.

19 When -- in Page 52 of your direct  
20 testimony. I'd ask you to get Page 52 of your  
21 testimony in front of you.

22 THE WITNESS: I have it.

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1                   COMMISSIONER FORT: Line 4 through  
2    8. It says: Exelon agrees that the PJM market  
3    monitor may review its demand response bids in  
4    the PJM energy reserves and capacity market.

5                   Does the market monitor do that  
6    already?

7                   THE WITNESS: I don't know if it  
8    does it already. I'm not sure if they have  
9    official ability to. But this is a commitment  
10   made to show that we are more than willing to  
11   be transparent, have the additional oversight  
12   share this information.

13                  Again, as making as a commitment,  
14   the Commission can ensure that Exelon is  
15   following this if it so chooses, but we  
16   definitely will. So this is just a commitment  
17   to address any concerns that we wouldn't share  
18   this information.

19                  COMMISSIONER FORT: In the  
20   discussion of interconnection enhancement,  
21   interconnection process and support for  
22   customer-owned behind-the-meter generation in

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1 Paragraphs 121 to 127, those are things that  
2 are new in the settlement agreement and that  
3 didn't appear in 482; is that correct?

4 THE WITNESS: That's correct. This  
5 is -- these are commitments that the settling  
6 parties made to ensure that -- to address any  
7 concerns that Exelon somehow will try to slow  
8 the interconnection process for Pepco  
9 customers.

10 In fact, these commitments we think  
11 not only not slow down the process, should  
12 actually make it open, transparent and actually  
13 make it faster and easier for customers to  
14 interconnect both behind the meter as well as  
15 to the transmission system in the previous  
16 commitments we just talked about.

17 COMMISSIONER FORT: And provisions  
18 don't speak to -- to the kind of investments  
19 that the joint applicants might make to under  
20 -- or that the joint applicants would undertake  
21 to enhance the distribution system and to allow  
22 greater interconnection of distributed

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1 generation or to promote community solar.

2 Is there a reason for that?

3 THE WITNESS: I don't think there's  
4 any specific reason. One of the ways we're  
5 going to be able to enhance the interconnection  
6 process is by Pepco working with the other  
7 Exelon utilities to see what policies and  
8 procedures they currently have.

9 BGE has been extremely successful in  
10 improving their interconnection process since  
11 the merger. And a lot of that has to do with  
12 the sharing of best practices.

13 So I would expect that Pepco will  
14 take advantage of that and use that to help  
15 accelerate this process.

16 The commitments made here really  
17 talk about the results. Again, how do we get  
18 there, we will work out and we will -- you  
19 know, we will meet these commitments. We have  
20 to meet these commitments. We've made the  
21 commitments.

22 And any failure to do so would

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1 obviously be subject to the Commission --  
2 commission's jurisdiction. And whatever action  
3 we see fit we would take.

4 But again, I have no doubt that  
5 we'll meet these commitments.

6 COMMISSIONER FORT: So do you  
7 consider that one of the commitments is to take  
8 whatever actions are necessary to enhance the  
9 distribution system to allow for an increasing  
10 portion of distribution system of distribute  
11 generation to be interconnected to the  
12 distribution grid?

13 THE WITNESS: I -- I think -- I  
14 think so. I think the point of this is to take  
15 -- make -- make it a -- make it possible for  
16 customers to interconnect to the system easier.

17 Paragraph 127 spells out  
18 specifically that Pepco is going to work and  
19 develop a communication plan to actively  
20 promote the installation of behind-the-meter  
21 generation. So obviously that communication  
22 would be aimed at trying to promote this. So

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1 Pepco will work with customers that have this  
2 interest and try to promote this as -- as much  
3 as it can.

4 COMMISSIONER FORT: So there's a  
5 communication plan, I guess, on the hardware,  
6 software side, you know, beside the -- the  
7 provision that speaks to the development of the  
8 microgrid facilities.

9 Am I missing something if I was to  
10 look at the settlement agreement where it talks  
11 about the kind of investment that the joint  
12 applicants are making?

13 I don't see anything other than  
14 microgrids.

15 So is microgrids the only --

16 THE WITNESS: We do have on  
17 paragraph 120 where Pepco will partner with the  
18 District Government to facilitate the planning  
19 for more interconnection of renewable  
20 generation for District Government buildings.  
21 So -- government buildings and public  
22 facilities.

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1           So there is a commitment here to do  
2 so. Again, the fact that these are all subject  
3 to the Commission jurisdiction, we would fully  
4 expect you to ask us, "How are you doing? What  
5 are you doing?" And we would report out.

6           We have other commitments here where  
7 we officially agree or commit to agree to have  
8 the Exelon CEO, EU CEO, and the PHI and Pepco  
9 CEO meet with you on a regular basis.

10           Even without that commitment, we are  
11 always willing to meet and discuss. But that  
12 commitment, again, was an attempt to assure  
13 people that those lines of communication will  
14 always be open.

15           COMMISSIONER FORT: On Page 61 of  
16 your testimony, in lines 12 through 14, you  
17 discuss rule making to incorporate reporting  
18 and remedial measures in regulations of 15  
19 DCMR, Chapter 40, which are the rules for small  
20 generate -- small generator interconnections.  
21 And I think that is picked up in Paragraph 125C  
22 of the settlement agreement.

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1           125C indicates that, within 180 days  
2 of merger closing, Pepco will file a request  
3 for proposed rule making to add the requirement  
4 with respect to the issuance of permission to  
5 operate that are set forth in clause A above in  
6 that provision.

7           We talked earlier about the fact  
8 that the Commission has an ongoing proceeding  
9 where we're looking at some of those issues.  
10 So that would be an example of one of the  
11 paragraphs where we have the question that we  
12 talked about at the very beginning of my  
13 questioning with you, with the Commission was  
14 doing something different.

15           It would be a paragraph similar to  
16 that in the settlement agreement that might be  
17 changed or need to be changed to accommodate  
18 something that the Commission does.

19           THE WITNESS: That's correct. In  
20 the other jurisdictions where we have  
21 utilities, we are always -- you know, we always  
22 adhere and follow the orders of the Commission.

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1 Those do change from time to time. And  
2 whatever the -- the current rules and  
3 regulation are we will follow.

4 So you have Paragraph 125C here.  
5 This is what we will commit to at close. But  
6 if there is a proceeding that changes the rules  
7 or changes the requirements, we would obviously  
8 adhere to that.

9 COMMISSIONER FORT: Okay. And my  
10 last question goes to Paragraph 130, which is  
11 the procurement of a hundred megawatts of wind  
12 energy under long-term contracts.

13 States that the commitment shall be  
14 a single commitment made with respect to all of  
15 the PHI utilities and services industries.

16 Do you expect -- do you  
17 anticipate -- and this is the -- probably be  
18 helpful if I go back and read a little bit  
19 more.

20 In that -- in your direct testimony,  
21 you state, within five years after the merger  
22 closes -- and this is your testimony on Page

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1 58 -- Exelon and its nonutility subsidiaries  
2 will conduct one or more requests for proposals  
3 or other competitive procurement processes to  
4 solicit offers to purchase a total of a hundred  
5 megawatts of renewable energy capacity and  
6 ancillary services and all associated  
7 environmental attributes from one or more new  
8 or existing wind generation facilities located  
9 within the territory covered by PJM with an  
10 anticipated delivery date beginning  
11 approximately three years following the due  
12 date of the applicable competitive procurement.

13 That's the language from the  
14 testimony in the settlement agreement.

15 Do you anticipate that Exelon  
16 subsidiaries would participate in the  
17 procurement process as a potential bidder?

18 THE WITNESS: They -- well, this  
19 would be -- so I guess -- in your question are  
20 you asking whether or not Exelon will purchase  
21 this PPA from Constellation?

22 COMMISSIONER FORT: I'm asking if

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1 you anticipate --

2 THE WITNESS: I -- I --

3 COMMISSIONER FORT: I didn't ask  
4 that specific question.

5 THE WITNESS: Okay.

6 COMMISSIONER FORT: I don't know if  
7 you want to answer that specific question --

8 THE WITNESS: No. I think --

9 COMMISSIONER FORT: -- or have that  
10 as your answer, but...

11 THE WITNESS: Sure. No. I think  
12 the intent of this commitment is to spur  
13 additional wind development in the PJM  
14 territory, providing a ten-year PPA as a  
15 long-term PPA that will provide funding  
16 assurances to wind developers.

17 So I would expect that Exelon and  
18 its subsidiaries, most likely Constellation,  
19 would be working with wind developers to either  
20 contract from a new -- new facility or a  
21 facility that needed the certainty of funding  
22 that could provide -- provide them the cash

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1 flows to build additional wind facilities.

2 And I think this will help encourage  
3 further wind development in PJM, and  
4 importantly for District customers, can be some  
5 renewable energy credits that we could use here  
6 in the District to help meet RPS standards.

7 COMMISSIONER FORT: So that answered  
8 my -- to what's the benefit -- what's the  
9 specific benefit that District ratepayers would  
10 receive from the procurement that's described  
11 here.

12 So what role would Pepco have in the  
13 procurement process?

14 THE WITNESS: I don't believe it  
15 would have a role. In the procurement process  
16 of the PPA for winds? Yeah, I don't think they  
17 have a role.

18 COMMISSIONER FORT: Does the  
19 provision mean that Exelon intends to register  
20 the renewable generation with all of the PJM  
21 states that have a renewable energy portfolio  
22 standards, or would it just be for the

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1 District?

2 THE WITNESS: I'm not certain. But  
3 obviously the commitment states that we will  
4 try to use it in the District if possible.  
5 Again, this is -- you know, commission can,  
6 during that normal dialogue, ask us, if we're  
7 not using it, why is that.

8 Our intent would be, if we can, to  
9 use it here. But that'll be dependent on  
10 numerous factors.

11 COMMISSIONER FORT: Would Exelon  
12 seek to recover any of the costs associated  
13 with this procurement from District ratepayers?

14 THE WITNESS: Well, I -- I think the  
15 only way that possibly could happen would be if  
16 Exelon bids into the SOS market and provides  
17 wind energy with the renewable energy credits.  
18 Again, that would go through the normal auction  
19 process.

20 But if it were to use the -- the  
21 renewable energy credits with some of its  
22 retail customers in the District, for example,

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1 those would not be in customer rates.

2 COMMISSIONER FORT: Thank you. I  
3 think that's about it for the questions.

4 THE WITNESS: Thank you.

5 CHAIRMAN KANE: Thank you.

6 Commissioner Phillips?

7 COMMISSIONER PHILLIPS: No  
8 questions.

9 CHAIRMAN KANE: Thank you.

10 I want to go back in a little more  
11 detail, first of all, about the -- both the  
12 \$25 million credit and the \$14 million base  
13 credit.

14 And it makes it easier for me to  
15 kind of track what we're talking about if we  
16 can look at an actual bill.

17 So I'm going to -- I guess I should  
18 mark this as PSC Exhibit 3, preliminarily  
19 marked.

20 (PSC Exhibit 3 was marked for  
21 identification.)

22 This is a -- PSC 3. This is a

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1 typical residential bill. So I wasn't violated  
2 anybody's privacy, it's my bill for the month  
3 of June. Account number's been taken off. But  
4 it's pretty typical.

5 As I recall, if you would accept  
6 that the average residential monthly bill is  
7 about 740, 750 kilowatt hours, this is a bill  
8 for 741 kilowatt hours for May 19th to June  
9 18th, 2014, which has been since the last rate  
10 increase. So this is a current -- current  
11 numbers.

12 And so let me ask, first of all,  
13 about the \$14 -- excuse me -- the \$14 million  
14 for the -- the base rate credit. As you  
15 indicated in the answer to Commissioner Fort,  
16 that credit will be a lump sum credit.

17 THE WITNESS: Yes, it would be.

18 CHAIRMAN KANE: Okay. And did I  
19 hear correctly you said it would go against the  
20 entire bill.

21 THE WITNESS: Yes, ma'am.

22 CHAIRMAN KANE: So if you look at

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1 the bill -- and I should start at right -- if  
2 we look at the right side of the bill, there is  
3 a category called "Distribution Services."  
4 It's got "Customer Charge," "Energy Charge,"  
5 which is in blocks, "Energy Assistance Trust  
6 Fund," "Sustainable Energy Trust Fund," "Public  
7 Space Occupancy Surcharge," "Delivery Tax,"  
8 "Administrative Credit Residential," I guess  
9 that is, "Residential Aid," "Discount  
10 Surcharge," and then this case there's a  
11 participation in the energy-wise credit  
12 rewards. So there's a credit.

13 And a total of distribursed [sic] --  
14 excuse me -- distribution charges, about 18.36.  
15 And if you add the credit back in, because --  
16 because that's not typical, you're up to  
17 \$30.36.

18 And then on "Generation Charges,"  
19 "Minimum Charge," "Energy Charge," "Procurement  
20 Cost Adjustment," and "Total Generation  
21 Charges" and then "Transmission Charges." And  
22 this is a customer who happens to be at the

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1 moment in SOS.

2 So you have a total bill -- add the  
3 credit back in, the -- the Energy Wise Rewards  
4 Credit -- about \$96.03. It's about typical,  
5 average D.C. residential customer bill, \$96,  
6 \$97 a month.

7 Would you agree on that?

8 THE WITNESS: It appears so.

9 CHAIRMAN KANE: Okay. So if we're  
10 talking about the one-time \$14 million base  
11 credit, that would be applied to this customer  
12 you said around 50 to 60 dollars one time. And  
13 it would go against this bottom line \$96.03.

14 So this customer's bill would be \$46  
15 in the month that it went into effect, correct?

16 THE WITNESS: Yes, ma'am.

17 CHAIRMAN KANE: Just the one time.

18 THE WITNESS: Yes.

19 CHAIRMAN KANE: Now, that would be  
20 an actual credit on the bill; is that correct?

21 THE WITNESS: It would be a separate  
22 line item detailing that, yes.

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1 CHAIRMAN KANE: Detailing that.

2 So in terms of where the moneys,  
3 before there was a credit, would go, would you  
4 agree that the -- under "Distribution  
5 Services," the customer charge and the energy  
6 charge go to Pepco as the distribution company?

7 THE WITNESS: Yes, I would.

8 CHAIRMAN KANE: Okay. And that adds  
9 up \$23.21.

10 The Energy Assistance Trust Fund  
11 goes to the District Government; is that  
12 correct?

13 THE WITNESS: I believe so.

14 CHAIRMAN KANE: And the Sustainable  
15 Energy Trust Fund goes to the District  
16 Government?

17 THE WITNESS: Yes.

18 CHAIRMAN KANE: And the Public Space  
19 Occupancy Surcharge goes to the District  
20 Government?

21 Yes?

22 THE WITNESS: Yes.

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1 CHAIRMAN KANE: And the delivery tax  
2 goes to the District Government?

3 THE WITNESS: I believe so, yes.

4 CHAIRMAN KANE: The administrative  
5 credit is one of those things that was puzzling  
6 about. But that I believe goes against the  
7 distribution. That's a distribution charge.

8 And then the Residential Aid  
9 Discount Surcharge goes to Pepco to fund the  
10 low-income program --

11 THE WITNESS: Fund the RAD program.

12 CHAIRMAN KANE: -- funded at the RAD  
13 -- the RAD program. So that goes to Pepco.

14 And then we'll skip -- we'll skip  
15 the -- the Energy Wise Rewards Credit. Okay.

16 Then the generation services and the  
17 transmission services go to the energy  
18 supplier, in this case the SOS provider?

19 THE WITNESS: That would be my  
20 understanding.

21 CHAIRMAN KANE: Okay. And if this  
22 customer had ABC energy supply, that money

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1 would go to whoever that supplier was; is that  
2 correct?

3 THE WITNESS: Right. I don't know  
4 how the flow of funds go, if it goes to --

5 CHAIRMAN KANE: Right.

6 THE WITNESS: -- Pepco and then to  
7 the --

8 CHAIRMAN KANE: But that's who it's  
9 owed --

10 THE WITNESS: Eventually it gets  
11 to --

12 CHAIRMAN KANE: But that's who it's  
13 owed.

14 THE WITNESS: Yeah.

15 CHAIRMAN KANE: Now, my question is,  
16 when you apply against this particular bill a  
17 \$55 credit, say, and so you come up with the  
18 customer only paying in \$41.03, how is the  
19 funding going to go to all of these other  
20 people, or who's going to lose out?

21 The customer's only going to write a  
22 check now or have deducted from their account

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1 \$41 and some-odd cents to go to Pepco.

2 THE WITNESS: Well, so I think the  
3 way I would look at it is the \$14 million will  
4 ultimately effectively be paid by Exelon. So  
5 Exelon will make a contribution -- equity  
6 contribution to Pepco to keep their equity  
7 ratio in the same perspective.

8 Because again, the way the billing  
9 system works, Pepco has to flow the credit  
10 through their system. So Exelon would pay it  
11 going through with Pepco. And then it goes to  
12 the customer.

13 In terms of the generation supplier,  
14 for example, or the District Government and the  
15 amount that they receive, they still receive  
16 that amount because Pepco will have received  
17 those funds from Exelon.

18 So the important thing is the  
19 customers are seeing that full \$55 reduction.  
20 And suppliers and the District Government are  
21 also getting their funds as well.

22 CHAIRMAN KANE: Okay. And I wanted

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1 to bring your attention, if you could explain  
2 to me then, in the -- your -- your -- your  
3 responses to the DRs. And this would be the  
4 one we had put into the record already as PSC  
5 1.

6 I think we now need to put the next  
7 one in, which would be the PSC 4, I guess we're  
8 up to, preliminarily mark, which are -- it  
9 would be response to staff data request No. 8.

10 (PSC Exhibit 4 was marked for  
11 identification.)

12 CHAIRMAN KANE: If this is marked,  
13 right? Yeah. Commission Exhibit -- and this  
14 will be 5.

15 THE WITNESS: Okay.

16 CHAIRMAN KANE: The -- the -- the  
17 data responses to -- to -- to the Commission.

18 THE WITNESS: I have the staff data  
19 responses. I guess if you could tell me which  
20 number, I could turn to that.

21 CHAIRMAN KANE: All right. Looking  
22 to Question No. 21 --

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1 THE WITNESS: Okay. Thank you.

2 CHAIRMAN KANE: -- where we ask from  
3 which Pepco PHI or Exelon account the \$14  
4 million will be paid out. It's Page 26 of 34.

5 THE WITNESS: Yes, ma'am.

6 CHAIRMAN KANE: Okay. And you say  
7 the accounting or treatment for the \$14 million  
8 residential customer bill credit, which will  
9 not be recovered in customer utility rates is  
10 currently anticipated to be recorded as  
11 follows.

12 And you have it broken down by  
13 merger close, operating and maintenance  
14 expense, 14 million. And then in regulatory  
15 reliability, 14 million. Taxes payable, 5.6  
16 million. Income tax expense, 5.6 million. And  
17 assumption of a tax rate -- is that a federal  
18 tax rate of 40 percent? Is that federal and  
19 District?

20 THE WITNESS: It would be federal  
21 and District probably.

22 CHAIRMAN KANE: And District. Okay.

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1                   And then you say upon cash  
2 reimbursement -- cash reimbursement from Exelon  
3 \$8.4 million in cash. So that looks as if only  
4 \$8.4 million is going to -- to Pepco.

5                   THE WITNESS: So maybe let me  
6 clarify the --

7                   CHAIRMAN KANE: Yeah. Well, that's  
8 why I asked you the question.

9                   THE WITNESS: Absolutely. And  
10 thanks --

11                   CHAIRMAN KANE: If you can  
12 clarify --

13                   THE WITNESS: -- for bringing this  
14 up.

15                   CHAIRMAN KANE: -- what -- what the  
16 gap is.

17                   THE WITNESS: So \$14 million is the  
18 amount of expense that would be recorded in the  
19 books. As you get the expense on Pepco's  
20 books, there is a tax benefit. Again, it  
21 lowers taxable income by \$14 million. So  
22 they're paying effectively 5.6 million less

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1 tax.

2 So from a cash perspective, Exelon's  
3 going to keep Pepco whole. So the benefit they  
4 got on the tax side by reducing their tax to  
5 the federal government, you know, Exelon  
6 wouldn't continue to put more dollars in. So  
7 they're getting the after-tax amount of that  
8 14 million.

9 So that, on net basis, when you look  
10 at the earnings line item, it ends up being  
11 zero, the -- the net effect. So if you take  
12 the 8.4 plus the 5.6, you get the 14 million.

13 CHAIRMAN KANE: But the 5.6 isn't  
14 real cash.

15 THE WITNESS: No.

16 CHAIRMAN KANE: Is that correct?

17 But for bookkeeping --

18 THE WITNESS: It is --

19 CHAIRMAN KANE: It's not real cash?

20 THE WITNESS: It's not. It's --

21 it's --

22 CHAIRMAN KANE: It's not real cash.

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1 THE WITNESS: Bookkeeping.

2 CHAIRMAN KANE: So in terms of this  
3 being the fact that the customer's now only  
4 paying, what, \$51 to Pepco, you know, multiply  
5 by 300,000 customers making a similar  
6 nonpayment, Pepco is losing \$14 million in cash  
7 income and is receiving \$8.4 million in cash  
8 reimbursement.

9 And my question is what does that do  
10 to the operating budget?

11 THE WITNESS: So I would -- Pepco is  
12 losing \$8.4 million of cash. Because, again,  
13 they're still getting that tax benefit of  
14 5.6 million. So when they pay their taxes,  
15 they're paying less taxable income because of  
16 that. So they're paying 5.6 -- 5.6 million  
17 less of taxable income because they have this  
18 incremental operating expense.

19 Exelon is going to make them whole  
20 from a cash perspective. So they will be in  
21 the same spot with or without this credit being  
22 paid.

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1           In terms of the operating budgets,  
2   it's really just a pass-through. It shouldn't  
3   impact at all the operating budgets of Pepco  
4   from a regulatory perspective.

5           And we did the same thing when we  
6   were at BGE and we had a rate credit there.  
7   This would be below the line. So it would not  
8   be -- as we've stated clearly in the  
9   commitments, we would not seek recovery of any  
10  of these expenses. They will be put below the  
11  line. And BGE would say we follow the same  
12  methodology.

13           CHAIRMAN KANE: I really wasn't  
14  asking too much about accounting --

15           THE WITNESS: Okay.

16           CHAIRMAN KANE: -- procedure. It's  
17  just cash available to operate. We have  
18  reliability commitments here, et cetera, hiring  
19  commitment expenditures.

20           THE WITNESS: So the --

21           CHAIRMAN KANE: Cash coming is going  
22  to be reduced.

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1 THE WITNESS: Well, no. Cash will  
2 be -- so the net cash going out the door or not  
3 being received from customers effectively is  
4 \$14 million.

5 CHAIRMAN KANE: Right.

6 THE WITNESS: But then there's also  
7 the reduction of taxes they have to pay -- that  
8 Pepco will be paying because they have this  
9 operating expense that will reduce taxable  
10 income. So that's \$5.6 million.

11 And -- and the net of that is 8.4  
12 million. So on a net basis, the amount of  
13 cash, without Exelon doing anything, Pepco is  
14 down \$8.4 million of cash.

15 Exelon will be making an equity  
16 infusion equal to that amount of \$8.4 million  
17 to compensate it from a cash perspective and  
18 will also effectively result in the equity  
19 ratio staying the same post all of these  
20 transactions, because, again, the net income  
21 impact without the Exelon equity infusion is  
22 \$8.4 million negative.

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1                   CHAIRMAN KANE:   Pepco doesn't  
2   actually pay taxes in the District, does it,  
3   except in a paper way, I recall from previous  
4   cases.   The issue was not actually -- because  
5   of sharing tax excesses with its other PHI  
6   companies.   Now, I don't know if that's going  
7   to change.

8                   THE WITNESS:   So maybe I can answer  
9   it this way to help alleviate any concern, if  
10  there is any, which sounds like there is.

11                   Exelon will compensate Pepco for all  
12  the cash related to this credit.   The  
13  commitment to maintain the -- the equity ratio  
14  in the contracting treatment and not having any  
15  merger impact affect the accounting -- the  
16  accounting -- the -- the capitalization ratio,  
17  for example, that would require Exelon to make  
18  an equity infusion.

19                   So effectively, if Pepco isn't  
20  paying any taxes, and they truly are out \$14  
21  million of cash, Exelon will make a \$14 million  
22  cash contribution -- equity contribution.

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1           In the case of BGE, BGE was -- it  
2 was the after-tax amount, which I think is the  
3 same case here. But I'm not a tax accountant,  
4 so I don't want to get too far down the path.

5           I think the important takeaway is --  
6 and I will assure you, and I'm here under oath,  
7 and I will say it, Exelon will keep Pepco whole  
8 from a cash perspective. And Pepco will not be  
9 out any cash because of this credit being paid.

10           CHAIRMAN KANE: What's the  
11 difference between cash and an equity infusion?

12           THE WITNESS: It's -- I don't think  
13 there is a difference in terms of the equity  
14 ratio is the same and the cash balance at the  
15 company is the same. The only issue -- I don't  
16 -- I don't think there is a difference.

17           CHAIRMAN KANE: Let me move on to  
18 the \$25.6 million. And again, look at the  
19 bill -- typical bill here.

20           Now, you testified that that credit,  
21 when it went goes -- it went -- when it goes  
22 into effect would only be against the

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1 distribution portion of the bill; is that  
2 correct?

3 THE WITNESS: That's correct.

4 CHAIRMAN KANE: Okay. So just to be  
5 clear, we're talking about that would be only  
6 the -- on this particular bill, the \$13, the  
7 2.93 and the 7.28, correct?

8 THE WITNESS: I believe that's --

9 CHAIRMAN KANE: That those -- and  
10 which adds up to -- and perhaps this  
11 administrative credit. So it comes around  
12 \$23 --

13 THE WITNESS: That's correct.

14 CHAIRMAN KANE: -- for the typical  
15 customer.

16 Now -- and then there's a -- a  
17 slightly different per customer average for  
18 your master metered.

19 Focusing on the -- on the single  
20 meter customers, if I recall, you -- the  
21 estimate was that, of the 25.6 million, about  
22 4.3 would go to master meters.

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1           So about 21 million be for the  
2 single meter, right.

3           THE WITNESS: That correct.

4           But I -- just --

5           CHAIRMAN KANE: Yeah.

6           THE WITNESS: -- one point of --

7           CHAIRMAN KANE: Sure.

8           THE WITNESS: Clarification.

9           CHAIRMAN KANE: Sure.

10          THE WITNESS: It wouldn't be the  
11 23.21. If this is a bill, a rate case is  
12 filed, a rate increase comes, it'd only be the  
13 incremental increase.

14          CHAIRMAN KANE: Right.

15          But I mean it's that portion of this  
16 total bill --

17          THE WITNESS: Yes, ma'am.

18          CHAIRMAN KANE: -- that is a little  
19 bit over 20 percent of -- of the average bill.

20          Now, as you say, this is the current  
21 bill. I want to refer to the work papers that  
22 you submitted on November 13th that the joint

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1 applicants submitted, which is labeled "Pepco  
2 Key Assumptions For Forecast."

3 THE WITNESS: I don't think I have  
4 those.

5 CHAIRMAN KANE: Those -- those have  
6 been --

7 THE WITNESS: I'm familiar with  
8 them. I don't have them.

9 CHAIRMAN KANE: Those haven't been  
10 entered as an exhibit yet.

11 Mr. Meier?

12 MR. MEIER: May we approach?

13 CHAIRMAN KANE: Yeah.

14 MR. MEIER: We'll bring a copy to  
15 the witness.

16 CHAIRMAN KANE: Thank you.

17 This was filed on October 30th and  
18 is docketed in our E-docket system as FC  
19 111920-215E989A. This is the work papers you  
20 submitted to go with the testimony -- the work  
21 -- the public work papers related to the direct  
22 testimony in support of the settlement

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1 agreement.

2 It indicates they will be  
3 distributed to the parties via electronic mail.  
4 2.290 -- 289A.

5 THE WITNESS: Yes.

6 CHAIRMAN KANE: Do you have that  
7 now --

8 THE WITNESS: I have the --

9 CHAIRMAN KANE: -- Mr. Khouzami?

10 THE WITNESS: I have the first two  
11 pages.

12 CHAIRMAN KANE: The first two pages.  
13 Well, I actually need you to look at the fourth  
14 page.

15 We'll have to mark this, yes, as our  
16 exhibit. I -- have been put it. So we'll mark  
17 this as -- as PSC -- what are we up to -- 5?  
18 4? 5. Yeah. PSC 5. Yeah.

19 It's already in the record? Oh,  
20 it's an attachment to the testimony, right?  
21 Well --

22 MR. MEIER: It can be marked.

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1 CHAIRMAN KANE: -- it's not. It's  
2 separate. So I'm going to mark it as PSC 5 so  
3 there's no question about it.

4 (PSC Exhibit 5 was marked for  
5 identification.)

6 CHAIRMAN KANE: And I -- these  
7 are -- can you identify -- are you familiar  
8 with this document?

9 THE WITNESS: Yes, I am.

10 CHAIRMAN KANE: Okay. And this is  
11 labeled, after the cover letter, as "Pepco Key  
12 Assumptions For Forecast."

13 THE WITNESS: Yes, ma'am.

14 CHAIRMAN KANE: And I want to bring  
15 your attention to page -- one, two -- third  
16 page, although they're not numbered. But it's  
17 the one that goes sideways, and it says:  
18 "Pepco D.C. Summary of Residential Rate  
19 Deferral Balances."

20 THE WITNESS: Yes, ma'am.

21 CHAIRMAN KANE: Okay. And does this  
22 purport to be a chart of how the \$25 million

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1 credit would be used up over the -- the -- the  
2 time period?

3 THE WITNESS: This is the basis of  
4 how we came up with the 25.6.

5 CHAIRMAN KANE: How you -- thank  
6 you. How you came up with 25.6.

7 And so these are assumptions. And  
8 this is, as you said, hypothetical but -- but  
9 assumptions.

10 THE WITNESS: It's -- it's  
11 illustrative.

12 CHAIRMAN KANE: Illustrative.  
13 That's a good word. Thank you.

14 And this -- looking at the first  
15 line here, schedule, it says "File."

16 Would that be filing a rate case?

17 THE WITNESS: Yes, ma'am.

18 CHAIRMAN KANE: Okay. And so July  
19 1st, 2016, plan would be to file a rate case  
20 effective July 1st, 2017 --

21 THE WITNESS: Yes, ma'am.

22 CHAIRMAN KANE: Giving us a whole

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1 year to make a decision.

2 And it would be 55 million -- is  
3 that -- 55314, is that the dollar amount of the  
4 rate case that you would request 55 million?

5 THE WITNESS: That's the assumed --

6 CHAIRMAN KANE: Assumed amount.

7 And then the residential and the  
8 master meter allocation's about 22 percent.

9 THE WITNESS: Yes, ma'am.

10 CHAIRMAN KANE: That's the  
11 current --

12 THE WITNESS: That's the --

13 CHAIRMAN KANE: Does that refer --  
14 excuse me -- reflect the current division of  
15 revenue between residential an  
16 nonresidential --

17 THE WITNESS: Yes.

18 CHAIRMAN KANE: -- for the District  
19 in our current rate -- okay.

20 And so in that first rate case, you  
21 would assume -- you are assuming a \$12.2  
22 million rate increase for residential and MMA

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1 customers, correct?

2 THE WITNESS: Yes.

3 CHAIRMAN KANE: Okay. And then you  
4 file another rate case on October 1st, 2017,  
5 which would be effective a year later, 2018.

6 And that would be a \$37 million  
7 revenue requirement and allocating 22 percent.

8 Assuming there's no change in the  
9 allocation, about \$8 million would be the  
10 residential rate case, right?

11 THE WITNESS: That's correct.

12 CHAIRMAN KANE: And then on the 1st  
13 of January 2019, you'd file for another almost  
14 4 and a half million, correct?

15 And this is how the --

16 THE WITNESS: That third rate case  
17 wouldn't --

18 CHAIRMAN KANE: Would --

19 THE WITNESS: -- would be beyond the  
20 March 31st.

21 CHAIRMAN KANE: Would be beyond the  
22 March 31st. Okay.

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1                   So the money -- it's all -- the 25.6  
2   is -- is used up by those two rate cases --  
3   those first two rate cases, correct?

4                   THE WITNESS:   Yes.

5                   CHAIRMAN KANE:   Okay.  So -- so this  
6   -- now, your plan would be to have the -- ask  
7   the Commission to approve the rate cases.  The  
8   rates would go into effect.  And so what -- the  
9   12 -- let's look at the first one.  The  
10  \$12.8 million -- the 12.288 -- excuse me -- for  
11  residential would go into effect.

12                   It would go on the customer bill; is  
13  that correct?

14                   And then there would be a credit on  
15  the bill sort of subtracting --

16                   THE WITNESS:   That's correct.

17                   CHAIRMAN KANE:   -- that -- the  
18  amount of the increase.

19                   Now, do you recall what the -- the  
20  last rate case that the Commission approved,  
21  how much, approximately, the residential rate  
22  increase was, the dollar amount?

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1 THE WITNESS: I don't recall it. I  
2 seem to recall 2 to \$3, but I don't --

3 CHAIRMAN KANE: That --

4 THE WITNESS: -- know for sure.

5 CHAIRMAN KANE: Well, would you say,  
6 subject to check, that -- I believe it was  
7 about \$11 million total --

8 THE WITNESS: Oh, total.

9 CHAIRMAN KANE: -- and that the rate  
10 increase was about \$3.75.

11 THE WITNESS: My -- that's what --

12 CHAIRMAN KANE: About in that  
13 figure?

14 So let's assume it was 3.75. That  
15 would mean that, starting July 1st, the bill  
16 that this customer would get would have added  
17 to the 23.21 \$3.75. So we'd be up to 26.95, is  
18 what it would show on the bill?

19 THE WITNESS: Yes.

20 CHAIRMAN KANE: And then there'd be  
21 a line and a credit of 3.75. Then the next  
22 assumption or if the Commission would approve

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1 this, again allocating 22 percent, a smaller  
2 rate increase, figuring it out in my head, it's  
3 probably maybe 2.50 or so.

4 THE WITNESS: Closer to that.

5 CHAIRMAN KANE: So now we're up to  
6 14, 9, about \$29.45, so the bill will have gone  
7 up that is seen on the bill about -- close to 6  
8 or \$7, correct?

9 THE WITNESS: Yes.

10 CHAIRMAN KANE: So then we get to  
11 March 1 -- April 1, 2019, and the bill, the  
12 customer all along has been paying \$23, then it  
13 is going to pop up and getting credit, they are  
14 getting a bill that says 26 or 29 but they get  
15 a credit subtracted, and they are still only  
16 paying 23, making the assumption that the  
17 increase was only put on the customer charge.

18 Then they get a bill of \$29. So  
19 that is quite an increase, isn't that? That is  
20 about a 20, 30 percent increase, distribution  
21 bill?

22 THE WITNESS: So we were looking at

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1 that, the Pepco regulatory team that provided  
2 the work papers here or provided me the work  
3 papers here and made the assumptions, did look  
4 at it and if this were to be approved and  
5 again, all of this is subject to the Commission  
6 approval, so, this is just illustrative.  
7 Ultimately, the rate cases are the  
8 determination of the Commission and if what  
9 they see is reasonable and prudent. It would  
10 result in about a six and a half percent net  
11 increase of the total bill.

12 CHAIRMAN KANE: Yeah, but we are  
13 only talking about the distribution bill. We  
14 have nothing to do with anything on the bill  
15 except the distribution costs and the --  
16 including RAD charge. Everything else is  
17 determined either by the market, by the city  
18 council, by the mayor, this regulatory  
19 authority so all we really can't talk about  
20 here, and as you said, this \$26 million is  
21 against distribution charges against what we  
22 control.

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1 THE WITNESS: Yes, ma'am.

2 CHAIRMAN KANE: So to go from \$23 to  
3 \$29 is about a 30 percent increase; is that  
4 correct?

5 THE WITNESS: It is. Again, I think  
6 these would be rate cases that if we did not  
7 have this credit, this will be what customers  
8 would experience. I think the takeaway I make  
9 at least from this is that with this  
10 commitment, \$25.6 million worth of rates will  
11 never be paid by customers.

12 So again, if we didn't have this  
13 merger and Pepco came in for a rate case  
14 seeking -- this is -- I would assume similar  
15 levels of request and actually might be even  
16 higher than this, because they wouldn't have  
17 the benefit of the synergies flowing through  
18 and reducing cost of service, customers would  
19 still be subject to that without an offset, so  
20 that's how I think about it.

21 CHAIRMAN KANE: So this is only for  
22 residential customers, correct?

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1 THE WITNESS: And MMA.

2 CHAIRMAN KANE: It includes the  
3 residential customers that live in  
4 multi-metered apartments. So your assumption  
5 is, subtracting the 12 million, that we would  
6 be looking at a \$43 million increase for  
7 nonresidential customers?

8 THE WITNESS: Subtracting the --

9 CHAIRMAN KANE: \$12 million from the  
10 55.

11 THE WITNESS: So based on the  
12 forecast, based on assumed ROE that was  
13 consistent with the last rate case, the same  
14 allegations, the same RMA adjustments, that  
15 would come out to about \$43 million.

16 CHAIRMAN KANE: \$43 million. Do you  
17 recall what the increase for nonresidential  
18 customers in dollar amounts was last time?

19 THE WITNESS: I do not.

20 CHAIRMAN KANE: Would you agree  
21 subject to check, I believe that the total  
22 increase is now 22, \$23 million and if \$11

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1 million that went to residential, then the  
2 nonresidential is about 12 million?

3 THE WITNESS: Yes.

4 CHAIRMAN KANE: So to go from a \$12  
5 million increase to a \$43 million increase,  
6 that is an increase for nonresidential  
7 customers, almost four times what the last one  
8 was?

9 THE WITNESS: Well, I think again --  
10 first, let me say this again, it's always  
11 subject to the Commission approval. Second,  
12 this is really the result of Pepco continuing  
13 to invest in the system and not coming in for a  
14 rate case, so they haven't been in for a rate  
15 case, as I understand it, the last time new  
16 rates went into effect was in March of '13, I  
17 believe, so -- or March of '14, I'm sorry, so  
18 this would basically effectively be no rate  
19 increases over a three-year period. Given the  
20 level of investment that Pepco is making in the  
21 system, that is a long time.

22 So the increase would again be

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1 subject to the prudence test that the  
2 Commission typically goes through and again, I  
3 think we would expect that Pepco would be able  
4 to prove that these costs were prudent and  
5 necessary, but ultimately, would be subject to  
6 your approval, but the reason for the size is  
7 really driven largely by the time since the  
8 last rate case.

9 CHAIRMAN KANE: Okay. You agreed to  
10 cap the capital expenditures?

11 THE WITNESS: For reliability  
12 spending.

13 CHAIRMAN KANE: For reliability  
14 spending over five years?

15 THE WITNESS: For the next five  
16 years.

17 CHAIRMAN KANE: With no increase  
18 there.

19 THE WITNESS: Yes, ma'am.

20 CHAIRMAN KANE: Does the current  
21 rate design and current approved revenue  
22 requirement support that level of expenditure?

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1 THE WITNESS: This is consistent  
2 with Pepco's five-year plan that they had.

3 CHAIRMAN KANE: So -- go ahead.

4 THE WITNESS: Please go ahead.

5 CHAIRMAN KANE: The amounts of  
6 dollar amounts that would be asked for, that  
7 would be committed to be spent or capped for  
8 reliability expenditures is covered by the --  
9 is adequate revenue in the current rate  
10 designed to cover that?

11 THE WITNESS: Let me try to answer  
12 and see if I get to your question. The  
13 analysis, the illustrative analysis that we've  
14 done here contemplates this budget, if that's  
15 what you are asking. It is reflective of that.  
16 It is a cap on what we would seek recovery of.  
17 Again, if there was a need to spend additional  
18 dollars beyond that, we would just forego, we'd  
19 have to be subject to the provisions that we've  
20 laid out in terms of having to put money in  
21 escrow and ultimately either not get recovery  
22 of it or the Commission would have to approve

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1 it, but our position is we would stay within  
2 the cap.

3 CHAIRMAN KANE: Couple other  
4 questions. Questions about micro grids and the  
5 solar and all of that. Would that be  
6 appropriate to ask you or to ask Mr. Velazquez?

7 THE WITNESS: I think it depends on  
8 the question. We can try.

9 CHAIRMAN KANE: A hundred megawatts  
10 of wind to be -- this is Commitment No. 130 or  
11 Paragraph 130.

12 How much wind generation does Exelon  
13 currently own within the PJM region, the PJM  
14 states?

15 THE WITNESS: So I'm not sure of the  
16 exact amount of -- we could get that for you if  
17 you would like. I do know that Exelon is a  
18 very large developer and owner of wind. I  
19 think it's it one of the largest in the  
20 country, same as solar, and then if you include  
21 the PPA off-takes that they have, it is even  
22 larger. The actual megawatts, I don't know the

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1 answer, top of my head.

2 CHAIRMAN KANE: This speaks to a  
3 request or proposal to purchase the wind,  
4 purchase the energy, renewable energy capacity  
5 ancillary services, to clarify, this does not  
6 speak to investing in building wind power  
7 plants; is that correct?

8 THE WITNESS: It is to purchase the  
9 off-take from these wind facilities but we do  
10 have in C, a provision that states clearly,  
11 that we will enter into a ten-year PPA. The  
12 thought here from the settling parties was that  
13 that PPA gives certainty of cash flows and  
14 funding that would allow wind developers to  
15 build a facility, and for the next ten years,  
16 Exelon will take the off-take and then beyond  
17 ten years, either Exelon or another party would  
18 have it, but the facility will pay for itself.

19 CHAIRMAN KANE: But the proposal is  
20 not that Exelon would actually build them, but  
21 through a PPA would facilitate someone else  
22 building it?

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1 THE WITNESS: That's correct.

2 CHAIRMAN KANE: When you say Exelon,  
3 which -- is that a corporate Exelon or --

4 THE WITNESS: It would most  
5 likely --

6 CHAIRMAN KANE: Which entity would  
7 be in the business of buying wind energy  
8 through a PPA?

9 THE WITNESS: It would most likely  
10 be Constellation, a nonregulated business of  
11 Exelon.

12 CHAIRMAN KANE: Are you aware that  
13 there is a shortage of wind credits to meet the  
14 D.C. RPS? I mean, is there?

15 THE WITNESS: I don't know if there  
16 is a shortage but to my understanding, there is  
17 a provision that's wind that is sourced  
18 anywhere in PJN can be used to meet the D.C.  
19 RPS standards. One of the reasons why we think  
20 this could be a benefit for D.C. residents  
21 because we can use these credits to help  
22 satisfy the D.C. RPS standards.

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1           CHAIRMAN KANE: You could, but there  
2 is no requirement that whoever buys this wind  
3 from these wind farms has to sell it to  
4 residents at retail district; is that correct?

5           THE WITNESS: There is no firm  
6 commitment because again, market factors will  
7 dictate whether we can successfully use them in  
8 the District.

9           Paragraph D does state that our  
10 intention to try to use them in the District  
11 and again, I would say it is a commitment we  
12 are making here, fully would expect the  
13 Commission if we aren't using them, to question  
14 Exelon why aren't you using them, and we'd have  
15 to have a reason for why we are not.

16           CHAIRMAN KANE: In terms of  
17 registering them and making them available for  
18 a retailer could -- but to use -- whether or  
19 not they get actually used in the District as  
20 opposed to simply being registered and being  
21 available for a retailer to purchase would be  
22 up to whether or not customers want to buy

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1 their energy from Constellation, correct?

2 THE WITNESS: That would be or  
3 through the SOS options as well.

4 CHAIRMAN KANE: One more question.

5 Commitment 119, which is: "Exelon shall  
6 provide \$5 million of capital to creditworthy  
7 governmental entities at market rates for the  
8 development."

9 Which entity or which division shall  
10 I say of Exelon would be in the business of  
11 providing net capital?

12 THE WITNESS: I think it would be  
13 Exelon Corporation. Again, importantly, none  
14 of this would be recovered through utility  
15 rates in the District or anywhere else. And  
16 again, it is capital that we think is important  
17 and it's just another commitment that we think  
18 is good to help spur additional renewable  
19 projects here in the District.

20 CHAIRMAN KANE: And this would be at  
21 market rates, correct?

22 THE WITNESS: Yes, ma'am.

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1                   CHAIRMAN KANE: These would be D.C.  
2 -- it says: "Governmental entities." Would  
3 they be D.C. Government entities?

4                   THE WITNESS: I would assume so. I  
5 mean, they're for the energy project in the  
6 District. I'm not sure what other government  
7 entities would --

8                   CHAIRMAN KANE: I probably should  
9 have asked this of D.C. Government, but are you  
10 aware that the District government has any  
11 problems making borrowings at tax exempt rates?

12                   THE WITNESS: I don't know.

13                   CHAIRMAN KANE: Are tax exempt rates  
14 lower than market rates.

15                   THE WITNESS: Well, they would be  
16 their market rates, right, so I think the  
17 intent here is to streamline the process to  
18 give these creditworthy entities the ability to  
19 get funding, to avoid having to go through the  
20 process with a bank, which could take time.  
21 Also to avoid the financing costs that a lot of  
22 times you have to pay, as you seek a loan.

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1           This is -- the intent here is to get  
2     \$5 million to start to be invested, so that we  
3     can develop additional renewable energy  
4     projects here in the District.  Something that  
5     Exelon is extremely supportive and obviously,  
6     there is a number of commitments that are  
7     providing funding for these types of projects  
8     in this merger.

9           CHAIRMAN KANE:  These would be loans  
10    that would be paid back, correct?

11           THE WITNESS:  Yes.

12           CHAIRMAN KANE:  Those are my  
13    questions for the moment.  Thank you.

14           THE WITNESS:  Thank you.

15           CHAIRMAN KANE:  Redirect?

16           MR. BONNEY:  Yes, briefly, Your  
17    Honor.  Thank you.

18           BY MR. BONNEY:

19           Q.     Mr. Khouzami, do you recall at the  
20    outset of your examination, some questions from  
21    Commission Fort regarding Paragraph 4, the  
22    residential customer base rate credit?

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1           A.       Yes.

2           Q.       And in particular, questions  
3 regarding whether the company would separately  
4 track MMA versus residential. I just want to  
5 focus attention on the specific language here  
6 and in particular: "4.3 million of the 25.6  
7 million shall be allocated for application of  
8 the credit for master meter," and focusing on  
9 that language, I just wanted to ask you to  
10 clarify how that will be tracked as part of the  
11 25.6 million?

12          A.       Sure. We will track the MMA  
13 separate from the residential. I apologize if  
14 I was not clear earlier.

15          Q.       Commissioner Fort also asked you a  
16 question about the bill stabilization  
17 adjustment and potential interplay of that with  
18 the rate credits. And this is the decoupling  
19 mechanism for revenue decoupling.

20                   Do you understand that there is any  
21 intent that the credits that will be made will  
22 be somehow recovered or reflected in that

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1 adjustment mechanism?

2 A. They would not be.

3 MR. BONNEY: That is all I have,  
4 Your Honors. Thank you.

5 CHAIRMAN KANE: Thank you. All  
6 right.

7 MR. BONNEY: Your Honors, at this  
8 time, I would move the testimony and exhibits  
9 of Mr. Khouzami into the record.

10 CHAIRMAN KANE: They are so moved.  
11 I will move the exhibits of the Commission into  
12 the record.

13 (Exhibits JA 5A and 5A1-4 were  
14 received into evidence.)

15 MR. BONNEY: Your Honor, one note  
16 there. By my notes, I think we are up to  
17 Exhibit No. 6 and I --

18 CHAIRMAN KANE: For PSC, yes.  
19 Secretary is keeping track.

20 MR. BONNEY: Very good. Thank you.

21 CHAIRMAN KANE: Mr. Caldwell.

22 MR. CALDWELL: Yes, Your Honor, I

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1 apologize. I forgot to move into the record  
2 Director Wells's testimony which is marked as  
3 Exhibit DCG H.

4 CHAIRMAN KANE: We were so anxious  
5 to get him off and off to the airport.

6 MR. CALDWELL: Okay. Thank you.

7 (Exhibit DCG H was received into  
8 evidence.)

9 CHAIRMAN KANE: We're going to take  
10 a quick break before your next witness.

11 THE SECRETARY: All rise.

12 (A short recess was taken.)

13 CHAIRMAN KANE: We are back on the  
14 record. This is FC 1119.

15 If you would call your next witness,  
16 Mr. Velazquez.

17 MS. STARK: Sure.

18 CHAIRMAN KANE: We will take Mr.  
19 Velazquez today and I think that will be it for  
20 the day.

21 DAVID VELAZQUEZ,

22 being first duly sworn, to tell the truth, the

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1 whole truth and nothing but the truth,  
2 testified as follows:

3 DIRECT EXAMINATION BY COUNSEL FOR PEPSCO

4 BY MS. STARK:

5 Q. Good afternoon.

6 A. Good afternoon.

7 Q. Can you please state your name for  
8 the record.

9 A. David Velazquez.

10 Q. And can you tell us by whom you are  
11 employed and your current position?

12 A. I'm the executive vice president of  
13 Power Delivery, working for Pepco Holdings,  
14 Incorporated.

15 Q. And do you have before you your  
16 fully conformed direct testimony in support of  
17 the settlement agreement filed on October 30,  
18 2015, submitted on behalf of the joint  
19 applicants in this proceeding, which consists  
20 of 37 pages?

21 A. I do.

22 MS. STARK: And we previously

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1 stipulated to the authentication of that, so at  
2 this time, I would like to mark for  
3 identification Mr. Velazquez's fully conformed  
4 testimony as Joint Applicants' Exhibit 5B.

5 CHAIRMAN KANE: So marked.

6 (Joint Applicant Exhibit 5B was  
7 marked for identification.)

8 MS. STARK: Thank you. I have just  
9 a few rejoinder questions for Mr. Velazquez.

10 BY MS. STARK:

11 Q. In Paragraph 129 of the settlement  
12 agreement, Exelon and Pepco commit to  
13 supporting the Commission's objectives in  
14 Formal Case 1130, which, as you know, is the  
15 Commission's investigation into modernizing the  
16 energy delivery structure for increased  
17 sustainability.

18 Now in the testimony of Mr. Martin,  
19 he maintains at Page 9, that this commitment is  
20 just compliance with the law and is simply a  
21 statement that Pepco will continue to express  
22 its opinion in that proceeding.

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1 Do you agree with that  
2 characterization?

3 A. I do not. This commitment was put  
4 in there just to make sure that we were  
5 addressing concerns that we had heard expressed  
6 that we were not going to be an active  
7 participant, unenthusiastic, if you will,  
8 supporter of where Formal Case 1130 is moving  
9 forward for not subjecting the objectives. We  
10 have every intention and so far in the case  
11 have been more than an active supporter.

12 We have been present at both of the  
13 sessions that were held. We had testimony  
14 presented by our senior vice president. I will  
15 say fairly extensive testimony was also  
16 available at the second meeting and responded  
17 to questions as well and both us and Exelon  
18 intend to be more than active participants, but  
19 also very -- I will say, very much strong  
20 supporters of where this is headed.

21 Q. Thank you. Mr. Martin also contends  
22 at Page 8 of his testimony that the micro grid

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1 provisions of the settlement agreement grant to  
2 the monopoly distribution retailer business, by  
3 that he means Pepco, an insider role in  
4 defining how the strategy will be explored and  
5 developed and that should be entirely  
6 disallowed.

7 Do you agree with Mr. Martin's  
8 concern?

9 A. Again, I do not agree. This  
10 provision was actually put in the settlement  
11 agreement at the request of the D.C. Government  
12 early on in the testimony they had filed. They  
13 had filed something very similar, a request  
14 very similar to this and this was designed to  
15 be responsive to that, and really was designed  
16 to -- I will say help move the market forward,  
17 help bring the right questions onto the table  
18 and make sure that they are being considered in  
19 a thoughtful way.

20 I can see a lot of the elements that  
21 are in here around the micro grid proposal is  
22 also being addressed as part of Formal Case

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1 1130.

2 But specifically to the question,  
3 there's nothing in here, in fact, it is  
4 explicit that the D.C. Government is not  
5 entering any exclusive relationship with Pepco,  
6 but rather, they can talk to any other  
7 developer, develop projects with anyone else,  
8 and develop their own proposals and bring them  
9 to the District government, can bring them to  
10 other -- I will say real estate developers in  
11 the city or other customers in the city.

12 Anything that we would do here, and  
13 I think we've talked a little bit about that,  
14 anything we would do under this along with the  
15 District government, we would bring them before  
16 the Commission for their approval before we  
17 proceed to go forward, so I do not agree with  
18 his comment.

19 Q. Thank you.

20 MS. STARK: The witness is now  
21 available for cross-examination.

22 CHAIRMAN KANE: Thank you. Anybody?

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1                   COMMISSIONER FORT: I just have a  
2 few questions, although I could ask a general  
3 question. Were you in the room when Mr.  
4 Khouzami was testifying?

5                   THE WITNESS: I was.

6                   COMMISSIONER FORT: Was there  
7 anything that Mr. Khouzami said in his  
8 testimony that you wanted to add to, correct or  
9 modify?

10                  THE WITNESS: No, there isn't.

11                  COMMISSIONER FORT: Just checking.  
12 My first question to you goes to your testimony  
13 on Page 19 and to Paragraph 56 of the  
14 settlement agreement, and that is one we were  
15 talking about reliability, so if you would get  
16 your testimony on 19, Lines 8 through 12.

17                  THE WITNESS: Yes, ma'am.

18                  COMMISSIONER FORT: You say there:  
19 "Pepco's 2014 reliability results SAIFI of .69,  
20 SAIDI of 96 minutes for the District were the  
21 best ever and we are proud of the  
22 accomplishments, but maintaining and improving

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1 this level of performance in the future will  
2 require continuous improvements in work  
3 practices and operating procedures as well as  
4 new and innovative system design changes."

5 Can you describe here the work  
6 practice improvements that you were referring  
7 to in that response?

8 THE WITNESS: I think it was a  
9 general statement designed to address the fact  
10 that along with Exelon, we were going through a  
11 process after the merger is concluded to work  
12 through best practices which will include all  
13 those areas around -- whether it's work  
14 practice, operating procedures, whether there's  
15 changes to the system design or improvements to  
16 the way we currently design our system and  
17 leveraging off of their knowledge and  
18 experience.

19 As you know, they have three very  
20 large utilities that work in urban settings,  
21 just like Pepco does, so we are looking forward  
22 to being able to use that to drive our

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1 improvements forward.

2 COMMISSIONER FORT: Are there  
3 specific design changes that are being  
4 considered for Pepco D.C. now as part of an  
5 integration process?

6 THE WITNESS: We haven't gotten to  
7 the stage yet in the process to really go down  
8 to that level of detail. We are going through  
9 all the -- all the very different design  
10 factors to figure out exactly what it will be  
11 that will change. But again, in some general  
12 conversations, there are some things, for  
13 instance, you know, one example has come up is  
14 the use of reclosers which is basically a  
15 circuit breaker out on the system that I think  
16 -- there is some better design practices or  
17 appear to be some better design practices based  
18 on the performance of the Exelon utilities that  
19 they've also used at BG&E to drive its  
20 improvements and reliability that we would look  
21 to, to talk with them about, to understand the  
22 detail, to see if we comply.

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1                   COMMISSIONER FORT: So which entity  
2 or entities do you anticipate will make these  
3 improvement recommendations?

4                   THE WITNESS: I think it will be a  
5 combination of Exelon's expertise and also  
6 Pepco's expertise. So for instance, after the  
7 merger closes, there will be a senior  
8 executive, actually his name is John McDonald  
9 out of Philadelphia Electric, who will come  
10 here and be working full-time for me along with  
11 the team, and other -- I will say more senior  
12 managers from across the Exelon system, and  
13 they will be integrated with some of our folks  
14 here. It's that team that will help drive and  
15 develop best practices.

16                   COMMISSIONER FORT: The specifics of  
17 those are not reflected anywhere in the  
18 settlement agreement; is that correct?

19                   THE WITNESS: No, we have not, at  
20 the point yet where we will lay out exactly  
21 what each of those practices will be. And I  
22 should also say, they will change over time.

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1           It is not a static thing where, you  
2 know, we look at something today and then three  
3 years from now that's not going to change,  
4 we're not going to figure out a way to improve  
5 it. Our hope is and the way best practices  
6 tends to work over time, they evolve, so it  
7 will be a continuous process for us to keep  
8 improving.

9           COMMISSIONER FORT: Is there a time  
10 table for improvements?

11           THE WITNESS: Yes. The improvements  
12 I guess are embedded in the -- I guess in the  
13 merger agreement if you looked at Paragraph 56,  
14 which was the other place you had referenced,  
15 and the improvements are embedded in -- the  
16 improvements that we have, have their -- or if  
17 you went to my testimony, I believe it's on the  
18 prior page if I can get there. On the prior  
19 Page 18. On Table 2 where it shows how, with  
20 the improvements we have, we're going to be  
21 able to drive improvements in frequency of  
22 outages so that we are first quartile by 2017

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1 and actually first decile by 2020 and with  
2 duration of outages, first quartile by 2020.

3 COMMISSIONER FORT: So if I can turn  
4 you now to Paragraph 24, which is the paragraph  
5 that deals with work force development.

6 You remember you heard me ask  
7 questions about that paragraph to D.C.  
8 Government Witness Wells as well as to Mr.  
9 Khouzami for the joint applicants.

10 I asked him to describe how the  
11 contribution for work force development  
12 provides a direct and tangible benefit to  
13 district ratepayers. He gave an answer. Do  
14 you have an answer to that question?

15 THE WITNESS: I do. In addition to  
16 what Mr. Khouzami said, it is our hope, my  
17 hope, that through this program, we will also  
18 be working with the District and having a  
19 discussion around the type of jobs that Pepco  
20 will need as we move forward with I will say  
21 the grid of the future. We continue to drive  
22 improvements to that grid whether it's through

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1 the smart grid or micro grid, whatever, and  
2 that we're going to be the ones that are able  
3 to hire some of the people that come through  
4 the different training programs that are  
5 created.

6 COMMISSIONER FORT: I asked him if  
7 he could define sustainable jobs as it is used  
8 in the context of the -- talking about this  
9 Paragraph 24 commitment.

10 Do you have a definition of that?

11 THE WITNESS: I probably don't have  
12 a real good one, but in a general sense, these  
13 sustainable jobs would be jobs, I'll say, that  
14 are related to helping drive, whether it's  
15 renewable energy, driving energy efficiency,  
16 driving micro grids, driving the smart grid,  
17 all those things are going to help create, I'll  
18 say, a more sustainable electric grid, more  
19 sustainable use of electric energy.

20 COMMISSIONER FORT: And are those  
21 type of jobs that you just described, the type  
22 of jobs that Pepco would be seeking to employ

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1 district residents in if they participate in  
2 the work force development programs that are  
3 being funded by this proposal?

4 THE WITNESS: Again, I would hope  
5 that we are able to attract some of them in.  
6 Some of these jobs certainly they will be  
7 trained for, will be, I'll say, in the other  
8 contractors, other vendors as well I think. I  
9 think there will be a demand for the folks that  
10 are coming out of this, and we hope to compete  
11 with that demand and be able to hire some of  
12 them.

13 COMMISSIONER FORT: In the past five  
14 years, I don't know, past three years, how many  
15 district residents have participated in work  
16 force developments that Pepco has been engaged  
17 in?

18 THE WITNESS: I do not know.

19 COMMISSIONER FORT: Do you know  
20 whether or not there are any work force  
21 development undertakings that Pepco currently  
22 has in the District of Columbia?

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1 THE WITNESS: We do a number of  
2 things with internships, things like that, but  
3 a formal job training program like this, I  
4 don't believe we have been funded.

5 COMMISSIONER FORT: So this is  
6 something that would be new.

7 THE WITNESS: Yes.

8 COMMISSIONER FORT: If I can refer  
9 you to Paragraph 62 in the settlement agreement  
10 and to Page 25 of your direct testimony, the  
11 paragraph -- and on Page 25, I want to talk  
12 about your Lines 15 to 21, no, 16 through 19.  
13 Wait a minute while I get to Paragraph 62.

14 There, the settling parties have  
15 added a commitment to strive, to achieve and  
16 maintain first quartile safety and performance.  
17 I'm paraphrasing here.

18 Pepco will file annual reports on  
19 the safety performance and safety initiatives  
20 with the Commission as part of the annual  
21 consolidated report which is the substance of  
22 Paragraph 62.

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1 THE WITNESS: Yes.

2 COMMISSIONER FORT: What is Pepco's  
3 current safety performance? Which quartile?

4 THE WITNESS: Currently, I think  
5 it's moved a little bit year over year, but in  
6 general, over the last four or five years, it  
7 has been the second quartile performance, and  
8 that is measured across a national benchmark.

9 COMMISSIONER FORT: That's the same  
10 benchmark that we are talking about using to  
11 measure to get to the first quartile?

12 THE WITNESS: Yes.

13 COMMISSIONER FORT: Safety  
14 performance. Do the joint applicants propose  
15 that the Commission take any action if Pepco  
16 doesn't achieve and maintain first quartile  
17 safety performance?

18 THE WITNESS: I think along with the  
19 rest of the information we file with the  
20 Commission, that would be entirely at the  
21 discretion of the Commission. It's something  
22 that over time, we at Pepco and PHI have been

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1 working hard to improve our safety record and  
2 have made some improvements but again, in the  
3 reliability side, very much looking forward to  
4 joining with the Exelon family of companies as  
5 their utilities cross the board, perform in the  
6 first quartile and being able to learn so we  
7 can get there more quickly.

8 COMMISSIONER FORT: What is the  
9 benefit to district ratepayers of this  
10 commitment?

11 THE WITNESS: I think there is --  
12 the largest benefit is probably the fact that  
13 if we have a safer work force, first of all for  
14 me personally, it's the fact that people are  
15 going home every day without being hurt or  
16 injured and are able to enjoy the rest of their  
17 life, but it does translate directly into also  
18 lower costs, if the worker is out because of  
19 injury and it's a cost that we have to bear, so  
20 there are additional cost benefits as well, but  
21 again, to me, the most important thing, I don't  
22 want to minimize the cost. But the most

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1 important thing is our ability to be able to  
2 send people home safely every day.

3 COMMISSIONER FORT: Could this  
4 achievement moving to first quartile safety  
5 performance be done absent the proposed merger?

6 THE WITNESS: I think it is our  
7 aspirational goal at Pepco and PHI absent the  
8 merger, but again, being able to leverage off  
9 the experience that Exelon has and also as  
10 demonstrated with BGE, was moved from -- like  
11 us a second quartile, the first quartile  
12 performance over a couple of years. I think it  
13 will definitely get us there quicker.

14 COMMISSIONER FORT: If I can get you  
15 to look at Paragraph 61 in the settlement  
16 agreement, and you talk about it on Page 26 of  
17 your testimony, kind of Lines 8 through 15, and  
18 that is a provision that talks about customer  
19 satisfaction just generally, that in addition  
20 to enhanced safety and reliability commitments,  
21 the joint applicants agree to have Pepco  
22 perform a root cause analysis of and develop an

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1 action plan to help -- an action plan to  
2 improve Pepco's customer satisfaction scores in  
3 the District of Columbia.

4 The action plan will be filed with  
5 the Commission within six months after the  
6 merger closing and also will be presented to  
7 stakeholders participating in the PIWG case.

8 What are Pepco's current customer  
9 satisfaction scores?

10 THE WITNESS: There is a couple  
11 different measures that are used. I probably  
12 can't quote all the numbers to you from it.  
13 JDPower ranks us, and in addition to that, we  
14 also do a survey with the national firm called  
15 MSI Market Strategies, Incorporated, I believe  
16 is their name, and we tend to use for internal  
17 benchmarking purposes, the MSI survey because  
18 they give us a lot more detail than JDPower  
19 does and on that survey, we have seen our  
20 scores at Pepco improve over the last few  
21 years, so we are probably compared to the peer  
22 companies they survey, they survey across the

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1 country, we would probably be somewhere I think  
2 in the second quartile, possibly third, I can't  
3 remember exactly.

4 But there is room for -- there is  
5 certain room for improvement there, and this  
6 provision was designed to address any concerns  
7 anyone would have with our customer  
8 satisfaction of what we are doing proactively  
9 to drive forward and make sure that when we  
10 talk about quality of service for us, it is a  
11 lot of things. It's safety, it's reliability,  
12 it is also our customers believe we are  
13 providing service to them and certainly improve  
14 that as well.

15 COMMISSIONER FORT: So I asked what  
16 the measurements were or the standards or what  
17 you're using because I don't know how we would  
18 interpret or how we would determine if there  
19 was improvement so that commitment -- we could  
20 determine whether or not that commitment was  
21 met unless we know what the starting point is,  
22 the baseline is.

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1           THE WITNESS: And we have the data  
2 both for the MSI survey and the JDPower survey  
3 and can certainly provide it and I think that  
4 is why this was presented in the context of  
5 PIWG group so that we'd be presenting it, it  
6 could turn into a fairly technical discussion  
7 if you will around the statistics and present  
8 that to the PIWG group and allow through that  
9 process, I'll say the correct metrics that  
10 everyone agrees would be the right ones to  
11 measure, but I want to assure you, we do have  
12 the historical data to do that.

13           COMMISSIONER FORT: You anticipated  
14 my next question, which is what happens with  
15 the plan after it's filed with the Commission  
16 and after it's presented to the stakeholders  
17 who are participating in PIWG again, so you  
18 said you -- they could look at some of the  
19 metrics. Is there something else they would do  
20 with it?

21           THE WITNESS: Well, I assume coming  
22 out of the discussions with PIWG, there would

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1 be this action plan and then we would report  
2 periodically to the PIWG group as well as to  
3 the Commission, if you wanted us to, around our  
4 improvements and the actual actions we're  
5 taking and also how the statistics are moving.

6 COMMISSIONER FORT: There are  
7 currently customer service standards applicable  
8 to Pepco that are codified in 15 CMR Section  
9 3602 which among other things, require Pepco to  
10 report its actual performance obtained during  
11 the reporting period which you are all doing in  
12 the annual consolidated report the following  
13 year, and to file a corrective plan if Pepco  
14 fails to maintain certain things, we'll call  
15 them, upgrades, below ten percent, for example.

16 Is this commitment in addition to  
17 the standards that are already in place in  
18 Commission rules or is it intended to  
19 accomplish another objective?

20 THE WITNESS: I think this is -- I  
21 will say in addition to. We would be filing  
22 this action plan even if we met all the

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1 standards and didn't need to file a corrective  
2 action plan, we would still be filing an action  
3 plan. We would continue to drive customer  
4 satisfaction forward.

5 COMMISSIONER FORT: Just checking my  
6 other list, I think that is all that I have.

7 Oh, on consent to jurisdiction. In  
8 your direct testimony, you state that Exelon  
9 consents to the Commission's jurisdiction on  
10 all matters related to Pepco's operation and  
11 affiliate transactions with the additional  
12 commitment that provides for the Commission's  
13 access to Exelon's records.

14 You cite Paragraphs 31 and 84 of the  
15 settlement agreement, the footnote. Just  
16 looking at that, neither of those appear to  
17 relate to consent to jurisdiction as Paragraph  
18 111 does.

19 THE WITNESS: Could you point to my  
20 testimony where? I'm sorry, I can't find it  
21 right away myself.

22 COMMISSIONER FORT: I don't have --

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1 it doesn't have a page number.

2 THE SECRETARY: Is that Page 28,  
3 Page 28.

4 COMMISSIONER FORT: Page 28. Would  
5 you agree that Paragraph 111 -- or were you  
6 intending to cite to a different paragraph? 84  
7 I think deals with provisions related to the  
8 inclusion of debt or credit agreements related  
9 to Exelon 31, that was something else.

10 THE WITNESS: I can't find it but I  
11 will agree that 111 is the proper one about  
12 consent to jurisdiction. And if there is an  
13 error in the testimony, whatever procedure we  
14 use to fix that, we will do that. I apologize  
15 for that.

16 COMMISSIONER FORT: Just correct it  
17 here on the record will be sufficient if you  
18 can talk to your counsel before you agree or  
19 confirm that that should be something  
20 different.

21 In Paragraph 122, that's the next  
22 one I wanted to ask a question about. Should

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1 the Commission -- 122 in the settlement  
2 agreement, you have that?

3 THE WITNESS: Yes, ma'am.

4 COMMISSIONER FORT: Should the  
5 Commission interpret the language of Paragraph  
6 122 to be to mean that Pepco will make the  
7 green button connect line data available to all  
8 customers in the District of Columbia?

9 THE WITNESS: Yes. I believe it is  
10 already available to some customers, but I  
11 would have to check that and I see the Chair  
12 gave me a look, maybe not. I'm a customer in  
13 Maryland and I know it is available to me and  
14 I've used it, but it may not be available in  
15 the District.

16 COMMISSIONER FORT: Okay. Let me  
17 make sure that that is --

18 THE WITNESS: We will be making it  
19 available, yes.

20 COMMISSIONER FORT: Thank you.  
21 Those are all I have.

22 CHAIRMAN KANE: Mr. Velazquez, if

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1 you would look at Page 20, Lines 1 to 10 of  
2 your testimony.

3 THE WITNESS: Yes, ma'am.

4 CHAIRMAN KANE: And this is again in  
5 regard to reliability. And you say there,  
6 starting on Line 1 at the top that: "The  
7 commitments in the settlement agreement that  
8 I've described regarding reliability goals are  
9 not contingent on the timing of the Commission  
10 DCPLUG achieving first quartile reliability in  
11 the performance that Pepco has committed to  
12 will require significant enhancements in both  
13 our work practices and design standards,  
14 regardless of whether the DCPLUG project moves  
15 forward as planned or is further delayed," and  
16 I want to -- last two sentences, I want to  
17 focus on.

18 If the DCPLUG project is further  
19 delayed, then other program improvements will  
20 need to be developed and however, in any case,  
21 the joint applicants have accepted that risk in  
22 the settlement agreement. The reliability

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1 commitments will either be increased nor  
2 decreased based on the progress of the DCPLUG  
3 initiative. So either increased nor decreased.  
4 Can you explain? I'm not sure I am following  
5 the grammar. That the reliability commitments  
6 will either be increased nor decreased based --  
7 what do you mean?

8 THE WITNESS: Most simply stated,  
9 reliability commitments will not change.

10 CHAIRMAN KANE: Okay. Now, you  
11 also, then on Page 22 have a table and it is  
12 referenced on the page before Page 21, starting  
13 at Line 11.

14 The question is: Did the joint  
15 applicants agree to any limits on Pepco's  
16 spending levels to achieve these commitments  
17 and these are the reliability commitments.  
18 Yes, the joint applicants have committed that  
19 Pepco will achieve the reliability standards I  
20 described without exceeding the annual  
21 reliability related capital and O and M  
22 spending levels shown in Table 3 below.

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1                   Now the Table 3 is labeled  
2 reliability-driven capital expenditures 26 to  
3 20.

4                   Is there a chart that shows  
5 reliability-driven O and M expenditures?

6                   THE WITNESS: We were --

7                   CHAIRMAN KANE: Line 13 on the  
8 previous page refers to capital and O and M  
9 spending levels.

10                  THE WITNESS: I apologize for the  
11 error. There should have been a reference as  
12 well to the O and M spending, which is  
13 contained in Table 4, Page 23.

14                  CHAIRMAN KANE: Thank you.

15                  Now let me ask you about this.  
16 First of all, in your original commitments in  
17 4A-2, that commitment as originally proposed  
18 contained explicit language making the  
19 commitment to meet the reliability standards  
20 contingent on the timely release of DCPLUG, and  
21 in the current agreement, both what I just read  
22 and in Paragraph 56 to 60, is silent as the

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1 commitment relationship with DCPLUG, in 56 to  
2 60, but you have now added that in your  
3 testimony; is that correct?

4 THE WITNESS: I'm not quite sure I  
5 understand the question, but I will answer.

6 CHAIRMAN KANE: Go to 56 and 60 in  
7 the -- there is no mention specifically of that  
8 original contingency that it was contingent on  
9 DCPLUG --

10 THE WITNESS: It is not contingent.  
11 The commitments that are contained are not  
12 contingent on DCPLUG moving forward or not.

13 CHAIRMAN KANE: Now Table 3 shows  
14 budget commitment, flow reliability, net of  
15 DCPLUG and emergency restoration and shows  
16 dollar amounts for years 2016 through 2020,  
17 which increase from 93 million -- these are  
18 calendar years?

19 THE WITNESS: Yes, ma'am.

20 CHAIRMAN KANE: From 93.6 million,  
21 about the same in 2017, increasing a projective  
22 all the way up to 163 million in 2020.

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1 Do you see that?

2 THE WITNESS: Yes.

3 CHAIRMAN KANE: Now my question is,  
4 first of all, does the current rate structure  
5 and rate design that is in place, the current  
6 rates in place, support this escalation of  
7 spending from 2016 to 2020 or would a rate  
8 increase be needed to meet these budgets?

9 THE WITNESS: The current rates do  
10 not include the capital, that is included on  
11 this plan in our rate base, so as we move  
12 forward in time and make whatever the actual  
13 investments are in our forward-looking rate  
14 case, our rate cases in the future, we would  
15 seek recovery for the investment, continued  
16 investments we would make that are shown on  
17 Table 3.

18 CHAIRMAN KANE: That would be the  
19 return on investment related to these increased  
20 capital expenditures. You are saying they are  
21 not included in the currently approved rates.

22 THE WITNESS: That's correct.

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1     However, as Mr. Khouzami pointed out, as we're  
2     walking through the his schedule, that showed  
3     future rate cases, those do contemplate the  
4     capital expenditures that are included here.

5             CHAIRMAN KANE:   So that part of that  
6     55 million, 37 million, that was projected in  
7     your illustrative exhibit or illustrative work  
8     papers for future rate cases was in order to  
9     meet these budget expenditures; is that  
10    correct?

11            THE WITNESS:   Yes.

12            CHAIRMAN KANE:   That's the return on  
13    investment if there were investments at this  
14    level.

15            THE WITNESS:   Yes.

16            CHAIRMAN KANE:   Were the Commission  
17    not to approve rate increases at those levels,  
18    would you be able to meet these budget levels?  
19    That is a rhetorical question or a theoretical  
20    question.

21            In other words, we established you  
22    said that meeting the reliability commitments

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1 is no longer contingent on DCPLUG staying on  
2 schedule. My question is, is making these  
3 expenditures and therefore meeting the  
4 reliability commitments contingent on the  
5 Commission approving rate increases that would  
6 support these dollar amounts?

7 THE WITNESS: No. The reliability  
8 commitments stand as they are.

9 COMMISSIONER KANE: Even if we never  
10 approved a rate increase, theoretically, or  
11 approved something significantly lower?

12 THE WITNESS: Yes, they are not tied  
13 together.

14 CHAIRMAN KANE: They are not tied  
15 together.

16 THE WITNESS: They are not.

17 CHAIRMAN KANE: But you have said  
18 that these are the amounts of dollars that are  
19 needed to meet the reliability?

20 THE WITNESS: Yes, and we have full  
21 confidence that when we come in for the rate  
22 case and you look at these expenditures, you

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1 will agree with us that they are prudent and  
2 reasonable and therefore we should get recovery  
3 for them, because we will be driving big  
4 improvements in reliability and it will be  
5 noticeable.

6 CHAIRMAN KANE: I won't commit to a  
7 rate case. There will be several more while I  
8 am still here, while we are all here.

9 But I did want to -- when you say  
10 that you are not going to exceed the budget,  
11 you are talking about you are not going to  
12 expend any more money than -- you're going to  
13 meet the reliability commitments at no more  
14 than these spending levels.

15 THE WITNESS: Yes.

16 CHAIRMAN KANE: My question is: Can  
17 you meet the reliability commitments at lower  
18 spending levels or investments?

19 THE WITNESS: I don't believe so.  
20 This is the plan we put together that will take  
21 us there. I should also point out that in the  
22 settlement agreement, there is a provision, if

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1 we were to reach some year, 2018, in our  
2 opinion, an estimation, say, you know, we  
3 should spend another \$2 million above the  
4 number that is here, it is exactly the right  
5 thing to do for customers and we believe that  
6 when we come and talk with you about it, after  
7 the end of the period, that you would agree  
8 with that. We do have, I will say, the right  
9 provided we decide in escrow to return, that  
10 will be on that investment.

11 CHAIRMAN KANE: So you'd come back  
12 and ask for more. Wouldn't that be a  
13 regulatory asset or escrow?

14 THE WITNESS: I think it says it  
15 will be in an escrow. I can clarify that if  
16 you want, but I'm pretty sure that's what it  
17 says.

18 CHAIRMAN KANE: When we talk about  
19 not exceeding a budget, I didn't see anything  
20 about not exceeding current rates. You will  
21 need more money in order to do this.

22 THE WITNESS: Yes, we will.

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1           CHAIRMAN KANE: Thank you. I just  
2 wanted to clarify if O and M is the same thing.  
3 The O and M over on Page 23 does not vary that  
4 much year to year. It does not change from  
5 year to year.

6           THE WITNESS: No, we increased it as  
7 it notes there, just a little bit by inflation.

8           CHAIRMAN KANE: About three percent  
9 a year.

10          THE WITNESS: Yes.

11          CHAIRMAN KANE: I want to go back to  
12 your statement that I quoted from your  
13 testimony, where you say if the DCPLUG project  
14 is further delayed, then other program  
15 improvements will need to be developed. What  
16 are you referring to here?

17          THE WITNESS: When we laid out the  
18 reliability goals, in order to achieve top  
19 decile's performance in the numbers we put  
20 there, we said DCPLUG is part of that, that  
21 drive to get there, so if DCPLUG were not to go  
22 forward, we would sit down based on our

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1 expertise and the expertise of the other Exelon  
2 utilities and say, we've got to come up with  
3 some other programs, a plan, to be able to  
4 drive the improvements but the commitment is  
5 firm on driving these improvements.

6 CHAIRMAN KANE: And the DCPLUG has a  
7 surcharge directly associated with the -- to  
8 cover those costs of DCPLUG; is that correct,  
9 for the record?

10 THE WITNESS: Yes.

11 CHAIRMAN KANE: So if that is --  
12 that has its own dedicated funding, you might  
13 say?

14 THE WITNESS: Yes.

15 CHAIRMAN KANE: If you need to look  
16 at these other program improvements and say  
17 that it is delayed, would they be able to be  
18 accomplished or would it be your intention to  
19 accomplish those other program improvements,  
20 whatever they are, within these budget levels  
21 for capital expenditures and O and M?

22 THE WITNESS: It would be our

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1 intention and we will try to do everything we  
2 could to do it within the budget. Again, if we  
3 couldn't, we would be in a position of having  
4 to come back to the Commission and saying we  
5 exceeded the budget by whatever amount it was  
6 in whatever year, and then make a very strong  
7 case to you about why that was a prudent  
8 expenditure, we should be allowed to recover it  
9 in rates.

10 CHAIRMAN KANE: So the statement in  
11 Page 20, Lines 1 through 10, that your  
12 commitment to meet the QSS without exceeding  
13 certain spending levels are not contingent on  
14 the timing of completion, but they might be  
15 contingent on something else? I'm not  
16 following.

17 You said if DCPLUG was delayed and  
18 you needed to do other program -- you might  
19 have to look at other program improvements,  
20 those other program improvements might incur  
21 costs that would be beyond the capital or --  
22 and/or the O and M that is listed here,

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1 correct?

2 THE WITNESS: Yes.

3 CHAIRMAN KANE: Yes.

4 THE WITNESS: Again, the point I was  
5 trying to make, not to be confusing was that  
6 the limits that are shown on Table 3 remain  
7 even if DCPLUG doesn't go forward if we had to  
8 spend -- if we believe it was prudent to spend  
9 anything about that, there is a mechanism that  
10 puts the return on that investment in escrow  
11 and then we have to come back and ask for that  
12 or make a justification for why it was there.

13 CHAIRMAN KANE: Thank you for that  
14 clarification.

15 I asked Mr. Khouzami about the \$5  
16 million in capital to creditworthy government  
17 agencies and he clarified that they were D.C.  
18 Government agencies at market rates. Are you  
19 aware -- how does the District benefit from  
20 this? I asked him the same question, when the  
21 District can borrow at tax exempt rates, issue  
22 whatever the bonds issue, issue general

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1 obligation bonds, which you believe are small  
2 matters, the District government has a billion,  
3 billion dollar budget and borrows all the time,  
4 what is the significance of the value of this  
5 \$5 million at market rate?

6 THE WITNESS: I think as Mr.  
7 Khouzami said, there are other out-of-state  
8 transaction costs which are both time and could  
9 be money in order to set up a loan for  
10 something like this and as you pointed out, for  
11 a small amount, it might be more expedient or  
12 cheaper to take Exelon up on the offer to  
13 finance it this way.

14 Again, it was designed -- part of  
15 the commitment was designed to show the strong  
16 and deep commitment that we have to try and to  
17 drive sustainable energy resources and energy  
18 efficiency across the District is another way  
19 to, I guess, present something that may be of  
20 value to show that commitment.

21 CHAIRMAN KANE: Okay. I don't have  
22 any more questions. Thank you. Commissioner

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1 Fort.

2 COMMISSIONER FORT: I thought I was  
3 a little short. If you turn to Page 11 of your  
4 testimony where you are talking about overall  
5 job commitments, and this is the language that  
6 relates to Paragraph 20 in the settlement  
7 agreement. In the settlement agreement,  
8 Paragraph 20 says: "As a result of the  
9 commitment in Paragraph 14 through 19, Exelon,  
10 PHI and Pepco commit that the merger impact  
11 will be net job positive for the District  
12 through at least January 1, 2018."

13 THE WITNESS: Could you give me a  
14 paragraph reference?

15 COMMISSIONER FORT: Paragraph 20 of  
16 the settlement agreement. So it will be net  
17 job positive for the District through at least  
18 January 1, 2018, and then it goes on to say:  
19 "Exelon, PHI and Pepco also commit that the  
20 merger will not become net job negative through  
21 involuntary attrition as a result of the merger  
22 integration process through December 31, 2019."

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1 I think your testimony, that is in  
2 20, your testimony on Page 11 says: "Exelon,  
3 PHI and Pepco will not become" negative job --  
4 "net jobs negative through involuntary  
5 attrition as a result of the merger integration  
6 process until 2020 at the earliest."

7 So this is one question. There is a  
8 discrepancy between the language in the  
9 testimony and the language in the settlement  
10 agreement. I assume that the settlement  
11 agreement language is what we are looking at?

12 THE WITNESS: Yes. The settlement  
13 language is through December 31, 2019 which in  
14 effect means until January 1, 2020. I was  
15 being a little too colloquial. I apologize.

16 COMMISSIONER FORT: I'm just  
17 looking. Talk to me about what that means. So  
18 in the second sentence or the last sentence I  
19 read, will not become net job negative through  
20 involuntary attrition as a result of the merger  
21 integration process. Is that a phrase that all  
22 stays together?

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1 THE WITNESS: Yes, it is.

2 COMMISSIONER FORT: So does that  
3 mean that employment levels could become net  
4 job negative but as long as it's not due to  
5 involuntary attrition that are related to the  
6 merger integration process, it would not be  
7 violating that provision; is that correct?

8 THE WITNESS: Yes. The way I look  
9 at this is, if you look at that entire  
10 paragraph starting on Line 7 through 11, is  
11 that it will be net jobs positive through at  
12 least January '18, so for almost the next two  
13 years. Then after that up until at least 2020  
14 or up through December 31, 2019, because of any  
15 sort of involuntary attrition as a result of  
16 the merger, it will not be jobs negative. So  
17 there could be something else that -- something  
18 else I will say a business perspective  
19 unrelated to that that could have an impact.

20 COMMISSIONER FORT: What would be  
21 examples of that something else?

22 THE WITNESS: Well, for instance,

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1 like when we went to deploy the smart grid,  
2 that had an impact on our meter reading force  
3 where we didn't need as many meter readers as  
4 we did prior to that. Again, very good  
5 program. One that continues to bear tremendous  
6 benefits for our customers, but over time, we  
7 had to work our way through finding other jobs,  
8 placing, letting people retire to kind of  
9 transition that work force to other things, and  
10 so maybe something like that could be in there.

11 COMMISSIONER FORT: So it says:  
12 "Exelon will file a report" -- this is again in  
13 Paragraph 20 -- "with the Commission by April  
14 1, 2018 demonstrating satisfaction of this  
15 commitment," and that's the first commitment  
16 that -- in the net jobs positive.

17 And then you'll also file a report  
18 with the Commission by April 1, 2020  
19 demonstrating the satisfaction with the second  
20 part of that commitment, which is that you are  
21 not net jobs negative through involuntary  
22 attrition.

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1           Would that report also show if there  
2    is a loss of jobs and with the description of  
3    why there may be a loss and the question would  
4    just be whether or not it is related to merger  
5    integration versus some other business reason?

6           THE WITNESS: I haven't thought  
7    through exactly what the report would contain,  
8    but sitting here, I would assume we'd probably  
9    give you a list of year by year, and it may be  
10   department level or something like that that  
11   shows employment levels with an explanation for  
12   what is happening in every single one of them.  
13   I mean, it could be as simple as involuntary  
14   attrition as a result of the merger, simply  
15   somebody decides to retire or something, and  
16   that is attrition as well.

17           COMMISSIONER FORT: If I decide to  
18   retire, is that involuntary attrition?

19           THE WITNESS: No, that is voluntary.

20           COMMISSIONER FORT: So that would be  
21   excluded from the reporting.

22           THE WITNESS: Yes. Now, just as a

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1 general comment and this maybe gets back to  
2 some of the stuff we have been talking about,  
3 when you look at all the commitments we have,  
4 to improve reliability, customer satisfaction,  
5 what we are talking about doing as we continue  
6 to employ the smart grid and continue to become  
7 more sustainable, I'm really hopeful that -- we  
8 have a company and our goal is to have a  
9 company that is continuing to grow, that it's  
10 not a case where the company is shrinking. We  
11 are continuing to employ more people, we're  
12 continuing to bring more value to our customers  
13 in the District. That is really our goal.

14 COMMISSIONER FORT: My other  
15 question for you is on Page 34 of your  
16 testimony where we are talking about  
17 interconnection process for behind the meter  
18 generation.

19 On Page 34 at Lines 8 through 10, it  
20 repeats part of the settlement agreement  
21 provision in Paragraph 129 that within six  
22 months after merger closing, Pepco will also

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1 implement an automated online interconnection  
2 application process to enable customers to  
3 securely complete interconnection applications  
4 online, track application status and resolve  
5 inquiries.

6 Is that part of a commitment that  
7 D.C. ratepayers would not pay for?

8 THE WITNESS: I think the -- and I  
9 can't find the exact reference in the  
10 settlement agreement. I think what we'd do  
11 here would be things that we would if there is  
12 additional cost that we would apply to put them  
13 in grids.

14 COMMISSIONER FORT: That you would  
15 put them into grids.

16 THE WITNESS: Into grids.

17 COMMISSIONER FORT: And then  
18 finally, you are talking about the kind of --  
19 that if the Commission did approve the merger,  
20 then there'd still may be rate increase  
21 applications filed. If the Commission does not  
22 approve the merger, does Pepco intend to file

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1 one or more distribution base rate applications  
2 with the Commission to request increases in its  
3 revenues between now and March 31, 2019, which  
4 is the same time frame we were talking about?

5 THE WITNESS: I believe in either  
6 event, we will be filing rate increases. As  
7 was noted earlier, we have continued to invest,  
8 continue to improve service in the District.  
9 That comes at a cost and we have not had an  
10 increase in rate since March of '14 so we will  
11 need to file a rate increase or request for a  
12 rate increase in order to allow us to continue  
13 to make the investments that we talk about  
14 here.

15 COMMISSIONER FORT: Thank you.

16 CHAIRMAN KANE: Thank you. I did  
17 find one that I skipped, too. I wanted to ask  
18 for a clarification on Commitment No. 9 on the  
19 assistance for low and limited income  
20 customers.

21 And particularly on 9A, the  
22 forgiving of residential customer accounts

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1 receivable over two years old. I believe Mr.  
2 Khouzami clarified that that would not be  
3 limited to low income residential customers but  
4 to all residential customers with accounts over  
5 two years old.

6 THE WITNESS: That is correct.

7 CHAIRMAN KANE: Even though it says  
8 limited income in other families. Is there a  
9 problem with -- or do small businesses also  
10 have some arrearage problems in old account  
11 problems?

12 THE WITNESS: I don't know offhand  
13 how many commercial customers are -- have more  
14 -- have receivables that are over two years  
15 old.

16 CHAIRMAN KANE: And would this be  
17 just for single meter residential customers or  
18 would it include master meter accounts?

19 THE WITNESS: Well, I don't think on  
20 the master metered accounts if that is included  
21 in their rents or whatever, we would not see  
22 that as an arrearage. I think the account

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1 holder is paying the bill.

2 CHAIRMAN KANE: Well, the landlord  
3 could be fined.

4 THE WITNESS: Yes.

5 CHAIRMAN KANE: A landlord who had  
6 low income tenants in their building and was  
7 perhaps not collecting rents at a level, I  
8 mean, landlords do get behind in their bills,  
9 particularly in low income buildings, so my  
10 question is: Will -- is your intent that in  
11 those situations, where there might be a  
12 landlord or even, you know, two or three unit  
13 building that was behind, had arrearages,  
14 whether it was low income or other families,  
15 whether this benefit would be extended to that  
16 situation.

17 THE WITNESS: I don't believe so.

18 CHAIRMAN KANE: That is not the  
19 intention. It wasn't clear in here. It just  
20 says residential customer accounts. Sometimes  
21 that is meant to include only single meter  
22 accounts, single meter accounts versus master

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1 meter, so the intention is not to include  
2 master meter in this.

3 THE WITNESS: That's correct. If I  
4 am wrong, I will have someone respond to you,  
5 but I don't believe so.

6 CHAIRMAN KANE: Thank you. That is  
7 all I have. Thank you. Anything else?

8 BY MS. STARK:

9 Q. I have just one question on redirect  
10 for you, and following up on Commissioner  
11 Fort's question, if you can turn back to Page  
12 28 and that Footnote 45.

13 A. Yes.

14 Q. I think if you do look at Paragraph  
15 111 of the settlement agreement, that you would  
16 agree that that footnote should be revised to  
17 indicate that it would be Paragraphs 31 and  
18 Paragraph 111?

19 A. Yes. Let me just check real quick.  
20 Yes. Yes. Thank you.

21 Q. Thank you. So we would correct your  
22 testimony to make that correction to the

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1 footnote reference.

2 And that is all I have. At this  
3 point, we would like to move into the record  
4 Mr. Velazquez's fully conformed testimony as  
5 Exhibit 5B.

6 CHAIRMAN KANE: So moved.

7 (Joint Exhibit 5B was received into  
8 evidence.)

9 CHAIRMAN KANE: The witness is  
10 excused.

11 We will adjourn for the day. We  
12 announce we have made a couple of bench  
13 requests and if we do any more forward, I'm  
14 going to ask that we get the responses to bench  
15 requests by close of business on Monday.

16 Now if we have to do something  
17 Friday afternoon, we will adjust that, but as  
18 we go along, we ask bench requests. Ms. White.

19 MS. WHITE: I have one minor  
20 administrative matter. I would like to, on the  
21 appearance of Robert White also with Squire  
22 Patton Boggs also representing D.C. Water.

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1 CHAIRMAN KANE: Any relation?

2 MS. WHITE: He is my husband as well  
3 as my partner, yes, and he will be sitting in  
4 for me tomorrow morning. I gave those details  
5 to the court reporter.

6 CHAIRMAN KANE: Yes. Thank you.  
7 Any other matters? Very good. Thank you.

8 We will see you all tomorrow morning  
9 at 10 a.m.

10 THE SECRETARY: All rise.

11 (Whereupon, the hearing was  
12 adjourned at 5:08 p.m.)

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CERTIFICATE OF COURT REPORTER

I, Bonnie L. Russo, do hereby certify that the foregoing transcript is a true record of the proceedings to the best of my ability, that I am not related to or employed by any of the parties involved in these proceedings, and, further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in the proceedings.

*Bonnie L. Russo*

Notary Public



My Commission Expires:

June 30, 2020

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