

ANC 3/4G Resolution Opposing Exelon's Acquisition of Pepco

Whereas in June 2014, Exelon proposed to acquire the District's electric utility, Pepco, but at least six Councilmembers, 27 ANCs, and thousands of Pepco customers opposed that proposed merger;

Whereas the DC Public Service Commission (PSC) held comprehensive hearings, including three community hearings, to take testimony from customers and others who would be affected by the proposed merger;

Whereas, on January 12, 2015, ANC 3/4G voted 7-0 opposing the proposed merger, citing concerns that included "the potential inability of Pepco's sheltered franchise to operate in the public interest, Exelon's national business model of selling nuclear power generation at the highest market rates, serious risks to the District's commitment to ratepayer affordability, and the documented history of Exelon's opposition of renewable energy deployment," concluding that "many of Exelon's policies are in contrast to the policies and agreements that the District has with Pepco, and would not be in the best interests of our citizens nor the DC government."

Whereas the PSC, after considering all of the voluminous evidence before it, concluded in its August 27, 2015 order that Exelon has "an inherent conflict of interest" with the interests of utility customers in the District and that Exelon will not "be the enthusiastic supporter and facilitator necessary to lead the District and its local distribution franchise in the future";

Whereas following the PSC's order, the District government began secret negotiations with Exelon and Pepco and, without consultation or input from ANCs or customers, reached a settlement agreement that would permit Exelon to take over Pepco;

Whereas on October 6, 2015, the District government and the District Office of People's Counsel reversed their previous opposition to the merger, announced that they had agreed to the terms of the settlement agreement, and committed to support an accelerated schedule for the PSC's consideration of that agreement that would not permit thorough public scrutiny of the agreement;

Whereas the settlement agreement will do nothing to eliminate Exelon's inherent conflict of interest with the interests of utility customers in the District and will do nothing to make Exelon the enthusiastic supporter and facilitator that is necessary to lead the District and its local distribution franchise in the future;

Whereas the settlement agreement will not freeze rates but will permit and facilitate future, inevitable rate increases;

Whereas the negligible payments in the settlement agreement will primarily flow back to Exelon in the form of rate increases and will result in a substantial balloon payment applied to rates beginning in 2019;

Whereas the settlement agreement will lock customers into unnecessary dependence on the utility without providing access to affordable, environmentally friendly alternatives;

Whereas customers will already pay for an extensive undergrounding program (DC PLUG) that will produce reliability enhancements regardless of which company owns the District's utility, and the settlement agreement will not provide any additional level of reliability beyond what could be expected without the proposed merger;

Whereas the settlement agreement does not adequately protect District customers from the impact of Exelon's unregulated generation business;

Whereas nothing in the settlement agreement requires Exelon to change its corporate policies that are designed to protect its unregulated business from competition from renewable generation and from distributed generation;

Whereas nothing in the settlement agreement will enable the PSC to effectively regulate a corporate giant like Exelon nor will it alleviate the PSC's concern that the "proposed merger will make regulatory tasks more complex, more time-consuming, and more costly";


Whereas the settlement agreement was negotiated and entered into without the participation or consent of customers, the ANCs, or the community that the District's utility serves;


Whereas substantial questions have been raised about Exelon's inappropriate influence in the processes surrounding the settlement agreement – i.e., Pepco's \$25 million payment to the District for unspecified "naming rights," possible solicitations for contributions to the Mayor's political action committee, apparent pressure on non-profits who receive Pepco contributions, support for the settlement agreement potentially linked to political appointments, and saturation advertisements promoting the settlement agreement – that may have created a distorted perception of the public support for the settlement and the public interest;

Whereas the PSC will consider whether to approve the proposed settlement agreement following further proceedings that include comments and testimony from customers, ANCs, and the community,

Therefore, ANC 3/4G resolves that the proposed merger, including the provisions of the settlement agreement, remains contrary to the public interest, and the PSC should reject the proposed settlement agreement because it will not produce significant benefits for the District but will instead produce substantial risks and harm.

Adopted at a duly noticed public meeting of ANC 3/4G on December 14, 2015, by a vote of 7 to 0 (a quorum being 4).


Randy Speck
Chair, ANC 3/4G


Chanda Tuck-Garfield
Secretary, ANC 3/4G