

Pepco wants to stick customers with cost of arguing its upkeep was fine

By Robert McCartney, *The Washington Post*. Published: July 4, 2012

If you weren't already furious at Pepco for leaving you sweating in the dark for longer than justified, here's a little background story that will have you cursing in no time. Fortunately, it could have a happy ending, and one with a lesson in civic activism for Northern Virginia residents showing fresh signs of discontent with their utilities.

As you already know if you've been following the issue, Pepco's past greed and incompetence are at least partly responsible for the large scale and lengthy duration of the outages following Friday's storm.

The company, which operates in suburban Maryland and the District, systematically sacrificed reliable service in order to hold down expenses and thus fatten shareholders' dividends. In particular, it neglected tree-trimming and equipment upgrades, according to a landmark ruling in December by the regulators at the Maryland Public Service Commission.

"We're paying the price now of the neglect of the system over many years," said Montgomery County Council President Roger Berliner (D-Potomac-Bethesda), who in his other career is a lawyer specializing in utility regulation.

But here's the new outrage: In its current case before the state commission, requesting a \$66 million rate increase, Pepco is arguing that it should not be penalized a dime for its past shortcomings — even though its public-relations message has been that it's learned from previous mistakes.

Moreover, in a move that ought to win it an award for chutzpah, Pepco is justifying \$2.5 million of the new rate request to cover its costs for outside lawyers and consultants in the case decided against it in December.

In other words, Pepco wants the same customers who have been suffering the effects of its inadequate upkeep to pick up the tab for experts who argued — unsuccessfully, thank heaven — that its reliability was fine all along.

"They just seem to be tone-deaf. They don't understand that there is any price to be paid for their imprudent conduct," said Stanley Balis, special counsel for Montgomery, who has been battling Pepco before the regulators.

Now here's why the story could end happily. To its credit, the commission has signaled that it won't go along with Pepco's foolishness. When the commission fined Pepco a record \$1 million in the December decision, it warned that it was only a start.

The regulators said then that they would reduce Pepco's future rate requests by whatever amount the company was belatedly spending to make up for its earlier, irresponsible underinvestment. Montgomery and other critics estimate that the result could be that Pepco forgoes rate increases totaling \$20 million to \$30 million.

If the rate increase is reduced substantially when the ruling is issued this month, it would be a welcome sign that sustained popular outrage can make a difference in holding utilities to account where it matters: the bottom line.

The fact is that Maryland regulators turned tougher on Pepco only because popular discontent boiled over after the company's dismal performance in 2010's Snowmageddon and summer storms.

Politicians got the message and passed a state law in 2011 requiring regulators to tighten performance standards and increasing financial penalties for utilities that fall short.

It isn't clear yet whether the new law will have much impact in dealing with the most recent outages. In the long run, however, it should push Pepco, Baltimore Gas and Electric, and others, to do better.

The Maryland saga since 2010 offers an example to Northern Virginians if they want to crack down on their utilities. Verizon, in particular, is a target after it didn't have adequate backups in place to keep 911 service running.

Moreover, some in Fairfax County are taking the rare step of criticizing Dominion Virginia Power after Friday's storm. Supervisor John W. Foust (D-Dranesville) was shocked at Dominion's slowness in sending crews to fix outages in large parts of his district.

"This is unlike anything I've seen before. Constituents are very upset," Foust said Tuesday. "I'm generally a fan of Dominion's response, and I've sung their praises in the past. I'm just really disappointed with the response this time."

So, Northern Virginians, learn from your neighbors. Demand that authorities use financial penalties to push for better performance from regulated utilities. It will probably require years to get results, but it's the only tool with a chance of success.