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2 Councilmember Charles Allen

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Councilmember Mary M. Cheh

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6 Councilmember Elissa Silverman

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Councilmember Brooke Pinto

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10 Councilmember Janeese Lewis George

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13 A PROPOSED RESOLUTION

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18 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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23 To declare the existence of an emergency with respect to the need to amend An Act Making  
24 appropriations to provide for the expenses of the government of the District of Columbia  
25 for the fiscal year ending June thirtieth, nineteen hundred and fourteen and for other  
26 purposes to set qualifications for members of the District of Columbia Public Service  
27 Commission.  
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29 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
30 resolution may be cited as the “Public Service Commission Member Qualifications Emergency  
31 Declaration Resolution of 2021”.

32 Sec. 2. (a) The Public Service Commission (“PSC”) was established by act of Congress  
33 in 1913, then called the Public Utilities Commission. The PSC is an independent body  
34 responsible for the oversight and regulation of electric, natural gas, and certain telephone  
35 companies serving District customers. In the years since the PSC was established, however, the  
36 role of the Commission—much like other similar bodies in jurisdictions across the nation—has  
37 expanded significantly.

38 (b) With the advent of large-and-small scale solar systems, and the widespread growth of  
39 wind and other renewable energy resources, traditional public electric utilities no longer serve as  
40 the sole energy providers for retail consumers; in fact, the diversity of this industry will only  
41 continue to grow as this technology becomes more affordable and accessible to homeowners and  
42 investors. As energy resources, these entities also fall under the jurisdiction of the PSC, creating  
43 competition in a field that, for much of the last hundred years, had functionally operated under a  
44 monopoly. Thus, the PSC’s role has shifted from overseeing a handful of large, traditional  
45 utilities to, in many ways, overseeing the infancy of a rapidly developing competitive market,  
46 including developing rules for entry, interconnection, pricing, and fair competition. The PSC’s  
47 approach to overseeing and regulating this marketplace is quite literally shaping the grid of the  
48 future. It is essential, then, that Commissioners have a working knowledge of the electric grid,  
49 distributed energy resources, and, more broadly, renewable energy technology.

50 (c) Furthermore, under the Sustainable DC Plan, the District has set a goal of reducing  
51 greenhouse gas emissions by 50% by 2032, and reaching carbon neutrality by 2050. Under the  
52 CleanEnergy DC Amendment Act of 2018 and related legislation, the PSC is tasked with several  
53 mandates and provided extensive authority to advance policies and programs that will help the  
54 District meet these climate and resiliency goals. One of the District’s primary tools in reaching  
55 these goals is the Renewable Portfolio Standard (“RPS”), which requires that a percentage of  
56 every unit of electricity supplied to the District come from wind, solar, or another renewable  
57 energy source, and includes a local solar carve-out. The PSC plays an essential role in overseeing  
58 this work, and has the authority to expand on the existing RPS program. Truly, as the primary  
59 entity responsible for oversight of our public electric and natural gas utilities—energy sources  
60 whose products have a direct impact on our carbon footprint—PSC can and should be a leader on

61 reaching and exceeding the District’s climate goals. The most recent report from the  
62 Intergovernmental Panel on Climate Change says that global warming of up to 2 degrees Celsius  
63 is likely without “deep reduction in CO<sub>2</sub> and other greenhouse gas emissions.” As the PSC works  
64 with the Council and the Mayor to aggressively expand clean energy use in the District, it is  
65 essential that the Commission has a deep understanding and appreciation for the direct  
66 relationship between energy policy and the District’s climate goals.

67 (d) Lastly, as the regulator of the District’s public utilities, the PSC also plays a key role  
68 in establishing and protecting the rights of utility customers. While this work most often takes  
69 the form of reviewing rate cases and other changes proposed by utilities, the PSC’s authority as a  
70 steward of consumer rights is much broader. The PSC has established a Utility Consumer Bill of  
71 Rights, which enumerates general protections and rights for all customers of the District public  
72 utilities. The PSC also has the authority to take proactive, decisive action to protect utility  
73 customers. For example, a number of public service commissions across the nation acted in early  
74 2020 to prohibit utilities from shutting of customer service for nonpayment during the public  
75 health emergency stemming from the COVID-19 pandemic; others established payment plan  
76 standards and other customer protections during that time. Although in the District those steps  
77 were taken by the Council, the District’s PSC had the authority to implement those protections.  
78 The PSC’s authority to protect utility customers is not merely reactive, responding to proposed  
79 rate changes, but proactive, laying out what utilities can and must do, and establishing  
80 protections against certain practices and policies that may negatively impact their customers. For  
81 example, on September 16, 2021, the PSC acted to prohibit the District’s natural gas utility for  
82 disconnecting customers for non-payment until the utility came into compliance with the  
83 Commission’s Natural Gas Quality of Service Standards. This authority is especially important

84 for advancing the District’s racial equity goals, because we know that energy cost burdens  
85 disproportionately impact Black and Latinx District residents. Thus, Commissioners having an  
86 understanding of and proactive interest in addressing issues of consumer protection are essential  
87 to the proper functioning of the Commission.

88 (e) Membership on the PSC is governed by D.C. Official Code § 34-801(a), which,  
89 among other provisions, lays out the term length and process for the nomination and approval of  
90 Commissioners. The statute, however, sets few eligibility requirements for serving as a  
91 Commissioner, which are limited to a residency requirement, a prohibition on serving on the  
92 Commission while holding a financial interest in a public utility or other entity that appears  
93 before the commission, and a required cooling off period for certain utility employees. While,  
94 importantly, this language safeguards against Commissioners having a conflict of interest while  
95 serving on the PSC, the statute does not require that nominees have any experience in the energy  
96 policy, grid modernization, customer service, the environment, or any of the matters over which  
97 the PSC exerts jurisdiction.

98 (f) As noted, the PSC serves as the District’s primary oversight body for its public  
99 utilities and other energy resources. The work of the PSC has a direct effect on the day-to-day  
100 lives of District residents, from shaping the rates they pay for utility service, to establishing  
101 protections against shut-offs, service disruptions, and other practices that can harm residents.  
102 More broadly, as noted, the PSC’s role in shaping energy and environmental policy directly  
103 impacts when and how the District will meet its climate goals, which affects the lives of all  
104 residents and the future of the District. Given this tremendous responsibility, members of the  
105 Commission must be well-versed in these issues.

106 (g) On September 9, 2021, President Biden nominated PSC Chairman Willie Phillips to  
107 be a commissioner at the Federal Energy Regulatory Commission, creating a potential vacancy at  
108 the Commission that the Council will likely need to fill with a first-time PSC commissioner this  
109 fall. During the debate on recent PSC nominations there have been questions about what  
110 expertise is most necessary for potential commissioners, given the scant guidance in the statute.  
111 Thus, this emergency legislation would provide additional guidance, reflective of the PSC's  
112 current mission, for coming appointment deliberations by setting qualifications for 2 of the 3  
113 seats on of the Commission. Individuals appointed to one seat would need to have experience in  
114 electric grid modernization and renewable energy integration or technology and, where possible,  
115 issues affecting the environment; individuals appointed to the other seat would be required to  
116 have experience in consumer protection. Given the range of other expertise that could be relevant  
117 to the work of the Commission, this emergency legislation does not set a requirement for  
118 qualifications for the third Commissioner seat, leaving that to the discretion of the Mayor and the  
119 Council.

120 (h) These new eligibility requirements would apply to nominations made after October 1,  
121 2021, so would not affect current commissioners or the appointment of nominees already put  
122 forward by the Mayor. Specifically, the emergency legislation requires that the first individual  
123 that the Mayor nominates after October 1, 2021, for an open seat on the PSC would need to have  
124 experience in electric grid modernization and renewable energy integration or technology and,  
125 where possible, issues affecting the environment, and the second individual the Mayor nominates  
126 after October 1, 2021, would need to meet the requirement for experience in consumer  
127 protection. Importantly, this legislation will help ensure that membership on the Commission

128 reflects the evolving purview of the PSC, and that the Commission is composed of subject matter  
129 experts with a diversity of relevant experience.

130           Sec. 3. The Council of the District of Columbia determines that the circumstances  
131 enumerated in section 2 constitute emergency circumstances making it necessary that the Public  
132 Service Commission Member Qualifications Amendment Act of 2021 be adopted after a single  
133 reading.

134           Sec. 4. This resolution shall take effect immediately.