

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, D.C. 20005**

ORDER

January 22, 2015

**FORMAL CASE NO. 1116, IN THE MATTER OF THE APPLICATION FOR
APPROVAL OF TRIENNIAL UNDERGROUND INFRASTRUCTURE
IMPROVEMENT PROJECTS PLAN, Order No. 17770**

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) grants the Application for Clarification or in the Alternative, Reconsideration of Order No. 17697 filed jointly by the Potomac Electric Power Company (“Pepco”) and the District of Columbia Department of Transportation (“DDOT”).¹ Accordingly, Order No. 17697 is clarified as described herein.

II. BACKGROUND

2. Pursuant to Mayor’s Order 2012-130 (August 16, 2012),² Mayor Vincent Gray established the Mayor’s Power Line Undergrounding Task Force (“Task Force”), which was given specific directives for analyzing “the technical feasibility, infrastructure options and reliability implications of undergrounding new or existing overhead electrical distribution facilities in the District of Columbia.”³ The Task Force ultimately decided that the undergrounding of power lines could be a feasible initiative to improve electric system reliability in the District of Columbia. In October 2013 the Task Force issued the Final Report which recommended that the Mayor accept the Task Force’s recommendations and further recommended immediate development of an

¹ See *Formal Case No. 1116, In the Matter of the Application for Approval of Triennial Underground Infrastructure Improvement Projects Plan* (“*Formal Case No. 1116*”), Joint Application of Potomac Electric Power Company and the District Department of Transportation for Clarification or, in the Alternative, Reconsideration (“*Joint Application*”), filed December 12, 2014.

² Mayor’s Order 2012-130 was amended by Mayor’s Order 2012-182 (October 19, 2012).

³ Mayor’s Power Line Undergrounding Task Force Findings and Recommendations Final Report at 8 (October 2013) (“*Final Report*”).

implementation plan for expedited legislative and regulatory processes that would allow design and construction activities for undergrounding facilities to begin.⁴

3. Legislation governing the public-private partnership between Pepco and DDOT to improve electric service reliability in the District of Columbia D.C. Bill 20-387, the “Electric Company Infrastructure Improvement Financing Act of 2013”, was introduced in the Council of the District of Columbia (the “Council”) on July 9, 2013. The legislation was approved by the Council on February 4, 2014 and signed by Mayor Gray on March 3, 2014. The legislation, herein referred to as the Act or ECIIFA, became effective May 3, 2014.⁵

4. The Act provides for DDOT and Pepco to file a joint application for the Commission’s approval of a triennial plan for undergrounding certain electrical facilities identified therein. On April 29, 2014, the Commission issued Order No. 17473, which, *inter alia*, opened *Formal Case No. 1116* to consider applications for approval of the triennial plans.⁶

5. On June 17, 2014, in accordance with Section 307(a) of the Act, Pepco and DDOT (“Joint Applicants”) filed an application with the Commission, seeking the approval of their Triennial Underground Infrastructure Improvement Projects Plan (the “Triennial Plan”). In the Triennial Plan, Pepco and DDOT requested, *inter alia*, (a) authority to implement a three year project (2015-2017) to expand the undergrounding of certain electric distribution feeders (the “Undergrounding Project”) so as to increase the reliability of the electric distribution system in the District of Columbia and (b) approval of the Underground Project Charge (“UPC”) to be charged by Pepco with respect to Electric Company Infrastructure Improvement Costs incurred for the Undergrounding Project. The entire Undergrounding Project is expected to extend for a period of 7-10 years at a total cost of approximately \$1 billion.⁷

6. On November 12, 2014, the Commission issued its decision in this matter; Order No. 17697 which among other things, (1) approved the initial Triennial Plan filed by the Joint Applicants and authorized the proposed DDOT Underground Electric Company Infrastructure Activity and Electric Company Infrastructure Activity in accordance with this Order; (2) approved and authorized the imposition, charging, and collection of the non-bypassable volumetric UPC authorized by the Act and this Order to be imposed on and collected from all non-Residential Aid Discount (“RAD”) Pepco Distribution Customers beginning on January 1, 2015; (3) approved and authorized an

⁴ Final Report at 9.

⁵ D.C. Law 20-102 (May 3, 2014).

⁶ *Formal Case No. 1116*, Order No. 17473 (April 29, 2014).

⁷ *Formal Case No. 1116*, Joint Application of Pepco and DDOT for Approval of the Triennial Underground Infrastructure Improvement Projects Plan, filed June 17, 2014.

annual true up mechanism for the adjustment of the UPC, in accordance with Section 315 of the Act, to assure collection of amounts sufficient to meet Pepco's annual revenue requirement for Electric Company Infrastructure Improvement Costs on a timely basis; (4) determined that the Electric Company Infrastructure Improvement Costs to be recovered from the UPC are consistent with the Act but under no circumstance shall the total amount of Electric Company Infrastructure Improvement Costs to be recovered from the UPC exceed \$42.472 million for the initial Triennial Underground Infrastructure Improvement Projects Plan; (5) determined that the funding of Electric Company Infrastructure Activity described in the Order with the revenue from the UPC was consistent with the Act; (6) approved and authorized the form of UPC Rider as amended to be filed under Pepco's tariffs, as provided in the Order, and as amended from time to time, to implement and service the UPC; (7) detailed additional provisions that were to be included in the DC PLUG Education Plan; and (8) directed the Joint Applicants to create the Undergrounding Project Consumer Education Task Force ("UPCE Task Force") in accordance with the directives provided in the Order.⁸

7. On December 12, 2014, the Joint Applicants filed an application for clarification or in the alternative, reconsideration of certain findings in Order No. 17697. The Joint Applicants request the Commission to clarify: (a) that the Joint Applicants may follow the detailed feeder-specific schedules that they will file within 90 days after approval of the Triennial Plan, the documents and provide the review opportunities listed in Attachment A to Order No. 17697; (b) what appear to be scrivener's errors that substantively change findings in Order No. 17697 regarding the proper treatment and recovery of the five (5) categories of operations & maintenance ("O&M") costs and the requirement in Paragraph 229 to update Pepco's website rather than the DC PLUG website with respect to the Triennial Plan construction plans; (c) that the Joint Applicants are not required to provide email notification to Pepco customers in addition to the form of notification selected by the Joint Applicants to advise customers of the commencement of construction on each feeder; (d) that the kick-off meeting for the UPCE Task Force will be held in the first quarter of 2015 to allow adequate time to identify, nominate, vet and approve the members and convene the UPCE Task Force through the required process; and (e) that with the UPCE Task Force in place, the Community Advisory Group ("CAG") and the Communications Coordination Committee ("CCC") proposed in the Triennial Plan would be duplicative and are no longer necessary. The Joint Applicants request that the Commission provide the clarifications sought or, in the alternative, reconsider such findings and issue the relief requested therein. No party filed comments on the Joint Application. A full discussion of the five (5) points raised in the Joint Application follows.

⁸ *Formal Case No. 1116, Order No. 17697 (Nov. 12, 2014).*

III. DISCUSSION

A. Joint Application of Pepco and DDOT for Clarification

- i. The Commission Should Clarify that the Joint Applicants can Follow the Detailed Feeder-Specific Schedules that They Will File Within 90 Days After Approval of the Triennial Plan the Information and Provided for the Reviews in Attachment A.

8. The Joint Applicants request that the Commission clarify that the Joint Applicants may follow the detailed feeder-specific schedules that they will file within 90 days after approval of the Triennial Plan (*i.e.*, February 11, 2015) to provide the documents and review opportunities listed in Attachment A to Order No. 17697 (“Attachment A”), and as discussed in Paragraphs 193-196 and 226 that will be based on a schedule reflecting the actual planning and design process applicable to the Underground Infrastructure Improvement Plans (“Projects Plan”).⁹ Due to the large volume of work involved, the timing of the District’s bond issuance, and the unique requirements of each feeder in the Triennial Plan, the Joint Applicants contend that all of the requested materials for the Year 1, Year 2, and Year 3 feeders listed in Attachment A will not be available within 105, 270, and 450 calendar days, respectively, from Triennial Plan approval or in the sequence specified in Attachment A. Indeed, the Joint Applicants aver that, based on their experience in creating final civil designs for Feeder 306, they already know that the timing of the requested documents for some of the selected feeders will fall outside of the time period specified in Attachment A.¹⁰ Thus, the Joint Applicants request that the Commission allow them to follow the dates on the Projects Plan for submission of the various documents to the Commission for review. The Joint Applicants assert that the Projects Plan will provide estimated start and projected end dates for each of the 21 feeders selected as well as the underlying detailed schedules from which those estimated start and projected end dates are derived.¹¹ The Joint Applicants explain that the detailed individual schedules will clearly identify, on a feeder-by-feeder basis, the estimated dates by which the “Design and Construction Drawings” information will be provided to the Commission for review. Because each feeder will have a unique schedule based on a variety of factors, including the feeder size and design and construction processes, following the schedules provided in the Projects Plan will allow

⁹ Joint Application at 4. Attachment A, entitled “Timeline for the Submission and Review of the final Construction Drawings of the 21 Feeders,” prescribes the documents that the Commission expects to review in connection with the design and construction drawings for the 21 feeders that are to be placed underground as well as the timeframe in which the Commission expects to review them. *Id.* at 4.

¹⁰ Joint Application at 4-5. The Joint Applicants expect the Final Civil Construction Design for Feeder 308 to be completed in early February. Thus, the Joint Applicants anticipate that the Final Civil Construction Design for Feeder 308 will be submitted to the Commission with or around the time of their Projects Plan filing. Joint Application at 6.

¹¹ Joint Application at 1, 4.

the Commission to receive complete information regarding each feeder within clearly defined time periods that take into account the distinct characteristics of and the unique schedule for each individual feeder.¹²

9. The Joint Applicants assert that the civil design work of the 21 selected feeders, performed primarily by DDOT, is contingent upon the issuance of the District's bonds; which under the best conditions will not occur until mid- to-late-first quarter 2015, thus most of the civil design, and all of the electrical design, will fall outside the time periods specified in Attachment A.¹³ Furthermore, the Joint Applicants assert that Order No. 17697 establishes deadlines that do not allow the Joint Applicants the time to design and plan for distribution automation ("DA") on underground feeders based on experience with Feeder 15707 and the results of the Request for Proposal ("RFP") Pepco issued in September 2014. The Joint Applicants seek clarification that they will be granted the opportunity to evaluate the benefit of the DA technology on Feeder 15707 once it is underground, to assess the DA technology for underground systems, and to create a comprehensive design and plan for rolling out DA technology on underground feeders. The Joint Applicants note that in September 2014, as part of Pepco's ongoing efforts to improve the automation of its entire underground system, Pepco issued an RFP to investigate possible automation and remote monitoring solutions for Pepco's current and future underground distribution system.¹⁴ Pepco is still in the process of evaluating the responses to the RFP and determining which of the potential technologies best satisfy the requirements for installation on Pepco's underground distribution system. The Joint Applicants contend that due to the early stage of development of DA technology on underground systems, the selection of such underground DA technology will take time and will not necessarily be available for implementation on all selected feeders in the first Triennial Plan as assumed in Order 17697.¹⁵

10. Further, in the Triennial Plan, the Joint Applicants explained that Feeder 15707 with its activated Automatic Sectionalizing and Restoration ("ASR") scheme would be placed underground with DA technology in the first Triennial Plan.¹⁶ Feeder 15707 is part of the Benning ASR scheme along with four other feeders that are not being placed underground as part of the DC PLUG initiative. The function of an ASR scheme is to allow customer outages to be restored quickly (or avoided) if there is a fault in one feeder through connections with other feeders in the ASR scheme. The Joint Applicants plan to place Feeder 15707 underground while maintaining its connectivity to the existing overhead feeders in the Benning ASR scheme so that reliability benefits associated with

¹² Joint Application at 1, 4-5.

¹³ Joint Application at 5.

¹⁴ Joint Application at 7.

¹⁵ Joint Application at 7.

¹⁶ *Formal Case No. 1116*, Order No. 17697 at ¶¶ 192-93; *see also*, Triennial Plan, Exhibit Pepco (A) Gausman Direct at 13:3-15:16.

the scheme remain intact. The underground installation and operation of Feeder 15707 will allow the Joint Applicants to evaluate equipment that can be used to implement DA on an underground system and test various sensors and monitoring equipment. The Joint Applicants request that the Commission allow Pepco the opportunity to assess DA technology options and create a comprehensive design and plan for placing DA on underground feeders.¹⁷

11. The Joint Applicants assert that the DA technology for underground systems is at the early stages of its development and is expensive and that in many cases, the majority of the reliability benefit to the system and to the individual feeders will come from placing them underground. Accordingly, the Joint Applicants request that the Commission clarify that the Joint Applicants will be afforded the opportunity to understand the benefit of the DA technology on Feeder 15707 once it is underground and to spend the time necessary to assess the DA technology for underground systems and to create a comprehensive design and plan for deploying DA technology on underground feeders. If the Commission does not so clarify, the Joint Applicants seek reconsideration on the basis that the Commission has failed to provide “the reliable, probative, and substantial evidence or full and careful explanation of the rationale supporting its decision to require that the Joint Applicants provide the documents in Attachment A within the time frame identified therein.”¹⁸

ii. The Commission Should Clarify What Appears to be Scrivener’s Errors that Substantively Change Findings in Order No. 17697.

1. *The Commission Should Clarify that the \$42.472 Million in Paragraph 8 refers to the Revenue Requirement that may be Recovered through the UPC of the First Three Years of the Triennial Plan.*

12. The Joint Applicants assert that Paragraphs 8, 224, and 229 of Order No. 17697 appear to contain scrivener’s errors in specific sentences that substantively change the findings which they seek clarification. The Joint Applicants note that in Paragraph 8 of Order No. 17697, the Commission stated that it “finds and determines that the Electric Company Infrastructure Improvement Costs to be recovered from the UPC are consistent with the Act but under no circumstance shall the total amount of Electric Company Infrastructure Improvement Costs to be recovered from the UPC exceed \$42.472 million for the initial Triennial Underground Infrastructure Improvement Projects Plan.” The Joint Applicants contend that this finding is inconsistent with Paragraph 219 of Order No. 17697 and the associated Table as well as inconsistent with the Triennial Plan itself. Paragraph 219 of Order No. 17697 and the associated Table make clear that the \$42.472 million refers to the revenue requirement for the first three years of the Triennial Plan,

¹⁷ Joint Application at 8.

¹⁸ Joint Application at 4-8.

consistent with the Triennial Plan, as modified by the response to Staff Data Request No. 7-1. Thus, to be consistent with the substantive portion of Order No. 17697, the Joint Applicants contends that the Commission should clarify that the sentence in Paragraph 8 was intended to state that the Commission “finds and determines that the Electric Company Infrastructure Improvement Costs to be recovered from the UPC are consistent with the Act and under no circumstance shall the total revenue requirement exceed \$42.472 million for the first three years of initial Triennial Underground Infrastructure Improvement Projects Plan.”¹⁹ The Joint Applicants assert that the Commission should also clarify that, to the extent the UPC collects more than \$42.472 million during the first three years of the Triennial Plan, the excess amount shall be trued up in the annual adjustment of the UPC pursuant to D.C. Code § 34-1313.15. If the Commission does not so clarify, the Joint Applicants seek reconsideration of this issue on the basis that the Commission has not provided “the reliable, probative, and substantial evidence or full and careful explanation of the rationale supporting the inconsistency between the inappropriately limited recovery for the UPC set forth in Paragraph 8 when compared to Paragraph 219, together with its associated Table in Order No. 17697.”²⁰

2. *The Commission should clarify that the Five Categories of O&M Costs Included in the UPC Filed with the Triennial Plan Are to be Collected through the UPC and other O&M Costs are to be Recovered in the Cost of Service in a Future Rate Case.*

13. The Joint Applicants assert that in Paragraph 224 of Order No. 17697, the Commission “directs Pepco to address its underground-related O&M expenses and savings (including its costs for the five categories identified above) through a ratemaking adjustment in future rate cases.” The Joint Applicants argue that this is inconsistent with paragraph 191, where the Commission approved the UPC, which included recovery of the five (5) categories of O&M costs discussed in Paragraph 224, without modification. Since it would be inconsistent to approve recovery of the five (5) categories of O&M costs in the UPC and subsequently state that the O&M costs must be recovered in a future rate case, the Joint Applicants request that the Commission clarify the relevant sentence in Paragraph 224 to read as follows: “We therefore direct Pepco to address its undergrounding-related O&M expenses and savings (excluding its costs for the five categories identified above that are recovered in the UPC) in its cost of service in future rate cases.”²¹ The Joint Applicants note that the suggested change to Paragraph 224 also addresses the concern that, to the extent that O&M costs associated with Electric Company Infrastructure Improvement Activities are not recovered in the UPC, those costs should be included with all other costs in the cost of service in future rate cases.

¹⁹ Joint Application at 9.

²⁰ Joint Application at 10.

²¹ *Id.*

The Joint Applicants argue that these costs should be treated in the same manner as any other O&M costs in the cost of service and that it would be inappropriate and unnecessary to recover these O&M costs through a ratemaking adjustment. If the Commission chooses to not clarify, the Joint Applicants seek reconsideration of the issue on the basis that the Commission has failed to provide the reliable, probative, and substantial evidence of full and careful explanation of the rationale supporting the inconsistency between the limitation in Paragraph 224 of recovery through the UPC of the five (5) categories of O&M costs that are properly authorized in Paragraph 191 or the inconsistency of the treatment of changes in O&M costs as a result of the DC PLUG initiative in future rate cases with how all other O&M costs will be treated.²²

3. The Commission Should Clarify that the Weekly Updates are to the DC PLUG-Dedicated Website Rather Than the Pepco Website.

14. The Joint Applicants indicate that Paragraph 229 of Order No. 17697 directs the Joint Applicants to provide weekly updates regarding the DC PLUG initiative on “Pepco’s website.” In the Triennial Plan, in subsequent filings, and as recognized in Order No. 17697, the Joint Applicants assert that they have made clear that they would create a DC PLUG-dedicated website once the Triennial Plan is approved. The Joint Applicants assert that it appears that the Commission meant to require weekly updates to the DC PLUG-dedicated website. Thus, the Joint Applicants ask that the Commission clarify that weekly updates are to be made to the DC PLUG-dedicated website as opposed to Pepco’s website. If the Commission does not clarify, the Joint Applicants seek reconsideration of the issue on the basis that “the Commission has not provided the reliable, probative, and substantial evidence or full and careful explanation of the rationale supporting the requirement that Pepco update its own website weekly when there is a website dedicated specifically to the DC PLUG initiative that consumers will look to for DC PLUG-specific information.”²³

iii. The Commission Should Clarify that the Joint Applicants are not Required to Provide E-mail Notification to Pepco Customers in Addition to the Joint Applicants’ Selected Form of Notification before Construction Commences on Each Feeder.

15. The Joint Applicants point to Paragraph 229 of Order No. 17697, which provides the requirements related to the 30-15-7-day notices of impending construction for each feeder, and requests that the Commission clarify that they need only provide one direct notice per customer for each of the notices required prior to the commencement of construction on each feeder and that the Commission is not requiring them to contact customers via e-mail.²⁴ The Joint Applicants contend that multiple timely notifications

²² Joint Application at 10-11.

²³ Joint Application at 11-12.

²⁴ Joint Application at 12.

prior to the commencement of construction on each feeder are essential to ensure that the affected communities can properly plan for impending construction, but that too many communications to customers create the risk of becoming an annoyance. Further, the Joint Applicants assert that they should not be required to use e-mail as a means of communicating impending construction, but rather allowed to decide what type of communications best supports each situation. Based on the results of a survey sample of District customers the Joint Applicants also suggest that they should provide one direct notice per customer for each of the required notice periods – whether 30-15-7 days, 15-7 days or otherwise – prior to the commencement of construction on each feeder.²⁵ The Joint Applicants contend that one direct communication per customer at each notification period in addition to the other postings and signage will strike the correct balance of fully informing affected customers in a timely manner while not creating customer irritation at the number of notifications. If the Commission does not clarify, the Joint Applicants seek reconsideration of the issue on the basis that the Commission has failed to provide the reliable, probative, and substantial evidence or full and careful explanation of the rationale supporting the decision to require a level of direct communication that risks undermining the DC PLUG communications effort and to require the Joint Applicants to use modes of communication that may be impracticable or ineffective in certain situations.

- iv. The Commission Should Clarify that the Kick-Off Meeting for the UPCE Task Force Will be Held in the First Quarter of 2015 to Allow Time to Identify, Nominate, Vet, and Approve the Members and Convene the UPCE Task Force through the Required Process.

16. The Joint Applicants request that the Commission clarify that the UPCE Task Force kick-off meeting must be held in the first quarter of 2015 due to the formalized process required by the District to nominate members of the UPCE Task Force and to convene the group.²⁶ When considering the formalized process of setting up a task force such as the UPCE Task Force in the District which includes the issuance of a Mayor's order, formal nominations, vetting and an approval process, the Joint Applicants contend that they may not be able to convene a kick-off meeting of the UPCE Task Force within the 60 days specified in Order No. 17697. The Joint Applicants request that the Commission clarify that the kick-off meeting may be held at any time in the first quarter of 2015 so as to allow the District adequate time to complete this formalized process and to avoid placing the Joint Applicants in the position of being non-compliant as a result of the requirements of the formal process. If the Commission does not clarify Order No. 17697, the Joint Applicants seek reconsideration of the issue on the basis that the Commission has failed to provide "the reliable, probative, and substantial evidence or full and careful explanation of the rationale supporting the 60-day requirement, particularly in light of the time-consuming requirements of the District's formal nomination, vetting,

²⁵ Joint Application at 12-13.

²⁶ Joint Application at 14.

and approval process that will be applicable to selecting of the members of the UPCE Task Force..”²⁷

- v. The Commission Should Clarify that with the UPCE Task Force in Place, the CAG and the CCC would be Duplicative and are no Longer Necessary.

17. The Joint Applicants cite to Order No. 17697, which created the UPCE Task Force, as an advisory board designed to ensure community involvement, share feedback from the community, and provide feedback on the communications messages and materials. Paragraph 230 prescribes that the UPCE Task Force should consist of the following members: “Pepco, DDOT, OPC, AOBA, DC Climate, ANC Commissioners, Commission Staff and residents from affected wards in the District as well as any other governmental or non-governmental entity representing specific consumer interests that wants to participate.”²⁸ As proposed in the DC PLUG Education Plan, the CAG comprised of representatives from the affected Wards who are selected by D.C. Council members and the CCC comprised of representatives from Pepco, the District, the Office of the People’s Counsel (“OPC”), the Commission and a community representative were both created to ensure community involvement and serve as forms of community engagement. Through the creation of the UPCE Task Force, the Commission has effectively combined the functions of the CAG and the CCC into one body covering their respective missions. As a result, the CAG and the CCC are no longer necessary and, indeed, would be duplicative of the UPCE Task Force. Thus, the Joint Applicants request that the Commission clarify that the UPCE Task Force will take the place of the CAG and the CCC. If the Commission does not clarify Order No. 17697, the Joint Applicants seek reconsideration of the issue on the basis that the Commission has failed to provide “the reliable, probative, and substantial evidence or full and careful explanation of the rationale that supports requiring the Joint Applicants to convene the CCC and the CAG when their missions also will be met by the UPCE Task Force.”²⁹

IV. DECISION

18. A Petition for Reconsideration by an administrative agency is addressed to that body’s discretion.³⁰ The purpose of a Petition for Reconsideration is to identify errors of law or fact in the Commission’s order so that they can be corrected.³¹ An

²⁷ Joint Application at 14-15.

²⁸ Joint Application at 15.

²⁹ Joint Applicant at 15-16.

³⁰ *District of Columbia v. District of Columbia Pub. Serv. Comm’n*, 963 A.2d 1144, 1152 (D.C. 2009), citing *Duval Corp. v. Donovan*, 650 F.2d 1051, 1054 (9th Cir. 1981).

³¹ See *Formal Case No. 1103, In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Retail Rates and Charges for Electric Distribution Service* (“*Formal Case No. 1103*”), Order No. 17539 ¶ 4, rel. July 10, 2014, citing D.C. Code § 34-604(b) (2001).

Application for Reconsideration “shall set forth specifically the grounds on which the applicant considers the order or decision of the Commission to be unlawful or erroneous.”³² It is not a vehicle for the losing party to rehash arguments previously considered and rejected. If there is substantial evidence in the record to support the decision of the Commission, that decision is not erroneous simply because there is substantial evidence that could support a contrary conclusion.³³ Finally, the Commission enjoys wide discretion on the issues that come before it, and on a Petition for Reconsideration or Clarification may clarify certain findings and conclusions set forth in its initial decision,³⁴ or rescind, modify, or affirm its order or decision.³⁵ With these principles in mind, the Commission turns to the Joint Applicants’ five (5) arguments for clarification or reconsideration.

A. The Commission Clarifies that the Joint Applicants can Follow the Detailed Feeder-Specific Schedules that They will File within 90 Days After Approval of the Triennial Plan to Provide the Information and to Provide for the Reviews in Attachment A and that the Joint Applicants shall provide DA/Fault Location Techniques Design, Evaluation of Fiber Optic Capabilities for All Selected Feeders.

i. The Joint Applicants can Follow the Detailed Feeder-Specific Schedules in Their 90-day Submission.

19. The Joint Applicants request that they be allowed to follow the detailed feeder-specific schedules that they will file within 90 days after approval of the Triennial Plan (*i.e.*, February 11, 2015) to provide the documents and review opportunities listed in Attachment A to Order No. 17697. The Joint Applicants have provided a credible and persuasive explanation why the timeframes that we prescribed in Attachment A for our review of the 21 feeder projects cannot be met. We will, therefore, allow the Joint Applicants the flexibility to establish the timing for the submission of their design and construction drawing for our reviews in the Detailed Feeder-Specific Schedules that they

³² 15 DCMR § 140.2 (June 25, 1982).

³³ See *Formal Case No. 1053, In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service*, Order No. 14832 at ¶ 5, rel. June 13, 2008, citing *State of New York v. United States*, 880 F. Supp. 37 (D.D.C. 1995) and *Washington Gas Light Co. v. District of Columbia Pub. Serv. Comm’n*, 856 A.2d 1098, 1104 (D.C. 2004).

³⁴ See, e.g., *Formal Case No. 1076, In the Matter of the Application of the Potomac Electric Power Company for Authority to Increase Existing Retail Rates and Charges for Electric Distribution Service*, Order No. 15864 at ¶ 3, rel. June 23, 2010 (The Commission, however, may clarify relevant concerns raised by the parties concerning findings and conclusions set forth in its initial decision).

³⁵ See D.C. Code § 34-604(b) (once a reconsideration application is filed the Commission can either rescind, modify, or affirm its order or decision).

will submit on or about February 11, 2015, rather than require the submissions on the dates outlined in Attachment A. Initially, since the Triennial Plan only contained a conceptual presentation of the feeder design work, we indicated in Order No. 17697 that as a part of the Commission's oversight responsibility, we intended to participate in the examination and evaluation of final construction drawings in order to ensure the appropriateness of the design of the 21 proposed projects that we approved by Order 17697.³⁶ Therefore, we set out a preliminary timeline described in Attachment A for the submission and review of the final construction drawings of the 21 undergrounding projects with the caveat that we would review, and if necessary revise, the timeline for the submission and review of the final construction drawings based on any information that we may receive from the Joint Applicants.³⁷ Given the importance of this undergrounding initiative, the Commission will not hinder the ability of the Joint Applicants to successfully develop the appropriate electrical and civil drawings for the Underground Projects by setting unworkable timelines. We will defer to the Joint Applicants' construction management expertise and allow the Joint Applicants to propose timelines to provide information and review opportunities. We will require, however, that the Projects Plan submission for the 21 feeders be modeled on the framework outlined in Attachment A. Therefore the Commission clarifies that the Joint Applicants will be allowed to develop and follow the dates to provide the information and reviews in Attachment A that will appear on the "Detailed Feeder-Specific Schedules" that will be submitted for our review on or about February 11, 2015, provided that all the review elements specified in Attachment A of Order No. 17697 are included in the Joint Applicants' February 11th Detailed Feeder-Specific Schedules submission.

- ii. The Joint Applicants can have more time to Assess and Include DA Technologies on All Feeders Selected for Undergrounding as prescribed by D.C. Code § 34-1313.08(a)(3)(F).

20. Attachment A requires among other things that the Joint Applicants provide "DA/Fault Location Techniques Design" for all selected feeders and parallel feeders identified in the Triennial Plan. The Joint Applicants assert that Order No. 17697 establishes deadlines that do not allow the Joint Applicants the time necessary to design and plan for DA on underground feeders given the current status of their DA procurement and the development of DA for underground feeders. Consequently, the Joint Applicants request that we clarify that they will be afforded the opportunity to evaluate the benefit of the DA technology on Feeder 15707 once it is underground and to assess the DA technology for underground systems, and to create a comprehensive design and plan for deploying DA technology on underground feeders.

21. Section 308(a)(3)(F) of the Act requires the Joint Applicants to include, as a part of the Triennial Plan, "[n]ew distribution automation devices and segmentation

³⁶ Order No. 17697, ¶ 196.

³⁷ Order No. 17697, ¶ 226.

capability to be obtained” on the feeders to be placed underground.³⁸ We recognized as D.C. Climate Action pointed out that most of the feeders slated for undergrounding in the first Triennial Plan will not have DA technology with the exception of Feeder 15707, sourced from Benning Station in Ward 7, and that the Joint Applicants’ Triennial Plan did not include plans to deploy communications fiber optic cable during the undergrounding effort that could facilitate DA functions in the future.³⁹ Therefore, we directed the Joint Applicants to provide DA/Fault Location Techniques Design, and evaluation of fiber optic capabilities for all selected feeders recognizing that “the deployment of equipment to automatically monitor the health of this distribution system and automatically transfer load to a healthy section of a feeder during a sustained outage should take place during the approved construction phase of the project.”⁴⁰

22. We are amenable to affording the Joint Applicants the time necessary to assess the DA technology for underground systems and to create a comprehensive design and implementation plan for deploying DA technology on underground feeders. Therefore, we will not hold the Joint Applicants to the timelines for providing the Commission this information as prescribed in Attachment A. However, it remains the position of the Commission that these DA technologies should be deployed while undergrounding the 21 approved feeder projects since vaults would need to be habilitated to accommodate the submersible switches, motors, sensors, and communication equipment that will remotely interact with Pepco’s system. When reviewing the DA RFP issued in September 2014⁴¹ and still being evaluated by the Joint Applicants, the Commission did not identify any non-standard requirement that would require specialized procurement that may significantly delay deployment of DA technology on the underground feeders. Therefore it appears to us that the lessons the Joint Applicants expect to learn from deploying underground DA functionality on Feeder 15707 can also be gained from the experience other utilities have gained from installing these functionalities in their electric distribution systems.⁴² Given that these technologies are available, tested underground and already deployed, the Commission expects all feeders that will be undergrounded as a result of this Triennial Plan to feature remote monitoring capabilities to facilitate underground fault location and remote/automatic switching capabilities for transfer of load during an outage. Therefore, the Commission clarifies that the Joint Applicants will be afforded more time to assess, from industry experience and Feeder 15707 deployment, DA technology for underground systems to create a comprehensive design and implementation plan for deploying DA technology on the

³⁸ See D.C. Code § 34-1313.08(a)(3)(F).

³⁹ Order No. 17697, ¶ 192.

⁴⁰ Order No. 17697, ¶ 193.

⁴¹ *Formal Case No. 1116*, Pepco’s Response to Staff DR No. 4-5 (DR 1116-2014-E-59).

⁴² *Formal Case No. 1116*, Comments of D.C. Climate at 8 (DR 1116- 2014-E-107).

selected underground feeders.⁴³ As part of the “Detailed Feeder-Specific Schedules” February 11th submission discussed in paragraph 19 above, the Joint Applicants are directed to propose a timeline to provide the Commission with “DA/Fault Location Techniques Design, evaluation of fiber optic communications capabilities” for all selected feeders and parallel feeders identified in the Triennial Plan.

B. The Commission Clarifies What Appear to be Scrivener’s Errors that Substantively Change Findings in Order No. 17697.

23. The Joint Applicants request that the Commission correct a scrivener error and clarify that the \$42.472 million in Paragraph 8 of Order No. 17697 refers to the revenue requirement that may be recovered through the UPC of the first three years of the Triennial Plan. The Joint Applicants are correct and indeed in paragraph 8 we are referring to the \$42.472 million revenue requirement that we are approving for the first three years of the Triennial Plan. This finding is consistent with our statements in paragraph 219, where we discussed the Joint Applicants’ revised \$42.472 million revenue requirement. Therefore, the Commission clarifies that subsection (4) of Paragraph 8 was intended to refer to the revenue requirement that can be recovered through the UPC for the first three years of the initial Triennial Underground Infrastructure Improvement Projects Plan. We also clarify, as requested by the Joint Applicants, that Paragraph 8 should be further clarified to include a reference to the true up procedure that will occur on an annual basis pursuant to D.C. Code § 34-1313.15. With these clarifications subsection (4) of Paragraph 8 will be changed to read:

finds and determines that the Electric Company Infrastructure Improvement Costs to be recovered from the UPC are consistent with the Act and we approve the total revenue requirement of \$42.472 million for the first three years of initial Triennial Underground Infrastructure Improvement Projects Plan. To the extent the UPC collects more than \$42.472 million during the first three years of the Triennial Plan, the excess shall be trued up in the annual adjustment of the UPC pursuant to D.C. Code § 34-1313.15.

⁴³ Experienced contractors deploying this underground technology exist in the Northeast (*e.g.*, Boston) and Mid-Atlantic region (*e.g.*, New York City) that could provide some of “the lessons learned” that the Joint Applicants seek to acquire from Feeder 15707. *See Formal Case No. 1116-2014-E-107* citation 30 on page 8: *Utilization of Underground and Overhead Power Lines in the City of New York* (Dec 2013) page 12 reporting that: “...this differential may be diminishing due to the higher degree of automation now increasingly being built into underground grid elements to permit greater system visibility, and to facilitate more rapid repairs.”

C. The Commission clarifies that Paragraph 224 contains a typographical error that is being corrected with respect to the exclusion of the Five Categories of O&M Costs Included in the UPC Filed with the Triennial Plan.

24. The Joint Applicants also request that we clarify the five (5) categories of O&M costs included in the UPC filed with the Triennial Plan are to be collected through the UPC and other O&M costs are to be recovered in the cost of service in a future rate case. In paragraph 224 of Order No. 17697, we wrote that the Commission “directs Pepco to address its undergrounding-related O&M expenses and savings (**including** its costs for the five categories identified above) through a ratemaking adjustment in future rate cases,” while previously at Paragraph 191, we approved the UPC, which included recovery of the five categories of O&M costs discussed in Paragraph 224, without modification (emphasis added). The Joint Applicants are correct that it would be inconsistent to approve recovery of the five categories of O&M costs in the UPC and then state that they must be recovered in a future rate case. This was a typographical error and the word “including” should have been “excluding.” Therefore, we clarify and correct the typographical error in the last sentence of paragraph 224. The sentence in Paragraph 224 is changed to read:

We therefore direct Pepco to address its undergrounding-related O&M expenses and savings (excluding its costs for the five categories identified above) through a ratemaking adjustment in future rate cases.

D. The Commission Clarifies that the Weekly Updates Are to the DC PLUG-Dedicated Website Rather Than the Pepco Website.

25. Because the Joint Applicants intend to create a DC PLUG-dedicated website once the Triennial Plan is approved, which will provide weekly updates of the construction progress and other matters regarding the Triennial Plan initiative, the Joint Applicants ask that the Commission clarify that weekly updates are to be made to the DC PLUG-dedicated website as opposed to Pepco’s website as we stated in Paragraph 229 of Order No. 17697. We agree and will modify Paragraph 229 of Order No. 17697 to reflect that weekly updates of the construction progress and other matters regarding the Triennial Plan initiative need only appear on the DC PLUG-dedicated website. We will, however, also direct that the Joint Applicants include a link on their respective homepage websites that directs and transfers an Internet inquiry about the undergrounding project to the DC PLUG-dedicated website. These additional website notices will facilitate addressing the comments of the community in having access to as much information regarding the operations of the DC PLUG initiative as possible.⁴⁴

⁴⁴ See generally Order No. 17697, ¶¶ 227-233.

E. The Commission Clarifies that the Joint Applicants are not Required to Provide E-mail Notification to Pepco Customers in Addition to the Joint Applicants' Selected Form of Notification before Construction Commences on Each Feeder.

26. The Joint Applicants request that the Commission clarify that they need only provide one direct notice per customer for each of the notices required prior to the commencement of construction on each feeder and that the Commission not require them to contact customers via email primarily arguing that there is not a reliable, efficient way to tie email addresses to the area with the impending construction, and neither Pepco nor DDOT has a complete list of emails for all customers who would be affected by the construction. In Paragraph 229 the Commission outlined additional requirements to the Joint Applicants' proposed DC PLUG Education Plan aimed at disseminating as much information to the public on the imminent undergrounding construction to include "at least 30-15-7 days advance notice of impending construction in impacted neighborhoods, with notice to be provided by mailer, door hanger, targeted or automated telephone calls, in addition to email notifications to Pepco customers in recognition of the fact that all District residents do not have Internet access."⁴⁵ We are persuaded that we should not require the Joint Applicants to provide email notifications because the Joint Applicants do not have a complete list of email addresses for all customers who would be affected by the construction. Moreover, we recognized that the details of the guidelines prescribed in Paragraph 229 could be finalized by the UPCE Task Force that we ordered be created. We accept the Joint Applicants' representation that they will develop a communication process that strikes the correct balance of fully informing affected customers in a timely manner while not creating customer irritation by the number of notifications. Therefore, we are amenable to clarifying Paragraph 229 to allow the Joint Applicants to provide one direct notice per customer for each of the required notice periods at least 30-15-7 days prior to the commencement of construction on each feeder. The details regarding the timing of the notices can be finalized in collaboration with the UPCE Task Force.

⁴⁵

Order No. 17697, ¶ 229.

F. The Commission Clarifies that the Kick-Off Meeting for the UCPE Task Force May be Held At Any Time During the First Two Quarters of 2015 to Allow Time to Identify, and Approve the Members and Convene the UPCE Task Force.

27. In Paragraph 233 of Order No. 17697, the Commission required that the UPCE Task Force hold its kick-off meeting within 60 days of approval of the Triennial Plan. The Joint Applicants request that the Commission clarify that the kick-off meeting be held in the first quarter of 2015 due to the formalized process required by the District to nominate members of the UPCE Task Force. In an effort to keep District residents and interested parties involved in the consumer education aspect of the Undergrounding Project, the Commission directed the Joint Applicants to create a UPCE Task Force to include all affected stakeholders including Pepco, DDOT, OPC, AOBA, D.C. Climate Action, ANC Commissioners, Commission staff, and residents from the affected Wards in the District as well as any other governmental or non-governmental entity representing specific consumer interests and be chaired, preferably, by the Office of the City Administrator.⁴⁶ We also prescribed that the UPCE Task Force meet within 60 days of approval of the Triennial Plan. After considering the assertions made in the Joint Application, we acknowledge that the District does have a formalized process to appoint members to a task force. In addition, we recognize that the District's new Mayor has just taken office and that she is still in the process of finalizing her administration. Given these facts, the Commission will amend its requirement to convene the UPCE Task Force kick-off meeting in the 60-day timeline period that we prescribed for convening the kick-off in Order No. 17697 to reflect that the UPCE Task Force kick-off meeting may be held any time during the first two quarters of 2015 so as to allow the District Government adequate time to complete the process of selecting and appointing members to the UPCE Task Force.

G. The Commission Clarifies that with the UPCE Task Force in Place, the CAG and the CCC would be Duplicative and are no Longer Necessary.

28. In the Joint Applicants DC PLUG Education Plan, the Joint Applicants proposed to create a CAG comprised of representatives from the affected Wards who are selected by D.C. Council members and a CCC comprised of representatives from Pepco, the District, OPC, the Commission and a community representative to ensure community involvement and to serve as sources of community engagement and feedback on the DC PLUG Initiative.⁴⁷ We agree with the Joint Applicants that with our direction to create the UPCE Task Force, the Commission has effectively combined the functions of the CAG and the CCC. As a result, the CAG and the CCC are no longer necessary and, indeed, would be duplicative of the UPCE Task Force. Therefore, we grant the Joint Applicants' request and the Commission clarifies that the UPCE Task Force may take the

⁴⁶ Order No. 17697, ¶ 230.

⁴⁷ Triennial Plan, Appendix N.

place of the Joint Applicants' initial proposal to create the CAG and the CCC as a part of its DC PLUG Education Plan.

THEREFORE, IT IS ORDERED THAT:

29. The Commission **GRANTS** the Application for Clarification or in the Alternative, Reconsideration filed jointly by the Potomac Electric Power Company and the District of Columbia Department of Transportation. Order No. 17697 is **CLARIFIED** as described herein.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:

A handwritten signature in black ink, reading "Brinda Westbrook-Sedgwick". The signature is written in a cursive, flowing style.

CHIEF CLERK:

**BRINDAWESTBROOK-SEDGWICK
COMMISSION SECRETARY**