

Introduction

MEMORANDUM

January 20, 2015

TO: County Council

FROM: Cindy Gibson, Chief of Staff, Councilmember Berliner *CG*

SUBJECT: **Introduction: Resolution to urge Maryland Public Service Commission to endorse Comment of M-NCPPC regarding power line right-of-way trails in considering the sale of Pepco to Exelon**

This resolution, sponsored by Councilmembers Berliner, Rice, Riemer, Hucker, Katz, Floreen, Elrich, and Navarro, calls on the Maryland Public Service Commission to strongly consider the recreational use of trails on utility rights-of-way as a condition of approval of the sale of Pepco to Exelon.

This resolution would echo the official Comment made by Planning Board Casey Anderson to the Public Service Commission, as well as the official testimony submitted by Montgomery County in the Pepco-Exelon case.

This packet contains the following:

Proposed Resolution	1-2
Comment of Planning Board Chair	3-5
Testimony of Eric Coffman on behalf of Montgomery County	6-13

Resolution No.: _____
Introduced: January 20, 2015
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Berliner, Rice, Riemer, Hucker, Katz, Floreen, Elrich and Navarro

SUBJECT: Resolution to urge Maryland Public Service Commission to endorse Comment of M-NCPPC regarding power line right-of-way trails in considering the sale of Pepco to Exelon

Background

1. On April 30, 2014, it was announced that Exelon had agreed to purchase Pepco for \$6.83 billion.
2. This purchase is currently being reviewed by the Maryland Public Service Commission as Case number 9361.
3. Many residents in Montgomery County have expressed interest in the use of electric transmission rights-of-way for recreational uses.
4. In the testimony of its expert witness Eric Coffman, Montgomery County called for the merged entity to work with local government and community stakeholders to consider requests for use of infrastructure for recreation and community improvement purposes.
5. A consortium of outdoor organizations—Mid-Atlantic Off-Road Enthusiasts (MORE), Trail Riders of Today, Inc. (TROT), Potomac Bridle and Hiking Trail Association, Inc. (PBHTA), Equestrian Partners in Conservation, Inc. (EPIC), Potomac Appalachian Trail Club, Inc. (PATC), Montgomery County Road Runners Association, Inc. (MCRRA), the International Mountain Bicycling Association, Inc. (IMBA), the Maryland Horse Council, Inc. (MHC), and the American Hiking Society (AHS)—have intervened in the merger case to call for new trails to be constructed along electric transmission rights-of-way.
6. The Maryland-National Capital Park and Planning Commission, through Planning Board Chair Casey Anderson, has offered official comment requesting that the Public Service Commission consider, as condition of approval, granting trail public access to utility rights-of-way, cooperating with M-NCPPC to evaluate feasibility of recreational trail development along rights-of-way, allowing recreational use of paved and gravel utility

access roads, working with M-NCPPC to identify appropriate locations for trail access and related trail parking, and considering including in Pepco's budget meaningful funding for construction, operation, and maintenance of trails along its rights-of-way.

Action

The County Council for Montgomery County, Maryland approves the following resolution:

The Council urges that the Maryland Public Service Commission strongly consider the recreational use of trails on utility rights-of-way as a condition of approval of the sale of Pepco to Exelon.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

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MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIR

December 23, 2014

Mr. David J. Collins
Executive Secretary
Maryland Public Service Commission
William Donald Schaefer Tower
6 St. Paul Street, 16th Floor
Baltimore, Maryland 21202

RE: Case No. 9361 – Public Comment

Dear Mr. Collins:

On behalf of the Maryland-National Capital Park and Planning Commission, Montgomery County, I submit this letter with our agency's comments on Case No. 9361, "In the Matter of the Merger of Exelon Corporation and Pepco Holdings, Inc."

The Maryland-National Capital Park and Planning Commission (M-NCPPC) is a bi-county agency empowered by the State of Maryland in 1927 to acquire, develop, maintain and administer a regional system of parks within Montgomery and Prince George's Counties, and to provide land use planning for the physical development of Prince George's and Montgomery counties. M-NCPPC owns and/or maintains nearly 35,000 acres of parkland in Montgomery County. It also owns and operates more than 130 miles of natural surface park trails and more than 70 miles of hard surface park trails. Trails are among the most popular recreational facilities in parks. In order to meet the growing demand for trails across the county, and to better connect our park trail system, the M-NCPPC is interested in exploring trail opportunities along utility corridors, including those owned by PEPCO.

As such, M-NCPPC offers the following comments on Case No. 9361 and asks the Public Service Commission to consider the following conditions of approval:

- Grant public access—via trails—to utility corridors or rights-of-way owned, operated, and/or maintained by PEPCO.
- Cooperate with M-NCPPC to evaluate feasibility for recreational trail development along utility corridors and rights-of-way.
- Allow recreational use of both paved and gravel utility access roads.
- Work with M-NCPPC to identify appropriate locations for trail access and related trail parking.

- Consider including in its annual budget meaningful funding for construction, operation, and maintenance of trails along its utility corridors and rights-of-way.

Consistent with our staff's latest thinking on countywide trail policy, M-NCPPC has an interest in exploring recreational trail opportunities along three specific utility corridors. These corridors are described below and illustrated on the attached map. Please also see the latest proposed amendment to M-NCPPC's Countywide Park Trails plan at http://www.montgomeryparks.org/PPSD/ParkPlanning/Projects/cwptp_ammend/cwptp.amendment.shtm.

The plan amendment includes a new "loops and links" framework for countywide park trails policy. This "loops and links" framework would be significantly enhanced with access to utility corridors and rights-of-way. The attached map depicts the proposed framework – along with parkland, utility service areas, and utility corridors.

The plan amendment proposes trails in three areas of the county that would benefit from having trails in, and therefore public access to, PEPCO lands or rights-of-way:

- The first is the PEPCO corridor that parallels Patuxent River State Park, approximately between Howard Chapel Road and Annapolis Rock Road (MD 94), part of which is within the coverage area of Potomac Edison, not PEPCO. A trail in this area would help the plan achieve the objective to link the Rachel Carson Trail Corridor (and Rachel Carson Conservation Park) with the future extension of the Seneca Greenway Trail north of MD 108 toward Patuxent River State Park.
- The second is the PEPCO Corridor that runs through communities in the area of Potomac. In terms of trail (and park) connectivity, the segment we would be most interested in is between South Germantown Recreational Park and Cabin John Regional Park. South Germantown Recreational Park features numerous trails and a host of other recreational facilities, and nearby is Schaffer Farm, a regionally renowned mountain biking area with numerous trails. The PEPCO lands then cross and connect to Muddy Branch Stream Valley Park (and associated natural surface trail that runs along most of the park's length), pass through Serpentine Barrens Conservation Park (which includes a planned natural surface trail network), cross and connect to Watts Branch Stream Valley Park (and associated community-oriented "people's choice" natural surface trails) and ultimately link to Cabin John Regional Park, which features a natural surface trail network.
- The third is the PEPCO corridor that starts in Seneca Creek State Park and travels northeast across the county ultimately connecting to the PEPCO corridor along the Patuxent River. The PEPCO transmission line and corridor cross nearby to

many parks and open space, and pass through Carson Farm Special Park, which is planned to include a bicycle skills area in the future. This PEPCO corridor also could help recreational trail users connect the Upper Rock Creek stream valley parks and trails with the state park as well as nearby South Germantown Recreational Park and Schaffer Farm.

M-NCPPC believes PEPCO's utility corridors in Montgomery County have the potential to provide opportunities for healthful, trail-based recreation. The trails in PEPCO's utility corridors would provide safe, longer-distance off-road opportunities for hiking, running, cycling and horseback riding. These trails not only would link Montgomery County's residents to M-NCPPC's park system, but also to other important destinations – including employment centers, shopping areas and transit stations. M-NCPPC looks forward to working with Exelon to explore opportunities for trails along corridors and rights-of-way currently owned by PEPCO.

If you have any questions about any of our comments above, please contact Chuck Kines, Park Trail Planner-Coordinator, at Charles.Kines@montgomeryparks.org or 301-495-2184.

Sincerely,



Casey Anderson

Chair



Isiah Leggett
County Executive

OFFICE OF THE COUNTY ATTORNEY

Marc P. Hansen
County Attorney

December 8, 2014

David J. Collins
Executive Secretary
Public Service Commission of Maryland
William Donald Schaefer Tower
6 St. Paul Street, 16th Floor
Baltimore, Maryland 21202

Re: Case No. 9361
In the Matter of the Merger of Exelon Corporation and Pepco Holdings, Inc.

Dear Mr. Collins:

Enclosed for filing in the above referenced matter are the original and seventeen (17) copies (five three-hole punched) of the Direct Testimony Eric R. Coffman on behalf of Montgomery County, Maryland.

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

Sincerely,



Lisa Brennan
Associate County Attorney

Enclosure

cc: Case No. 9361 Service List

(6)

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND**

**In the Matter of the Merger of Exelon
Corporation and Pepco Holdings, Inc.**

Case No. 9361

Pre-Filed Direct Testimony

of

ERIC R. COFFMAN

On Behalf of

Montgomery County, Maryland

December 8, 2014

⑦

1 **Q. PLEASE STATE YOUR NAME AND ADDRESS.**

2 A. My Name is Eric R. Coffman. My business address is the Executive Office Building,
3 101 Monroe St, 9th Floor, Rockville, MD 20850.

4
5 **Q. WHAT IS YOUR OCCUPATION?**

6 A. I am Chief of the Office of Energy and Sustainability within the Montgomery County
7 Department of General Services.

8
9 **Q. WHAT IS THE PURPOSE OF YOUR DIRECT TESTIMONY?**

10 A. I am testifying on behalf of Montgomery County, Maryland ("Montgomery County")
11 regarding the request of Exelon Corporation ("Exelon") to acquire the power to exercise
12 substantial influence over the policies and actions of Potomac Electric Power Company
13 ("Pepco") and Delmarva Power & Light Company ("Delmarva") (hereinafter referred to
14 as the merger). Since Delmarva does not operate in Montgomery County, my testimony
15 will address Exelon's merger request as it relates to Pepco.

16
17 **Q. PLEASE SUMMARIZE YOUR PROFESSIONAL EXPERIENCE AND**
18 **EDUCATIONAL BACKGROUND.**

19 A. Please see Exhibit ERC-1 for more information regarding my professional experience
20 and educational background. In summary, I am Chief of the office responsible for
21 managing Montgomery County's utilities as well as reducing the environmental footprint
22 of Montgomery County operations. I have also in the past been Montgomery County's

1 Senior Energy Planner within the Department of Environmental Protection with
2 responsibility for community energy policy. Before coming to Montgomery County, I
3 worked for a large consulting firm where I supported a wide array of utility and
4 governmental clients.

5
6 I have participated in several matters before the Maryland Public Service Commission
7 (“Commission”) including EmPOWER Maryland Energy Efficiency Act, Advanced
8 Metering Infrastructure and utility reliability.

9
10 **Q. WHAT IS MONTGOMERY COUNTY, MARYLAND’S PERSPECTIVE**
11 **REGARDING THE PROPOSED MERGER?**

12 A. Montgomery County believes that in order for the Commission to find this merger is in
13 the public interest, there need to be additional benefits to consumers.

14
15 **Q. WHAT ADDITIONAL COMMITMENTS WOULD BE IN THE BENEFIT OF**
16 **CONSUMERS?**

17 A. Broadly, Montgomery County believes that four fundamental issues should be conditions
18 of any merger approval.

19
20 *Accelerate the Reliability Enhancement Plan* - Montgomery County has indicated on
21 several occasions that it believes Pepco should be in the “top quartile” of utility
22 companies in terms of reliability. Recently, the Montgomery County Council passed

1 Resolution 17-1079, which calls on the Commission "to require, as a condition of
2 approval of the sale of Pepco to Exelon, should the Commission find the sale in the
3 public interest, that Exelon provide substantial ratepayer benefits, including but not
4 limited to, quality of service equivalent to a top quartile utility within 3 years, and that
5 cost recovery for investments necessary to achieve that outcome be tied to performance."
6 Other Exelon utilities are currently delivering top quartile performance, or nearing this
7 benchmark. This level of performance needs to be extended through Pepco's service
8 territory.

9
10 Montgomery County desires that Pepco's current plan be accelerated to achieve top
11 quartile utility performance by 2018 (based on a three-year average for the 2015-2017
12 period), with cost recovery for investments necessary to achieve that outcome tied to
13 performance. Specifically, that the Return on Equity ("ROE"), to which Pepco would
14 otherwise be entitled in its next electric distribution base rate case, be reduced by 50 basis
15 points if it fails to meet the SAIFI and SAIDI¹ reliability standards. If Pepco fails to
16 achieve only one of the reliability standards (SAIFI or SAIDI) the ROE would be reduced
17 by 25 basis points.

18
19 *Use the Customer Investment Fund to Invest in the Montgomery County Community* - In
20 order to insulate the community from potential rate increases, reductions in reliability or
21 increases in environmental impacts, Montgomery County feels meaningful and direct

¹ SAIFI is the System Average Interruption Frequency Index and SAIDI is the System Average Interruption Duration Index.

1 investments are needed using the Customer Investment Fund. Montgomery County
2 believes that Exelon's initial proposal of \$29 million for the Pepco service territory
3 (equivalent to a value of approximately \$50 per customer) is a promising start toward
4 these goals, but is insufficient to actually meet the statutory requirement of being in the
5 public interest.

6
7 The investments need to be able to help the community become resilient to potential
8 outages, fund efficiency and clean energy projects that benefit the environment and
9 ratepayers, and help ensure low-income consumers are adequately protected. This
10 includes programs offering incentives and expense reductions for residents of low and
11 moderate income multi-family communities that have difficulty accessing the current
12 array of incentive programs and many communities that cannot benefit from individual
13 metering the opportunity to control their own energy costs. Montgomery County also
14 calls for investments in programs to help ensure Montgomery County's business sector
15 remains vibrant by investing in programs to contain the costs and improve the energy
16 efficiency of key economic sectors while providing resources to stimulate next generation
17 technologies and entrepreneurs.

18
19 *Provide Credits to Montgomery County Ratepayers* - As a condition of the merger,
20 Montgomery County is also seeking a \$110 rate credit per residential customer to be
21 considered separately from the funds for the Customer Investment Fund projects.

1 *Policies and Community Engagement* – Montgomery County requests that Exelon make
2 substantial investments in the Exelon’s system to incorporate cutting edge utility
3 infrastructure to ensure the reliable delivery of power and ability to incorporate emerging
4 practices to align the system with the communities’ expectations of reliability,
5 environmental stewardship, cost containment and new technologies. Exelon, as a
6 condition, should continue Pepco’s positive gains in coordination with Montgomery
7 County Emergency Management staff and first responders and work to harden the system
8 to ensure continuous operation of critical facilities. Furthermore, Montgomery County
9 desires that as part of the merger the utilities be required to work with the government
10 and community to ensure the expansion of programs and policies that help spur local and
11 large scale clean energy development in Maryland. Montgomery County also desires that
12 as part of the merger that the utility be required to enter a robust and good faith dialog
13 with the government and community stakeholders to make best efforts to fulfill requests
14 for shared infrastructure for uses such as recreation and community improvement.
15 Finally, Montgomery County agrees with Exelon’s stated commitment that, during the
16 ten-year period following consummation of the merger, it would provide at least an
17 annual average of charitable contributions and traditional local support that exceeds the
18 2013 level.

1 **Q. DO YOU HAVE ANY CONCLUDING REMARKS?**

2 A. Yes. Montgomery County has been in discussions with Pepco regarding Montgomery
3 County's perspective on the proposed merger and the fundamental issues Montgomery
4 County believes should be conditions of any merger approval. Montgomery County
5 anticipates further conversations with both Pepco and other parties.

6
7 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

8 A. Yes, thank you for the opportunity to testify.