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OFFICE OF THE
SECRETARY

MURIEL BOWSER
MAYOR

MAR - 6 2017

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite 504
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration by the Council is the Electric Company Infrastructure Improvement Financing Amendment Act of 2017 ("Act"). The legislation will amend the Electric Company Infrastructure Improvement Financing Act of 2014 ("Power Line Underground Act") to revise the method by which the District's power line undergrounding program will be financed. This key change will allow the District to begin work on this important effort, which will significantly improve the resiliency and reliability of the District's electricity distribution system.

The Power Line Undergrounding Act was passed in 2014, but work on the undergrounding program has been delayed because of an issue related to the financing structure established by that legislation. The Power Line Undergrounding Act funded a significant portion of the undergrounding program through revenue bonds that would be issued under section 490 of the Home Rule Act. However, after passage of the legislation, the federal government indicated that it would not pay the electric bill surcharges that would have helped finance a significant portion of those bonds.

To address this issue, a working group comprised of representatives from the Office of the City Administrator, Office of the Attorney General, Office of the Chief Financial Officer, District Department of Transportation, Public Service Commission, and Office of People's Counsel, along with Pepco, worked many months to revise the legislation to address the issue that the federal government had raised.


Under the Act, the portion of the undergrounding program that would have been financed by revenue bonds will now be funded through a pay-as-you-go financing mechanism. This change will allow the District, with Pepco, to begin the important work of implementing the undergrounding program.

I urge the Council to take prompt and favorable action on the enclosed legislation. As always, I am available to discuss any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser".

Muriel Bowser
Enclosures


Chairman Phil Mendelson
at the request of the Mayor

1
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5 A BILL
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8 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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11 To amend the Electric Company Infrastructure Improvement Financing Act of 2014 to authorize
12 the collection and use by the District of Columbia and the electric company of certain
13 charges to finance the undergrounding of certain electric power lines and ancillary
14 facilities.
15

16 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
17 act may be cited as the “Electric Company Infrastructure Improvement Financing Amendment
18 Act of 2017”.

19 Sec. 2. The Electric Company Infrastructure Improvement Financing Act of 2014,
20 effective May 3, 2014 (D.C. Law 20-102; D.C. Official Code § 34-1311 *et seq.*), is amended as
21 follows:

22 (a) Section 101 (D.C. Official Code § 34-1311.01) is amended as follows:

23 (1) Paragraphs (1), (2), (3), (4), (6), and (8) are repealed.

24 (2) Paragraph (10) is amended by:

25 (A) Striking the phrase “conduits and duct banks” and inserting the phrase
26 “conduits, duct banks” in its place;

27 (C) Striking the phrase “for the distribution of electricity within the
28 District” after the word “banks”; and

29 (D) Inserting the phrase “for the distribution of electricity within the
30 District” after the phrase “similar facilities”.

31 (3) Paragraph (12) is amended by striking the phrase “financing costs, to fund

32 any required reserves with respect to the Bonds and to maintain any coverage ratios required by
33 the financing documents” and inserting the phrase “DDOT Underground Electric Company
34 Infrastructure Improvement Costs for the applicable year” in its place.

35 (4) Paragraph (13) is amended to read as follows:

36 “(13) “DDOT Underground Electric Company Infrastructure Improvement
37 Charge” means a charge imposed by the District on the electric company pursuant to a financing
38 order issued by the Commission, which charge shall be used by the District to pay the DDOT
39 Underground Electric Company Infrastructure Improvement Costs.”.

40 (5) Paragraph (14) is amended by inserting the phrase “contingency for the cost
41 to complete and place in service the electric plant to be installed in the applicable biennial
42 Underground Infrastructure Improvement Projects Plan,” after the phrase “plans,”.

43 (6) A new paragraph (14A) is added to read as follows;

44 “(14A) “DDOT Underground Electric Company Infrastructure Improvement
45 Fund” means the fund created by section 304.”

46 (7) Paragraphs (15), (16), and (17) are repealed.

47 (8) Paragraph (19) is amended by:

48 (A) Striking the phrase “including the electric company’s portion of
49 conduit” and inserting the phrase “that may include underground conduit and duct banks for the
50 distribution of electricity within the District, electrical vaults, manholes, transformers and
51 transformer pads and other ancillary electric distribution infrastructure to be procured,
52 constructed or installed by the electric company and” in its place; and

53 (B) Inserting the phrase “(except as otherwise approved by the
54 Commission), which is included in a biennial Underground Infrastructure Improvement Projects

55 Plan approved by the Commission, and” before the phrase “that is required”.

56 (9) Paragraph (21) is amended by inserting the phrase “contingency for the cost
57 to complete and place in service the electric plant to be installed in the applicable biennial
58 Underground Infrastructure Improvement Projects Plan,” after the phrase “undertaking Electric
59 Company Infrastructure Improvement Activity,”.

60 (10) Paragraph (24) is amended to read as follows:

61 “(17) “Financial advisor” means an entity whose services were retained by the
62 Commission on July 31, 2014, as may be extended by the Commission from time to time, to
63 assist the Commission in the issuance, amendment, or administration of a financing order, and
64 any successor or replacement thereof. Notwithstanding section 8 of the Public Utilities
65 Commission Act (D.C. Official Code § 34-912(a)(3)), the Commission shall pay the financial
66 advisor amounts due from the Public Service Commission Agency Fund pursuant to section 8 of
67 the Public Utilities Commission Act (D.C. Official Code § 34-912), with any subsequent
68 amounts due to the financial advisor paid in accordance with this act.”.

69 (11) Paragraphs (25) and (26) are repealed.

70 (12) Paragraph (27) is amended by:

71 (A) Striking the phrase “creation of the DDOT Underground Electric
72 Company Infrastructure Improvement Property and the”;

73 (B) Striking the phrase “and periodic true up”; and

74 (C) Inserting the phrase “and the imposition and periodic true-up of the
75 Underground Rider” before the period at the end.

76 (13) Paragraph (31) is repealed.

77 (14) Paragraph (35) is repealed.

78 (15) Paragraphs (39) and (40) are repealed.

79 (16) Paragraph (41) is amended by:

80 (A) Inserting the word “planned” after the phrase “Electric Company
81 Infrastructure Improvement Activity”;

82 (B) Inserting the phrase “in a two year period, which may be amended
83 from time to time with the approval of the Commission” after the word “undertaken”.

84 (17) Paragraph (42) is amended by:

85 (A) Striking the word “certain” and inserting the phrase “all distribution
86 service” in its place; and

87 (B) Inserting the phrase “(except for customers served under the electric
88 company’s residential aid discount or a succeeding discount program)” after the word
89 “company”.

90 (18) A new paragraph (42A) is added to read as follows:

91 “(42A) “Underground Rider” means an annually adjusted rider to the electric
92 company’s volumetric distribution service rates paid by all distribution service customers of the
93 electric company (except for customers served under the electric company’s residential aid
94 discount or a succeeding discount program) for its recovery of an amount equal to the aggregate
95 of the DDOT Underground Electric Company Infrastructure Improvement Charges.”

96 (19) Paragraph (43) is repealed.

97 (b) Section 102 (D.C. Official Code § 34-1311.02) is amended as follows:

98 (1) Paragraph (1) is amended by inserting the phrase “, and has otherwise
99 adversely affected the general welfare of the public.” after the word “electricity”.

100 (2) Paragraph (2) is amended by:

101 (A) Striking the word “resiliency, reliability” and inserting the word
102 “resiliency” in its place;

103 (B) Striking the phrase “on the District’s electricity users”; and

104 (C) Inserting the phrase “on the District’s residents, businesses, workers
105 and visitors” before the period at the end.

106 (3) Paragraphs (3) and (4) are repealed.

107 (4) Paragraph (5) is amended to read as follows:

108 “(5) Electric system modernization will require an unprecedented investment in
109 the electric distribution infrastructure in the District.”.

110 (5) Paragraph (6) is amended by inserting the phrase “and further the general
111 welfare of the public” before the period at the end.

112 (6) Paragraph (7) is amended by:

113 (A) Striking the phrase “recovered through” and inserting the phrase
114 “paid by the District from” in its place; and

115 (B) Inserting the phrase “recovered by the electric company through” after
116 the word “or”.

117 (7) Paragraph (8) is amended by:

118 (A) Striking the phrase “and June 30th”;

119 (B) Striking the phrase “December 31, 2027, or the sooner” and inserting
120 the word “the” in its place;

121 (C) Inserting the word “to” before the word “award”; and

122 (D) Striking the word “contract” and inserting the word “contracts” in its
123 place.

124 (c) Title II (D.C. Official Code §§ 34-1312.01-34-1312.12) is repealed.

125 (d) Sections 301, 302, 303, and 304 (DC Official Code §§ 34-1313.01, 34-1313.02, 34-
126 1313.03, and 34-1313.04) are amended to read as follows:

127 “Sec. 301. Commission authorizations.

128 “(a) The Commission is authorized to issue financing orders upon application by the
129 electric company. The electric company may include its application for a financing order as part
130 of its application for approval of a biennial Underground Infrastructure Improvement Projects
131 Plan and the Commission may include its financing order as part of its order issued with respect
132 to a biennial Underground Infrastructure Improvement Projects Plan. All financing orders,
133 among their other provisions, shall:

134 “(1) Describe the DDOT Underground Electric Infrastructure Improvement
135 Activities to be paid through the DDOT Underground Electric Company Infrastructure
136 Improvement Charge for the next two year period;

137 “(2) Assess the DDOT Underground Electric Company Infrastructure
138 Improvement Charge on the electric company for the next two year period sufficient to fully
139 satisfy the DDOT Underground Electric Company Infrastructure Annual Revenue Requirement
140 to enable DDOT Underground Electric Company Infrastructure Improvement Activity to be
141 undertaken in the next two year period plus an amount necessary to recover any DDOT
142 Underground Electric Company Infrastructure Improvement Costs incurred by DDOT but not
143 reimbursed through prior collections of the DDOT Underground Electric Company Infrastructure
144 Improvement Charge, provided that the DDOT Underground Electric Company Infrastructure
145 Charges approved by the Commission under the act shall not exceed \$187.5 million in the
146 aggregate; and provided further that any amounts collected with respect to the DDOT

147 Underground Electric Company Infrastructure Improvement Charge and not expended for
148 DDOT Underground Electric Company Infrastructure Improvement Costs as contemplated by
149 this act shall be refunded to the electric company and thereafter credited to customers as the
150 Commission may direct. By the 10th day of each month during the applicable two year period,
151 the electric company shall remit a payment equal to 1/24 of the DDOT Underground Electric
152 Company Infrastructure Improvement Charges approved for the applicable two year period
153 pursuant to the financing order to the DDOT Underground Electric Company Infrastructure
154 Improvement Fund established pursuant to section 304.

155 “(3) Assess the Underground Rider for the next two year period among the
156 distribution service customer classes of the electric company in accordance with the distribution
157 service customer class cost allocations approved by the Commission for the electric company
158 and in effect pursuant to the electric company’s most recently decided base rate case, in an
159 amount sufficient for the electric company to recover the DDOT Underground Electric Company
160 Infrastructure Charge; provided, that no such charges shall be assessed against the electric
161 company’s residential aid discount customer class or any succeeding customer class approved by
162 the Commission for the purpose of providing economic relief to a specified low-income
163 customer class. The Underground Rider shall be billed to customers by the electric company on a
164 volumetric basis;

165 “(4) Describe the true-up mechanism as provided in section 312 to reconcile
166 actual collections of the Underground Rider with forecasted collection on at least an annual basis
167 to ensure that the collections of the Underground Rider are adequate for the electric company to
168 recover an amount equal to the aggregate amount of the DDOT Electric Company Infrastructure
169 Improvement Charges;

170 “(5) Prescribe the filing of billing and collection reports relating to the DDOT
171 Underground Electric Company Infrastructure Improvement Charges and the Underground
172 Rider; and

173 “(6) Consistent with this act, contain such other findings, determinations, and
174 authorizations as the Commission shall consider appropriate.

175 “(b) All financing orders shall be operative and in full force and effect from the time
176 fixed for them to become effective by the Commission.

177 “(c) The financing order shall provide that except to implement any true-up mechanism
178 as provided in section 312, the Commission may not reduce, impair, postpone, terminate or
179 otherwise adjust the Underground Rider approved in the financing order unless it shall have
180 similarly adjusted the DDOT Underground Electric Company Infrastructure Improvement
181 Charges by an equal amount.

182 “(d) The electric company shall have no liability or obligation with respect to the DDOT
183 Underground Electric Company Infrastructure Improvement Charge except for the two year
184 period that is the subject of the financing order then in effect.

185 “Sec. 302. Application for financing order.

186 “(a) Concurrently with each application filed for approval of a biennial Underground
187 Infrastructure Improvement Projects Plan pursuant to section 305(a), the electric company shall
188 file for the Commission’s consideration and decision an application for a financing order for the
189 two year period corresponding to the biennial Underground Infrastructure Improvement Projects
190 Plan. The financing order application, and all subsequent applications by the electric company
191 for a financing order, shall contain:

192 “(1) The DDOT Underground Electric Company Infrastructure Improvement

193 Charges for the next two year period;

194 “(2) A calculation by the electric company of the Underground Rider by
195 distribution service customer class estimated to be sufficient to generate an amount equal to the
196 DDOT Underground Electric Company Infrastructure Improvement Charges for the next two
197 year period; and

198 “(3) A proposed form of public notice of the application suitable for publication
199 by the Commission (which notice may be combined with the form of public notice for the
200 application for approval of the biennial Underground Infrastructure Improvement Projects Plan).

201 “Sec. 303. Consideration of applications; financing order.

202 “(a)(1) The Commission shall publish notice to the public of the application before
203 deciding upon an application for a financing order and provide for a period of no less than 14
204 days for public comment and filing of motions to intervene. The electric company shall provide
205 notice of the application as provided in section 8 of the Public Utilities Commission Act (D.C.
206 Official Code § 34-909), as this section reads as of the effective date of this act or as amended or
207 superseded.

208 “(2) The District, OPC, and DDOT shall be a party to the Commission
209 proceeding on the application, as a matter of right.

210 “(3) Any other person desiring to be heard on the application shall file a motion
211 to intervene with the Commission requesting to be made a party to the proceeding. The applicant
212 and any party to the proceeding may file an answer or oppose the granting of the motion. The
213 Commission shall, by order, approve or deny the motion at its reasonable discretion.

214 “(b) The Commission shall decide upon an application for a financing order based upon
215 the pleadings in the matter and, if no protest or objection is filed in response to the Commission’s

216 public notice of the application, at its discretion, without a hearing. A formal evidentiary hearing
217 shall only be required if contested issues of material fact are present and those issues cannot be
218 resolved by the Commission on the basis of the pleadings and discovery responses filed, if any,
219 in the matter. In its decision, the Commission may approve, approve with condition, modify, or
220 reject the application in whole or in part, as it considers necessary and appropriate, except that
221 the Commission may not approve the DDOT Underground Electric Company Infrastructure
222 Improvement Charges unless it shall have also approved the Underground Rider in an amount
223 reasonably expected to generate sufficient revenues to permit the electric company to recover the
224 DDOT Underground Electric Company Infrastructure Improvement Charges.

225 “(c) The Commission is authorized to issue a financing order if the Commission finds
226 that the projected DDOT Underground Electric Company Infrastructure Improvement Costs to
227 be funded by the DDOT Underground Electric Company Infrastructure Improvement Charges
228 are prudent and that the amount of the DDOT Underground Electric Company Infrastructure
229 Improvement Charges is reasonable and that the Underground Rider reasonably can be expected
230 to generate sufficient revenues to permit the electric company to recover the DDOT
231 Underground Electric Company Infrastructure Improvement Charges.

232 “(d) The Commission shall expedite its consideration of applications for financing
233 orders. The Commission shall issue its decision on the electric company's application no later
234 than 60 days following the closing of the period for public comment upon the application;
235 provided, that if a protest or objection to the application that can be resolved without an
236 evidentiary hearing is timely filed with the Commission, this period for the Commission's
237 decision shall be extended by an additional 15 days. This time may be tolled, at the
238 Commission's reasonable discretion, for periods in which it determines the electric company's

239 application is deficient. In the event that an evidentiary hearing is required, the Commission shall
240 issue a decision no more than 60 days following the close of the hearing record.

241 “(e) The Commission is authorized to retain the services of a financial advisor to assist in
242 its consideration of an application for a financing order, and in the formulation and
243 administration of a financing order.”.

244 “Sec. 304. DDOT Underground Electric Company Infrastructure Improvement Fund.

245 “(a) There is established as a special fund the DDOT Underground Electric Company
246 Infrastructure Improvement Fund, which shall be held by the Chief Financial Officer but
247 administered by the Director of DDOT in accordance with subsection (c) of this section.

248 “(b) All payments from the electric company of the DDOT Underground Electric
249 Company Infrastructure Improvement Charges shall be deposited in the DDOT Underground
250 Electric Company Infrastructure Improvement Fund.

251 “(c) The DDOT Underground Electric Company Infrastructure Improvement Fund shall
252 be used solely to pay for DDOT Underground Electric Company Infrastructure Improvement
253 Costs.

254 “(d) The money deposited into the DDOT Underground Electric Company Infrastructure
255 Improvement Fund, and interest earned thereon, shall not revert to the unrestricted fund balance
256 of the General Fund of the District of Columbia at the end of the fiscal year, or at any other time.

257 “(e) Subject to authorization in an approved budget and financial plan, any funds in the
258 DDOT Underground Electric Company Infrastructure Improvement Fund shall be continually
259 available for the purposes specified in this section without regard to fiscal year limitation.”.

260 (e) Sections 305 and 306 (D.C. Official Code §§ 34-1313.05 and 34-1313.06) are
261 repealed.

262 (f) Section 307 (D.C. Official Code §34-1313.07) is amended as follows:

263 (1) Subsection (a) is amended to read as follows:

264 “(a) Within 45 days of the effective date of this act, and every two years thereafter, the
265 electric company and DDOT shall jointly file with the Commission and concurrently serve upon
266 the OPC an application for approval of their biennial Underground Infrastructure Improvement
267 Projects Plan, except as provided in subsection (d) of this section.”.

268 (2) Subsection (b) is amended by striking the word “triennial” in each place it
269 appears and inserting the word “biennial” in its place.

270 (3) Subsection (c) is amended by:

271 (A) Striking the word “triennial” and inserting the word “biennial” in its
272 place;

273 (B) Inserting the phrase “, provided that no such charges shall be assessed
274 against customers served under the electric company’s residential aid discount or a succeeding
275 discount program” before the period at the end.

276 (4) A new subsection (d) is added to read as follows:

277 “(d) The Commission, on its own motion or upon motion of the electric company,
278 DDOT, the OPC or other party, may hold in abeyance or waive the obligation to file an
279 application for approval of a biennial Underground Infrastructure Improvement Project Plan and
280 an application for a financing order for the corresponding period upon a finding of good cause as
281 necessary or desirable:

282 “(1) To protect public safety;

283 “(2) To avoid or minimize unreasonable project costs;

284 “(3) Because additional DDOT Underground Electric Company Infrastructure

285 Improvement Activity or Electric Company Infrastructure Improvement Activity are unnecessary
286 to meet the purposes of this act;

287 “(4) Because the electric company’s liability with respect to the DDOT
288 Underground Electric Company Infrastructure Improvement Charges can reasonably be
289 demonstrated to contribute materially to an adverse credit action by a rating agency (including a
290 down grade or placement on credit watch); or

291 “(5) Otherwise to promote the public interest.”.

292 (g) Section 308 (D.C. Official Code § 34-1313.08) is amended as follows:

293 (1) Subsection (a) is amended as follows:

294 (A) The lead-in text is amended by striking the word “triennial” and
295 inserting the word “biennial” in its place.

296 (B) Paragraph (1)(A) is amended by inserting the word “calendar” after
297 the number “3”.

298 (C) Paragraph (2) is amended by inserting the phrase “that affect the
299 public welfare” after the word “interruptions”.

300 (D) Paragraph (3) is amended as follows:

301 (i) The phrase “or DDOT, as applicable” is inserted after the word
302 “company”.

303 (ii) Subparagraph (E) is amended by inserting the phrase “the
304 Underground Project Charge and” after the word “by”.

305 (iii) A new subparagraph (I) is added to read as follows:

306 “(I) A status report and explanation of the reasons why DDOT
307 Underground Electric Company Infrastructure Improvement Activity or Electric Company

308 Infrastructure Improvement Activity associated with projects contained in a biennial
309 Underground Infrastructure Projects Plan previously approved by the Commission have not been
310 completed and the date upon which such projects are expected to be completed.”.

311 (2) Subsection (b) is amended as follows:

312 (A) The lead-in text is amended by inserting the word “biennial” before
313 the word “Underground”.

314 (B) Paragraph (2) is amended by deleting the word “and” at the end.

315 (C) Paragraph (3) is amended by striking the period at the end and
316 inserting the phrase “; and” in its place.

317 (D) A new paragraph (4) is added to read as follows:

318 “(4) The ability to complete and place in service the feeder circuits to be
319 undergrounded pursuant to the biennial Underground Infrastructure Improvement Projects Plan
320 from funding generated by the DDOT Underground Electric Company Infrastructure
321 Improvement Charges and the Underground Project Charge for the corresponding plan period.”.

322 (3) Subsection (c) is amended as follows:

323 (A) The lead-in text is amended by inserting the word “biennial” before
324 the word “Underground”.

325 (B) Paragraph (1) is amended by inserting the phrase “that correspond
326 with an itemized list of the Electric Company Infrastructure Investment Activity” after the word
327 “costs”.

328 (C) Paragraph (2) is amended by inserting the phrase “that correspond
329 with an itemized list of the DDOT Underground Electric Company Infrastructure Improvement
330 Activity” after the word “Costs”.

331 (D) Paragraph (4) is amended by striking the word “annual” and inserting
332 the word “biennial” in its place.

333 (E) Paragraph (6)(A)(iv) is amended by:

334 (i) Inserting the phrase “including the” after the word
335 “requirement”; and

336 (ii) Striking the phrase “rate base” and inserting the phrase “base
337 rate” in its place.

338 (4) Subsection (d) is amended by striking the word “customer”.

339 (h) Section 309 (D.C. Official Code § 34-313.09) is amended as follows;

340 (1) The word “triennial” is struck in each place it appears and the word
341 “biennial” is inserted in its place.

342 (2) Paragraph (1) is amended by striking the phrase “to its customers in the
343 District”.

344 (i) Section 310 (D.C. Official Code § 34-1313.10) is amended as follows:

345 (1) The word “triennial” is struck in each place it appears and the word “biennial”
346 is inserted in its place.

347 (2) Subsection (c) is amended as follows:

348 (A) Paragraph (2) is amended by:

349 (i) Inserting the phrase “distribution service” after the word “to”;

350 (ii) Inserting the phrase “, provided that no such charges shall be
351 assessed against customers served under the electric company’s residential aid discount or a
352 succeeding discount program” before the period at the end.

353 (B) Paragraph (3) is amended by striking the phrase “rate base” and

354 inserting the phrase “base rate” in its place.

355 (3) Subsection (d) is amended by:

356 (A) Striking the phrase “\$500 million” and inserting the phrase “\$250
357 million”; and

358 (B) Inserting the phrase “in the most recently decided base rate case” after
359 the phrase “by the Commission”.

360 (j) Section 311(D.C. Official Code § 34-1313.11) is amended by adding a new
361 subsection (c) to read as follows:

362 “(c) The transfer of real and personal property between the electric company and the
363 District (including DDOT and any other District agency and instrumentality) pursuant to section
364 311(a) or which is included in, or forms a part of, the DDOT Underground Electric Company
365 Infrastructure Improvements shall be exempt from all taxes imposed by the District which relate
366 to the transfer of real or personal property, including: the transfer tax imposed under D.C.
367 Official Code § 47-903, the recordation tax imposed under D.C. Official Code § 42-1103, the
368 sales tax imposed under D.C. Official Code § 47-2002, and the use tax imposed under D.C.
369 Official Code § 47-2202, as any of the foregoing may be modified or amended from time to
370 time.”.

371 (k) Section 312 (D.C. Official Code § 34-1313.12) is amended as follows:

372 (1) The section heading is amended by inserting the phrase “and financing order”
373 before the period at the end

374 (2) The text is amended by inserting the sentence “An application to amend an
375 existing Underground Infrastructure Improvement Projects Plan shall also request any
376 amendment to the Commission’s financing order for the corresponding period such that the

377 work, surcharges and riders, and other contents of the financing order, as amended, are
378 coordinated with the Underground Infrastructure Improvement Projects Plan, as amended.” at the
379 end.

380 (l) Section 313 (D.C. Official Code § 34-1313.13) is amended as follows:

381 (1) The section heading is amended by inserting the phrase “, financing order”
382 before the period at the end.

383 (2) The text is amended by:

384 (A) Inserting the phrase “and, with respect to the financing order for the
385 corresponding period, shall include the information required pursuant to section 302” after “each
386 item set forth in section 308(c)”.

387 (B) Striking the words “and any” and inserting the phrase “and the future
388 Underground Rider. Any” in its place

389 (C) Inserting the words “to amend” after the phrase “any approval of an
390 application”.

391 (D) Inserting “(a)” before the word “through”.

392 (E) Inserting the phrase “and (b) through the Underground Rider, any
393 amounts paid with respect to DDOT Underground Electric Company Infrastructure Improvement
394 Charges” before the period at the end.

395 (m) Section 314 (D.C. Official Code §34-1313.14) is amended as follows:

396 (1) The section heading is amended by striking the phrase “DDOT Underground
397 Electric Company Infrastructure Improvement Charge” and inserting the phrase “the
398 Underground Rider” in its place.

399 (2) Subsection (a) is amended to read as follows:

400 “(a) The electric company may file with the Commission no more frequently than twice
401 per year a request for approval of a schedule applying the true-up mechanism to the
402 Underground Rider.”.

403 (3) Subsection (b) is amended as follows:

404 (A) Paragraph (1) is amended by striking the phrase “DDOT
405 Underground Electric Company Infrastructure Improvement Charge” and inserting the phrase
406 “the Underground Rider” in its place.

407 (B) Paragraph (2) is amended by:

408 (i) Striking the phrase “correspond to” and inserting the phrase
409 “will permit the electric company to recover an amount equal to the aggregate amount of” in its
410 place; and

411 (ii) Striking the phrase “Annual Revenue Requirement” and
412 inserting the phrase “Charges adjusted for any over-collection or under-collection through the
413 prior year under the Underground Rider” in its place.

414 (C) Paragraph (3) is amended by:

415 (i) Striking the word “of” and inserting the phrase “by the electric
416 company of an amount equal to the aggregate of the DDOT Underground Electric Company
417 Infrastructure Improvement Charges through” in its place; and

418 (ii) Striking the phrase “DDOT Underground Electric Company
419 Infrastructure Improvement Revenue Requirement” and inserting the phrase “Underground
420 Rider” in its place.

421 (D) Paragraph (4) is amended by striking the phrase “and disbursements
422 of” and inserting the phrase “of the Underground Rider and payment of” in its place.

423 (4) Subsection (c) is amended by striking the phrase “DDOT Underground
424 Electric Company Infrastructure Improvement Charges” and inserting the phrase “Underground
425 Rider” in its place.

426 (5) Subsection (d) is amended by striking the phrase “DDOT Underground
427 Electric Company Infrastructure Improvement Charges” and inserting the phrase “Underground
428 Rider” in two places.

429 (6) Subsection (e) is amended to read as follows.

430 “(e) Notwithstanding any other provision of this act, if the electric company has not
431 recovered the full amount of the aggregate DDOT Underground Electric Company Infrastructure
432 Improvement Charges that it has paid, the Underground Rider shall continue to be collected until
433 the electric company has recovered the full amount even if there is no current biennial
434 Underground Infrastructure Improvement Projects Plan in effect.”.

435 (7) A new subsection (f) is added to read as follows:

436 “(f) In conducting the true-up, the recovery for the under-collection of the DDOT
437 Underground Electric Company Infrastructure Improvement Charges through the Underground
438 Rider shall be allocated to each customer class in the proportion to which the customer class
439 contributed to the under-collection of the DDOT Underground Electric Company Infrastructure
440 Improvement Charges and nothing in the operation of the true-up shall be deemed to violate the
441 requirement of this act that the Underground Rider be non-bypassable.”.

442 (n) Section 315 (D.C. Official Code § 34-1313.15) is amended as follows:

443 (1) Subsection (a) is amended by striking the word “triennial” and inserting the
444 word “biennial” in its place.

445 (2) Subsection (b) is amended by striking the phrase “to its customers”.

446 (3) Subsection (c)(5) is amended by inserting the phrase “for the electric
447 company and” after the word “Commission”.

448 (o) Section 319 (D.C. Official Code § 34-1313.19) is amended as follows:

449 (1) Subsection (a) is amended as follows:

450 (A) Paragraph (1) is amended as follows:

451 (i) The lead-in text is amended by striking the date “2019” and
452 inserting the date “2022” in its place.

453 (ii) Subparagraph (C) is amended by:

454 (I) Striking the phrase “DDOT Underground Electric
455 Company Infrastructure Improvement Charges” and inserting the phrase “Underground Rider” in
456 its place;

457 (II) Inserting a comma after the phrase “residential
458 customers”; and

459 (III) Inserting the phrase “the Underground Rider and”
460 after the phrase “implications of”.

461 (ii) A new subparagraph (C-1) is added to read as follows:

462 “(C-1) Evaluates whether the impact of the DDOT Underground Electric
463 Company Infrastructure Improvement Activity and the Electric Company Infrastructure
464 Improvement Activity otherwise is in the public interest; and”

465 (iii) Subparagraph (D) is amended as follows:

466 (I) Sub-subparagraph (i) is repealed.

467 (II) Sub-subparagraph (ii) is amended to read as follows:

468 “(ii) Adjust the limit of the electric company's investment to be

469 recovered through the Underground Project Charges as set forth in section 310(d);”.

470 (iii) A new sub-subparagraph (iii) is added to read as follows:

471 “(iii) Adjust the limit of the DDOT Underground Electric
472 Company Infrastructure Charges as set forth in section 301(a)(2); or”.

473 (B) Paragraph (2) is repealed.

474 (C) Paragraph (3) is amended to read as follows:

475 “(3) The report required by paragraph (1) of this subsection shall include any
476 separate statements of the Mayor, the Commission, the OPC, or the electric company that the
477 Mayor, the Commission, the OPC or the electric company requests be included in the report.”

478 (2) Subsection (b) is amended by:

479 (A) Striking the word “reports” and inserting the word “report” in its
480 place; and

481 (B) Striking the phrase “each report” and inserting the phrase “the report”
482 in its place.

483 Sec. 3 Notwithstanding any other provision of law, the Commission shall have the
484 authority to terminate any financing order issued in Formal Case No. 1121 prior to the effective
485 date of this act provided that no bonds have been issued pursuant to such financing order.

486 Sec. 4. Applicability.

487 The Underground Rider, authorized by section 301, and the Underground Project Charge,
488 authorized by section 310, shall apply upon the inclusion of their fiscal effect upon the District
489 government in an approved budget and financial plan, as certified by the Chief Financial Officer
490 to the Budget Director of the Council in a certification published by the Council in the District of
491 Columbia Register.

492 Sec. 5. Fiscal impact statement.

493 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal
494 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
495 approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

496 Sec. 6. Effective date.

497 This act shall take effect following approval by the Mayor (or in the event of veto by the
498 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
499 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24,
500 1973 (87 Stat. 813; D.C. Official Code § 1-206.02 (c) (1)), and publication in the District of
501 Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Commercial Division
Tax & Finance Section

MEMORANDUM


TO: Rashad Young
City Administrator

FROM: Patrick Allen
Senior Assistant Attorney General
Commercial Division

DATE: February 27, 2017

SUBJECT: Legal Sufficiency Certification of the "Electric Company Infrastructure Improvement Financing Amendment Act of 2017".

This is to certify that the Commercial Division has reviewed the above-referenced act and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at 724-7754.


Patrick Allen
Senior Assistant Attorney General