

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF CONTRACTING AND PROCUREMENT



PUBLIC HEARING ON
Bill 23-135, the “Power Line Undergrounding Program Certified Business Enterprise
Utilization Amendment Act of 2019”

Testimony of
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Before the
Committee on Business and Economic Development
Council of the District of Columbia
The Honorable Kenyan R. McDuffie, Chairman

John A. Wilson Building
Room 412
1350 Pennsylvania Avenue, NW
Washington, DC 20004
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10:00 AM

Good morning, Chairman McDuffie, and members of the Committee on Business and Economic Development. I am George Schutter, the Chief Procurement Officer of the District of Columbia and Director of the Office of Contracting and Procurement. Today, I am pleased to offer testimony on Bill 23-135, the “Power Line Undergrounding Program Certified Business Enterprise Utilization Amendment Act of 2019.”

THE NEED FOR BILL 23-135, THE “POWER LINE UNDERGROUNDING PROGRAM CERTIFIED BUSINESS ENTERPRISE UTILIZATION AMENDMENT ACT OF 2019”

The District’s powerline undergrounding program (DC PLUG) is a cooperative multi-year infrastructure improvement program between the District Government and PEPCO that will strategically migrate up to 30 of the District’s most vulnerable overhead distribution lines (or feeders) underground. The DC PLUG program is broadly segmented into three biennial plans. Each biennial plan contains individual feeder projects that, in addition to the procurement of their physical construction, also require the procurement of architectural/engineering services for the project’s design, as well as construction management services. It is for the procurement of these architecture/engineer services that the PLUG CBE Utilization Act is necessary.

Under District procurement law, architectural/engineering services must be procured through a qualification-based selection process, whereby architectural/engineering firms are ranked solely on their professional qualifications without regard of other factors, such as price or CBE points. This method of procuring architectural/engineering services is required by section 604 of the Procurement Practices Reform Act and was modeled from the federal Brooks Act, which also requires that firms be ranked only according to their qualifications. The District is, therefore, precluded from setting aside any architectural/engineering service contracts, or otherwise giving preference to certified business enterprises, rendering the program’s goal that “100% of the

construction contracts are awarded to District businesses, where qualified to perform such work”¹ impossible to attain.

The “Power Line Undergrounding Program Certified Business Enterprise Utilization Amendment Act of 2019” remedies this inconsistency by clarifying that, with regard to DC PLUG architectural/engineering service contracts, the District can set aside contracts for certified business enterprises or certified joint ventures, as well as consider preference points in a contract award. This change in the law would give OCP the flexibility to maximize CBE participation in the DC PLUG program, giving District businesses a better chance of providing architecture/engineer services in their own community.

CURRENT STATUS OF PLUG PROCUREMENTS

As I mentioned earlier, the DC PLUG program consists of three successive biennial plans, each of which is comprised of individual projects with construction, design, and project management elements. The District is currently in the first biennial plan, which consists of undergrounding six feeders in wards 3, 4, 5, 7, and 8. A construction and construction management contract for the first feeder designated for undergrounding—Feeder 308—have been awarded. Solicitations for the construction management and design components of the remaining feeders of the first biennial plan are in development.

In conclusion, Mr. Chairman, passage of this bill is necessary to allow OCP and its contracting officers to set aside the PLUG requirements and maximize CBE participation as intended by the

¹ D.C. Official Code § 34-1311.02(7).

initial law.² Thank you for the opportunity to testify before the Committee today. I look forward to working with the Committee to move Bill 23-135 through the legislative process. I'm happy to answer any questions you may have.

² Electric Company Infrastructure Improvement Financing Act of 2014, § 102(7), effective May 3, 2014 (D.C. Law. D.C. Law 20-102; D.C. Official Code § 34-1311.02(7)).