

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

**June 3, 2022**

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

**and**

**FORMAL CASE NO. 1155, IN THE MATTER OF THE APPLICATION OF THE  
POTOMAC ELECTRIC POWER COMPANY FOR APPROVAL OF ITS  
TRANSPORTATION ELECTRIFICATION PROGRAM, Order No. 21162**

**I. INTRODUCTION**

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) denies the request of the Potomac Electric Power Company’s (“Pepco” or “Company”) for approval of residential customer rebates for Smart Level II charging equipment and multi-unit dwelling (“MDU”) customer discounts for Smart Level II charger equipment and installation costs in its Transportation Electrification Program (“TE Program,” “Pepco’s TE Application,” or “Application”), and directs Pepco to file, within forty-five (45) days of the date of this Order, a MDU-Plug In Vehicle Tariff schedule and a revised tariff page that includes an exception for electric vehicle (“EV”) charging, thus allowing submetering of multi-dwelling unit parking spaces.

2. Pepco’s Motion for Leave to Respond and Limited Response filed on March 31, 2020, and the request of the Alliance for Transportation Electrification (“ATE”) filed on April 1, 2020, that its comments submitted to the District of Columbia Department of Transportation (“DDOT”) regarding this issue be included in the Commission dockets *Formal Case Nos. 1130* and *1155*, and the Electric Vehicle Association of Greater Washington’s Motion for Leave to Respond filed April 3, 2020, are granted. Pepco’s response and the ATE’s comments are accepted. Interested persons are directed to provide comments on the Department of Energy and Environment (“DOEE”) and Pepco proposals to modify the definition of make-ready infrastructure established in Order No. 19898 within twenty (20) days from the date of this Order. Interested persons are further directed to provide comments on Pepco’s proposals to: (1) re-allocate funds between Offerings 7 and 8 to increase the number of make-ready infrastructure for Public Neighborhood Smart Level II chargers; and (2) re-allocate funds for a rebate program for the bus depot and on-route chargers for EV buses under Offering 11, within twenty (20) days from the date of this Order.

**II. BACKGROUND**

3. In 2018, Pepco filed its TE Application, which contained 13 Offerings. The Offerings provided for various levels of cost sharing between ratepayers, EV owners, the owners

of electric vehicle charging stations (“EVCS”),<sup>1</sup> and a variety of different business models. Pepco proposed to supply electricity to some of the proposed project elements under the TE Program through its Standard Offer Service (“SOS”) program, where Pepco serves as the SOS administrator.<sup>2</sup>

4. By Order No. 19898, the Commission: (1) approved the development of Residential Whole House Time-Of-Use (“TOU”) Rate for EVs in Offering 1; (2) directed Pepco to provide “make-ready” infrastructure for Offerings 7 and 8 (public EV charging) and Offerings 10 and 11 (public transportation charging) to facilitate the deployment of public EVCS; (3) determined that Pepco can only sell electricity from an EVCS through an affiliate; and (4) established a temporary Transportation Electrification Working Group (“TEWG”) to further explore and develop offerings for a fixed price residential rebate, Offering 4, and multi-dwelling unit EVCS deployment, Offering 5.<sup>3</sup>

5. As a part of its Application, Pepco stated that the installation of a second utility meter is needed for some residential situations (Offering 3), MDU applications (Offering 5), and commercial situations (Offering 6). Additionally, we directed Pepco to confer with stakeholders on Maryland’s approach for the submetering of EVs utilizing the charging station’s internal meters and report to the Commission on the feasibility of implementing the Maryland approach in the District of Columbia (“District”).<sup>4</sup>

6. On October 31, 2019, Pepco filed its Implementation Plan for the approved Offerings, and on January 29, 2020, Pepco filed the TEWG Report for Offerings No. 4, 5, 7 and 8, as well as site selection for Offering 10.<sup>5</sup> On February 28, 2020, the Commission issued a Public Notice inviting interested persons to comment on Pepco’s Implementation Plan and the TEWG Report by March 19, 2020.<sup>6</sup> The Office of the People’s Counsel for the District of Columbia (“OPC”) and DOEE filed comments.<sup>7</sup> Pepco subsequently requested leave to respond to

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<sup>1</sup> EVCS are synonymous in this Order with Electric Vehicle Supply Equipment (“EVSE”), as discussed in Pepco’s TE Application.

<sup>2</sup> *Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability (“Formal Case No. 1130”), Formal Case No. 1155, In the Matter of the Application of the Potomac Electric Power Company for Approval of Its Transportation Electrification Program (“Formal Case No. 1155”),* Pepco’s TE Application at 44-46, filed September 6, 2018.

<sup>3</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Order No. 19898, ¶ 1, rel. April 12, 2019.

<sup>4</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Order No. 19898, ¶ 37.

<sup>5</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Pepco’s Transportation Electrification Implementation Plan in response to Order No. 19898, as clarified by Order No. 19983 (“Implementation Plan”), filed October 31, 2019; Transportation Electrification Working Group’s Report (“TEWG Report”), filed January 29, 2020.

<sup>6</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Commission’s Public Notice (“Public Notice”), rel. February 28, 2020.

<sup>7</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Office of the People’s Counsel for the District of Columbia Comments Concerning the Transportation Electrification Implementation of TE Approved Offerings & the TE Working Group Report (“OPC’s Comments”), filed March 19, 2020; Department of Energy and Environment’s

comments filed by OPC and DOEE.<sup>8</sup> On April 3, 2020, the Electric Vehicle Association of Greater Washington, DC (“EVADC”) filed a Motion, requesting leave to respond to Pepco’s Implementation Plan and TEWG Report, and submitted its Response.<sup>9</sup> On April 1, 2020, the ATE filed a request asking that its comments submitted to a Notice of Proposed Rulemaking (“NOPR”) published by DDOT pertaining to on-street parking spaces for EV charging be accepted into the docket.<sup>10</sup> No responses to the Motions were received.<sup>11</sup>

7. On March 30, 2022, Pepco filed a Transportation Electrification Program Analysis, Evaluation, and Reassessment, pursuant to paragraph 64 of Order No. 19898.<sup>12</sup>

### **III. TRANSPORTATION ELECTRIFICATION WORKING GROUP’S JANUARY 29, 2020, REPORT AND COMMENTS**

8. The Commission directed Pepco to meet with Commission staff and other TEWG members to address concerns regarding Offering 4 and Offering 5, and site selection for Offering 10. Given the level of interest in other Offerings approved in Order No. 19898, the TEWG also discussed Offerings 7 and 8 pertaining to public EV charging options.<sup>13</sup> Following five (5) meetings of the TEWG, Pepco filed a Report on behalf of the TEWG, and as stated *supra*, some TEWG members submitted comments individually in response to the Commission’s Public Notice.<sup>14</sup>

#### **A. Offering 4 – Residential Rebates for Smart Level II Charging**

9. Pepco’s Offering 4 proposes to provide \$500 rebates to up to 500 Pepco customers to install a Smart Level II charger at the residential customer’s premises.<sup>15</sup> The Report explains

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Comments on the Potomac Electric Power Company’s Transportation Electrification Implementation Plan and TE Working Group Report (“DOEE’s Comments”), filed March 19, 2020.

<sup>8</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Pepco’s Motion for Leave to Respond and Limited Response to Comments on Transportation Electrification of Office of People’s Counsel and Department of Energy and Environment (“Pepco’s Motion and Limited Response”), at 3, filed March 31, 2020.

<sup>9</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Electric Vehicle Association of Greater Washington, DC Motion for Leave to Respond to Pepco’s Transportation Electrification Implementation Plan and Transportation Electrification Working Group Report (“EVADC’s Motion and Response”), filed April 3, 2020.

<sup>10</sup> *Formal Case No. 1130 and Formal Case No. 1155*, the Alliance for Transportation Electrification’s Comments at 1, citing 67 D.C. Reg. 001976, April 1, 2020.

<sup>11</sup> 15 DCMR § 105.8 (1981).

<sup>12</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Transportation Electrification Program Analysis, Evaluation, and Assessment Report (“TE Analysis”), filed March 30, 2022.

<sup>13</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 1.

<sup>14</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 1; *see* ¶ 6 *supra*.

<sup>15</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 2. Level II charging refers to the voltage that the electric vehicle charger uses (240 volts). A smart charger is a Wi-Fi enabled EVSE that allows EV owners to remotely initiate a charge via an application, check on its progress, and monitor how much energy the vehicle is using.

that the TEWG was unable to come to a consensus on the merits of a residential rebate charging program and the individual components of the program.<sup>16</sup> However, the members support some elements of Offering 4, such as integrating higher levels of EVs and incentivizing EV drivers; imposing a condition that rebate recipients agree to participate in future time of use (“TOU”) rate offerings and/or load management programs; and among other suggestions, targeting the higher cost associated with smart, networked chargers because they provide greater value for all ratepayers by providing better visibility and understanding of charging behavior.<sup>17</sup> Some TEWG members also express opposition to Offering 4, claiming that Pepco has failed to clarify the merits of the Offering and explain how it advances the District’s climate and energy goals or why subsidies to Smart Level II chargers are necessary.<sup>18</sup> Further, OPC claims that Offering 4 is not in the public interest because the chargers will be located on private property but funded by ratepayers. Other TEWG members claim that the Offering perpetuates the false perception that a dedicated EVSE is necessary for owning an electric vehicle.<sup>19</sup>

10. The TEWG Report also suggests potential modifications to Offering 4 and alternative proposals.<sup>20</sup> For example, some TEWG members suggest that, if approved, the Offering should be a pilot program with costs assigned directly to residential customers and customers must refund the rebate if they do not meet the participation standards.<sup>21</sup> Other TEWG members believe the Commission should reevaluate the Program after one year to assess the progress of load management programs and ongoing necessity of rebates for Smart Level II chargers. Other TEWG members propose that Pepco should lead a centralized request for proposals to ensure the technology meets Pepco’s needs, leverages industry competition to achieve the best value, and simplifies the process for end users.<sup>22</sup> TEWG members also propose alternatives to Offering 4, such as utilizing dynamic pricing, including TOU rates to incentivize residential EV charging during off-peak hours; leveraging Pepco’s approved whole house TOU rate (Schedule “R-PIV”) and future dynamic pricing rate designs to direct charging behavior; and

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The unit can notify the customer when the vehicle is charging and when it has completed charging and can send a reminder to the owner to plug in the car. Also, the owner can use the application to schedule a charge during the off-peak hours of the day when charging is at reduced rates. Pepco explains that smart chargers are needed for the utility to: (i) collect data on how the charger is being utilized, (ii) gauge trends in demand, and (iii) assess the potential for managed charging programs if such programs are later needed to lessen the load on transformers as electric vehicle adoption increases as expected. If approved, Pepco is committed to sharing non-confidential charging data in its quarterly reports to the Commission, which could be used to shape future programs and determine system needs.

<sup>16</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 3.

<sup>17</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 3. Networked charging stations are connected remotely to a larger network and are part of an infrastructure system of connected chargers. As such, the chargers have remote access to online management tools through an online portal known as an EVSE network.

<sup>18</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 3.

<sup>19</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 3-4.

<sup>20</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 4-5.

<sup>21</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 4.

<sup>22</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 4.

among other ideas, develop models of residential charging behavior through market research and non-intrusive EV load modeling.<sup>23</sup> Pepco agrees that this Offering could be implemented as a Pilot program and could be modified to require residential customers to participate in the program for a set timeframe to retain the program's rebate. The TEWG Report requests that the Commission decide on Offering 4 based on the information presented.<sup>24</sup>

11. OPC filed comments in response to the Report, recommending rejection of Offering 4 as it is discriminatory in nature and because it does not keep with the principles of cost causation.<sup>25</sup> OPC submits that the proposed rebate would only benefit EV owners and thus does not provide the necessary benefit to support ratepayer funding. OPC also argues that Pepco has not otherwise made any showing that the Offering will benefit ratepayers.<sup>26</sup> OPC recommends that if the Offering is approved, only a limited number of residential rebates for the installation of chargers be allowed. OPC also believes participants should allow Pepco to collect charger data for one year to assess the impact EV charging will have on the District's load management profile.<sup>27</sup>

12. DOEE urges the Commission to reject Offering 4 because it would prefer to see ratepayer funds for electrification of transportation focused on public transit as a priority as opposed to rebates for Smart Level II charging.<sup>28</sup> DOEE does not believe that Pepco's intent to collect data from this Offering is compelling and that similar customer information can be gathered at a lower cost through market research and load modeling.<sup>29</sup> In addition, DOEE argues that Offering 4 is not incentivizing any change in customer behavior because it lacks dynamic pricing, managed charging, or any other strategy that is likely to modify charging behavior.<sup>30</sup> DOEE believes Offering 4 only incentivizes Smart Level II chargers, while Level I chargers may be sufficient for the residents' charging needs.<sup>31</sup>

13. In its Limited Response, Pepco argues that Offering 4 is consistent with the District's electrification goals, and therefore it is appropriate for the cost to be spread across all

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<sup>23</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 4-5.

<sup>24</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 5.

<sup>25</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Office of the People's Counsel for the District of Columbia Concerning the Transportation Electrification Implementation of TE Approved Offerings & the TE Working Group Report ("OPC's Comments"), at 2, filed March 19, 2020.

<sup>26</sup> *Formal Case No. 1130 and Formal Case No. 1155*, OPC's Comments at 2.

<sup>27</sup> *Formal Case No. 1130 and Formal Case No. 1155*, OPC's Comments at 2-3.

<sup>28</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE's Comments at 5.

<sup>29</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE's Comments at 6.

<sup>30</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE's Comments at 6.

<sup>31</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE's Comments at 7.

ratepayers.<sup>32</sup> Pepco also explains that Smart Level II chargers, as opposed to Level I chargers, offer networked and remote capabilities and the potential for more advanced technological solutions such as demand response events that cannot be had with Level I charging. Thus, according to Pepco, Level 1 charging does not align with the District's grid modernization goals.<sup>33</sup>

## **B. Offering 5 – Multi-Dwelling Unit Charging**

14. Under Offering 5, Pepco proposes a 50% discount rate on up to 100 Smart Level II chargers and a 100% discount on the cost of the charger's installation at condominiums, apartments, and other multi-dwelling units.<sup>34</sup> As directed by Order No. 19898, the TEWG collaborated on the development of a draft tariff; discussed the coordination and services to be provided by Pepco to MDU owners under this Offering; discussed the selection criteria, beneficiaries and appropriate deployment of the Offering; and the benefits and/or necessity of a second meter for this program, referred to as submetering.<sup>35</sup> According to the Report, the Apartment and Office Building Association of Metropolitan Washington ("AOBA") and OPC question the need for this Offering and believe MDU owners should be responsible for the purchase and installation of EVSE in their buildings.<sup>36</sup> The Report notes that Sierra Club, ChargePoint, ABB, and Greenlots support Offering 5.<sup>37</sup> ChargePoint, an EV infrastructure company, also suggested reserving 10-20% of the EVSE for low-to-moderate locations that will serve low-to-moderate income customers. The TEWG recommends the following if Offering 5 is approved: 1) strong MDU/tenant education and outreach; 2) cost-effective advertising/direct mailing campaign; 3) website development to illustrate estimate for incentive; and 4) partnership for outreach to include AOBA, the Commission, and the Clean Cities Coalition.<sup>38</sup> According to the Report, Pepco does not recommend a tariff solution applicable to MDUs at this point in time, and none of the options discussed by the working group received consensus support. Pepco recommends that any chargers installed as a part of this Offering continue to be served under their currently existing rate schedules until experience and best practices dictate that other tariff options may be more suitable.<sup>39</sup> Since there was no consensus reached, Pepco recommends the Commission decide on this Offering based on the information presented in the proceeding and feedback from the TEWG.<sup>40</sup>

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<sup>32</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Pepco's Motion and Limited Response at 4-5.

<sup>33</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Pepco's Motion and Limited Response at 5.

<sup>34</sup> *Formal Case No. 1130*, Pepco's TE Application at 28-40 for a list and details of Pepco's offerings.

<sup>35</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 5, citing Order No. 19898, ¶ 44.

<sup>36</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 5-6.

<sup>37</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 6.

<sup>38</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 7-8.

<sup>39</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 8.

<sup>40</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 8.

15. As part of its 2018 Application for approval of a TE Program, Pepco proposed a new tariff, MDU-PIV, to apply to customers that participate in Offering 5. However, neither the Company's proposed tariff rate schedule nor the other rate mechanisms discussed at the TEWG were generally supported by the TEWG.<sup>41</sup> EVADC recommends deploying standard NEMA 5-20 or 14-50 outlets in parking spaces of the MDUs, as opposed to hardwired EVSEs with fixed J1772 connectors.<sup>42</sup> According to EVADC, these outlets would be sub-metered, and each parking spot will be reserved for an individual tenant. EVADC views this alternative as preferable, because EVs are equipped with their own portable EVSEs, and by using their own portable EVSE, the driver has a direct relationship with Pepco, thus avoiding any intermediaries in the transaction.<sup>43</sup> EVADC believes residents of MDUs should be able to charge their EVs using a sub-metered outlet linked to their existing Pepco account. Because any building's electric panel will have a maximum amount of kilowatts it can convey before requiring expensive upgrades, EVADC believes it is better to extend 1.92 kW circuits with Level I outlets to parking spaces as opposed to installing 7kW+ Level II circuits hardwired into dedicated EVSEs for a few parking spaces, as Offering 5 proposes.<sup>44</sup> A typical EV can charge at a rate of 5-7 miles per hour from a 5-20 outlet, which is considered sufficient to recoup a resident's daily commute.<sup>45</sup> ABB, a transportation engineering company, indicates that the Level I charging, as suggested by EVADC, will pose challenges when EVs reach a larger scale. With Smart Level II chargers, the drivers can check on the charging status from anywhere with applications; this is not possible with unmanaged Smart Level I chargers. EV charging takes longer with a Smart Level I charge. ABB also indicates the make-ready costs would not be too different for Smart Level I and Smart Level II chargers.<sup>46</sup> But Smart Level II charging will provide EV owners more options and assist building owners through third-party management. Avoiding costly system upgrades is only possible with Smart Level II chargers which include energy management and power sharing capabilities.

16. Although in its Application Pepco did not include a ceiling amount for the installation costs for the Offering, in the TEWG Report, the Company shared its intent to include a ceiling of \$7,500, which is the same amount used by Pepco in Maryland.<sup>47</sup> The TEWG also discussed several recommendations for the Offering, including strong MDU and tenant education

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<sup>41</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 6. As an alternative to MDU-PIV, Pepco presented a demand charge credit that would credit MDU charger owners the demand charge equivalent amount of 50% of a charger's nameplate capacity. The TEWG also discussed the notion of a time-differentiated rate, and such a proposal was also met with greater interest by the group than the MDU-PIV tariff.

<sup>42</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report, November 13, 2019 Meeting Minutes at 2. A J1772 connector is also known as a J plug, is a North American standard for electrical connectors for electric vehicles. It covers the general physical, electrical, and communication protocol, and performance requirements for the electric vehicle charging system.

<sup>43</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 6.

<sup>44</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report, Appendix 6 at 1.

<sup>45</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report, Appendix 6 at 1.

<sup>46</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report, Appendix 6 at 1-2.

<sup>47</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 7.

outreach, cost effective advertising, and a website with an estimator of program incentives.<sup>48</sup> The TEWG also discussed the program's selection criteria, such as the deployment of up to 100 EVSE, and the location and properties of the selected MDUs.<sup>49</sup>

17. OPC does not support this Offering because it does not provide a benefit to all ratepayers, who in turn are asked to pay 50% of the proposed chargers' cost and 100% of installation costs.<sup>50</sup> DOEE recommends that Pepco expand the eligible equipment for Offering 5 to include Level 1 charging in addition to Level 2 charging at MDUs.<sup>51</sup> According to the DOEE, the decision to install Smart Level I or Level II charging should be made by the MDU based on the tenants' needs and costs.<sup>52</sup> Pepco disagrees with both DOEE and OPC. According to Pepco, MDU owners and occupants cannot typically take part in solutions like those available through Pepco's TOU Rate (Offering 1) program or the residential rebate program under Offering 4. Pepco argues that the limited program proposed by Pepco for the MDUs is a way to bring charging options to a subset of District residents with few other options and, given the District's important climate and clean energy goals from which all residents will benefit, it is reasonable to expect all customers to pay.<sup>53</sup>

### **C. Offering 5 – Multi-Dwelling Unit Charging and Submetering**

18. In connection with Offering 5, the TEWG Report also discussed Pepco's ability to install a second meter for the benefit of EVCS or MDU building owners who will resell the electricity to individual MDU residents.<sup>54</sup> This issue is especially relevant in the context of parking lots at residential MDU buildings, which typically have one meter for the entire building. Additional meters in MDU parking lots for individual residents could allow residents to charge their vehicles and be billed by the building owners directly according to their usage. Pepco believes that residential submetering is currently prohibited in the District, and the TEWG requests guidance from the Commission on this topic. If the Commission determines that submetering is prohibited, AOBA urges the Commission to request that the restriction on submetering be eliminated.<sup>55</sup> EVADC does not believe the Commission should proceed with the MDU offering until the permissibility of sub-metered outlets in MDUs has been addressed.<sup>56</sup> Pepco also explains that in several current, large-scale EV programs underway in Maryland, the utilities involved will

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<sup>48</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 7-8.

<sup>49</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 8.

<sup>50</sup> *Formal Case No. 1130 and Formal Case No. 1155*, OPC's Comments at 3.

<sup>51</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE's Comments at 7.

<sup>52</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE's Comments at 7.

<sup>53</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Pepco's Motion and Limited Response at 6.

<sup>54</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 9.

<sup>55</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 9.

<sup>56</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 9.



be utilizing submetering to obtain data. Pepco commits to observing the submetering performance for the Maryland program and evaluating submetering options for programs in the District.<sup>57</sup> The TEWG Report also states that should Commission regulations permit submetering of parking spaces in MDU buildings, Pepco commits to evaluating this option and other relevant technologies for applicable programs within the District, eliminating the need for a second meter. Pepco commits to exploring additional technologies.<sup>58</sup>

19. In response to the TEWG Report, the DOEE filed Comments, explaining that the TEWG discussed several options for metering MDU tenant charging that could facilitate cost allocation and rate assignment. These options included: (1) utilizing the telemetry and communications functionality embedded in the EVSE; (2) installing a second billing meter for each EVSE; and (3) submetering of EVSE. DOEE states that Pepco shared that in implementing an EV charging pilot in Maryland the Company experienced challenges in obtaining revenue-quality metering data from Smart Level II EVSEs and indicated that cellular costs often exceeded the cost of a second smart meter installation.<sup>59</sup> DOEE submits that the TEWG supports the use of existing tariffs, which obviates the need for Pepco to install a second billing meter for each MDU EVSE.<sup>60</sup>

20. DOEE supports parking lot submetering, stating that submetering of parking spaces at MDUs would allow building owners to allocate costs associated with EVSE charging to individual tenants instead of socializing non-metered charging costs across all tenants. According to DOEE, the D.C. Code explicitly authorizes submetering of non-residential rental units, but it is silent on the legality of residential submetering. Furthermore, DOEE explains that it is unclear whether submetering of a common area load in an MDU, which includes parking facilities, would constitute residential or non-residential submetering.<sup>61</sup> Therefore, DOEE requests that the Commission issue a narrow clarification of whether submetering of tenant parking spaces in MDUs for the purpose of EV charging constitutes residential or non-residential submetering under D.C. Code § 34-1553 *et seq.* and DCMR Chapter 15-44 *et seq.*<sup>62</sup>

21. EVADC believes District residents who live in MDUs must be able to pay for electricity in their MDU parking spot at the same rate and have the same protections as District residents with single-family homes, without having to deal with unnecessary middlemen for the transaction.<sup>63</sup> EVADC explains that there are no technical barriers to providing this service and it could be done if Pepco was willing and able to install direct meters for parking spots, or if a

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<sup>57</sup> Formal Case No. 1130 and Formal Case No. 1155, TEWG Report at 9.

<sup>58</sup> Formal Case No. 1130 and Formal Case No. 1155, TEWG Report at 9.

<sup>59</sup> Formal Case No. 1130 and Formal Case No. 1155, DOEE's Comments at 7-8, filed March 20, 2020.

<sup>60</sup> Formal Case No. 1130 and Formal Case No. 1155, DOEE's Comments at 7-8.

<sup>61</sup> Formal Case No. 1130 and Formal Case No. 1155, DOEE's Comments at 8.

<sup>62</sup> Formal Case No. 1130 and Formal Case No. 1155, DOEE's Comments at 8.

<sup>63</sup> Formal Case No. 1130 and Formal Case No. 1155, EVADC's Motion and Response at 6-7.

landlord could submeter the MDU's parking spots. EVADC argues that Pepco is willing to install second meters for the benefit of a privately-operated EVCS that would resell electricity to MDU residents. However, according to the EVADC, the better option is to install additional parking meters, which should be linked to the ratepayers who will be using the charging stations and associated meters. EVADC believes that when a tenant moved into an MDU and decided to reserve a parking spot, the tenant could add their parking spot's meter to their apartment's meter when they activate their service with Pepco. EVADC argues that facilitating the unregulated resale of electricity by residential landlords to tenants is not in the public interest.<sup>64</sup>

**D. Offering 7 and 8 – Make Ready Infrastructure for Public Charging, and Offering 10 – Taxi and Rideshare Charging**

22. Although the Commission did not direct the TEWG to discuss Offerings 7 and 8, during the meetings, the TEWG members expressed an interest in reviewing the public charging make-ready program. Under Offerings 7 and 8, Pepco is authorized to provide make-ready infrastructure to support the deployment of 35 Smart Level II chargers and 20 DC Fast Chargers ("DCFC") for public use.<sup>65</sup> According to the TEWG Report, several members questioned Pepco's interpretation of the definition of "make-ready" infrastructure. The Company interprets the term as "all work and infrastructure beyond the EV conduit and the meter through the EVSE;" whereas, DOEE believes that distribution upgrades should be excluded from the definition.<sup>66</sup> The TEWG Report also provided an update of Pepco's efforts in make-ready infrastructure and a list of additional criteria offered by the TEWG for consideration in prioritizing sites for employing this type of infrastructure.<sup>67</sup> The TEWG Report did not ask the Commission to take a specific action on this issue.

23. OPC expresses several concerns with Offerings 7 and 8 and recommends the Commission require Pepco to file a comprehensive plan that details how and why certain sites were chosen to install make-ready infrastructure and ensure that those chargers are installed in every ward in the District.<sup>68</sup> DOEE is also in support of exploring tax incentives for this Offering and believes that the incentive level for public charging proposed by Pepco should be reduced by the amount of tax credit available to developers of public charging, and any other federal or District incentive.<sup>69</sup> In addition, the DOEE requests that the Commission adopt a definition of make-ready infrastructure that includes interconnection facilities from the charger up to, and including, the

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<sup>64</sup> Formal Case No. 1130 and Formal Case No. 1155, EVADC's Motion and Response at 7.

<sup>65</sup> Formal Case No. 1130 and Formal Case No. 1155, TEWG Report at 11.

<sup>66</sup> Formal Case No. 1130 and Formal Case No. 1155, TEWG Report at 11.

<sup>67</sup> Formal Case No. 1130 and Formal Case No. 1155, TEWG Report at 12.

<sup>68</sup> Formal Case No. 1130 and Formal Case No. 1155, OPC's Comments at 4-5. OPC's concerns are as follows: 1) equitable access in all eight wards; 2) the possibility of stranded assets in underserved communities who do not own EVs due to socioeconomic reasons; 3) who will pay for the upkeep of the investment; and 4) the public siting of the charging facility.

<sup>69</sup> Formal Case No. 1130 and Formal Case No. 1155, DOEE's Comments at 9.

utility meter, while excluding distribution system upgrades.<sup>70</sup> Pepco disagrees, noting that the Commission already approved a definition of make-ready infrastructure.<sup>71</sup>

24. Offering 10, as approved by the Commission, allows the Company to provide make-ready infrastructure for 10 Smart Level II chargers and two DCFCs for the electric taxi/rideshare industry.<sup>72</sup> The TEWG Report notes that the Department of For-Hire Vehicles (“DFHV”), Uber, and Greenlots indicate a preference for modifying the program to focus exclusively on DCFCs because Smart Level II chargers are not efficient for use by the taxi or rideshare fleet. Pepco recommends that any service, including chargers installed under this Offering, continue to be served under an existing commercial tariff until experience and best practices dictate that other tariff options may be more suitable. No objections were presented for this recommendation.<sup>73</sup> The TEWG Report did not ask the Commission to take a specific action on this issue.

25. With respect to Offerings 10 and 11,<sup>74</sup> OPC recommends that the Commission ensure these chargers are installed in a manner that provides equitable and tangible benefits for DC ratepayers because 37% of households in the District do not own a vehicle.<sup>75</sup> Similarly, DOEE recommends that Offering 10 is modified to focus exclusively on DCFC and EV taxi and rideshare drivers, who need charging infrastructure with high utilization rates and would not benefit much from Smart Level II charging.<sup>76</sup> DOEE encourages Pepco to reach out to rideshare companies to better understand their needs and share the knowledge with the Commission and the TEWG.<sup>77</sup> With respect to Offering 11, DOEE states that it is unclear whether the budget for this offering would be sufficient and asks that the budget forecast be updated and include more details.<sup>78</sup>

26. In response to OPC and DOEE, Pepco agrees with DOEE and requests that the Commission consider modifying Offering 10 over time to meet the market’s needs. Pepco

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<sup>70</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE’s Comments at 4-5.

<sup>71</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Pepco’s Motion and Limited Response at 6. Citing Notice of Final Tariff published on January 31, 2020.

<sup>72</sup> DCFC is essential for high mileage/long distance driving and large fleets. The quick turnaround enables drivers to recharge during their day or on a small break as opposed to being plugged in overnight, or for many hours, for a full charge. Charging times are dependent on the battery size and the output of the dispenser, and other factors, but many vehicles can get an 80% charge in about or under an hour using most currently available DCFCs.

<sup>73</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 12.

<sup>74</sup> Offering No.11 (Bus Charging) allows Pepco the ability to provide five bus depot chargers and one on route charger to support the use of electric buses.

<sup>75</sup> *Formal Case No. 1130 and Formal Case No. 1155*, OPC’s Comments at 5.

<sup>76</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE’s Comments at 9-10.

<sup>77</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE’s Comments at 10.

<sup>78</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE’s Comments at 10-11. Pepco has allocated \$540,000 towards make-ready infrastructure for public bus charging.

proposes to continue discussions and reviews with key stakeholders on EVCS siting. Pepco also commits to reconvening the TEWG to present collective recommendations, receive feedback, and submit a new proposal for this Offering as part of a future quarterly report.<sup>79</sup> Pepco also disagrees that the budget for Offering 11 should be revised at this time and commits to revisiting the budget estimate if needed.<sup>80</sup>

#### **IV. TRANSPORTATION ELECTRIFICATION PROGRAM ANALYSIS, EVALUATION, AND ASSESSMENT REPORT**

27. **Whole House Time of Use Rate.** Pepco states that due to its investment in system and program education as well as enhanced focus on customer outreach, there were twenty-two (22) residential customers enrolled in the whole house R-PIV rate and seventeen (17) additional applications in progress, as of March 25, 2022. Pepco anticipates that more customers will be in enrolled R-PIV in the final three years of the program.<sup>81</sup>

28. **Make-Ready Infrastructure for Thirty-five Public Neighborhood Smart Level II EVSE.** Pepco indicates that a recently completed independent Market Penetration Study showed that Smart Level II chargers in the District are commonly found in certain residential areas, public parking areas, places of employment, and commercial settings.<sup>82</sup> Pepco received an increase in demand for Public Neighborhood Smart Level II chargers, likely driven by marketing and outreach initiatives such as at the January 2022 D.C. Auto Show. Because of a greater than expected demand, Pepco anticipates approving and installing EVCS infrastructure for more than 35 Public Neighborhood Smart Level II chargers the Commission approved in Order No. 19898. Pepco recommends re-allocating funds between Offerings 7 and 8 to increase the number of make-ready infrastructure for Public Neighborhood Smart Level II chargers to meet customer demand.<sup>83</sup>

29. Noting that the Market Penetration Study shows that there is a large gap between the number of registered EVs and the number of EVSEs in Wards 7 and 8 and, to a lesser extent, in Ward 5, Pepco proposes that if any increase in the number of Public Neighborhood Smart Level II EVSE is approved, that a 15% reserve of the total number Public Neighborhood Smart Level II EVSEs be allocated to Wards 5, 7, and 8.<sup>84</sup> More specifically, Pepco further proposes reallocating \$262,500 of the \$1,650,000 budget for DCFCs (Offering 8) to the budget for Public Neighborhood Smart Level II EVSEs (Offering 7). Pepco projects the remaining budget for Offering 8 is sufficient to fund make-ready infrastructure for 20 DCFCs.<sup>85</sup> Pepco states that this reallocation will allow for the installation of 35 additional Public Neighborhood Smart Level II

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<sup>79</sup> Formal Case No. 1130 and Formal Case No. 1155, Pepco's Motion and Limited Response at 8-9.

<sup>80</sup> Formal Case No. 1130 and Formal Case No. 1155, Pepco's Motion and Limited Response at 9.

<sup>81</sup> Formal Case No. 1130 and Formal Case No. 1155, TE Analysis at 2.

<sup>82</sup> Formal Case No. 1130 and Formal Case No. 1155, TE Analysis at 2-3.

<sup>83</sup> Formal Case No. 1130 and Formal Case No. 1155, TE Analysis at 4.

<sup>84</sup> Formal Case No. 1130 and Formal Case No. 1155, TE Analysis at 3.

<sup>85</sup> Formal Case No. 1130 and Formal Case No. 1155, TE Analysis at 4.

EVSEs to meet current and anticipated need, while still supporting up to 20 DCFCs with make-ready infrastructure.<sup>86</sup>

30. **Electric Vehicle Charging Station Make-Ready Infrastructure Definition.** Pepco states that based on feedback received and in an effort to afford customers additional flexibility for EVCS make-ready infrastructure for the 20 DCFCs under Offering 8, the Company proposes a modification to its currently approved tariff regarding the definition of make-ready infrastructure to allow flexibility for customer or utility ownership of behind-the-meter (“BTM”), EVCS make-ready infrastructure, while maintaining the same incentives for all deployments in the make-ready infrastructure for 20 DCFCs offering. In Order No. 19898, the Commission approved a definition of make-ready infrastructure that would have Pepco own and install all connection facilities in front of and BTM up to the EVSE charger.<sup>87</sup> More specifically, Pepco proposes modifying the definition of make-ready infrastructure to allow, at the customer’s election, the utility-owned make-ready infrastructure to include only infrastructure from the distribution system up to the meter. Pepco avers that with this change, if a customer elects to own and maintain the EVCS make-ready infrastructure on the customer side of the meter, Pepco would provide cost coverage inclusive of costs to install BTM, consistent with its existing program.<sup>88</sup>

31. **Make-Ready Infrastructure for Two DCFC and Ten Smart Level II EVSEs for Taxi/Rideshare.** Pepco states that because taxi and rideshare customers have stated that Level II chargers are not practical for their business because parking durations are typically less than the 2-4 hours required to fully charge an EV, it has not received any applications for make-ready infrastructure for Smart Level II EVSEs under Offering 10.<sup>89</sup> Pepco further states that it applied for a federal Department of Energy (“U.S. DOE”) grant through the Mid-Atlantic Electrification Partnership (“MAEP”) that would enable Pepco and MAEP to provide make-ready infrastructure for twelve DCFCs plus a portion of the cost of the DCFCs to better support the operations and business model for taxi and rideshare companies. Should U.S. DOE approve the grant proposal, Pepco will make a formal request to the Commission to modify this offering, changing it from 10 Smart Level II EVCSs and 2 DCFCs to 12 DCFCs. Pepco indicates that receipt of this grant will not affect Pepco’s overall budget, per the implementation plan, but will allow the Company to offer 12 DCFCs rather than 10 Smart Level II EVSEs and 2 DCFCs. Pepco further states that it will continue to apprise the Commission on the status of the pending grant application in its quarterly and semi-annual reports.<sup>90</sup>

32. **Make-Ready Infrastructure for Five 125kW Bus Depot Chargers and One 500kW On-Route Charger.** Pepco states that while it has coordinated with WMATA and DDOT the Company has not secured a participation agreement from either customer because WMATA and DDOT prefer to own EVSE infrastructure BTM, which is included in the “make ready” work

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<sup>86</sup> *Formal Case No. 1130 and Formal Case No. 1155, TE Analysis at 4.*

<sup>87</sup> *Formal Case No. 1130 and Formal Case No. 1155, Order No. 19898, ¶ 32.*

<sup>88</sup> *Formal Case No. 1130 and Formal Case No. 1155, TE Analysis at 4.*

<sup>89</sup> *Formal Case No. 1130 and Formal Case No. 1155, TE Analysis at 4.*

<sup>90</sup> *Formal Case No. 1130 and Formal Case No. 1155, TE Analysis at 4-5.*

Pepco would perform under the currently approved tariff. Thus, according to Pepco, DDOT and WMATA have suggested that the Company offer a rebate to defray the costs of customer-side infrastructure work required for bus depot charging and have expressed interest in a range of charging sizes for bus depot chargers and the on-route charger rather than the initially proposed and approved 125kW and 500kW chargers. Pepco proposes reallocating the budget originally proposed in its make-ready infrastructure implementation plan to a rebate program for the bus depot and on-route chargers for EV buses under the offering, in addition to more flexibility in charger sizes for both. Pepco states that this proposal would not require funding beyond that included in Pepco's implementation plan and matches the expressed intent of WMATA and DDOT.<sup>91</sup>

#### **IV. DECISION**

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

33. Considering the importance of having stakeholders provide comments that inform our decision, we grant the motions filed by Pepco and EVADA and accept their respective comments in the Commission dockets *Formal Case Nos. 1155* and *1130*. We turn now to the subject areas we directed the TEWG to address and the items the TEWG has asked the Commission to consider.

##### **B. Definition of Electric Vehicle Charging Station Make-Ready Infrastructure**

34. The TEWG Report notes that DOEE challenges Pepco's interpretation of make-ready infrastructure as being too broad because it includes distribution system upgrades and requests that the Commission adopt a narrower definition of EVCS make-ready infrastructure that includes facilities from the charger up to, and including, the utility meter, while excluding distribution system upgrades, as defined by Pepco.<sup>92</sup> In the TE Analysis, Pepco proposes to modify the definition of EVCS make-ready infrastructure in the Commission approved tariff to allow flexibility for customer or utility ownership of BTM, make-ready infrastructure.

35. Inasmuch as the Commission provided an illustrative graphic in paragraph 32 of Order No. 19898 that identifies the components of EVCS make-ready infrastructure as being the utility distribution infrastructure and the utility meter, panel and conduit and the Commission did not receive a timely request to reconsider its determination of what constitutes make-ready infrastructure, we see no reason to consider unilateral requests to change the definition at this advanced point of the proceeding without having interested persons provide comments on the DOEE and Pepco proposals. Accordingly, we invite interested persons to provide comments on the DOEE and Pepco proposals on the definition of EVCS make-ready infrastructure within twenty (20) days from the date of this Order.

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<sup>91</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TE Analysis at 5.

<sup>92</sup> *Formal Case No. 1130 and Formal Case No. 1155*, DOEE's Comments at 4-5.

### **C. Residential Customer Rebates for Smart Level II Charger Equipment**

36. Pepco proposes to provide up to 500 residential customers a \$500.00 rebate for the price and installation of a Smart Level II Charger. In Order No. 19898, the Commission indicated that “[w]hile the switch to EVs aligns with the District’s environmental goals, Pepco should target rebates toward customer behavior that will benefit the operation of the distribution system.”<sup>93</sup> There was no consensus among the TEWG on adopting the proposed rebates.

37. While there may be merit in Pepco providing rebates to EV owners in the District who wish to charge their vehicle at home, the Commission is not persuaded at this time that the rebate costs should be socialized. The principle of cost causation, which states that costs should be borne by those who cause them to be incurred, is fundamentally important when attributing costs to customers. The principle is not only fair, but it is also economically efficient as it sends the correct price signal to the consumer about how much it costs to service them. Not all District ratepayers own EVs.<sup>94</sup> At a time when District ratepayers are seeing increased distribution service costs to provide electricity to their homes and businesses, the Commission must ensure that costs borne by ratepayers are fairly and equitably distributed even as it considers the preservation of environmental quality. Consequently, while the Commission acknowledges that a select number of EV owners would benefit from the rebates, not all District ratepayers will benefit from the added cost of the rebates being proposed for which Pepco will seek cost recovery. Accordingly, we deny Pepco’s request to approve Offering 4.

### **D. Multi-dwelling Unit Charger Equipment and Installation Cost Discounts**

38. Pepco proposes to provide a 50% discount on Smart Level II chargers and a 100% discount on installation of 100 chargers at condominiums, apartments, and other MDUs (Offering 5). There being insufficient information on the record to move forward with Pepco’s proposal, the Commission directed the TEWG to discuss the proposal and specific implementation details, including selection criteria, proposed draft tariffs, identification of the offerings’ beneficiaries, and the appropriate initial EVCS deployment numbers. The TEWG Report indicates that AOBA and OPC “question the need for this offering and believe MDU owners should be responsible for the purchase and installation of EVSE in their buildings.”

39. Although the Commission noted in Order No. 19898 that it saw clear value in an EV charging offering focused on MDUs, for the reasons stated in paragraph 37 of this Order, we are not persuaded at this time that all District ratepayers should bear the costs associated with upgrading MDUs to accommodate unit charging with the implementation of the District’s Building Energy Performance Standards.<sup>95</sup> The costs incurred by MDUs to install EVSEs should be borne

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<sup>93</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Order No. 19898, ¶ 42.

<sup>94</sup> In the Quarterly Report on the Implementation of the Transportation Electrification Program filed on January 31, 2022, Pepco indicates that the total number of battery electric and plug-in hybrid vehicles registered in the District through January 2022 is 5317.

<sup>95</sup> See D.C. Code §6-1451.03a (2021).

by the MDU owners. Accordingly, we deny Pepco's request to approve the discounts proposed in Offering 5.

#### **E. Multi-dwelling Unit Electric Vehicle Time-of-Use Rate**

40. Although Pepco's proposed MDU-Plug In Vehicle ("PIV") tariff received little support by the TEWG, we do believe that a separate tariff rate should be established for MDU customers who install EVSE, like the whole house TOU Rate the Commission approved for residential customers in Order No. 19898. TOU tariffs encourage customers to shift their load to off-peak times (where possible) to avail of cost savings. We believe that providing a benefit to MDUs with this tariff can also benefit the distribution system by load shifting thereby reducing stress on the distribution system and added costs to ratepayers. Within forty-five (45) days from the date of this Order, Pepco is directed to file a MDU-PIV tariff that provides detailed price information for generation, transmission and distribution, such that MDU customers clearly understand the incentives for charging EVs off-peak and exactly how much they will pay based on their usage.

#### **F. Multi-dwelling Unit Charger Parking Space Metering**

41. DOEE, EVADC and others request that the Commission clarify whether submetering of parking spaces in MDUs for the sole purpose of EV charging is considered residential or non-residential submetering. We noted in Order No. 19898 that it was "not clear why Offering 5 requires a second meter" if Pepco was already using smart meters.<sup>96</sup> AOBA requested that a potential restriction on submetering be eliminated. EVADC argued that the Commission should not proceed with Offering 5 until the permissibility of sub-metered outlets in MDUs has been addressed.<sup>97</sup> We also note that EVADC indicated that there was consensus among working group members that the Commission should permit submetering to parking spaces in MDU buildings.<sup>98</sup> We address the legal issue regarding submetering of MDU parking spaces below and direct Pepco to modify the current tariff accordingly.

42. The Commission precluded submetering in residential dwellings in 1928, long before the introduction of electric vehicles, stating, "It is expressly understood and agreed that electric service furnished to the consumer shall be for his (hers or their) own use and may not be remetered (or submetered) by the consumer for the purpose of selling electric service to another or others."<sup>99</sup> D.C. Code § 34-1553, which governs energy submetering, explicitly authorized only

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<sup>96</sup> *Formal Case No. 1130 and Formal Case No. 1155*, Order No. 19898, ¶ 44.

<sup>97</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 9.

<sup>98</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TEWG Report at 9.

<sup>99</sup> *See Formal Case No. 152, In the Matter of a Reduction in the Rates of the Potomac Electric Power Company*, Order No. 737 at 12, rel. December 31, 1928; *affirmed in Lewis, et al. v. Potomac Electric Power Company*, 64 F.2d 701 (D.C. Cir. 1933); *see also Council of the District of Columbia v. Clay*, 683 A.2d 1385, 1390 (D.C. 1996); *see also Howard University Hospital/Property & Cas. Guarantee Fund v. District of Columbia Dept. of Employment Services*, 952 A.2d 168 (2008); *Odeniran v. Hanley Wood, LLC*, 985 A.2d 421 (2009). (Where a statute, with reference



non-residential submetering by providing that “[e]nergy submetering equipment or energy allocation equipment may be used in a building if it is authorized in the rental agreement or lease for the nonresidential rental unit.”<sup>100</sup> The Commission’s decision in 1928 can be distinguished here because when that decision was made, the Commission was focused on precluding residential submetering to a MDU where one resides, not to a meter for a MDU parking space designated for EV charging. Therefore, since there are no statutory provisions that explicitly disallow submetering for the purpose of EV charging, we conclude that the Commission can permit submetering of tenant parking spaces in MDUs for EV charging.

43. Section 2 (e) of Pepco’s General Terms and Conditions tariff sets forth the terms for customer wiring and appliances.<sup>101</sup> Moreover, this provision states that electric service furnished to a customer may not be re-metered or submetered. The Commission believes that this tariff should be revised to allow an exception for electric service furnished for EV charging: “Electric service furnished to the Customer shall be for the Customer’s own use and may not be re-metered or sub-metered by the Customer, except for electric service furnished to the customer for electric vehicle charging.” We recognize that Pepco has committed to “observing the submetering performance” for its Maryland program and “evaluating submetering options for programs” in the District; therefore, Pepco is directed to file within forty-five (45) days of the date of this Order, a revised tariff page that includes an exception for EV charging, thus allowing submetering at parking spaces in MDUs. This modification will enable MDU residents the option of conveniently charging their EV where they live.

#### **G. Make-Ready Infrastructure for Public Neighborhood Smart Level II Charging and Taxi/Rideshare Charging**

44. Although Pepco was not directed by the Commission to discuss Offerings 7 and 8, the TEWG members opted to reconsider this public charging make-ready program and provided additional suggestions for potential improvements. We now consider other items mentioned in the TEWG Report.

45. Pepco was authorized by the Commission to provide make-ready infrastructure for up to 35 public Smart Level II chargers and 20 DCFCs. Pepco offers three criteria for evaluating each charger site: (1) load/feeder capacity; (2) engineering requirements; and (3) total cost. Upon review of the TEWG Report, we believe Pepco’s site selection criteria for make-ready infrastructure should not be revised further because, as presented, the criteria are sufficient to allow Pepco to implement our directives detailed in Order Nos. 19898 and 19983. Revising the criteria

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to one subject, contains a given provision, the omission of the provision from a similar statute concerning a related subject shows that a different intent existed.)

<sup>100</sup> D.C. Code § 34–1553 (a) states: (a) Energy submetering equipment or energy allocation equipment may be used in a building if it is authorized in the rental agreement or lease **for the nonresidential rental unit**. All energy submetering equipment and energy allocation equipment shall meet the requirements and standards established and enforced by the Commission pursuant to subsection (b) of this section. [emphasis added].

<sup>101</sup> The Potomac Electric Power Company, General Terms and Conditions, Electric--P.S.C. D.C. No. 1, Second Revised Page No. 8, Section 2 (e) (September 25, 2009).

could also further delay the implementation of these Commission approved offerings. Should Pepco desire to revise the criteria in the future, it should make a request with the Commission with an explanation as to why a change is necessary and what such change will accomplish for the Company and District ratepayers.

46. In Order No. 19898, the Commission approved Pepco's deployment of make-ready infrastructure for up to ten (10) Smart Level II EV chargers and two (2) DCFCs accessible for taxis and rideshare service vehicles. The DFHV, Uber, and Greenlots raise concerns about the need for more DCFCs rather than Level II chargers to meet the demands of taxi and rideshare companies and drivers. Given that DCFCs allow for faster charging for taxis and rideshare vehicles that need to quickly resume transportation services, we agree that DCFCs are a better charging option for taxi and rideshare vehicles because a DCFC can charge an EV from 10% to 80% in 30 minutes. We also agree with DOEE that Pepco should reach out to rideshare companies to better understand their needs, confirm their suggested locations, and share the information gained from the rideshare companies with the Commission and the TEWG, as soon as such information is obtained.

47. We are pleased that Pepco has sought a U.S. DOE grant that would enable Pepco to provide make-ready infrastructure for twelve DCFCs, and that the Company plans to make a formal request to the Commission to modify this offering, changing it from 10 Smart Level II EVCSs and 2 DCFCs to 12 DCFCs.<sup>102</sup> We look forward to receiving Pepco's modification request.

#### **H. Budget Re-Allocation Proposal to Increase the Number of Public Neighborhood Smart Level II Chargers**

48. Pepco proposes to reallocate \$262,500 of the \$1,650,000 budget for DCFCs (Offering 8) to the budget for Public Neighborhood Smart Level II EVSEs (Offering 7). The Company maintains that this would provide roughly 35 additional Level II chargers and not impact the funding of 20 DCFCs.<sup>103</sup> Because Pepco's proposal is not addressed in the TEWG Report, the Commission solicits comments on Pepco's proposal before taking further action. Interested persons are directed to provide comments on Pepco's proposal to re-allocate funds between Offerings 7 and 8 to increase the number of make ready infrastructure for Public Neighborhood Smart Level II chargers to meet customer demand within twenty (20) days from the date of this Order.

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<sup>102</sup> See, *Formal Case No. 1130 and Formal Case No. 1155*, TE Analysis at 5-6. The Commission notes that the Infrastructure Investment and Jobs Act of 2021 ("Bipartisan Infrastructure Law"), Public Law 117-58, has established the National Electric Vehicle Infrastructure Formula Program ("NEVI Formula") to provide funding to states to strategically deploy electric vehicle (EV) charging infrastructure and to establish an interconnected network to facilitate data collection, access, and reliability. The District of Columbia has been apportioned \$2,468,807 from the NEVI Formula, [https://www.fhwa.dot.gov/bipartisan-infrastructure-law/nevi\\_formula\\_program.cfm](https://www.fhwa.dot.gov/bipartisan-infrastructure-law/nevi_formula_program.cfm).

<sup>103</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TE Analysis at 4.

**I. Budget Re-Allocation Proposal to Provide a rebate Program for Bus Depot and On-Route Chargers**

49. Pepco proposes reallocating the budget originally proposed in its make-ready infrastructure implementation plan to fund a rebate program for the bus depot and on-route chargers for electric buses under Offering 11, in addition to more flexibility in charger sizes for both.<sup>104</sup> Pepco's proposal is not addressed in the TEWG Report. Therefore, the Commission requests that interested persons provide comments on Pepco's proposal to re-allocate funds for a rebate program for the bus depot and on-route chargers for EV buses under Offering 11 within twenty (20) days from the date of this Order.

**THEREFORE, IT ORDERED THAT:**

50. The Potomac Electric Power Company's Motion for Leave to Respond and Limited Response, the Alliance for Transportation Electrification's Request to duplicate its comments on a Notice of Proposed Rulemaking initiated at the District's Department of Transportation, and the Electric Vehicle Association of Greater Washington's Motion Requesting Leave to Response are **GRANTED** and the responses are **ACCEPTED** into *Formal Case No. 1130* and *Formal Case No. 1155*;

51. The Potomac Electric Power Company's request for approval of Offering 4 and Offering 5 are **DENIED**;

52. The Potomac Electric Power Company is **DIRECTED** to file a Multi Dwelling Unit-Plug In Vehicle tariff within forty-five (45) days from the date of this Order; and

53. The Potomac Electric Power Company is **DIRECTED** to file a revised Tariff page that includes an exception for electric vehicle chargers that would implement submetering at parking spaces in multi-dwelling units within forty-five (45) days from the date of this Order;

54. Interested persons are **DIRECTED** to provide comments on the proposals of the Department of Energy and Environment and the Potomac Electric Power Company to modify the definition of make-ready infrastructure established in Order No. 19898 within twenty (20) days from the date of this Order;

55. Interested persons are **DIRECTED** to provide comments on the proposal of the Potomac Electric Power Company to re-allocate funds between Offerings 7 and 8 to increase the number of make ready infrastructure for Public Neighborhood Smart Level II chargers within twenty (20) days from the date of this Order; and

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<sup>104</sup> *Formal Case No. 1130 and Formal Case No. 1155*, TE Analysis at 5.

56. Interested persons are **DIRECTED** to provide comments on the proposal of the Potomac Electric Power Company to re-allocate funds for a rebate program for the bus depot and on-route chargers for EV buses under Offering 11 within twenty (20) days from 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**