



Chairman Phil Mendelson
at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Phil Mendelson, at the request of the Mayor, introduced the following bill, which was referred to the Committee on _____.

To authorize and provide for the issuance of revenue bonds under Section 490 of the District of Columbia Home Rule Act; the authorization of the District of Columbia Public Service Commission ("Commission") to issue financing orders, upon application, that provide for: (i) financing of the costs of constructing underground conduits, ducts, manholes, vaults and ancillary facilities for electric distribution in the District of Columbia ("District"), and associated roadway restoration; (ii) creating a property right in favor of the District in the future revenue stream raised through the imposition of a charge on the electric company's District customers; (iii) authorizing the District to hold this property right and to pledge the same as security for its repayment obligations to bond purchasers; and (iv) authorizing the District, to provide funding from the bond proceeds to the District Department of Transportation ("DDOT") to finance construction of underground conduits, duct banks, manholes, vaults and ancillary facilities for electric distribution in the District, together with associated roadway restoration; the authorization of the Commission to issue orders, upon application, that provide for the: (i) selection and construction of underground electric distribution and ancillary facilities in the District; (ii) imposition and annual true-up of a special funding surcharge mechanism under which the electric company is to be permitted to recover from certain of its customers in the District the capital costs and associated depreciation and other expense relating to relocating and otherwise installing electric distribution line and equipment and ancillary facilities into underground conduits, duct banks, manholes and vaults constructed by DDOT or the electric company; and (iii) imposition by the Commission and annual true-up of a special financing surcharge applicable to certain of the electric company's customers in the District to fund the repayment of bonds issued by the District to finance the construction by the DDOT of

1 underground conduits, vaults, manholes and ancillary facilities to be used in the
2 distribution of electricity in the District.

3
4 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
5 act may be cited as the "Electric Company Infrastructure Improvement Financing Act of 2013".

6
7 TITLE I. DEFINITIONS AND FINDINGS

8
9 Sec. 101. Definitions.

10 For the purpose of this act, the term:

11
12 (1) "Authorized Delegate" means any one of the following: the City
13 Administrator, the Chief Financial Officer, the Treasurer, the Deputy Mayor for Planning and
14 Economic Development, and any officer or employee of the executive office of the Mayor to
15 whom the Mayor has delegated any of the Mayor's functions under this act pursuant to section
16 422(6) of the Home Rule Act and who has been designated as an authorized delegate for
17 purposes of this act.

18
19 (2) "Bonds" means the revenue bonds, notes, or other obligations (including
20 refunding bonds, notes, and other obligations), in one or more series, authorized to be issued
21 pursuant to this act.

22 (3) "Bond Counsel" means a firm or firms of attorneys designated as bond
23 counsel from time to time by the Mayor

24 (4) "Chief Financial Officer" means the Chief Financial Officer of the
25 District.

26 (5) "Closing Documents" means all documents and agreements other than
27 financing documents that may be necessary and appropriate to issue, sell, and deliver the bonds

1 contemplated thereby, and includes agreements, certificates, letters, opinions, forms, receipts,
2 and other similar instruments.

3

4 (6) "Commission" means the Public Service Commission of the District of
5 Columbia as it may be constituted from time to time and any successor agency exercising the
6 same or similar functions.

7 (7) "Debt Service" means payment of principal, premium, if any, and interest
8 on the bonds.

9 (8) "District" means the District of Columbia.

10 (9) "DDOT" means the District Department of Transportation.

11 (10) "DDOT Underground Electric Company Infrastructure Improvements"
12 means underground conduits and duct banks, electrical vaults, manholes, transformer pads, and
13 similar facilities, including facilities ancillary to the foregoing, designed by the electric company,
14 constructed or to be constructed by DDOT and transferred to, owned and maintained by the electric
15 company after certain inspections and approvals by the electric company for the exclusive use of
16 the electric company in the distribution of electricity within the District.

17 (11) "DDOT Underground Electric Company Infrastructure Improvement
18 Activity" means the civil engineering for and the construction and installation of DDOT
19 Underground Electric Company Infrastructure Improvements.

20 (12) "DDOT Underground Electric Company Infrastructure Improvement
21 Annual Revenue Requirement" means that amount of revenue required by the District to pay the
22 debt service on bonds issued pursuant to this act, to pay financing costs associated with such

1 bonds, to fund any required reserves with respect to such bonds and to maintain any coverage
2 ratios required by the financing documents.

3 (13) "DDOT Underground Electric Company Infrastructure Improvement
4 Charge" means a non-bypassable, annually adjusting surcharge collected by the electric company
5 in an agency capacity and paid by certain customers of the electric company pursuant to a financing
6 order issued by the Commission for the payment of debt service on bonds issued by the District
7 pursuant to this act, the repayment of financing costs associated with such bonds, and the cost of the
8 Commission's financial advisor, which surcharge shall be not less than the DDOT Underground
9 Electric Company Infrastructure Improvement Annual Revenue Requirement, whether or not the
10 DDOT Underground Electric Company Infrastructure Improvements are constructed.

11 (14) "DDOT Underground Electric Company Infrastructure Improvement Costs"
12 means any cost incurred by DDOT, including capitalized costs relating to underground electric
13 plant, capitalized costs associated with design and engineering work, expenses that DDOT may
14 incur for the development of annual construction plans, and other expenses incurred or expected to
15 be incurred by or for the account of DDOT in undertaking DDOT Underground Electric Company
16 Infrastructure Improvement Activity, including preliminary expenses and investments and other
17 costs that reasonably may be incurred in support of the DDOT Underground Electric Company
18 Infrastructure Improvement Activity.

19 (15) "DDOT Underground Electric Company Infrastructure Improvement Fund"
20 means the fund established by section 201 of this act.

21 (16) "DDOT Underground Electric Company Infrastructure Improvement
22 Revenue" means the aggregation of receipts, collections, payments, moneys, claims, or other

1 proceeds derived from DDOT Underground Electric Company Infrastructure Improvement
2 Charges.

3 (17) “Electric company” shall have the meaning set forth in D.C. Official Code
4 §34-207 and as used herein shall refer to Potomac Electric Power Company.

5 (18) “Electric Company Infrastructure Improvements” means underground
6 electrical cable, fuses, switches, transformers, and ancillary facilities, including above-ground pad-
7 mounted transformers, and other equipment including the electric company’s portion of conduit not
8 included in DDOT Underground Electric Company Infrastructure Improvement Activity that is
9 required in conjunction with constructing and operating new underground facilities used for the
10 distribution of electricity, but does not include the construction of new underground electric plant
11 when the costs associated with the construction and operation of such underground electric plant,
12 including capital costs, are to be recovered through rates, as approved by the Commission pursuant
13 to D.C. Official Code §34-901 *et seq.* and not through the DDOT Underground Electric Company
14 Infrastructure Improvement Charges or Underground Project Charges.

15 (19) “Electric Company Infrastructure Improvement Activity” means the civil
16 and electrical engineering for, and acquisition, construction and installation of, Electric Company
17 Infrastructure Improvements and the removal of overhead electric distribution facilities no longer
18 used and useful in providing electric distribution service in the District due to the construction of
19 Electric Company Infrastructure Improvements.

20 (20) “Electric Company Infrastructure Improvement Costs” means any costs
21 incurred by the electric company, including the amortization of regulatory assets and capitalized
22 costs relating to electric plant including depreciation expense, design and engineering work
23 incurred or expected to be incurred by the electric company in undertaking Electric Company

1 Infrastructure Improvement Activity, and the unrecovered value of electric company property that is
2 retired, together with any demolition or similar cost that exceeds the salvage value of the property.
3 The term includes preliminary expenses and investments associated with Electric Company
4 Infrastructure Improvement Activity that are incurred by the electric company prior to receipt of an
5 order applicable to costs incurred with respect to such Electric Company Infrastructure
6 Improvement Activity in addition to expenses that may be incurred for development of annual
7 construction plans, customer communication and other expenses that may develop in support of the
8 Electric Company Infrastructure Improvement Activity.

9
10 (21) “Electric Company Infrastructure Improvement Revenue” means the
11 aggregation of receipts, collections, payments, moneys, claims, or other proceeds derived from
12 Underground Project Charges.

13 (22) “Electric Plant” shall have the meaning set forth in D.C. Official Code §34-
14 206.

15 (23) “Financial Advisor” means an entity whose services are retained by the
16 Commission to assist the Commission in the issuance, amendment, or administration of a financing
17 order.

1 (24) “Financing Costs” means all costs and expenses to issue, deliver, service,
2 repay, or refinance the bonds, whether incurred or paid upon the issuance of the bonds by the
3 District or over the life of the bonds, and approved for recovery in the financing order including,
4 but not limited to, underwriting fees, legal fees, accounting fees, financial advisory fees, bond
5 insurance or other credit enhancement, costs of marketing and selling the bonds, and printing
6 costs and expenses and the cost of funding capitalized interest and required reserves.

7 (25) “Financing Documents” means the documents other than closing documents
8 that relate to the financing or refinancing of transactions to be affected through the issuance, sale,
9 and delivery of the bonds, including any required collection agreement, offering document, and any
10 required supplements to any such documents.

11 (26) “Financing Order” means an order of the Commission pursuant to this act
12 that grants, in whole or in part, an application filed pursuant to this act by the electric company and
13 that, among its other provisions, authorizes the imposition and annual true-up of DDOT
14 Underground Electric Company Infrastructure Improvement Charges.

15 (27) “Home Rule Act” means the District of Columbia Home Rule Act, approved
16 December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 *et seq.*).

17 (28) “Indenture” means the trust indentures (including a master trust indenture
18 and any supplemental trust indenture) pursuant to which one or more series of the bonds are issued
19 pursuant to this act.

20 (29) “Lateral Feeder” means a 1-kV to 35-kV (phase-to-phase) line tapped off of
21 a distribution mainline primary feeder for supplying loads. Such feeders may be protected by a fuse
22 at the interconnection point to the mainline primary feeder, and may have one phase, two phases, or
23 three phases.

1 (30) “Mainline Primary Feeder” means a 1-kV to 35-kV (phase-to-phase)
2 distribution line originating at the substation distribution bus that supplies lateral feeders and
3 distribution transformers that convert voltage to customer service levels. Such feeders are normally
4 three-phase circuits.

5 (31) “Mayor” means the Mayor of the District of Columbia or an Authorized
6 Delegate.

7 (32) “OPC” means the Office of the People’s Counsel for the District of
8 Columbia and any successor thereto.

9 (33) “Secondary Feeder” means the portion of an electric distribution circuit
10 originating at the low-voltage secondary winding of a distribution transformer and transmitting
11 power at customer service voltage levels to interconnect with a customer service drop line. Such
12 feeders have voltages less than 1000 V, often 480/277 V, 208/120 V, or 120/240 V and can be
13 single phase or three phase.

14 (34) “Servicing Agreement” means an agreement among the District, the electric
15 company, and the trustee relating to the collection and remittance of the DDOT Underground
16 Electric Company Infrastructure Improvement Revenue.

17 (35) “Trustee” means the trustee under the indenture.

18 (36) “Underground Infrastructure Improvement Projects Plan” means a
19 construction plan prepared by DDOT and the electric company that identifies DDOT Underground
20 Electric Company Infrastructure Improvement Activity and the Electric Company Infrastructure
21 Improvement Activity to be undertaken.

22 (37) “Underground Project Charge” means an annually adjusting surcharge paid
23 by certain customers of the electric company for its recovery of the Electric Company Infrastructure

1 Improvement Costs, together with the electric company's rate of return as approved by the
2 Commission.

3 Sec. 102. Declaration of public purpose.

4 (a) Global climate change has increased the frequency and severity of destructive
5 weather patterns. Accordingly, electric power distribution service in the District of Columbia is
6 vulnerable to equipment failures on the overhead electric distribution system of the electric
7 company for many reasons, including high winds, flooding, lightning strikes, snow and ice
8 accumulations, foreign contact between overhead equipment and animals, trees and other objects,
9 and for other causes. In the past, this damage has caused the loss of electric power over extended
10 time periods to residential and commercial customers, which damage and power loss have created
11 economic losses for the District and its citizens, including critical infrastructure customers and other
12 high priority users of electricity, and it can be expected that similar outages on the electric
13 company's overhead distribution system will continue to occur, absent additional intensified outage
14 prevention measures.

15 (b) Electric system modernization is necessary to establish 21st Century electric
16 distribution systems to promote the public interest through increased system reliability, resiliency,
17 reliability, and flexibility during all types of weather events including major storms. The frequency
18 of electric power outages within the District can be expected to decrease when overhead power lines
19 in vulnerable locations are relocated underground. Consequently, selectively undergrounding
20 certain overhead power lines can be expected to increase system reliability and reduce the
21 economic, social and other impacts on the District's electricity users caused by repeated power
22 outages.

1 (c) Section 490 of the Home Rule Act provides that the Council may by act authorize
2 the issuance of District bonds to borrow money to finance, refinance, or reimburse and to assist in
3 the financing, refinancing, or reimbursing of the cost of capital projects or undertakings (including
4 utility facilities) that will contribute to the health, welfare, or safety of residents of the District as
5 determined by the Council.

6 (d) The authorization, issuance, sale, and delivery of revenue bonds, the proceeds of
7 which shall be used by DDOT to finance the construction of certain underground facilities that
8 will be used by the electric company in connection with undergrounding particularly vulnerable
9 electric power lines and their ancillary facilities, thus contributing to the health, welfare, and
10 safety of residents of the District, are in the public interest and will accomplish the purposes and
11 intent of section 490 of the Home Rule Act.

12

13

14 TITLE II. ISSUANCE OF BONDS; SECURITY INTEREST IN DDOT
15 UNDERGROUND ELECTRIC COMPANY INFRASTRUCTURE IMPROVEMENT
16 REVENUE

17

18 Sec. 201. Creation of the DDOT Underground Electric Company Infrastructure
19 Improvement Fund.

20 (a) There is established a special non-lapsing fund which shall be separate and apart from
21 the General Fund of the District to be denominated as the "DDOT Underground Electric
22 Company Infrastructure Improvement Fund".

1 (b) The DDOT Underground Electric Company Infrastructure Improvement Revenue will
2 be collected by the electric company acting as agent in accordance with the servicing agreement
3 and remitted to the trustee (or to a fund or account designated by the financing documents) for
4 application by the trustee in accordance with this act and the indenture. Any and all DDOT
5 Underground Electric Company Infrastructure Improvement Revenue collected, or to be collected,
6 by the electric company, or any affiliate or agent thereof, shall upon receipt by the electric company
7 or any affiliate or agent, as the case may be, be held in trust for the benefit of the trustee and shall be
8 deemed collected and transferred to the trustee in accordance with this act and the servicing
9 agreement. Any and all DDOT Underground Electric Company Infrastructure Improvement
10 Revenue so collected, wherever held or deposited and whether having been remitted to the trustee or
11 not, shall automatically be pledged at the time of receipt to the repayment of the bonds pursuant to
12 this act and the indenture. The electric company shall have no rights in or to the DDOT
13 Underground Electric Company Infrastructure Improvement Revenue. The sole responsibility of the
14 electric company shall be to act in an agency capacity for the collection of the DDOT Underground
15 Electric Company Infrastructure Improvement Revenue and to remit the DDOT Underground
16 Electric Company Infrastructure Improvement Revenue to the trustee in accordance with the
17 servicing agreement. In the event of the electric company's failure to collect and remit the DDOT
18 Underground Electric Company Infrastructure Improvement Revenue to the trustee the District may
19 remove the electric company under and in accordance with the servicing agreement , but the District
20 shall have no recourse against the assets of the electric company. The electric company shall have
21 no responsibility with respect to the DDOT Underground Electric Company Infrastructure
22 Improvement Revenue after remittance to the trustee in accordance with the servicing agreement.

23

1 (c) The Commission’s financing order(s) shall provide that the electric company shall
2 collect and remit to the trustee payments received by the electric company for the DDOT
3 Underground Electric Company Infrastructure Improvement Revenue promptly following
4 receipt of such payment in accordance with the servicing agreement. The DDOT Underground
5 Electric Company Infrastructure Improvement Revenue is pledged pursuant to Section 203(b) of
6 this act to pay the debt service on and retirement of the bonds without further action by the
7 Council, as permitted by section 490(f) of the Home Rule Act, which security interest shall
8 attach at the time of receipt of the DDOT Underground Electric Company Infrastructure
9 Improvement Revenue by the electric company.

10 (d) The trustee shall receive, hold and invest the DDOT Underground Electric
11 Company Infrastructure Improvement Revenue and shall deposit all such revenues upon receipt
12 into the DDOT Underground Electric Company Infrastructure Improvement Fund to be held,
13 invested and used as specified in the financing documents and this act.

14 (e) All amounts deposited in the DDOT Underground Electric Company
15 Infrastructure Improvement Fund, plus all investments or earnings on those amounts, are
16 irrevocably dedicated and pledged to the payment of the principal of, and interest on, the bonds
17 and other costs as provided in this act.

18 (f) If, at the end of any fiscal year of the District following the issuance of the bonds
19 authorized by this act, the value of cash and investments in the DDOT Underground Electric
20 Company Infrastructure Improvement Fund exceeds the amount of all payments authorized by
21 this act and the financing documents, including required and discretionary deposits into reserve
22 funds, amounts to be set aside for additional series of bonds issued under this act, and any

1 coverage requirements required by the indenture, during the upcoming fiscal year, the excess
2 shall be used to redeem bonds prior to maturity.

3 Sec. 202. Bond authorization.

4 (a) The Council approves and authorizes the issuance of one or more series of bonds
5 in a total principal amount not to exceed Three Hundred Seventy Five Million Dollars
6 (\$375,000,000). The bonds, which may be issued at any time and from time to time during the
7 ten (10)year period immediately following enactment hereof, in one or more series, shall be tax-
8 exempt or taxable as the Mayor shall determine and shall be payable and secured as provided in
9 section 203 of this act.

10 (b) The proceeds of the bonds shall be used:

11 (1) To pay the financing costs and expenses of issuing and delivering the
12 bonds, and

13 (2) To pay the Commission's costs of retaining a financial advisor.

14 (c) The bond proceeds remaining after payment of items listed in subsection (b) shall
15 be paid to DDOT for the purpose of financing or reimbursing DDOT Underground Electric
16 Company Infrastructure Improvement Costs; provided, however, that no bond proceeds shall be
17 provided to DDOT pursuant to this act until the Commission shall have first approved the
18 Underground Infrastructure Improvement Projects Plan.

19 (d) The aggregate principal amount of the bonds issued in connection with financing
20 DDOT Underground Electric Company Infrastructure Improvement Activity shall not, at any
21 time, exceed the total planned cost of the portion of the DDOT Underground Electric Company
22 Infrastructure Improvement Activity to be financed or that has been financed, as the case may be,

1 as determined by DDOT, financing costs, and an allotment to pay for the Commission's retention
2 of a financial advisor.

3 (e) By December 31 of each year during which the bonds authorized by this act have
4 been issued and continuing until the net proceeds of the bonds have been fully disbursed, DDOT
5 shall file with the Commission an accounting report depicting DDOT's cumulative receipt of
6 bond proceeds during the previous fiscal year and DDOT's cumulative expenditures of those
7 proceeds.

8 Sec. 203. Payment and security.

9 (a) Except as may be otherwise specifically provided in this act, debt service on the
10 bonds shall be payable solely from proceeds received from the sale of the bonds, income realized
11 from the temporary investment of those proceeds, DDOT Underground Electric Company
12 Infrastructure Improvement Revenue, income realized from the temporary investment of the
13 DDOT Underground Electric Company Infrastructure Improvement Revenue prior to payment to
14 the bond holders, and other moneys that, as provided in the financing documents, may be made
15 available for payment of the bonds from sources other than the District or the electric company,
16 all as provided for in the financing documents.

17 (b) The DDOT Underground Electric Company Infrastructure Improvement
18 Revenue is irrevocably pledged as security for the repayment of the bonds and any financing
19 costs. Payment of the bonds shall be secured as provided in this act and the financing documents
20 and by an assignment by the District of certain of its rights under the financing documents and
21 closing documents to the trustee for the benefit of the bond holders.

22 (c) The trustee is authorized to deposit, invest, and disburse the proceeds received from
23 the sale of the bonds pursuant to the financing documents.

1 Sec. 204 Bond details.

2 (a) The Mayor is authorized to take any action reasonably necessary or appropriate in
3 accordance with this act in connection with the preparation, execution, issuance, sale, delivery,
4 security for, and payment of the bonds of each series, including, but not limited to, determinations
5 of:

6 (1) The final form, content, designation, and terms of the bonds, including a
7 determination that such bonds may be issued in certificated or book-entry form;

8 (2) The principal amount of the bonds to be issued and denominations of the
9 bonds;

10 (3) The rate or rates of interest or the method for determining the rate or rates of
11 interest on the bonds;

12 (4) The date or dates of issuance, sale, and delivery of, and the payment of
13 interest on the bonds, and the maturity date or dates of such bonds;

14 (5) The terms under which the bonds may be paid, optionally or mandatorily
15 redeemed, accelerated, tendered, called, or put for redemption, repurchase, or remarketing before
16 their respective stated maturities;

17 (6) Provisions for the registration, transfer, and exchange of the bonds and the
18 replacement of mutilated, lost, stolen, or destroyed bonds;

19 (7) The creation of any reserve fund, sinking fund, or other fund with respect to
20 the bonds;

21 (8) The time and place of payment of interest on the bonds and for repayment of
22 the bonds;

1 (9) Procedures for monitoring the use of the proceeds received from the sale of
2 the bonds to ensure that the proceeds are properly applied and used to accomplish the purposes of
3 the Home Rule Act and this act, a copy of which shall be provided to the Commission;

4 (10) Actions necessary to qualify the bonds under blue sky laws of any
5 jurisdiction where the bonds are marketed; and

6 (11) The terms and types of credit enhancement under which the bonds may be
7 secured.

8 (b) The bonds shall contain a legend which shall provide that the bonds do not constitute
9 an indebtedness of the District, that the bonds are not general obligations of the District and are not
10 secured by the faith and credit or the taxing power of the District. The legend shall further state that
11 the bonds are special obligations of the District payable solely from the revenues derived from the
12 collection of DDOT Underground Electric Company Infrastructure Improvement Revenue. The
13 legend shall also state that the bonds do not constitute lending of the public credit for private
14 undertakings, as prohibited in section 602(a)(2) of the Home Rule Act.

15 (c) The bonds shall be executed in the name of the District and on its behalf by the
16 manual or facsimile signature of the Mayor and attested by the secretary of the District by the
17 secretary's manual or facsimile signature.

18 (d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or
19 otherwise reproduced on the bonds.

20 (e) The bonds of any series may be issued in accordance with the terms of an indenture
21 to be entered into by the District and a trustee to be selected by the Mayor, and may be subject to the
22 terms of one or more agreements entered into by the District pursuant to section 490(a) (4) of the
23 Home Rule Act.

1 (f) The bonds may be issued at any time or from time to time during the ten (10) year
2 period specified in Section 202(a) of this act in one or more issues and in one or more series.

3 (g) The bonds are declared to be issued for essential public and governmental
4 purposes. The bonds and the interest thereon and the income there from, and all monies pledged
5 or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation
6 by the District, except for estate, inheritance, and gift taxes.

7 (h) The District covenants and agrees that it will not limit or alter the DDOT
8 Underground Electric Company Infrastructure Improvement Revenue pledged to secure the
9 bonds or the basis on which the DDOT Underground Electric Company Infrastructure
10 Improvement Revenue is collected or allocated, will not take any action to impair the
11 contractual obligations of the District to fulfill the terms of any agreement made with the holders
12 of the bonds, and will not in any way impair the rights or remedies of the holders of the bonds,
13 until the bonds, together with interest thereon, and all costs and expenses in connection with any
14 suit, action or proceeding by or on behalf of the holders of the bonds, are fully met and
15 discharged. This covenant and agreement of the District shall be included as part of the contract
16 between the District and the holders of the bonds.

17 (i) This act constitutes a contract between the District and the holders of the bonds. To
18 the extent that any acts or resolutions of the Council now or hereafter may be in conflict with this
19 act, this act shall be controlling.

20 (j) The Commission is prohibited from taking any action, whether by rulemaking,
21 order, or otherwise, that would reduce the DDOT Underground Electric Company Infrastructure
22 Improvement Revenue collected each year below the amount of the DDOT Underground
23 Electric Company Infrastructure Improvement Annual Revenue Requirement; provided,

1 however, that the Commission may, in context of an annual adjustment proceeding, pursuant to
2 section 316, and in the financing order, adjust the DDOT Underground Electric Company
3 Infrastructure Improvement Revenue to be collected in one year, in order to remedy any
4 imbalance, attributable to over-collection or under-collection, between the annual DDOT
5 Underground Electric Company Infrastructure Improvement Revenue set forth in the financing
6 order and the amount of such revenue actually collected in the immediately preceding year. To
7 the extent that any Commission action affecting or purporting to affect DDOT Underground
8 Electric Company Infrastructure Improvement Revenue may be in conflict with this act, this act
9 shall be controlling.

10 (k) Consistent with section 490(a) (4)(B) of the Home Rule Act and notwithstanding
11 D.C. Official Code § 28:9-101 *et seq.*:

12 (1) A pledge made and security interest created in respect of the bonds or
13 pursuant to any related financing document shall be valid, binding, and perfected from the time
14 the security interest is created, with or without physical delivery of any funds or any property
15 and with or without any further action;

16 (2) The lien of the pledge shall be valid, binding and perfected as against all
17 parties having any claim of any kind in tort, contract or otherwise against the District, whether
18 or not such party has notice; and

19 (3) The security interest shall be valid, binding and perfected whether or not
20 any statement, document or instrument relating to the security interest is recorded or filed.

21 Sec. 205. Sale of the bonds.

1 (a) The bonds of any series may be sold at negotiated or competitive sale at, above, or
2 below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the
3 best interest of the District.

4 (b) The Mayor may execute offering documents in connection with each sale of the
5 bonds, may deem final any such offering document for purposes of compliance with federal laws
6 and regulations governing such matters and may authorize the distribution of the documents in
7 connection with the bonds being sold.

8 (c) The Mayor is authorized to deliver the executed and sealed bonds for authentication,
9 and, after the bonds have been authenticated, to deliver the Bonds to the original purchasers of the
10 bonds upon payment of the purchase price.

11 (d) The bonds shall not be issued until the Mayor receives an approving opinion from
12 bond counsel as to the validity of the bonds of such series and, if the interest on the bonds is
13 expected to be exempt from federal income taxation, the treatment of the interest on the bonds for
14 purposes of federal income taxation.

15 (e) The District of Columbia Procurement Practices Reform Act of 2010, effective
16 April 8, 2011 (D.C. Law § 18-723; D.C. Official Code § 2-351.01 et seq.) and subchapter III-A
17 of Chapter 3 of Title 47 of the District of Columbia Official Code shall not apply to any contract
18 the Mayor may from time to time enter into, or the Mayor may determine to be necessary or
19 appropriate, for purposes of this act.

20 Sec. 206. Financing and closing documents.

21 (a) The Mayor is authorized to prescribe the final form and content of all financing
22 documents and all closing documents that may be necessary or appropriate to issue, sell, and deliver
23 the bonds.

1 (b) The Mayor is authorized to execute the financing documents and any closing
2 documents by the Mayor's manual or facsimile signature.

3 (c) The Mayor's execution and delivery of the financing documents and the closing
4 documents to which the District is a party shall constitute conclusive evidence of the Mayor's
5 approval of the final form and content of the executed financing documents and the executed
6 closing documents.

7 (d) The Mayor is authorized to deliver the executed and sealed financing documents and
8 closing documents prior to or simultaneously with the issuance, sale, and delivery of the bonds, and
9 to ensure the due performance of the obligations contained in the executed, sealed, and delivered
10 financing documents and closing documents.

11 Sec. 207. Bonds not District liability.

12 (a) The bonds shall not constitute an indebtedness of the District. The bonds are not
13 general obligations of the District and are not secured by a pledge of or involve the faith and credit
14 or the taxing power of the District. The bonds are the special obligations of the District payable
15 solely from the DDOT Underground Electric Company Infrastructure Improvement Revenue.
16 Nothing contained in the bonds, or in the related financing documents and closing documents, shall
17 create an obligation on the part of the District to make payments with respect to the bonds from
18 sources other than the DDOT Underground Electric Company Infrastructure Improvement
19 Revenue. The bonds do not constitute lending of the public credit for private undertakings as
20 prohibited in section 602(a)(2) of the Home Rule Act. The bonds shall contain the legend required
21 by Section 204(b) of this act.

22 (b) No person, including, but not limited to any bondholder, shall have any claims
23 against the District or any of its elected or appointed officials, officers, employees, or agents for

1 monetary damages suffered as a result of the failure of the District to perform any covenant,
2 undertaking, or obligation under this act, the bonds, the financing documents, or the closing
3 documents, nor as a result of the incorrectness of any representation in or omission from the
4 financing documents or the closing documents.

5 (c) The District and the electric company shall take such actions as may be reasonably
6 necessary so that the bonds are not treated as debt on the electric company's books and records
7 under United States Generally Accepted Accounting Principles or by a major United States rating
8 agency, and the Commission shall not take any action or issue any order that may have a contrary
9 effect. Nothing contained in this act shall obligate the electric company to take any action or execute
10 any document that would have the effect of causing the bonds to be treated as debt on the electric
11 company's books and records under United States Generally Accepted Accounting Principles or by
12 a major United States Rating Agency.

13

14 Sec. 208. Legal investment.

15 The bonds shall be legal instruments in which public officers and public bodies of the
16 District, insurance companies, insurance company associations, and other persons carrying on an
17 insurance business, banks, bankers, banking institutions including savings and loan associations,
18 building and loan associations, trust companies, and other persons carrying on a banking business,
19 administrators, guardians, executors, trustees and other fiduciaries, and other persons authorized to
20 invest in bonds or other obligations of the District, may legally invest funds, including capital, in
21 their control. The bonds are also securities which legally may be deposited with and received by
22 public officers and public bodies of the District or any agency of the District for any purpose for
23 which deposit of bonds or other obligations of the District is authorized by law.

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Sec. 209. DDOT Underground Electric Company Infrastructure Improvement Revenue.

(a) The DDOT Underground Electric Company Infrastructure Improvement Revenue shall constitute an existing, present property right of the District. The District's property right in the DDOT Underground Electric Company Infrastructure Improvement Revenue shall not be affected by the fact that the collection and remittance to the trustee of DDOT Underground Electric Company Infrastructure Improvement Charges by the electric company in an agency capacity in accordance with the servicing agreement depends on the electric company continuing to provide electric distribution services to customers in the District or continuing to perform servicing functions relating to the collection of DDOT Underground Electric Company Infrastructure Improvement Charges. DDOT Underground Electric Company Infrastructure Improvement Revenue shall exist whether or not the DDOT Underground Electric Company Infrastructure Improvement Charges have been billed, have accrued or have been collected and notwithstanding the fact that the value or amount of the DDOT Underground Electric Company Infrastructure Improvement Revenue may be dependent on the electric company's provision of future service to its customers.

(b) All DDOT Underground Electric Company Infrastructure Improvement Revenue shall continue to be collected until the bonds have been paid in full and financing costs related to the bonds have been paid in full.

(c) All or any portion of the DDOT Underground Electric Company Infrastructure Improvement Revenue may be transferred or assigned by the District for the limited purpose of pledging the same as security for the repayment of bonds issued to provide financing for the DDOT Underground Electric Company Infrastructure Improvement Activities. All the DDOT

1 Underground Electric Company Infrastructure Improvement Revenue is pledged for the
2 repayment of such bonds or payment of financing costs. Any transfer, sale, conveyance,
3 assignment, or grant of security interest in or pledge of DDOT Underground Electric Company
4 Infrastructure Improvement Revenue shall not require authorization from the Commission.

5 (d) If the electric company defaults on any required remittance of DDOT
6 Underground Electric Company Infrastructure Improvement Revenue to the trustee, a court,
7 upon application of an interested party and without limiting any other remedies available to the
8 applying party, shall order the sequestration of the DDOT Underground Electric Company
9 Infrastructure Improvement Revenue with a trustee selected by the District for the benefit of the
10 District and the bondholders and any financing parties. The court's order shall remain in full
11 force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceeding
12 with respect to the electric company or any affiliate thereof.

13 (e) The DDOT Underground Electric Company Infrastructure Improvement Revenue
14 and the interests of the District, the bondholders, of any financing party therein are not subject to
15 setoff, counterclaim, surcharge, or defense by the electric company, any affiliate thereof, or any
16 other person or in connection with the bankruptcy, reorganization, or other insolvency
17 proceeding of the electric company, any affiliate thereof, or any other entity.

18 (f) Any successor to the electric company shall be bound by the requirements of this
19 section and shall perform and satisfy all obligations of, and have the same rights and obligations
20 as, the electric company under the financing order and this act in the same manner and to the
21 same extent as the electric company, including, without limitation, the obligation to collect the
22 DDOT Underground Electric Company Infrastructure Improvement Revenue and remit such
23 revenue to the trustee.

1 Sec. 210. District's interest in DDOT Underground Electric Company Infrastructure
2 Improvement Revenue.

3
4 The District's property ownership interest in the DDOT Underground Electric
5 Company Infrastructure Revenue shall be effective and perfected against all third parties and is
6 not affected or impaired by, among other things, the occurrence of any one or more of the
7 following:

8 (1) Comingling of DDOT Underground Electric Company Infrastructure
9 Improvement Charges or DDOT Underground Electric Company Infrastructure Improvement
10 Revenue with other amounts;

11 (2) Any recourse that the District may have against the electric company;

12
13 (3) The obligation of the electric company acting in an agency capacity in
14 accordance with the servicing agreement to collect DDOT Underground Electric Company
15 Infrastructure Improvement Revenue and to remit the DDOT Underground Electric Company
16 Infrastructure Improvement Revenue so collected to the trustee; and

17
18 (4) Any subsequent order of the Commission amending the financing order
19 pursuant to this act.

20
21 Sec. 211. Exemption from District taxes.

22 The imposition, collection, and receipt of DDOT Underground Electric Company
23 Infrastructure Improvement Charges are not subject to taxation by the District.

1 Sec. 212. Bonds not electric company liability.

2 The bonds shall not constitute an indebtedness of the electric company.

3 TITLE III. COMMISSION AUTHORIZATIONS

4 SUBTITLE A. FINANCING ORDERS.

5 Sec. 301. Commission authorizations.

6 (a) The Commission is authorized to issue and shall issue financing orders upon
7 application of the electric company. All financing orders, among their other provisions, will:

8 (1) Determine the DDOT Underground Electric Company Infrastructure
9 Improvement Annual Revenue Requirement necessary to pay the debt service on and retirement
10 of the bond issue that is the subject of the financing order together with the associated financing
11 cost; and

12 (2) Impose the DDOT Underground Electric Company Infrastructure
13 Improvement Charges on certain of the electric company's electric distribution service customers
14 in the District and require the electric company to collect and remit the resulting DDOT
15 Underground Electric Company Infrastructure Improvement Revenue in its entirety to the
16 trustee, as provided in section 201 of this act.

17 (b) The Commission is authorized, on its own motion or upon application by the
18 electric company, to amend a previously issued financing order so as to better facilitate the
19 collection of DDOT Underground Electric Company Infrastructure Improvement Charges, the
20 remittance of DDOT Underground Electric Company Infrastructure Improvement Revenues to
21 the trustee, or to address other provisions of the financing order that the Commission finds
22 necessary and appropriate to modify in order that the financing order, as amended, may further
23 the purposes of this act. Notwithstanding this authorization, no such amendment shall be

1 approved by the Commission if the amendment decreases the collection of, or imposes additional
2 risk of decreasing the collection of, the DDOT Underground Electric Company Infrastructure
3 Improvement Revenues below the DDOT Underground Electric Company Infrastructure
4 Improvement Annual Revenue Requirement.

5 Sec. 302. Application for financing order.

6 Within sixty (60) days from the effective date of this act, the District shall provide the
7 electric company with estimates of the DDOT Underground Electric Company Infrastructure
8 Improvement Annual Revenue Requirements that will enable the District to pay the debt service
9 and financing costs associated with bonds issued pursuant to this act and such other information
10 as may be in the possession of the District as may be necessary or reasonably desirable to submit
11 an application for a financing order. For good cause, the electric company and the District
12 mutually may agree upon a later date of delivery and shall jointly inform the Commission of
13 such agreement. Within thirty (30) days of the receipt of such estimates and information, the
14 electric company shall file for the Commission's consideration and decision, an application for a
15 financing order with respect to the repayment of bonds for DDOT Underground Electric
16 Company Infrastructure Improvement Activities to be funded pursuant to this act. The
17 financing order application, and all subsequent applications by the electric company for a
18 financing order, shall contain the following content:

19 (a) A statement from the District containing a description of the bond issue or issues,
20 including principal amount(s), expected financing costs, expected interest rate(s), forecasted
21 average term and retirement schedule, and estimates of the DDOT Underground Electric
22 Company Infrastructure Improvement Annual Revenue Requirements that will enable the

1 District to pay the debt service and financing costs associated with bonds issued pursuant to this
2 act;

3 (b) A calculation by the District of the estimated DDOT Underground Electric
4 Company Infrastructure Improvement Charges, the level of the expected charge by distribution
5 service customer class, and the calculated amount estimated to be sufficient to generate an
6 amount at least equal to the DDOT Underground Electric Company Infrastructure Improvement
7 Annual Revenue Requirement;

8 (c) The proposed methodology for allocating DDOT Underground Electric Company
9 Infrastructure Improvement Charges among the electric company's distribution service customer
10 classes subject to that allocation; and

11 (d) A proposed form of public notice of the application suitable for publication by the
12 Commission.

13 Sec. 303. Application to amend financing order.

14 An application by the electric company to the Commission to amend a previously issued
15 financing order shall contain the following content, which shall be provided to the electric
16 company by the District for inclusion in the application:

17 (a) A narrative description of the financing order sought to be amended, together with
18 the formal case number assigned by the Commission to the proceeding in which the financing
19 order was issued, the order number assigned by the Commission to the financing order, and the
20 issue date of the financing order;

21 (b) A description of the amendment sought, the reason(s) for the amendment and a
22 demonstration that the amendment, if granted in the form sought, will not impair the ability of
23 the electric company, acting in an agency capacity in accordance with the servicing agreement,

1 to collect and remit to the trustee DDOT Underground Electric Company Infrastructure
2 Improvement Revenue sufficient to meet the DDOT Underground Electric Company
3 Infrastructure Improvement Annual Revenue Requirement and any other evidence that approval
4 of the application would be in the public interest; and

5 (c) A proposed form of public notice of the application suitable for publication by the
6 Commission.

7 Sec. 304. Consideration of applications: financing order.

8 (a) Public notice. Before deciding upon an application for a financing order or an
9 application to amend a previously issued financing order, the Commission shall first publish
10 notice to the public of the application and provide for a period of no less than fourteen (14) days
11 for public comment and filing of motions to intervene. The electric company shall provide
12 notice of the application to its customers in the District as provided in D.C. Official Code § 34-
13 909 as that section may be hereafter amended or superseded.

14 (1) OPC, DDOT and the District shall be a party to the Commission proceeding on
15 the application, as a matter of right.

16 (2) Any other person desiring to be heard on the application shall file a motion to
17 intervene with the Commission requesting to be made a party to the proceeding. The applicant
18 and any party to the proceeding may file an answer to support or oppose the granting of such
19 motions. The Commission shall, by order, approve or deny the motion at its reasonable
20 discretion.

21 (b) Commission decision. The Commission shall decide upon an application for a
22 financing order based upon the pleadings in the matter and, if no protest or objections are filed in
23 response to the Commission's public notice of the application then, at its discretion, without a

1 hearing. A formal evidentiary hearing shall only be required if contested issues of material fact
2 are present and those issues cannot be resolved by the Commission on the basis of the pleadings
3 and discovery responses, if any, filed in the record of the matter. In its decision, the Commission
4 may approve, approve with conditions, modify or reject the application in whole or in part, as it
5 deems necessary and appropriate.

6 (c) Basis for Commission decision. The Commission is authorized to issue a
7 financing order if the Commission finds that the DDOT Underground Electric Company
8 Infrastructure Improvement Charges are just and reasonable.

9 (d) Issuance advice letter. The District shall file an issuance advice letter with the
10 Commission by 5:00 pm on the next business day after the sale of bonds authorized by the
11 Commission pursuant to a financing order. Such issuance advice letter shall describe the DDOT
12 Underground Electric Company Infrastructure Improvement Annual Revenue Requirement for
13 the bonds issued pursuant to the financing order, and the average term and retirement schedules.
14 Based on the information provided in the issuance advice letter, in the event the DDOT
15 Underground Electric Company Infrastructure Improvement Annual Revenue is less than the
16 estimated DDOT Underground Electric Company Infrastructure Improvement Annual Revenue
17 Requirement contained in the related financing order, the Commission shall adjust the DDOT
18 Underground Electric Company Infrastructure Improvement Charges.

19 (e) Effective billing date under financing order. No DDOT Underground Electric
20 Company Infrastructure Improvement Charges authorized by the Commission in a financing
21 order shall be billed by the electric company to customers prior to issuance of bonds by the
22 District pursuant to Title II of this act.

1 (f) Expedition. The Commission shall expedite its consideration of applications for,
2 or to amend, financing orders. The Commission shall issue its decision on the electric
3 company's application no later than sixty (60) days following closing of the period for public
4 comment upon the application; provided, however, that if a protest or objection to the application
5 is timely filed with the Commission and can be resolved without an evidentiary hearing, this
6 period for the Commission's decision is extended by an additional fifteen (15) days. The
7 computation of this time may be tolled, at the Commission's reasonable discretion, for periods in
8 which it determines the electric company's application is deficient. In the event that an
9 evidentiary hearing is required, the Commission shall issue a decision no more than sixty (60)
10 days following the close of the hearing record.

11 (g) Financial advisor. The Commission is authorized to retain the services of a
12 financial advisor to assist in its consideration of an application for, or to amend, a financing
13 order, and in the formulation and administration of a financing order. The fees of the financial
14 advisor in a reasonable amount shall be paid by the District from bond proceeds, but the District
15 shall have no responsibility for payments to the financial advisor from any other source.
16 Invoices by the financial advisor for such payments shall be tendered through the Commission,
17 which shall verify the content of the invoice before forwarding the invoice to the District for
18 payment. Payments made to the Financial Advisor for these services are deemed to be DDOT
19 Underground Electric Company Infrastructure Improvement Costs. Funds for payments to the
20 financial advisor by the Commission are to be sourced in a similar manner as other DDOT
21 Underground Electric Company Infrastructure Improvement Costs.

22 Sec. 305. Content of financing order.

1 (a) A financing order may set forth conditions or contingencies on the effectiveness
2 of the relief authorized therein and may grant relief that is different from that which was
3 requested in the application before the Commission. A financing order shall assess DDOT
4 Underground Electric Company Infrastructure Improvement Charges among the distribution
5 service customer classes of the electric company in accordance with the distribution service
6 customer class cost allocations approved by the Commission for the electric company and in
7 effect pursuant to the most recent base rate case as of the effective date of this act; provided,
8 however, that no such charges shall be assessed against the electric company's residential aid
9 discount customer class or any succeeding customer class approved by the Commission for the
10 purpose of providing economic relief to a specified low income customer class. DDOT
11 Underground Electric Company Infrastructure Improvement Charges shall be billed to customers
12 by the electric company as a volumetric surcharge.

13 (b) Descriptive material. The Commission shall include, at a minimum, the following
14 descriptive material in a financing order: the estimated cost of the DDOT Underground
15 Electric Company Infrastructure Improvement Activity; the estimated DDOT Underground
16 Electric Company Infrastructure Improvement Annual Revenue Requirement; the specification
17 of the DDOT Underground Electric Company Infrastructure Improvement Charges allocated
18 between the distribution service customer classes; and the period of time over which the DDOT
19 Underground Electric Company Infrastructure Improvement Charges are to be collected.

20 (c) Commission discovery. The Commission may require the District to file with the
21 Commission a periodic report describing the receipt of bond proceeds and disbursement of net
22 bond proceeds, and receipt and payment of DDOT Underground Electric Company Infrastructure

1 Improvement Revenue, a copy of which report shall be served upon OPC when filed with the
2 Commission.

3 Sec. 306. Irrevocability of financing order.

4 (a) A financing order is irrevocable and the Commission may not reduce, impair,
5 postpone, or terminate the DDOT Underground Electric Company Infrastructure Improvement
6 Charges approved in the financing order or impair the collection or recovery of the DDOT
7 Underground Electric Company Infrastructure Improvement Revenue below the level needed to
8 pay the DDOT Underground Electric Company Infrastructure Improvement Annual Revenue
9 Requirement or the requirements of the financing documents.

10 (b) A financing order may be amended after the date of the issuance of the bonds
11 only in accordance with any restrictions and limitations on amendment set forth in the financing
12 order and subject to the limitations set forth in subsection (a) and Section 303 of this act.

13 Sec. 307. Effect of financing order.

14 (a) A financing order shall remain in effect until the bonds have been paid in full and
15 all financing costs relating to the bonds have been paid in full.

16 (b) A financing order shall remain in effect and unabated notwithstanding the
17 bankruptcy, reorganization, or insolvency of the electric company or any affiliate thereof or the
18 commencement of any judicial or nonjudicial proceeding therefore.

19 (c) For so long as the bonds are outstanding and the related Electric Company
20 Infrastructure Improvement Costs and the related financing costs have not been paid in full, the
21 DDOT Underground Electric Company Infrastructure Improvement Charge shall be non-
22 bypassable and shall apply to all of the electric company's customers located within the District

1 and receiving electric distribution service, other than members of the electric company's
2 residential aid discount customer class or any succeeding discount customer class.

3 Sec. 308. Limitation on Commission action.

4 If the Commission issues or amends a financing order, the Commission in the exercise of
5 its powers and carrying out its duties, may not thereafter do any of the following:

6 (a) Consider the bonds described in the financing order to be the debt of the electric
7 company;

8 (b) Consider the DDOT Underground Electric Company Infrastructure Improvement
9 Charges approved in the financing order to be revenue of the electric company or the property or
10 an asset of the electric company, nor the payment of such collections to the trustee to be an
11 expense of the electric company; or

12 (c) Consider the DDOT Underground Electric Company Infrastructure Improvement
13 Costs or the financing or other costs incurred by the District in connection with bonds issued
14 under this act to be an obligation of the electric company or to be costs included in the cost of
15 service of the electric company.

16 SUBTITLE B. SELECTION AND CONSTRUCTION OF UNDERGROUND
17 INFRASTRUCTURE IMPROVEMENT PROJECTS.

18 Sec. 309. Underground infrastructure improvement projects plan.

19 (a) Within forty-five (45) days of the effective date of this act, and no later than
20 September 30, 2016, September 30, 2019, and September 30, 2022, the electric company and
21 DDOT shall jointly file with the Commission and concurrently serve upon the OPC an
22 application for approval of their triennial Underground Infrastructure Improvement Projects
23 Plan.

1 (b) The electric company and DDOT shall file, no later than September 30 of each year in
2 which an application for approval of a triennial Underground Infrastructure Improvements
3 Project Plan is not filed, a status report on the completion during the previous year and scheduled
4 completion during the next year of Electric Company Infrastructure Improvement Activity
5 contained in the current triennial Underground Infrastructure Improvement Projects Plan or an
6 amendment to an Underground Infrastructure Improvements Project Plan as approved by the
7 Commission pursuant to Section 312.

8 (c) As part of the initial application for approval of the triennial Underground
9 Infrastructure Improvement Projects Plan pursuant to subsection (a), the electric company shall
10 request authority to impose and collect specified Underground Project Charges from its electric
11 distribution service customers to recover the Electric Company Infrastructure Improvement
12 Costs associated with the Underground Infrastructure Improvement Projects Plan.

13 Sec. 310. Content of application and plan.

14 An application to the Commission by the electric company and DDOT for approval of the
15 triennial Underground Infrastructure Improvement Projects Plan shall include the following:

16 (a) Ranking reliability performance of individual feeders.

17 (1) A measurement and ranking of the reliability performance of each of the
18 electric company's overhead and combined overhead-underground mainline primary and lateral
19 feeders in the District over the preceding three years, using the primary selection criteria set forth
20 in subsection (b); and

21 (2) On the basis of the foregoing rankings, an identification of the electric
22 company's recommended selection of mainline primary and lateral feeders that will utilize
23 DDOT Underground Electric Company Infrastructure Improvements identified in the plan.

1 (b) Primary selection criteria. With respect to all sustained interruptions (inclusive of
2 major service outages and District major event days) occurring on each overhead and combined
3 overhead-underground mainline primary and lateral feeder circuits in the District, the most
4 recent three calendar years average of the following, weighted equally:

- 5 (1) Number of outages per feeder;
- 6 (2) Duration of the outages occurring on the feeder; and
- 7 (3) Customer minutes of interruption on the feeder.

8 (c) Additional content to be included in the plan by the electric company. In addition
9 to the measurements, rankings and selections as required by subsection (b), the Underground
10 Infrastructure Improvements Projects Plan shall include for each mainline primary and lateral
11 feeder recommended by the electric company to be placed underground an identification and
12 description of the:

- 13 (1) Feeder number;
- 14 (2) Feeder location(s) (by street address, Ward, and neighborhoods);
- 15 (3) Overhead electrical cables, fuses, switches, transformers, and ancillary
16 equipment, including poles, to be relocated underground or removed;
- 17 (4) Overhead primary and lateral feeders that are currently located parallel to
18 the selected primary and lateral feeders that the electric company recommends to be placed
19 underground;
- 20 (5) Overhead secondary feeder circuits and ancillary facilities, and
21 telecommunications and cable television cables and ancillary aboveground equipment, including
22 poles, that will not be relocated underground or removed;

1 (6) Proposed Electric Company Infrastructure Improvements and DDOT
2 Underground Electric Company Infrastructure Improvements funded by DDOT Underground
3 Electric Company Infrastructure Improvement Charges;

4 (7) New distribution automation devices and segmentation capability to be
5 obtained thereby;

6 (8) Interties that will enable the feeder to receive power from multiple
7 directions or sources;

8 (9) Capability to meet current load and future load projections;

9 (10) Estimated construction duration and projected in-service date. Within
10 ninety (90) days after the Underground Infrastructure Improvements Projects Plan is approved by
11 the Commission, the electric company and DDOT shall identify the estimated start date and
12 projected end date for each project approved in the plan. In determining the construction start
13 date and projected construction end date, the electric company and DDOT shall consider the
14 following secondary criteria:

15 (A) The ability to coordinate the Electric Company Infrastructure
16 Improvement Activities with DDOT roadwork and other projects that involve disruption to and
17 subsequent restoration of road surface or otherwise impede the flow of traffic along the roadway
18 where the undergrounding work is to occur; and

19 (B) The estimated economic value or other benefits to be gained by the
20 electric company's customers from the projected reductions in outage frequencies and durations
21 when the Electric Company Infrastructure Improvements are completed; and

22 (11) For Electric Company Infrastructure Improvement Activity involving a
23 cross-jurisdictional feeder circuit, a showing of the means by which the electric company has

1 storm-hardened its distribution system or has otherwise improved the resilience of service to its
2 District customers on the cross-jurisdictional feeder with respect to major service outage events
3 occurring outside the District's boundaries on the portion of the cross-jurisdictional feeder
4 located outside of the District.

5 (d) Additional content to be included in application by the electric company and
6 DDOT. The electric company and DDOT shall include the following information for the
7 Underground Infrastructure Improvements Project Plan in the application:

8 (1) An itemized estimate of the project plan's Electric Company Infrastructure
9 Improvement Costs and the proposed Underground Project Charges for the costs shown;

10 (2) An itemized estimate of the DDOT Underground Electric Company
11 Infrastructure Improvement Costs;

12 (3) An assessment of potential obstacles to timely completion of a project,
13 including, but not limited to, the need to obtain environmental or other permits or private
14 easements, the existence of historically sensitive sites, required tree removal, and significant
15 traffic disruptions.

16 (4) A description of the efforts taken to identify District residents to be
17 employed by the electric company and DDOT contractors during the construction of the DDOT
18 Underground Electric Company Infrastructure Improvements and the Electric Company
19 Infrastructure Improvements contained in the annual Underground Infrastructure Improvement
20 Projects Plan;

21 (5) An explanation of the availability of alternate funding sources, if any, for
22 relocation of the overhead equipment and ancillary facilities that will utilize DDOT Underground

1 Electric Company Infrastructure Improvements, such as contributions in aid of construction,
2 grant of federal highway or economic development funds, and other sources;

3 (6) An exhibit setting forth the proposed Underground Project Charges,
4 workpapers calculating the derivation of these charges, the proposed allocation of billing
5 responsibility among the electric company's distribution service customer classes for the
6 Underground Project Charges, and a worksheet depicting the projected total expenses; capital
7 costs; depreciation expenses; annual revenue requirement, rate of return on equity, as set by the
8 Commission in the most recently decided rate base case; and allocation of billing responsibility
9 utilized in these calculations. This exhibit is also to include the proposed accounting treatment
10 for the costs to be recovered through these charges, such that no costs recovered through
11 Underground Project Charges will also be afforded rate base or other treatment which would
12 incorporate recovery of Underground Project Charges into the design of the electric company's
13 base tariff rates until such time as the electric company shall request the transfer of these costs
14 into rate base and the discontinuance of the costs being recovered in the Underground Project
15 Charge ;

16 (7) Such other information as the electric company or DDOT concludes may
17 be material to the Commission's consideration of the application;

18 (8) Identification and contact information of one or more individuals who may
19 be contacted by the Commission with formal or informal requests for clarification of any
20 material set forth in the application, or formal or informal requests for additional information;
21 and

22 (9) A proposed form of public notice of the application suitable for
23 publication by the Commission.

1 (e) Waivers. Notwithstanding the primary selection criteria set forth in subsection
2 (b), the Commission may, on its own motion or upon request by the electric company, OPC, or
3 any other party, waive the application of these criteria as to the selection of a particular mainline
4 primary and lateral feeder when to do so is required to relieve an emergency or to correct or
5 forestall a gross inequity or disparity in the customer impacts associated with past, current or
6 anticipated electric distribution service outages or when actual field conditions or coordination
7 with other projects or such other considerations as the Commission may find reasonable justify
8 modification of selection criteria.

9 (f) Exception. Notwithstanding the foregoing, nothing in this section shall require an
10 electric company to obtain Commission authorization to construct and operate new underground
11 electric plant, or impair the Commission's authority to determine just and reasonable rates with
12 respect to the electric company's recovery of costs associated with the construction and
13 operation of such underground electric plant, including capital costs, when such costs are to be
14 recovered through rates, as approved by the Commission pursuant to D.C. Official Code §34-901
15 *et seq.*, and not through the DDOT Underground Electric Utility Infrastructure Improvement
16 Charges or Underground Project Charges.

17 Sec. 311. Consideration of triennial Underground Infrastructure Improvement Projects
18 Plan.

19 (a) Public notice. Before deciding upon an application for an order approving the
20 triennial Underground Infrastructure Improvement Projects Plan, the Commission shall first
21 publish notice to the public of the application and provide for a period of no less than sixty (60)
22 days for public comment and filing of motions to intervene. The electric company shall provide

1 notice of the application to its customers in the District as provided in D.C. Official Code § 34-
2 909 as that section may be hereafter amended or superseded.

3 (1) OPC, DDOT and the District each shall be a party to the Commission
4 proceeding on the application, as a matter of right.

5 (2) Any other person desiring to be heard on the application shall file a
6 motion to intervene with the Commission requesting to be made a party to the proceeding. The
7 applicant and any party to the proceeding may file an answer to support or oppose the granting of
8 such motions. The Commission shall, by order, approve or deny the motion at its reasonable
9 discretion.

10 (b) Discovery process. Within thirty (30) days of the effective date of this act, the
11 Commission shall issue an order establishing an expedited discovery schedule that shall be used
12 in all proceedings commenced following the filing of an application for approval of a triennial
13 Underground Infrastructure Improvement Projects Plan pursuant to Section 309. The period for
14 discovery shall commence on the date that the application is filed with the Commission and shall
15 continue for sixty (60) days thereafter, provided that the Commission, in its discretion, may toll
16 the time for periods in which it determines that a party has not complied with the discovery rules
17 established pursuant to this section. Any Commission order extending the sixty (60) day
18 discovery time period shall also provide for an extension of equal length to the deadline for
19 public comments on the application. The discovery process established by the Commission
20 pursuant to this section shall provide for submission of information requests and reasonable
21 periods for responses on shortened timelines consistent with the 60-day discovery period and the
22 use of all reasonable procedures for expediting the discovery process, such as discovery
23 conferences. The discovery process shall: (i) permit parties to such proceedings to inspect all

1 relevant data, documents, studies, analyses, and workpapers that form the basis of the triennial
2 Underground Infrastructure Improvement Projects Plan , and any revenue requirements or
3 charges provided therein; and (ii) afford parties the rights provided under Chapter 1 of Title 15 of
4 the District of Columbia Municipal Regulations, as that Title may be amended from time to time,
5 in a manner consistent with the expedited discovery process.

6 (c) Commission decision. The Commission shall decide upon an application for an
7 order approving a triennial Underground Infrastructure Improvement Projects Plan based upon
8 the pleadings in the matter and, if no protests or objections are filed in response to the
9 Commission’s public notice of the application then, at its discretion, without a hearing. A formal
10 evidentiary hearing shall be required if contested issues of material fact are present and those
11 issues cannot be resolved by the Commission on the basis of the pleadings and discovery
12 responses, if any, filed in the record of the matter. The Commission shall, in addition to any
13 other hearing or procedures, convene a public community hearing in order to receive the
14 testimony and comments of the public. In its decision, the Commission may approve, approve
15 with conditions, or reject the application in whole or in part, as it deems necessary and
16 appropriate.

17 (d) Expedition. The Commission shall expedite its consideration of applications
18 seeking an order approving a triennial Underground Infrastructure Improvement Projects Plan.
19 The Commission shall issue its decision on the application no later than forty five (45) days
20 following the deadline for public comment on the application; provided, however, that if a
21 protest or objection to the application is timely filed with the Commission and can be resolved
22 without an evidentiary hearing, this period for the Commission’s decision is extended by an
23 additional fifteen (15) days. The computation of this time may be tolled, at the Commission’s

1 discretion, for periods in which it determines the electric company and DDOT joint application is
2 deficient. In the event that an evidentiary hearing is required, the hearing shall, in the
3 Commission's discretion and based upon the Commission's evaluation of all relevant factors,
4 commence on the date set by the Commission and be concluded within forty five (45) days after
5 the close of discovery and the Commission shall issue a decision no more than sixty (60) days
6 following the close of the hearing record.

7

8 Sec. 312. Commission order.

9 (a) Approval or denial of application and Underground Infrastructure Improvement
10 Projects Plan. Upon making the findings described in subsection (b), the Commission shall issue
11 an order approving or denying the application and triennial Underground Infrastructure
12 Improvement Projects Plan to authorize the proposed DDOT Underground Electric Company
13 Infrastructure Improvement Activity, Electric Company Infrastructure Activity, and the
14 subsequent imposition of Underground Project Charges. The Commission shall have the
15 authority to impose in its order and to condition the electric company's exercise of the rights
16 granted therein on such reasonable terms and conditions as it determines are required to further
17 the purposes of this act. If the Commission denies all or part of a triennial Underground
18 Infrastructure Improvement Project Plan or related cost recovery, the electric company shall be
19 allowed to recover all prudent and reasonable expenses and costs associated with the
20 development of the Underground Infrastructure Improvement Projects Plan including
21 preliminary engineering design work required to fulfill the requirements of the application in its
22 Underground Project Charge.

23 (b) Required findings.

1 (1) The electric company’s application satisfies the applicable requirements of
2 section 310;

3 (2) The proposed Electric Company Underground Infrastructure
4 Improvements are appropriately designed and located;

5 (3) The intended reliability improvements will accrue to the benefit of the
6 electric company’s customers;

7 (4) The projected costs associated with the proposed Electric Company
8 Underground Infrastructure Improvement Activity are prudent;

9 (5) The projected DDOT Underground Electric Company Infrastructure
10 Improvement Costs funded by DDOT Underground Electric Company Infrastructure
11 Improvement Charges are prudent;

12 (6) The electric company’s proposed Underground Project Charges will be
13 just and reasonable; and

14 (7) Grant of the authorizations and approvals sought by the electric company
15 and DDOT in their joint application is otherwise in the public interest.

16 (c) In addition to such other terms and conditions deemed necessary and appropriate
17 by the Commission, the Commission order shall include the following:

18 (1) Authorization for the electric company to impose and collect the
19 Underground Project Charges from its distribution service customers in the District in
20 accordance with the distribution service customer class cost allocations approved by the
21 Commission for the electric company and in effect as of the effective date of this act: provided,
22 however, that no such charges shall be assessed against customers served under the electric
23 company’s residential aid discount or a succeeding discount program;

1 (2) Authorization for the electric company to bill the Underground Project
2 Charges to customers as a volumetric surcharge;

3 (3) Approval of the annual revenue requirement, which shall include the rate
4 of return on equity as set by the Commission in the most recently decided rate base case, used in
5 calculating the Underground Project Charges;

6 (4) A description of the frequency of project construction update reports for
7 the DDOT Underground Electric Company Infrastructure Improvements funded by DDOT
8 Underground Electric Company Infrastructure Improvement Charges and the Electric Company
9 Infrastructure Improvements as set forth in the triennial Underground Infrastructure
10 Improvement Projects Plan, as approved by the Commission, to be filed by the DDOT and the
11 electric company with the Commission and with a copy concurrently served upon OPC.

12 (d) Notwithstanding the foregoing, the Commission shall have no authority to issue
13 any order that would cause the total amount of Electric Company Infrastructure Improvements
14 Costs recovered through Underground Project Charges to exceed Five Hundred Million Dollars
15 (\$500,000,000); provided that such limit would not apply to the recovery of the electric
16 company's rate of return, as approved by the Commission, included in the calculation of the
17 Underground Project Charges.

18 Sec. 313. Use of DDOT Underground Electric Company Infrastructure Improvements.

19 (a) Upon completion of construction by DDOT and acceptance by the electric company,
20 the District shall transfer legal title to the DDOT Underground Electric Company Infrastructure
21 Improvements to the electric company for the sum of One Dollar (\$1.00). DDOT Underground
22 Electric Company Infrastructure Improvements shall be for the exclusive use by the electric
23 company. The electric company shall not earn a return on or of investment with respect to the

1 DDOT Underground Electric Company Infrastructure Improvements transferred to the electric
2 company as provided in this section 313. Taxes and fees, if any, on the transfer shall be
3 recoverable by the electric company in rates as approved by the Commission.

4 (b) Section 3302.8 of Title 24 of the District of Columbia Municipal Regulations is
5 amended to insert the following phrase after the word “occupied” “; provided, that the rental fees
6 for such aerial wires that are relocated to conduits or pipes which are DDOT Underground
7 Electric Company Infrastructure Improvements (“ECII Conduit”) transferred pursuant to section
8 313 of the Electric Company Infrastructure Improvement Financing Act of 2013 (“ECIIF Act”)
9 shall, during the time period between the initial and final transfer of ECCI Conduit transferred
10 pursuant to section 313 of the ECIIF Act, be charged in the same manner and at the same rate as
11 if they were aerial wires under section 3302.9 and that for the same time period between the
12 initial and final transfer noted above the ECII Conduit shall not be subject to the conduit charge
13 provided for in this section.”

14 Sec. 314. Content of an application to amend an Underground Infrastructure
15 Improvement Projects Plan.

16 An application to the Commission by the electric company and/or DDOT to amend an
17 existing Underground Infrastructure Improvement Projects Plan, approved by the Commission
18 pursuant to section 312, shall describe the purpose(s) to be accomplished by the proposed
19 amendment, the financial impacts, if any, to the electric company’s customers that are likely to
20 result from the amendment, if approved, and is to include each item set forth in section 310;
21 provided, however, for good cause shown in its application, the electric company may omit the
22 material required in one more of the items listed in section 310.

23 Sec. 315. Application to amend order authorizing Underground Project Charges.

1 An application to amend an existing Commission order authorizing the electric company
2 to impose and collect Underground Project Charges shall describe the purpose(s) to be
3 accomplished by the proposed amendment, the financial impacts, if any, to the electric
4 company's customers that are likely to result from the amendment, if approved, and shall include
5 each item set forth in subsection 310 (d). The application to amend shall apply only to future
6 Underground Project Charges and any approval of an application shall allow for recovery by the
7 electric company through Underground Project Charges of any prudent and reasonable expenses
8 or costs for any project previously approved by the Commission.

9 Sec. 316. Application for approval of annual adjustment of DDOT Underground Electric
10 Company Infrastructure Improvement Charges and Underground Project Charges.

11 (a) No later than January 30 of each year (1) following issuance of a financing order
12 authorizing the imposition and collection of DDOT Underground Electric Company
13 Infrastructure Improvement Charges and so long as such financing order remains in effect, the
14 electric company shall file with the Commission an application for approval of the electric
15 company's proposed adjustment to set the DDOT Underground Electric Company Infrastructure
16 Improvement Charges to be imposed upon the Commission's approval of the adjustment until
17 the next proposed adjustment is approved by the Commission and (2) following issuance of an
18 order authorizing the imposition and collection of Underground Project Charges and for as long
19 as such order remains in effect, the electric company shall file with the Commission an
20 application for approval of the electric company's proposed adjustment to set the Underground
21 Project Charges to be imposed upon the Commission's approval of the adjustment until the next
22 proposed adjustment is approved by the Commission, except that the Commission may approve
23 any such adjustment sooner in an order approving a triennial Underground Infrastructure

1 Improvement Projects Plan. Notwithstanding the provisions of this section, in the event the
2 initial issuance of bonds pursuant to this act is after August 1 of a calendar year, the electric
3 company's first application for approval of the proposed adjustment to set the DDOT
4 Underground Electric Company Infrastructure Improvement Charges shall not be required until
5 January 30 of the second calendar year following the issuance date of such bonds. The preceding
6 sentence shall apply only to the initial issuance of bonds pursuant to this act and not to any
7 subsequent issuance of bonds.

8 (b) Concurrent with filing an application for approval of an annual adjustment that
9 would adjust the level and, if applicable, the allocation between distribution service customer
10 classes of the DDOT Underground Electric Company Infrastructure Improvement Charges or
11 Underground Project Charges, the electric company shall provide notice to its customers of the
12 application, in the manner provided in D.C. Official Code § 34-909.

13 (c) Content of Application. An application filed pursuant to this section shall
14 include, at a minimum, a narrative description of the proposed adjustments, a proposed form of
15 public notice of the application suitable for publication by the Commission and the following, as
16 applicable:

17 (1) With respect to an application regarding DDOT Underground Electric
18 Company Infrastructure Improvement Charges based on information provided by the District:

19 (i) The methodology for the allocation of DDOT Underground
20 Electric Company Infrastructure Improvement Charges among the electric company's
21 distribution service customer classes;

22 (ii) Billing and collection data demonstrating that the proposed
23 adjustment will generate payments that correspond to the DDOT Underground Electric

1 Company Infrastructure Improvement Annual Revenue Requirement, as increased or decreased
2 to match the prior calendar year's under-collection or over-collection of the DDOT Underground
3 Electric Company Infrastructure Improvement Annual Revenue Requirement;

4 (iii) A demonstration that the proposed adjustment will result in neither
5 a net over-collection nor under-collection of the actual total expenses, capital costs, depreciation
6 expenses, and annual revenue requirement related to the calculations set forth pursuant to
7 subsection (c)(1)(ii); and

8
9 (iv) Accounting workpapers depicting the electric company's prior year's receipts and
10 disbursements of DDOT Underground Electric Company Infrastructure Improvement Revenue.

11 (2) With respect to an application regarding Underground Project Charges:

12 (i) A description of the Electric Company Infrastructure Improvement
13 Activity initiated and/or completed during the previous calendar year, the costs of which are to
14 be recovered through the Underground Project Charges as approved by a Commission order,
15 issued pursuant to section 312;

16 (ii) The estimated cost of the Electric Company Infrastructure Improvement
17 Activity;

18 (iii) A calculation or re-calculation of the electric company's annual revenue
19 requirement to take into account the effects of accumulated depreciation and changes as to any
20 cost component due to the adoption of new base tariff rates in the prior calendar year as well as
21 any actual or estimated under-collection or over-collection;

1 (iv) A demonstration that the Underground Project Charges, authorized
2 pursuant to section 312, are calculated to meet the electric company's annual revenue
3 requirement for Electric Company Infrastructure Improvement Costs ;

4 (v) The methodology for the allocation of Underground Project Charges among
5 the electric company's distribution service customer classes;

6 (vi) The period of time over which the Underground Project Charges are to be
7 collected; and

8 (vii) Accounting workpapers showing the electric company's prior year's
9 receipts and disbursements of Underground Project Charges.

10
11 (d) Protests.

12 (1) Protests may be filed in opposition to the electric company's application to
13 adjust the DDOT Underground Electric Company Infrastructure Improvement Charges or the
14 Underground Project Charges within ten (10) days of the publication of the public notice.
15 However, protests shall be limited to the mathematical accuracy of the electric company's
16 calculations in determining the amount of the adjustment and whether the adjustment, including
17 the allocation of billing responsibility, is consistent with the underlying order authorizing the
18 imposition and collection of DDOT Underground Electric Company Infrastructure Improvement
19 Charges or Underground Project Charges, as most recently amended by the Commission.

20 (2) If a timely protest is filed objecting to the proposed adjustment of the
21 DDOT Underground Electric Company Infrastructure Improvement Charges or the Underground
22 Project Charges, the Commission shall rule upon the protest no later than twenty (20) days from
23 the date of the publication of the public notice.

1 (e) Effective date. The proposed adjusted DDOT Underground Electric Company
2 Infrastructure Improvement Charges or Underground Project Charges shall take effect, subject to
3 refund and adjustment, on the date of filing with the Commission. Should no objection be
4 timely filed, or having been timely filed, is denied by the Commission, whether by operation of
5 law or by ruling, the proposed charges shall become final and no longer subject to refund or
6 adjustment on the date for a final decision set forth in subsection (f), unless the Commission
7 rules otherwise before such date.

8 (f) Commission decision.

9 (1) The Commission shall decide upon an uncontested annual adjustment
10 application within forty-five (45) days from the date filed. In the event a protest is filed, the time
11 for the Commission's decision is extended by thirty (30) days. Notwithstanding the foregoing, if
12 the Commission does not issue a final decision within the time allowed in this subsection, the
13 proposed DDOT Underground Electric Company Infrastructure Improvement Charges and
14 Underground Project Charges are deemed approved by operation of law and the charges shall be
15 deemed final, as of the date filed.

16 (2) The Commission's decision in an annual adjustment proceeding shall not
17 re-open or otherwise serve to amend, modify or otherwise alter in any fashion a previously
18 issued financing order authorizing the imposition and collection of DDOT Underground Electric
19 Company Infrastructure Improvement Charges or order authorizing the imposition and collection
20 of Underground Project Charges or amendments thereto.

21 SUBTITLE C. EXPEDITION; RECONSIDERATION; JUDICIAL REVIEW; REVIEW
22 AND ANALYSIS.

1 Sec. 317. Expedition. The Commission shall expedite its consideration of applications
2 pursuant to sections 310, 314, 315, and 316 of this act. In proceedings to consider such
3 applications, the Commission's decision is to issue no later than one hundred twenty (120) days
4 following closing of the period for public comment upon the application; provided, however, that
5 if a protest or objection to the application is timely filed with the Commission, this period for the
6 Commission's decision is extended by forty-five (45) days. When calculating the time required
7 to issue its decision, the Commission may omit any time interval for which it has determined the
8 application to be deficient and in which a formal request for material to cure that deficiency was
9 pending.

10 Sec. 318. Reconsideration of Commission orders.

11 The Commission shall, within one hundred twenty (120) days from enactment of this act,
12 amend its rules of practice and procedure to establish rules to expedite the reconsideration of any
13 Commission order that will be issued to decide a matter put before it pursuant to Title III of this
14 act.
15

16 Sec. 319. Judicial review of Commission orders.

17 A financing order, an order amending a financing order, an order approving an
18 Underground Infrastructure Improvement Projects Plan, an order amending an Underground
19 Infrastructure Improvement Projects Plan, or an order approving an annual adjustment to the
20 DDOT Underground Electric Company Infrastructure Improvement Charges or the Underground
21 Project Charges are each a final order of the Commission. Any party aggrieved by the issuance
22 of a Commission order issued pursuant to the provisions of this act may appeal to the District of
23 Columbia Court of Appeals in accordance with D.C. Code sections 34-605, *et seq.* The Court of

1 Appeals shall proceed to hear and determine the appeal as expeditiously as practicable and give
2 the appeal precedence over other matters not accorded similar precedence by law.

3 Sec. 320. Review and Analysis.

4 (a) Reports.

5 (1) By December 31, 2019, The Mayor, the Commission, the OPC, and the
6 electric company shall issue written reports to the Council that:

7 (A) Evaluate the effectiveness of the DDOT Underground Electric Company
8 Infrastructure Improvement Activity and the Electric Company Infrastructure Improvement Activity
9 in improving the reliability of electric power distribution service and reducing the frequency of
10 electric power outages;

11 (B) Evaluate the impact of the DDOT Underground Electric Company Infrastructure
12 Improvement Activity and the Electric Company Infrastructure Improvement Activity on tree
13 canopy;

14 (C) Evaluate the impact of the DDOT Underground Electric Company Infrastructure
15 Improvement Charges and the Underground Project Charges on the electric company's residential
16 customers weighing the cost implications of the Underground Project Charge compared to the
17 savings to the customers from improved reliability and the cost reductions from reducing overhead
18 line maintenance and vegetation management;

19 (D) Provide recommendations regarding whether the Council should authorize the
20 issuance, sale and delivery of bonds at an amount above the limit set forth in Section 202(a) of
21 this act, provided that the electric company and the Mayor agree to an adjustment in the level of
22 financing; adjust the limit of the electric company's investment to be recovered through the
23 Underground Project Charges; and expand the undergrounding of feeders to include all or a

1 portion of the remaining overhead mainline primary and lateral feeders or other alternatives such
2 as to begin full undergrounding of feeders pursuant to amended selection criteria, relative to the
3 primary and secondary selection criteria which is set forth in Section 310(b) and (c).

4 (2) By December 31, 2027, The Mayor, the Commission, the OPC, and the
5 electric company shall issue written reports to the Council that:

6 (A) Evaluate the effectiveness of the DDOT Underground Electric Company Infrastructure
7 Improvement Activity and the Electric Company Infrastructure Improvement Activity in improving
8 the reliability of electric power distribution service and reducing the frequency of electric power
9 outages;

10 (B) Evaluate the impact of the DDOT Underground Electric Company Infrastructure
11 Improvement Activity and the Electric Company Infrastructure Improvement Activity on tree
12 canopy;

13 (C) Evaluate the impact of the DDOT Underground Electric Company Infrastructure
14 Improvement Charges and the Underground Project Charges on the electric company's residential
15 customers weighing the cost implications of the Underground Project Charge compared to the
16 savings to the customers from improved reliability and the cost reductions from reducing overhead
17 line maintenance and vegetation management;

18 (D) Provide recommendations regarding whether the Council should authorize the
19 issuance, sale and delivery of additional bonds, provided that the electric company and the
20 Mayor agree to an adjustment in the level of financing; adjust the limit of the electric company's
21 investment to be recovered through the Underground Project Charges; expand the
22 undergrounding of overhead feeders to include the secondary lines pursuant to new primary and
23 secondary selection criteria to be established at that time; and expand the undergrounding of

1 overhead feeders to include all secondary and service electric power lines and the removal of
2 associated poles.

3 (b) Public hearings. The Council shall conduct a community briefing and public hearing
4 in each quadrant of the District regarding the reports, findings and recommendations that were
5 filed pursuant to subsection (a) within ninety (90) days of the filing of such reports.

6

7 TITLE IV. COMMISSION AND OPC FUNDING; COMMISSION RULES AND
8 REGULATIONS; FISCAL IMPACT STATEMENT; SEVERABILITY; EFFECTIVE DATE

9 Sec. 401. Commission and OPC funding.

10 The costs to be incurred by the Commission and the OPC, respectively, with respect to
11 the implementation, administration and enforcement of this act and any proceedings thereunder
12 constitute expenses that are recoverable from the Public Service Commission Agency Fund and
13 the Office of People’s Counsel Agency Fund, as provided by D.C. Official Code §34-912. For
14 the purpose of funding the participation of OPC in the proceedings provided for by this act and
15 in light of the expedited nature of those proceedings, it is necessary to ensure that OPC has
16 available at the commencement of those proceedings the funds necessary for its participation in
17 those proceedings. In order to effect this result, any proceedings for which a commencement date
18 or timeline is specified by this act shall be deemed to begin for purposes of D.C. Official Code
19 §34-912(a)(2) no less than sixty (60) days prior to the date specified by this act for
20 commencement of such proceedings.

21 Sec. 402. Commission rules and regulations.

1 Nothing in this act shall be construed to limit the Commission’s authorization under D.C.
2 Official Code § 34-802 (1981 Ed.) to adopt rules and regulations consistent with the provisions
3 of this act.

4 Sec. 403__Waiver of certain permitting fees; acceptance of bonds in lieu of cash deposits.

5
6 (a) A Public Inconvenience Fee and steel plate fee shall not apply to Electric
7 Company Infrastructure Improvement Activity for the first sixty (60) days of construction and
8 installation of Electric Company Infrastructure Improvements in the applicable portion or
9 segment of the public space or public right of way where the Electric Company Infrastructure
10 Improvements are being constructed and installed.

11 (b) The electric company may submit a bond to DDOT in lieu of a cash deposit for
12 any Electric Company Infrastructure Improvement Activity that is subject to a public
13 space permit.

14 Sec. 404. Fiscal impact statement.

15 The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal
16 impact statement required by section 602(c)(3) of the Home Rule Act, approved December 24,
17 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

18 Sec. 405. Severability.

19 As provided in the General Rule of Severability Adoption Act of 1983, effective March
20 14, 1984 (D.C. Law § 5-56; D.C. Official Code § 45-201), if any provision of this act or the
21 application of this act to any person or circumstance is held to be unconstitutional or beyond the
22 statutory authority of the Council, or otherwise invalid, the invalidity of such provision shall not
23 affect other provisions or applications of the act that can be given effect without the invalid
24 provision or application, and to this end the provisions of this act are declared to be severable.

1 Sec. 406. Effective date.

2 This act shall take effect following approval by the Mayor (or in the event of veto by the
3 Mayor, action by the Council to override the veto), and a 30 day period of Congressional review
4 as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental
5 Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02
6 (c) (2)), and publication in the District of Columbia Register.

7