

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

ORDER

September 9, 2021

**FORMAL CASE NO. 1130, IN THE MATTER OF THE INVESTIGATION INTO
MODERNIZING THE ENERGY DELIVERY SYSTEM FOR INCREASED
SUSTAINABILITY, Order No. 21013**

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) reviews the Customer Impact Working Group’s (“CIWG”) Green Button (“GB”) Connect My Data (“CMD”) Report (“CIWG Report”).¹ As requested by the CIWG, the Commission makes several preliminary decisions regarding the parameters of a CMD platform in the District of Columbia. Based on these preliminary decisions, the Commission directs the CIWG to finalize its recommendations regarding the development of a CMD platform, so that the Potomac Electric Power Company (“Pepco”) can provide a cost estimate to develop the CMD platform. The report containing these recommendations is due within 90 days of the date of this Order.

II. BACKGROUND

2. By law, the Commission has been prescribed a critical regulatory role that requires that in all cases we, and the utilities we regulate, take into account 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 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.² In Order No. 20364, the Commission addressed additional issues, including enhancement of customer data access and protection.³ As part of that Order, the Commission required Pepco to file a report on the feasibility of implementing GB CMD in the District.⁴

¹ *Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability (“Formal Case No. 1130”),* Customer Impact Working Group Green Button Connect My Data Report, filed July 27, 2021.

² *Formal Case No. 1130, Order No. 20286, rel. January 24, 2020.*

³ *Formal Case No. 1130, Order No. 20364, rel. June 5, 2020.*

⁴ 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- and computer-friendly format. With GB CMD, consumers can choose which service providers to share their data with automatically. Currently, in the District, GB CMD is available to commercial customers, but not to residential customers. *See Formal Case No. 1130, Order No. 19984, n.127, rel. August 2, 2019.*

3. On September 3, 2020, Pepco filed its Report.⁵ Based on this Report and the comments of several stakeholders on the Report,⁶ the Commission reconvened the CIWG to discuss several open questions regarding CMD implementation.⁷ Before the CIWG's first meeting, Pepco filed a Response to Order No. 20717, providing additional information to be discussed at the CIWG meetings.⁸ On July 27, 2021, the CIWG, which is comprised of the Office of the People's Counsel for the District of Columbia ("OPC"), the District Department of Energy and Environment ("DOEE"), Pepco, Green Button Alliance ("GBA"), Mission:data, Grid 2.0, UtilityAPI, WGL Energy Services ("WGES"), and Commission staff filed the CIWG Report.

III. DISCUSSION

A. The CIWG Report

4. The CIWG begins its report by describing GB CMD. According to the CIWG, GB CMD is a "data standard for customers to authorize utilities to share data with third parties using an online authorization process called OAuth2.0."⁹ The CIWG asserts that OAuth2.0 permits data sharing with third parties in a way that is intended to preserve privacy and security. The CIWG maintains that the "CMD standard can enable sharing of multiple data sets, including interval data, billing data, and customer account data."¹⁰ With CMD, customers can share their own specified energy data with third parties to obtain services and/or products related to their energy usage.

5. Utilities implementing a CMD program can apply to become certified as GB CMD compliant. The CIWG argues that any data platform developed in the District should obtain CMD certification. The CIWG contends that CMD certification can be obtained for many different

⁵ *Formal Case No. 1130*, Report on the Feasibility of Pepco to Implement Green Button Connect My Data in the District of Columbia ("Pepco Report"), filed September 3, 2020.

⁶ Office of the People's Counsel Initial Comments in Response to Potomac Electric Power Company's Green Button Feasibility Report Filing, 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, filed October 14, 2020; District Department of Energy and Environment's Comments in Response to Pepco's Report on the Feasibility of Implementing Green Button Connect My Data in the District of Columbia, filed October 15, 2020; 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; Department of Energy and Environment's Surreply Comments to the Potomac Electric Power Company's December 18, 2020 Reply Comments to Mission:data Comments, filed December 28, 2020.

⁷ *Formal Case No. 1130*, Order No. 20717, rel. March 25, 2021.

⁸ *Formal Case No. 1130*, Pepco Response to Order No. 20717 Questions Regarding Green Button Connect My Data in the District of Columbia, filed April 22, 2021.

⁹ CIWG Report at 3.

¹⁰ CIWG Report at 3.

options or “function blocks.” Because of the technical complexity of the different function blocks, the CIWG represents that it could not propose function blocks that should be implemented in the District until the Commission makes decisions regarding desired features, data types, and performance characteristics for a District’s CMD platform. After those decisions, the CIWG will determine the function blocks to develop and the type of CMD certification needed and seek Commission approval of these function blocks. After Commission approval, Pepco will have sufficient information to develop a comprehensive cost estimate for CMD implementation.¹¹

1. Data Fields

6. The CIWG discussed many issues relating to the development of a District CMD platform. The CIWG presents a list of data fields that most participants agree should be included in a CMD program in Attachment D to the CIWG Report. With the exception of WGES, the participants in the CIWG agree that energy usage and billing data should be able to be shared by a customer. Mission:data stresses that experience in other jurisdictions has shown that the ability for customers to share account and billing data information, not just usage data information, is essential for a robust data sharing platform.¹² WGES objects to the sharing of billing data, since this data is confidential and competitively sensitive. WGES seeks the deletion of the following data fields from the consensus list in Appendix D: Bill Amount; Balance Forward; Customer Charge; Delivery Charge; Stranded Cost Charge; System Benefit Charge; Consumption Tax; and Energy Service Charge Fixed. Alternatively, WGES contends that the data fields could include aggregate billing information.¹³

2. Initiation and Termination of Access to Customer Data

7. Regarding initiation and termination of access to customer data, the CIWG agrees that customers should be able to begin a CMD application to share data on a third party’s website or in Pepco’s My Account for that customer. The CIWG also agrees that revocation of consent to share data should be permitted at any time. The CIWG disagrees on whether there should be a reauthorization process for a customer to continue data sharing, or whether the data sharing should continue until the customer revokes access to data.¹⁴ Pepco supports a process in which a customer either reauthorizes access or is reminded of the data sharing annually with no action required to continue to share data, to provide more consumer protection.¹⁵ DOEE, Grid 2.0, and Mission:data do not agree, believing that no reauthorization or reminder process is necessary.¹⁶ Additionally, Mission:data argues that a customer must create an account with a third party in order to meet the

¹¹ CIWG Report at 4.

¹² CIWG Report at 8.

¹³ CIWG Report at 8-9.

¹⁴ CIWG Report at 10.

¹⁵ CIWG Report at 11.

¹⁶ CIWG Report at 10.

OAuth2.0 standard, which is part of the CMD platform, to verify customer identity. Mission:data encourages the development of a process that permits use of mobile devices to sign up for CMD and a sign up process that is easy to navigate for the consumer.¹⁷

8. Pepco and Mission:data disagree on permitting Pepco to terminate third party access to customer data. Mission:data argues that Pepco should not be permitted to terminate access; only the customer or the Commission should be permitted to terminate access, while Pepco argues that it should be allowed to terminate access by third parties to customer data if a third party abuses data access privileges.¹⁸

3. Contents of the Authorization Form

9. The CIWG could not agree on a sample authorization form, but agreed that any form should specify the data fields to be shared by the customer and the term of the data sharing. The CIWG agreed in principle to adhere to the CMD standard for such forms, but the actual content of the form would be developed if the Commission directed the implementation of CMD.¹⁹ Mission:data supports indefinite data-sharing, while Pepco does not. OPC argues that there should be some provision for automatic termination of data sharing, such as when an account is closed.²⁰

4. Accessibility for Users without Internet Access

10. The CIWG agrees that customers without internet access should still be able to access CMD. As noted above, the CIWG agreed that the CMD platform should permit access by mobile devices as well. Mission:data and Pepco acknowledge that paper forms may be required to obtain customer consent.²¹

5. Data Privacy and Security

11. The CIWG agrees that appropriate privacy and security standards should be in place to protect customer data.²² DOEE, Grid 2.0, and Mission:data argue that the use of the U.S. Department of Energy's Data Guard standard would provide these protections, while Pepco argues that third parties can be required to adhere to a tariff and a registration process for third parties

¹⁷ CIWG Report at 11.

¹⁸ CIWG Report at 11.

¹⁹ CIWG Report at 11.

²⁰ CIWG Report at 12.

²¹ CIWG Report at 12.

²² CIWG Report at 12.

seeking access to customer data.²³ DOEE and Grid 2.0 support using a third party registration process such as that used in California.²⁴

6. Third Party Access to the CMD Platform

12. Regarding access to the CMD platform by third parties, DOEE believes that all third parties should have non-discriminatory access to the platform. Mission:data argues that Pepco should not be permitted to deny access to a third party that complies with Commission registration requirements, which should include: (i) providing contact information; (ii) demonstrating the technical ability to use CMD; and (iii) adhering to DataGuard.²⁵ Grid 2.0 argues that there should not be any registration or other requirements that lead to discriminatory access to the CMD platform. Pepco contends that access to the CMD platform should be non-discriminatory, as long as third parties adhere to Commission eligibility, certification, and other criteria.²⁶

13. The CIWG had short discussions regarding the differences between third party electricity suppliers and third party natural gas suppliers, which are regulated by the Commission, and other non-Commission regulated third parties seeking access to customer energy data. Mission:data recognizes that the same entity could be offering retail energy services and seeking access to customer energy data, but argues that the entity should be regulated based on the services it is seeking to provide.²⁷ WGES indicates that a rule change may be necessary to distinguish between retail providers and third parties seeking access to customer data. WGES' proposed rule would require a third party to obtain a retail energy supplier license if the third party seeks to broker, arrange, or market electricity or electricity supply services.²⁸

7. Enforcement of Violations

14. The CIWG agreed that the Commission should create and maintain a "banned" list of third parties that cannot have access to customer data. The CIWG argues that there should be a clear process for determining how third parties are placed on this list. DOEE and Grid 2.0 reiterate their support for adopting the California third party registration process, and having the Commission, not Pepco, register third parties. Mission:data contends that the Commission should place third parties on a "banned" list while providing them with due process.²⁹ Pepco argues that any delisting process should be in compliance with Pepco and District requirements.

²³ CIWG Report at 12.

²⁴ CIWG Report at 11-12.

²⁵ CIWG Report at 12-13.

²⁶ CIWG Report at 13.

²⁷ CIWG Report at 17.

²⁸ CIWG Report at 18.

²⁹ CIWG Report at 13.

8. CMD Tariff

15. The CIWG agrees that there should be a Pepco CMD tariff, which would outline the rights and responsibilities of Pepco, customers, and third parties. The CIWG discussed sample tariff language but did not propose any specific language for approval by the Commission. The CIWG attaches the ComEd DART tariff in Illinois in Attachment C as an example of a data sharing tariff.³⁰

9. Performance Metrics for the CMD Platform

16. DOEE and Grid 2.0 assert that there should be performance metrics for the CMD platform (number of customers, type of customers, etc.). DOEE supports the creation of a service level agreement with a defined uptime. Mission:data proposes specific performance metrics for Pepco.³¹ Pepco indicates that further discussion on this issue is appropriate, since it was not discussed at the CIWG meetings.³²

10. Charges for the Use of CMD

17. Pepco proposes to charge third parties a fee for accessing CMD, so that parties using the platform partially fund it, instead of having all ratepayers exclusively pay for CMD development. The other members of the CIWG disagree, contending that access to CMD should be free of charge to ensure that customers and third parties actually use the platform.³³

11. Obtaining Green Button Alliance Certification for the District of Columbia CMD Platform

18. As noted above, the CIWG supports certification of any District CMD platform by the GBA, since that certification would ensure that the District CMD platform is compliant with the Green Button standard. Pepco seeks information on the time needed to obtain such certification.³⁴

12. Recommended Next Steps for CMD Platform Development

19. DOEE and Mission:data request that the Commission determine the required functionalities of a District CMD platform, so that Pepco can develop its cost estimate.

³⁰ CIWG Report at 13.

³¹ CIWG Report at 13-14.

³² CIWG Report at 14.

³³ CIWG Report at 14.

³⁴ CIWG Report at 14-15.

Mission:data recommends that the Commission determine the following functionalities: the data to be provided; user experience; performance characteristics; and other matters.³⁵ Mission:data argues that the determination of function blocks will be helpful to Pepco as it prepares its cost estimate. However, Mission:data contends that function blocks cannot be determined until the Commission issues a decision regarding the functionality of the District CMD platform. Once the Commission issues that decision, DOEE and Mission:data recommend that the CIWG be reconvened to identify the function blocks to be included in the District CMD platform.³⁶

20. The method of Pepco cost recovery for implementation of the CMD platform was not discussed. Mission:data argues that Pepco should be permitted to recover prudent costs for operation of the CMD platform. Since CMD implementation costs have not been budgeted, Pepco proposes that system and related costs be deemed regulatory assets, with interest at the Company's authorized rate of return, subject to future discussions.³⁷

13. Other Issues

21. The CIWG represents that the implementation of Zigbee-enabled HAN functionality of Advanced Meter Infrastructure ("AMI") was addressed in Order No. 20717 but not in the CIWG Report.³⁸ DOEE, Grid 2.0, and Mission:data argue in favor of this implementation. Pepco is not opposed to this implementation, but notes this implementation is distinct from building a CMD platform. Pepco indicates that it provided cost estimate for implementation of the Zigbee-enabled HAN functionality of AMI in its Response to Order No. 20717.³⁹

B. Decision

22. The Commission appreciates the CIWG's work discussing a wide range of complex issues that need to be addressed as the Commission studies the implementation of CMD in the District. The Commission acknowledges that the CIWG's recommendations envision a multi-step CMD development process in which the Commission first makes determinations on the parameters of the CMD platform, including features, data types, and performance characteristics, followed by further discussions by the CIWG to determine which CMD function blocks should be implemented in the District CMD. Once these function blocks are determined, then Pepco would be able to develop a comprehensive cost estimate for CMD implementation for the Commission's review. The Commission agrees with this approach pending the resolution of a threshold issue: the jurisdiction of the Commission over third parties accessing the CMD platform.

³⁵ CIWG Report at 15.

³⁶ CIWG Report at 17.

³⁷ CIWG Report at 17.

³⁸ *See generally, Formal Case No. 1130, Order No. 20717, rel. March 25, 2021.*

³⁹ CIWG Report at 16 and *see Pepco* Response to Order No. 20717 at 5.

23. The CIWG Report discusses access by third parties to the CMD platform. Many members express reservations in having Pepco control third party access to the CMD platform. Instead, the CIWG recommends the creation of a Commission registration process and enforcement process for third parties. This recommendation presupposes that the Commission has jurisdiction over third parties seeking to access the CMD platform. The Commission has authority over electricity suppliers, which are defined as “person[s], including an aggregator, broker, or marketer, who generates electricity; sells electricity; or purchases, brokers, arranges, or markets electricity for sale to customers.”⁴⁰ However, some electricity suppliers may also be third parties, accessing data through CMD to offer their own alternative services. The category of third parties is broader than just electricity suppliers, including equipment suppliers, entities providing advice on reducing energy usage, and other entities. The Commission does not have any regulatory authority over these other third parties. The Commission notes that the CIWG did discuss some issues relating to the Commission’s jurisdiction over third parties. However, the issue of Commission jurisdiction over unregulated third parties was not resolved and thus merits further discussion by the CIWG because the Commission does not favor creating a platform that permits access to customer data without the Commission having a method to protect consumers against malfeasance by unregulated third parties. The CIWG shall include a discussion of whether and how the Commission has or can obtain jurisdiction over unregulated third parties that are not electricity suppliers that seek to use the CMD platform in the report due within 90 days of the date of this Order.

24. Assuming that the jurisdictional issues can be resolved, the Commission notes that the CIWG recommends that any CMD platform in the District be developed using the existing CMD standards and protocols. The CIWG also suggests obtaining certification for the District’s CMD platform. The Commission agrees that any CMD platform should be built according to the most recent version of the CMD standards, and that certification by GBA should be sought. The CIWG should obtain cost estimates for CMD certification that Pepco can use in the development of the Pepco cost estimate.

25. Regarding the list of data fields to be included in the CMD platform, most of the CIWG agrees that a wide range of information concerning both energy and billing data should be available for sharing with a third party. The complete list of proposed data fields is included as Attachment D. WGES objects to the ability to share billing data, arguing that the sharing of this data may divulge confidential billing information about third party energy suppliers’ products and services. However, Mission:data argues that omitting billing data would render the CMD platform less effective. In reviewing data fields included in CMD platforms in other jurisdictions, the Commission notes that billing data is included. While the Commission is cognizant of WGES’ confidentiality concerns, the information sought in the data fields in Attachment D is similar to information that can be provided in other jurisdictions and WGES has not shown why release of this information would be particularly detrimental in the District. Therefore, the Commission determines that the data fields in Attachment D should be the data fields used to implement the District CMD platform.

⁴⁰ D.C. Code § 34-150.1(19) (2021 Suppl).

26. The Commission agrees with the CIWG that using the CMD platform should be simple and flexible for the customer. The CMD platform should be built so that it is accessible either through a third party website or Pepco's My Account. The CMD platform should also provide an easy way to interface between the customer's My Account and the third party website. While the CIWG could not agree on the actual content of a customer authorization form to share data, they agreed that the form should specify the data fields to be shared and the length of the authorization to share data. The Commission agrees that the authorization form should contain this information as well as a description of the protections in place for the privacy and confidentiality of the customer data to be shared. If the third party intends to share the data with another entity, then the authorization form must inform the customer and obtain customer consent.

27. The CIWG members agree that revocation of customer consent to share data should be a simple process, but disagree about whether customer consent should continue indefinitely or be limited to a set time. There is also disagreement about whether customers should be reminded periodically that they are sharing data. The Commission agrees that revocation of customer consent should be an easy process that can occur at any time. The Commission determines that a customer should be able to select a set duration for authorization or indefinite authorization on the authorization form. The Commission also finds that an annual reminder notice that data is being shared could be helpful to customers. This reminder should not require action by the customer to continue the authorization, however.

28. The CIWG argues that customers without Internet access need to be provided the opportunity to authorize the release of customer data to third parties. The Commission agrees and directs the CIWG to discuss the development of a CMD-compliant process that would allow customers without Internet access to authorize data sharing with third parties. A format should also be developed to provide access to the CMD platform for mobile broadband users.

29. To protect customer privacy, many of the members of the CIWG recommend the use of DataGuard, although Pepco believes that customer privacy can be protected through a Pepco tariff and a third party registration process. DataGuard includes a voluntary code of conduct for service providers and third parties to protect customers' energy data.⁴¹ This voluntary code of conduct is explicitly not designed to supersede any federal or state regulatory privacy requirements. It is also designed for use by entities that are not regulated by relevant regulatory authorities.⁴² The DataGuard Voluntary Code of Conduct provides guidelines on Customer Notice and Awareness, Customer Choice and Consent, Customer Data Access, Data Integrity and Security, and Self-Enforcement Management and Redress.⁴³ The Commission finds that DataGuard could be very beneficial in protecting consumer privacy. The Commission directs the CIWG to incorporate DataGuard as the means to protect consumer privacy where applicable and to inform the Commission of DataGuard provisions that should not be applied to any District CMD platform. The CIWG should also discuss how DataGuard could be used to resolve the

⁴¹ United States Department of Energy (US DOE) Data Privacy and the Smart Grid: A Voluntary Code of Conduct ("VCC") at 4, released January 8, 2015.

⁴² VCC at 1.

⁴³ VCC at 2.

Commission's jurisdictional questions; that is, whether the Commission can enforce DataGuard requirements for unregulated third parties.

30. The CIWG recommends that Pepco should have a tariff governing its operation of the CMD platform and includes ComEd's tariff as an example of such a tariff. The Commission agrees that the CMD platform should be governed by a tariff. The Commission directs the CIWG to discuss the contents of the tariff.

31. Even though this issue was not discussed fully in the CIWG meetings, the CIWG Report discusses the creation of performance metrics to measure the performance of the CMD platform. The Commission believes that the CIWG should discuss the types of performance metrics that should be adopted to ensure that the CMD platform works effectively. The CIWG should also discuss the costs of implementing such performance metrics.

32. The CIWG was split on the issue of charging third parties for use of the CMD platform. Pepco was in favor, so that costs for development and operation of the CMD platform would be paid for at least in part by the third parties benefiting from the platform, instead of exclusively by ratepayers whether they use the service or not. The other members of the CIWG opposed, arguing that charges on third parties would decrease use of the CMD platform. They also argued that no charges are imposed for the use of CMD in other jurisdictions. The Commission finds that it is premature to make a decision on this issue, since the revised cost estimate has not been filed, so it is unclear what the proposed implementation costs would be.

33. Now that the Commission has made decisions regarding: (1) data fields; (2) contents of the authorization form; (3) the need for reminder notices about data sharing; (4) the establishment of a simple revocation process; (5) the development of a process for customers who do not have Internet access; (6) the use of DataGuard; (7) the development of a CMD tariff; and (8) the certification of the platform by GBA, the Commission sends these findings back to the CIWG to determine the CMD function blocks that best match these parameters. The Commission directs the CIWG to submit a report including its proposed list of function blocks within 90 days of the date of this Order. In this Report, Pepco shall include a timeline for preparing a cost estimate to build and implement a CMD platform. The Commission will then determine which function blocks should be included in the CMD platform and direct the development and filing of the cost estimate.

34. While Order No. 20717 directed the CIWG to discuss the implementation of Zigbee-enabled HAN functionality of Pepco's AMI or other possible Pepco customer data-sharing functionalities, the group's discussions did not reach these issues. Pepco notes that implementation of Zigbee-enabled HAN functionality of AMI is separate from the implementation of a CMD platform. The Commission directs the CIWG to discuss implementation of Zigbee-enabled HAN functionality or other possible Pepco data-sharing functionalities as a separate issue, with particular emphasis on the reasonableness of the cost estimate for implementation that Pepco has already provided. A recommendation on the implementation of Zigbee-enabled HAN functionality or other possible Pepco data-sharing functionalities shall also be contained in the report due within 90 days of the date of this Order.

THEREFORE, IT IS ORDERED THAT:

35. The Customer Impact Working Group is **DIRECTED** to file a report consistent with this Order within 90 days of the date of this Order.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:

A handwritten signature in black ink, reading "Brinda Westbrook-Sedgwick". The signature is written in a cursive, flowing style.

CHIEF CLERK:

**BRINDA WESTBROOK-SEDGWICK
COMMISSION SECRETARY**