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May 17, 2022

Mr. Jason Stanek  
Chairman, Maryland Public Service Commission  
William Donald Schaefer Tower  
6 St. Paul St., 16<sup>th</sup> Floor  
Baltimore, MD 21202

*Re: Updates to Pepco Tariff Schedules SSL-OH and SSL-OH-LED, ML# 240131. Additional information was filed on May 9, 2022. (ML# 240604)*

Dear Chairman Stanek:

The Town of Washington Grove hereby submits its comments with respect to Pepco's proposed revisions to its Tariff Schedules SSL-OH and SSL-OH-LED filed April 8, 2022,

The Commission's decision in Case No. 9655 rejected Pepco's Smart LED Streetlight Initiative.<sup>1</sup> Pepco has now returned with proposed new terms and conditions which address the issue of customer ownership of streetlights which is of significant concern to Washington Grove and other jurisdictions.

Pepco is to be commended for a serious effort to enable municipalities and counties in the state to exercise their statutory right to purchase the streetlights in their jurisdictions. The proposed tariff revisions are characterized as clarification rather than "operational" change, but unfortunately fail to resolve the substantive issues involving sale of its streetlights, or to provide the clarity of meaning required of tariff terms and conditions.

The **Discussion Points below** address the specific failings of the proposed revisions in detail. The most significant substantive objection is that there is no objective method to determine "fair

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<sup>1</sup> Order No. 89868, June 28, 2021, p.51. Pepco was instructed to continue negotiations with municipalities regarding its streetlight proposals. To date no substantive discussions on this issue have been held with Washington Grove, but the Town remains open to such discussion.

market value” of streetlights installed long ago. Such a standard encourages Pepco to assert arbitrary and unreasonable demands that lead to extended negotiation or litigation that small jurisdictions cannot afford. Net Book Value would fairly compensate Pepco for whatever remaining value it may have in the assets.

Washington Grove therefore requests that the Commission suspend or reject the tariff revisions and direct Pepco to correct the problems we have identified.

Please feel free to contact me if you have any questions regarding this matter.

Sincerely yours,



John Compton

Mayor

cc: via email  
Andrew S. Johnston  
Executive Secretary  
Public Service Commission of Maryland  
William Donald Schaefer Tower  
6 St. Paul Street, 16th Floor  
Baltimore, MD 21202-6808

## Washington Grove Discussion Points

Pepco Electric-P.S.C. Md. No. 1

Schedule MD-SSL-OH-LED

Tenth Revised Pages No. 17.3-17.4

### CHARACTER OF SERVICE

- *“...the Company shall sell street lighting equipment....at fair market value.”*

No method is stated for determining “fair market value,” nor is one obvious. The relevant context of this provision is the sale to the customer of existing equipment which has been in place for many years. There is no known “market” for installed used equipment for which the only real potential buyer is probably the municipality. This is not a “greenfield” situation where a municipality might consider Pepco as a retailer of new equipment whose prices could be compared with other sellers. Rather, even if Pepco could find some other buyer, its costs of removal, handling and transport would likely exceed any sales revenue.

In short, there is no objective standard, no Kelley Blue Book, by which “fair market value” could be determined. The inevitable result will be Pepco setting prices at whatever level it wants to, including at levels making purchase uneconomical. Municipalities would have no option but to engage in extended negotiation or litigation, the cost of which alone will make purchase uneconomical.

Further, while Pepco can’t be expected to sell its property at a loss, in many if not most situations, such as in Washington Grove, the equipment is fully or mostly depreciated.<sup>1</sup> Pepco has thus not only recovered all or most of its entire original cost of the equipment and its costs of operation and maintenance from its ratepayers, but has earned the allowed return on the investment throughout its useful life. Instead of “fair market value” the tariff should require sale at “net book value.”

- *“Any equipment ... allowing the Company to disconnect service will be owned and maintained by the Company.”*

The term “any” apparently would give Pepco complete discretion to require or not require disconnect devices, but there is no obvious reason why they would be needed where, as will mostly be the case, the sale is of existing installed equipment.

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<sup>1</sup> For tax purposes streetlights are depreciated over seven years. *PPL Corp. v. Comm.* U.S. Tax Court, July 28, 2010. Washington Grove’s streetlight fixtures have been in place much longer.

- *“Any make ready construction work...will be paid by the customer.”*<sup>2</sup>

Again, there is no objective standard for either the amount of work required or statement of the labor and materials prices that would be charged. The result would be complete discretion to Pepco to demand unnecessary and excessive charges with no option to the municipality except cost prohibitive negotiation or litigation.

- *“Customers purchasing lights...will require a third-party attachment agreement.”*<sup>3</sup>

While such agreement is probably desirable by both parties, the text of Pepco’s desired agreement must be provided in order that municipalities can evaluate its fairness. This provision also doesn’t state whether or not an ongoing charge will be made for the attachment or, if so, what the charge will be.

- *“For customers who...request Company-supplied maintenance...the ‘O&M Charges’ are applicable.”*

The term “O&M” is not defined in either Schedule SSL-OH or SSL-OH-LED. The Schedules do not state to what the charge applies: is it per customer or per light fixture? Both state Schedule SL rates apply to customers who provide their own maintenance but the textual material in Schedule SSL-OH is followed by a chart showing “O&M” charges for customer supplied maintenance. The first chart following text in Schedule SSL-OH-LED states charges for Year 1 which ended before the Schedule was filed. The year 2 charge states the charge is monthly for Decorative Grade, but no charges are stated for Utility Grade, a probable drafting error. The text describes a replacement service for globes, fixtures, and light sensitive switches “as needed,” but the following charts list this a monthly fee.

No definition is provided as to how to distinguish decorative and utility grades.

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<sup>2</sup> The word “for” should apparently be added after “paid.”

<sup>3</sup> Again, the English is muddled.