

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Public Interest Division
Public Advocacy Section

E-Docketed

March 20, 2015

Ms. Brinda Westbrook-Sedgwick
Public Service Commission
of the District of Columbia Secretary
1333 H Street, NW
2nd Floor, West Tower
Washington, D.C. 20005

Re: Formal Case No. 1119 – In the Matter of the Joint Application of Exelon Corporation, Pepco Holdings, Inc., Potomac Electric Power Company, Exelon Energy Delivery Company, LLC and New Special Purpose Entity, LLC for Authorization and Approval of Proposed Merger Transaction.

Dear Ms. Westbrook-Sedgwick:

On behalf of the District of Columbia Government, I enclose for filing an original and fifteen (15) copies of the Answering Testimony of Tyler Comings to Joint Applicants February Supplemental Direct Testimony. This document is preliminarily identified as Exhibit ___ DCG (2C), with attached exhibits preliminarily identified as Exhibit ___ DCG (2C)-1 through Exhibit ___ DCG (2C)-3. If you have any questions regarding this filing, please do not hesitate to contact the undersigned.

Sincerely,

KARL A. RACINE
Attorney General

By: */s/ Brian R. Caldwell*
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cc: Service List

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

**IN THE MATTER OF THE MERGER OF EXELON)
CORPORATION, PEPCO HOLDINGS, INC., POTOMAC)
ELECTRIC POWER COMPANY, EXELON ENERGY) CASE NO. 1119
DELIVERY COMPANY, LLC AND NEW SPECIAL)
PURPOSE ENTITY, LLC)**

**Answering Testimony of Tyler Comings to Joint Applicants' February
Supplemental Direct Testimony**

**On Behalf of
District of Columbia Government**

March 20, 2015

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1 **I. INTRODUCTION AND PURPOSE OF TESTIMONY**

2 **Q Please state your name, business address, and position.**

3 **A** My name is Tyler Comings. I am a Senior Associate with Synapse Energy
4 Economics, Inc. (Synapse), which is located at 485 Massachusetts Avenue, Suite
5 2, in Cambridge, Massachusetts.

6 **Q Are you the same Tyler Comings who filed testimony in this matter on**
7 **November 3, 2014?**

8 **A** Yes.

9 **Q What is the purpose of your answering testimony to Joint Applicants’**
10 **February supplemental testimony?**

11 **A** The purpose of my answering testimony is primarily to respond to the analysis
12 performed by Joint Applicant Witness Dr. Susan F. Tierney in Joint Applicants’
13 February Supplemental Testimony. My findings are as follows:

- 14 1. Dr. Tierney’s economic impact estimates continue to overstate the
15 Merger’s impact on reliability. The updated economic impacts are
16 estimated using the same improper baseline assumption for performance
17 absent the Merger. Assuming the Commission-promulgated EQSS
18 standards are met, absent the Merger, the “benefits” of reliability from the
19 Merger disappear.
- 20 2. The net job impact at Pepco and PHI-corporate headquarters located in the
21 District is still unknown. The Tierney updated economic impacts on the
22 District of Columbia continue to exclude the effects from these job
23 changes.

1 **Q Are there any exhibits that accompany your testimony?**

2 **A** Yes. I am attaching Joint Applicant Data Responses to DCG 8-74(b), DCG 10-48
3 and OPC 19-2, as DCG (2C)-1, DCG (2C)-2, and DCG (2C)-3, respectively.

4 **Q Was your testimony prepared by you or under your direct supervision?**

5 **A** Yes.

6 **II. ECONOMIC IMPACTS OF THE MERGER REMAIN OVERSTATED**

7 **Q Please summarize your criticism of the Joint Applicants' assumed reliability**
8 **improvements.**

9 As I discussed in my direct testimony, in quantifying the benefits of reliability
10 from the Merger, the Joint Applicants compared their proposed reliability goals to
11 the historical average (2011-2013) performance for Pepco. This comparison
12 assumes that Pepco will not improve on its past reliability performance. The Joint
13 Applicants' assumption ignores the Commission's promulgated EQSS. Rather
14 than merely assuming the historical performance levels, the Joint Applicants
15 should have assumed that Pepco would meet its obligations in the future, since the
16 EQSS would have to be met regardless of the Merger.

17 By ignoring the EQSS standards, the Joint Applicants' analysis takes credit for
18 improvements that Pepco would be legally obligated to achieve. In my direct
19 testimony, I presented an analysis assuming the EQSS standards as the baseline.
20 My analysis followed Dr. Tierney's modeling methodology, which showed job
21 losses due to reliability.¹ However, I stated that I was dubious that small
22 reliability changes would affect employment.² The results of my analysis were

¹ See Direct Testimony of Tyler Comings, Figure 5.

² Direct Testimony of Tyler Comings, page 23, line 17 through page 24, line 6.

1 intended to illustrate the flawed assumptions made by the Joint Applicants, not to
2 depict what would actually occur.

3 **Q In her updated analysis, did Dr. Tierney assume there would be no reliability**
4 **improvements in the future, without the Merger?**

5 **A** Yes. In her supplemental direct testimony, Dr. Tierney continues to assume that
6 historical reliability (2011-2013) is maintained in the absence of the Merger.

7 **Q How did the assumptions in Dr. Tierney’s updated analysis compare to her**
8 **original assumptions?**

9 **A** Dr. Tierney merely updated the reliability assumptions with the Merger to match
10 Mr. Alden’s supplemental direct testimony. Dr. Tierney used the Joint
11 Applicants’ revised 2018-2020 average commitment values for SAIFI and SAIDI
12 and then assumed a linear trend for the years 2015 through 2019, with the 2011-
13 2013 historical average as a starting point.³ This methodology leads to higher
14 SAIFI and lower SAIDI with the Merger in most years compared to the EQSS.
15 However, as with the original impacts presented in Dr. Tierney’s previous
16 testimony, the assumed SAIDI and SAIFI levels in each year are an artifact of an
17 assumed straight-line trajectory. When asked if Pepco’s performance could be
18 better than the linear progression assumed in her analysis, Dr. Tierney responded:

19 Dr. Tierney did not want to speculate about what would occur
20 absent a merger. Therefore, Dr. Tierney has not made any
21 assumption about “Pepco’s performance through 2020.”⁴

³ See Dr. Tierney’s workpaper: “S Tierney District of Columbia - ICE Calculator input – supplemental.xlsx”

⁴ Data Response to OPC 19-2.

1 **Q Has Dr. Tierney authored economic impact studies that did use a “but-for”**
2 **comparison?**

3 **A** Yes. For example, in a study co-authored by Dr. Tierney on the economic impacts
4 of the Green Communities Act (GCA) in Massachusetts, the study explicitly uses
5 a “but-for” comparison:

6 The analysis compared the implementation of the GCA with a
7 counter-factual (“but-for”) case where it is assumed the
8 incremental programs, investments and impacts spurred by the
9 GCA had not occurred.⁵

10 **Q Do you agree that a “but-for” comparison is a necessary component to a**
11 **meaningful economic impact analysis?**

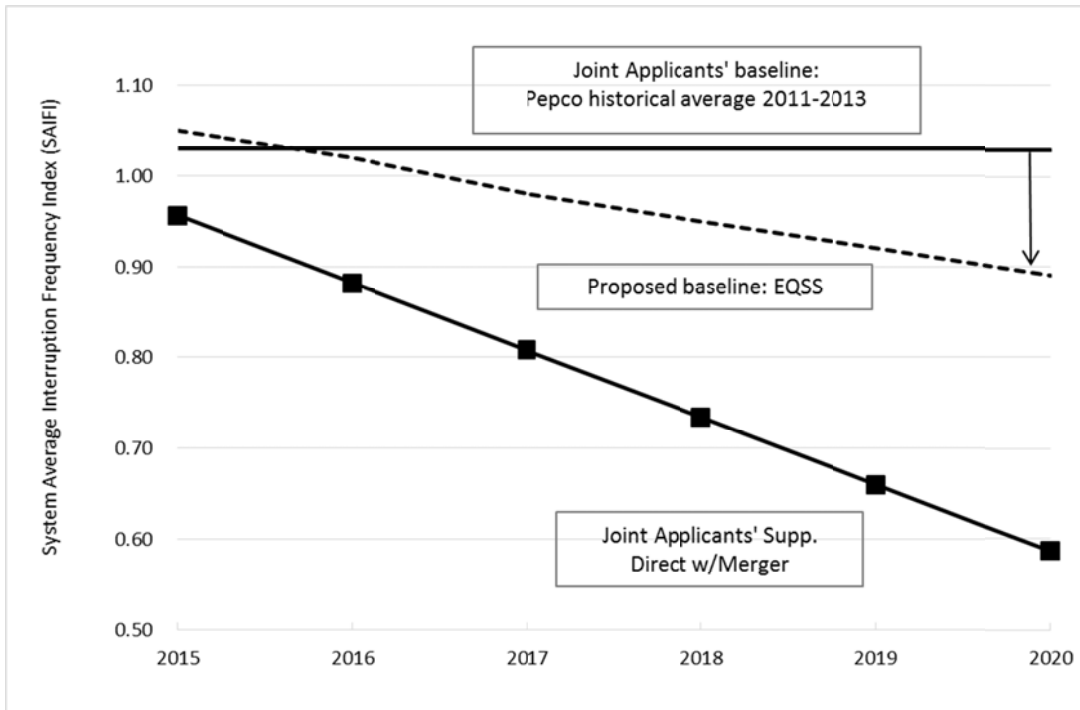
12 **A** Yes. An economic impact analysis, implicitly or explicitly, should involve a “but-
13 for” comparison or “counter-factual”. If the economic impacts of the Merger
14 include aspects that would have occurred absent the Merger, e.g. improvements in
15 reliability, then it is impossible to isolate the implications of the Merger itself
16 unless those aspects are removed. In this proceeding, Dr. Tierney is claiming to
17 not want to “speculate” on what would occur without the Merger. However, she is
18 implicitly assuming an unrealistic “but-for” case in which Pepco’s reliability
19 performance is stagnant and in violation of the Commission-promulgated EQSS
20 standards. This assumption leads the Joint Applicants to falsely take credit for
21 reliability improvements that would likely have occurred without the Merger.

⁵ Hibbard, Paul J., Susan F. Tierney and Pavel G. Darling, *The Impacts of the Green Communities Act on the Massachusetts Economy: A Review of the First Six Years of the Act’s Implementation*, Analysis Group, Inc., March 4, 2014, page 3. Available here: http://www.analysisgroup.com/uploadedfiles/publishing/articles/analysis_group_gca_study.pdf

1 **Q Did you update your previous analysis to incorporate the Joint Applicants’**
2 **supplemental direct assumptions with the Merger?**

3 **A** Yes. In my direct testimony, I presented updated economic impacts from
4 reliability by substituting Dr. Tierney’s historical baseline with the EQSS SAIFI
5 and SAIDI standards as the baseline assumption absent the Merger. Figure 1 and
6 Figure 2 show: 1) Pepco’s historical 2011-2013 SAIFI and SAIDI performance
7 (the Joint Applicants’ baseline assumption absent the Merger), 2) the EQSS (the
8 appropriate baseline assumption absent the Merger), and 3) Dr. Tierney’s updated
9 reliability improvement assumptions with the Merger provided in supplemental
10 direct testimony.

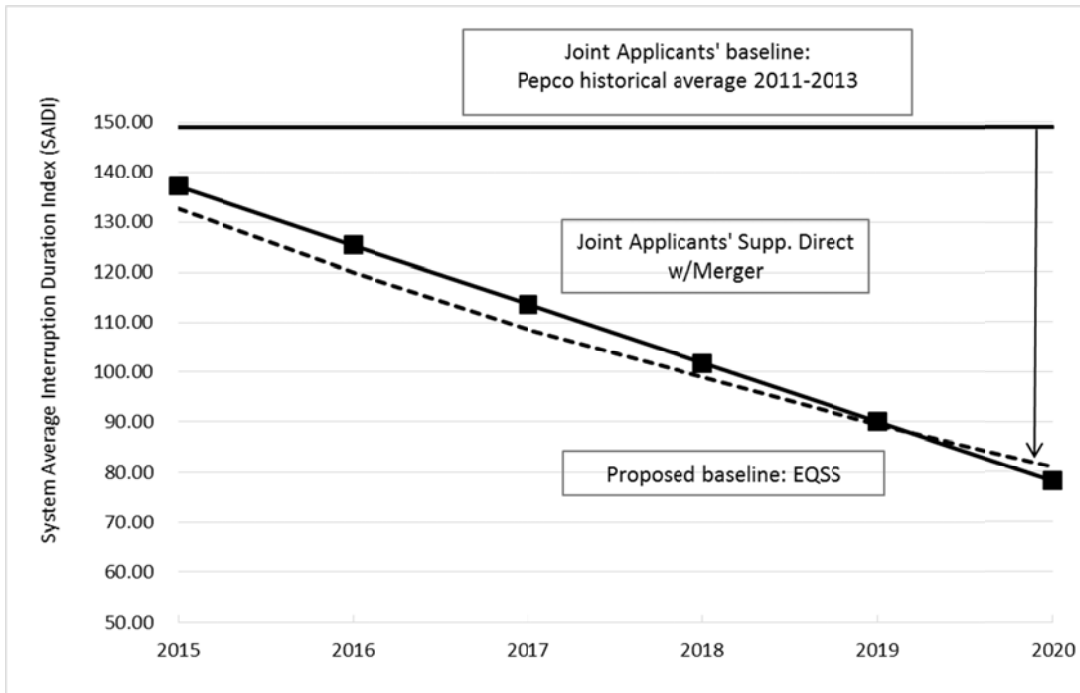
11 The EQSS SAIFI requirements from 2015 through 2020 are lower than the Pepco
12 2011-2013 average in most years. The EQSS SAIDI requirements for 2015
13 through 2020 are lower than the Pepco 2011-2013 average and lower than the
14 Joint Applicants’ assumed performance with the Merger except in 2020. Dr.
15 Tierney’s straight-line methodology suggests the unlikely result that Pepco will
16 not comply with the EQSS SAIDI until 2020, with the Merger, as shown below.
17 My colleague, Mr. Chang, shows that Pepco’s actual 2014 SAIDI and SAIFI
18 outperformed the EQSS requirement in that year.



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Figure 1: Pepco Historical and Proposed SAIFI⁶

⁶ Dr. Tierney's workpaper: "S Tierney District of Columbia - ICE Calculator input – supplemental"



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3

4 **Figure 2: Pepco Historical and Proposed SAIDI⁷**

6 **Q How do the job impact calculations change after assuming that the EQSS**
7 **will be met absent the Merger?**

11 **A** The job-year impacts from reliability become negative when I use the EQSS as
12 the baseline assumption. Following Dr. Tierney's impact methodology, I
13 estimated negative 102 job-years from reliability changes compared to her
14 updated 1,357 job-years result which continues to use the Pepco 2011-2013
15 historical performance as a baseline.⁸

⁷ Ibid

⁸ Table SFT-(G4)-1

1 **Q Do you contend that there will be job losses due to reliability with the**
2 **Merger?**

3 **A** No. My analysis was simply intended to show how the results change when using
4 a more appropriate baseline and applying Dr. Tierney's impact modeling.

5 **Q How does the adjusted estimate of total impacts compare to the low range**
6 **presented by the Joint Applicants?**

7 **A** In Dr. Tierney's supplemental direct testimony, she presents a range of economic
8 impacts which differ depending on how the Joint Applicants' revised Customer
9 Investment Fund (CIF) is spent. The low range of impacts assumes that the CIF is
10 allocated as a direct bill credit to customers. The total low-range job impact
11 including reliability and the revised CIF is 1,506 job-years.⁹

12 My adjusted results, presented in Table 1, show that after assuming that Pepco
13 complies with the EQSS, absent the Merger, the net results are a total of 47 job-
14 years (or five jobs per year, on average). This result shows that assuming an
15 appropriate reliability performance absent the Merger almost completely negates
16 the total job impacts, even with the revised CIF included.

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⁹ Ibid

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Table 1: Original and Adjusted Job-Year Impacts (Low Range)¹⁰

Total Job-Years	Joint Applicants' Supp. Direct: Low Range	Adjusted Low Range
CIF (Direct Bill Credit)	149	149
Reliability	1,357	(102)
Total Impacts	1,506	47
Average Annual Jobs	151	5

3 **Q How does the adjusted estimate of total impacts compare to the high range**
4 **presented by the Joint Applicants?**

5 **A** The high range of impacts presented by Dr. Tierney assumes that the revised CIF
6 is spent on energy efficiency (EE) measures. The high-range of job impacts
7 including reliability and the revised CIF is 2,407 job-years.¹¹ My adjusted results,
8 presented in Table 1, show that after assuming that Pepco complies with the
9 EQSS absent the Merger the net result is a total 948 job-years over the 10-year
10 period (or 95 jobs per year, on average). This represents a 61% reduction from
11 Dr. Tierney's high range results.

12

Table 2: Original and Adjusted Job-Year Impacts (High Range)¹²

Total Job-Years	Joint Applicants' Supp. Direct: High Range	Adjusted High Range
CIF (EE)	1,050	1,050
Reliability	1,357	(102)
Total Impacts	2,407	948
Average Annual Jobs	241	95

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

1 **Q Do assumptions for reliability performance mean that those levels will be met**
2 **exactly?**

3 **A** No. Whether assuming the historical levels or the Commission-promulgated
4 EQSS standards as the baseline, the actual reliability performance with or without
5 the Merger would determine the benefit or cost. Since we cannot determine what
6 the actual reliability performance of Pepco will be in the future, the Commission's
7 EQSS standards are a reasonable proxy. If Pepco were to outperform those
8 standards with the Merger in-place this could represent a benefit of the Merger --
9 but only to the extent that Pepco would not have performed as well without the
10 Merger in-place.

11 **Q Has Pepco showed signs of out-performing the EQSS recently?**

12 **A** Yes. Mr. Chang shows that Pepco outperformed the EQSS in 2014. He also shows
13 that the three-year average 2012-2014 SAIFI and SAIDI baseline is 16% lower
14 than the 2011-2013 average used by the Joint Applicants. However, Joint
15 Applicants did not incorporate this more up-to-date data into their baseline.
16 Therefore, Dr. Tierney's baseline assumption is already outdated.¹³ Although I
17 disagree with the use of a three-year average baseline, Dr. Tierney should have—
18 at a bare minimum—updated that baseline to reflect 2014 data. An analysis with a
19 lower baseline would have produced lower impacts due to the Merger, all else
20 equal.

21 **Q Has Dr. Tierney been able to provide other studies or analyses that estimated**
22 **job impacts due to improved electric reliability performance?**

23 **A** No. When asked, Dr. Tierney could not provide any examples of studies or
24 analysis that estimated job impacts from avoided electricity outage costs,

¹³ Data Response to DCG 10-48.

1 improvements in electric reliability using willingness-to-pay survey data, or any
2 changes in electric reliability performance.¹⁴

3 **III. ECONOMIC IMPACTS OF THE MERGER SHOULD INCLUDE**
4 **CHANGES IN EMPLOYMENT AT PHI AND PEPCO**

5 **Q Please summarize your criticism regarding job losses due the merger.**

6 **A** As I discussed in my direct testimony, the Joint Applicants neglected to account
7 for job losses that would occur with the Merger in the economic impact analysis.
8 The Joint Applicants had referred to synergies at the corporate level that will
9 occur but have not offered any estimate of associated job losses. The Joint
10 Applicants also agreed to no involuntary job reductions at Pepco in the first two
11 years following the Merger. However, this would not preclude job reductions at
12 Pepco from occurring after the two-year period, or immediate cuts at the PHI
13 corporate level.

14 **Q Does Dr. Tierney’s economic impact results account for job losses or gains at**
15 **PHI or Pepco?**

16 **A** No. Dr. Tierney never quantifies impacts from job losses or gains at PHI or
17 Pepco.

18 **Q Has any new information on job losses been presented by the Joint**
19 **Applicants since you filed your direct testimony?**

20 **A** Yes. The Joint Applicants claim “good faith efforts” to hire an additional 102
21 union workers and move Pepco Energy Services jobs from Virginia to the
22 District.¹⁵

¹⁴ Data Response to DCG Follow-up 8-74(b).

¹⁵ Rebuttal Direct Testimony of Christopher Crane, page 4, lines 16-18.

1 **Q Have your original conclusions regarding job losses from the Merger**
2 **changed given this information?**

3 **A** No. First, the Joint Applicants’ “good faith efforts” to move Pepco Energy
4 Services employees to the District is not a firm commitment to retain those
5 employees once moved, nor does it preclude Exelon from sending those
6 employees to a different location later on. Also, the “good faith efforts” to hire
7 additional union workers does not preclude the elimination of existing employees,
8 or moving those new union employees elsewhere. It is unclear what the net
9 impact will be on Pepco employment. Moreover, the Joint Applicants still have
10 not estimated PHI corporate job losses due to the Merger. Without any estimates
11 of these losses, the net impact of the Merger on PHI corporate and subsidiary jobs
12 in the District still remains unclear.

13 **V. FINDINGS AND RECOMMENDATIONS**

14 **Q What are your findings?**

15 **A** For the reasons discussed above, I find that Joint Applicant Witness Dr. Tierney’s
16 economic impact analysis continues to be flawed and incomplete.

17 **Q Have your recommendations from your direct testimony changed?**

18 **A** No. I recommend, for the reasons explained in my direct and answering
19 testimony, that the Commission reject the economic impacts presented by the
20 Joint Applicants. The Joint Applicants have still failed to adequately show that the
21 Merger will have a positive impact on the District’s economy.

22 **Q Does this conclude your testimony?**

23 **A** It does.

I declare under penalty of perjury that the foregoing testimony is true and correct to the best of my knowledge, information, and belief.

Executed this 20th day of March, 2015.

A handwritten signature in black ink, appearing to read "Tyler Comings". The signature is written in a cursive style with a large, sweeping initial "T".

Tyler Comings

JOINT APPLICANTS
DISTRICT OF COLUMBIA FORMAL CASE NO. 1119
RESPONSE TO DISTRICT OF COLUMBIA GOVERNMENT DATA REQUEST NO. 8

Tierney Rebuttal, Exhibit Joint Applicants (3G)

QUESTION NO. 74

- Q. PLEASE REFER TO REBUTTAL TESTIMONY OF SUSAN TIERNEY, PAGE 10, LINE 16 THROUGH PAGE 11, LINE 1 IN WHICH SHE DESCRIBES THE PRINCIPLES APPLIED WHEN CONSTRUCTING A QUANTITATIVE ANALYSIS OF THE MERGER-RELATED ECONOMIC BENEFITS. WITNESS TIERNEY EXPLAINS THAT SHE DID NOT SPECULATE ON WHAT WOULD HAPPEN IN THE ABSENCE OF THE MERGER SHE STATES THAT "...I WOULD HAVE HAD TO CONSTRUCT A 'BUT FOR' OUTLOOK SPECIFYING WHAT I IMAGINED PEPCO'S OPERATIONS, INVESTMENTS, RATES, AND OTHER ASPECTS OF ITS BUSINESS WOULD LOOK LIKE IN THE ABSENCE OF THIS SPECIFIC MERGER,"
- A. TO WHAT EXTENT DID WITNESS TIERNEY EXAMINE PEPCO'S HISTORICAL RELIABILITY METRICS AS A COMPARISON FOR HER ANALYSIS?
- B. TO WHAT EXTENT DOES THE WITNESS BELIEVE THAT HISTORIC RELIABILITY DATA ARE TO BE CONSIDERED A "BUT-FOR" CASE?
- C. TO WHAT EXTENT DOES THE WITNESS AGREE THAT HER PROJECTION OF THE MERGER CONSTITUTES A CASE THAT SPECULATES ON WHAT THE COMPANY WILL ACHIEVE IN THAT FUTURE? IF NOT, PLEASE EXPLAIN WHY NOT.

RESPONSE:

- A. A. Dr. Tierney relied on the three-year historical average (2011-2013) reliability performance as the reliability baseline of her analysis.
- B. In light of the information provided to her by the Joint Applicants with regard to their 'current' (three-year historical average reliability performance) and future Enhanced Reliability Commitment, Dr. Tierney used this same 'current' (recent historical) reliability baseline as the starting point of her analysis. Her analysis compared the change in future committed-to reliability relative to that baseline, rather than pre-supposing what would happen in the absence of the Merger.
- C. Dr. Tierney's analysis of the economic impacts resulting from the Merger is based on the Company achieving the commitments described in her direct and rebuttal testimony. Because these are firm commitments of the company backed up by the Merger's financial penalty for non-performance, Dr. Tierney is not speculating that they will be achieved.

SPONSOR: Dr. Susan F. Tierney

JOINT APPLICANTS
DISTRICT OF COLUMBIA FORMAL CASE NO. 1119
NOTICE OF OBJECTION AND RESPONSE TO
DISTRICT OF COLUMBIA GOVERNMENT DATA REQUEST NO. 10

Tierney, February 17, 2015 Supplemental Testimony Joint Applicants (4G)

QUESTION NO. 48

- Q. PLEASE REFER TO THE FEBRUARY 17, 2015 SUPPLEMENTAL DIRECT TESTIMONY OF SUSAN F. TIERNEY, AT P. 3, LINES 11-14 AND JOINT APPLICANTS' RESPONSE TO COMMISSION STAFF DATA REQUEST 6-1:
- A. DID DR. TIERNEY UPDATE THE BASELINE (I.E. WITHOUT MERGER) RELIABILITY ASSUMPTIONS TO REFLECT THE 2014 ACTUAL SAIFI AND SAIDI PERFORMANCE PROVIDED IN JOINT APPLICANTS' RESPONSE TO COMMISSION STAFF DATA REQUEST 6-1?
1. IF NOT, PLEASE EXPLAIN WHY NOT.
- B. DID DR. TIERNEY UPDATE THE BASELINE (I.E. WITHOUT MERGER) RELIABILITY ASSUMPTIONS IN HER ANALYSIS IN ANY WAY?
1. IF SO, PLEASE DESCRIBE HOW THE BASELINE ASSUMPTIONS WERE CHANGED.
2. IF NOT, PLEASE EXPLAIN WHY NOT.

RESPONSE:

- A. A. No. As noted on pages 1 and 3-5 of Dr. Tierney's Supplement Direct Testimony, she used "the same methodologies" as in her Direct Testimony.
- B. No. Dr. Tierney wanted to present an exact replication of her prior analysis, but instead now using the updated commitments presented in her Supplemental Direct Testimony.

SPONSOR: Dr. Susan F. Tierney

JOINT APPLICANTS
DISTRICT OF COLUMBIA FORMAL CASE NO. 1119
RESPONSE TO OFFICE OF THE PEOPLE’S COUNSEL DATA REQUEST NO. 19

QUESTION NO. 2

Q. BASED ON PEPCO'S ACHIEVEMENT OF 0.69 SAIFI AND 1.61 SAIDI PERFORMANCE LEVELS IN 2014, DOES DR. TIERNEY BELIEVE IT WOULD BE REASONABLE TO ASSUME THAT, ABSENT A MERGER, PEPCO'S PERFORMANCE THROUGH 2020 WOULD BE BETTER THAN A LINEAR PROGRESSION.

RESPONSE:

A. As stated in her Direct and Rebuttal Testimony, Dr. Tierney did not want to speculate about what would occur absent a merger. Therefore, Dr. Tierney has not made any assumption about “Pepco’s performance through 2020.”

SPONSOR: Dr. Susan F. Tierney

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of March, 2015, I caused true and correct copies of the foregoing Answering Testimony of Tyler Comings to Joint Applicants February Supplemental Direct Testimony to be electronically delivered to the following parties:

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