

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET N.W., 2nd FLOOR, WEST TOWER
WASHINGTON, D.C. 20005

ORDER

June 15, 2006

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY PRACTICES,
ORDER NO. 13968

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") conditionally approves the proposed Generation Procurement Credit ("GPC") Rider filed by Potomac Electric Power Company ("PEPCO" or "Company") on February 27, 2006,¹ as amended on March 22, 2006.² The filing provides for certain true-ups to the Third and Fourth GPC procurement periods to reflect the proceeds derived from the sale of PEPCO's claim against the Mirant estate ("Mirant Claim"). This Order also directs PEPCO to clarify certain issues regarding unbilled revenues in connection with its GPC filing.

II. BACKGROUND

2. In Order No. 11576,³ the Commission approved the Non-Unanimous Agreement of Stipulation and Full Settlement ("Phase I Settlement"), which authorized PEPCO to sell the bulk of its electric generating assets.⁴ After the divestiture of its generation assets, PEPCO was required to purchase power on the open market to meet the needs of its customers.⁵ Residential customers were guaranteed a base rate reduction of 2.77 mills per kWh between February 8, 2001 and February 8, 2005.⁶ Commercial customers were guaranteed a base rate reduction of 1.09 mills per kWh during the same period.⁷ The Phase I Settlement provided PEPCO with an

¹ Letter to Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia ("Commission"), from Paul H. Harrington, Associate General Counsel, PEPCO (February 27, 2006) ("GPC Letter").

² Letter to Dorothy Wideman, Commission Secretary, Commission, from Paul H. Harrington, Associate General Counsel, PEPCO (March 22, 2006) ("March 22 GPC Filing").

³ *In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices, Formal Case No. 945, ("F.C. 945")* Order No. 11576, rel. December 30, 1999.

⁴ *Id.* at 47.

⁵ *Id.* at 41.

⁶ See Order No. 13794 at 3, rel. October 24, 2005. The guaranteed rate reductions for all non-RAD customers ended with the implementation of new SOS service on February 8, 2005.

⁷ *Id.*

added incentive to realize the greatest monetary value from its future power purchases by assuring that PEPCO would retain a share of any savings it was able to produce through the GPC mechanism.⁸ Accordingly, the GPC mechanism allows PEPCO to share profits gained from its divestiture of generation services and procurement of energy in the open market with all ratepayers and shareholders through a bill credit that reflects the shared savings amounts, if any, in excess of the guaranteed rate reductions.⁹

3. Article IV of the Phase I Settlement established the general parameters for the GPC credit, and Paragraphs 2, 5 and 7 of the Phase II Settlement¹⁰ included further refinements with respect to the GPC calculation.¹¹ The Phase I Settlement provides that any gains that PEPCO realizes from the provision of Standard Offer Service ("SOS") generation during the rate cap period are shared with ratepayers.¹² Specifically, ratepayers have received 80% of any gains up to \$20.0 million and 60% of any gains in excess of \$20.0 million. The sharing of any net profits with ratepayers has been implemented via a per kWh credit. In addition, the Phase II Settlement specifies that if the difference in actual versus intended GPC credits, to either class of customers, is greater than \$100,000 during a given twelve month period, PEPCO will adjust the GPC credit, as necessary, to reflect the amount of the difference, with interest.¹³

4. At the time of restructuring, PEPCO entered into a contract, *i.e.*, the Transition Power Agreement ("TPA"), with Mirant to supply the District's SOS energy needs during the period that retail rates were to be capped. As a result, virtually all of PEPCO's SOS procurement costs were determined by the TPA. Subsequent to Mirant's bankruptcy filing, PEPCO and Mirant negotiated Amendment No. 2 to their existing TPA that raised the rates paid to Mirant for SOS supply.¹⁴ As a result of the increased procurement costs associated with Amendment No. 2 to the TPA, PEPCO also initiated a claim against the Mirant estate totaling \$105 million.¹⁵

5. Amendment No. 2 to the TPA increased PEPCO's SOS procurement costs beginning October 1, 2003. As such, the GPC generation procurement margins, *i.e.*, the SOS generation revenues minus the SOS procurement costs, reported in PEPCO's GPC filings covering the Third and Fourth GPC periods, were reduced accordingly.¹⁶ On December 22,

⁸ See Order No. 11576 at 47.

⁹ *Id.*

¹⁰ See F.C. 945, Non-Unanimous Agreement of Stipulation and Full Settlement Regarding Unbundled Rate Issues ("Phase II Settlement"), approved through Order No. 11845, rel. December 5, 2000.

¹¹ See F.C. 945, Order No 11576 at Appendix A, Section 4.01.

¹² *Id.*

¹³ See Order No. 13794 at 3.

¹⁴ The Commission addressed Amendment No. 2 to the TPA in its Notice issued on November 7, 2003. Amendment No. 2 to the TPA increased the summer energy rate from \$35.50 per MWh to \$41.90 per MWh, and the winter energy rate from \$25.30 per MWh to \$31.70 per MWh, beginning October 1, 2003.

¹⁵ GPC Letter at 2.

¹⁶ The Third GPC period began February 8, 2003 and ended February 7, 2004. The Fourth (and last) GPC period began February 8, 2004 and ended February 7, 2005.

2005, PEPCO notified the Commission that it had sold its claim against the Mirant estate for \$112.35 million.¹⁷

III. PEPCO's GPC True-Up Filing

6. On February 27, 2006, PEPCO filed a proposed GPC Rider covering the Third and Fourth GPC procurement periods to reflect the proceeds derived from the sale of PEPCO's claim against Mirant. On March 22, 2006, PEPCO filed an amended GPC Rider, to correct an error discovered when responding to a Commission Staff data request.¹⁸

7. On March 28, 2006, the Commission issued Order No. 13911 setting forth a comment and reply comment period in response to PEPCO's February 27, 2006 GPC filing, as amended on March 22, 2006.¹⁹ On April 7, 2006, the Office of the People's Counsel ("OPC") filed comments on PEPCO's GPC filing.²⁰ OPC states that it does not oppose PEPCO's proposed GPC rider. However, OPC reserves the right to file supplemental comments based upon PEPCO's response to its Data Request No. 26.²¹ There were no reply comments filed in response to OPC. Further, OPC has not filed supplemental comments.

IV. Discussion

A. Allocation of Mirant Proceeds

8. In its GPC filing, PEPCO seeks to reflect the net recovery from its Mirant bankruptcy claim in the GPC calculations for both the third GPC period, from February 8, 2003 through February 7, 2004, and the fourth GPC period, from February 8, 2004 through February 7, 2005.²² In addition, PEPCO seeks to true-up a number of calculations that affect the GPC.²³ According to PEPCO, the recovery of the Mirant bankruptcy claim, combined with various true-ups and adjustments, produce a new GPC credit rate of \$0.000358 per kWh for residential customers and of \$0.002447 per kWh for non-residential customers.²⁴

9. The Commission has reviewed PEPCO's filing, data responses and supporting workpapers and finds that PEPCO's amended GPC Rider comports with the relevant provisions

¹⁷ See GPC Letter at 2 citing December 22, 2005 Letter to the Commission.

¹⁸ See March 22 GPC Filing at 1.

¹⁹ See *F.C. 945*, Order No. 13911, rel. March 28, 2006.

²⁰ See Comments of the Office of the People's Counsel on the Proposed Generation Procurement Credit Rider filed by Potomac Electric Power Company on February 27, 2006, as Amended Pursuant to Order No. 13911, filed April 7, 2006. ("OPC Comments"). Attached to OPC's Comments was the Office of the People's Counsel's Data Request No. 26 to Potomac Electric Power Company, dated April 6, 2006.

²¹ See OPC Comments at 1.

²² See GPC Letter at 1-2.

²³ See GPC Letter at 2-4.

²⁴ See March 22 GPC Filing at Attachment H.

contained in the Phase I and Phase II Settlements, and the directives provided in previous Commission Orders.

10. The Commission notes that in order to determine District ratepayers' share of the Mirant proceeds, PEPCO has subtracted its legal expenses in the amount of \$148,215 from the \$112.35 million in gross proceeds. The resulting amount is then allocated across PEPCO's Maryland and District of Columbia jurisdictions, with a resulting assignment of \$60.67 million for the District.

11. The \$60.67 million District-share of the net proceeds is then allocated to residential and non-residential customer classes for the Third and Fourth GPC Procurement periods. The resulting customer class allocations are further adjusted to reflect the amount of any GPC credits previously distributed to ratepayers in PEPCO's original Third and Fourth GPC filings and any miscellaneous adjustments allowed in the Phase II Settlement.²⁵ Thus, the additional GPC bill credits due to District ratepayers resulting from the District's share of the net Mirant proceeds totals \$24,305,127, of which \$814,531 is due to residential customers and \$23,490,596 is due to non-residential customers.

12. The Commission finds that the calculations used by PEPCO to develop the revised GPC bill credits are mathematically correct and finds that PEPCO's claim of \$148,215 in legal expenses is reasonable.

B. Unbilled Revenue Discrepancy

13. Based upon our review, the Commission has uncovered one issue which appears to pertain to unbilled revenues that could impact the amended GPC credits proposed by PEPCO. Specifically, the Commission finds that there is a \$10.2 million reduction in SOS generation revenues, as reported in Attachment D of PEPCO's February 27, 2006 filing, compared to the SOS generation revenues reported in PEPCO's original GPC filing of July 12, 2005 for the Fourth GPC procurement period. The Commission notes that this discrepancy should not be the result of the sale of PEPCO's Mirant Claim because the proceeds of that sale have been accounted for separately as an adjustment to PEPCO's SOS procurement costs.

14. The Commission acknowledges that unbilled revenues can arise from unbilled kWh sales. However, the Commission finds that PEPCO has not adequately explained why it is appropriate to include \$10.2 million of apparently new unbilled revenue adjustments in its latest GPC filing. In order to clarify this issue, the Commission directs PEPCO to provide responses to the following questions related to its February 27, 2006 GPC filing:

- a. Define the term "unbilled generation revenue." Why does it arise? What is the normal timeframe for quantifying the level of unbilled revenue applicable to a given month?

²⁵ These adjustments include unrecovered deferred fuel expense and past differences in actual versus intended GPC bill credits (in any GPC application period) that were greater than \$100,000.

- b. Provide the total unbilled revenue, by month, that appears in the Company's GPC Rider filing of April 28, 2004.
- c. Provide the total unbilled revenue, by month, that appears in the Company's GPC Rider filing of July 12, 2005.
- d. Reconcile the difference in the reported totals for "SOS Generation Revenue" from the following sources: a) Attachment B, page 1 of 2 contained in the GPC Rider filing of July 12, 2005; and b) Attachment D, page 1 of 2 contained in the GPC Rider filing of February 27, 2006.
- e. Explain why there should be no difference in the reported totals for "SOS Generation Revenue" from the following sources: a) Attachment B, page 1 of 4 contained in the GPC Rider filing of April 28, 2004; and b) Attachment C, page 1 of 4 contained in the GPC Rider filing of February 27, 2006.

15. Rather than delay the return of the net Mirant proceeds to ratepayers, the Commission will grant conditional approval of PEPCO's amended GPC Rider filed on March 22, 2006, pending further review of PEPCO's unbilled revenue adjustment. This will provide ratepayers with an immediate credit of \$24.3 million.²⁶ If the Commission ultimately finds that PEPCO's unbilled revenue calculations are inappropriate, PEPCO will be directed to submit a revised GPC filing at that time.

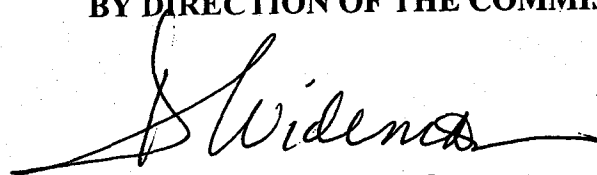
THEREFORE, IT IS ORDERED THAT:

16. PEPCO's amended GPC Rider filed on March 22, 2006 is conditionally granted;
17. Application of the amended GPC Rider shall commence with the billing cycle beginning on July 1, 2006; and
18. PEPCO is directed to respond to the questions set forth in paragraph 14 above within 15 days of the date of this Order; comments on PEPCO's response to the questions in paragraph 14 are due within 45 days and reply comments are due within 60 days.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:

CHIEF CLERK


DOROTHY WIDEMAN
COMMISSION SECRETARY

²⁶

The \$24.3 million credit will be distributed to ratepayers over a twelve-month period.