

April 17, 2023
Maillog #302441

VIA ELECTRONIC FILING

Andrew S. Johnston, Executive Secretary
Maryland Public Service Commission
6 St. Paul Street, 16th Floor
Baltimore, Maryland 21202-6806

RE: Case No. 8797 - Petition for Consent and Approval to Terminate a PURPA Contract with AES WR Limited Partnership

Dear Mr. Johnston:

Enclosed for filing today is the above-referenced Petition for Consent and Approval to Terminate a PURPA Contract with AES WR Limited Partnership (“Petition”). The Petition is accompanied by the direct testimony of Robert B. Reeping, Stephanie L. Fall, and John R. Bitler of Levitan & Associates, Inc. (“Levitan”). Exhibits to the testimony include the executed termination agreement, supporting workpapers, and Levitan’s report.

This Petition is time-sensitive; the calculated benefits for customers depend on approval by the Commission and closing by June 30, 2023. To facilitate this proceeding, the Potomac Edison Company (“PE” or the “Company”) has been engaging in discussions with the Office of Staff Counsel (“Staff”) and the Office of People’s Counsel (“OPC”) since early March, before the termination agreement was executed. PE shared the executed agreement with Staff and OPC right after it was signed.

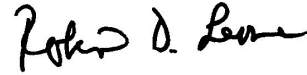
PE also engaged Levitan to validate the Company’s analysis at the suggestion of Staff and OPC. And PE shared drafts of the Reeping and Fall testimony, the supporting workpapers, and the Levitan report with Staff and OPC prior to this filing. Finally, PE is open to receiving and responding to discovery requests as soon as reasonably possible.

Maillog #302441

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If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Robin D. Leone". The signature is written in a cursive, slightly slanted style.

Robin D. Leone

Counsel for The Potomac Edison Company

cc: Jeffrey Trout, The Potomac Edison Company
Jessica Raba, The Potomac Edison Company
Mark Zucca, The Potomac Edison Company
Lloyd Spivak, Office of Staff Counsel
William Fields, Office of People's Counsel
Steven Talson, Maryland Energy Administration
Brian Quinn, Counsel for AES WR Limited Partnership
Gregory Waterworth, Saul Ewing LLP

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND**

IN THE MATTER OF THE POTOMAC)	
EDISON COMPANY’S PROPOSED:)	Case No.: 8797
(A) STRANDED COST QUANTIFICATION)	
MECHANISM; (B) PRICE PROTECTION)	
MECHANISM; AND (C) UNBUNDLED)	
RATES)	

**PETITION FOR CONSENT AND APPROVAL TO TERMINATE PURPA CONTRACT
WITH AES WR LIMITED PARTNERSHIP**

The Potomac Edison Company (“PE” or the “Company”) hereby files this Petition seeking authorization from the Maryland Public Service Commission (the “Commission”) to close a recommended transaction between PE and AES WR Limited Partnership (“WR”), the owner of the Warrior Run Public Utility Regulatory Policies Act of 1978 (“PURPA”) project (“WR Project”). The proposed transaction would terminate the existing contract between PE and WR, and was agreed to by PE and WR, subject to approval by the Commission and various other conditions, on March 23, 2023 (the “Termination Agreement”).

As explained further herein and in the supporting testimony being filed concurrently with this Petition, terminating the WR PURPA contract is expected to produce substantial benefits for PE’s customers over the next nearly seven years. Termination will significantly reduce projected future surcharge payments by customers related to Warrior Run and will also eliminate bill volatility associated with the surcharge. The Company respectfully requests Commission approval by no later than the end of June, so that the transaction can close on June 30 and customers may begin accruing the benefit of the termination in the month of July. Moreover, any delay beyond that date will result in the proposed transaction becoming null and void.

This Petition is supported by the Direct Testimonies of Robert B. Reeping, Manager, Regulated Commodity Sourcing for FirstEnergy Service Company; Stephanie L. Fall, Manager of Rates and Regulatory Affairs for West Virginia and Maryland with FirstEnergy Service Company; and John R. Bitler, Vice President of Levitan & Associates, Inc.

I. BACKGROUND

a. History and current status of the Warrior Run PURPA plant and contract

The WR Project is a 229-megawatt (“MW”) (nameplate rating) cogeneration facility located three miles south of Cumberland, Maryland in Allegany County. The plant qualifies as a PURPA facility as a coal-fired generator and through cogeneration by providing steam to an onsite liquid carbon dioxide production facility. Under the existing Commission-approved Electric Energy Purchase Agreement (“EEPA”), PE is responsible for purchasing up to 180 MW per hour from the facility through February 10, 2030.

In Order No. 73834, the Commission established a process for each of the investor-owned utilities operating in Maryland to develop company-specific restructuring plans to address issues relating to retail choice, stranded costs, and related matters.¹ Pursuant to Paragraph 10 of a September 23, 1999 Settlement Agreement approved by the Commission in Order No. 75851, and affirmed in Supplemental Order No. 76009, part of PE’s overall electric restructuring was for there to be a surcharge set “equal to the Warrior Run [EEPA] payments less revenues from the sale of the Warrior Run generation output, including, but not limited to, all energy, capacity and any ancillary services.” The output was to be sold “into the wholesale market through a competitive

¹ *Re Provision and Regulation of Electric Service*, 88 MD PSC 249 (1997).

bidding process.”² Several competitive solicitations for the Warrior Run output were held subsequent to those orders.

In 2007, Levitan & Associates, Inc. (“Levitan”) conducted an analysis of regional power market conditions and the prices paid for the output from Warrior Run that resulted from the competitive solicitations. Based on the results of that analysis, it was recommended that the auctions be discontinued in favor of direct sales of the Warrior Run output into the PJM wholesale markets. On November 28, 2007, in Order No. 81725, the Commission approved amended language to revise the Settlement Agreement.³ Since January 2008, the energy output of the Warrior Run generating facility has been offered directly into the day-ahead PJM wholesale market, and capacity of the facility has been offered into the PJM forward capacity market.

Every three years, an outside expert validates whether market sales remain the best course. Levitan conducted reviews of the sale of Warrior Run output into the PJM markets in 2010, 2013, 2016, 2019, and 2022, all of which concluded that the market conditions and related factors that led to the recommendation in 2007 to sell the Warrior Run output into the PJM wholesale markets had not fundamentally changed and supported continuation of these sales. All five of Levitan’s reports have been filed with the Commission in this docket.

The surcharge that effectuates the current WR EEPA and Settlement Agreement provision is entitled the Cogeneration PURPA Project Surcharge and is contained in the Company’s retail Maryland Tariff, Electric P.S.C. Md. No. 54. Again, the surcharge currently recovers the difference between the contract price and the value obtained by the direct sale of the output and capacity in the respective PJM markets. To be clear, the Company does not make any profit off

² Order No. 76009, 91 Md. P.S.C 106, 112 (2000).

³ Order No. 81725, 2007 Md. PSC 34 (2007).

the arrangement either currently or under the proposed transaction; in either case the surcharge is a 100% passthrough.

b. Proposed Termination Agreement

In early 2022, AES Corporation (the parent company of WR) announced its intent to exit coal generation by the end of 2025. In the second half of 2022, PE and WR began to discuss options for the WR EEPA that would significantly reduce PE's market price exposure under the agreement for its customers and would give WR flexibility on a path forward for the plant. The Termination Agreement was reached by PE and WR, subject to approval by the Commission and various other conditions, on March 23, 2023.

Pursuant to the terms of the Termination Agreement, PE will pay WR approximately \$4.577 million per month for 78 months, or a total of \$357 million, to fix PE's financial obligation under the EEPA effective July 1, 2023, and have no further obligation to purchase power from the facility at any time after June 30, 2023. The WR Project will continue to provide capacity to PE for PJM's Reliability Pricing Model ("RPM") market for the 2023/2024 planning year. PE will receive the RPM revenues for this period; however, any penalties under RPM will be the financial responsibility of WR. Any future RPM awards for the plant prior to approval of the proposed Termination Agreement will be transferred to WR effective June 1, 2024. The signed Termination Agreement is attached to the Direct Testimony of Robert B. Reeping as Exhibit RBR-1.

Importantly, the value to be paid, and the calculated benefits for customers, depend on approval by the Commission and closing by June 30, 2023. Because the \$357 million termination payment schedule was negotiated based upon an effective date of no later than July 1, 2023, any

delay beyond June 30, 2023, will make the proposed transaction null and void.⁴ Even assuming both parties are amenable to beginning new negotiations, it would require the parties to determine a new price due to the delay in the transaction closing, which would almost certainly reduce the potential value of termination for the Company's customers. It would also keep PE's customers at risk to market fluctuations and to plant operations, which could lead to more significant losses for customers. Again, the proposed Termination Agreement stands only to benefit PE's customers; the Company itself has nothing to gain from closing the transaction.

II. BENEFITS OF TERMINATION

The Company believes that, should the proposed Termination Agreement be approved and the transaction closed, PE's customers will benefit in several ways. First, while the WR Project EEPA has provided energy, capacity and some ancillary services to PE for resale on behalf of its customers, the cost of the agreement to PE's customers has been excessive as compared to other available sources. Through calendar year 2022, the WR Project EEPA has cost PE customers nearly \$1.3 billion (the difference between payments to the WR Project versus revenues received from the market sales for the facility output). PE has analyzed the projected impact to its customers through the remaining EEPA term (July 1, 2023 through February 10, 2030) and estimates that additional losses will be significant and approach \$436 million in nominal dollars.

Fixing the EEPA exposure through the Termination Agreement will eliminate the price volatility of the surcharge to customers and, based on the forecast used for the evaluation, will provide an 18% discount and save customers nearly \$79 million dollars for the applicable

⁴ Additionally, the termination payment is a fixed amount for any termination date prior to July 1, 2023. Thus, if Commission approval can be obtained by June 1, 2023, customers will avoid another month of expense and market exposure under the current contract and create greater savings under the termination transaction.

renegotiated contract term. In addition to the market evaluation for the nominal value and net present value of the contract, a stochastic review was also conducted by the Company. Based upon the review, the random probability distribution shows a nearly 90% confidence interval that the proposed transaction will be economically beneficial for PE's customers. This is all true even in light of recent wholesale market volatility. These calculations are discussed further in the Direct Testimony of Robert B. Reeping and affirmed in the Direct Testimony and associated report sponsored by John R. Bitler of Levitan.

In addition, it is important to consider that the WR Project through the EEPA is incentivized to be available and produce energy, capacity and ancillary services. If the unit is not running or is derated, the WR Project either does not get paid or gets reduced payments. However, PE, and subsequently its customers through the WR surcharge, also wear operational risk when the unit is unexpectedly not available. In his Direct Testimony, Company Witness Reeping discusses an extreme example of this that occurred on December 24, 2022, during Winter Storm Elliot and resulted in a \$2.55 million net charge that is not recoverable through the EEPA and subsequently will get passed back through the surcharge.

Similarly, due to the extreme frigid weather conditions and high levels of forced generation outages across PJM, PJM implemented emergency procedures which led to Performance Assessment Intervals ("PAI") for Capacity Performance ("CP") resources such as the WR Project. CP resources are assessed penalties for non-performance during PAIs and resources that exceed their obligation are entitled to bonus payments from the collected penalties. The WR Project overperformed on December 23, 2022, but unfortunately underperformed on December 24, 2022. While the exact numbers are still not known, it appears that a net charge for capacity is also forthcoming with estimates currently around \$2 million.

While the events of December 23 and 24, 2022 are uncommon and excessive compared to normal conditions, removing these operational risks along with the market volatility risk can provide significant benefit and protection to PE's customers.

III. EFFECTUATION OF THE TERMINATION AGREEMENT THROUGH A REVISED SURCHARGE

In her Direct Testimony, Company Witness Stephanie L. Fall discusses PE's plan for revising the Cogeneration PURPA Project Surcharge to effectuate the Termination Agreement should the Commission approve the proposed transaction. Ms. Fall demonstrates that, while the surcharge is expected to increase in July 2023 with approval of the transaction, that increase will be much less than what it would have otherwise been due to changes in market conditions from when the surcharge was last re-calculated in November 2022. For an average residential customer using 1,000 kilowatt-hours ("kWh") per month, the Surcharge in the absence of the proposed transaction would need to be raised to \$0.01592 per month for the remainder of 2023, as compared to an amount of \$0.01142 per month if the transaction is approved by the Commission. Ms. Fall also illustrates that the proposed transaction would not only result in a lower Surcharge rate for the balance of 2023, but will also eliminate future volatility in customer rates since forecasted costs will not be dependent on Warrior Run generator output and subsequent wholesale market proceeds.

Based on an evaluation of the ratio of capacity-related and energy-related expenses for Warrior Run during the past 10 years, the Company proposes to allocate expenses to the various Company rate schedules using 65.30% capacity-related and 34.70% energy-related ratios throughout the entire 78-month term of the proposed Termination Agreement to help maintain the relative allocation weighting in customer rates.

If the termination is approved, any future proposed changes to the Surcharge will be filed with the Commission annually on or before December 1, to become effective the forthcoming

calendar year beginning January 1. Surcharge rates will be calculated from forecasted costs for the forthcoming calendar year as adjusted for reconciliation of prior period costs and revenues. The reconciliation will be based upon the deferral balance recorded on the Company's books as of October 31, and a forecast of any anticipated incremental change to the deferral balance for November and December.⁵ Aside from the aforementioned change to the allocation of expenses associated with the Termination Agreement, all other aspects of the Surcharge allocation and calculation will remain the same as they currently exist, including the accrual of interest at the prime rate for under/over-collections. Put another way, the surcharge will be reconciled each year in the same way it has been in the past, but the changes resulting from such reconciliations should be extremely small, since the major source of past variability – market changes in the price obtained from resale of the plant output – will be removed.

IV. CONCLUSION

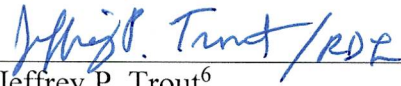
For the reasons discussed herein as well as the supporting testimonies filed concurrently herewith, the Company respectfully requests that the Commission approve the proposed Termination Agreement and authorize the transaction to be closed by no later than June 30, 2023, so that PE's customers can begin to realize the meaningful benefits that are projected to follow from the proposed transaction.

[SIGNATURES TO FOLLOW]

⁵ The estimated deferral balance during November and December will be reconciled to actual amounts and included in the Company's subsequent Surcharge filing the following year.

Date: April 17, 2023

Respectfully submitted,



Jeffrey P. Trout⁶

Jessica M. Raba

The Potomac Edison Company

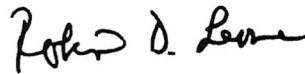
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⁶ Pro haec vice motion to be filed.

**MARYLAND
PUBLIC SERVICE COMMISSION
BALTIMORE**

Case No. 8797

THE POTOMAC EDISON COMPANY

**Petition for Consent and Approval
to Terminate a PURPA Contract
with AES WR Limited Partnership**

**DIRECT TESTIMONY OF
ROBERT B. REEPING**

April 17, 2023

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Robert B. Reeping, and my business address is 800 Cabin Hill Drive,
3 Greensburg, Pennsylvania 15601.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by FirstEnergy Service Company and my title is Manager, Regulated
6 Commodity Sourcing, working on behalf of the regulated electric utilities that are
7 subsidiaries of FirstEnergy Corp. (“FirstEnergy”), including The Potomac Edison
8 Company (“PE,” or the “Company”).

9 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
10 **PROFESSIONAL EXPERIENCE.**

11 A. I am a graduate of Indiana University of Pennsylvania with a Bachelor of Science degree
12 in Business Administration. I have been employed in the energy field since 1991 with
13 Allegheny Energy, Inc. (“Allegheny”), Consolidated Natural Gas (“CNG”), and now with
14 FirstEnergy. From 1991 through April 1996, I held various positions within the Division
15 Operations, Power Stations Maintenance, and the System Operations departments of
16 Allegheny. In 1996, I joined CNG Energy Services Corporation as a Power Trader and
17 later assumed the position of Manager of Operations. My responsibilities included systems
18 development, long and short-term trading in the East Central Area Reliability Coordination
19 Agreement (“ECAR”) and the PJM Interconnection (“PJM”) markets, and the overall
20 management of the electric portfolio. In 1998, I transferred to CNG’s retail affiliate, CNG
21 Retail Services Corporation (“RSC”), where I served as the Manager of Retail Supply. I

1 was involved in all aspects of the development and implementation of RSC's retail strategy
2 for Pennsylvania, Ohio, New Jersey and Maryland. In March 2000, I rejoined Allegheny.

3 **Q. PLEASE DESCRIBE YOUR RESPONSIBILITIES AS MANAGER, REGULATED**
4 **COMMODITY SOURCING FOR FIRSTENERGY.**

5 A. I am primarily responsible for the procurement and management of the regulated energy
6 supply portfolio that FirstEnergy's electric utilities are required to maintain as load serving
7 entities ("LSE") to serve its Maryland, Ohio and West Virginia retail electric customers.
8 Additionally, I manage and administer the Public Utility Regulatory Policies Act-related
9 ("PURPA") Electric Energy Purchase Agreements ("EEPA") between PE and The
10 Monongahela Power Company and qualified facilities ("QFs") under PURPA.

11 **Q. HAVE YOU PREVIOUSLY TESTIFIED IN FRONT OF THIS COMMISSION OR**
12 **ANY OTHER COMMISSION?**

13 A. I have previously testified before the Maryland Public Service Commission
14 ("Commission"), and regulatory commissions in West Virginia, Virginia, Pennsylvania
15 and Ohio as well as at the Federal Energy Regulatory Commission ("FERC").

16 **Q. PLEASE DESCRIBE THE PURPOSE OF THIS TESTIMONY.**

17 A. This testimony is being filed to support a recommended transaction between PE and AES
18 WR Limited Partnership ("WR"), the owner of the Warrior Run ("WR Project") Public
19 Utility Regulatory Policies Act of 1978 ("PURPA") project, for the termination of the
20 PURPA contract between PE and WR. This transaction was agreed to by PE and WR,
21 subject to approval by the Commission and various other conditions, on March 23, 2023.

1 **Q. PLEASE DESCRIBE THE WR PROJECT.**

2 A. The WR Project is a 229-megawatt (“MW”) (nameplate rating) cogeneration facility
3 located three miles south of Cumberland Maryland in Allegany County. The plant
4 qualifies as a PURPA facility as a coal-fired generator and through cogeneration by
5 providing steam to an onsite liquid CO2 production facility. Under the Electric Energy
6 Purchase Agreement (“EEPA”) approved by the Commission, PE is responsible for
7 purchasing up to 180 MW per hour from the facility through February 10, 2030.

8 **Q. PLEASE SUMMARIZE THE KEY PROVISIONS OF THE TERMINATION**
9 **AGREEMENT.**

10 A. PE will pay WR approximately \$4.577 million per month for 78 months, or a total of \$357
11 million, to fix PE’s financial obligation under the EEPA effective July 1, 2023, and have
12 no further obligation to purchase power from the facility at any time after June 30, 2023.
13 The WR Project will continue to provide capacity to PE for PJM’s Reliability Pricing
14 Model (“RPM”) market for the 2023/2024 planning year. PE will receive the RPM
15 revenues for this period; however any penalties under RPM will be the financial
16 responsibility of WR. Any future RPM awards for the plant prior to approval of this
17 proposed Termination Agreement will be transferred to WR effective June 1, 2024. The
18 signed Termination Agreement is attached to my testimony as Exhibit RBR-1.

19 **Q. WHAT PRECIPITATED THE NEGOTIATIONS WITH WR?**

20 A. In early 2022, AES Corporation announced its intent to exit coal generation by year-end
21 2025. In the second half of 2022, PE and WR began to discuss options for the contract

1 that would significantly reduce PE's market price exposure under the agreement for its
2 customers and would give WR flexibility on a path forward for the plant.

3 **Q. WHY DOES PE BELIEVE THIS TRANSACTION IS IN THE BEST INTEREST**
4 **OF ITS CUSTOMERS?**

5 A. While the WR Project EEPA has provided energy, capacity and some ancillary services to
6 PE on behalf of its customers, the cost of the agreement to PE's customers has been
7 excessive as compared to other available sources. Through calendar year 2022, the WR
8 Project EEPA has cost customers nearly \$1.3 billion (payments to the WR Project versus
9 revenues received from the market sales for the facility output). PE has analyzed the
10 impact to its customers through the remaining contract term (July 1, 2023 through
11 February 10, 2030) and estimates that additional losses will be significant and approach
12 \$436 million in nominal dollars. Fixing the EEPA exposure through this Termination
13 Agreement will eliminate the price volatility of the surcharge to customers and, based on
14 the forecast used for the evaluation, will provide an 18% discount and save customers
15 nearly \$79 million dollars for the applicable renegotiated contract term.

16 **Q. HOW HAS THE WARRIOR RUN SURCHARGE FLUCTUATED SINCE ITS**
17 **INCEPTION?**

18 A. Since 2000, the Warrior Run surcharge has fluctuated between a low of \$29.5 million in
19 2009 to a high of \$85 million in 2021. The difference between the price paid to Warrior
20 Run for the plant output and the price at which that output can be sold in the PJM markets
21 -- and therefore the amount which must be collected from PE's customers each year -- is

1 highly influenced by market prices and subject to market volatility. The surcharge at times
2 has accounted for greater than 15% of an average residential customer's total bill.¹

3 **Q. HOW MUCH WOULD PJM WHOLESALE ENERGY MARKET PRICES HAVE**
4 **TO RISE BEFORE THE CURRENT EEPA WOULD BECOME ECONOMIC FOR**
5 **CUSTOMERS?**

6 A. For calendar years 2018 through 2022, the average rate per megawatt-hour ("MWh") paid
7 to the WR Project has been \$98.69/MWh. The forecast for payment for the remaining
8 term are projected at levels above this rate, so to reach any breakeven under the current
9 EEPA, market revenues from energy, capacity and ancillary services would need to exceed
10 \$100/MWh. Even for an extremely high-priced year such as 2022 was, the average rate
11 of our net PJM revenues for the WR Project was only \$69.70/MWh² and did not cover the
12 cost of the EEPA which averaged \$94.36/MWh.

13 **Q. IN ADDITION TO ELIMINATING THE MARKET PRICE VOLATILITY RISK**
14 **OF THE WARRIOR RUN SURCHARGE TO PE'S CUSTOMERS, IS THERE**
15 **ANY OTHER RISKS THAT ARE ADDRESSED THROUGH THIS PROPOSED**
16 **TERMINATION AGREEMENT?**

17 A. The WR Project through the EEPA is incentivized to be available and produce energy,
18 capacity and ancillary services. If the unit is not running or is derated, the WR Project
19 does not get paid or gets reduced payments. However, PE, and subsequently its customers

¹ The average residential usage is assumed at 1,000 kWh per month.

² Subject to final reconciliation of the December 2022 Performance Assessment Interval penalty for the WR Project's December 24th forced maintenance outage. Billings associated with this penalty will not be finalized till March/April 2023.

1 through the WR surcharge, also wear operational risk when the unit is unexpectedly not
2 available. An extreme example of this occurred on December 24, 2022 during Winter
3 Storm Elliot. The unit tripped offline at 0310 on December 24, 2022 due to the loss of
4 plant air from compressors tripping due to closed cooling water flow issues. Because the
5 unit is a PJM capacity resource it is required to be offered into the PJM day-ahead energy
6 market where it cleared producing revenues of \$906,508.80. However, when the unit
7 tripped the day-ahead commitment was replaced with real-time spot market purchases
8 which totaled nearly \$3.5 million in charges at the real-time locational marginal prices
9 (“LMP”) which reached nearly \$4000/MWh just after the unit tripped. The \$2.55 million
10 net charge is not recoverable through the EEPA and subsequently will get passed back
11 through the surcharge.

12 Additionally, due to the extreme frigid weather conditions and high levels of forced
13 generation outages across PJM, PJM implemented emergency procedures which led to
14 Performance Assessment Intervals (“PAI”) for Capacity Performance (“CP”) resources
15 such as the WR Project. CP resources are assessed penalties for non-performance during
16 PAIs and resources that exceed their obligation are entitled to bonus payments from the
17 collected penalties. The WR Project overperformed on December 23rd but unfortunately
18 underperformed on December 24th. While the exact numbers are still not known, it appears
19 that a net charge for capacity is also forthcoming with estimates currently around \$2
20 million.

1 While the events of December 23rd and 24th are uncommon and excessive compared to
2 normal conditions, removing these operational risks along with the market volatility risk
3 can provide significant benefit and protection to PE's customers.

4 **Q. WITH RECENT WHOLESALE PRICE VOLATILITY, WHY DOES PE**
5 **BELIEVE THIS TRANSACTION WILL BE GOOD FOR CUSTOMERS OVER**
6 **THE REMAINING TERM OF THE AGREEMENT?**

7 A. In addition to the market evaluation for the nominal value and net present value of the
8 contract, a stochastic review was also conducted by the Company. Based upon the review,
9 the random probability distribution shows a nearly 90% confidence interval that the
10 proposed transaction will be economically beneficial for PE's customers.

11 **Q. PLEASE EXPLAIN WHY IT IS IMPORTANT FOR THE TRANSACTION TO BE**
12 **APPROVED BY THE COMMISSION AS SOON AS POSSIBLE BUT NO LATER**
13 **THAN JUNE 30TH.**

14 A. Since the \$357 million termination payment schedule was negotiated based upon a July
15 1, 2023 or sooner effective date, any delay beyond June 30th will make the proposed
16 transaction null and void. Even assuming both parties are amenable, it would require the
17 parties to open negotiations again to determine a new price due to the delay in the
18 transaction closing, which would almost certainly impact the value proposition for the
19 Company's customers. It would also keep PE's customers at risk to the market and
20 operations which could lead to a more significant loss than under the proposed
21 recommendation herein. Any renegotiation, if successful, would then need to be

1 resubmitted to the Commission for approval. The passage of time would further reduce
2 the period over which customers could achieve any savings against the term of the current
3 contract.

4 Additionally, the termination payment is a fixed amount for any termination date prior to
5 July 1, 2023. Thus, if Commission approval can be obtained by June 1, 2023, customers
6 will avoid another month of expense and market exposure under the current contract and
7 create greater savings under the termination transaction.

8 **Q. DOES THIS CONCLUDE YOUR SUPPLEMENTAL DIRECT TESTIMONY AT**
9 **THIS TIME?**

10 A. Yes, it does.

EXECUTION VERSION

AGREEMENT BETWEEN
THE POTOMAC EDISON COMPANY AND
AES WR LIMITED PARTNERSHIP
FOR TERMINATION OF ELECTRIC ENERGY PURCHASE AGREEMENT
AND ASSOCIATED AGREEMENTS

This Agreement for Termination of Electric Energy Purchase Agreement and Associated Agreements (the “Termination Agreement”), dated as of March 23, 2023, is by and between The Potomac Edison Company (“Potomac Edison”), a Maryland corporation, and AES WR Limited Partnership (“AES WR”), a Delaware limited partnership. Potomac Edison and AES WR are sometimes referred to herein individually as “Party” and collectively as the “Parties.” Capitalized terms used and not defined in this Agreement shall have the meanings assigned to such terms in the Project Documents (as hereinafter defined).

WHEREAS, AES WR and Potomac Edison are parties to that certain (i) Electric Energy Purchase Agreement dated as of January 15, 1988, as amended (the “EEPA”); (ii) Indemnity Deed of Trust and Security dated as of September 1, 1995 by and between AES WR and Steven A. Teitelbaum and Kay A. Hooker, Trustees (the “Mortgage Agreement”); (iii) Recognition Agreement dated as of September 1, 1995 between Potomac Edison, AES WR, The First National Bank of Maryland as Bond Trustee, Union Bank as Bank Agent, and Wilmington Trust Company as Collateral Trustee, as amended by that certain First Amendment to Recognition Agreement, dated as of February 28, 2013 (the “Recognition Agreement”); (iv) Escrow Agreement dated as of December 16, 2014 with J.P. Morgan Chase Bank, N.A. as Escrow Agent (the “Escrow Agreement”); and (v) Operations Coordination Agreement dated as of January 17, 2000 between AES/Warrior Run, Inc. and Potomac Edison (“the OCA” and, together with the EEPA, Mortgage Agreement, Recognition Agreement and the Escrow Agreement, the “Project Documents”) with respect to AES WR’s 229 megawatt (nameplate rating) cogeneration facility in Allegany County, Maryland (the “Facility”); and

WHEREAS, Potomac Edison is an electric utility engaged in providing retail electric service in portions of the States of Maryland and West Virginia, and is subject to regulation by the Maryland Public Service Commission (“MD PSC”) and the Public Service Commission of West Virginia (the “WV PSC”); and

WHEREAS, as of the date of this Termination Agreement, the prices for Project Energy being purchased by Potomac Edison from AES WR in accordance with the EEPA exceed the prices at which capacity and energy may be purchased by Potomac Edison from other suppliers, and are expected to remain in excess of such prices in the future; and

WHEREAS, the Parties desire and are willing to terminate the Project Documents and settle any and all matters and claims arising out of the Project Documents and the termination of the Project Documents in accordance with the terms and conditions of this Termination Agreement.

EXECUTION VERSION

NOW, THEREFORE, in light of the foregoing, and in consideration of the mutual covenants, agreements, and understandings hereinafter set forth and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Termination of the Project Documents. Upon satisfaction of each of the conditions set forth in Section 2 below, the Project Documents shall terminate in the manner set forth as follows: (i) if each of such conditions has been satisfied before 23:59:59 Prevailing Eastern Time on May 31, 2023, such date and time shall be the “Termination Date”; or (ii) if each of the conditions set forth in Section 2 below has not been satisfied before 23:59:59 Prevailing Eastern Time on May 31, 2023 but has been satisfied before 23:59:59 Prevailing Eastern Time on June 30, 2023, then 23:59:59 Prevailing Eastern Time on June 30, 2023 shall be the “Termination Date.” If each of the conditions set forth in Section 2 below has not occurred by 23:59:59 Prevailing Eastern Time on June 30, 2023, this Agreement shall terminate and have no effect.

Upon the Termination Date:

(a) Except as provided in this subsection (a) and subsection (h) below, the Project Documents shall be terminated and be of no further force and effect; provided, however, that notwithstanding anything to the contrary in the foregoing, termination of the Project Documents shall not relieve either Party of any existing obligations under the Project Documents, including surviving obligations, that have arisen, accrued or vested prior to such termination (the foregoing obligations being individually and collectively the “Surviving Obligations”);

(b) AES WR shall not, and shall not be obligated to, sell any Project Energy or Additional Project Energy, including any and all energy, capacity or ancillary services, to Potomac Edison under the EEPA or any other arrangement with Potomac Edison, with the exception of the provision of capacity as set forth in Section 1(g) below;

(c) Upon AES WR’s acceptance of the instruments delivered by Potomac Edison to AES WR pursuant to Section 1(e) below, AES WR shall take action to cause the return to AES WR of any and all cash and investments deposited by AES WR in connection with the referenced discharged security interests (and Potomac Edison shall cooperate in such regard with AES WR as reasonably requested by AES WR). For the avoidance of doubt, such returned funds shall not be construed as part of any Termination Payment (as defined below);

(d) Potomac Edison shall continue to provide retail commercial electric service and retail commercial interconnection services to the Facility pursuant to Potomac Edison’s applicable retail tariff(s), as such tariff(s) may be implemented, amended and approved from time to time by the MD PSC, including, for the avoidance of doubt, (i) that certain Electric P.S.C. Md. No. 54 tariff, effective March 23, 2019, as amended and (ii) Potomac Edison’s Schedule AGS, as such schedule may be implemented, amended and approved from time to time by the MD PSC; provided, however, that Potomac Edison shall cooperate with AES WR as reasonably requested from time to time by AES WR to amend and/or

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replace the aforesaid service agreement and schedule to reflect tariff option(s) that are more appropriate for the Facility's operations subsequent to the Termination Date;

(e) Potomac Edison shall execute and deliver to AES WR (i) an instrument, in form for recording, discharging the Mortgage Agreement, (ii) the release of Potomac Edison's liens on and security interests in the Escrow Agreement and in any and all cash or investments held in the Reserve Fund pursuant to the Escrow Agreement, and termination of the Escrow Agreement, (iii) notice of termination of the Recognition Agreement, and (iv) such other releases, termination statements, instruments and documents, each in a form and substance reasonably satisfactory to AES WR, as are necessary to release any and all other liens or security interests granted by AES WR in favor of Potomac Edison in connection with the Project Documents;

(f) Except as specified in Section 1(g) below, Potomac Edison shall not, and shall not be obligated to, purchase any Project Energy or Additional Project Energy, including any and all energy, capacity or ancillary services, from AES WR under the EEPA or any other arrangement with AES WR;

(g) Potomac Edison shall retain the obligation to provide the Facility's capacity into the PJM Interconnection, L.L.C. ("PJM") Reliability Pricing Model ("RPM") market through May 31, 2024 (collectively, the "Surviving Potomac Edison Capacity Obligations"). Through May 31, 2024, Potomac Edison shall retain, for the benefit of its ratepayers, any and all revenues in respect of the Surviving Potomac Edison Capacity Obligations. As of 00:00:00 Prevailing Eastern Time on June 1, 2024, Potomac Edison shall transfer any and all Surviving Potomac Edison Capacity Obligations to AES WR, and Potomac Edison shall have no further obligations and shall not be entitled to any benefits with respect thereto;

(h) AES WR shall retain any and all obligations to pay, perform, and otherwise satisfy any requirements for PJM Capacity resources, under the PJM Tariff, agreements and manuals including the obligations as more fully defined in in Appendix A (collectively, the "Surviving AES WR Capacity Obligations"). The Surviving AES WR Capacity Obligations, which shall survive the Termination Date until May 31, 2024, are set forth in Appendix A hereto and shall be undertaken by AES WR with no cost or liability imposed on Potomac Edison and with no additional consideration paid by Potomac Edison other than the Termination Payments;

(i) In the event that the Federal Energy Regulatory Commission ("FERC") has not issued an order by June 30, 2023 authorizing AES WR to sell wholesale energy, capacity, and ancillary services at market-based rates ("MBR Authority"), and until such a date as AES WR secures MBR Authority acceptable to AES WR in its sole discretion but no later than May 31, 2024, any wholesale sales by AES WR of energy, capacity, or ancillary services from the Facility shall be deemed undertaken under the existing authorization conferred on AES WR to make such sales from the Facility under the EEPA, with no cost or liability imposed on Potomac Edison and with no additional consideration paid by Potomac Edison other than the Termination Payments and any pass through PJM

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revenue. Effective as of the Termination Date, to the extent that Potomac Edison collects any revenue from PJM for the energy and ancillary services related to the Facility, Potomac Edison shall pass on those revenues to AES WR; and

(j) Notwithstanding any other provision of this Termination Agreement to the contrary, and notwithstanding Section 10.3 of the EEPA, EEPA Sections 1.3(d), 2.2, 3.1, 3.2, 3.5, 3.6, 3.8 and Article VIII, and OCA Article I, Article II (C)-(D) and Article V (together, the “Surviving Interconnection Obligations”) shall survive the Termination Date until such date that (A) AES WR and Potomac Edison have executed and filed with the FERC, if filing is required, a non-queue interconnection service agreement (“ISA”) in accordance with the rules and procedures of the PJM Open Access Transmission Tariff (“Tariff”) and related manuals; and (B) such filing has been accepted by FERC by order or other ruling. For the avoidance of doubt, the Surviving Interconnection Obligations shall remain in effect until the effective date of the ISA as agreed to by AES WR and Potomac Edison (if the ISA is not filed with FERC), or the effective date of the ISA granted by FERC if the ISA is accepted for filing by FERC.

2. Conditions Precedent to Termination. The effectiveness of the transactions contemplated by this Termination Agreement shall be subject to satisfaction of each of the following conditions precedent on or before the Termination Date (and, notwithstanding anything to the contrary herein, this Termination Agreement and the transactions contemplated herein shall be void ab initio and of no further force or effect in the event that, for any reason, the following conditions precedent are not satisfied in full on or before the Termination Date):

(a) Each of AES WR and Potomac Edison having delivered to the other Party their respective executed counterparts of this Termination Agreement;

(b) Issuance of an order by the MD PSC acceptable to Potomac Edison approving the termination of the Project Documents pursuant to this Termination Agreement and providing full cost recovery to Potomac Edison for the costs, including its costs of capital, related to the termination for which Potomac Edison has theretofore sought or will seek recovery;

(c) Written confirmation from PJM or any successor thereto, or its duly-appointed representative, of (i) PJM’s receipt and acceptance under the PJM Tariff of any and all notifications by Potomac Edison terminating the export and offering to PJM of any and all energy, capacity and ancillary services from the Facility’s generation sources after the Termination Date, with the exception of the Surviving Potomac Edison Capacity Obligations (collectively, “Facility Future PJM Obligations”), and (ii) the execution by AES WR, Potomac Edison, and PJM of all agreements and arrangements required by the rules and procedures of the PJM Tariff and related manuals to permit AES WR to commence performing the Facility Future PJM Obligations, including scheduling of the Facility’s output in applicable PJM markets, on and after the Termination Date; and (iii) AES WR’s ability to offer into the PJM markets any and all energy, capacity and ancillary services from the Facility after the Termination Date, for delivery beginning after

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the Termination Date, excluding the Surviving Potomac Edison Capacity Obligations, and including the Surviving AES WR Capacity Obligations.

(d) Upon satisfaction of the conditions set forth in Sections 2(a) through 2(c) above, Potomac Edison shall promptly communicate such satisfaction to AES WR in writing. Following the receipt of such communication, in consideration of the agreement by AES WR to enter into this Termination Agreement and to terminate the Project Documents, Potomac Edison shall pay AES WR three hundred and fifty-seven million dollars (\$357,000,000) in monthly installments ("Termination Payments") as outlined in Appendix B by wire transfer to an account designated by AES WR by notice to Potomac Edison.

3. Pre-Termination EEPA Energy Deliveries.

(a) No later than eighteen business days (18) following the Termination Date, Potomac Edison shall pay AES WR the purchase price, as determined in the manner specified in Section 1.2 of the EEPA, for the Project Energy and Additional Project Energy delivered to Potomac Edison during the period prior to the Termination Date, determined in the manner specified in Sections 4.1 and 4.4 of the EEPA. No later than forty-five (45) days after the Termination Date, Potomac Edison shall issue a final itemized billing statement to AES WR detailing any (i) monthly adjustments in accordance with the EEPA for the period prior to the Termination Date; and (ii) all administration fees accrued and outstanding through the Termination Date. No later than seventy-five (75) days after the Termination Date, Potomac Edison or AES WR, as applicable, shall make payment to the receiving Party for any such adjustment amount.

(b) Upon delivery or receipt of these payments, Potomac Edison shall be released from and no longer have any responsibility for payments for Project Energy and/or Additional Project Energy supplied under the EEPA; provided, that AES WR shall have thirty (30) days after receipt of the aforesaid final itemized billing statement in which (i) to object to such statement and (ii) to object to the amount paid by Potomac Edison for such Project Energy and Additional Project Energy.

4. Covenants between the Parties.

(a) Within fifteen (15) days of the execution of this Agreement, AES WR shall file an application with FERC requesting authorization to sell wholesale energy, capacity and ancillary services from the Facility at market-based rates.

(b) Potomac Edison will provide the Avoided Energy Cost Rate, Fixed Energy Cost Rate and Variable Energy Cost Rate to AES WR on a monthly basis until December 31, 2025. Such data will be provided subject to the confidentiality provisions in Section 9(b) below, provided, however, that AES WR may disclose such information to coal suppliers, on a confidential basis, to the extent AES WR determines such disclosure to be necessary for pricing of existing coal contracts.

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(c) Prior to the Termination Date, for any PJM RPM auction activities, Potomac Edison will make the offers, determine the offer strategy, and provide reasonable notice to AES WR. Effective as of the Termination Date, in the event that AES has not obtained MBR Authority, Potomac Edison will make any required data submissions and offers pursuant to the information prepared by and offer strategies communicated by AES WR no later than five (5) business days before the relevant PJM capacity auction deadline as posted on the PJM website. If AES WR does not provide a timely capacity data submission and strategies, Potomac Edison will use its discretion to make the data submissions and offers consistent with historical practice and market conditions. Effective as of the later of (a) the Termination Date, or (b) the effective date that FERC establishes for AES WR's MBR Authority, but in any event no later than May 30, 2024 Potomac Edison shall have no obligation to prepare and submit any offers into the PJM Capacity market. AES WR shall be responsible for preparing and submitting any data submissions and offers into any PJM capacity auction beginning with the incremental auctions for Delivery Year 24/25. The provisions of this subsection (c) shall be subject to further modification after the Parties engage in consultation with PJM.

(d) Prior to the Termination Date, Potomac Edison will continue to schedule energy into the PJM Markets consistent with current practices and procedures under the EEPA. Effective as of the Termination Date, in the event that AES has not obtained MBR Authority, Potomac Edison will dispatch the Facility in accordance with dispatch instructions provided by AES WR no later than 7:00:00 Prevailing Eastern Time the business day prior to delivery ("Energy Offer Deadline"). For weekends and holidays, the Energy Offer Deadline shall be accelerated to 07:00:00 Prevailing Eastern Time on the business day prior to applicable delivery days. If AES WR does not provide timely dispatch instructions, Potomac Edison will use its discretion to dispatch the unit consistent with current practices and procedures under the EEPA. Effective as of the later of (a) the Termination Date, or (b) the effective date that FERC establishes for AES WR's MBR Authority, but in any event no later than May 31, 2024, Potomac Edison shall have no obligation to dispatch the Facility into the PJM Markets. AES WR shall be responsible for dispatching following the later of (a) the Termination Date, or (b) the effective date that FERC establishes for AES WR's MBR Authority. The provisions of this subsection (d) shall be subject to further modification after the Parties engage in consultation with PJM.

(e) Potomac Edison shall not have any liability to AES WR for, and AES WR hereby releases Potomac Edison from any and all liability related to, any inaccuracy, omission, or error in any offer, schedule, bid, filing or any other submission made by Potomac Edison with PJM in accordance with this Termination Agreement and AES WR's instructions, including any RPM auction submissions or energy schedule. AES WR agrees to indemnify and hold Potomac Edison harmless from and against any and all claims, damages, liabilities, costs, charges and fees (including PJM penalties and charges) associated with, or related to, any such inaccuracy, omission, or error arising from AES WR's instructions or the failure to provide timely instructions.

(f) Notwithstanding anything in this Termination Agreement to the contrary, Potomac Edison shall have the right, upon prior notice to AES WR, and in addition to and

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not in lieu of other rights and remedies available to Potomac Edison under this Termination Agreement, to set-off against one or more Termination Payments any monetary amount due by AES WR to Potomac Edison, including any indemnification obligation owed by AES WR to Potomac Edison. Nothing in this Termination Agreement shall be deemed as a waiver or prohibition of, or restriction on, Potomac Edison's right of set-off.

(g) Potomac Edison maintains a FERC-filed and currently effective "Reactive Support and Voltage Control from Generation Sources Services" tariff in FERC Docket Nos. ER08-900-000 and ER08-900-001, which tariff is designated as "The Potomac Edison Company Rate Schedule FERC No. 2" (the "Reactive Power Tariff"). Under the Reactive Power Tariff, Potomac Edison (a) provides reactive power from the Facility to PJM to assist in maintaining transmission voltages within acceptable limits on the transmission system operated by PJM; and (b) receives revenue for providing that reactive power support in accordance with the revenue requirement set forth in the Reactive Power Tariff. Potomac Edison collects and distributes to its ratepayers the revenue from the provision of reactive power in accordance with agreements and procedures approved by the MD PSC (the "MD RP Rules"). From the Effective Date of this Termination Agreement to the Termination Date, Potomac Edison shall continue to (x) schedule and offer reactive power from the Facility to PJM in accordance with current practices and procedures under the EEPA and the Reactive Power Tariff; and (y) distribute the revenue from the provision of reactive power to ratepayers in accordance with the MD RP Rules. On and after the Termination Date, (A) Potomac Edison shall cease scheduling and offering reactive power from the Facility to PJM, whether pursuant to the Reactive Power Tariff or otherwise; and (B) AES WR shall have all rights and entitlements to the reactive power and voltage support from the Facility. After the Termination Date, Potomac Edison shall file with FERC a notice of cancellation for the Reactive Power Tariff with a request that said notice be accepted for filing as of the Termination Date. Potomac Edison shall use reasonable efforts, at AES WR's cost and expenses, to cooperate with AES WR in the preparation and filing of a FERC reactive power tariff for the Facility.

5. Waivers and Releases. Effective as of the Termination Date and subject to satisfaction of the conditions precedent to the effectiveness of the transactions contemplated by this Termination Agreement set forth in Section 2 above on or before the Termination Date:

(a) Each of Potomac Edison and AES WR, for itself and on behalf of all of its respective past and present parents, affiliates, subsidiaries, predecessors, successors, assigns, officers, shareholders, directors, agents, representatives, administrators, trustees, receivers, employees and attorneys, and any other person or entity who may claim through them, respectively (collectively, the applicable Party's "Releasing Parties"), waives, releases, and forever disclaims any and all manner of actions, claims, demands, causes of action, losses, expenses, fees, damages (compensatory, punitive, exemplary, statutory or otherwise), or other right to relief of any kind or nature whatsoever, whether based on contract, tort, statute, or other legal or equitable theory of recovery, which such Party and each of its Releasing Parties had, now has, or may hereafter have against the other Party or any of its past and present parents, affiliates, subsidiaries, predecessors, successors, assigns, officers, shareholders, directors, agents, representatives, administrators, trustees,

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receivers, employees and attorneys, arising out of or related to the Project Documents; provided, however, that the foregoing waivers, releases and disclaimers shall not apply to any Party's obligations under or pursuant to this Termination Agreement nor to the Surviving Obligations, including the Surviving Potomac Edison Capacity Obligations and the Surviving AES WR Capacity Obligations;

(b) AES WR, for itself and on behalf of all of its Releasing Parties, including specifically successors and assigns in respect of the ownership or operation of the Facility, waives, releases and forever disclaims any and all rights it may have pursuant to PURPA, Maryland law implementing PURPA, and all decisions or orders of the MD PSC implementing or interpreting PURPA to require Potomac Edison to purchase energy or capacity from the Facility after the Termination Date, with the exception of transactions in respect of the Surviving Potomac Edison Capacity Obligations and the Surviving AES WR Capacity Obligations as set forth in Section 1(g) above. AES WR shall include such a waiver in any agreements involving its sale, lease, or other transfer of the Facility.

6. Indemnification. Effective as of the Termination Date and subject to satisfaction of the conditions precedent to the effectiveness of the transactions contemplated by this Termination Agreement set forth in Section 2 above on or before the Termination Date: each of Potomac Edison and AES WR, for itself and on behalf of all of its respective Releasing Parties, will indemnify and hold the other Party and its respective past and present parents, affiliates, subsidiaries, predecessors, successors, assigns, officers, shareholders, directors, agents, representatives, administrators, trustees, receivers, employees and attorneys, and each of them, and any other person or entity who may claim through them, respectively (collectively, such other Party's "Indemnified Parties"), harmless from and against all damages, losses, and expenses suffered or paid as a result of any and all manner of actions, claims, demands, causes of action, losses, expenses, fees, damages (compensatory, punitive, exemplary, statutory or otherwise), or other right to relief of any kind or nature whatsoever, whether based on contract, tort, statute, or other legal or equitable theory of recovery, which the indemnifying Party or its Releasing Parties may assert or otherwise claim against such other Party or its Indemnified Parties on or after the Termination Date in respect of, arising out of or related to the Project Documents; provided, however, that the aforesaid indemnifications and hold harmless obligations shall not apply with respect to any Party's obligations under or pursuant to this Termination Agreement nor to any Surviving Obligations.

7. Representations and Warranties.

(a) Potomac Edison makes the following representations and warranties to AES WR as of the date of this Termination Agreement and the Termination Date:

i. Potomac Edison is a corporation duly organized, validly existing and in good standing under the laws of the State of Maryland with full right, power and authority to enter into and perform its obligations under this Termination Agreement and to consummate the transactions contemplated hereby;

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ii. This Termination Agreement is duly authorized, executed and delivered by Potomac Edison and constitutes legal, valid and binding obligations of Potomac Edison enforceable in accordance with its respective terms;

iii. The execution and delivery of this Termination Agreement, and the consummation by Potomac Edison of the transactions contemplated by, and the performance by Potomac Edison of, this Termination Agreement, will not conflict with, result in the breach of, or constitute a default under the articles of incorporation or by-laws of Potomac Edison or any agreement or instrument to which Potomac Edison is a party or by which it or its properties may be bound or affected; and

iv. Subject to (x) issuance of an order by the MD PSC in accordance with Section 2(b), and (y) acknowledgement by PJM in accordance with Section 2(c), no other authorization, consent, approval, license, permit, exemption or other action by any governmental authority or regulatory body including, for the avoidance of doubt, the WV PSC, is required in connection with the consummation by Potomac Edison of the transactions contemplated by, and the performance by Potomac Edison of, this Termination Agreement.

(b) AES WR makes the following representations and warranties to Potomac Edison as of the date of this Termination Agreement and the Termination Date:

i. AES WR is a partnership duly organized, validly existing and in good standing under the laws of the State of Delaware with full right, power and authority to enter into and perform its obligations under this Termination Agreement and to consummate the transactions contemplated hereby;

ii. This Termination Agreement is duly authorized, executed and delivered by AES WR, and constitutes legal, valid and binding obligations of AES WR enforceable in accordance with its terms;

iii. The execution and delivery of this Termination Agreement, and the consummation by AES WR of the transactions contemplated by, and the performance by AES WR of, this Termination Agreement, will not conflict with, result in the breach of, or constitute a default under the organizational agreements of AES WR or any agreement or instrument to which AES WR is a party or by which it or its properties may be bound or affected; and

iv. Except for either of the authorizations set forth in Section 2(d) above, no authorization, consent, approval, license, permit, exemption or other action by any governmental authority or regulatory body is required in connection with AES WR's consummation of the transactions contemplated by, and the performance by AES WR of, this Termination Agreement.

8. Resolution of Disputes.

(a) The Parties shall negotiate in good faith and attempt to resolve any dispute which may develop hereunder. Solely with respect to the Surviving Potomac Edison Capacity Obligations, either Party may request access to the other's books, records and other documents generated in the normal course of business which relate directly to such dispute and that are other than privileged materials, which access and the copying of such materials shall be subject to the provisions of Section 9(b) and shall not be unreasonably delayed or denied.

(b) If the Parties are not able to resolve a dispute hereunder, or if either Party shall as a result of its gross negligence or willful act or omission breach any of its representations, warranties, or covenants hereunder, the Party desiring to resolve such dispute or breach may serve upon the other Party a demand that such matter be arbitrated, in which case the same shall be referred to a single arbitrator pursuant to the rules of the American Arbitration Association. Unless the Parties otherwise agree, the arbitration shall be held in Baltimore, Maryland. The Parties shall proceed with the arbitration expeditiously and shall conclude all proceedings thereunder, including any hearing, in order that a decision may be rendered within ninety (90) days from the filing of the demand for arbitration by the initiating Party. The decision of the arbitrator shall be final and binding on both Parties and may be enforced in any court having jurisdiction over the Party against which enforcement is sought. In the event the arbitrator finds a breach of the terms and conditions of this Termination Agreement to have occurred and be continuing, the arbitrator shall have express authority to order specific performance and the payment of damages to compensate the non-breaching Party for any loss. Any payment of damages ordered by the arbitrator shall bear interest at a rate equal to 5% over the interest rate per annum established by J.P. Morgan Chase Bank, N.A. or its successor as its prime rate from time to time from the date as of which such damages are calculated to the date on which the Party entitled thereto receives payment thereof in full.

9. Miscellaneous.

(a) Limitation of Liability; Survival of Obligations. Subject to Section 2 hereof, termination of this Termination Agreement for any reason shall not relieve either Party of any of its obligations accruing prior to termination. Neither Party shall be liable for special or consequential damages arising out of any breach of this Termination Agreement.

(b) Confidentiality. To fulfill obligations under this Termination Agreement, it may become necessary or desirable, from time to time, for either Party to provide to the other Party information that is either confidential or proprietary (which shall not include information already known to the other Party or generally known or available to the public). The Party desiring to protect any such information (the "Labeling Party") may label such information as either confidential or proprietary and thereafter the other Party shall not reproduce, copy, use or disclose (except as may be required by governmental authorities) any such information in whole or in part for any purpose unrelated to the enforcement or

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performance of obligations under this Termination Agreement without the express written consent of the Labeling Party. If required to disclose confidential or proprietary information to governmental authorities, the disclosing Party shall cooperate with the Labeling Party in minimizing the amount of such information furnished. At the specific request of the Labeling Party, the disclosing Party shall endeavor to secure the agreement of such governmental authorities to maintain specified portions of such information in confidence. Notwithstanding the foregoing: (i) a Party receiving the other Party's confidential information may disclose such information (including by electronic means, verbally, through copies or other reproduction) to its "Representatives" (which means a Party's employees, officers, directors, agents, direct or indirect owners, existing and prospective financing sources, consultants, service providers, advisors, attorneys and accountants) on a "need to know" basis so long as such Representatives are subject to obligations of confidentiality to the receiving Party in respect of such information that are consistent with the aforesaid confidentiality obligations of the receiving Party; and (ii) nothing herein shall be construed as restricting a Party's retention of the other Party's confidential information in accordance with the retaining Party's document retention and computer archiving policies.

(c) Public Statements. The Parties shall use commercially reasonable efforts to coordinate public statements regarding this Agreement, including public announcements, press releases and filings with governmental bodies, by sharing drafts of such public statements and providing prompt feedback to such drafts. Each Party shall make such changes as the Parties agree are necessary to address reasonable concerns of the other Party, provided that nothing herein shall be viewed as preventing a Party from making such disclosures as required pursuant to any securities law, rules of any stock exchange, or as otherwise required by applicable law.

(d) Further Assurances; Further Endeavor. If either Party determines in its reasonable discretion that any further instruments or any other assurances are necessary or desirable to carry out the terms of this Termination Agreement, the other Party will execute and deliver all such instruments and assurances and do all things reasonably necessary or desirable to carry out the terms of this Termination Agreement. Notwithstanding anything to the contrary in this Termination Agreement, in the event that the Termination Date is not a business day, the parties hereto shall use their respective commercially reasonable efforts to cause all of the conditions precedent set forth in Section 2 of this Termination Agreement to be satisfied in full by no later than the last business day preceding the Termination Date (and, for all purposes of this Termination Agreement, "business day" shall mean a day other than Saturday, Sunday or any day on which banks located in the State of New York are authorized or required by law to be closed).

(e) Entire Agreement; Severability. This Termination Agreement, any and all related attachments and exhibits, and the documents delivered pursuant hereto, contain the entire agreement between the Parties and supersede all prior oral or written negotiations and understandings with respect to the subject matter hereof. Neither Party shall be bound by or be deemed to have made any representations, warranties, or commitments except those contained herein or in any related attachments and exhibits delivered pursuant hereto. If any term or provision of this Termination Agreement or the application thereof to any

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person, entity or circumstance shall to any extent be invalid or unenforceable, the remainder of this Termination Agreement, or the application of such term or provision to persons, entities or circumstances other than those to which it is invalid or unenforceable, shall not be affected thereby, and each term or provision of this Termination Agreement shall be valid and enforceable to the fullest extent permitted by law.

(f) Counterparts, Assigns, Governing Law, and Amendments. This Termination Agreement:

i. may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement (and delivery of an executed signature page to this Termination Agreement by facsimile or other customary means of electronic transmission (e.g., “pdf”) shall be effective as delivery of a manually executed counterpart thereof);

ii. shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns, including, without limitation, any collateral assignee from AES WR in connection with its financing from time to time (and, in that regard, Potomac Edison agrees promptly to provide to any such collateral assignee an estoppel and acknowledgements in respect of such collateral assignment in such forms as such collateral assignee may reasonably request);

iii. subject to applicable Federal law and the requirements of any governmental authorities, shall be governed by and construed in accordance with the laws of the State of Maryland, without giving effect to the conflict of laws rules thereof; and

iv. cannot be amended, modified, or otherwise changed, except by an instrument in writing, duly signed by all of the Parties hereto.

(g) Headings. The captions and headings of the various paragraphs of this Termination Agreement are for convenience of reference only and are not intended to and shall not in any way enlarge or diminish any rights or obligations under, or affect the meaning or construction of, this Termination Agreement or any provision hereof.

(h) Construction. The terms of this Termination Agreement are the result of negotiation among the Parties, each of whom was represented by counsel of the party’s own choosing with respect to the language and substance of this Termination Agreement. This Termination Agreement shall be deemed to have been drafted by each of the Parties and any ambiguity that is deemed to exist shall not be interpreted more strongly against any particular Party on the basis that such Party caused the uncertainty to exist.

(i) Notices. Notices with respect to this Termination Agreement shall be sent to the persons designated below, or, as to either Party, to such other person or address as such Party may specify in a notice duly given to the other Party as provided herein. All notices shall be deemed effective when received.

For Potomac Edison:

David W. Pinter
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dpinter@firstenergycorp.com

Robert R. Reeping
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Karen A. Sealy
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For AES WR

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phillip.north@aes.com

AES Corporate Legal
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Arlington, VA 22203
aescorplegalnotices@aes.com

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(j) No Implied Waiver. No delay in exercising, failure to exercise or course of dealing in respect to any rights hereunder on the part of any Party, nor any partial or single exercise thereof, shall constitute a waiver of such rights or of any other rights hereunder by such Party.

(k) No Rights Conferred on Others. Nothing in this Termination Agreement shall be construed as giving any person, firm, corporation or other entity, other than the Parties, their successors and permitted assigns, any right, remedy, or claim under or in respect of this Termination Agreement or any provision hereof.

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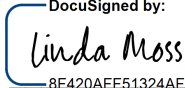
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IN WITNESS WHEREOF, the Parties have duly executed this Termination Agreement as of the date first above written.

THE POTOMAC EDISON COMPANY

AES WR LIMITED PARTNERSHIP

By its General Partner, AES Warrior Run, L.L.C.

By: 
8F420AFF51324AF

Name: Linda L. Moss

Title: Vice President

By: 
386A836A743D4ED

Name: John Bigalbal

Title: President

APPENDIX A

This Appendix A describes the Surviving AES WR Capacity Obligations.

AES WR is solely responsible for the Surviving AES WR Capacity Obligations.

AES WR shall ensure and expressly warrants that the Capacity Performance Resource associated with AES WR (the “Product”) as entered and confirmed to Potomac Edison’s eRPM subaccount(s) satisfies all obligations under the PJM Agreements applicable to Capacity Performance Resources, including availability obligations, requirements and standards and all obligations applicable to Capacity Performance Resources.

AES WR shall bear all contractual and financial obligations associated with PJM rules and requirements and penalties/charges applicable to the Product, and the Surviving AES WR Capacity Obligations associated with the Product, and retains responsibility for the performance of the Capacity Performance Resource as defined and measured by PJM throughout the Capacity Period as if AES WR were a party to a transaction with PJM as Counterparty for the capacity associated with the Product. For the avoidance of doubt, AES WR is obligated, as part of the Surviving AES WR Capacity Obligations, to schedule and provide energy from the Facility on a “must-offer” basis to support the Surviving Potomac Edison Capacity Obligations.

It is expressly provided herein that AES WR indemnifies Potomac Edison for any costs/charges incurred by Potomac Edison regarding Potomac Edison’s indemnity obligation to PJM Settlement for the Product.

It is expressly provided herein and notwithstanding any provision that would otherwise limit liability, in the event that Potomac Edison is required to pay any Charges, AES WR shall promptly upon demand reimburse Potomac Edison for the amount of such Charges.

The following definitions apply to this Appendix A.

“Capacity Performance Resource” has the meaning given to that term by Article 1 of the PJM RAA.

“Capacity Period” means the period beginning on the Termination Date and ending on May 31, 2024.

“Charges” means any charges billed by PJM to Potomac Edison or to AES WR with respect to the Product or the performance of a facility associated with the Product.

“PJM Agreements” means the PJM OATT, the PJM RAA, and the PJM Manuals through the Capacity Period.

“PJM OATT” means the Open Access Transmission Tariff of PJM as such agreement is in effect through the Capacity Period.

“PJM” means the PJM Interconnection, L.L.C. and PJM Settlements, Inc., and to the extent the source of any Charges related to this Confirmation, includes other PJM Members.

EXECUTION VERSION

“PJM RAA” means the Reliability Assurance Agreement Among Load Serving Entities in the PJM Region, as such agreement is in effect through the Capacity Period.

APPENDIX B

If approved for a June 1, 2023 Termination Date			If approved for a July 1, 2023 Termination Date		
Payment #	Payment Date	Payment Amount	Payment #	Payment Date	Payment Amount
1	7/27/2023	\$ 4,518,987.34	1	8/24/2023	\$ 4,576,923.07
2	8/24/2023	\$ 4,518,987.34	2	9/27/2023	\$ 4,576,923.07
3	9/27/2023	\$ 4,518,987.34	3	10/25/2023	\$ 4,576,923.07
4	10/25/2023	\$ 4,518,987.34	4	11/27/2023	\$ 4,576,923.07
5	11/27/2023	\$ 4,518,987.34	5	12/27/2023	\$ 4,576,923.07
6	12/27/2023	\$ 4,518,987.34	6	1/25/2024	\$ 4,576,923.07
7	1/25/2024	\$ 4,518,987.34	7	2/27/2024	\$ 4,576,923.07
8	2/27/2024	\$ 4,518,987.34	8	3/26/2024	\$ 4,576,923.07
9	3/26/2024	\$ 4,518,987.34	9	4/24/2024	\$ 4,576,923.07
10	4/24/2024	\$ 4,518,987.34	10	5/24/2024	\$ 4,576,923.07
11	5/24/2024	\$ 4,518,987.34	11	6/27/2024	\$ 4,576,923.07
12	6/27/2024	\$ 4,518,987.34	12	7/25/2024	\$ 4,576,923.07
13	7/25/2024	\$ 4,518,987.34	13	8/26/2024	\$ 4,576,923.07
14	8/26/2024	\$ 4,518,987.34	14	9/26/2024	\$ 4,576,923.07
15	9/26/2024	\$ 4,518,987.34	15	10/25/2024	\$ 4,576,923.07
16	10/25/2024	\$ 4,518,987.34	16	11/27/2024	\$ 4,576,923.07
17	11/27/2024	\$ 4,518,987.34	17	12/26/2024	\$ 4,576,923.07
18	12/26/2024	\$ 4,518,987.34	18	1/28/2025	\$ 4,576,923.07
19	1/28/2025	\$ 4,518,987.34	19	2/27/2025	\$ 4,576,923.07
20	2/27/2025	\$ 4,518,987.34	20	3/26/2025	\$ 4,576,923.07
21	3/26/2025	\$ 4,518,987.34	21	4/24/2025	\$ 4,576,923.07
22	4/24/2025	\$ 4,518,987.34	22	5/27/2025	\$ 4,576,923.07
23	5/27/2025	\$ 4,518,987.34	23	6/26/2025	\$ 4,576,923.07
24	6/26/2025	\$ 4,518,987.34	24	7/25/2025	\$ 4,576,923.07
25	7/25/2025	\$ 4,518,987.34	25	8/26/2025	\$ 4,576,923.07
26	8/26/2025	\$ 4,518,987.34	26	9/25/2025	\$ 4,576,923.07
27	9/25/2025	\$ 4,518,987.34	27	10/27/2025	\$ 4,576,923.07
28	10/27/2025	\$ 4,518,987.34	28	11/28/2025	\$ 4,576,923.07
29	11/28/2025	\$ 4,518,987.34	29	12/24/2025	\$ 4,576,923.07
30	12/24/2025	\$ 4,518,987.34	30	1/28/2026	\$ 4,576,923.07
31	1/28/2026	\$ 4,518,987.34	31	2/26/2026	\$ 4,576,923.07
32	2/26/2026	\$ 4,518,987.34	32	3/25/2026	\$ 4,576,923.07
33	3/25/2026	\$ 4,518,987.34	33	4/24/2026	\$ 4,576,923.07
34	4/24/2026	\$ 4,518,987.34	34	5/27/2026	\$ 4,576,923.07
35	5/27/2026	\$ 4,518,987.34	35	6/25/2026	\$ 4,576,923.07
36	6/25/2026	\$ 4,518,987.34	36	7/24/2026	\$ 4,576,923.07
37	7/24/2026	\$ 4,518,987.34	37	8/26/2026	\$ 4,576,923.07
38	8/26/2026	\$ 4,518,987.34	38	9/25/2026	\$ 4,576,923.07
39	9/25/2026	\$ 4,518,987.34	39	10/27/2026	\$ 4,576,923.07
40	10/27/2026	\$ 4,518,987.34	40	11/27/2026	\$ 4,576,923.07
41	11/27/2026	\$ 4,518,987.34	41	12/24/2026	\$ 4,576,923.07
42	12/24/2026	\$ 4,518,987.34	42	1/28/2027	\$ 4,576,923.07
43	1/28/2027	\$ 4,518,987.34	43	2/25/2027	\$ 4,576,923.07
44	2/25/2027	\$ 4,518,987.34	44	3/24/2027	\$ 4,576,923.07
45	3/24/2027	\$ 4,518,987.34	45	4/26/2027	\$ 4,576,923.07
46	4/26/2027	\$ 4,518,987.34	46	5/26/2027	\$ 4,576,923.07
47	5/26/2027	\$ 4,518,987.34	47	6/24/2027	\$ 4,576,923.07
48	6/24/2027	\$ 4,518,987.34	48	7/27/2027	\$ 4,576,923.07
49	7/27/2027	\$ 4,518,987.34	49	8/25/2027	\$ 4,576,923.07
50	8/25/2027	\$ 4,518,987.34	50	9/27/2027	\$ 4,576,923.07
51	9/27/2027	\$ 4,518,987.34	51	10/27/2027	\$ 4,576,923.07
52	10/27/2027	\$ 4,518,987.34	52	11/26/2027	\$ 4,576,923.07
53	11/26/2027	\$ 4,518,987.34	53	12/24/2027	\$ 4,576,923.07
54	12/24/2027	\$ 4,518,987.34	54	1/27/2028	\$ 4,576,923.07
55	1/27/2028	\$ 4,518,987.34	55	2/25/2028	\$ 4,576,923.07
56	2/25/2028	\$ 4,518,987.34	56	3/24/2028	\$ 4,576,923.07
57	3/24/2028	\$ 4,518,987.34	57	4/26/2028	\$ 4,576,923.07
58	4/26/2028	\$ 4,518,987.34	58	5/24/2028	\$ 4,576,923.07
59	5/24/2028	\$ 4,518,987.34	59	6/27/2028	\$ 4,576,923.07
60	6/27/2028	\$ 4,518,987.34	60	7/27/2028	\$ 4,576,923.07
61	7/27/2028	\$ 4,518,987.34	61	8/24/2028	\$ 4,576,923.07
62	8/24/2028	\$ 4,518,987.34	62	9/27/2028	\$ 4,576,923.07
63	9/27/2028	\$ 4,518,987.34	63	10/26/2028	\$ 4,576,923.07
64	10/26/2028	\$ 4,518,987.34	64	11/27/2028	\$ 4,576,923.07
65	11/27/2028	\$ 4,518,987.34	65	12/27/2028	\$ 4,576,923.07
66	12/27/2028	\$ 4,518,987.34	66	1/26/2029	\$ 4,576,923.07
67	1/26/2029	\$ 4,518,987.34	67	2/27/2029	\$ 4,576,923.07
68	2/27/2029	\$ 4,518,987.34	68	3/26/2029	\$ 4,576,923.07
69	3/26/2029	\$ 4,518,987.34	69	4/25/2029	\$ 4,576,923.07
70	4/25/2029	\$ 4,518,987.34	70	5/24/2029	\$ 4,576,923.07
71	5/24/2029	\$ 4,518,987.34	71	6/27/2029	\$ 4,576,923.07
72	6/27/2029	\$ 4,518,987.34	72	7/26/2029	\$ 4,576,923.07
73	7/26/2029	\$ 4,518,987.34	73	8/24/2029	\$ 4,576,923.07
74	8/24/2029	\$ 4,518,987.34	74	9/27/2029	\$ 4,576,923.07
75	9/27/2029	\$ 4,518,987.34	75	10/25/2029	\$ 4,576,923.07
76	10/25/2029	\$ 4,518,987.34	76	11/28/2029	\$ 4,576,923.07
77	11/28/2029	\$ 4,518,987.34	77	12/27/2029	\$ 4,576,923.07
78	12/27/2029	\$ 4,518,987.34	78	1/28/2030	\$ 4,576,923.61
79	1/28/2030	\$ 4,518,987.48			
Total		\$ 357,000,000.00	Total		\$ 357,000,000.00

**MARYLAND
PUBLIC SERVICE COMMISSION
BALTIMORE**

Case No. 8797

THE POTOMAC EDISON COMPANY

**Petition for Consent and Approval
to Terminate a PURPA Contract
with AES WR Limited Partnership**

**DIRECT TESTIMONY OF
STEPHANIE L. FALL**

April 17, 2023

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Stephanie L. Fall, and my business address is 76 South Main Street, Akron,
3 Ohio, 44308.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by FirstEnergy Service Company as a Manager in the Rates and Regulatory
6 Affairs Department – West Virginia/Maryland. My responsibilities include providing
7 financial, strategic, and analytical support; overseeing the development, coordination,
8 preparation, and presentation of retail tariffs; and the development of retail electric rates,
9 rules, and regulations in the retail tariff. My time is devoted to tasks performed for The
10 Potomac Edison Company (“PE or “Company”) and Monongahela Power Company (“Mon
11 Power”).

12 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
13 **PROFESSIONAL EXPERIENCE.**

14 A. I am a graduate of Ohio University where I earned a Bachelor of Business Administration
15 in Accounting, Finance and Business Pre-Law. I have over 17 years of experience with
16 FirstEnergy Service Company or its predecessor companies, and have held positions of
17 Business Analyst, FES Finance; Fuel Specialist, Fuel Procurement; Analyst, Renewables;
18 Analyst, Rates Support; Analyst, Investor Relations; Analyst, Strategy and my current
19 position of Manager, Rates and Regulatory Affairs.

20 **Q. PLEASE DESCRIBE THE PURPOSE OF THIS TESTIMONY.**

1 A. My testimony will address the update to the Cogeneration PURPA Project Surcharge
2 (“Surcharge”) necessary to support the recommended transaction between PE and AES
3 WR Limited Partnership as discussed by Company witness Reeping.

4 **Q. PLEASE DESCRIBE THE COGENERATION PURPA PROJECT SURCHARGE.**

5 A. Pursuant to Paragraph 10 of the September 23, 1999 Settlement Agreement approved by
6 the Maryland Public Service Commission (“Commission”) in Order No. 75851 in Case
7 No. 8797, and affirmed in Supplemental Order No. 76009 in that case, part of PE’s overall
8 electric restructuring was for there to be a surcharge set equal to the Warrior Run Public
9 Utility Regulatory Policies Act (“PURPA”) contract payments less revenues received
10 from the sale of the Warrior Run generation output, including, but not limited to, all
11 energy, capacity and any ancillary services, into the wholesale market through a
12 competitive bidding process. On November 28, 2007 in Order No. 81725, the
13 Commission approved amended language to revise the Settlement Agreement language.
14 Beginning January 2008, the energy output of the Warrior Run generating facility is to be
15 offered directly into the day-ahead PJM wholesale market, and capacity of the facility is
16 to be offered into the PJM forward capacity market. The surcharge that effectuates this
17 provision is entitled the Cogeneration PURPA Project Surcharge and is contained in the
18 Company’s retail Maryland Tariff, Electric P.S.C. Md. No. 54.

19 **Q. IS PE FILING AN UPDATE TO THE SURCHARGE AS A RESULT OF THE**
20 **RECOMMENDED TRANSACTION?**

1 A. Yes. Exhibit SLF-1 provides the supporting workpapers for the revised Surcharge to
2 recover the costs associated with the recommended transaction effective July 1, 2023,
3 which also reflects the rate effect of the deferral balance accrued through June 30, 2023.¹

4 **Q. WILL THE PROPOSED TRANSACTION INCREASE THE AMOUNT**
5 **CUSTOMERS CURRENTLY PAY FOR THE SURCHARGE?**

6 A. Yes, but less than what is projected to occur in the absence of the transaction. If the
7 proposed transaction is not completed, PE will likely need to request an update to the
8 Surcharge during the summer of 2023 due to the expected under-collection resulting from
9 the recent wholesale market volatility discussed by Company witness Reeping.

10 **Q. WHAT ARE THE FORECASTED SURCHARGE RATES WITHOUT THE**
11 **TRANSACTION?**

12 A. Exhibit SLF-2 provides the supporting workpapers for the Surcharge that is forecasted to
13 occur should the transaction not be approved. For an average residential customer using
14 1,000 kilowatt-hours (“kWh”) per month, the Surcharge in the absence of the proposed
15 transaction would be \$0.01592 per month, as compared to an amount of \$0.01142 per
16 month if the transaction is approved by the Commission. The primary driver for the
17 increase in the Surcharge in the absence of the transaction is the recent wholesale market
18 volatility.

19 As illustrated when comparing the Surcharge results in Exhibit SLF-1 to Exhibit
20 SLF-2, the proposed transaction would not only result in a lower Surcharge rate than

¹ The deferral balance includes an estimate for April through June 2023, which will be reconciliated to actual amounts in a future filing to be submitted to the Commission no later than December 1, 2023.

1 would otherwise occur in the absence of the transaction but will also eliminate future
2 volatility in customer rates since forecasted costs will not be dependent on Warrior Run
3 generator output and subsequent wholesale market proceeds.

4 **Q. HOW WILL THE COMPANY DETERMINE FORECASTED COSTS IF THE**
5 **TRANSACTION IS APPROVED BY THE COMMISSION?**

6 A. Forecasted Warrior Run costs are currently developed by a group overseen by Company
7 witness Reeping and are based upon estimated energy, demand, and demand dispatch
8 payments for Warrior Run the forthcoming calendar year. If the proposed Termination
9 Agreement is approved by the Commission, the forecasted costs will instead be based
10 upon a total of \$357 million spread out over 78 months (which is approximately \$4.577
11 million per month or \$54.9 million annually). Absent prior period reconciliations (and
12 excluding one-time additional costs that will occur solely during 2023), the monthly
13 expense will be a fixed and known amount – a substantial improvement over the
14 uncertainty and potential volatility currently associated with the Warrior Run contract and
15 its output into the wholesale market.

16 **Q. HOW WILL THE COMPANY ALLOCATE THE COSTS TO THE VARIOUS**
17 **RATE SCHEDULES?**

18 A. Currently, the Company separates the Warrior Run expenses into a capacity-related
19 portion and an energy-related portion, with capacity-related expenses utilizing a revenue
20 allocator and energy-related expenses utilizing a kWh allocator to allocate the expenses to
21 the various Company rate schedules. If the proposed transaction is approved by the

1 Commission, future expenses will be neither capacity-related nor energy-related. As such,
2 the Company evaluated the ratio of capacity-related and energy-related expenses for
3 Warrior Run during the past 10 years, with a result of 65.30% capacity-related and 34.70%
4 energy-related. Therefore, the Company proposes to allocate expenses to the various
5 Company rate schedules using the 65.30% capacity-related and 34.70% energy-related
6 ratios throughout the entire 78-month term of the proposed Termination Agreement to help
7 maintain the relative allocation weighting in customer rates.

8 **Q. WHAT IS THE TIMING OF FUTURE CHANGES TO THE SURCHARGE**
9 **(AFTER JULY 1, 2023) IF THE TRANSACTION IS APPROVED?**

10 A. It will be the same as the current process. Specifically, proposed changes to the Surcharge
11 will be filed with the Commission annually on or before December 1, to become effective
12 the forthcoming calendar year beginning January 1. Surcharge rates will be calculated
13 from forecasted costs for the forthcoming calendar year as adjusted for reconciliation of
14 prior period costs and revenues. The reconciliation will be based upon the deferral balance
15 recorded on the Company's books as of October 31, and a forecast of any anticipated
16 incremental change to the deferral balance for November and December.² Aside from the
17 aforementioned change to the allocation of expenses associated with the Termination
18 Agreement, all other aspects of the Surcharge allocation and calculation will remain the
19 same as they currently exist, including the accrual of interest at the prime rate for
20 under/over-collections.

² The estimated deferral balance during November and December will be reconciled to actual amounts and included in the Company's subsequent Surcharge filing the following year.

- 1 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY AT THIS TIME?**
- 2 **A. Yes, it does.**

**Summary Calculation of
Total Revenue Requirement
For the Period July 2023 - December 2023**

(a) Total Projected Warrior Run Buyout Cost	\$ 27,461,538.48
(b) Projected Revenue from Market Sales	\$ 1,825,663.04
(c) Projected Reactive Revenue	\$ 0.00
(d) Projected Warrior Run Consultant Fee and Dispatch Charges	\$ 115,632.03
(e) Projected Cost to be Collected from MD Retail Customers = (a) - (b) - (c) + (d)	<hr/> \$ 25,751,507.47
(f) Estimated (Over)/Under Recovery as of June 30, 2023	\$ 10,764,082.98
(g) Interest Accrued on Average Remaining Balance at Prime through June 30, 2023	\$ (204,879.18)
(h) Interest Accrued on Average Remaining Balance at Prime through December 31, 2023	\$ 211,184.07
(i) Federal Income Tax Effect on 2023 Interest	\$ (21,512.31)
(j) Maryland Gross Receipts Tax & MD PSC Assessment Fee	\$ 850,593.80
(k) Revenue Requirement = (e) + (f) + (g) + (h) + (i) + (j)	<hr/> \$ 37,350,976.83

Maryland Warrior Run PURPA Project
2024 Interest Accrual on (Over)/Under Recovery

	<u>Warrior Run Surcharge Balance at Month End</u>	<u>Monthly Collected Amount</u>	<u>Interest Calculated at Current Prime Rate</u>	¹	<u>Cumulative Interest Balance</u>
June 2023	\$ 10,559,203.80				
July 2023	\$ 8,799,336.50	\$ (1,759,867.30)	\$ 64,528.47		\$ 64,528.47
Aug 2023	\$ 7,039,469.20	\$ (1,759,867.30)	\$ 52,796.02		\$ 117,324.49
Sept 2023	\$ 5,279,601.90	\$ (1,759,867.30)	\$ 41,063.57		\$ 158,388.06
Oct 2023	\$ 3,519,734.60	\$ (1,759,867.30)	\$ 29,331.12		\$ 187,719.18
Nov 2023	\$ 1,759,867.30	\$ (1,759,867.30)	\$ 17,598.67		\$ 205,317.85
Dec 2023	\$ 0.00	\$ (1,759,867.30)	\$ 5,866.22		\$ 211,184.07

1 Current Prime Rate as stated in the Wall Street Journal is 8.00%

Maryland Warrior Run PURPA Payment Reconciliation

	506934 AES Warrior Run Cost Energy & Demand	447609 Revenue from sale of Warrior Run	456008 Revenue from Reactive	447001 PJM RPM Auction/ RPM Auction Cr	557115 PJM	Retail Revenue Tariff Surcharge without GRT & PSC Assessment	557501 Entry Amount	254200 / 182455 (Over)/Under Balance	Prime Rate	Monthly Rate	431000 Monthly Interest	Cumulative Interest
2023								\$ (18,045,259.79)				
January	\$ 3,500,331.73	\$ 1,205,212.20	\$ 59,716.33	\$ 139,500.00	\$ 4,735.91	\$ 854,111.32	\$ (1,246,527.79)	\$ (16,798,732.00)	7.50%	0.6250%	\$ (108,887.47)	\$ (108,887.47)
February	\$ 7,884,304.27	\$ 1,568,047.24	\$ 59,716.33	\$ 126,000.00	\$ 5,004.75	\$ 725,173.85	\$ (5,410,371.60)	\$ (11,497,247.87)	7.75%	0.6458%	\$ (91,724.05)	\$ (200,611.52)
March	\$ 10,022,883.25	\$ 2,320,087.18	\$ 59,716.33	\$ (921,939.22)	\$ 9,984.87	\$ 753,402.61	\$ (7,821,601.22)	\$ (3,767,370.70)	8.00%	0.6667%	\$ (51,187.81)	\$ (251,799.33)
April (Est)	\$ 4,697,760.49	\$ 1,429,797.99	\$ 59,716.33	\$ (1,001,731.00)	\$ 6,575.18	\$ 650,017.31	\$ (3,566,535.04)	\$ (252,023.47)	8.00%	0.6667%	\$ (13,568.61)	\$ (265,367.94)
May (Est)	\$ 5,944,118.34	\$ 2,024,478.06	\$ 59,716.33	\$ (997,231.00)	\$ 6,575.18	\$ 653,649.53	\$ (4,210,080.59)	\$ 3,944,488.51	8.00%	0.6667%	\$ 12,262.99	\$ (253,104.95)
June (Est)	\$ 11,094,192.58	\$ 3,424,116.77	\$ 59,716.33	\$ 325,693.00	\$ 6,575.18	\$ 737,015.12	\$ (6,554,226.53)	\$ 10,510,978.03	8.00%	0.6667%	\$ 48,225.77	\$ (204,879.18)
Total Estimated Balance at June 30, 2023								\$ 10,559,203.80				

Project Name AES WARRIOR RUN

	Buyout Payment \$	Total Payment \$	Projected Revenue from Market Sales \$
July 2023	\$ 4,576,923.08	\$ 4,576,923.08	\$ 331,493.06
Aug 2023	\$ 4,576,923.08	\$ 4,576,923.08	\$ 331,493.06
Sept 2023	\$ 4,576,923.08	\$ 4,576,923.08	\$ 325,693.14
Oct 2023	\$ 4,576,923.08	\$ 4,576,923.08	\$ 331,493.06
Nov 2023	\$ 4,576,923.08	\$ 4,576,923.08	\$ 325,693.14
Dec 2023	\$ 4,576,923.08	\$ 4,576,923.08	\$ 179,797.60
Total	\$ 27,461,538.48	\$ 27,461,538.48	\$ 1,825,663.04
	2023 Dispatch & Consultant Fee	\$ 115,632.03	
	Average/month	\$ 19,272.01	

THE POTOMAC EDISON COMPANY - MARYLAND

Calculation of 2023 Warrior Run PURPA Surcharge

Rate Schedule (a)	2023 Warrior Run Contract Payments					Under Recovery Allocation (g)	Market Proceeds Allocation (h)	Net Warrior Run PURPA Allocation (pre-tax) (i) = (f)+(g)+(h)	Net Warrior Run PURPA Allocation (post-tax) (j)=(i) / 0.977227	2023 July - December Forecast		2023 Warrior Run PURPA Surcharge		Resultant Warrior Run PURPA Collection (o)
	Capacity Allocation Ratio (b)	Capacity Allocation (c)	Energy Allocation Ratio (d)	Energy Allocation (e)	Capacity & Energy Allocation (f) = (c)+(e)					kWh (k)	kW (l)	\$/kWh (m)	\$/kW (n)	
R	0.508583	\$ 9,120,106	0.494869	\$ 4,715,680	\$ 13,835,785	\$ 5,466,695	\$ (861,554)	\$ 18,440,926	\$ 18,870,668	1,652,812,056	--	\$ 0.01142	--	\$ 18,870,668
C G Hag & Fred	0.015671 0.127315 0.000106 0.143091	\$ 2,565,972	0.012872 0.119127 0.000172 0.132171	\$ 1,259,479	\$ 3,825,451	\$ 1,538,073	\$ (238,211)	\$ 5,125,313	\$ 5,244,752	34,533,224 412,542,705 576,763 447,652,692	-- -- --	\$ 0.01172 \$ 0.01172 \$ 0.01172	-- -- --	\$ 404,595 \$ 4,833,399 \$ 6,757 \$ 5,244,752
C-A CSH	0.002207 0.001512 0.003719	\$ 66,690	0.001982 0.001518 0.003500	\$ 33,353	\$ 100,043	\$ 39,975	\$ (6,230)	\$ 133,788	\$ 136,906	4,783,316 3,570,944 8,354,259	-- --	\$ 0.01639 \$ 0.01639	-- --	\$ 78,387 \$ 58,519 \$ 136,906
PH, AGS	0.260474	\$ 4,670,919	0.258135	\$ 2,459,813	\$ 7,130,732	\$ 2,799,802	\$ (444,031)	\$ 9,486,503	\$ 9,707,574	919,847,034	2,294,066	\$ 0.00499	\$ 2.23	\$ 9,707,574
PP	0.074694	\$ 1,339,447	0.107855	\$ 1,027,772	\$ 2,367,219	\$ 802,880	\$ (147,407)	\$ 3,022,692	\$ 3,093,132	393,276,717	818,539	\$ 0.00400	\$ 1.855	\$ 3,093,132
Lighting	0.009438	\$ 169,251	0.003469	\$ 33,057	\$ 202,308	\$ 101,451	\$ (12,598)	\$ 291,161	\$ 297,946	12,333,891	--	\$ 0.02416		\$ 297,946
TOTALS	1.000000	\$ 17,932,385	1.000000	\$ 9,529,154	\$ 27,461,538	\$ 10,748,876	\$ (1,710,031)	\$ 36,500,383	\$ 37,350,977	3,434,276,649	3,112,605			\$ 37,350,977

Notes:

- 1) Allocation ratios in columns (b) and (d) from 2021 billing determinants
- 2) Column (c) calculated as the total Capacity Allocation of \$17,932,385 multiplied by the Capacity Allocation Ratio in column (b)
- 3) Column (e) calculated as the total Energy Allocation of \$9,529,154 multiplied by the Energy Allocation Ratio in column (d)
- 4) Column (g) calculated as the total Under Recovery of \$10,748,876 multiplied by the Capacity Allocation Ratio in column (b)
- 5) Column (h) calculated as the total Market Proceeds Allocation of \$-1,710,031 multiplied by the %-to-total allocation in column (f)
- 6) Lighting includes Schedules OL, AL, MSL, EMU, MU and LED

**Summary Calculation of
Total Revenue Requirement
For the Period July 2023 - December 2023**

(a) Total Projected Warrior Run Cost	\$ 67,934,155.60
(b) Projected Revenue from Market Sales	\$ 27,394,769.77
(c) Projected Reactive Revenue	\$ 358,298.00
(d) Projected Warrior Run Consultant Fee and Dispatch Charges	\$ 115,632.03
(e) Projected Cost to be Collected from MD Retail Customers = (a) - (b) - (c) + (d)	<hr/> \$ 40,296,719.86
(f) Estimated (Over)/Under Recovery as of June 30, 2023	\$ 10,764,082.98
(g) Interest Accrued on Average Remaining Balance at Prime through June 30, 2023	\$ (204,879.18)
(h) Interest Accrued on Average Remaining Balance at Prime through December 31, 2023	\$ 211,184.07
(i) Federal Income Tax Effect on 2023 Interest	\$ (21,512.31)
(j) Maryland Gross Receipts Tax & MD PSC Assessment Fee	<hr/> \$ 1,189,550.99
(k) Revenue Requirement = (e) + (f) + (g) + (h) + (i) + (j)	<hr/> \$ 52,235,146.41

Maryland Warrior Run PURPA Project
2024 Interest Accrual on (Over)/Under Recovery

	<u>Warrior Run Surcharge Balance at Month End</u>	<u>Monthly Collected Amount</u>	<u>Interest Calculated at Current Prime Rate</u>	¹	<u>Cumulative Interest Balance</u>
June 2023	\$ 10,559,203.80				
July 2023	\$ 8,799,336.50	\$ (1,759,867.30)	\$ 64,528.47		\$ 64,528.47
Aug 2023	\$ 7,039,469.20	\$ (1,759,867.30)	\$ 52,796.02		\$ 117,324.49
Sept 2023	\$ 5,279,601.90	\$ (1,759,867.30)	\$ 41,063.57		\$ 158,388.06
Oct 2023	\$ 3,519,734.60	\$ (1,759,867.30)	\$ 29,331.12		\$ 187,719.18
Nov 2023	\$ 1,759,867.30	\$ (1,759,867.30)	\$ 17,598.67		\$ 205,317.85
Dec 2023	\$ 0.00	\$ (1,759,867.30)	\$ 5,866.22		\$ 211,184.07

1 Current Prime Rate as stated in the Wall Street Journal is 8.00%

Maryland Warrior Run PURPA Payment Reconciliation

	506934 AES Warrior Run Cost Energy & Demand	447609 Revenue from sale of Warrior Run	456008 Revenue from Reactive	447001 PJM RPM Auction/ RPM Auction Cr	557115 PJM	Retail Revenue Tariff Surcharge without GRT & PSC Assessment	557501 Entry Amount	254200 / 182455 (Over)/Under Balance	Prime Rate	Monthly Rate	431000 Monthly Interest	Cumulative Interest
2023								\$ (18,045,259.79)				
January	\$ 3,500,331.73	\$ 1,205,212.20	\$ 59,716.33	\$ 139,500.00	\$ 4,735.91	\$ 854,111.32	\$ (1,246,527.79)	\$ (16,798,732.00)	7.50%	0.6250%	\$ (108,887.47)	\$ (108,887.47)
February	\$ 7,884,304.27	\$ 1,568,047.24	\$ 59,716.33	\$ 126,000.00	\$ 5,004.75	\$ 725,173.85	\$ (5,410,371.60)	\$ (11,497,247.87)	7.75%	0.6458%	\$ (91,724.05)	\$ (200,611.52)
March	\$ 10,022,883.25	\$ 2,320,087.18	\$ 59,716.33	\$ (921,939.22)	\$ 9,984.87	\$ 753,402.61	\$ (7,821,601.22)	\$ (3,767,370.70)	8.00%	0.6667%	\$ (51,187.81)	\$ (251,799.33)
April (Est)	\$ 4,697,760.49	\$ 1,429,797.99	\$ 59,716.33	\$ (1,001,731.00)	\$ 6,575.18	\$ 650,017.31	\$ (3,566,535.04)	\$ (252,023.47)	8.00%	0.6667%	\$ (13,568.61)	\$ (265,367.94)
May (Est)	\$ 5,944,118.34	\$ 2,024,478.06	\$ 59,716.33	\$ (997,231.00)	\$ 6,575.18	\$ 653,649.53	\$ (4,210,080.59)	\$ 3,944,488.51	8.00%	0.6667%	\$ 12,262.99	\$ (253,104.95)
June (Est)	\$ 11,094,192.58	\$ 3,424,116.77	\$ 59,716.33	\$ 325,693.00	\$ 6,575.18	\$ 737,015.12	\$ (6,554,226.53)	\$ 10,510,978.03	8.00%	0.6667%	\$ 48,225.77	\$ (204,879.18)
Total Estimated Balance at June 30, 2023								\$ 10,559,203.80				

Project Name AES WARRIOR RUN

NSOC Capability: 180
 EFOR As calculated in PCI dispatch
 Dispatch: 100%

	Period Hours	Planned Outage Days	Scheduled Output MWh	Energy Output MWh	Capacity & Dispatch Payment \$	Energy Payment \$	Total Payment \$	Projected Revenue from Market Sales \$
July 2023	744	0	133,920	112,279	\$ 6,275,033.52	\$ 5,720,460.88	\$ 11,995,494.40	\$ 5,773,656.19
Aug 2023	744	0	133,920	104,285	\$ 6,356,546.17	\$ 5,351,430.78	\$ 11,707,976.95	\$ 4,980,518.36
Sept 2023	720	0	129,600	90,787	\$ 6,309,815.07	\$ 4,815,912.39	\$ 11,125,727.47	\$ 3,603,103.84
Oct 2023	744	0	133,920	94,843	\$ 6,497,978.31	\$ 5,265,735.41	\$ 11,763,713.72	\$ 3,642,462.19
Nov 2023	720	0	129,600	96,172	\$ 6,012,701.20	\$ 4,329,550.15	\$ 10,342,251.35	\$ 4,090,826.94
Dec 2023	744	0	133,920	108,087	\$ 6,185,936.21	\$ 4,813,055.51	\$ 10,998,991.71	\$ 5,304,202.27
Total			794,880		\$ 37,638,010.47	\$ 30,296,145.12	\$ 67,934,155.60	\$ 27,394,769.77
					2023 Dispatch & Consultant Fee	\$	115,632.03	
					Average/month	\$	19,272.01	
					2023 Reactive Power	\$	358,298.00	
					Average/month	\$	59,716.33	

THE POTOMAC EDISON COMPANY - MARYLAND

Calculation of 2023 Warrior Run PURPA Surcharge

Rate Schedule (a)	2023 Warrior Run Contract Payments					Under Recovery Allocation (g)	Market Proceeds Allocation (h)	Net Warrior Run PURPA Allocation (pre-tax) (i) = (f)+(g)+(h)	Net Warrior Run PURPA Allocation (post-tax) (j)=(i) / 0.977227	2023 July - December Forecast		2023 Warrior Run PURPA Surcharge		Resultant Warrior Run PURPA Collection (o)
	Capacity Allocation Ratio (b)	Capacity Allocation (c)	Energy Allocation Ratio (d)	Energy Allocation (e)	Capacity & Energy Allocation (f) = (c)+(e)					kWh (k)	kW (l)	\$/kWh (m)	\$/kW (n)	
R	0.508583	\$ 19,142,052	0.494869	\$ 14,992,619	\$ 34,134,672	\$ 5,466,695	\$ (13,886,899)	\$ 25,714,467	\$ 26,313,710	1,652,812,056	--	\$ 0.01592	--	\$ 26,313,710
C G Hag & Fred	0.015671 0.127315 0.000106 0.143091	\$ 5,385,679	0.012872 0.119127 0.000172 0.132171	\$ 4,004,275	\$ 9,389,954	\$ 1,538,073	\$ (3,820,085)	\$ 7,107,942	\$ 7,273,583	34,533,224 412,542,705 576,763 447,652,692	-- -- --	\$ 0.01625 \$ 0.01625 \$ 0.01625	-- -- --	\$ 561,105 \$ 6,703,107 \$ 9,371 \$ 7,273,583
C-A CSH	0.002207 0.001512 0.003719	\$ 139,975	0.001982 0.001518 0.003500	\$ 106,038	\$ 246,013	\$ 39,975	\$ (100,085)	\$ 185,903	\$ 190,235	4,783,316 3,570,944 8,354,259	-- --	\$ 0.02277 \$ 0.02277	-- --	\$ 108,921 \$ 81,314 \$ 190,235
PH, AGS	0.260474	\$ 9,803,722	0.258135	\$ 7,820,510	\$ 17,624,232	\$ 2,799,802	\$ (7,170,010)	\$ 13,254,024	\$ 13,562,892	919,847,034	2,294,066	\$ 0.00699	\$ 3.11	\$ 13,562,892
PP	0.074694	\$ 2,811,344	0.107855	\$ 3,267,606	\$ 6,078,950	\$ 802,880	\$ (2,473,080)	\$ 4,408,750	\$ 4,511,490	393,276,717	818,539	\$ 0.00584	\$ 2.705	\$ 4,511,490
Lighting	0.009438	\$ 355,238	0.003469	\$ 105,097	\$ 460,335	\$ 101,451	\$ (187,277)	\$ 374,509	\$ 383,236	12,333,891	--	\$ 0.03107	--	\$ 383,236
TOTALS	1.000000	\$ 37,638,010	1.000000	\$ 30,296,145	\$ 67,934,156	\$ 10,748,876	\$ (27,637,436)	\$ 51,045,595	\$ 52,235,146	3,434,276,649	3,112,605			\$ 52,235,146

Notes:

- 1) Allocation ratios in columns (b) and (d) from 2021 billing determinants
- 2) Column (c) calculated as the total Capacity Allocation of \$37,638,010 multiplied by the Capacity Allocation Ratio in column (b)
- 3) Column (e) calculated as the total Energy Allocation of \$30,296,145 multiplied by the Energy Allocation Ratio in column (d)
- 4) Column (g) calculated as the total Under Recovery of \$10,748,876 multiplied by the Capacity Allocation Ratio in column (b)
- 5) Column (h) calculated as the total Market Proceeds Allocation of \$-27,637,436 multiplied by the %-to-total allocation in column (f)
- 6) Lighting includes Schedules OL, AL, MSL, EMU, MU and LED

**MARYLAND
PUBLIC SERVICE COMMISSION
BALTIMORE**

Case No. 8797

THE POTOMAC EDISON COMPANY

**Petition for Consent and Approval
to Terminate a PURPA Contract
with AES WR Limited Partnership**

**DIRECT TESTIMONY OF
JOHN R. BITLER**

April 17, 2023

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is John R. Bitler, and my business address is 20 Custom House Street, Suite 830,
3 Boston, MA 02110.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Levitan & Associates, Inc as Vice President, a position that I have held
6 since joining the firm in 1992.

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
8 **PROFESSIONAL EXPERIENCE.**

9 A. I am a graduate of the Pennsylvania State University with a B.S. in Mineral Economics and
10 I hold an M.S. in Mining Engineering from the University of Pittsburgh. I have 38 years of
11 consulting experience advising electric utilities, power generators, ISOs, and state and
12 federal agencies regarding PURPA QF contract buyout valuations, the planning and
13 administration of competitive procurements for power, renewable energy credits and zero
14 emission credits, fuel supply economics, and emission control technology. In my capacity
15 as Vice President for Levitan & Associates, Inc., I have worked on behalf of Potomac
16 Edison on numerous assignments relating to the AES Warrior Run EEPA including two
17 competitive solicitations for the plant's output and all of the output sale performance
18 reviews.

19 **Q. PLEASE DESCRIBE THE PURPOSE OF THIS TESTIMONY.**

20 A. In March 2023, Levitan & Associates, Inc. was engaged by Potomac Edison to conduct a
21 review and validation of the financial analysis, financial modeling and ratepayer savings

1 associated with the proposed buyout of the Warrior Run EEPA. My testimony sponsors
2 the report, attached as Exhibit JRB-1, which I prepared that provides the results of that
3 review and validation.

4 **Q. PLEASE BRIEFLY EXPLAIN HOW YOU PREPARED THE REPORT.**

5 A. Under my supervision, Levitan & Associates, Inc. reviewed the assumptions, inputs and
6 modeling methodology used for Potomac Edison's financial analysis. In addition, we
7 created a separate financial model which was run to verify the results of Potomac Edison's
8 financial modeling.

9 **Q. PLEASE SUMMARIZE THE CONCLUSIONS YOU REACH IN YOUR REPORT.**

10 A. Based on the results of the review and analysis I discuss above and, in the report, I
11 confirm the conclusion of the Potomac Edison financial modeling and analysis that the
12 expected present value of the Net Buyout Benefit is positive, significant and provides
13 benefits to Potomac Edison's ratepayers.

14 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY AT THIS TIME?**

15 A. Yes, it does.

Warrior Run EEPA Termination Financial Analysis Review

April 3, 2023

LEVITAN & ASSOCIATES, INC.

20 CUSTOM HOUSE STREET, SUITE 830
BOSTON, MASSACHUSETTS 02110
TEL (617) 531-2818
FAX (617) 531-2826

Introduction

The AES Warrior Run PURPA project commenced operation in February 2000 with the output of the facility sold to The Potomac Edison Company (“Potomac Edison”) under a power purchase agreement (“EEPA”) that has been priced well above market. The Public Service Commission of Maryland (the Commission) in the settlement orders in Case No. 8797 agreed that the output from Warrior Run should be sold through a competitive bidding process.¹ Three competitive solicitations for the Warrior Run output were held subsequent to the orders. In 2007, Levitan & Associates, Inc. (LAI) conducted an analysis of regional power market conditions and the prices paid for the output from Warrior Run that resulted from the competitive solicitations. Based on the results of this analysis, it was recommended that the auctions be discontinued in favor of direct sales of the Warrior Run output into the PJM wholesale markets. In Order No. 81725, the Commission authorized the sale of the Warrior Run output into the PJM markets. Since January 2008, the Warrior Run energy output and capacity have been sold into the PJM day-ahead energy market and the PJM forward capacity market, respectively.

LAI conducted reviews of the sale of Warrior Run output into the PJM markets in 2010, 2013, 2016, 2019, and 2022 which concluded that the market conditions and related factors that led to the recommendation in 2007 to sell the Warrior Run output into the PJM wholesale markets had not fundamentally changed and supported continuation of these sales. Potomac Edison has negotiated a buyout termination of the Warrior Run EEPA targeting the achievement of ratepayer savings relative to the continuation of the EEPA over the full term of the contract which was scheduled to end in February 2030.

In March 2023, LAI was engaged by Potomac Edison to conduct a review and validation of the financial analysis, financial modeling and ratepayer savings associated with the proposed buyout of the Warrior Run EEPA. This report provides the results of that review and validation.

Summary of Results

LAI’s review of Potomac Edison’s buyout termination financial analysis and modeling confirms that the methodology and modeling were reasonable and appropriate for determining the buyout value. LAI further confirms that the buyout value used was both positive and significant providing ratepayers with substantial savings relative to the continuation of the EEPA through its full term.

Warrior Run

Warrior Run has a gross design capacity of 200 MW and utilizes a coal-fired circulating fluidized bed boiler. Warrior Run is a certified Qualifying Facility under the 1978 Public Utilities Regulatory Policy Act. In accord with the EEPA, Warrior Run is dispatchable within a range from the 72 MW minimum output up to a net maximum output of 180 MW.

¹ See Order 75851 and Order 76009.

The Equivalent Availability of the facility has averaged over 91 percent since the start of commercial operation. The contract delivery point is the Ridgeley Substation.

Source Documents and Information

The LAI review was based on information provided by Potomac Edison describing the financial modeling, modeling inputs and assumptions used by Potomac Edison along with the buyout valuation results produced by Potomac Edison's financial modeling.

The following key documents and data files provided by Potomac Edison were utilized in LAI's review:

1. WR Buyout Review Model_02132023.xlsx
2. PURPA Forecast & 10+2 Budget November 2022 to December 2026_11292022_Jon Hendrix.xlsx
3. PURPA 2023 Expense file (Kopchick_MAM)_12192022.xlsx
4. 2022 10+02F-2026 NUG Output_111422-Warrior Run_Liang-Nicol.xls

Potomac Edison also provided additional information regarding modeling assumptions, back-up worksheets and calculations related to the financial modeling in response to clarifying questions that LAI submitted to Potomac Edison after our initial review of the files.

Warrior Run EEPA

The Warrior Run unit was dispatched in PJM under the EEPA based on three operating modes including Manual Dispatch, Automatic Dispatch and QF Control Mode. The prior bidding strategy for Warrior Run dispatch was developed using Warrior Run's operational capabilities, the EEPA terms and conditions, and the budgeted variable energy cost rate as the limiting factors. The Settlement Agreement established the main objective for the bidding of the Warrior Run plant, and its subsequent dispatch in the PJM energy market, to maximize the revenues for the plant so as to reduce the overall cost impact to Potomac Edison and its customers.

The EEPA provides that the plant's output can be dispatched at levels between the Minimum Dispatch Output and the Maximum Dispatch Output at the Buyer's request except for when the plant is technically not able to do so. In PJM the unit was categorized as self-scheduled and dispatchable with the unit being offered as a price taker at the Economic Minimum (Eco Min)² and being economically dispatched between the Eco Min and the Economic Maximum (Eco Max)³. In that regard the unit's offer data on a daily basis included a price curve as well as an Eco Min value. The price curve consists of four

² Economic Minimum (Eco Min) is the minimum energy available, in MW, from the unit for economic dispatch.

³ Economic Maximum (Eco Max) is maximum energy available, in MW, from the unit for economic dispatch.

Dispatch Points⁴ up to the Eco Max in MW and the corresponding costs in \$/MWh for each Dispatch Point. Offering the plant output between the Emergency Min and the Eco Max allowed Warrior run to remain in compliance with the requirements of the EEPA. Consistent with the EEPA, the plant's dispatch also considered the plant's operational limitations associated with the plant's fluidized bed technology. Circulating fluidized bed plants have limited ramp rates and longer cold start-up time given the thermal inertia of the bed material. Based on the plant operations data provided by Potomac Edison, the plant's energy ramp rates are 0.5 MW/Min (72 MW) and 1.5 MW/Min (180 MW). The Warrior Run offer strategy worked to maximize revenues when prices were above the plant's avoided cost rate or minimize costs when prices were below the avoided cost which triggers the dispatch.

The high cost of the output from Warrior Run as operated under the EEPA is not covered by revenues from sales into the PJM wholesale market and represents a continuing net cost to ratepayers.

The pricing mechanism in the EEPA is based in part on the "APS Proxy Units" at Fort Martin, Pleasants Power, Harrison, and Hatfield's Ferry. Hatfield's Ferry was retired in 2013 and Pleasants was removed from the proxy calculation after February 2020, as the plant was no longer owned by a FirstEnergy affiliate.⁵ The remaining proxy units are currently expected to remain in operation beyond 2030. The EEPA allows for switching to "Coal #1, #2, #3 --- units of the next coal-based base load generating station constructed by Buyer and any other regulated subsidiaries of APS. Other "equivalent base load generating units that are economically dispatched to supply APS Demand" can also be used. Our review of the coal fired generation plants formerly operated under the APS name shows that there are no coal-fired units which could qualify as Coal #1, #2, #3. This essentially means that the pricing mechanism defaults to the proxy units or their equivalent baseload units.

Validation of Potomac Edison Modeling and Results

As part of the modeling review process, LAI, created a separate financial model to validate the analysis performed by Potomac Edison and to verify the ratepayer savings that will result from the buyout of the Warrior Run EEPA.

The LAI model was specifically built to test the premise that the Warrior Run Buyout is beneficial to Potomac Edison ratepayers if the present value of the agreed upon payments totaling \$357,000,000 in 78 monthly installments, is less than the expected net cost of

⁴ The four Dispatch Points included the Emergency Minimum (Emergency Min), the Eco Min, and the Eco Max which also serves as the Emergency Maximum (Emergency Max). The Emergency Min is the lowest level of energy in MW the unit can produce and maintain a stable level of operation. The unit is operated at this level during a PJM declared Minimum Generation Emergency. The Emergency Max is the highest short-term MW level the generating unit can produce and may require extraordinary procedures to produce the desired output. The unit operates at this level during a PJM declared Maximum Emergency Generation.

⁵ On February 27, 2020, FirstEnergy Solutions completed financial restructuring and emerged from Chapter 11 bankruptcy reorganization as the standalone company Energy Harbor Corp.

payments under the EEPA over its remaining term through February 10, 2030. Consistent with Potomac Edison’s analysis, the net benefit of terminating the EEPA is the difference between the avoided Net EEPA Cost and the direct cost of Buyout payments. The avoidable Net EEPA Cost is the sum of EEPA Energy Payments and EEPA Capacity Payments, less the forgone revenues to Potomac Edison for the sale of Warrior Run’s energy, capacity, and reactive products into the relevant PJM markets. The top-level equation is as follows:

$$PVNBB = PVAEEP + PVAECP - PVBP - PVFER - PVFCR - PVFRR$$

where

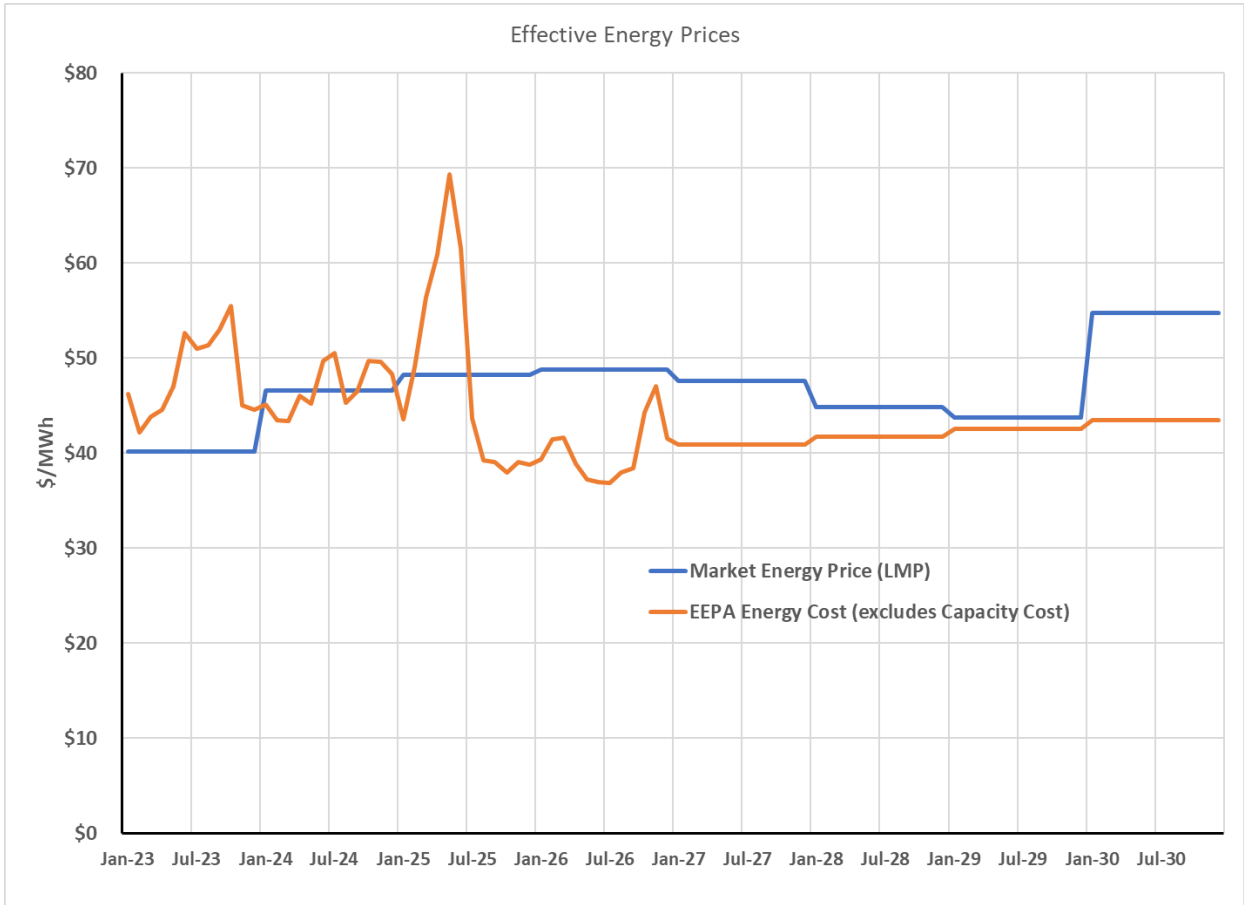
- PVNBB = Present Value of Net Buyout Benefit
- PVAEEP = Present Value of Avoided EEPA Energy Payments
- PVAECP = Present Value of Avoided EEPA Capacity Payments
- PVBP = Present Value of Buyout Payments
- PVFER = Present Value of Foregone Energy Revenue
- PVFCR = Present Value of Foregone Capacity Revenue
- PVFRR = Present Value of Foregone Reactive Revenue

The model builds up each of these elements of net benefit from forecasts of quantities and prices developed at the monthly level. The monthly cash flows can be aggregated to an annual level on either a calendar year level or a “deal year” level, where each 12-month aggregation starts in the month of the first buyout payment. In both modes, aggregated cash flows for the year are discounted from year end at a nominal discount rate which defaults to 7.15%. The default month for the first buyout payment is July 2023.

Monthly energy payments are estimated as the product of the forecasted EEPA Energy Price and the forecasted energy dispatch. Monthly capacity payments are estimated as the product of the forecast EEPA Capacity Cost in \$/MWh and the forecasted scheduled capacity in MWh. Scheduled capacity is based on an installed capacity of 180 MW and a forecast of scheduled outages provided in reference file (2). The monthly buyout payments are calculated as $\$357,000,000/78 = \$4,576,923$ starting in July 2023 and running through December of 2029. The simple sums are the same (\$357.0 million) for the LAI model and the Potomac Edison model. Monthly forgone energy revenue is estimated as the product of an annual forecasted average LMP and the forecasted Warrior Run energy dispatch. Figure 1 shows the EEPA Energy Cost price and LMP forecast comparison. The EEPA Energy Cost price does not include the EEPA Capacity Cost.

The simple sum (undiscounted) of monthly Forgone Energy Revenue in the LAI model is \$378.6 million, while the corresponding sum in the FE model is \$380.7 million.

Figure 1. EEPA Energy Price and LMP Forecast Comparison



Monthly forgone capacity revenue is estimated from an assumed cleared capacity of 170 MW. MW multiplied by the number of days in each month and the corresponding forecasted RPM clearing price for each capacity year. The forecasted clearing prices in \$/kW-day were provided in reference file (1). The simple sum of forgone capacity revenue in the LAI model is \$21.5 million, while the corresponding sum in the Potomac Edison model is \$22.0 million.

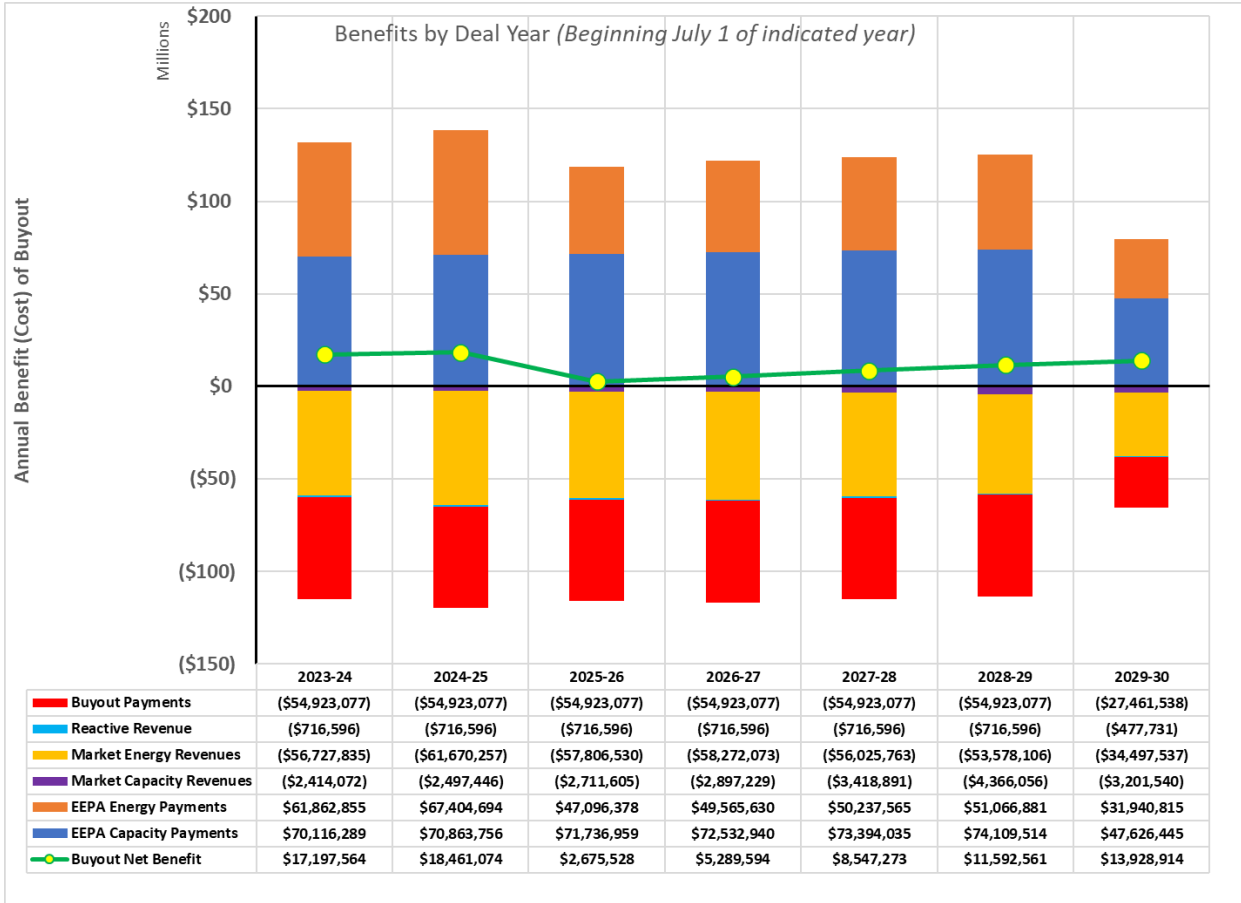
The monthly reactive revenue was set as 1/12 of the annual revenue requirement from the reactive filing on file with FERC in the amount of \$716,596 in both models, The simple sum of forgone reactive revenue associated with a 7/1/2023 termination of the EEPA is \$4.8 million.

Annual Benefit Results

Figure 2 shows the aggregated sums by “deal year” (beginning July 1) for each of the six components of the net buyout benefit. The bars for forgone capacity revenue and forgone reactive revenue are essentially invisible. The blue bars for avoided EEPA capacity cost payments and beige bars for avoided EEPA energy cost payments are large, positive, and represent the gross benefit of the buyout deal. Below the x-axis, the yellow bars for forgone

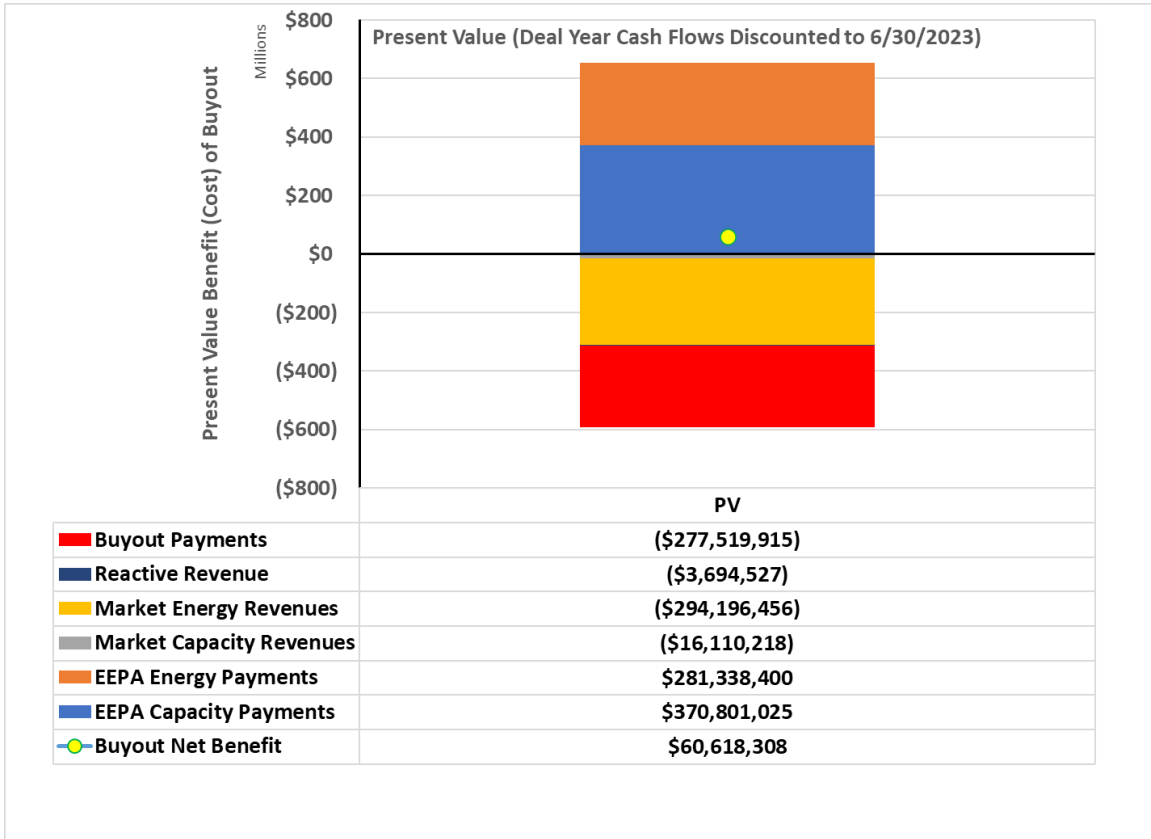
energy revenues are large and roughly equal in magnitude to the blue EEPA energy cost payment bars. The red bars for fixed buyout payments are similar in magnitude to the beige EEPA capacity cost payment bars. The green line represents the net sum of the six components, a net benefit that is positive in each year, but small in absolute magnitude relative to its four major components.

Figure 2. Annual Components and Net Buyout Benefit



Relative magnitudes of the components of the Net Buyout Benefit in Present Value form are similar to those in the annual form above. Present values were calculated using a nominal discount rate of 7.15% and a reference date of June 30, 2023. Cash flow items are aggregated on a Deal-Year basis, as shown in Figure 3. The present value of the net benefit as determined by the LAI financial model is \$60.6 million. This finding of a significant positive ratepayer savings associated with the Warrior Run EEPA buyout is consistent with Potomac Edison’s determination of significant positive net ratepayer benefits. The forecast of market energy prices and therefore market energy revenues used in the financial modeling has a significant impact on the net benefit of the EEPA buyout.

Figure 3. Present Value of Net Buyout Benefit by Component



Results

Based on the results of the foregoing review and analysis, we confirm that the conclusion of the Potomac Edison financial modeling and analysis that the expected present value of the Net Buyout Benefit is positive, significant and provides benefits to Potomac Edison’s ratepayers.