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PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., 2nd Floor, West Tower
WASHINGTON, D.C. 20005

ORDER APPROVING ADOPTION OF RULES GOVERNING THE CONSTRUCTION OF GENERATING AND TRANSMISSION FACILITIES

August 9, 2004

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY PRACTICES AND FORMAL CASE NO. 712, IN THE MATTER OF THE INVESTIGATION INTO THE PUBLIC SERVICE COMMISSION'S RULES OF PRACTICE AND PROCEDURE, Order No. 13259

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") adopts the attached new Chapter 21 of Title 15 DCMR governing the construction of generating and transmission facilities in the District of Columbia. The rules we adopt today will replace the existing rules in their entirety.

II. BACKGROUND

2. In recognition of the fact that the Commission's existing rules predate the City Council of the District of Columbia's enactment of electricity restructuring legislation, the Commission issued Order No. 12340 directing the Retail Competition Working Group ("Working Group")¹ to review the existing rules and suggest any necessary revisions.² The Working Group submitted a number of revisions on April 30, 2002. Although Order No. 12340 invited comments on the Working Group's suggestions, no comments were received.

3. The Commission incorporated most of the Working Group's comments in a substantially reformatted version of the existing regulations and invited public comment through a Notice of Proposed Rulemaking ("NOPR") published in the *D.C. Register*.³ The Office of People's Counsel ("OPC") and the Potomac Electric Power Company ("PEPCO") both filed comments in response to the NOPR.⁴ We address those comments below.

¹ The purpose of the Working Group is to make recommendations to the Commission on implementing retail competition in the District of Columbia.

² *Formal Case No. 945, In the Matter of the Investigation Into Electric Service market Competition and regulatory Practices* ("F.C. 945"), Order No. 12340 at 5, rel. March 11, 2002.

³ NOPR published December 27, 2002, 48 *D.C. Reg.* 11826-11848 (2002).

⁴ Initial Comments of the Office of People's Counsel on the Commission's Proposed Regulations

III. COMMENTS

a. OPC Comments

4. One of the regulatory revisions suggested by the Working Group was that the Commission provide a blanket exclusion from Chapter 21 for residential or commercial customers who own and operate an electric generating facility that uses net metering. We declined to include this suggestion and explained in a footnote that such an exclusion would be inconsistent with D.C. Code, 2001 Ed. § 1516, which requires Commission approval for the construction of all electric facilities intended for the retail or wholesale sale of electricity. However, we stated that a generating facility providing for net metering will be exempt if it is not intended for retail or wholesale purposes.⁵

5. Apparently, OPC viewed this footnote as a declaration by the Commission that § 1516 requires us to make an individualized judgment about the purpose of each proposed installation of customer-owned distributed generation.⁶ According to OPC, there is no reason to force ordinary customers into using the elaborate procedures under Chapter 21, especially when D.C. Code, 2001 Ed. § 1518(a) states that the “Commission may establish a program that affords eligible customers the opportunity to participate in net energy metering.” Inasmuch as a customer-generator is, by definition,⁷ intended primarily to off-set all or part of the customer’s own electricity requirements, OPC suggests that we declare all customer-generator facilities operated in compliance with the net metering program to be intended for the retail or wholesale sale of electricity.⁸

b. Commission Decision

6. OPC’s concerns are unwarranted. D.C. Code, 2001 Ed. § 1516 and the proposed Chapter 21 rules both make clear that Commission approval for the construction of a generator is only necessary if the generator is intended for retail or wholesale purposes. If an individual wishes to construct a generator that provides for net metering, and the purpose of the generator is simply to off-set that individual’s own electricity requirements, then the facility is exempt under § 1516 and is not governed by the procedures of Chapter 21. The exemption is automatic and does not require any “individualized judgment” by the Commission.

Governing Construction of Electric Generating Facilities and Transmission Lines (“OPC Comments”), filed January 23, 2003; Comments of Potomac Electric Power Company (“Pepco’s comments”), filed January 27, 2003.

⁵ NOPR at footnote no. 4.

⁶ OPC Comments at 6.

⁷ D.C. Code, 2001 Ed. § 34-15 (15).

⁸ OPC Comments at 5-7.

c. Pepco's Comments

7. Pepco notes that, for the most part, the new Chapter 21 rules are not substantively any different from the existing rules and reflect most of the changes suggested by Pepco and OPC. However, in view of the fact that the new rules have been renumbered and substantially reformatted, Pepco suggests a number of minor editorial changes to ensure clarity and consistency. These sections include Rules 2100.1, 2100.2, 2103.1, 2104.2(a)(7), 2106.1, 2107.3(c), 2111.5(g)(7), 2111.1, and 2199.1.⁹

8. Although Pepco and OPC did not suggest any changes to existing Rule 2111.1, now 2103.1, Pepco asserts that there is no longer a need for subpart (a), which requires an applicant to submit information regarding alternative generating facilities including:

An estimate of the capital and annual operating cost of each alternative design or site for the generating facility.

Pepco recommends that we delete subpart (a) because "no estimate of the capital and annual operating cost of the proposed new generating facility is required to be submitted under the proposed or existing Chapter 21 rules and D.C. Code § 34-1502 (a) (2001 ed.) deregulates the supply and sale of electricity."¹⁰

9. Finally, Pepco states that proposed Rule 2106.1 mandates the formation of a Project Coordinating Committee, whereas existing Rule 2106.1(a) and (b) does not. Pepco points out that neither it nor OPC propose to make the formation of this Committee mandatory. Inasmuch as some overhead transmission line projects may not justify the additional time and expense of a project Coordinating Committee, and because the Committee is only advisory in nature anyway, Pepco suggests that we leave existing Rule 2106.1(a) and (b) unchanged in this regard.¹¹

d. Commission Decision

10. We find Pepco's editorial suggestions helpful and adopt them in their entirety. We also agree that there is no need for Rule 2103.1 (a) or language in Rule 2106.1 that mandates the formation of a Project Coordinating Committee. Accordingly, Rules 2103.1 and 2106.1 will be revised. Additionally, the Commission has revised rules 2101.4 (b) and 2111.6 to reflect shifts in the jurisdictional responsibilities of various District agencies. All changes to the proposed rules referenced in this Order will be clearly indicated in the Notice of Final Rulemaking.

⁹ Pepco's Comments at 2-7.

¹⁰ Pepco's Comments at 4.

¹¹ *Id.* at 4-5.

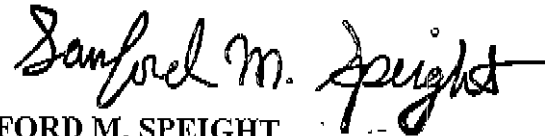
THEREFORE, IT HEREBY ORDERED THAT:

11. The proposed Chapter 21 rules, as revised by this Order, are adopted;
12. The Commission Secretary shall cause a Notice of Final Rulemaking to be published in the *D.C. Register* to be effective upon publication.

A TRUE COPY:

CHIEF CLERK

BY DIRECTION OF THE COMMISSION:



**SANFORD M. SPEIGHT
ACTING COMMISSION SECRETARY**

CHAPTER 21 PROVISIONS FOR CONSTRUCTION OF
ELECTRIC GENERATING FACILITIES AND
TRANSMISSION LINES

15-2100 APPLICABILITY

2100.1 This Chapter shall govern the construction of electric generating facilities, overhead transmission lines designed to carry sixty-nine thousand (69,000) volts or more, underground transmission lines in excess of sixty-nine thousand (69,000) volts as well as any substations connected to such lines.

Authority: D.C. Code, 2001 Ed. §§ 34 - 301, 34 -302, and 34 - 1516.

2100.2 No person shall construct an electric generating facility in the District of Columbia for the purpose of selling electricity unless the Commission first determines, after notice and a hearing that the construction of the facility is in the public interest. Nor shall any person construct a an overhead transmission line designed to carry ~~more than~~ sixty-nine thousand (69,000) volts or greater, or substation connected to such line, unless the project has been approved in accordance with this Chapter. Unless specifically required by law or other provision of this Chapter, Commission approval shall not be required for the routine repair and replacement activities necessary to maintain an electric generating facility or transmission line.

2100.3 Any person doing business in the District of Columbia who plans to construct a generating station or an overhead transmission line designed to carry sixty-nine thousand (69,000) volts or greater in a state contiguous to the District of Columbia for which a Certificate of Public Convenience and Necessity is required by the state shall file with the Commission formal notice of this construction. This formal notice shall include the following information:

- (a) A general description of the generating facility or transmission lines;
- (b) A statement indicating the capacity or voltage involved;
- (c) A statement describing the site selected to construct the generating station or the area in which the transmission line would be located;
- (d) A statement indicating any alternative sites which have been considered;
- (e) An estimation of the cost involved;

- (f) An estimated in-service date; and
- (g) A statement indicating with which state or federal agency, commission, or department, if any, an application for approval of construction has been or is intended to be filed.

2100.4 The formal notice required under § 2100.3, shall be filed with the Commission on or before the date that the electric corporation files any application for approval of construction with a state or federal agency, commission or department.

15-2101 APPLICATION FILING REQUIREMENTS

2101.1 An application for approval of the construction of a generating facility, transmission line or substation covered under this Chapter shall include the following information:

- (a) The name and address of the principal place of business of the applicant;
- (b) The name, title, and address of the person authorized to receive notices and communications with respect to the application;
- (c) The location or locations where the public may inspect or obtain a copy of the application;
- (d) A list of each District of Columbia, state, or federal government agency having authority to approve or disapprove the construction or operation of the project and containing the following:
 - (1) A statement indicating whether the necessary approval from each agency has been obtained, with a copy of each approval or disapproval attached;
 - (2) A statement indicating the circumstances under which any necessary approval has not been obtained; and
 - (3) A statement indicating whether any waiver or variance has been requested, with a copy of each approval or disapproval attached.
- (e) A general description of the generating station under § 2102, or the transmission line under § 2104, and the alternatives considered under §§ 2103 and 2104, respectively;
- (f) The environmental information required under § 2108;
- (g) A statement of the engineering justifications for the project;
- (h) A statement of the safety considerations incorporated into the design, construction, and maintenance of the project;

- (i) A statement of the socioeconomic impact of the project;
- (j) A statement of contacts with community groups and the affected community;
- (k) A statement that the applicant has complied with all applicable environmental and zoning laws; and
- (l) A statement that the applicant has complied or will comply with the applicable PJM Interconnection, L.L.C. (PJM) tariff and requirements for the interconnection of new and expanded electric generating facilities within the PJM transmission system.

2101.2 The original application shall be:

- (a) Signed by a person having authority with respect to the application and having knowledge of the application; and
- (b) Verified under oath.

2101.3 All filings shall conform to the requirements of 15 DCMR Chapter 1. The Commission may, in its discretion, prescribe the form of the application.

2101.4 In addition to filing the application with the Commission, the applicant shall simultaneously serve one copy on the following agencies:

- (a) The District of Columbia Office of the People's Counsel;
- (b) The District of Columbia Department of ~~Public Works~~ Transportation;
- (c) The District of Columbia Corporation Counsel;
- (d) The Board of Zoning Adjustment;
- (e) The Office of Intergovernmental Relations;
- (f) The District of Columbia Energy Office;
- (g) The Metropolitan Washington Council of Governments, if affected;
- (h) The District of Columbia Zoning Commission;
- (i) The District of Columbia Office of Property Management;
- (j) The General Services Administration of the United States;
- (k) The Department of Consumer and Regulatory Affairs;
- (l) The Mayor's Office of Policy and Education;
- (m) The U.S. Environmental Protection Agency-D.C. Field Office;

- (n) The National Capital Planning Commission
- (o) The District of Columbia Department of Health; and
- (o) PEPCO, if PEPCO is not the applicant.
- (p) The Advisory Neighborhood Commission(s) in which the generating facility or transmission line will be located.

2101.5 The applicant shall also serve a copy of the application on any other District of Columbia or federal agency that may be affected.

2101.6 The Commission shall publish notice of the application on its website.

2101.7 Failure to comply with the provisions of this section may result in the summary rejection of the application.

15-2102 DESCRIPTION OF GENERATING FACILITY

2102.1 The description of the generating facility shall include the following:

- (a) Location;
- (b) All important design and engineering features, including fuel requirements, heat rates, emission rates, space requirements, transportation facilities, water requirements and transmission requirements;
- (c) Operational features, including operation and maintenance personnel and equipment;
- (d) The schedule for engineering, construction, and operation of the generating stations;
- (e) The impact of the proposed generating station on system operations, reliability, reserve margins, and capacity factors;
- (f) A statement of the reasons for the selection of the design and the site of the generating facility, including the location and identification of the following sites from which the project would be clearly visible:
 - (1) Residential structures;
 - (2) Historical structure and land sites;
 - (3) Institutional land, including school hospitals, and pre-school facilities;
 - (4) Recreational area;

- (5) Aesthetic;
- (6) Archaeological;
- (7) Wildlife management area; and
- (8) Park or forest.

15-2103 ALTERNATIVE GENERATING FACILITY

2103.1 The description of each alternative design or site considered for a generating facility shall include the following:

- (a) ~~An estimate of the capital and annual operating cost of each alternative design or site for the generating facility; and~~
- (b) The reasons for rejecting each alternative design or site.

15-2104 DESCRIPTION OF OVERHEAD TRANSMISSION LINE

2104.1 The description of a proposed overhead transmission line shall include the following:

- (a) A statement of the effect the project will have on system stability and reliability;
- (b) A statement of the consequences that will or may occur if the project is delayed or not approved;
- (c) A statement regarding the probability that the consequences of § 2104.1(b) will occur;
- (d) A description of the applicant's transmission planning criteria; and
- (e) A description of one-line diagrams regarding the power flows relied upon which determined the need for the proposed line.

2104.2 The description of the proposed transmission line shall also include, to the extent feasible at the time of application:

- (a) Engineering and construction features including the following:
 - (1) Width, length, and total acreage of the right-of-way,
 - (2) Line voltage;
 - (3) Number of circuits;
 - (4) Number of circuits per structure;
 - (5) Structure type and dimensions;

- (6) Conductor configuration and size;
 - (7) Nominal capacity (MA MVA);
 - (8) Nominal length of span between structures; and
 - (9) Description and dimensions of any related conduit.
- (b) Property or property right acquired or to be acquired;
 - (c) Access roads for construction or maintenance either existing or to be built;
 - (d) Location and identification of the following sites, from which the project would be clearly visible:
 - (1) Historical;
 - (2) Institutional land, including schools, hospitals, and pre-school facilities;
 - (3) Recreational area;
 - (4) Aesthetic;
 - (5) Archaeological;
 - (6) Wildlife management area;
 - (7) Park or forest; and
 - (8) Residential.
 - (e) Location and identification of all portions or the right-of-way requiring construction within the one hundred (100) year floodplain of any stream;
 - (f) Location and identification of any public airport one mile (1) or less from the transmission line; and
 - (g) Depiction on a suitable topographic map (minimum one inch (1)-two thousand feet (2,000 ft.)) of the information required under § 2104.2(b)-(f).

15-2105

ALTERNATIVE OVERHEAD TRANSMISSION LINE ROUTES

2105.1

The description of each alternative route considered for the transmission line shall include the following:

- (a) An estimate of the capital and annual operating cost of each alternative route; and
- (b) A statement of the reason why each alternative route was rejected.

15-2106

PROJECT COORDINATING COMMITTEE

2106.1

Once an application has been properly filed, the applicant may request the formation of a project coordinating committee. If the request is approved, ~~the Commission shall appoint a project coordinating committee.~~ the Committee shall consist of the following members:

- (a) A chairperson, who shall be designated by the Commission;
- (b) A representative of the applicant;
- (c) A representative from the Office of the People's Counsel, if a notice of intent to participate on the committee is filed within ten (10) days of the date of the filing of a request to form a project coordinating committee;
- (d) A representative from each District of Columbia agency that has as follows:
 - (1) Authority to issue a license, permit, or authorization before the construction or operation of the project; or
 - (2) A direct interest in the project.
- (e) Pepco, if Pepco is not the applicant.
- (f) A representative designated by the Executive Office of the Mayor; and
- (g) A representative of any federal agency or independent system operator that, in the Commission's view, has an interest in the project.

2106.2

The committee shall develop a coordinated time schedule for the review of the application by each committee member's agency or company and oversee the preparation of any environmental impact statement required by D.C. Code, 2001 Ed. §§ 8-109.01 to 8-109.11. Additionally, the committee shall provide the Commission with the following:

- (a) A list of proposed issues to be addressed in an application;
- (b) A list of any proposed analyses or studies regarding the proposed construction;
- (c) Recommendations concerning the timing, preparation, and submission of required materials;
- (d) Recommendations concerning compliance with the requirements of each committee member's agency; and
- (c) Any other information that the committee believes would be relevant.

- 2106.3** The committee is advisory in nature and shall not have authority to do the following:
- (a) Approve or disapprove an application;
 - (b) Approve or disapprove proposed studies of the applicant;
 - (c) Require or prohibit any action by a committee member; or
 - (d) Require or prohibit any expenditure by a committee member.

15-2107 COMMUNITY ADVISORY GROUP

- 2107.1** In order to inform and educate the community regarding the construction and operation of any proposed project, the applicant shall convene a community advisory group.
- 2107.2** The applicant shall notify the public of the opportunity to participate in the community advisory group by providing written notice to the Advisory Neighborhood Commission(s) in which the facility or transmission line is to be located. In addition, the Commission shall post the applicant's notice on the Commission's website.
- 2107.3** The membership of the community advisory group shall include the following representatives:
- (a) The applicant;
 - (b) Commission staff, which shall chair all meetings of the group;
 - (c) The Advisory Neighborhood Commission of the community where the power plant or power line is to be located;
 - (d) Interested members of the public; and
 - (e) Any other persons the Commission deems appropriate.
- 2107.4** The advisory group shall convene public meetings and disseminate information to the community regarding the construction and operation of the proposed project.
- 2107.5** The advisory group shall not be authorized to take any specific action with respect to the construction or operation of the proposed project.

15-2108 ENVIRONMENTAL IMPACT STATEMENT

- 2108.1** The applicant shall submit an Environmental Impact Statement ("EIS"). At a minimum, the EIS shall evaluate the following potential environmental impacts:

- (a) Air quality, National Ambient Air Quality Standards ("NAAQS"). The analysis of air quality shall include an analysis of the following six (6) criteria pollutants in the context of NAAQS:
 - (1) Sulfur dioxide;
 - (2) Nitrogen oxides;
 - (3) Carbon monoxide;
 - (4) Particulate matter (PM 2.5 and PM10);
 - (5) Ozone; and
 - (6) Lead.
- (b) Air Quality, other emissions: The analysis of air quality shall include all other emissions regulated for the utility industry under the Federal Clean Air Act;
- (c) Surface and ground water resources. The analysis of surface and ground water resources shall include the following:
 - (1) Water availability; and
 - (2) Water quality, including discharge, storm water runoff, and potential spill events.
- (d) Land use, socioeconomic, and aesthetic conditions: The analysis of these items shall evaluate, at a minimum, the following:
 - (1) Appropriate zoning and compatibility with adjacent land use;
 - (2) Impact on traffic;
 - (3) Impact on cultural and historical resources; and
 - (4) Visibility impacts in terms of air pollution effects and aesthetics.
- (e) Noise conditions: The analysis of noise shall include the following:
 - (1) A complete review of standards that will be met;
 - (2) The points of measurement for noise impacts;
 - (3) A comparison of the impact of the action to common outdoor sounds at that location; and
 - (4) A complete explanation of the methodology used for the noise impact measurements.
- (f) Aquatic and terrestrial ecology resources: The analysis of aquatic and terrestrial ecology shall evaluate the impact upon the following:
 - (1) Fish;

- (2) Wildlife;
 - (3) Vegetation; and
 - (4) Direct discharges into surface waters and impact on wetland habitats; and
- (g) Electric and magnetic fields (EMF): Until applicable laws governing EMF are enacted, the applicant shall submit the following information:
- (1) An update of the general research on the health effects of EMF;
 - (2) The relationship of the proposed action to the increase or decrease of EMF, including any mitigating measures that could be employed to decrease EMF;
 - (3) The applicant's efforts to measure and better understand background EMF in the communities affected by the proposed action; and
 - (4) If and when laws are enacted, then the EIS shall demonstrate compliance with all applicable laws.

2108.2 Applicants seeking to construct a generating facility shall demonstrate the manner in which it will achieve compliance with the acid rain provisions of the Federal Clean Air Act as well as regional emissions cap and trade programs. Until specific law is enacted regarding the emission of greenhouse gases, the applicant shall also report the greenhouse gas emissions for the proposed action, address the cost of possible mitigation of such gases through control or compensation, and state whether and to what extent the expected emissions are within the limits established by any applicable laws or regulations.

2108.3 Impacts of the items set forth in § 2108.1 shall be analyzed for all components at all stages of project life including the following:

- (a) Construction;
- (b) Operation; and
- (c) Retirement.

2108.4 The analysis of each of the items set forth in § 2108.1 shall include the following information:

- (a) A list of applicable regulations. The list shall identify the component of the proposed facility affected, the official

designation of the regulation, and the agency responsible for enforcing the regulation;

- (b) An analysis of the environmental impacts resulting from current site use (or base line conditions if there is no existing facility at the site);
- (c) The potential environmental impacts resulting from the proposed action; and
- (d) A demonstration that the parties proposing the action, and those that will implement the action, have the qualifications to design, build, operate, and retire any planned facility.

2108.5 The applicant shall provide an analysis of the mitigation and externalities for the potential environmental impacts set forth in § 2108.1. For each impact the explanation shall include the following information:

- (a) A statement demonstrating that the proposed action will comply with all regulations applicable to the design, construction, operation and retirement of the proposed electric generating or transmission facility;
- (b) An analysis of the requirements that must be met to comply with the applicable regulations; and
- (c) A statement of whether the required permit, license, or other such authority has been secured and, if not, why not.

2108.6 The applicant shall indicate any steps taken, or to be taken, to mitigate the environmental impacts of the proposed action. These include steps taken either to comply with applicable regulations or to mitigate beyond the level required by regulations. Mitigation may include avoiding an impact altogether, minimizing an impact by limiting the scale of the action, rectifying an impact, reducing an impact through the addition of equipment or limitations on operations, or compensating for the impact. Any and all studies on mitigation must be made available as part of the EIS submission.

2108.7 In the context of all applicable regulations, the EIS shall discuss whether there are any adverse effects from externalities on the public health, welfare, and safety of the citizens of the District of Columbia.

2108.8 The EIS shall include evaluations of the full range of alternatives to the proposed action. The evaluation shall include, but is not limited to, a comparison of the environmental consequences of the alternative to that

for the proposed action. The evaluation shall state the reasons the alternative was rejected in favor of the proposed action. At a minimum, the evaluation shall include the following alternatives:

- (a) Alternative sites for the proposed action, including the alternative of building a stand-alone power plant inside or outside the District. For transmission lines, alternative routes are the alternative sites that must be evaluated;
- (b) Alternative technologies for the proposed action, including supply-side and demand-side alternatives; and
- (c) Alternative environmental control strategies for the proposed action. The strategies shall include the following:
 - (1) Alternative designs;
 - (2) Equipment configurations; and
 - (3) Operating plans.

2108.9 The EIS shall include a statement as to whether the proposed action involves any irreversible and irretrievable commitment of resources.

Examples include the following:

- (a) A commitment to use fossil fuels; and
- (b) The use of previously undeveloped land for a power plant site or a transmission line right of way.

2108.10 The EIS shall include an analysis indicating whether the proposed action results in a net environmental benefit. Both direct and indirect environmental impacts may be used in the demonstration. For direct environmental impacts, the most acceptable demonstration is that the proposed action, as compared to the current situation, actually leads to a reduction in environmental impacts. For indirect impacts, the EIS may demonstrate that environmental impacts are reduced for some other activity beyond the scope of the proposed action.

Examples of an analysis of net indirect environmental benefits include the following:

- (a) The purchase of air pollution offsets at another existing facility in the District of Columbia so that the proposed action results in a net reduction in the District of Columbia of some air pollutants; and
- (b) The proposed facility providing fuel for electric or gas vehicles which, as compared to conventional vehicles, emit less air pollution; the net environmental impact would then be in the form of the reduction of air pollution emissions by displacing conventional vehicles with low-pollution vehicles.

2108.11

The applicant shall submit an analysis of the cumulative risk of adverse health effects which includes the following:

- (a) Hazard Assessment: The hazard assessment identifies the pollutants that cause health risk concerns. The types of health risks that must be analyzed include the following:
 - (1) Cancer risks;
 - (2) Chronic non-cancer risks; and
 - (3) Acute non-cancer risks.
- (b) Exposure Assessment: The exposure assessment identifies the population at risk and the extent of exposure. Conservative assumptions shall be used in the exposure assessment. Exposure via multiple pathways shall include the following:
 - (1) Inhalation;
 - (2) Ingestion; and
 - (3) Dermal contact.
- (c) Risk Computation: The risk computation shall set the criteria by which risks will be judged. When technology-based or health-based standards are available from the District of Columbia or the federal government, then those standards set the criteria to be used in the risk computation. For cancer health risks, the applicant shall analyze the computed risk for cancer related health risks, against both a one in one hundred thousand and a one in one million standard;
- (d) Cumulative Risk Computation: The applicant shall explain and justify the extent to which risks reflect any possible interaction of one pollutant with another or the possible accumulation of pollutants from the proposed action with existing sources of pollutants. At a minimum, the applicant shall accumulate the lifetime health risk by pathway for the most exposed individual for pollutants attributable to all facilities affected by the proposed action when operated to the maximum extent possible. The applicant shall inform the Commission with respect to any interaction with existing environmental impacts (or baseline conditions) which would aggravate or diminish the incremental environmental impact of the proposed action; and
- (e) Uncertainty Assessment: The conservatism of the assumptions used in paragraphs (a) through (d) of this subsection shall be fully explained and justified.

- 2108.12** In addition to the EIS submitted by the applicant, the Commission may employ, and other interested persons may retain, an independent technical agent to conduct an EIS. The independent technical agent shall perform the same analysis required of the applicant.
- 2108.13** The applicant shall submit the following information, at a minimum, to describe the current situation:
- (a) A technical description of the current use of the proposed site;
 - (b) Annual and monthly hours of operation over the five (5) year period preceding the date of application;
 - (c) An explanation of any atypical or poor operating experience over the five (5) year period preceding the date of application. Included in any submission shall be an assessment of the possible consequences of atypical or poor operating experience in the future;
 - (d) An analysis of the environmental impacts listed in § 2108.1, including all environmental test results used to measure those impacts over the five (5) year period preceding the date of application;
 - (e) The applicant shall document that the environmental impacts resulting from the current situation comply with all applicable environmental regulations; and if not, what efforts will be made to ensure compliance; and
 - (f) Any other information relevant to the characteristics of the current situation.
- 2108.14** The applicant shall submit the following information regarding the proposed action:
- (a) A technically complete and detailed description of the proposed action that shall include, at a minimum, the following:
 - (1) A description of the core facility; and
 - (2) All ancillary facilities, including on-site fuel and other material storage and cooling towers, as well as changes in off-site substations, transmission lines, and waste storage and disposal facilities.
 - (b) A breakdown of the core and ancillary facilities by each component having a potential for environmental impact;
 - (c) A technical description characterizing the equipment design and operation of the proposed action, which includes, at a minimum, the following information:

- (1) Equipment specifications by component;
 - (2) Fuel use, by type over project life including a statement as to whether the facility will operate on renewable resources of power;
 - (3) Maximum and expected kw and kwh generation or transmission each year over project life;
 - (4) Maximum and expected production of outputs and products other than electricity each year over project life; and
 - (5) Any relevant maps, plats or layouts.
- (d) An executive summary that describes the proposed action using non-technical terminology.
- 2108.15** The EIS shall include information in the form of a list and description of the experience with the type of action proposed in either the District of Columbia or other, similar urban areas.
- 2108.16** The applicant shall demonstrate the need for a proposed action in the context of the other outputs and products the proposed action will produce other than electricity.
- 2108.17** The applicant shall demonstrate the impact of the proposed action in the context of applicable environmental plans, including the following:
- (a) The District of Columbia Comprehensive Plan; and
 - (b) Any plans developed to assure the area attains federal ambient air quality standards for ozone and carbon monoxide, as well as any emissions for which the District may be in a state of non-compliance.
- 2108.18** The applicant shall analyze whether, and if so, how, the proposed action will impact, in any substantial way, the attainment of the goals of the environmental plans addressed in § 2108.17.
- 2108.19** The Commission may require additional assessments depending on the particular characteristics of the proposed action.
- 2108.20** All models and assumptions used by the applicant shall be fully documented and justified.

2108.21 If the applicant or project is covered by D.C. Code, 2001 Ed. §§ 8-109.03 *et seq.* or 34-2601 *et seq.*, the EIS shall conform to the requirements of those statutory provisions.

2108.22 The project coordinating committee established under § 2106 of this chapter shall coordinate the activities of the agencies in preparing any EIS or supplemental EIS which may be required pursuant to D.C. Code, 2001 Ed. § § 8-109.01 to 8-109.11, or any other applicable statute.

15-2109 PHASED PROCEEDINGS ON THE APPLICATION

2109.1 The applicant may request, or the Commission may on its own initiative direct, that the project be reviewed in two (2) or more phases.

2109.2 If the Commission approves a phased proceeding, the matter shall proceed as follows:

- (a) An applicant may file a partial application;
- (b) The Commission may render separate findings of fact on any phase or issue within a phase; and
- (b) Findings of fact shall be final pursuant to D.C. Code, 2001 Ed. § 34-605(a), and may not be subject to further litigation unless warranted by new substantive issues or changed circumstances.

2109.3 In examining whether an applicant has complied or will comply with all applicable zoning and environmental laws, the Commission will rely, to the extent possible, on the expertise of the agencies charged with enforcement of those laws.

2109.4 In order to assure timely completion of the proceedings, the Commission may impose a schedule of procedural dates that are subject to change only for good cause shown.

15-2110 ANNUAL REPORT ON SMALLER SCALE CONSTRUCTION

2110.1 Electric corporations operating in the District of Columbia shall submit an annual report, on or before February 15th of each calendar year, which summarizes smaller-scale construction and the costs associated with each project undertaken by the corporation during the preceding year.

15-2111

UNDERGROUND TRANSMISSION LINES IN EXCESS OF SIXTY-NINE THOUSAND VOLTS AND SUBSTATIONS CONNECTED TO SUCH LINES

2111.1

An electric corporation which plans to construct inside the District of Columbia an underground transmission line in excess of sixty-nine thousand (69,000) volts, or substation connected to such line, shall file formal notice with the Commission six (6) months prior to the construction. This formal notice shall include a discussion of the following:

- (a) The name and address of the principal place of business of the electric corporation;
- (b) The name, title, and address of the person authorized to receive notices and communications with respect to the application;
- (c) The location or locations where the public may inspect or obtain a copy of the application;
- (d) A list of each District of Columbia, state, or federal government agency having authority to approve or disapprove the construction or operation of the project and containing the following:
 - (1) A statement indicating whether the necessary approval from each agency has been obtained, with a copy of each approval or disapproval attached;
 - (2) A statement indicating the circumstances under which any necessary approval has not been obtained; and
 - (3) A statement indicating whether any waiver or variance has been requested, with a copy of each approval or disapproval attached.
- (e) The proposed date construction is to be initiated;
- (f) The need for the underground transmission line or substation;
- (g) The type and voltage level(s) of the underground transmission line or substation;
- (h) Property or property right acquired or to be acquired;
- (i) Location of the proposed construction, including affected streets by name;
- (j) Duration of the proposed construction;
- (k) Impact of the proposed project on affected neighborhood and community; and

- (l) Possible mitigating measures which could be employed to minimize impact upon the affected neighborhood or community.

2111.2 Other provisions of this chapter shall not apply to underground substations and underground transmission lines.

2111.3 All information required in § 2111.1 shall be served on the affected Advisory Neighborhood Commission(s) and the Office of the People's Counsel on the same date it is filed with the Commission.

2111.4 The Commission shall entertain petitions filed by any interested person within ninety (90) days of the date of a formal notice provided under § 2111.1 for the Commission to investigate the reasonableness, safety and need for the underground transmission line or substation.

2111.5 If the Commission initiates an investigation, the electric corporation shall submit a detailed analysis of the information required in § 2111.1. The electric corporation shall also submit the following information:

- (a) An explanation of the need for and the cost-effectiveness of the project in meeting demand for service;
- (b) A description of the effect of the project on system stability and reliability;
- (c) A description of the consequences if the project is delayed or not approved;
- (d) A statement regarding the probability that the consequences of § 2111.5(c) will occur;
- (e) A description of the applicant's transmission planning criteria;
- (f) A description of one-line diagrams regarding the power flows relied upon which determined the need for the proposed line;
- (g) Engineering and construction features including the following:
 - (1) Width, length, and total acreage of the right-of-way;
 - (2) Line voltage;
 - (3) Number of circuits;
 - (4) Number of circuits per structure;
 - (5) Structure type and dimensions;
 - (6) Conductor configuration and size;
 - (7) Nominal capacity (~~MA~~ MVA);

- (8) Nominal length of span between structures; and
- (9) Description and dimensions of any related conduit.
- (h) Location and identification of all portions or the right-of-way requiring construction within the one hundred (100) year floodplain of any stream;
- (i) The description of each alternative route considered for the transmission line and alternative placement of a substation shall include the following:
 - (1) An estimate of the capital and annual operating cost of each alternative route or placement; and
 - (2) A statement of the reason why each alternative route or placement was rejected.
- (j) An analysis of potential impact upon the environment; and
- (k) Engineering and construction features of the alternative underground transmission line including the following:
 - (1) Width, length, and total acreage of the right-of-way,
 - (2) Line voltage;
 - (3) Number of circuits;
 - (4) Number of circuits per structure;
 - (5) Structure type and dimensions;
 - (6) Conductor configuration and size;
 - (7) Nominal capacity (MA);
 - (8) Nominal length of span between structures; and
 - (9) Description and dimensions of any related conduit.

2111.6 If no petition is submitted prior to the proposed date of construction, the electric corporation may begin construction pursuant to permits its receives from other District of Columbia agencies such as the Department of Public Works-Transportation.

15-2112 WAIVERS AND MODIFICATIONS

2112.1 The Commission may, in its discretion, waive or modify any provision of this Chapter and may also impose additional requirements, as circumstances warrant.

2112.2 The applicant may, at the time of application, request that the Commission waive any provision in this Chapter for good cause shown.

15-2199 **DEFINITIONS**

2199.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

Aesthetic Site - a site whose aesthetic nature is of general public interest or is officially recognized by a District of Columbia or federal agency charged with responsibility to oversee the protection of the environment.

Applicant - any person seeking approval to construct facilities covered by this Chapter.

Application - a request for approval to construct facilities covered by this Chapter.

Archaeological Site - a site within the District of Columbia yielding artifacts, structural remains, or evidence of occupation or use before the year 1900 as designated by the agency or governmental unit with responsibility for archaeological sites.

Certificate of Public Convenience and Necessity - an order issued by the Commission on application of a person granting such person the right to construct an electric generating station or transmission line covered by this Chapter. ~~authorization to construct an electric or transmission facility.~~

Cogenerator - a power producer that qualifies as a cogenerator under the Public Utility Regulatory Policies Act of 1978.

Commission - Public Service Commission of the District of Columbia.

Committee - the project coordinating committee.

Construction - any clearing of land, excavation, or other action that would affect the natural environment of the site or route of a bulk power supply facility. Construction is not a change needed for temporary use of a site or route for a non-utility purpose or for use in securing geological data, including borings necessary to ascertain foundation conditions.

Current Situation - another electric plant, overhead transmission line, other structure, facility or use which the proposed action will replace or otherwise affect.

Electric Corporation - pursuant to D.C. Code, 2001 Ed. § 34-207, an electric corporation includes an electric utility, cogenerator, small power producer, or independent power producer doing business in the District of Columbia.

Electric Plant - generating facilities or transmission lines to be used in connection with or to facilitate the generation, transmission, and distribution, sale or furnishing of electricity of sixty-nine thousand

(69,000) volts or over, including cogeneration facilities, small power projects, independent power projects and PEPCO-owned electric plants.

Environmental Impacts - impacts upon the environment as defined by D.C. Code, 2001 Ed. § 34-2601 *et seq.*

Externality - any environmental impact that remains after mitigation.

Generating Station - property or facilities constituting an integral plant or unit for the production of electric energy, including any new production unit that would be added to an existing production plant.

Greenhouse Gas - any gas commonly deemed to contribute to global warming, including carbon dioxide (CO₂), methane (CH₄), chlorofluorocarbons (CFCs) and nitrous oxide (N₂O).

Historical Site - a site within the District of Columbia duly registered by the: District of Columbia Historical Trust; National Register of Historic Places; National Register of Natural Landmarks; Register of National Historic Landmarks; and National Trust for Historic Preservation or any other agency as may be recognized by the Public Service Commission of the District of Columbia.

Independent Power Producer - a non-traditional public utility which produces and sells electricity but has no significant market power; lacks significant market power as a supplier of energy and capacity because it does not have captive customers; and has limited or no control of transmission facilities essential to their customers; or as defined under applicable law(s).

Pepco - the Potomac Electric Power Company or any successor in interest.

Person - every individual, corporation, company, association, joint stock company, firm, partnership or other entity.

Project - a proposed generating station or overhead transmission line designed to carry voltage of sixty-nine thousand (69,000) volts or over.

Small Power Producer - a power producer that qualifies as a small power producer under the public utility regulatory policies act of 1978.

Smaller-Scale Construction - any construction project which involves providing electricity to a customer for which a Certificate of Public Convenience and Necessity is not required pursuant to this chapter.

Socio-economic Impacts - existing patterns of population concentration, distribution, or growth, and existing community or neighborhood characteristics, including traffic patterns and noise levels.

Substation - a plant that is used to alter the voltage of electricity. For the purposes of this chapter, substation must be connected to a transmission line of sixty-nine thousand (69,000) volts or greater.

Transmission Line - property or facilities constructed as an overhead transmission line designed to carry a voltage of sixty-nine thousand (69,000) volts or greater, or an underground transmission line designed to carry in excess of sixty-nine thousand (69,000) volts.