



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.¹

On January 8, 2016, Pepco filed a January 2016 Lobbyist Activity Report ("LAR").² 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.³

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.⁴ Pepco

¹ The Pepco employees were not required to register separately and file separate LARs.

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

³ 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.

⁴ 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.⁵

OBJECTIVE

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

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.

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

SUMMARY OF AUDIT FINDINGS

Finding No. 1: OGE review revealed that Pepco listed Mr. Lowe as its lobbyist in both Pepco's Lobbyist Registration Form and Lobbyist Activity Report. Pepco subsequently indicated that Mr. Lowe did not perform lobbying activities on its behalf and should not have been included in its report and, as a result, filed an Amended Lobbyist Activity Report. However, Pepco failed to correct this error, and Mr. Lowe was still listed as a lobbyist.

Status of Finding from Preceding Draft Audit Report:

OGE reviewed and monitored the implementation of the recommended action in OGE's Statement of Findings (Draft Audit Report). OGE determined that Pepco satisfactorily addressed the single deficiency noted in the report and has taken steps to remedy this deficiency.

Criteria (Substantive Tests Performed)	Conditions	Effects (Material Findings)	Risk Factors	Correction Actions Recommended and/or Taken
Did the Lobbyist provide documentation for key elements?	Yes	None	No Risk (RF-O)	Not Applicable
Did the Lobbyist provide documentation for income earned towards lobbying?	Not Applicable because Pepco is the Client	None	No Risk (RF-O)	Not Applicable
Did the Lobbyist provide documentation for expenses made towards lobbying?	Yes	None	No Risk (RF-O)	Not Applicable
Did the Lobbyist accurately complete its Lobbyist Registration Form?	No	Incorrect information provided in the LAR. Mr. Lowe is listed among Pepco's lobbyist.	Low Risk (RF-L)	Pepco filed an Amendment to correct the identified deficiency, and removed Mr. Lowe from the list of lobbyists that worked for Pepco in the 2015 Calendar year.
Did the Lobbyist file Activity reports online?	Yes	None	No Risk (RF-O)	Not Applicable

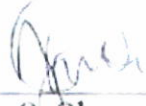
Did the Lobbyist timely file Activity Report?	Yes	None	No Risk (RF-O)	Not Applicable
Did the Lobbyist accurately complete its Lobbyist Activity Report?	No	Incorrect information provided in the LAR. Mr. Lowe is listed among Pepco's lobbyist.	Low Risk (RF-L)	Not Applicable
Did the Lobbyist timely register pursuant to D.C. Official Code § 1-1162.27(a)?	Yes	None	No Risk (RF-O)	Not Applicable
Did the Lobbyist timely pay its registration fee pursuant to D.C. Official Code § 1-1162.27?	Yes	None	RF-O	Not Applicable

AGENCY COMMENTS

Based upon OGE's review of Pepco's January 2016 LAR and the records Pepco submitted, Pepco's January 2016 LAR accurately captures the financial history of the lobbyist for the applicable reporting period. OGE also monitored the implementation of all recommended actions to Pepco, which OGE provided in the Statement of Findings. OGE found that Pepco amended its 2015 Lobbyist Registration Form and the January 2016 Lobbyist Activity Report in conformance with the recommendations in order to correct the noted deficiencies.

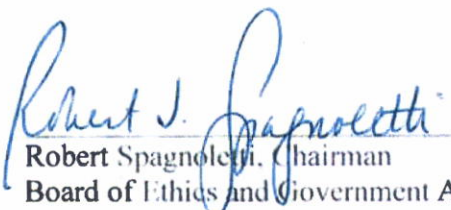
RECOMMENDATION

OGE, therefore, recommends that the Ethics Board issue this Audit report as the "**Final Periodic Audit Report**" for Pepco. It has been determined that the January 2016 Lobbyist Activity Report filed by Pepco with the Director of Office of Government Ethics is in compliance with the Ethics Act.


Clara O. Olawunmi CFE, CIGA
Certified Inspector General Auditor


DARRIN P. SOBIN
Director of Government Ethics
Board of Ethics and Government Accountability

FINAL PERIODIC AUDIT REPORT APPROVED FOR RELEASE:


Robert Spagnoletti, Chairman
Board of Ethics and Government Accountability

December 8, 2016
Board of Ethics and Government Accountability

