BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF POTOMAC ELECTRIC POWER COMPANY FOR AN ELECTRIC MULTI-YEAR PLAN FOR THE DISTRIBUTION OF ELECTRIC ENERGY	* * * *	Case No. 9702

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SURREBUTTAL TESTIMONY

OF

COURTNEY LANE

ON BEHALF OF THE OFFICE OF PEOPLE'S COUNSEL

February 23, 2024

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Attached Exhibits

Exhibit CL-SR-1 – Data Requests and Responses Referenced in Testimony.

SURREBUTTAL TESTIMONY OF COURTNEY LANE

INTRODUCTION

Q. Please state your name and business address.

A. My name is Courtney Lane. I am a principal associate at Synapse Energy Economics, Inc. (Synapse) located at 485 Massachusetts Avenue, Suite 3, Cambridge, MA 02139.

Q. Have you previously submitted testimony in this proceeding?

A. Yes. I submitted direct testimony in this proceeding on December 15, 2023, on behalf of the Office of People's Counsel.

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of my surrebuttal testimony is to respond to the rebuttal testimony of Potomac Electric Power Company's (Pepco or the company) witnesses Donohoo-Vallett and Leming. My surrebuttal testimony addresses topics related to Pepco's proposed electrifying transportation programs and the cost-recovery structure for the climate solutions programs.

My surrebuttal testimony responds to several key aspects of each witness's rebuttal testimony but does not attempt to address every instance of disagreement. I also do not address the electrifying transportation programs that Pepco has voluntarily removed from this proceeding.[1] Thus, silence on any particular issue should not be interpreted as agreement.

[1] Pepco removed four of the five proposals from the electrifying transportation programs originally included in its application for a rate increase: destination charging make-ready, public transit bus charging make-ready, multifamily charging make ready, and private fleet charging programs. The

Q. What materials did you rely on to develop your testimony?

A. In addition to the testimony of each witness, the sources for my surrebuttal testimony are discovery requests, public documents, and my personal knowledge and experience.

Q. Was this testimony prepared by you or under your direction?

A. Yes. My testimony was prepared by me or under my direct supervision and control.

I. Summary of Conclusions and Recommendations

Q. Please summarize your primary conclusions and recommendations.

A. My overall conclusions and recommendations remain unchanged from my direct testimony. Regarding the specific issues I address in this surrebuttal testimony, I summarize my primary conclusions and recommendations as follows:

- Witness Donohoo-Vallett's rebuttal testimony does not provide sufficient support for why approval of Pepco's public charging stations operation and maintenance (O&M) program beyond 2025 is required and appropriate in this rate case when utility public charging programs will be reviewed in the forthcoming Phase I EV program evaluation. Similarly, her rebuttal testimony does not change my

one remaining program is the EVsmart public charging stations operation and maintenance program. Pepco also retained its proposal for an EV make-ready planning and support program.

opinion that Pepco's existing and proposed fleet electrification programs should be considered together and not bifurcated between Case No. 9478 and this instant proceeding.

- Witness Leming does not provide sufficient justification for why non-capital costs for Pepco's climate solutions programs should be classified as a regulatory asset. This approach will needlessly cost ratepayers more over the long term, while allowing the Company to earn a return on program costs that are not capital investments.

II. Response to Pepco Witness Donohoo-Vallett

Q. Does Pepco propose any modifications to its electrifying transportation programs?

A. Yes. In response to OPC's *Motion to Strike Pepco's Proposed Climate Solutions Programs*[2] and considering recent Commission orders,[3] Pepco voluntarily agreed to remove all but two of its climate solution programs related to electric vehicles (EV).[4] The company is proposing to retain the EVsmart public charging stations O&M and the EV make-ready planning and support programs.[5]

[2] ML# 306343.
[3] In Case No. 9692, the Commission struck Baltimore Gas and Electric Company's customer electrification plan without prejudice.
[4] Rebuttal Testimony of Pearl Donohoo-Vallett ("Donohoo-Vallett Rebuttal") at 5-7.
[5] *Id.*, at 7, lines 6-14.

Q. Does witness Donohoo-Vallett mischaracterize your support of electrifying transportation programs in this proceeding?

A. Yes. Witness Donohoo-Vallett states that I expressed support of certain climate solution programs in this proceeding.[6] However, my support or rejection of Pepco's proposed EV programs in this proceeding should not be misconstrued as an opinion of whether or not it is appropriate for these programs to be considered as part of this rate case. The purpose of my direct testimony was to assess Pepco's proposed EV programs and to provide recommendations to the Commission should OPC's motion to strike be denied.[7]

Q. What is witness Donohoo-Vallett's response to your recommendation that the Commission reject Pepco's proposal to extend its EVsmart public charging stations O&M program beyond 2025?

A. Witness Donohoo-Vallett states that the public charging stations O&M program is needed to allow the company to support the requirements of the *Electric Vehicle Charging Reliability Act*, which requires a standard 97 percent uptime for EV charging network and the requirements of Commission Order No. 90971 related to EV charging stations reliability and reporting standards.[8]

Q. What is your response to witness Donohoo-Vallett?

[6] *Id*., at 6, lines 1-11.
[7] ML# 306704, Direct Testimony of Courtney Lane ("Lane Direct Testimony") at 4, lines 16-21.
[8] Donohoo-Vallett Rebuttal at 9, lines 1-10.

A. I agree that the public charging stations O&M program supports the reliability of Pepco's public charging stations; however, witness Donohoo-Vallett does not provide justification for why the company requires approval of funding beyond program year 2025 in this rate case.

As stated in my direct testimony, Pepco has Commission approval to continue owning, operating, and maintaining its network of public chargers until the end of December 2025.[9] Therefore, Pepco has the required funds to support reliability and reporting standards until the end of 2025.

Whether or not Pepco's public charging stations O&M program should be extended beyond 2025 should be determined as part of the forthcoming evaluation and final review of the utility Phase I EV programs. The final program review, which will include an assessment of utility public charging programs, will take place in May 2024, and be followed by a Commission order on the final program review.[10] Given the fact Pepco has funding to continue supporting the reliability of its public charging stations until after the Phase I EV program evaluation, the Commission should reject any extension of this program until it is evaluated as ordered in Case No. 9478.[11]

[9] Lane Direct Testimony at 14, lines 11-13.
[10] Case No. 9478, Order No. 88997 at 74.
[11] *Id*.

Q. What is witness Donohoo-Vallett's response to your recommendation that Pepco remove fleet assessments from its proposed EV make-ready planning and support program?

A. Witness Donohoo-Vallett states that the fleet assessments included in the Company's proposed EV make-ready planning and support program are not duplicative with any existing Pepco program. She states that the Company's existing EVsmart fleet assessment program is limited to the participant's financial and emissions analysis related to fleet vehicles and does not include pre-interconnection support.[12]

Q. Does witness Donohoo-Vallett's response change your recommendation?

A. No, it does not. While witness Donohoo-Vallett's clarification of the distinction between the types of fleet assessments is helpful, I still recommend that this aspect of the EV make-ready planning and support program be removed. Because Pepco withdrew its Private Fleet Charging program from this rate case and the Commission will review Pepco's existing Phase I EV programs later this year, I recommend that the entirety of Pepco's existing and proposed fleet programs be reviewed together in a cohesive manner. The bifurcation of fleet offerings creates unnecessary confusion regarding the scope and cost of the programs to support this sector. For example, it becomes more difficult for the Commission and

[12] Donohoo-Vallett Rebuttal Testimony at 11, lines 1-12.

stakeholders to track the overall portion of program funds going to the fleet sector versus other customer segments and the distribution of benefits. This separation also does not allow for a comprehensive BCA of Pepco's entire EV portfolio. The ability to review all of Pepco's proposed EV programs together increases transparency and facilitates a more comprehensive picture of the overall rate impacts, costs, and benefits.

III. Response to Pepco Witness Lemming

Q. What is witness Lemming's response to your recommendation that the Commission deny Pepco's proposed regulatory asset treatment for non-capital climate solution program costs?

A. Witness Lemming asserts that cost recovery through a regulatory asset supports intergenerational matching of benefits and costs. He states this aligns with Pepco's climate solution programs, which provide benefits for "many years to come."[13] He also states that regulatory asset treatment is the most affordable option and is less costly on an annual basis for customers.[14]

Q. Do you agree with witness Leming's justification for classifying non-capital climate solution program expenses as a regulatory asset?

A. No, I do not. The fact that a utility investment provides benefits over multiple years does not prescribe its classification as an expense or a capital asset. There is a long-accepted practice of expensing costs associated with

[13] Rebuttal Testimony of Robert T. Leming ("Leming Rebuttal") at 25, lines 7-16.
[14] *Id.*, at 26, lines 1-5.

utility rebate programs in the year they occur, such as that typically seen with utility energy efficiency programs,[15] and is now required in the EmPOWER programs.[16] As part of these programs, utilities provide customers with financial incentives to help offset the higher upfront cost of more efficient equipment. Just like the benefits of Pepco's climate solutions programs, energy efficiency programs create multigenerational benefits. The energy efficiency equipment installed as the result of a utility program will continue to create benefits for upwards of 20 years. However, in the case of utility energy efficiency incentives, these costs are not capitalized but are instead typically expensed and funded through a monthly system benefits charge on customer bills.[17] The non-capital expenses of Pepco's climate solutions programs should be treated in a similar fashion to utility energy efficiency programs (i.e. as O&M expenses in the year they occur) rather

[15] For example, see (1) Rhode Island Public Utilities Commission Docket No. 22-33-EE The Narragansett Electric Co. d/b/a Rhode Island Energy, 2023 Energy Efficiency Plan, September 30, 2022, at 36, https://ripuc.ri.gov/Docket-22-33-EE; (2) Massachusetts Department of Public Utilities Order on 2022-2024 Three Year Energy Efficiency Plans, January 31, 2022, at 14, https://www.mass.gov/doc/2022-2024-three-year-energy-efficiency-plans-order/download; and (3) Duke Energy Progress. 2019. Duke Energy Progress, LLC's Application for Approval of Demand-Side Management and Energy Efficiency Cost Recovery Rider. Docket No. 2019-89-EE-2, Sub 1206, June 11. Columbia: South Carolina PSC (Public Service Commission). dms.psc.sc.gov/Web/Dockets/Detail/117032.

[16] Order No. 90306 ¶¶ 24, 25, ML# 241928, (CN 9648, Aug. 16, 2022).

[17] Nineteen states are listed as using tariffs or riders to fund energy efficiency programs, see: https://database.aceee.org/state/customer-energy-efficiency-programs.

than as a regulatory asset notwithstanding the fact that the benefits of these programs will last for "many years to come".

Q. Do you agree with witness Leming's opinion that regulatory asset treatment is more affordable to customers?

A. No, I do not. Regulatory asset treatment of the electrifying transportation and decarbonizing buildings programs as originally proposed in this case will create an additional cost to customers of $37.3 million more over the amortization period.[18] Thus, although Mr. Leming is correct that Pepco's approach would lower the immediate rate impact of the cost recovery for these programs, ratepayers will end up paying almost $40 million more for these programs over the life of the regulatory asset than if the Pepco recovered costs as O&M expenses in the years the costs are incurred. I therefore do not consider Pepco's proposal a more affordable option.

Q. Do you have any additional response to witness Leming's rebuttal testimony?

A. Yes. Witness Leming states that I do not support my claim that regulatory asset treatment is "inconsistent with how these types of program costs are recovered in other jurisdictions where they are offered" based on my response to Pepco DR 3-2(a)..[19] This statement is inaccurate for several reasons.

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[18] Lane Direct Testimony at 70, lines 14-18.
[19] Leming Rebuttal at 25, lines 17-22.

First, nowhere in my direct testimony do I state that the proposal for regulatory asset treatment is inconsistent with "these types of program costs." I indicate in my direct testimony that capitalization of customer incentives is contrary to standard ratemaking principles and provide examples for how rebates associated with energy efficiency programs are expensed in the year they occur.[20]

Second, while it is true that I did not conduct exhaustive research on all jurisdictions where utilities provide rebates to customers for customer-side make-ready costs, witness Leming fails to acknowledge the example I provide for California within OPC's responses to Pepco DR 3-2(a) and Pepco DR 7-2.[21] In these responses, I explain that the California investor-owned utilities' (IOU) use a rebate structure for customer-side transportation electrification infrastructure costs and those costs are recovered as an expense in the year incurred.[22]

In particular, the California Public Utilities Commission has stated that "Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Liberty Utilities (CalPeco Electric) LLC, Bear Valley Electric Service Inc., and PacifiCorp d/b/a

[20] See Lane Direct Testimony at 66-67.
[21] OPC Responses to Pepco DR 3-2(a)(b) and Pepco DR 7-2 (attached to this surrebuttal testimony as CL-SR-1).
[22] OPC Responses to Pepco DR 3-2(a) and Pepco DR 7-2.

Pacific Power, collectively the investor-owned utilities (IOUs), shall record all behind-the-meter transportation electrification (TE) program costs in either a one-way subaccount within each IOU's TE Balancing Account or through a separate one-way balancing account. The IOUs *shall record such costs as expenses, rather than capitalizing the costs.* The IOUs shall recover such costs through distribution rates allocated on an equal cents per kilowatt hour basis applied equally to all customer classes."[23]

Q. Does this conclude your surrebuttal testimony at this time?

A. Yes, it does.

[23] See OPC Response to Pepco DR 7-2 and Public Utilities Commission of the State of California, Decision 22-11-040, November 17, 2022, at para. 3, pp. 227-228 (emphasis added). Available at: https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M499/K005/499005805.PDF.

Potomac Electric Power Company's Application for Adjustments to its Retail Rates for the Distribution of Electric Energy

Case No. 9702

Data Responses Referenced in the Surrebuttal Testimony of Courtney Lane

OPC Response to Pepco 3-2

OPC Response to Pepco 7-2

Potomac Electric Power Company
Maryland Case No. 9702
Pepco Data Request No. 3 to OPC

2. Refer to Witness Lane at 18 lines 6-11.

   a) Please provide a list of jurisdictions where utilities provide rebates to customers for customer-side make-ready costs. For each jurisdiction or utility, please provide the cost-recovery for the customer-side make-ready cost rebates.

Response: Witness Lane is aware of the following jurisdictions that provide incentives for customer-side make-ready costs: New Jersey, Connecticut, New York, Massachusetts, and California. The research regarding cost-recovery was not conducted; however, witness Lane is aware that California EV programs use a rebate structure for customer-side infrastructure costs and those costs are treated as non-capital expenditures (See: D.22-11-040, 11/21/22, pp. 103 and 105, https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M499/K005/499005805.PDF.)

Sponsor: Courtney Lane

   b) Please provide a list of jurisdictions where utilities are able to provide utility-side make-ready incentives but not customer-side make-ready incentives.

Response: This analysis was not conducted.

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2. In OPC DR-2a: Witness Lane states that California EV programs provide a rebate for customer-side infrastructure costs and that those costs are treated as "non-capital expenditures." Please describe the specific cost recovery method allowed in California for customer-side infrastructure costs. Please include in the description any regulatory asset treatment or utility incentives (e.g., performance incentive mechanisms) associated with the customer-side make-ready costs.

Response: The California investor-owned utilities (IOUs) customer-side transportation electrification costs are recovered as an expense in the year incurred.

"Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, Liberty Utilities (CalPeco Electric) LLC, Bear Valley Electric Service Inc., and PacifiCorp d/b/a Pacific Power, collectively the investor-owned utilities (IOUs), shall record all behind-the-meter transportation electrification (TE) program costs in either a one-way subaccount within each IOU's TE Balancing Account or through a separate one-way balancing account. The IOUs *shall record such costs as expenses, rather than capitalizing the costs* [emphasis added]. The IOUs shall recover such costs through distribution rates allocated on an equal cents per kilowatt hour basis applied equally to all customer classes."[1]

Sponsor: Courtney Lane

[1] Public Utilities Commission of the State of California, Decision 22-11-040, November 17, 2022, at para. 3, pp. 227-228. Available at: https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M499/K005/499005805.PDF.