



**The District of Columbia Government**  
**Board of Ethics and Government Accountability**

**Final Periodic Audit Report on Potomac Electric Power Company Holdings Inc.**

**January 2016**

**Lobbyist Activity Report**

**July 1, 2015 through December 31, 2015**

**December 2016**

**Office of Government Ethics**

## BACKGROUND

Potomac Electric Power Company ("Pepco") is registered with the Director of Government Ethics ("Director") pursuant to D.C. Official Code §§ 1-1162.27(a) and 1-1162.29. Pepco registered on December 29, 2014 to lobby the District of Columbia government regarding "all executive and legislative matters of interest to an electric utility as such matters arise" for the 2015 calendar year. Pepco listed employees, Donna Cooper and Marc Battle, Manatt, Phelps & Phillips LLP's employees, Tina Ang and John Ray, as well as Kerry Pearson and George Lowe as lobbyists that were going to lobby the District on its behalf.<sup>1</sup>

On January 8, 2016, Pepco filed a January 2016 Lobbyist Activity Report ("LAR").<sup>2</sup> The January 2016 LAR described lobbying activities performed on its behalf from July 1, 2015 through December 31, 2015. Pepco disclosed several communications between its lobbyists and different public officials. For instance, Mr. Battle emailed Councilmember Kenyan McDuffie and his Deputy Chief of Staff, Ronan Gulstone, regarding the Community Renewables Energy Amendment Act of 2015 on October 13, 2015. Additionally, Mr. Pearson met with several Councilmembers on October 14, 2015 and October 15, 2015 for general support for the Pepco-Exelon merger.<sup>3</sup>

On February 18, 2016, the Director issued an Audit Notification letter to Pepco and requested records to substantiate information disclosed in Pepco's January 2016 LAR. In response thereto, Pepco provided a copy of a \$2,000.00 invoice from Mr. Pearson with a cancelled check paid to Mr. Pearson by Pepco, and other supporting documents to the Director on March 4, 2016.

OGE's review of those documents revealed that the \$2,000.00 retainer paid to Mr. Pearson by Pepco corroborates information that Mr. Pearson disclosed on his January 2016 LAR. In addition, Pepco disclosed \$290.88 in expenditures made towards lobbying for this period and the financial records provided accurately supports this information. Pepco further indicated that Mr. Lowe did not perform lobbying activities on its behalf and should not have been included in its January 2016 LAR. Notwithstanding this contention, Pepco failed to correct this error and Mr. Lowe is still listed as a lobbyist.

On September 22, 2016, OGE issued a Statement of Findings (Draft Audit Report) to Pepco which presented OGE's audit findings and recommendations. OGE recommended that Pepco amend its Lobbyist Registration Form and Lobbyist Activity Report to correct the noted deficiency described in the report. On October 4, 2016, Pepco provided a response to the OGE's Statement of Findings and the Director's letter accepting the findings of the audit.<sup>4</sup> Pepco

<sup>1</sup> The Pepco employees were not required to register separately and file separate LARs.

<sup>2</sup> Pepco also filed an amendment to the January 8, 2016 LAR on March 4, 2016.

<sup>3</sup> Specifically, Mr. Pearson met with Councilmember Yvette Alexander, Councilmember Kenyan McDuffie, Councilmember Jack Evans, and Councilmember David Grosso on October 14, 2015, and he met with Councilmember LaRuby May, Councilmember Brandon Todd, Councilmember Anita Bonds, and Councilmember Brianne Nadeau on October 15, 2015.

<sup>4</sup> The October 4, 2016 letter is available at the Board of Ethics and Government Accountability Office.

incorporated OGE's recommendations and amended the requisite reports by removing Mr. Lowe from the list of lobbyists working for Pepco.<sup>5</sup>

## **OBJECTIVE**

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The Office of Government Ethics' objective is to determine the extent to which Pepco is able to demonstrate compliance with the Ethics Act by providing documentation to support information disclosed on its January 2016 Lobbyist Activity Report filed with the Director of Government Ethics.

## **SCOPE**

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The audit procedures performed included examination of source documents and reports filed with the Director of Government Ethics in order to verify the following:

- i. Mathematical accuracy of the lobbyist activity report during the period audited;
- ii. Amount of income reported for lobbying activities;
- iii. Total reported receipts and expenditures and individual transactions;
- iv. Proper categorization of the receipts and expenditures of the filer/registrant- who may be a lobbyist, lobbying entity, or client; and
- v. Other review procedures as deemed necessary under the circumstances.

## **Audit Risk Factor Rating Scheme**

The Risk Factor (RF) associated with each test is listed in the fourth column of the table and is noted as follows:

RF-H - Risk in this situation is high. It indicates a potential violation of the Ethics Act. It also decreases public confidence in the integrity of government. Please be advised that substantial penalties may be incurred and/or there may be negative media exposure.

RF-M - Risk in this situation is moderate. Under certain conditions, non-compliance may have negative impacts.

RF-L - Risk in this situation is low.

RF-O - There is no risk in this situation.

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<sup>5</sup>Pepco filed a second amendment to the March 4, 2016 LAR on September 27, 2016.