

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Delaware Division of the Public Advocate,	)	
Delaware Municipal Electric Corporation, Inc.,	)	
Delaware Public Service Commission,	)	
Maryland Office of People's Counsel,	)	
Maryland Public Service Commission,	)	
New Jersey Board of Public Utilities,	)	
New Jersey Division of Rate Counsel,	)	
Office of the People's Counsel of the District of Columbia, and	)	
Public Service Commission of the District of Columbia,	)	Docket No. EL15-
Complainants,	)	
v.	)	
Baltimore Gas and Electric Company, and	)	
Pepco Holdings, Inc., Operating Affiliates:	)	
Potomac Electric Power Company, Delmarva	)	
Power & Light Company, and Atlantic	)	
City Electric Company,	)	
Respondents.	)	

**COMPLAINT CHALLENGING BASE RETURN ON EQUITY,  
AND MOTION TO CONSOLIDATE**

December 8, 2014

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## I. INTRODUCTION

Pursuant to section 206 of the Federal Power Act ("FPA")<sup>1</sup> and Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission" or "FERC"),<sup>2</sup> the Delaware Division of the Public Advocate ("DE DPA"); Delaware Municipal Electric Corporation, Inc. ("DEMEC"); Delaware Public Service Commission ("DE PSC"); Maryland Office of People's Counsel ("MD OPC"); Maryland Public Service Commission ("MD PSC"); New Jersey Board of Public Utilities ("NJ BPU"); New Jersey Division of Rate Counsel ("NJ DRC"); Office of the People's Counsel of the District of Columbia ("DC OPC"); and Public Service Commission of the District of Columbia ("DC PSC") (collectively, "Joint Complainants") hereby file this Complaint against Respondents Baltimore Gas and Electric Company ("BGE") and the Pepco Holdings, Inc. ("PHI") affiliates: Potomac Electric Power Company ("Pepco"), Delmarva Power & Light Company ("Delmarva" or "DP&L"), and Atlantic City Electric Company ("ACE") (collectively, the "PHI Companies"). BGE and the PHI Companies are transmission owner ("TOs") members of PJM Interconnection, L.L.C. ("PJM"), and are sometimes collectively referred herein as "Respondents" or the "four TOs."<sup>3</sup>

This Complaint seeks a Commission order reducing the base return on equity ("Base ROE") used in BGE's and the PHI Companies' formula transmission rates to 8.8%.

Alternatively, Joint Complainants request that the Commission find that the Respondents' existing Base ROE is unjust and unreasonable and set the issue of the appropriate Base ROE for an evidentiary hearing. The Respondents' Base ROE is already the subject of hearing procedures

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<sup>1</sup> 16 U.S.C. § 824e.

<sup>2</sup> 18 C.F.R. § 385.206 (2010).

<sup>3</sup> The Joint Complainants file this single Complaint against all four Respondents because the Respondents filed their proposed tariff sheets together in Docket No. ER05-515, the proceeding in which the current stated base rate of return on equity and Formula Rate Implementation Protocols were established. Presently, Respondents' Base ROEs are identical, and their formula rate templates and Protocols are virtually identical.

in Docket No. EL13-48-000, instituted upon a Commission finding that the justness and reasonableness of the Base ROE presented issues of fact that are properly resolved in an evidentiary hearing.<sup>4</sup> To the extent the requested relief is not granted summarily, Joint Complainants ask that this matter be set for evidentiary hearing, and that it be consolidated with Docket No. EL13-48-000. The Commission recently consolidated ROE complaint proceedings in New England "[b]ecause of the existence of common issues of law and fact."<sup>5</sup> Like the New England proceedings, the instant Complaint and the proceeding in Docket No. EL13-48-000 present common issues of law and fact. Accordingly, good cause exists for the consolidation of these two proceedings.

## II. COMMUNICATIONS

All correspondence and communications to the Complainants in this docket should be addressed to the following individuals, whose names should be entered on the official service list maintained by the Secretary in connection with these proceedings:<sup>6</sup>

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<sup>4</sup> *Delaware Division of the Public Advocate, et al. v. Baltimore Gas and Electric Company, et al.*, 148 FERC ¶ 61,134 at P 3, 22 (2014) ("August 21 Order").

<sup>5</sup> *Attorney General of the Commonwealth of Massachusetts, et al. v. Bangor Hydro-Electric Company, et al.*, 149 FERC ¶ 61,156 at P 25 (2014).

<sup>6</sup> Waiver of Rule 203, 18 C.F.R. § 385.203 (2012) is requested to allow multiple persons to be included on the official service list on behalf of the Joint Complainants as necessary.

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**III. THE PARTIES**

**A. Joint Complainants**

1. The Delaware Division of the Public Advocate is an entity created by the Delaware General Assembly to, among other things, advocate the lowest reasonable rates for consumers consistent with the maintenance of adequate utility service and consistent with an equitable distribution of rates among all customers. To that end, the Public Advocate is empowered to appear in federal courts and before federal administrative bodies in matters involving public utility rates. 29 *Del. C.* §8716(d)(2), (3).

2. The Delaware Municipal Electric Corporation, Inc. is a joint action agency formed under Delaware law. The Members of DEMEC are the Delaware Cities and Towns of Newark, Milford, New Castle, Seaford, Lewes, Smyrna, Clayton, Middletown, and Dover. In total, DEMEC's Members have a peak load over 450 MW. DEMEC is a transmission customer taking service under the Open Access Transmission Tariff ("OATT") administered by PJM at the DPL zone rate. DEMEC is a member of PJM.

3. The Delaware Public Service Commission is an agency in the State of Delaware, organized and existing by virtue of the statutes enacted by the Delaware General Assembly, presently codified as the Delaware Public Utility Act. The DE PSC has the responsibility to

supervise and regulate all Delaware public utilities (including electric companies) to ensure their operation in the interest of the public and to promote adequate, economical, and efficient delivery of utility services in the State. This includes delivery of electric utility service in connection with electric transmission.

4. The Maryland Office of People's Counsel is an independent state agency that was established to represent the interests of residential consumers in utility cases. Maryland Public Utility Companies Article, Annotated Code of Maryland, Section 2-205(b)(2007). The Maryland People's Counsel may appear before any federal or State unit as necessary to protect the interests of residential and noncommercial users of gas, electricity or other regulated services. MD-OPC has actively participated in numerous regulatory proceedings at the state and federal level including before this Commission.

5. The Maryland Public Service Commission is an agency of the State of Maryland, organized and existing by virtue of the statutes enacted by the Maryland General Assembly, presently codified as Md. Public Utilities Article, section 1-101 et. seq. (2012). Under section 2-113, the MD PSC has the responsibility to supervise and regulate all Maryland public service companies (including electric companies) to ensure their operation in the interest of the public and to promote adequate, economical, and efficient delivery of utility services in the State. This includes matters pertaining to transmission utility rates of return and the protocols under which transmission rates are recovered. The entire state of Maryland is contained in the footprint of PJM, and Maryland ratepayers share in the transmission rates of which the rate of return and protocols are contested in this proceeding.

6. The New Jersey Board of Public Utilities is the administrative agency charged under New Jersey Law with the general supervision, regulation, jurisdiction, and control over all

public utilities in the State, including electric utilities and their rates and service. N.J.S.A. 48:2-13; N.J.S.A. 48:2-21. The NJ BPU is further charged under New Jersey Law as the state agency responsible for assuring its residents are provided safe reliable transmission and distribution of electricity. N.J.S.A. 48:2-13d. The NJ BPU is a "state commission" pursuant to Rule 214(a)(2) of the Commission's regulations.

7. The New Jersey Division of Rate Counsel is the administrative agency charged under New Jersey Law with the general protection of the interests of utility ratepayers. *N.J.S.A.* 52:27E-50 *et seq.* As the regulatory agency charged with protecting the utility ratepayers in the State of New Jersey, NJ DRC's participation is unique and in the public interest. Pursuant to C.F.R. §385.214(b)(2), NJ DRC is an "entity" within the meaning of Rule 214(b)(2).

8. The Office of the People's Counsel of the District of Columbia is an independent agency of the District of Columbia government and is the statutory representative of District of Columbia consumers in public utility issues in proceedings before the District of Columbia Public Service Commission, federal regulatory agencies, and state and federal courts. D.C. Code § 34-804 (d) (2010). The DC OPC is authorized to investigate the operation and valuation of utility companies, which includes delivery of electricity through transmission lines. The DC OPC's mandate is to advocate the provision of quality utility service and equitable treatment at rates that are reasonable and just.

9. The Public Service Commission of the District of Columbia is an independent agency of the District of Columbia originally established by Congress in 1913 and reaffirmed by Congress as such in the District of Columbia Home Rule Charter in 1973. The DC PSC functions as a quasi-judicial agency to ensure that public utilities doing business in the District provide reasonable, safe, and adequate service and facilities, and that their rates are just and

reasonable. D.C. Code § 1-204.93 (2010 Repl.). The DC PSC has general supervision over all electric companies in the District of Columbia. D.C. Code §§ 1-204.93 and 34-301 (2010 Repl.). Additionally, the DC PSC is authorized to join with other parties to attempt to mitigate the unjust and unreasonable rates in the regional transmission system serving the District. D.C. Code §34-1512. Under the Federal Power Act, the District of Columbia is a "State" and the DC PSC is a "State Commission." 16 U.S.C.A. § 796(6) and (15) (2012). The District of Columbia is within the footprint of PJM, and District of Columbia ratepayers pay the transmission costs approved by this Commission.

**B. Respondents**

10. BGE is a wholly-owned subsidiary of Exelon Corporation, a publicly held corporation headquartered in Chicago, Illinois. BGE is an electric and gas distribution and electric transmission company regulated by this Commission and the Maryland Public Service Commission. BGE is a member of PJM.

11. Pepco, Delmarva, and ACE are affiliates of PHI. Each is an electric distribution company and electric transmission company regulated by this Commission and by the regulatory commissions in the states in which they operate. Each is a member of PJM. Pepco's retail distribution of electricity in the District of Columbia is regulated by the Public Service Commission of the District of Columbia. PHI is currently in the process of seeking approval to merge with Exelon Corporation.

12. If the proposed merger of PHI and Exelon is approved and consummated, BGE and the PHI Companies will all be under the same corporate umbrella.

#### IV. BACKGROUND

13. On January 31, 2005, BGE and the PHI Companies filed proposed tariff sheets reflecting a new formula rate for determining each of the TO's annual wholesale transmission revenue requirements ("ATRRs") and the resulting charges for Network Integration Transmission Service under the PJM OATT, effective June 1, 2005. On May 31, 2005, the Commission accepted and nominally suspended BGE and the PHI Companies' filing to be effective June 1, 2005, subject to refund and the outcome of a hearing.<sup>7</sup> BGE and the PHI Companies' filing relied on Base ROE results from a Northeast regional proxy group that was developed by their expert, Dr. William Avera.<sup>8</sup>

14. On March 20, 2006, BGE and the PHI Companies filed an Agreement and Offer of Settlement ("Settlement"), intending to resolve all issues set for hearing in that proceeding. The Settlement contained, *inter alia*, the same Base ROEs for BGE and the PHI Companies; substantially similar formula rate templates for each of the four TOs, effective June 1, 2005; and substantially similar Protocols.<sup>9</sup> Among other things, the Settlement established the Base ROE and set June 1, 2008 as the earliest effective date for changes to the Base ROE. The Settlement set a moratorium for all other changes to the basic components of the Formula Rate until May 31, 2009. On April 6, 2006, the Presiding Administrative Law Judge certified the Offer of Settlement, and the Settlement was approved by the Commission on April 19, 2006.<sup>10</sup>

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<sup>7</sup> *Allegheny Power System Operating Companies, et al.*, 111 FERC ¶ 61,308 (2005).

<sup>8</sup> *Id.* at P 13.

<sup>9</sup> Exhibit B of the Settlement contained revised tariff sheets specific to each of the four TOs that were implemented into Attachment H of the PJM OATT. The tariff sheets included "(1) the revised language of the Attachment H to reflect incorporation of a Formula Rate; (2) the applicable Formula Rate template; and (3) Rate Implementation Protocols. The Formula Rate for each Company is substantially the same except for minor differences related to cost items that are applicable to particular Companies. . . ." Explanatory Statement in Support of the Settlement at 1, n.2, Docket Nos. ER05-515, *et al.* (filed March 20, 2006). The Protocols of the four TOs are provided in the following Attachments of PJM's OATT: Attachment H-1B (ACE); Attachment H-2B (BGE); Attachment H-3E (Delmarva) and Attachment H-9B (Pepco).

<sup>10</sup> *Baltimore Gas and Electric Co., et al.*, 115 FERC ¶ 61,066 (2006).

15. Each year, BGE and PHI Companies update many of the components that determine their ATRR and recalculate a transmission service charge. The annual transmission revenue requirements have been calculated using a single Base ROE.<sup>11</sup> The Base ROE is fixed and does not change year-to-year as do most other formula rate inputs. The fixed ROE may only be changed through a filing under Section 205 or Section 206 of the FPA, or by the Commission acting *sua sponte* under FPA Section 206.

16. The current Base ROE consists of a 10.8 percent ROE for facilities placed into service before January 1, 2006 and an 11.3 percent Base ROE for facilities placed into service on and after January 1, 2006. For whichever Base ROE is applicable, it is increased by 50 basis points in recognition of BGE's and the PHI Companies' participation as transmission-owning members of PJM.

17. On February 27, 2013, the Joint Complainants filed a complaint with the Commission that initiated Docket No. EL13-48-000. In that complaint, the Joint Complainants argued that the Respondents' Base ROEs were unjust and unreasonable and that 8.7 percent would be a just and reasonable Base ROE. Because the Commission determined that the complaint raised issues of material fact that could not be resolved based on the record, it set the complaint for hearing.<sup>12</sup> The Commission also decided to hold the evidentiary hearing in abeyance so that the parties could engage in settlement negotiations. The parties to EL13-48-000 engaged in settlement negotiations. However, by notice issued November 24, 2014, the settlement judge declared that the parties had reached an impasse. On November 26, 2014, the Chief Administrative Law Judge (Wagner, J.) issued an Order terminating settlement judge

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<sup>11</sup> As discussed in more detail below, BGE and the PHI Companies may apply a base ROE of 10.8% to facilities placed into service prior to January 1, 2006, and a base ROE of 11.3% to facilities placed into service on and after January 1, 2006.

<sup>12</sup> August 21 Order at P 22.

procedures, designating ALJ Dring as the presiding administrative law judge, and establishing an initial decision deadline of November 25, 2015.

## **V. REQUEST FOR RELIEF**

18. Due to significant changes in the capital markets that have occurred since the Docket No. ER05-515 Settlement in 2006, the Base ROE is no longer just and reasonable. The attached testimony and exhibits of Matthew I. Kahal demonstrate that the current Base ROE is excessive and that a just and reasonable Base ROE for all BGE and PHI transmission facilities would not exceed 8.8 percent. Based on this evidence, this Complaint provides sufficient evidence to demonstrate that the existing Base ROE is unjust and unreasonable. Accordingly, the Commission should find that the current Base ROE is no longer just and reasonable, and that the Base ROE proposed by the Joint Complainants is just and reasonable.

19. In the alternative, the Commission should set this complaint for hearing, and consolidate it with the complaint in Docket No. EL13-48-000.

## **VI. THE CURRENT BASE ROE IS UNJUST AND UNREASONABLE AND SHOULD BE ADJUSTED TO A JUST AND REASONABLE ROE OF 8.8 PERCENT.**

### **A. Applicable Standards**

#### **1. Opinion Nos. 531 and 531-A.**

20. All rates for jurisdictional service under the FPA must be just and reasonable.<sup>13</sup>

Where a complainant challenges a previously approved rate under Section 206 of the FPA and proposes a new one, the Commission must find that: (1) the existing rate is unjust and unreasonable; and (2) a proposed replacement rate is just and reasonable.<sup>14</sup> However, as the

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<sup>13</sup> 16 U.S.C. §§ 824d and 824e.

<sup>14</sup> See, e.g., *Louisiana Pub. Serv. Comm'n v. Entergy Corp.*, 132 FERC ¶ 61,003 at P 28 (2010); *Atl. City Elec. Co. v. FERC*, 295 F.3d 1, 10 (D.C. Cir. 2002), accord, *Cities of Bethany v. FERC*, 727 F.2d 1131, 1143-44 (D.C. Cir. 1984); see also *FPC v. Sierra Pac. Power Co.*, 350 U.S. 348, 353 (1956).

United States Court of Appeals for the District of Columbia recently explained, a complainant need not propose a new just and reasonable rate.<sup>15</sup> Under FPA Section 206, a complainant need only demonstrate that the existing rate is unjust and unreasonable; it is up to the Commission to determine the new just and reasonable rate.<sup>16</sup> This Complaint provides sufficient evidence for the Commission to find that the existing Base ROE is no longer just and reasonable and to find that the new rate proposed in this Complaint is just and reasonable.

21. A just and reasonable rate of return for a utility is one that does not exceed the level required to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and attract capital, and must be commensurate with returns on investments in enterprises with comparable risks.<sup>17</sup> In establishing a Base ROE, the Commission must reach a balance between ensuring that customers pay a just and reasonable rate and allowing regulated utilities to earn returns that are sufficient to continue their operations and attract capital.

22. In Opinion No. 531, the Commission prescribed a revised methodology for establishing a just and reasonable ROE for electric transmission service, based on applying a two-stage discounted cash flow ("DCF") analysis to a proxy group of comparable risk companies.<sup>18</sup> As Mr. Kahal explains, there are two clear changes in the Commission's DCF analysis pursuant to Order No. 531, as compared to the Commission's pre-Order No. 531 approach.<sup>19</sup> First, the Commission has made clear its preference for a national proxy group.<sup>20</sup>

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<sup>15</sup> *Maryland Public Serv. Comm'n v. FERC*, 632 F.3d 1283, 1285, n. 1 (D.C. Cir. 2011).

<sup>16</sup> *Id.*

<sup>17</sup> See *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944); *Bluefield Water Works & Improvement Co. v. Public Serv. Comm'n of W. Va.*, 262 U.S. 679, 692-93 (1923).

<sup>18</sup> *Coakley v. Bangor Hydro-Elec. Co.*, 147 FERC ¶ 61,234 (2014) ("Opinion No. 531").

<sup>19</sup> Testimony of Matthew I. Kahal on Behalf of Joint Complainants, Attachment I at 19 (Dec. 8, 2014) ("Kahal Testimony").

<sup>20</sup> *Id.*

Second, the Commission now relies on a two-stage, composite growth factor.<sup>21</sup> The first stage is based on five-year (company-specific) earnings per share growth rates projected by stock analysts.<sup>22</sup> The results for this stage are assigned two-thirds weight.<sup>23</sup> The second stage reflects the long-term forecast rate of growth of U.S. (nominal) Gross Domestic Product ("GDP") and is assigned the remaining one-third weight.<sup>24</sup> For each company, the first and second stages are combined to create a composite growth rate.<sup>25</sup>

23. In Opinion No. 531, the Commission tentatively set the projected nominal GDP growth rate as the appropriate value for the second stage of the growth factor. The Commission found that the correct value for the projected nominal GDP growth rate was 4.39 percent. The Commission later affirmed the use of the projected nominal GDP growth rate and the 4.39 percent value in Opinion No. 531-A.<sup>26</sup> Therefore, 4.39 percent is appropriately used for the second stage of the growth factor.<sup>27</sup>

24. The Commission's new DCF methodology applies the same basic DCF formula that was used previously. That DCF methodology can generally be stated as follows:

$Ke = (Do/Po) (1 + 0.5g) + g$ , where:

Ke = cost of equity;

Do = the current annualized dividend;

Po = stock price at the current time; and

g = the long-term annualized dividend growth rate.<sup>28</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 20.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 19-20.

<sup>25</sup> *Id.*

<sup>26</sup> *Coakley v. Bangor Hydro-Elec. Co.*, 149 FERC ¶ 61,032 (2014) ("Opinion No. 531-A").

<sup>27</sup> Kahal Testimony at 20.

<sup>28</sup> *See Id.*

25. The first step in performing a DCF analysis is to determine a proxy group of comparable companies that have publicly traded stock.<sup>29</sup> The Commission uses standard screening criteria to establish a proxy group of companies with comparable risks.<sup>30</sup> The Commission has approved the use of the following screening criteria for the selection of the proxy group: (1) electric utilities that are covered by the Value Line Investment Survey ("Value Line"); (2) electric utilities that are not currently involved in a major merger or acquisition; (3) electric utilities that pay common dividends; (4) electric utilities having an investment grade corporate credit rating within one "notch" of the utility whose rates are being challenged; and (5) electric utilities that have annual revenues of at least \$1 billion (when appropriate).<sup>31</sup>

26. Further, consistent with Commission policy, only DCF results meeting a minimum threshold value are used to determine the zone of reasonableness from which the Base ROE is established. The minimum threshold value is set at "about 100 basis points" above the corresponding long-term utility corporate bond rate.<sup>32</sup> Therefore, the Commission has found that it is reasonable to exclude any company whose low-end ROE does not exceed the average bond yield by at least 100 basis points.<sup>33</sup> The Commission has also held that it is appropriate to exclude all companies with a growth rate greater than or equal to 13.3 percent.<sup>34</sup> The Commission further clarified its position regarding the elimination of outliers by stating that "the use of only one end of the DCF calculation would skew the Commission's DCF method.

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<sup>29</sup> See *id.* at 21.

<sup>30</sup> See, e.g., *Southern Cal. Edison Co.*, 131 FERC ¶ 61,020 at P 52 (2010); *Southern Cal. Edison Co.*, 122 FERC ¶ 61,187 at P 25 (2008).

<sup>31</sup> Opinion No. 531 at PP 100, 106-07, 112, and 114; *Southern Cal. Edison Co.*, 131 FERC ¶ 61,020 at P 52; see, e.g., *Atl. Grid Operations A LLC, et al.*, 135 FERC ¶ 61,144 (2011); *N. Pass Transmission LLC*, 134 FERC ¶ 61,095 (2011); *RITELine Ill., LLC*, 137 FERC ¶ 61,039 at PP 66-67 (2011).

<sup>32</sup> *Southern Cal. Edison Co.*, 131 FERC ¶ 61,020 at P 56.

<sup>33</sup> Opinion No. 531 at P 123; *Southern Cal. Edison Co.*, 131 FERC ¶ 61,020 at P 55.

<sup>34</sup> *Southern Cal. Edison Co.*, 131 FERC ¶ 61,020 at P 57. The Commission has also excluded DCF results above 17.7 percent, consistent with its decision in *ISO New England, Inc.*, 109 FERC ¶ 61,147 at P 205 (2004), *order on reh'g*, 110 FERC ¶ 61,111 (2005).

Therefore, when we eliminate either the high-end or low-end ROE outlier of a company, we have also eliminated the corresponding low-end or high-end ROE of that company."<sup>35</sup> The remaining values are then used to establish the zone of reasonableness and the just and reasonable ROE.

**2. This Complaint Is Permitted By the FPA and Commission Precedent, Notwithstanding the Proceeding in Docket No. EL13-48-000.**

27. On February 27, 2013, the Joint Complainants filed a complaint pursuant to Section 206 of the FPA, which initiated Docket No. EL13-48-000. That complaint, like this one, alleged that the Respondents' Base ROE was unjust and unreasonable. Not until a year and half later, on August 21, 2014, did the Commission set the Complaint for hearing and settlement judge procedures and establish a refund effective date of February 27, 2014.<sup>36</sup>

28. This instant Complaint is a permissible challenge to the Respondents' ROE. The Commission has determined that successive complaints are allowed when they present new analysis. "[A] new DCF analysis with new, more current data in support of a proposed lower ROE" is sufficient to meet the standard for filing a new complaint.<sup>37</sup> For a number of reasons, the instant Complaint presents new analysis. The instant Complaint is based on new data for the six-month period encompassing March through August 2014, a period that occurred well after the filing of the initial complaint. This alone is sufficient to meet the Commission's "new analysis" standard. Additionally, Mr. Kahal's analysis in the instant Complaint is a two-stage DCF analysis, which was performed in accordance with the new methodology prescribed by the Commission in Opinion No. 531. Because this Complaint is based on updated financial market data and relies on an analytical approach by Mr. Kahal that has been updated to conform with

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<sup>35</sup> *Id.* at P 59.

<sup>36</sup> August 21 Order at P 3.

<sup>37</sup> *Environment Northeast v. Bangor Hydro-Elec. Co.*, 147 FERC ¶ 61,235 at P 27 (2014) (citing cases).

Opinion No. 531, the Complaint presents a new analysis and is not barred in any way by the complaint that initiated Docket No. EL13-48-000.

29. Further, the Commission has repeatedly acknowledged that its "statutory mandate under the FPA entails protecting consumer interests."<sup>38</sup> This duty, which is continuing in nature, requires that the Commission protect consumers from excess charges.<sup>39</sup> As the Joint Complainants demonstrated in the complaint that initiated Docket No. EL13-48-000, consumers have been paying unjust and unreasonable charges for years. Because no final decision has been reached in Docket No. EL13-48-000, which was filed almost two years ago, consumers continue to pay unjust and unreasonable rates. The Commission's duty to protect consumers from these unjust and unreasonable rates requires that the Commission allow this Complaint to advance and to prevent Respondents from continuing to receive excess returns.

**B. Joint Complainants' ROE Analysis**

30. In order to determine whether the current Base ROE remains just and reasonable, Mr. Kahal performed a DCF analysis in compliance with the Commission's current policies prescribed by Opinion Nos. 531 and 531-A, as they may be applicable here. Mr. Kahal's analysis shows that when applying the Commission's DCF model to determine a just and reasonable ROE, the zone of reasonableness has a range between 6.64 percent and 11.58 percent.<sup>40</sup> The sample mean is 8.72 percent, the median is 8.79 percent, and the midpoint is 9.1 percent.<sup>41</sup> Of importance, Mr. Kahal notes that for 33 of the 37 companies in his proxy group

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<sup>38</sup> *New England Power Generators Ass'n, Inc. v. ISO New England inc.*, 146 FERC ¶ 61,038 P 26, n.33 (2014) (citing cases).

<sup>39</sup> *Id.*

<sup>40</sup> Kahal Testimony at 8

<sup>41</sup> *Id.*

(*i.e.*, for 89% of the companies in his proxy group), the DCF result under the Commission's new methodology is less than 10.0 percent.<sup>42</sup>

31. In accordance with Commission policy, Mr. Kahal began his analysis by selecting a national group of proxy companies with risk profiles representative of BGE and the PHI Companies. Mr. Kahal began his proxy group formation by including all publicly traded companies classified as an "electric utility" by Value Line.<sup>43</sup> From this list, Mr. Kahal applied Commission-approved exclusion criteria to derive a final proxy group of 37 companies.<sup>44</sup> Specifically, Mr. Kahal excluded companies that: (1) had a dividend reduction within the past 6 months; (2) had a credit rating for the company from either Standard & Poor's ("S&P") or Moody's Investor Service ("Moody's") that differed from the Respondents' credit ratings by more than "one notch;" (3) were engaged in a major merger during the time period of the market data (*i.e.*, stock price) data used in the DCF analysis; and (4) resulted in a cost of equity calculation that was unreasonably low (*i.e.*, less than 100 basis points above the contemporaneous long-term utility bond yield) or unreasonably high.<sup>45</sup>

32. The application of Mr. Kahal's Commission-approved criteria results in a proxy group comprised of 37 utilities.<sup>46</sup> During the analytical process, Mr. Kahal excluded nine electric utilities identified by Value Line. Six were eliminated due to large-scale merger activity, and the additional three were excluded because their credit rating exceeded the "one notch" criterion.<sup>47</sup> No companies were excluded for unreasonably high or low DCF results or for recent

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<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 21.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* at 21.

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

dividend cuts.<sup>48</sup> The selection of the proxy group is consistent with the Commission's established rules, and the selected proxy group entities are similar in risk to the Respondent utilities. Mr. Kahal also notes that this proxy group is very similar to the proxy group that was adopted in Opinion No. 531.<sup>49</sup>

33. Following the Commission's new DCF methodology, Mr. Kahal next compiled the stock price and indicated annual dividend per share data for each of the companies in his proxy group for each month, March through August 2014.<sup>50</sup> Mr. Kahal relied on the April 2014 through September 2014 editions of the S&P *Stock Guide* to compile these data.<sup>51</sup> Mr. Kahal explains that the monthly stock price is the average of the high and low stock price for a company during each month, and the monthly dividend yield is the published indicated annual dividend prevailing during each given month.<sup>52</sup> The monthly dividend yield is equal to the published indicated annual dividend divided by a company's average stock price for each month.<sup>53</sup>

34. Next, Mr. Kahal compiled the first stage growth rate for each proxy group company. This value is equal to the five-year earnings per share growth rate obtained from Yahoo!Finance as of late August 2014. Mr. Kahal noted one important exception to these data. Specifically, Mr. Kahal notes that Portland General Electric produced an anomalously high DCF value as the result of an erroneous inclusion of a long-term earnings growth rate of 20.43 percent in the IBES security analyst growth projection survey, which distorted the average published by

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<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 23.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

Yahoo!Finance.<sup>54</sup> Portland General Electric is considered to be a stable, low-risk company and has not exhibited an unusually high DCF value in the past.<sup>55</sup> Mr. Kahal understands that the 20.43 percent figure was a calculation error that was quickly corrected by IBES once it was discovered.<sup>56</sup> Thereafter, Yahoo!Finance revised its published growth rate downward to the correct value.<sup>57</sup> Mr. Kahal relied on this change in his analysis. The second stage growth rate is the Commission's recently approved long-term nominal U.S. GDP growth rate of 4.39 percent.<sup>58</sup> Mr. Kahal rounded this value upwards to 4.4 percent.<sup>59</sup>

35. Using the data points above, Mr. Kahal calculated a DCF result for each of the companies in his proxy group. Mr. Kahal notes that the 6-month yield he utilized is each company's dividend yield averaged over the 6-months of March through August 2014.<sup>60</sup> Per the Commission's DCF methodology, the dividend yield is slightly increased to an adjusted or forward yield using the Commission's standard "0.5g" method.<sup>61</sup> Mr. Kahal calculated the composite growth rate by multiplying each company's IBES growth rate by 0.667 and adding this value to the sum of the GDP growth rate of 4.4% multiplied by 0.333.<sup>62</sup> Mr. Kahal's DCF results for each company reflect the sum of the composite growth rate and the adjusted 6-month yield.<sup>63</sup> Applying this methodology, Mr. Kahal was able to establish a zone of reasonableness of

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<sup>54</sup> *Id.* at 24.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 24-25.

<sup>57</sup> *Id.* at 24.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 23-24.

<sup>61</sup> *Id.* at 24.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

6.64 percent to 11.58 percent.<sup>64</sup> Mr. Kahal's analysis produced a mean of 8.72 percent, a median of 8.79 percent, and a midpoint of 9.1 percent.<sup>65</sup>

36. Mr. Kahal notes that the Respondents' use of a formula rate mechanism also affects their risk profile.<sup>66</sup> The use of formula rates is advantageous for the Respondents because such rate mechanisms provide greater regulatory certainty and enable the Respondents to avoid having to file potentially contentious rate cases to obtain cost recovery.<sup>67</sup> The use of formula rates enhances the business risk profile of at least the transmission segment of the Respondents' operations.<sup>68</sup> Mr. Kahal's DCF analysis measures the cost of capital for the proxy companies on a "total company" basis, which means that the DCF study only partially captures the rate reducing attributes of the formula rates.<sup>69</sup> The advantages to the Respondents of formula rates should be taken into account by the Commission because they are much less risky to investors as a result of the formula rates. Therefore, the appropriate Base ROE for the Respondents should be set at the median, consistent with a long line of Commission precedent stating that the ROE of individual transmission owners should be set at the median of the zone of reasonableness.<sup>70</sup> Consistent with Commission precedent, Mr. Kahal recommends 8.8 percent as the just and reasonable ROE for the Respondents.<sup>71</sup>

37. Mr. Kahal recognizes that in Opinion No. 531, the Commission set the ROE in the top half of the zone of reasonableness. However, the Commission's justifications for doing so are not present in the instant proceeding. In Opinion No. 531, the Commission determined

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<sup>64</sup> *Id.* at 25.

<sup>65</sup> *Id.* at 8.

<sup>66</sup> *Id.* at 31.

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* at 34-35.

<sup>69</sup> *Id.* at 35.

<sup>70</sup> *See, e.g., Atlantic Grid Operations A LLC*, 135 FERC ¶ 61,144 P 91 (finding that the "median of the DCF analysis is appropriate for establishing the Base ROE," and citing cases).

<sup>71</sup> Kahal Testimony at 32.

that anomalous conditions were present during the October 2012 to March 2013 time period.<sup>72</sup> According to Mr. Kahal, these anomalous conditions are no longer present, and, therefore, the Commission should not set the ROE in the top half of the zone of reasonableness.<sup>73</sup> In Opinion No. 531, the Commission made clear that it would not require the use of the upper half of the zone of reasonableness to set the just and reasonable ROE. Specifically, the Commission stated that "[n]othing in this order precludes [parties] from developing a record ... supporting a different point in the range of reasonableness than the midpoint of the upper half of the range."<sup>74</sup>

38. Mr. Kahal's testimony adequately supports the use of the median of the zone of reasonableness by explaining why the anomalous conditions cited by the Commission in Opinion No. 531 are no longer present.<sup>75</sup> As Mr. Kahal explains, it has been at least five years since the 2008/2009 financial crisis and, during the intervening period, the U.S. and global economies have settled.<sup>76</sup> The U.S. and global economies are in a period of low inflation, slow economic growth, massive liquidity seeking a return, and central bank accommodation.<sup>77</sup> The projection in these conditions is that low capital costs will continue to prevail in both the short and long term.<sup>78</sup> As Mr. Kahal states, "[c]onditions today should not be considered 'anomalous' simply because they differ to some degree from long-term historical experience. ROEs are not and should not be based on long-term historical norms if that is unreflective of what capital markets currently require."<sup>79</sup> Further, the Federal Reserve is currently phasing out its quantitative easing

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<sup>72</sup> Opinion No. 531 at P 145.

<sup>73</sup> Kahal Testimony at 32.

<sup>74</sup> Opinion No. 531 at P 151, n.306.

<sup>75</sup> Kahal Testimony at 31.

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.* 31-32.

<sup>79</sup> *Id.* at 31.

program that it has conducted over the past several years.<sup>80</sup> Investors are aware of this fact and the expectation is already reflected in stock prices.<sup>81</sup> For these reasons, the study period of Mr. Kahal's DCF analysis is hardly "anomalous." Rather, conditions will likely remain relatively stable with low inflation, slow growth, and low capital costs. Were something drastic to happen and capital costs spike, the Respondents would have the opportunity to submit a Section 205 filing to increase their ROE. At this time, however, the just and reasonable ROE is correctly set at the median of the zone of reasonableness, which is 8.8 percent as supported by Mr. Kahal's DCF analysis.

39. In the alternative, if the Commission determines that the upper half of the zone of reasonableness must be used to set the ROE for the Respondents, then Mr. Kahal recommends that the Commission set the Base ROE at 9.24 percent, which represents the median of the upper half of the zone of reasonableness.<sup>82</sup> As Mr. Kahal explains, using the median would be the most appropriate measure of central tendency for the upper half of the zone of reasonableness because it avoids placing too much weight on outlier DCF calculations.<sup>83</sup> Were the Commission's central tendency technique in Opinion No. 531 to be used, then the high-end DCF value would have a 75 percent weight placed upon it, even though the high-end DCF value in this case is unusually high.<sup>84</sup> As Mr. Kahal points out, in the instant proceeding, the application of the Commission's technique would result in an ROE of 10.35 percent, which exceeds 35 of the

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<sup>80</sup> On Wednesday, October 29, 2014, the Federal Open Market Committee announced the end of its multi-year asset purchases. This has been known by the markets for many months prior that it was coming. *See* <http://www.federalreserve.gov/newsevents/press/monetary/20141029a.htm> Because this announcement had been anticipated by investors for many months due to previous statements by the Fed, the phase out of the QE program was priced into the market during the March through August time period of Mr. Kahal's study.

<sup>81</sup> *Id.*

<sup>82</sup> *Id.* at 32.

<sup>83</sup> *Id.* at 34.

<sup>84</sup> *Id.* at 33.

37 proxy group companies' DCF values.<sup>85</sup> This value would also exceed the ROE sought by the Respondents in their retail rate cases (10.25 percent), despite the fact that their wholesale operations are inherently less risky. Therefore, Mr. Kahal's recommended use of the median to set the ROE in the upper half of the zone of reasonableness would be just and reasonable; the technique used in Opinion No. 531 would not be just and reasonable.

**C. The Current Base ROE Is Unjust And Unreasonable**

40. The DCF analysis performed by Mr. Kahal shows that as a result of significantly changed economic circumstances since the Base ROEs were first established: (1) the current Base ROEs (10.8 percent for pre-2006 assets, and 11.3 percent for post-2005 assets) are unjust and unreasonable; and (2) the just and reasonable Base ROE for all assets should be set no higher than 8.8 percent. The revenues generated by the excessive current Base ROE go straight to BGE's and the PHI Companies' bottom lines at the expense of customers.

41. The Commission has generally set Base ROEs at the center of the range because, absent evidence to the contrary, the utility is assumed to be of average risk compared to the proxy group.<sup>86</sup> Here, there is no reason to conclude that BGE and the PHI Companies are any riskier than those in Mr. Kahal's proxy group.<sup>87</sup> The Commission has employed S&P corporate credit ratings as a screen for risk comparability, and as Mr. Kahal explains, the Respondents are comparable in risk or even less risky than the 37 proxy group companies following this criterion. With respect to the Respondents' transmission operations, there are substantial similarities in the business models, method of regulation, and other pertinent attributes between the Respondents

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<sup>85</sup> *Id.*

<sup>86</sup> The exception to this norm is the Commission's decision in Opinion No. 531, but, as described in detail above, the anomalous conditions that led the Commission to stray in Opinion No. 531 from traditional techniques used to measure central tendency are no longer present.

<sup>87</sup> *FPC v. Texaco, Inc.*, 417 U.S. 380, 399 (1974).

and the proxy group as a whole.<sup>88</sup> Mr. Kahal demonstrates that the Respondent utilities are similar in so many ways that they are more like one entity than distinct entities.<sup>89</sup> Further, if the pending merger between Exelon and the PHI Companies is approved, all of the Respondents will be under the same corporate umbrella. As a result, the median is the appropriate choice for determining the just and reasonable Base ROE.

42. Maintaining the Base ROEs at current levels would result in a substantial overpayment to BGE and the PHI Companies' from their customers, relative to Mr. Kahal's recommended Base ROE. The Joint Complainants calculate that, based on the current rate base levels provided in BGE's and the PHI Companies' most recent formula rate updates, electric consumers are overcompensating BGE and the PHI Companies by approximately \$37 million annually under the current Base ROE, as compared to rates using the recommended Base ROE of 8.8 percent.<sup>90</sup> These overpayments are unjust and unreasonable because they are far in excess of what is "reasonably sufficient to assure confidence in the financial soundness of the utility [or, in this case, utilities] and should be adequate under efficient and economical management, to maintain and support its credit, and enable it to raise the money necessary for the proper discharge of its public duties."<sup>91</sup> The Supreme Court has made it clear that not even "a little unlawfulness is permitted" in setting jurisdictional rates.<sup>92</sup> Rates incorporating the existing Base ROE are leading to far more than "a little" overpayment.

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<sup>88</sup> Kahal Testimony at 34.

<sup>89</sup> *Id.* at 33-34.

<sup>90</sup> *Id.*, Schedule MIK-5.

<sup>91</sup> *Bluefield*, 262 U.S. at 692-93.

<sup>92</sup> *FPC v. Texaco, Inc.*, 417 U.S. at 399.

**D. The Commission Should, At The Very Least, Set The Issues Of The Appropriate ROE For Hearing.**

43. The Joint Complainants respectfully submit that ample evidence exists to show that the current Base ROE is no longer just and reasonable, and that a Base ROE of 8.8 percent is just and reasonable. The Commission should issue an order so finding. At a minimum, however, the Commission should institute a proceeding under Section 206 of the FPA to investigate whether the Base ROE is excessive and to determine a just and reasonable Base ROE. Given the unsuccessful outcome of the settlement judge procedures in Docket No. EL13-48-000, the hearing process should not be preceded by a settlement judge process.

**E. The Commission Should Establish The Earliest Possible Refund Effective Date**

44. In cases where the Commission institutes an investigation on a complaint under Section 206 of the FPA, Section 206(b) requires the Commission to establish a refund effective date that is no earlier than the date the complaint was filed, but no later than five (5) months after the filing date.<sup>93</sup> In a prior complaint proceeding challenging the Base ROE in a formula transmission rate, the Commission explained that, consistent with its general policy of providing maximum protection to customers,<sup>94</sup> the Commission would set the refund to become effective at the earliest date possible.<sup>95</sup> Given the indistinguishable nature of the issue in dispute in this prior proceeding and in the instant proceeding, coupled with the Commission's general policy of providing maximum protection to customers, the Commission should establish the filing date of

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<sup>93</sup> 16 U.S.C. § 824e(b).

<sup>94</sup> See, e.g., *Old Dominion Electric Coop. and North Carolina Electric Membership Corp. v. Virginia Electric and Power Co.*, 133 FERC ¶ 61,009 at P 36 (2010) (citing *Seminole Elec. Coop., Inc. v. Fla. Power & Light Co.*, 65 FERC ¶ 61,413, at p. 63,139 (1993); *Canal Elec. Co.*, 46 FERC ¶ 61,153, at p. 61,539, *reh'g denied*, 47 FERC ¶ 61,275 (1989)).

<sup>95</sup> *Coakley et al. v. Bangor Hydro, et al.*, 139 FERC ¶ 61,090 at P 29.

this Complaint as the refund effective date for the relief to be afforded the Joint Complainants in this proceeding.

## **VII. RULE 206 REQUIREMENTS**

45. The Complainants hereby provide the further information required by Rule 206.<sup>96</sup>

### **A. Good Faith Estimate of Financial Impact or Harm (Rule 206(b)(4))**

46. As described above and in Mr. Kahal's Affidavit, Exhibit B, Schedule MIK-5, the Joint Complainants estimate that reducing the Base ROE to a just and reasonable 8.8 percent would reduce transmission costs by approximately \$37 million annually.<sup>97</sup>

### **B. Operational or Nonfinancial Impacts (Rule 206(b)(5))**

47. The Joint Complainants are not aware of any specific practical, operational, or nonfinancial impacts resulting from the excessive Base ROE.

### **C. Whether the Matters are Pending in Any Other FERC Proceeding or Other Forum (Rule 206(b)(6))**

48. The Respondents' ROE is at issue in one Commission proceeding - Docket No. EL13-48-000 – which is currently set for hearing. As described in detail above, the analytical basis and the data inputs for this Complaint are substantially different than the analytical basis and data inputs for the complaint that was filed in Docket No. EL13-48-000. Specifically, this Complaint is based on more recent financial data and employs a DCF methodology that conforms with Opinion No. 531, which was issued after the filing of the initial complaint. However, the adjudication of the two complaints is likely to be substantially similar, as Opinion No. 531 will be applied to both complaints during an evidentiary hearing and the testimony presented at hearing would reflect updated financial information.

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<sup>96</sup> 18 C.F.R. § 385.206 ("Rule 206").

<sup>97</sup> Kahal Affidavit, Schedule MIK-5.

**D. Documents Supporting the Complaint (Rule 206(b)(8))**

49. In support of this Complaint, Joint Complainants have included the testimony and exhibits of Mr. Kahal.

**E. Alternative Dispute Resolution (Rule 206(b)(9))**

50. Joint Complainants submit that it is unlikely that alternative dispute resolution procedures under the Commission's supervision would successfully resolve the issues raised in the Complaint. Informing the Joint Complainants' view is the unsuccessful settlement judge process that was initiated in Docket No. EL13-48-000. As noted above, the parties reached an impasse and the settlement judge recommended termination of the settlement judge process, which the Chief Administrative Law Judge accepted.

**VIII. SERVICE AND NOTICE**

51. In accordance with Rule 206(c), Joint Complainants have served a copy of this Complaint upon each of the Respondents, simultaneous with the filing of the Complaint. The Joint Complainants have also served copies of the Complaint upon PJM, in light of PJM's administrative responsibilities over the PJM Tariff.

## IX. CONCLUSION

52. Based on the foregoing, the Joint Complainants request that the Commission: (1) find that the existing Base ROE is no longer just and reasonable, and that the Base ROE proposed by Joint Complainants is just and reasonable; (2) establish the filing date of this Complaint as the refund effective date, consistent with Commission policy, and direct BGE and the PHI Companies to make any required refunds; (3) direct BGE and the PHI Companies to make a tariff filing to change the stated Base ROE value to a just and reasonable Base ROE, as determined in this proceeding; and (4) consolidate this new docket with pending Docket No. EL13-48-000.

Respectfully Submitted,

McNEES WALLACE & NURICK LLC

/s/ Robert A. Weishaar, Jr.

By \_\_\_\_\_

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Counsel to the Delaware Public Service Commission and on behalf of Delaware Division of the Public Advocate; Delaware Municipal Electric Corporation, Inc.; Maryland Office of People's Counsel; Maryland Public Service Commission; New Jersey Board of Public Utilities; New Jersey Division of Rate Counsel; Office of the People's Counsel of the District of Columbia; and Public Service Commission of the District of Columbia

Dated: December 8, 2014

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

Delaware Division of the Public Advocate,	)	
Delaware Municipal Electric Corporation, Inc.,	)	
Delaware Public Service Commission,	)	
Maryland Office of People's Counsel,	)	
Maryland Public Service Commission,	)	
New Jersey Board of Public Utilities,	)	
New Jersey Division of Rate Counsel,	)	
Office of the People's Counsel of the District of Columbia, and	)	
Public Service Commission of the District of Columbia,	)	Docket No. _____
Complainants,	)	
v.	)	
Baltimore Gas and Electric Company, and	)	
Pepco Holdings, Inc., Operating Affiliates:	)	
Potomac Electric Power Company, Delmarva	)	
Power & Light Company, and Atlantic	)	
City Electric Company,	)	
Respondents.	)	

**NOTICE OF COMPLAINT**

(       )

Take notice that on December 8, 2014, the Delaware Division of the Public Advocate ("DE DPA"); Delaware Municipal Electric Corporation, Inc. ("DEMEC"); Delaware Public Service Commission ("DE PSC"); Maryland Office of People's Counsel ("MD OPC"); Maryland Public Service Commission ("MD PSC"); New Jersey Board of Public Utilities ("NJ BPU"); New Jersey Division of Rate Counsel ("NJ DRC"); Office of the People's Counsel of the District of Columbia ("DC OPC"); and Public Service Commission of the District of Columbia ("DC PSC") (collectively, "Joint Complainants") filed a formal Complaint against Respondents Baltimore Gas and Electric Company ("BGE") and the Pepco Holdings, Inc. ("PHI") affiliates: Potomac Electric Power Company ("Pepco"), Delmarva Power & Light Company ("Delmarva" or "DP&L"), and Atlantic City Electric Company ("ACE") (collectively, "Respondents") seeking an order reducing the base return on equity ("Base ROE") used in BGE's and the PHI Companies' formula transmission rates to 8.8%.

Joint Complainants certify that copies of the Complaint were served on the contacts for the Respondents and on PJM.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Joint Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 pm Eastern Time on (insert date).

Kimberly D. Bose  
Secretary

## **CERTIFICATE OF SERVICE**

I hereby certify that I have this day served, via first-class mail, electronic transmission, or hand-delivery the foregoing upon each person on the attached service list.

Dated at Washington, D.C. this 8th day of December, 2014.

/s/ Robert A. Weishaar, Jr.

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**Service List  
Complaint**

Delaware Division of the Public Advocate, et al., v. Baltimore Gas and Electric Company, et al.

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