

**PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA  
1325 G STREET, N.W., SUITE 800  
WASHINGTON, D.C. 20005**

**ORDER**

**March 25, 2021**

**FORMAL CASE NO. 1130, IN THE MATTER OF THE INVESTIGATION INTO  
MODERNIZING THE ENERGY DELIVERY SYSTEM FOR INCREASED  
SUSTAINABILITY, Order No. 20717**

**I. INTRODUCTION**

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) reviews the Potomac Electric Power Company’s (“Pepco”) Report on the Feasibility of Pepco to Implement Green Button Connect My Data (“CMD”) in the District of Columbia (“Pepco Report”).<sup>1</sup> The Commission reconvenes the Customer Impact Working Group (“CIWG”) to resolve the issues raised by this Report and to develop a plan for implementing CMD in the District. The CIWG’s first virtual meeting will be on April 29 at 10:00 a.m. Pepco shall provide other stakeholders with information relating to the questions in paragraph 47 on April 22, 2021. The CIWG shall file a report with the Commission including the resolution of these issues and a plan for implementing CMD within 75 days of the first meeting of the CIWG. The Commission also grants the Department of Energy and Environment’s (“DOEE”) Motion for Leave to File Comments in Response to Pepco’s Report on the Feasibility of Implementing Green Button Connect My Data in the District of Columbia Out of Time<sup>2</sup> and DOEE’s Motion to File Surreply Comments.<sup>3</sup>

**II. BACKGROUND**

2. By law, the Commission has been prescribed a critical regulatory role that requires that we and the utilities we regulate take into account in all cases meaningful steps to achieve the District of Columbia’s (“District”) energy and climate change commitments while ensuring affordable, reliable, and secure electric and natural gas distribution service for all customers. In

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<sup>1</sup> *Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability (“Formal Case No. 1130”), Report on the Feasibility of Pepco to Implement Green Button Connect My Data in the District of Columbia, filed September 3, 2020.*

<sup>2</sup> *Formal Case No. 1130, Department of Energy and Environment’s Motion for Leave to File Comments in Response to Pepco’s Report on the Feasibility of Implementing Green Button Connect My Data in the District of Columbia Out of Time (“DOEE Motion for Late Filing”), filed October 15, 2020.*

<sup>3</sup> *Formal Case No. 1130, Department of Energy and Environment’s Motion for Leave to File Surreply Comments to the Potomac Electric Power Company’s Reply Comments to Mission:data Comments (“DOEE Surreply Motion”) and Department of Energy and Environment’s Surreply Comments to the Potomac Electric Power Company’s December 18, 2020 Reply Comments to Mission:data Comments (“DOEE Surreply Comments”), filed December 28, 2020.*

Order No. 20286, the Commission outlined the critical next steps the Commission and stakeholders will need to embark on to achieve the PowerPath DC vision.<sup>4</sup> In Order No. 20364, the Commission addressed additional issues, including enhancement of customer data access and protection. As part of that Order, the Commission required Pepco to file a report on the feasibility to implement Green Button CMD in the District of Columbia.<sup>5</sup>

3. On September 3, 2020, Pepco filed its Report. On September 14, 2020, the Commission released a Public Notice seeking comments on the Pepco Report.<sup>6</sup> The Office of the People's Counsel for the District of Columbia ("OPC") and Mission:data Coalition ("Mission:data") filed Comments on October 14, 2020.<sup>7</sup> DOEE filed its Motion for Late Filing and Comments on October 15, 2020. On November 13, 2020, Pepco and Mission:data filed Reply Comments.<sup>8</sup> On December 18, 2020, Pepco filed a letter supplementing its Reply Comments.<sup>9</sup> On December 28, 2020, DOEE filed a Motion to File Surreply Comments.

### **III. DISCUSSION**

#### **A. Procedural Motions**

##### **1. DOEE Motion for Late Filing**

4. In its Motion for Late Filing, DOEE asks the Commission for leave to file its Comments one day late. DOEE represents that its counsel was unavailable on the due date for Comments. DOEE asserts that a delay of one day will not prejudice any interested person that seeks to comment on Pepco's Report. DOEE also asserts that its Comments will contribute to a more complete record for making a determination on CMD.<sup>10</sup>

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<sup>4</sup> *Formal Case No. 1130*, Order No. 20286, rel. January 24, 2020.

<sup>5</sup> The Green Button initiative is an industry-wide effort to provide electricity customers with easy access to their energy usage data in a standardized, consumer-friendly, and computer-friendly format. With Green Button Connect My Data, consumers can choose which service providers to share their data with automatically. Currently, in the District of Columbia, Green Button Connect My Data is available to commercial customers, but not to residential customers. *See Formal Case No. 1130*, Order No. 19984, n. 127, rel. August 2, 2019.

<sup>6</sup> *Formal Case No. 1130*, Public Notice, rel. September 14, 2020.

<sup>7</sup> *Formal Case No. 1130*, Office of the People's Counsel Initial Comments in Response to Potomac Electric Power Company's Green Button Feasibility Report Filing ("OPC Comments"), filed October 14, 2020; Comments of Mission:data Coalition Regarding Pepco's Green Button Connect Report on the Feasibility of Implementing Green Button Connect My Data ("Mission:data Comments"), filed October 14, 2020.

<sup>8</sup> *Formal Case No. 1130*, Reply Comments of Potomac Electric Power Company ("Pepco Reply Comments"), filed November 13, 2020; Reply Comments of Mission:data Coalition Regarding Pepco's Green Button Connect Report on the Feasibility of Implementing Green Button Connect My Data ("Mission:data Reply Comments"), filed November 13, 2020.

<sup>9</sup> *Formal Case 1130*, Letter to Brinda Westbrook-Sedgwick, Commission Secretary, from Dennis P. Jamouneau, Assistant General Counsel, Pepco ("Pepco Letter"), filed December 18, 2020.

<sup>10</sup> DOEE Motion for Late Filing at 1-2.

5. Generally, the Commission will grant a request of this nature if good cause is shown.<sup>11</sup> In this case, DOEE's counsel was unavailable the day comments were due. DOEE's Comments were only one day late, which does not prejudice any person seeking to submit Reply Comments. Thus, the Commission grants DOEE's Motion for Late Filing and accepts DOEE's late-filed Comments.

## 2. DOEE Surreply Motion

6. In its Surreply Motion, DOEE seeks to respond to Pepco's Letter. DOEE represents that it has additional information that should be included in the record to make the record more complete. DOEE contends that no party would be prejudiced by the acceptance of the Surreply Comments.<sup>12</sup>

7. The Commission's rules provide that surreply comments are not accepted without leave of the Commission.<sup>13</sup> In this case, the Commission finds good cause to accept DOEE's Surreply Comments, since DOEE provides new information in response to the information included in Pepco's Letter. The Commission finds that this information would assist the Commission in making its decision on Green Button CMD and that no party would be prejudiced by this decision. Thus, the Commission grants the Surreply Motion and accepts DOEE's Surreply Comments.

## B. Pepco Report

8. Pepco begins its Report by recognizing that "intuitive and secure access to information is key to innovation and customer empowerment to address climate change."<sup>14</sup> Pepco represents that Green Button-compliant programs are one way to provide secure access to customer data through a set of standard protocols, security requirements, and data formats. Pepco indicates that there are two Green Button standards: Download My Data ("DMD"); and CMD. Pepco explains that DMD permits customers to download their electricity usage data from a utility's website, while CDM provides automatic transfer of data from a utility to a third party based on

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<sup>11</sup> See, e.g., *Formal Case No. 962, In the Matter of the Implementation of the District of Columbia Telecommunications Competition Act of 1996 and Implementation of the Telecommunications Act of 1996*, Order No. 12428, ¶ 13, rel. July 2, 2002. See, e.g., *Formal Case No. 1041, In the Matter of the Investigation into Washington Gas Light's Compliance with its Tariffs*, Order No. 14571 at 3, n. 7, rel. September 12, 2007; *Formal Case No. 712, In the Matter of the Investigation into the Public Service Commission's Rules of Practice and Procedure*, Order No. 15353, ¶ 2, rel. August 10, 2009. See, e.g., *TAC 19, Petition of Verizon Washington DC, Inc. for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Order No. 13873, rel. February 7, 2006. See also *Gas Tariff-01-1, In the Matter of the Application of Washington Gas Light Company, District of Columbia Division, For Authority to Amend its General Service Provisions*, Order No. 15293, rel. June 4, 2009.

<sup>12</sup> DOEE Surreply Motion at 2.

<sup>13</sup> 15 DCMR § 105.9 (1981).

<sup>14</sup> Pepco Report at 2.

customer authorization.<sup>15</sup> Pepco represents that it provided DMD functionality to all District customers in 2012. In 2015, Pepco provided CMD functionality to certain large commercial customers.<sup>16</sup>

9. Since Pepco's CMD program for certain large commercial customers began in 2015, Pepco asserts that commercial customers have enabled 11 recipients to receive customer data. Pepco is unable to determine whether these recipients are third parties accessing the customer data.<sup>17</sup> Pepco indicates that when customers identify a recipient to receive information on customer accounts, Pepco will provide the recipient with a username and password in order to obtain the information. Pepco also contends that its customer information is classified under its highest information security category. Pepco asserts that it has not received any complaints related to the existing CMD functionality.<sup>18</sup>

10. Pepco asserts that it is the only utility in the Exelon Utilities family that is exploring the development of a new CMD product. Thus, Pepco asserts that the cost of developing a new CMD product would be borne by Pepco DC customers. Pepco's preliminary estimate for development of a CMD product would be \$8 million, with annual maintenance costs of \$950,000. These costs would include the development of a new CMD product, with a self-registration process for third party vendors that would comply with the 2020 update of the CMD standard.<sup>19</sup> The self-registration process would be similar to the self-registration process used by ComEd.<sup>20</sup> Pepco contends that the new product would include consumer protections and a reauthorization process for third parties when customers chose to share their information.<sup>21</sup>

11. Pepco notes that several other commissions have reviewed and implemented requirements for utilities to consider products similar to CMD that allow for safe and secure data exchange. Pepco identifies Illinois, California, and New York as jurisdictions in which the implementation of CMD has been reviewed. Pepco indicates that adoption of Green Button technology has been slow, since most energy providers seek to adopt solutions for jurisdiction-specific requirements that align utility back-end systems.<sup>22</sup> Pepco indicates that the Illinois proceeding for ComEd spanned 14 months and resulted in detailed customer protection and data security requirements.<sup>23</sup> ComEd also has a tariff for data privacy and security; Pepco recommends

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<sup>15</sup> Pepco Report at 2-3.

<sup>16</sup> Pepco Report at 3.

<sup>17</sup> Pepco Report at 3-4.

<sup>18</sup> Pepco Report at 4-5.

<sup>19</sup> Pepco Report at 5.

<sup>20</sup> Pepco Report at 7.

<sup>21</sup> Pepco Report at 6.

<sup>22</sup> Pepco Report at 8.

<sup>23</sup> Pepco Report at 9.

that any CMD program in the District of Columbia include a similar tariff. Pepco notes that ComEd has had low usage rates for its CMD tool, both on the customer side and the third party provider side.<sup>24</sup>

12. To protect customers under any Commission-mandated CMD program, Pepco would require third parties to register and sign privacy agreements before being added as a CMD-approved vendor. Customers would be required to provide consent and to agree to terms and conditions for sharing the data via the Pepco website. Pepco would follow the security standards and guidelines for CMD.<sup>25</sup>

13. Pepco indicates that it does not currently provide greenhouse gas (“GHG”) emissions data through its current tool, but believes that enabling this functionality in the current tool would align with the District of Columbia’s climate goals.<sup>26</sup> If the Commission does not require the implementation of CMD, then Pepco could develop a GHG emission tool and provide this tool to customers within Pepco’s existing platforms. This tool could be developed at a lower cost.<sup>27</sup>

14. Regarding the provision of aggregated data, Pepco represents that it complies with all relevant provisions of the D.C. Code that relate to protection of consumer data. Pepco notes that it complies with D.C. Code § 34-1507(a)(3), which permits the release of aggregated information. Since December 2015, Pepco has responded to 1,879 requests for historical usage information from five aggregators. Pepco indicates that 606 requests were for summary data, and 1,273 requests were for interval data. In response to summary data requests, Pepco provides the monthly billed kWh for the last 12 months and kW, if applicable. For interval data requests, Pepco provides the monthly billed kWh for the last 12 months and in 15- or 60-minute intervals. Pepco has received requests for information for the following rate schedules: GT-LV; MGT-LV; GS-ND; GS-LV; GT-3A; T, R; MMA; SL; RT; AE; GS-3A; and R-TM. Pepco has received requests for both commercial and residential classes. For the requests, Pepco provides the load profile code, rate code, capacity value, transmission value, and portion. Pepco has not received any complaints regarding the release of customer data.<sup>28</sup>

15. Regarding the feasibility of sharing anonymized residential customer data with third parties, Pepco notes that it currently shares a tool with authorized requesters so that they may populate Portfolio Manager, a tool of the Environmental Protection Agency to collect building usage and attribution data. Pepco indicates that buildings with four or fewer tenants sign a release anonymized based on zip code, Pepco also notes that anonymized data is not data subject to the

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<sup>24</sup> Pepco Report at 10.

<sup>25</sup> Pepco Report at 11.

<sup>26</sup> Pepco Report at 11.

<sup>27</sup> Pepco Report at 12.

<sup>28</sup> Pepco Report at 13.

exemption from prohibited disclosure in D.C. Code § 34-1507(a)(3). Instead, Pepco contends that even anonymized data needs to be aggregated.<sup>29</sup>

### C. Comments

16. **OPC Comments.** OPC recommends that Pepco be ordered to develop a plan to fully utilize its AMI, instead of developing another platform that may not be used.<sup>30</sup> OPC contends that implementing CMD would be premature until the following issues are addressed: whether the request for data is reasonable; what purpose does the data serve; whether the customer will use the data for the stated purpose; and whether the request will be a cybersecurity risk to the utility or customers. OPC questions Pepco's budget since Pepco has not provided enough information to evaluate its costs. OPC also expresses reservations about whether asking ratepayers to fund CMD is reasonable.<sup>31</sup>

17. **DOEE Comments.** DOEE supports the implementation of the Green Button CMD platform in the District of Columbia. DOEE sees this platform as a step towards realizing the full potential of advanced metering infrastructure ("AMI") because it would allow customers to share energy data with third parties in a streamlined manner. DOEE requests that any platform leverage work already done by Pepco in the District of Columbia and ComEd in Illinois. DOEE recommends that Pepco's CMD platform be certified by the Green Button Alliance.<sup>32</sup>

18. DOEE argues that having access to real-time customer data is a critical piece of the "non-discriminatory pillar" on the Commission's PowerPath DC Vision Statement. Since both DMD and CMD functionalities provide data on a 24-hour lag, DOEE contends that it is critical to turn on the ZigBee network functionality in the District of Columbia's AMI. Such real time functionality is important so that customers will be able to perform demand-side management in real time.<sup>33</sup> Since Pepco already provides CMD to commercial customers, DOEE argues that the expansion to residential customers should not be costly or onerous to implement.<sup>34</sup>

19. DOEE expresses concern about the low usage rates for Pepco's existing CMD platform and for ComEd's CMD platform. While it is not clear why there is a low usage rate, DOEE contends that the new CMD platform should be updated to facilitate access and use. DOEE proposes that the Commission set targets for the number of customers that use CMD and require Pepco to report on those targets.<sup>35</sup>

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<sup>29</sup> Pepco Report at 14.

<sup>30</sup> OPC Comments at 2.

<sup>31</sup> OPC Comments at 3.

<sup>32</sup> DOEE Comments at 2.

<sup>33</sup> DOEE Comments at 2.

<sup>34</sup> DOEE Comments at 3.

<sup>35</sup> DOEE Comments at 5.

20. DOEE objects to a proposed process for third party registration that requires NDAs between the third party and Pepco.<sup>36</sup> DOEE questions why an NDA between Pepco and the third party is necessary when the customer has already agreed to release the information to the third party. DOEE argues that Pepco should use the process that it currently uses for CMD in the District of Columbia or use the California process to certify third parties. DOEE posits that the NDA requirement may be hindering third parties in accessing the CMD platform. In lieu of using NDAs to protect customer information, DOEE suggests that Pepco could specify an appropriate security standard for third parties.<sup>37</sup> DOEE disagrees with Pepco's contention that D.C. Code § 34-1507 requires anonymized data to be aggregated, arguing that a customer's written consent would negate the need for aggregated data.<sup>38</sup>

21. DOEE argues that the experience in California in mandating CMD would be instructive for the District of Columbia. DOEE asserts that the Commission and Pepco should look to the actions of the California Public Utilities Commission Customer Data Access Committee ("CA CDAC") and review the certification, privacy and security, and quarterly reporting requirements established to implement CMD in California.<sup>39</sup>

22. DOEE disputes Pepco's estimated \$8 million price tag for implementing CMD in the District of Columbia. DOEE argues that Pepco can leverage its existing CMD program for commercial customers as well as the experience of ComEd in implementing CMD in Illinois. DOEE disputes Pepco's contention that the District of Columbia CMD product would have to be an entirely new product. Since ComEd already has a CMD product, DOEE argues that the District of Columbia should not be considered a "first mover." DOEE also notes that Pepco stated in other filings in *Formal Case No. 1130* that there will be other jurisdictions in the Exelon family that will be adopting Green Button CMD, so it is unclear why District of Columbia customers should be required to bear the full cost of CMD development.<sup>40</sup>

23. **Mission:data Comments.** Mission:data, the leading advocate for the adoption of CMD, argues that the Pepco Report is erroneous. Mission:data argues that Pepco's cost estimate is inflated and much higher than CMD costs in other jurisdictions. Mission:data also argues that Pepco does not take into account the fact that ComEd already developed a CMD platform, so CMD should be available to Pepco at a substantially lower cost.<sup>41</sup> Mission:data estimates that Pepco's upfront costs should be about \$265,000 instead of \$8 million for a new platform.<sup>42</sup> Mission:data

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<sup>36</sup> DOEE Comments at 5.

<sup>37</sup> DOEE Comments at 6.

<sup>38</sup> DOEE Comments at 7.

<sup>39</sup> DOEE Comments at 8.

<sup>40</sup> DOEE Comments at 8.

<sup>41</sup> Mission:data Comments at 3.

<sup>42</sup> Mission:data Comments at 4.

contends that Pepco appears to have developed systems for exchanging billing information in XML format, which Mission:data believes would lower the costs of developing a CMD platform. Mission:data recommends that the Commission direct Pepco to file a new CMD proposal that would identify the components of ComEd's CMD implementation and Pepco's pre-existing data exchange methods that could be used to develop CMD.<sup>43</sup>

24. Mission:data asserts that Pepco's description of CMD in other jurisdictions is incorrect. Contrary to Pepco's assertions, Mission:data argues that CMD was mandated in California in 2013. Mission:data contends that the CA CDAC developed recommendations for implementing CMD, which could benefit District of Columbia ratepayers.<sup>44</sup> Mission:data also disputes Pepco's contention that CMD uptake has been slow, noting that there are over 100,000 customers using CMD in California. Mission:data asserts that CMD was essential in keeping electricity on during the August 2020 blackouts.<sup>45</sup> Mission:data asserts that Pepco did not follow the directive to provide information on experience with CMD in other jurisdictions and urges the Commission to direct Pepco to submit a revised report within 60 days with that information.<sup>46</sup>

25. Mission:data argues that the low usage rate of the ComEd CMD platform is due to the difficulty of using the platform. Additionally, Mission:data asserts that ComEd only provides usage data, not essential information such as premise address or billing information. For multi-site commercial customers, Mission:data asserts that third party vendors could not identify where usage occurred.<sup>47</sup> Mission:data recommends that the Commission direct Pepco to revise its report to discuss how access to retail customer information, including user fields, will be implemented by Pepco, and the extent to which the use of the ComEd CMD platform was limited because only energy usage information was included.<sup>48</sup>

26. Mission:data opposes the use of NDAs because they could prevent the sharing of information with energy management firms that use IT outsourcing to contact the utility on their behalf. Mission:data argues that IT outsourcing is necessary for many energy management firms to stay competitive.<sup>49</sup> Instead, Mission:data recommends that the CMD platform be required to use the U.S. Department of Energy Data Guard privacy standard, which permits the use of outsourcing with customer permission.<sup>50</sup>

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<sup>43</sup> Mission:data Comments at 5-6.

<sup>44</sup> Mission:data Comments at 6.

<sup>45</sup> Mission:data Comments at 6-7.

<sup>46</sup> Mission:data Comments at 7-8.

<sup>47</sup> Mission:data Comments at 8.

<sup>48</sup> Mission:data Comments at 9.

<sup>49</sup> Mission:data Comments at 9.

<sup>50</sup> Mission:data Comments at 10.



27. Mission:data argues that Pepco's commercial CMD has many of the same flaws as ComEd's product. One flaw that Mission:data identifies is the limitation on providing energy information to only one entity. Additionally, there is no consistent meter identifier, which causes problems when a meter is swapped or replaced.<sup>51</sup>

28. In addition to recommending that Pepco file a revised report, Mission:data argues that the Commission should address several issues relating the CMD that it identifies. Otherwise, Mission:data asserts, customers will not be able to avail themselves of all of the benefits of AMI.<sup>52</sup>

29. **Pepco Reply Comments.** While customer energy usage data can be important in reducing emissions, Pepco argues that access to the data alone will not reduce GHG. Pepco argues that DOEE has not demonstrated why CMD is necessary to achieve several data access goals in the Clean Energy DC Plan. Pepco agrees with OPC that it can leverage data from its existing AMI meters to support the District's GHG goals. Pepco asserts that Pepco and its sister utility, Delmarva Power, annually submit plans to the Maryland Public Service Commission that report results of cost-effective energy reduction programs for all customer classes without using CMD.<sup>53</sup>

30. Pepco argues that there are more cost-effective tools that serve the same functions as CMD. Pepco represents that it is currently revising its commercial platform that would allow access to near real-time data, analysis of usage and billing patterns, and customized reporting for targeted energy efficiency recommendations. Pepco contends that this enhanced tool was included in Pepco and Delmarva Power's EmPOWER Maryland filing. Pepco asserts that the incremental cost of using this platform would be lower than implementing CMD. Pepco also contends that this tool has proven successful. Commercial customers would also be able to view relevant recommendations available through the DC SEU and Pepco.<sup>54</sup>

31. For residential customers, Pepco argues that it is studying programs that would provide data that is already available through DMD. Pepco represents that this tool would provide residential customers with disaggregated bill data that would show the appliances and end-use devices that are contributing to consumption. The tool would also provide information on energy savings opportunities. Pepco is considering including such a program in its energy efficiency portfolio filing in *Formal Case No. 1160*.<sup>55</sup>

32. Pepco argues that its cost estimate is consistent with proposals from Pacific Gas & Electric (\$19.4 million) and Southern California Edison (\$7.588 million upfront and \$1.512

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<sup>51</sup> Mission:data Comments at 10.

<sup>52</sup> Mission:data Comments at 11.

<sup>53</sup> Pepco Reply Comments at 2.

<sup>54</sup> Pepco Reply Comments at 2-3.

<sup>55</sup> Pepco Reply Comments at 3.

million ongoing costs). Pepco asserts that implementing a CMD platform is a significant and expensive undertaking, while other options to provide customer data may be more cost-effective.<sup>56</sup>

33. Pepco recognizes that its cost estimate should be refined and asserts that it would be able to refine its cost estimate when it receives direction from the Commission regarding technical and functional requirements. Pepco suggests that the Commission-led working group could suggest more detailed requirements.<sup>57</sup>

34. Pepco argues that its Report was based on the parameters set in Order No. 20364, contending that some of DOEE's proposals were not within the scope of the mandate of that Order. Pepco argues that its DMD product can now provide up to two years of historical data up to midnight of the previous day, by noon of that day. Pepco believes that any mandated CMD product would mirror that same level of data availability. Pepco is also considering including a pilot or program in its anticipated *Formal Case No. 1160* filing that would provide customer-approved, near-real-time data to certain specialized vendors to identify and realize energy savings opportunities.<sup>58</sup>

35. Responding to DOEE's comments that Pepco did not discuss the use of additional network devices and connections, such as the Zigbee network, Pepco notes that this topic was not included in the scope of the Report.<sup>59</sup> Pepco contends that it is unclear how enabling Zigbee functionality relates to the implementation of CMD. In order to implement the Zigbee network, Pepco asserts that it would need: to update all AMI meter firmware related to Zigbee to ensure that any transmission process is cybersecure; to physically turn on the functionality in each meter; and pair the Zigbee network with other devices.<sup>60</sup>

36. Pepco contends that DOEE fails to explain why the implementation of CMD would advance the District of Columbia's climate goals. Pepco asserts that existing DMD functionality can be used to advance these climate goals.<sup>61</sup> Pepco argues that the California PUC order cited by DOEE does not mandate the use of CMD; instead, the order authorizes the development and use of different platforms to provide third party access to customer data.<sup>62</sup>

37. Pepco stresses its commitment to customer privacy and adherence to applicable data protection laws and regulations. Pepco objects to DOEE's proposed use of a California model

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<sup>56</sup> Pepco Reply Comments at 4-5.

<sup>57</sup> Pepco Reply Comments at 6.

<sup>58</sup> Pepco Reply Comments at 7.

<sup>59</sup> Pepco Reply Comments at 7.

<sup>60</sup> Pepco Reply Comments at 8.

<sup>61</sup> Pepco Reply Comments at 8.

<sup>62</sup> Pepco Reply Comments at 8-9.

for the release of customer information since it appears not to require customer consent.<sup>63</sup> Pepco argues that DOEE does not explain why executing an NDA is onerous or inefficient. While Pepco is open to other methods of obtaining customer consent, Pepco asserts that these methods must maintain customer privacy, ensure that cybersecurity protections are in place, and ensure that the entities that have access to customer data obtain that access in an appropriate manner. Pepco contends that it cannot agree to use the Data Guard standard because it does not always require customer consent. Pepco agrees with DOEE that obtaining customer consent permits disclosure of data to third parties.<sup>64</sup>

38. **Mission:data Reply Comments.** Mission:data agrees with OPC that Pepco should provide a detailed plan for optimizing the use of its AMI. While Mission:data agrees that the Home Area Network (“HAN”) is a capability of AMI, it also argues the CMD is another functionality. Mission:data contends that CMD is the only widely recognized technical standard for customers to grant energy management firms electronic access to their energy usage and billing information.<sup>65</sup> Mission:data claims that HAN requires customers to purchase additional equipment to take advantage of the information from AMI, while CMD does not.<sup>66</sup>

39. Mission:data is skeptical of Pepco’s cost estimates for CMD. Mission:data asserts that Pepco’s cost estimate is 29 times higher than CMD costs in other jurisdictions. Mission:data argues that the cause for the low adoption rate of the ComEd CMD product is that the product is substandard. In California, over 100,000 customers are using CMD, Mission:data asserts.<sup>67</sup>

40. Mission:data responds to OPC’s concerns about CMD first by asserting that the CMD standard uses a secure online practice known as Open Authorization.<sup>68</sup> Mission:data also argues that eligibility criteria for third party energy management companies should be established.<sup>69</sup> Mission:data supports the use of Data Guard to help ensure that customer information is only used for customer-authorized purposes.<sup>70</sup> Mission:data claims that CMD is used by ten utilities covering 36 million electric meters. Mission:data also asserts that CMD has strong cybersecurity components.<sup>71</sup>

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<sup>63</sup> Pepco Reply Comments at 9.

<sup>64</sup> Pepco Reply Comments at 10.

<sup>65</sup> Mission:data Reply Comments at 2.

<sup>66</sup> Mission:data Reply Comments at 2-3.

<sup>67</sup> Mission:data Reply Comments at 3.

<sup>68</sup> Mission:data Reply Comments at 4-5.

<sup>69</sup> Mission:data Reply Comments at 5.

<sup>70</sup> Mission:data Reply Comments at 5-6.

<sup>71</sup> Mission:data Reply Comments at 6.

41. **Pepco Letter.** Pepco represents that its estimated costs for implementing CMD are within the full range of costs that Mission:data submitted to the New Hampshire Public Utilities Commission (“NH PUC”). Pepco contends that Mission:data did not submit the full table of cost data in this proceeding that it presented to the NH PUC. Pepco claims that the full table demonstrates that Pepco’s estimated costs for CMD implementation are well within the range of costs estimated or incurred for CMD or similar programs between 2012-2020. Pepco also argues that while Mission:data implies that the costs it presents are actual implementation costs, some of the costs are estimated costs.<sup>72</sup> Pepco also argues that Mission:data’s position regarding ComEd’s CMD is contradictory, since Mission:data both claims that Pepco can leverage the ComEd CMD program in developing its own CMD while also complaining about the ComEd CMD.<sup>73</sup> Pepco also argues that the California participation rate in CMD is inflated because CMD is a requirement for third party demand response providers and aggregators.<sup>74</sup>

42. Pepco agrees with Mission:data that access to the information alone will not lead to action. Pepco concurs that the information must be incorporated into tools that can produce actionable results for customers to achieve specific goals. Pepco indicates that it will be proposing energy efficiency and demand response tools and programs that drive customer engagement and result in measurable impacts in *Formal Case No. 1160*.<sup>75</sup>

43. Pepco claims that Mission:data mischaracterizes the ComEd CMD tool and Pepco’s CEO tool that is currently provided to commercial customers. While Mission:data criticizes the ComEd CMD tool because it only includes usage data, Pepco argues that the ICC required the CMD tool to deliver historical interval usage data. Pepco also contends that Mission:data does not cite to any specific complaints to back up its assertions that there are customer complaints about Pepco’s CEO product. Pepco also asserts that the Commission did not order Pepco to evaluate customer account and billing information in its Report.<sup>76</sup>

44. **DOEE Surreply Comments.** DOEE takes issue with Pepco’s contention that participation in the California CMD program is inflated. DOEE argues that third-party access to customer data is necessary for customers to fully participate in demand response markets, so that customers are aware of available options. DOEE claims that the CA PUC rules for data access enable robust participation in demand response markets, and urges the Commission to consider similar regulations in the District of Columbia. DOEE does not believe that streamlined data sharing constitutes inflation of data-sharing platform usage. DOEE also argues that the California data sharing platforms are used for more than demand response market; they are used for energy management and energy efficiency services, DER sizing, cost savings, and other programs.<sup>77</sup>

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<sup>72</sup> Pepco Letter at 1-2.

<sup>73</sup> Pepco Letter at 2.

<sup>74</sup> Pepco Letter at 3.

<sup>75</sup> Pepco Letter at 3.

<sup>76</sup> Pepco Letter at 4.

<sup>77</sup> DOEE Surreply Comments at 2.

45. While DOEE looks forward to Pepco's proposed energy efficiency and demand response tools and programs, DOEE notes that Pepco is not the sole provider of these types of programs in the District of Columbia. DOEE contends that a fair marketplace would require reducing information asymmetry between utility and non-utility providers. DOEE claims that Green Button CMD is specifically designed to share data through tools and programs supplied by third parties to achieve actionable results for customers. DOEE argues that there must be a secure, streamlined way such as Green Button CMD for customers to share their data with third parties. In DOEE's view, the anticipated programs that will be proposed in *Formal Case No. 1160* have only increased the need for a platform like Green Button CMD.<sup>78</sup>

#### **D. Decision**

46. Throughout this proceeding, the Commission and the stakeholders have investigated the impact of grid modernization on consumers.<sup>79</sup> As part of that effort, Order No. 19984 encouraged efforts to provide electricity customers with easy access to their energy usage data in a standardized, consumer-friendly, and computer-friendly format. Order No. 19984 also explained that with Green Button CMD, consumers could select service providers with which they could share their data automatically.<sup>80</sup> In Order No. 20364, the Commission directed Pepco to provide a report on the feasibility of CMD to promote residential customer sharing of their energy use data with third parties, especially since Pepco already provides CMD to commercial customers.<sup>81</sup>

47. The Report and the comments filed in response to the Report raise many implementation questions. These questions pertain to: the cost of implementing CMD, which will ultimately be borne by ratepayers should the costs be reasonable, questions regarding less costly alternatives to CMD; and data privacy issues. In order to resolve these questions, the Commission believes that the input of the CIWG, which developed the original recommendation to implement CMD, is essential. Thus, the Commission reconvenes the CIWG to resolve these issues and develop a plan for implementing CMD in the District. The CIWG's first virtual meeting will be on April 29 at 10:00 a.m. Pepco shall provide other stakeholders with information relating to the following issues on April 22, 2021:

1. Any plan to update the ComEd CMD product due to the 2020 changes in the CMD standards;

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<sup>78</sup> DOEE Surreply Comments at 3.

<sup>79</sup> Order No. 19984, ¶ 67, rel. August 2, 2019.

<sup>80</sup> Order No. 19984, ¶ 76.

<sup>81</sup> Order No. 20364, ¶ 16. The use of CMD is encouraged in the PowerPath DC Vision Statement as well. Order No. 20364, Appendix C-4.

2. Identification of any data-sharing platform that would serve the same functions as CMD that is being developed in other Exelon jurisdictions;
3. Explanation of (a) why measures similar to California Public Utility Commission Rules 24 and 32 should not be adopted in the District of Columbia, including whether modifications to PJM rules would be required; and (b) whether and to what extent implementation of FERC Order No. 2222 will facilitate such demand response services;
4. Identification of AMI functionalities and other tools that could be used for data sharing;
5. A cost estimate for the implementation of the functionalities and tools that Pepco identifies in its filing, including Zigbee-enabled HAN activation;
6. Proposals on how market participants can obtain customer consent to share customer information with third parties; and
7. Explanation of why the U.S. Department of Energy's Data Guard standard does not provide sufficient protection for customer data, in view of District of Columbia statute and requirements of this Commission.

Other stakeholders are invited to present information relating to the following issues:

1. Identification of any data-sharing platform that would serve the same functions as CMD that is being developed in other jurisdictions; and
2. Alternative means of consumer protection and security other than NDAs.

The CIWG shall file a report with the Commission including the resolution of these issues and a plan for implementing CMD within 75 days of the first meeting of the CIWG.

**THEREFORE, IT IS ORDERED THAT:**

48. The Department of Energy and Environment's Motion for Leave to File Comments in Response to Pepco's Report on the Feasibility of Implementing Green Button Connect My Data in the District of Columbia Out of Time is **GRANTED**;

49. The Department of Energy and Environment's Motion for Leave to File Surreply Comments to the Potomac Electric Power Company's Reply Comments to Mission:data Comments is **GRANTED**;

50. The Customer Impact Working Group is **RECONVENED** to resolve the issues in paragraph 47 and develop a plan for implementing Green Button Connect My Data in the District;

51. The first meeting of the reconvened Customer Impact Working Group is on April 29, 2021, at 10:00 a.m.;

52. The Potomac Electric Power Company shall provide members of the reconvened Customer Impact Working Group with responses to the questions in paragraph 47 by April 22, 2021; and

53. The Customer Impact Working Group shall file a report to the Commission including the resolution of these issues and a plan for implementing Green Button Connect My Data within 75 days of the first meeting of the Customer Impact Working Group.

**A TRUE COPY:**

**BY DIRECTION OF THE COMMISSION:**



**CHIEF CLERK:**

**BRINDA WESTBROOK-SEDGWICK  
COMMISSION SECRETARY**