BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

POTOMAC ELECTRIC POWER COMPANY'S APPLICATION FOR ADJUSTMENTS TO ITS RETAIL RATES FOR THE DISTRIBUTION OF ELECTRIC ENERGY	CASE NO. 9820

OFFICE OF PEOPLE'S COUNSEL'S MOTION TO DISMISS AND RESPONSE TO AOBA MOTION TO DISMISS OR REJECT

This case asks whether Pepco may force Maryland customers and the Public Service Commission to litigate a ratemaking experiment the Commission has never approved. The Office of People's Counsel concurs with the Apartment and Office Building Association of Metropolitan Washington ("AOBA")[1] that Pepco's application—which includes both a standard historic-test-year filing and a fully forecasted future test year ("FFTY")—imposes unnecessary and undue burdens on the Commission and other parties, and that the FFTY should be dismissed as not in the public interest. But unlike AOBA, which asks the Commission to dismiss the application in its entirety, OPC seeks targeted relief.

Through this motion, OPC asks the Commission to decline to litigate Pepco's proposed fully forecasted future test year and to direct that this case proceed instead as a standard historic-test-year rate case. Pepco's FFTY is an unauthorized and unvetted

[1] On November 12, 2025, the Apartment and Office Building Association of Metropolitan Washington ("AOBA") filed a motion to dismiss or reject Pepco's application for an increase in its electric distribution rates. ML # 324253 ("AOBA Motion"). Among other things, AOBA's motion argues that Pepco's filing "imposes unnecessary and undue burdens on the Commission and the parties to evaluate a highly complex filing that is premised heavily on unverifiable projections of future costs."

alternative form of ratemaking that would impose unnecessary and undue burdens on the Commission and the parties by requiring them to litigate a highly complex filing premised heavily on unverifiable projections of future costs. OPC does not, however, seek dismissal of the entire application; rather, we ask the Commission to reject the FFTY construct while preserving a path to consider any warranted rate change based on the historic test year Pepco filed in compliance with Order No. 91181.

Pepco's application includes both a standard historic-test-year filing and a proposed fully forecasted future test year that would be used to set new stated base rates, even though that form of ratemaking has never been expressly authorized and lacks the consumer-protection features the Commission has required for other alternative mechanisms. As a result, none of the consumer-protection features and parameters that the Commission built into the approved multi-year rate plan ("MRP") framework—such as stay-out periods, reconciliation mechanisms, annual project lists and informational filings—are present in Pepco's novel FFTY proposal. Litigating the FFTY would require the Commission and parties to devote substantial resources to an untested ratemaking construct, while a compliant historic test year is already available. The Commission has repeatedly affirmed its authority to reject or modify proposed forms of alternative ratemaking that are not in the public interest at the time they are filed. Exercising that authority here—by rejecting Pepco's FFTY proposal and directing that this case proceed on the historic test year—would allow the Commission to determine whether any rate adjustment is warranted using its established methodology, without subjecting customers to a new ratemaking experiment.

BACKGROUND

A. Commission consideration of fully forecasted test years in PC 51 and Case No. 9618

In 1999, the Maryland General Assembly enacted PUA § 7-505(c), which authorizes the Commission to adopt and regulate the services of utilities through alternative forms of ratemaking. Under this authority, the Commission established PC 51 (Case No. 9618) in 2019 for the purpose of examining the applicability of different forms of ratemaking in Maryland.

PC 51 is the proceeding that culminated in the MRP pilot. In that proceeding, the Commission evaluated five forms of alternative ratemaking—including fully forecasted test years and multi-year rate plans.[2] For both forms of ratemaking, the Commission identified reducing regulatory lag and reduced rate case frequency as "potential benefits."[3] The Commission also identified several shared "potential disadvantages," largely stemming from the use of forecasts for ratemaking, including information asymmetries that complicate evaluating the accuracy of utility forecasts and the incentive for utilities to overestimate costs and overspend.[4]

As noted in Order No. 89226, the design of MRPs mitigated some of the disadvantages of rates based on a forecasted test year ("FTY"). Unlike FTYs, MRP rates are not fixed "stated rates" and change over the duration of the rate period.[5] The order notes that rate changes under MRPs are less frontloaded than FTYs and are more

[2] Order No. 89226 at 9-19.
[3] Order No. 89226 at 10-11, 13.
[4] Order No. 89226 at 11-12, 13-14.
[5] Order No. 89226 at 13.

predictable.[6] Ultimately, after considering the relative merits of MRPs and FTYs, the Commission found that "pursuing the implementation of a multi-year rate plan based on a historic test year is appropriate."[7] Stated otherwise, after reviewing considerable evidence evaluating various alternative ratemaking forms in PC 51, the Commission chose not to pursue FTYs and instead adopted a historic-test-year-based MRP framework.

The Commission subsequently issued Order No. 89482 in February 2020 to establish Maryland's MRP framework. The Commission has applied this framework to authorize four multi-year rate plans—two for Baltimore Gas and Electric Company, one for Pepco, and one for Delmarva Power & Light Co. ("DPL").

B. Rejection of Pepco's second MRP and Order No. 91181

Case No. 9702 concerned Pepco's application for a second MRP. OPC and AOBA each urged the Commission to reject Pepco's proposed MRP. All parties acknowledged that the record lacked the evidence required to set a rate based on a historic test year.[8] Nonetheless, OPC proposed an alternative revenue requirement that roughly approximated the results of a historic test year rate.[9]

[6] Order No. 89226 at 13, 54.
[7] Order No. 89226 at 54.
[8] Order 91181 at 59.
[9] Order 91181 at 55-56.

In Order No. 91181, the Commission denied Pepco's requested three-year MRP.[10] Instead, the Commission "adopte[d] an approach that combines OPC's off-ramp adjustment to rate base with adjustments to Pepco's forecasted data for the Company's MYP2 Rate Year 1 only."[11] Recognizing the concerns raised about the absence of data sufficient to support a historic test year, the Commission required Pepco's subsequent rate case application to be "accompanied by the requisite information needed to calculate a historic test year."[12]

C. Pepco's application in this case

On October 14, 2025, Pepco filed an application to increase its electric distribution rates. The application proposes a revenue requirement increase of approximately $133 million based on a fully forecasted test year. As Pepco witness Robert T. Leming states, the fully forecasted test year proposal is "an interim approach" in light of the pending multi-year rate plan lessons learned proceeding. As required by Order No. 91181, the company also filed a separate historic test year revenue requirement.

Pepco's rate case application is thus composed of two components: (1) a proposed revenue requirement based on an FFTY and (2) an alternative historic test year filed to comply with the Commission's directive in Order No. 91181.

The FFTY proposal is composed of three test years—a historic test year based on actual data for the 12 months ending on December 31, 2024; a bridge year comprising

[10] Order 91181 at 1.
[11] Order 91181 at 58.
[12] Order 91181 at 30.

actual and forecasted data for the 12 months ending on December 31, 2025; and a future test year based on forecasted revenues and expenditures for the 12 months ending on December 31, 2026.[13]

The alternative historic test year comprises actual data for the nine months ended on June 30, 2025 and projected data for July–September 2025.[14] However, Pepco proposes several ratemaking adjustments for forecasted post-test year reliability plant closings ranging from October 2025 through July 2027.[15] In short, Pepco's alternative "historic" test year revenue requirement incorporates forecasts *further into the future* than is reflected in Pepco's proposed future test year.

Pepco's class cost-of-service studies add a further layer of complexity and internal inconsistency to an already forecast-heavy filing. Pepco filed two separate class cost-of-service studies ("CCOSS")—one for the future test year and one for the alternative historic test year—to support different rate design proposals. These two CCOSS cover differing periods of time: the FFTY CCOSS is based on a test year comprising the 12 months ending December 31, 2024; for the alternative historic test year, the CCOSS is based on the 12 months ended September 30, 2025, including nine months of actual data and three months of forecasted data.[16]

However, key inputs to each CCOSS are derived from time periods that do not necessarily correspond with the test year period that each CCOSS is based on. Both test

[13] Leming Direct at 5:16 – 6:3.
[14] Direct Testimony of Conor Nelson ("Nelson Direct") at 4:23 – 5:4.
[15] Nelson Direct at 13:17 – 15:7.
[16] Direct Testimony of Lance C. Schafer ("Schafer Direct") at 3:8–9.

years use the same historical demand data—CY 2024, which Pepco states will be updated to the corresponding 12 months ended on June 30, 2025.[17] Additionally, external allocation studies for the FFTY were developed from calendar year 2024 data. For the alternative historic test year, Pepco's external allocation studies were developed from data from the 12 months ending June 30, 2025.[18] This mixing and matching of inputs across different time periods renders the CCOSS internally inconsistent and significantly complicates parties' ability to test and compare Pepco's proposed cost allocations and rate designs.

Unlike MRPs, Pepco's proposed fully forecasted ratemaking methodology was not developed through a stakeholder process and accepted by the Commission prior to filing. To OPC's knowledge, the company made no effort to engage stakeholders in the development of its proposal, including on what data stakeholders would need to vet the proposed future test year, whether FFTY-based rates should be effective in perpetuity, how prudence review of forecasted plant would work, and whether any form of reconciliation was necessary and could be implemented.

D. AOBA's motion and Pepco's response

In its November 12 motion, AOBA argues that Pepco's filing fails to comply with the Commission's directive in Order No. 91181 to present, in the company's application, "the requisite information needed to calculate a historic test year."[19] AOBA details the

[17] Schafer Direct at 20:1-3.
[18] Schafer Direct at 20:5-7.
[19] Order No. 91181 at 30.

complexity of Pepco's filing, arguing that reviewing it requires evaluating "not less than six different calendar periods."[20] Such complexity, AOBA argues, undermines the ability of parties to fully evaluate the accuracy of the forecasts upon which Pepco's FFTY proposal are based. Accordingly, AOBA maintains that requiring parties to evaluate Pepco's FFTY and compliance test year alternative simultaneously magnifies the amount of time and effort the Commission Staff and other parties must expend to respond to the company's filing.[21] AOBA asks the Commission to dismiss the company's filing in its entirety or, alternatively, modify Pepco's application to determine a revenue requirement solely based on Calendar Year 2024 costs.

In response, Pepco asserts the Commission lacks authority to dismiss or reject the company's rate case. According to the company, once the Commission suspends a proposed new rate, the Commission lacks the authority to dismiss it until after full evidentiary proceedings are held.[22] So long as the company makes a *prima facie* case to support its rate application and the Commission has instituted proceedings to evaluate the justness and reasonableness of those rates, "the Commission cannot override [its] duty to set a hearing and consider whether the rates as filed by the company . . . are just and reasonable."[23] Pepco further notes that its compliance test year—based on nine months of actual data and three months of projected data—comports with prior Commission practice of accepting partially forecasted data within a historic test year.[24]

[20] AOBA Motion at 7.
[21] AOBA Motion at 11.
[22] Pepco Response at 3–6.
[23] Pepco Response at 6.
[24] Pepco Response at 6.

ARGUMENT

I. The Commission has the authority to reject or modify Pepco's fully forecasted test year.

The Commission is not required to force parties to litigate whatever ratemaking construct a utility chooses to file. Maryland law and the Commission's own precedents make clear that, particularly for alternative forms of ratemaking, the Commission may reject or modify a proposal that is not in the public interest at the time it is filed, without convening a full evidentiary hearing.[25] Furthermore, the Commission has broad authority under the Public Utilities Article to supervise and regulate public service companies, ensure that rates are just and reasonable and in the public interest, and reject or modify applications—including proposals for alternative forms of ratemaking such as Pepco's fully forecasted test year—that do not meet those standards.

PUA § 2-113 requires the Commission to "supervise and regulate" public service companies to ensure that such service companies operate "in the interest of the public" and "promote adequate, economic, and efficient delivery of utility services . . . without unjust discrimination."[26] The scope of the powers explicitly enumerated in the PUA "do not limit the general powers and duties" of the Commission.[27] Indeed, as PUA § 2-112 provides, "the Commission has the implied and incidental powers needed or proper to

[25] For example, in orders establishing and applying the MRP framework, the Commission has recognized that it may reject or modify a proposed MRP if it is not consistent with the public good or otherwise not in the public interest at the time it is filed. *See* Order No. 89482 at 13.
[26] PUA § 2-113(a).
[27] PUA § 2-113(b).

carry out its functions" and such powers "shall be construed liberally."[28]

Though the PUA allows utilities to file for new rates at any time of the utility's choosing, a utility's filing is still subject to the Commission's review and approval.[29] No provision requires the Commission to accept whatever change in rates a utility proposes or to litigate any ratemaking construct a utility elects to file. To the extent the Commission determines a utility rate application is deficient or otherwise defective—such as failing to comport with the public interest—the Commission may exercise its discretion to reject the application or require that it be modified and then subject to further proceedings. Otherwise, the Commission would be required to accept, in some form, any application for a rate increase a utility proposes, however defective the application may be. Such a limited view of the Commission's authority does not comport with the PUA's public interest mandate.

OPC recognizes an important distinction between standard rate case application filings and applications for an alternative form of ratemaking. There is no dispute that using a standard historic test year methodology can yield just and reasonable rates. That has been this Commission's longstanding practice. However, for alternative forms of ratemaking, Maryland law requires the Commission to scrutinize the methodology itself to determine whether such alternative ratemaking forms "protect consumers" and "are in the interest of the public."[30] This inquiry is distinct from whether any particular rate is

[28] PUA § 2-112(b), (c).
[29] PUA §§ 4-102, 4-203.
[30] PUA §§ 7-505(c)(2)(i), (iii).

just and reasonable.

Some aspects of a rate case are primarily factual—what expenses are reasonable, what return on investment is appropriate, and what the utility's property is worth. Those questions are resolved through obtaining and reviewing evidence and making decisions based on the record as a whole. Whether the form of a proposed rate change is in the public interest, however, is a different kind of decision. That determination is an exercise of Commission judgment, "specific to [the Commission's] mandate and expertise," and largely implicates issues of law and policy.[31] For alternative forms of ratemaking, the statute requires notice and a hearing only to *adopt* such a mechanism—not to reject one.[32] Nothing in the PUA prevents the Commission from declining to consider a proposed alternative mechanism based solely on the pleadings, without convening a full evidentiary hearing.

The Commission has repeatedly emphasized that it retains the authority to reject or modify proposals for alternative forms of ratemaking without a full hearing taking place. In Order No. 89482, the Commission stated that it "may exercise its 'statutory authority to reject or modify a proposed MRP if it finds that the application is 'not consistent with the public good' or the MRP 'is not in the public interest' *at the time it is filed*."[33] The Commission has reaffirmed this position in numerous subsequent orders, observing that it

[31] *Christopher v. Montgomery County Dep't of Health & Human Servs.*, 381 Md. 188, 199 (2015); *Communications Workers of America v. Pub. Serv. Comm'n.*, 461 Md. 380, 400 (2018) (noting courts review acts of discretion "may consider things such as the agency's expertise, policy goals stated in pertinent statutes or regulations, consistency with the agency's past decisions, and whether it is possible to follow the path of the agency's reasoning").
[32] PUA § 7-505(c)(2) (emphasis added).
[33] Order No. 89482 at 13 (quoting PUA §§ 4-101 an 7-505(c)).

retains the discretion and authority to reject or modify a proposed MRP that does not provide sufficient transparency or justification of utility proposals to satisfy the public interest.[34]

Pepco's response to AOBA fails to grapple with this precedent, and it makes no argument that it misstates the Commission's authority. While a hearing may be required for the Commission to authorize a change in rates, no provision in the PUA restricts the Commission from dismissing an application, or a portion of an application, that fails to satisfy the statutory standards for alternative forms of ratemaking.

Pepco has not filed a standard rate case. It has filed for an alternative form of ratemaking—a fully forecasted test year used to set a stated base rate that remains in effect until changed in a future case. The Commission previously treated fully forecasted test years as one of the "potential alternative forms of ratemaking" in PC 51 and declined to pursue them, choosing instead to establish a construct for MRPs. As such, the Commission has the authority to reject the filing if it determines the request is not in the public interest or does not adequately protect consumers. Rejecting Pepco's proposed FFTY structure would not deprive the company of a hearing on any rate change; it would simply require that any rate changes be litigated under the Commission's established historic test year framework.

[34] Order No. 89482 at 13; Order No. 89868, Commissioner Mindy L. Herman Dissenting Statement at 3; Order No. 91181 at 29; Order No. 91695 at 12.

II. The Commission should reject Pepco's future test year proposal and convert this case into a standard historic test year proceeding.

There is no dispute that Pepco's application is for an alternative form of ratemaking. As Pepco's response to AOBA's motion points out, the Commission previously evaluated "fully forecasted test years" as one of the "potential alternative forms of ratemaking" considered in Case No. 9618.[35] Critically, however, the Commission *chose not to further consider fully forecasted test years* and, instead, opted to proceed with MRPs.[36] Nonetheless, Pepco now asks the Commission to accept a new ratemaking construct as an *interim* measure.[37]

Experimenting with a novel ratemaking form as a temporary measure is not in the public interest, especially when the proposed ratemaking form lacks any real consumer protection mechanisms and when the Commission's broader lessons learned proceeding on MRPs is still pending. Given the separate historic test year included in Pepco's rate application, there is no need to subject customers to an FFTY experiment to resolve this case.

A. Pepco's FFTY mechanism has not been vetted by stakeholders or the Commission, contains numerous workability issues, and fails to include crucial consumer protections.

As noted above, the Commission's main concern with the use of fully forecasted test years is the inherent risk of using forecasts to set rates. Order No. 89226 explains that "the main disadvantage of FTYs is the information asymmetry intrinsic to the forecasting

[35] Pepco Response at 14; *see* Order No. 89226 at 9–12.
[36] Order No. 89226 at 54 (finding that "pursuing implementation of a multi-year rate plan based on a historic test year is appropriate").
[37] Leming Direct at 8:11-13 (describing the FFTY proposal as "as an interim approach").

process (since the utilities generate and present all the information to the Commission), which makes it difficult for regulators to accurately forecast utility operations, and may lead to misaligned incentives that unfairly benefit the utility at the expense of the ratepayer."[38] The order also notes that FTYs incentivize utilities to overestimate costs in order to ensure future funding.

Though MRPs are composed of multiple forecast-based years, the MRP design mitigates those risks because rates change over time as forecasted conditions occur and are subject to reconciliation and other consumer protections. For utilities electing an MRP, the Commission required a stay-out commitment for the duration of the plan and mandated annual updates and informational filings as integral components of the framework.[39] Those annual updates and informational filings help address the information asymmetry between the utility and the Commission, and "the utility has a strong incentive to seek and pursue all available cost efficiencies to maximize its earnings during the stay-out period."[40]

Any form of alternative ratemaking the Commission has authorized has also included some form of reconciliation. Pepco's FFTY proposal lacks any such mechanism. Indeed, as Order No. 89226 notes, the Joint Exelon Utilities describe the reconciliation as

[38] Order No. 89226 at 11.
[39] Order No. 89482 at 30 ("The Commission agrees with the [workgroup] recommendation that the imposition of a 'stay out' provision is necessary to achieve the policy goals that support the use of MRP rate cases.").
[40] Gennelle Wilson, Melissa Whited, Courtney Lane, Ben Havumaki, and Cara Goldenberg, *Fixing Multiyear Rate Plans: Building a firm foundation for cost control* at 10, RMI and Synapse Energy Economics, 2025, https://rmi.org/insight/fixing-multiyear-rate-plans-building-a-firm-foundation-for-cost-control.

a customer protection that ensures customers only pay for the actual cost of service they receive.[41] And each new rate the Commission has authorized for Pepco—including the rates set in Case No. 9702—was premised on the opportunity for reconciliation. Pepco's proposed FFTY structure would retain the risks associated with forecast-based ratemaking while omitting the reconciliation features the Commission and parties have identified as critical consumer protections.

Additionally, Pepco's application does not explain how or when Pepco's forecasted capital and O&M expenditures will be reviewed for prudence. At times, Pepco vaguely references how certain costs, mainly those allowed to be deferred into Pepco's proposed regulatory assets for exogenous costs, will be reviewed for prudence "in a future base rate case proceeding."[42] Under the MRP framework, the Commission made clear that prudence review occurs at the conclusion of the MRP period, and that review of proposed expenditures in the MRP case itself is a review for reasonableness, not prudency.[43] In the absence of a clear terminus to Pepco's FFTY rate or any established reconciliation proceeding, it is unclear whether the Commission is evaluating the prudence of Pepco's proposed expenditures *now* or at some later date to-be-defined, as part of the review of all the other projects Pepco pursues until its next rate case filing. That lack of clarity is especially problematic, given that a party risks losing the ability to challenge a project's prudence if no further opportunity for a prudence review is

[41] Order No. 89226 at 20. In practice, however, allowing utilities to reconcile spending *above* its authorized budgets underlies significant increases in capital spending and the rates that customers pay. *See* OPC Lessons Learned Brief at 8.
[42] *E.g.,* Leming Direct at 12:20 – 13:1.
[43] Order No. 91659 at 8.

provided.

Setting aside the inherent problems with using forecasts to set rates, Pepco's new ratemaking construct presents numerous administrative and workability issues. Because a FFTY is not—as Pepco emphasizes—an MRP, the procedures developed for consideration of MRPs may not be appropriate. Perhaps FFTY-specific procedures are needed and could be developed through discussions with other stakeholders and the Commission. But such engagement has yet to occur.

Nonetheless, Pepco is asking the Commission to implement, "as an interim approach," an entirely novel and unvetted ratemaking construct. In other words, Pepco seeks to subject its customers to a ratemaking experiment while it waits for the Commission's ruling in the MRP lessons learned proceeding. The Commission intended the roll-out of alternative forms of ratemaking to be slow and deliberate—limited to a single pilot utility, with further opportunity for lessons learned prior to more widespread adoption.[44] Indeed, Commissioner Odogwu Obi Linton's dissent in Case No. 9655 recounts the Commission's careful deliberation and implementation of alternative forms of ratemaking, and corresponding extensive and robust stakeholder input and engagement.[45]

Here, by contrast, Pepco presents the Commission with a proposed form of ratemaking that has neither been solicited by the Commission nor vetted through a

[44] Of course, as history shows, the Commission's initial limited consideration of MRPs quickly broadened with the acceptance of Pepco and Delmarva Power & Light Company's MRP applications in CN 9655 and 9681.
[45] Case No. 9655, Order No. 89868, Commissioner Odogwu Obi Linton Dissenting Statement at 1–3.

stakeholder process. Just as in Case No. 9655, the Commission never indicated it wanted or needed to consider a fully forecasted test year filing.[46] The Commission intended "to establish enforceable protections for customers before Maryland moved forward with AFORs."[47] Pepco's proposal in this case ignores that sequence.

To the extent Pepco cites the rates authorized in Case No. 9702 as establishing a precedent for an FFTY, the ratemaking methodology used in that case inapposite here. In that case, the Commission's adoption of a future test year was largely responsive to the lack of available data to set a rate using the standard historic test year methodology.[48] Moreover, the Commission expressly required that the rate be subject to reconciliation and prudence review, as would be the case under an MRP.[49]

B. Pepco's application does not show how its FFTY proposal protects consumers and is in the public interest.

The Commission has yet to determine that Pepco's proposed ratemaking methodology "protects consumers" and "is in the interest of the public."[50] An evidentiary proceeding is not required for the Commission to determine that Pepco has failed to make that showing here.

Pepco's proposed construct retains the features of alternative forms of ratemaking the Commission found most problematic—reliance on utility forecasting—while omitting the consumer protection measures the Commission has required for other alternative

[46] *See* Commission Linton Dissenting Statement at 5–6.
[47] Case No. 9655, Order No. 89868, Commissioner Linton Dissenting Statement at 7–8 (emphasis in original).
[48] Order No. 91181 at 59.
[49] Order No. 91181 at 29.
[50] PUA §§ 7-505(c)(2)(i), (ii).

mechanisms. Pepco witness Leming's explanation of the FFTY does not explain how this new methodology protects consumers. Instead, Mr. Leming largely repeats the same general arguments about transparency applicable to MRPs and which are currently in dispute and under Commission consideration in the lessons learned proceeding.[51]

To the extent Pepco's proposed regulatory assets for "exogenous costs" represent the consumer protection component of the FFTY construct, Pepco and its sister utilities already proposed a "regulatory asset for exogenous costs" as one of the modifications to the MRP construct during the MRP Lessons Learned proceeding.[52] It would be inefficient and unnecessary for the Commission to consider such a proposal in this case, outside the MRP Lessons Learned proceeding's broader, coordinated policy context.

Nor would rejecting the FFTY before conducting a hearing infringe on Pepco's due process rights. The company alone bears the burden of demonstrating that a proposed ratemaking construct protects consumers and is in the public interest.[53] The company's failure to do so in its *prima facie* case should not be rewarded by an opportunity to cure the deficiencies in its proposal through prolonged litigation at ratepayer expense.

[51] Leming Direct at 4:16-19. For instances, Mr. Leming states that a "projected test year ratemaking . . . promotes transparency for customers and stakeholders into utility operating plans and the rates necessary to support them, as well as fosters proactive dialogue around these plans before they are executed upon to provide an opportunity for stakeholder input and adjustment." *Id.* OPC has repeatedly called into question how meaningful these transparency benefits are, given Pepco's historically litigious responses to workplan modifications stakeholders have proposed and Pepco's unfettered discretion to adjust its workplan *after* the Commission has authorized it.

[52] ML# 312731, Reply Comments of Potomac Electric Power Company and Delmarva Power & Light Company at 10–11, 20–21, Case No. 9618 (Oct. 4, 2024).

[53] PUA § 3-112.

C. Consideration of Pepco's FFTY would imposes unnecessary resource burdens on the parties to this case.

Pepco presents its FFTY similarly to a multi-year rate plan. It includes multiple test years, including a historic year, a bridge year, and a forecasted year. The filing is accompanied by proposed work plans for capital and O&M expenditures supported by detailed and lengthy witness testimony and, already, thousands of pages of exhibits. Additionally, Pepco's filing includes support for the prudency of capital investments and O&M spending dating back to April 2024. In short, the filing takes the form of an MRP. As Staff and OPC's comments in the lessons learned proceeding, and this Commission's experience in Case Nos. 9692 and 9702, demonstrate, MRPs impose immense resource burdens on the parties litigating them. The same would be true of Pepco's FFTY proposal.

Uniquely, however, Pepco's filing gives parties an additional layer of complexity—evaluating the compliance test year. Immediately, parties must decide whether to engage exclusively with the FFTY, exclusively with the compliance test year, or to simultaneously engage with both. To add to the complexity, the compliance test year presents an entirely separate revenue requirement, with proposed ratemaking adjustments, rate design, and class cost-of-service study that are separate and apart from the FFTY proposal.

In a sense, Pepco has filed two rate cases at once. Other than overwhelming the intervening parties, this complexity serves no purpose. It makes little sense to require parties to process and review an overly burdensome and unduly complicated rate

application for a ratemaking construct Pepco itself characterizes as an interim approach.

OPC is not asking the Commission to dismiss Pepco's entire application or deny any opportunity for a rate change. Instead, OPC requests that the Commission reject Pepco's FFTY construct as an alternative form of ratemaking that has not been shown to protect consumers or serve the public interest and direct that this case proceed using the historic test year data Pepco has already filed. Pepco's "compliance" historic test year is not free of issues—including the inclusion of projects in rate base previously reviewed in the final reconciliation proceeding for CN 9655, the prudency of Pepco's test year O&M expenditures and plant additions, Pepco's excessive return on equity request and proposed adjustments to the company's capital structure, and ratemaking adjustments for forecasted plant-in-service that extend more than a year beyond the historic test-year period— but those issues can be addressed through normal discovery and litigation, just as in any other standard historic test year case.

CONCLUSION

Pepco seeks to bind parties and this Commission to litigating an alternative form of ratemaking that is entirely of the company's own design. Pepco has not made a *prima facie* case that its FFTY construct protects consumers or is in the public interest. A full evidentiary proceeding is not required for the Commission to determine Pepco's proposed ratemaking approach is not in the public interest, and that such a proposal will not be considered. Moreover, there is no reasonable basis to conclude that subjecting customers to a ratemaking experiment as an *interim* measure is "consistent with the public good."

Rather than dismissing the case outright, the Commission should: (1) reject Pepco's fully forecasted test year proposal as an unauthorized and unvetted alternative form of ratemaking that has not been shown to protect consumers or serve the public interest; and (2) convert this case to a historic test year proceeding, using the Commission's standard ratemaking methodology to determine whether any adjustment to Pepco's rates is warranted. Given the Commission's directive in Order No. 91181 to include data necessary to set a rate based on a historic test year, Pepco's compliance with that directive allows this case to proceed with no need for further adjustments to the existing procedural schedule.

Respectfully submitted,

DAVID S. LAPP
PEOPLE'S COUNSEL

Juliana Bell
Deputy People's Counsel

Jacob M. Ouslander
Senior Assistant People's Counsel

/electronic signature/
Michael F. Sammartino
Assistant People's Counsel
Maryland Office of People's Counsel
6 Saint Paul Street, Suite 2102
Baltimore, MD 21202
410-767-8157
michael.sammartino@maryland.gov

Dated: November 21, 2025

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of November 2025, the foregoing Office of People's Counsel Motion to Dismiss and Response to AOBA's Motion to Reject or Dismiss was e-mailed to all parties of record to this proceeding.

/electronic signature/
Michael F. Sammartino
Assistant People's Counsel