



MONTGOMERY COUNTY COUNCIL
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TRANSPORTATION, INFRASTRUCTURE
ENERGY & ENVIRONMENT COMMITTEE

**Testimony of Montgomery County Council Vice President Roger Berliner
Before the Maryland Public Service Commission
Pepco Rate Increase Case No. 9418**

September 6, 2016

Good evening Mr. Chairman and Members of the Public Service Commission. My name is Roger Berliner. I currently serve as Vice President of the Montgomery County Council and chair the Council's Transportation, Infrastructure, Energy and Environment Committee.

While as the Chairman and Commissioner Williams appreciate, I have testified before the Commission on several occasions, a majority of you are relatively new to the Commission and new to me...as I am to you. Let me very briefly share with you my background.

I have been involved in utility regulation for almost 40 years. In the 1970s, I was involved in the makings of the Public Utilities Regulatory Policy Act on Capitol Hill and then implementing it while serving at the Federal Energy Regulatory Commission; in the early 80s, I advised the California State Legislature on utility matters; and from the mid-80s until I was elected in 2006, I represented, as a lawyer, solar generators, co-generators, Canadian natural gas producers, and the County of Los Angeles before regulatory agencies and in federal court. I even had the privilege of representing the largest utilities in Nevada in their fight against being ripped off by Enron, a case that went all the way to the United States Supreme Court.

I confess that I did not imagine when I sought to serve on the County Council that this aspect of my professional background would be relevant. But Pepco changed that. Pepco's reliability was beyond terrible, costing our residents and businesses millions of dollars and endangering lives. It wasn't until the Commission opened an investigation into Pepco's reliability in 2010, an investigation that our Council requested, that the Commission itself learned just how bad Pepco's reliability was -- in the lowest quartile nationally for five years in a row. It was truly third world service.

When I pressed Commissioners on whether Pepco would be held accountable for this failure, I was told that the state did not have reliability standards and therefore could not penalize them. As a result of those conversations, I researched other state reliability statutes and provided the Legislature and Governor with the first draft of what ultimately became the Maryland Electricity Service Quality and Reliability Act. And fortunately, now that there is accountability, Pepco's reliability, while far short of what we should expect, is finally getting better.

Our Council was unanimous in fighting the acquisition of Pepco by Exelon. We did not believe that Exelon had any unique ability to improve reliability. Pepco could and should have been required to achieve first-quartile performance without the merger. And importantly, Exelon's environmental record does not bode well for our citizens. Finally, Exelon was explicit in why it so very much wanted Pepco – it wanted the steady stream of revenue from ratepayers to offset financial losses it is suffering from its ownership of nuclear power plants that are uneconomical as a result of low natural gas prices.

That Exelon goal – to obtain a steady stream of revenue from Montgomery County ratepayers – is what brings us here tonight. And it is why over 2,000 citizens signed a petition that I launched in April to “Fight the Hike.”

Pepco has asked you to approve a ten percent rate hike for Montgomery County residents, raising the average resident's bill by almost \$16 a month. And many residents will face even higher increases. This rate request is particularly offensive to ratepayers given the highly-touted \$50 rate credit given to customers as a result of the Pepco and Exelon merger. That paltry sum would be erased in a mere three-and-a-half-months if this proposed rate increase is adopted.

Time and time again, Pepco has failed to meet the “just and reasonable” standard for cost recovery. As a result, this Commission has substantially reduced their proposed rate increases. There is no reason to believe this rate request is an exception. Bottom line: Residents should not be forced to pay one cent more than what is absolutely required by law. It is your job as members of the Commission to ensure that doesn't happen.

Pepco's rate request also underscores a larger point – *the traditional model of compensating utilities is fundamentally broken*. There are no other businesses in America that are compensated on the basis of how much money they invest. It is anti-consumer, anti-environment, and anti-economic development. Utilities, like other businesses, should be rewarded on how well they meet the needs of their customers. Performance-based ratemaking, not the traditional rate base approach, is the future, a future that this Commission should embrace for Montgomery County residents and beyond.

That is the future that the Coalition for Utility Reform advocated for in the merger proceeding, a coalition I formed along with Gaithersburg Councilmember and lawyer Ryan Spiegel, a broad coalition consisting of municipalities, smart energy companies, energy think tanks, environmental organizations, and elected officials. We are advocates for a cleaner, distributed, innovative, more cost-effective and customer-driven utility grid, a grid some call Utility 2.0.

Utility 2.0 seeks nothing less than to turn the century-old utility model on its head. Importantly, the technology to create that future largely exists today. What is holding us back is not technology. It is a regulatory regime stuck in the last century. A new regulatory model must be brought forth if we are to seize this future. In my view, that is one of your most important responsibilities going forward.

So, I come before you tonight to ask you to fully protect our residents from an unwarranted rate increase and to fix this broken system.

Thank you.