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People's Counsel

June 20, 2025

Brinda Westbrook-Sedgwick
Commission Secretary
Public Service Commission
of the District of Columbia
1325 G Street, N.W., Suite 800
Washington, D.C. 20005

Re: Consumer Complaint No. 9075277, Rebecca Levinson v. Potomac Electric Power Company

Dear Ms. Westbrook-Sedgwick:

Enclosed for filing in the above-referenced proceeding, please find the *Office of the People's Counsel for the District of Columbia's Response to the Potomac Electric Power Company's Renewed Motion for Dismissal, or in the Alternative, Motion for Summary Judgement*.

If there are any questions regarding this matter, please contact me at 202.727.3071.

Sincerely,

/s/ Stephen Marencic
Stephen Marencic
Assistant People's Counsel

Enclosure

cc: Parties of record

**BEFORE
THE DISTRICT OF COLUMBIA
PUBLIC SERVICE
COMMISSION**

In the Matter of

**Rebecca Levinson
Complainant**

v.

**Potomac Electric Power Company
Respondent**

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**Consumer Complaint
No. 2025-9075277**

**THE OFFICE OF THE PEOPLE’S COUNSEL FOR THE DISTRICT OF
COLUMBIA’S RESPONSE TO THE POTOMAC ELECTRIC POWER
COMPANY’S RENEWED MOTION FOR DISMISSAL, OR IN THE
ALTERNATIVE, MOTION FOR SUMMARY JUDGEMENT**

Pursuant to Rule 137.1 of the Public Service Commission of the District of Columbia’s (“Commission” or “PSC”) Rules of Practice and Procedures, 15 D.C.M.R. § 137.1, Rebecca Levinson (“Complainant”), by and through her counsel, the Office of the People’s Counsel for the District of Columbia, the statutory representative of utility consumers in the District of Columbia,¹ respectfully submits her response to Pepco’s renewed motion to dismiss in this proceeding.

I. BACKGROUND

Complainant brings this matter pursuant to D.C. Code § 34-1101 guaranteeing just and reasonable rates, D.C. Code § 34-1518 (4)² establishing the customer-generator’s right to be compensated for feeding energy back into the grid through net energy metering (NEM), D.C.M.R. § 15-9³ which states the rules regarding consumer rights and company responsibilities for net energy metering in the District of Columbia, D.C.M.R. § 15-304.2⁴ and D.C.M.R. § 15-

¹ D.C. Code § 34-804 (Lexis 2025).

² D.C Code § 34-1518 (4) (Lexis 2025)

³ D.C.M.R. § 15-9 (Lexis 2025)

⁴ D.C.M.R. § 15-304.2 (Lexis 2025)

304.7⁵ establishing the requirement for actual bills with clear billing information to be provided to consumers.

Here, the consumer asserts that they are not being accurately billed by Potomac Electric Power Company (“Pepco” or “Company”). Furthermore, Complainant asserts factual inaccuracies in Pepco’s billing beyond what has been admitted by Pepco that can only be resolved under further evidentiary examination by the Commission. Complainant requests that Pepco’s renewed motion to dismiss be rejected, and that the company be ordered by the Public Service Commission to remedy the discrepancies in the consumer’s utility bills and respond to the allegations raised in Ms. Levinson’s complaint.

II. STATEMENT OF FACTS

Ms. Levinson owns a home at 1602 A Street NE in Washington, D.C. 20002 (*the* “Property”) and has a photovoltaic solar system (“P.V.”) which was granted Authorization to Operate on July 24, 2024. On May 21, 2024, Pepco exchanged Meter 1ND346565614 with meter 1ND313543385. Over the course of several months ranging from June of 2024 through November of 2024, Pepco claims that the meter 1ND313543385 had an error with the “net meter programming”⁶ causing the data to be off by a “factor of ten.”⁷ Pepco asserts that its meter was reprogrammed on November 17, 2024. Pepco claims that her “account was rebilled using the register meter reading data for the period from June 25, 2024 to October 23, 2024” and that the daily energy usage data in the Portal for the October 24, 2024, to November 22, 2024, changed to align to the updated meter readings.⁸

⁵ D.C.M.R. § 15-304.7 (Lexis 2025)

⁶ Pepco’s Renewed Motion to Dismiss p.3

⁷ Id at p.3

⁸ Id at p. 3

III. ARGUMENT

Pepco in its renewed motion requests that the complaint be dismissed under Rule 12 (b) (6) alleging that dismissal is appropriate for lack of a legally viable claim. It is inappropriate for the Commission to dismiss the case because “when there are well-pleaded factual allegations” a court should assume their veracity and decide whether can plausibly “give rise to an entitlement to relief.”⁹ In this matter at hand, the Complainant has raised the issue of inaccuracies by Pepco in the originally issued and revised bills and has included copies of those bills as evidence.¹⁰ Also, Pepco submitted via email to the People’s Counsel on May 15, 2025 a PDF a spreadsheet of Ms. Levinson’s Raw Meter Pulse Data of interval data. In this spreadsheet, there is a reading on page 198 for November 17th, 2024 at 13:00 which shows a dramatic reading value of 5209.7859.¹¹ Pepco has not indicated why there is such a large number despite Ms. Levinson’s continued questions regarding the pulse data in her complaint.

Also, Pepco has not provided substantive evidence to illustrate the method that it used in obtaining actual meter readings as required by the Consumer Bill of Rights.¹² In the Company’s renewed motion to dismiss, Pepco merely states that the data has been reissued in the bills with no clear information as to how these bills were calculated. This request for information must survive a motion to dismiss.

Pepco’s motion for Summary Judgement must also fail. Under D.C. Superior Court Civil Rule 56, made applicable to Commission proceedings by 15 DCMR § 105 and § 510.12, summary judgment is appropriate only when “there is no genuine issue as to any material fact and... the moving party is entitled to a judgment as a matter of law.” The Commission must

⁹ [*Potomac Dev. Corp. v. District of Columbia*, 28 A.3d 531, 544 \(D.C. 2011\)](#)

¹⁰ Consumer Brief at pp. 21-107

¹¹ Levinson Raw Meter Pulse Data (Exhibit 1)

¹² D.C.M.R. § 15-304.2 (Lexis 2025)

resolve all reasonable inferences in favor of the nonmoving party.¹³ Also, Complainant need only identify specific facts demonstrating a genuine dispute. The Commission must not weigh the evidence or make credibility determinations at this stage.¹⁴

Here, there are multiple issues of material fact that require the Commission to continue with the formal complaint process:

First, Pepco concedes that there were programming errors with Ms. Levinson's meter. This admitted issue raises significant questions as to whether the revised billing was accurate. Also, the Commission must determine whether the consumer was clearly informed as to *how* the bills were recalculated and reissued in addition to answering how the consumer's online account was updated to reflect the reissued bills. These facts are still in dispute and require further examination by the PSC.

Also, Pepco is required under D.C. Code § 15-304.7 to disclose to consumers whether utility bills are issued using actual or estimated readings, and to disclose to consumers those methodologies in issuing those bills. The consumer has submitted sufficient evidence to support that her bills do not clearly state whether they were based on actual or estimated readings and that they omit information critical to determining whether the readings can be verified independently by the consumer. Pepco's violation of its responsibilities to consumers according to the Consumer Bill of Rights is a material fact that must be decided by the PSC.

The PSC is bound by D.C. Code § 34-1101¹⁵ to ensure that rates must be fair and reasonable for both consumers and utility providers. Ms. Levinson's complaint contains multiple issues regarding Pepco's billing practices.

¹³ *Kitt v. Pathmakers, Inc.*, 672 A.2d 76, 79 (D.C. 1996) (Lexis 2025)

¹⁴ *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986) (Lexis 2025)

¹⁵ D.C. Code § 34-1101 (Lexis 2025)

First, as the District works towards achieving its ambitious climate goals, residential solar projects are going to become more frequent. The PSC must ensure that Pepco is applying solar credits appropriately to consumer bills and that the Company is able to justify its calculations on consumer bills. D.C. Code § 34-1518(4) provides protections for NEM consumers by ensuring fair compensation for the excess electricity they generate and send back to the grid. Specifically, this provision requires fair credit for excess generation from solar consumers. Also, unfair and unclear calculations for solar generators will have a chilling effect on participation in the District as consumers are unlikely to absorb the frequently high cost of solar installation if they are unlikely to receive the full benefit. In addition, D.C.M.R. § 15-9¹⁶ provides that NEM consumers will be compensated for excess generation sent through the grid.

Finally, D.C.M.R. § 15-304.7 provides that utility bills should state “clearly” the meter reading data and include “amounts of all payments or other credits made to the Customer’s Account”.¹⁷ In this case, not only is the method of calculating solar credits is not clearly stated by the company, but also the manner in which the consumer’s bills were repeatedly re-calculated and re-issued.

V. CONCLUSION

WHEREFORE, for the foregoing reasons, the Office of the People’s Counsel asks that the Commission deny Pepco’s renewed request for dismissal and motion for summary judgment and find that the consumer has a legitimate issue of fact. Further, OPC asks that Pepco be required to review their billing data for inaccuracies on Ms. Levinson’s account.

¹⁶ D.C.M.R. § 15-9 (Lexis 2025)

¹⁷ D.C.M.R. § 15-304.7 (j) (Lexis 2025)

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EXHIBIT 1-Levinson Raw Meter Pulse Data

Meter Rea Itron EE	05/09/202 Page	1 Service Po 163620390001	Start Time	11/17/202 Channel	0	Stop Time 05/07/202 Interval:	Time Zone EasternUS
Rec#	SPC#	Unit	Reading End Time	Reading Value			
4,114	201	KWH	KWH	11/17/2024 01:00	0.0000		
4,115	201	KWH	KWH	11/17/2024 02:00	0.0000		
4,116	201	KWH	KWH	11/17/2024 03:00	0.0000		
4,117	201	KWH	KWH	11/17/2024 04:00	0.0000		
4,118	201	KWH	KWH	11/17/2024 05:00	0.0000		
4,119	201	KWH	KWH	11/17/2024 06:00	0.0000		
4,120	201	KWH	KWH	11/17/2024 07:00	0.0000		
4,121	201	KWH	KWH	11/17/2024 08:00	0.1095		
4,122	201	KWH	KWH	11/17/2024 09:00	1.7130		
4,123	201	KWH	KWH	11/17/2024 10:00	3.5805		
4,124	201	KWH	KWH	11/17/2024 11:00	4.1595		
4,125	201	KWH	KWH	11/17/2024 12:00	4.2480		
4,126	201	KWH	KWH	11/17/2024 13:00	5209.7859		
4,127	201	KWH	KWH	11/17/2024 14:00	0.4875		
4,128	201	KWH	KWH	11/17/2024 15:00	1.3335		
4,129	201	KWH	KWH	11/17/2024 16:00	0.7245		
4,130	201	KWH	KWH	11/17/2024 17:00	0.0180		
4,131	201	KWH	KWH	11/17/2024 18:00	0.0000		
4,132	201	KWH	KWH	11/17/2024 19:00	0.0000		
4,133	201	KWH	KWH	11/17/2024 20:00	0.0000		
4,134	201	KWH	KWH	11/17/2024 21:00	0.0000		
4,135	201	KWH	KWH	11/17/2024 22:00	0.0000		
4,136	201	KWH	KWH	11/17/2024 23:00	0.0000		
4,137	201	KWH	KWH	11/18/2024 00:00	0.0000		
4,138	201	KWH	KWH	11/18/2024 01:00	0.0000		
4,139	201	KWH	KWH	11/18/2024 02:00	0.0000		
4,140	201	KWH	KWH	11/18/2024 03:00	0.0000		

CERTIFICATE OF SERVICE

Consumer Complaint No. 9075277, Rebecca Levinson v. Potomac Electric Power Company

I certify that on June 20, 2025, a copy of the *Office of the People's Counsel for the District of Columbia's Response to the Potomac Electric Power Company's Renewed Motion for Dismissal, or in the Alternative, Motion for Summary Judgement* was served on the following parties of record by hand delivery, first class mail, postage prepaid or electronic mail:

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