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September 11, 2024

VIA E-DOCKET FILING

The Honorable Brinda Westbrook-Sedgwick, Secretary
District of Columbia Public Service Commission
1325 G Street N.W., Suite 800
Washington, D.C. 20005

Re: IN THE MATTER OF 15 DCMR CHAPTER 29 - RENEWABLE ENERGY PORTFOLIO STANDARD
RM29-NEW

IN THE MATTER OF 15 DCMR CHAPTER 40 – SMALL GENERATOR INTERCONNECTION RULES
RM40-NEW

IN THE MATTER OF THE INVESTIGATION OF THE IMPLEMENTATION OF INTERCONNECTION STANDARDS IN THE DISTRICT OF COLUMBIA
FORMAL CASE NO. 1050

Dear Ms. Sedgwick:

Enclosed for filing in the above-captioned matters is the Petition of Chesapeake Solar & Storage Association to Initiate an Emergency Rulemaking to Revise 15 DCMR § 4005 and a Non-Emergency Rulemaking to Amend the Small Generator Interconnection Rules in Chapters 29 and 40 of the Commission's Regulations.

Please do not hesitate to contact me if you have any questions.

Sincerely,

/s/ Eric J. Wallace

Eric J. Wallace

Enclosure
c: Service List (w/enclosure) (via e-mail delivery)
4892-6895-4339, v. 1

BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA

IN THE MATTER OF 15 DCMR CHAPTER 29 - RENEWABLE ENERGY PORTFOLIO STANDARD	)	RM29-_____
IN THE MATTER OF 15 DCMR CHAPTER 40 – SMALL GENERATOR INTERCONNECTION RULES	)	RM40- _____
IN THE MATTER OF THE INVESTIGATION OF THE IMPLEMENTATION OF INTERCONNECTION STANDARDS IN THE DISTRICT OF COLUMBIA	)	FORMAL CASE NO. 1050

PETITION OF CHESAPEAKE SOLAR & STORAGE ASSOCIATION TO INITIATE AN EMERGENCY RULEMAKING TO REVISE 15 DCMR § 4005

AND

A NON-EMERGENCY RULEMAKING TO AMEND THE SMALL GENERATOR INTERCONNECTION RULES IN CHAPTERS 29 AND 40 OF THE COMMISSION'S REGULATIONS

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PETITION OF CHESAPEAKE SOLAR & STORAGE ASSOCIATION TO INITIATE AN EMERGENCY RULEMAKING TO REVISE 15 D.C.M.R. § 4005
AND
A NON-EMERGENCY RULEMAKING TO AMEND THE SMALL GENERATOR INTERCONNECTION RULES IN CHAPTERS 29 AND 40 OF THE COMMISSION'S REGULATIONS

Pursuant to D.C. Code Sections 2-505(b) and (c), and Sections 101.1 and 104.1 of the Public Service Commission of the District of Columbia's ("Commission") Rules of Practice and Procedure, the Chesapeake Solar & Storage Association ("CHESSA"), by counsel, respectfully requests that the Commission:

(1) Initiate an emergency rulemaking to amend District of Columbia Municipal Regulations ("DCMR") Title 15, Chapter 40 to prohibit Potomac Electric Power Company ("Pepco"), the electric distribution company ("EDC") serving the District of Columbia ("District"), from forcing interconnecting customers to pay exorbitant, delayed "true-up" cost payments for interconnection, and

(2) Initiate a rulemaking to amend 15 DCMR Chapter 29 to adopt a bright-line rule for facilities located in Maryland on a cross-border feeder that are eligible for certification to generate District SRECs; and

(3) Initiate a rulemaking to amend 15 DCMR Chapter 40 to implement reasonable deadlines for interconnection milestones, interconnection cost transparency and control measures, and efficient interconnection dispute resolution options for interconnection customers.

I. INTRODUCTION

The Commission's Small Generator Interconnection Rules, Title 15, Chapter 40 of the District of Columbia Municipal Regulations, establish the procedures and requirements to interconnect small generation facilities less than or equal to 20 megawatts, not subject to PJM interconnection requirements, for generating facilities that are designed to operate in parallel with the electric distribution system.[1] Chapter 40 governs the process by which interconnection customers apply to Pepco, are studied, and are authorized to operate. As the industry is evolving, other jurisdictions are reviewing and ultimately updating their interconnection rules to better serve the evolving energy landscape. CHESSA has identified issues in the District that warrant the Commission's attention. To that end, CHESSA proposes updates to Title 15, Chapter 40 to address these issues and to improve the interconnection process in the District. CHESSA also proposes an update to Rule 29 to provide needed certainty regarding facility eligibility for certification to generate solar renewable energy credits that can be used for compliance with the District's Renewable Portfolio Standard.

[1] 15 DCMR § 4000.1.

Founded in 1984, CHESSA represents businesses that develop and install solar power and energy storage in the District of Columbia, Maryland, Virginia, and Delaware. CHESSA advances policy and regulations that build a robust and equitable solar and storage market in the region. CHESSA is an independent 501(c)6 organization and a recognized state affiliate of the Solar Energy Industries Association. CHESSA seeks to strengthen the market for solar energy in the District and reduce barriers to adoption of solar energy by District residents. CHESSA strives to advance comprehensive, equitable policy in the District.

CHESSA members are involved in every facet of the solar industry. Our members design, sell, integrate, install, maintain, and finance solar energy equipment for residential, commercial, industrial, and institutional customers in the District and throughout the region. Among our ranks are the accountants, attorneys, builders, architects, electricians, plumbers, developers and consultants who together form the foundation of solar in the District. CHESSA represents sole proprietors and publicly traded companies alike, and drives value to the residential, commercial, industrial, community and utility-scale sectors.

In its role as an advocate for members of the District's solar industry, CHESSA has become aware of current electric distribution company ("EDC") practices that are making it difficult to conduct business in the District, and ultimately could hinder commercial and community solar development in the District. In response to these concerns, through this Petition, CHESSA recommends that the Commission: (1) adopt emergency rules to stop excessive and late costs for interconnected solar facilities; and (2) make permanent rule changes to impose reasonable deadlines for interconnection milestones, reasonable interconnection cost transparency and control measures, and to facilitate program improvements for both the EDC and for District businesses.

II. REQUEST TO ADOPT EMERGENCY RULE TO STOP EXCESSIVE AND LATE COSTS FOR INTERCONNECTED SOLAR FACILITIES

CHESSA requests that the Commission initiate an emergency rulemaking, pursuant to D.C. Code § 2-505(c), to amend 15 DCMR § 4005.6 to prohibit Pepco from attempting to collect true-up costs that are:

1) more than 15% of the original pre-construction cost invoice;

2) invoiced more than 90 days after the work is completed; or

3) not accompanied by a detailed explanation of the discrepancy in costs from the pre-construction invoice.

Only by adopting an emergency rule to prohibit the recent egregious "true-up" invoicing practices of Pepco can the District hope to prevent the chilling of commercial and community solar development in the District so it can keep making progress toward its climate and resilience commitments and protect its local solar companies and the green jobs they support.

Over the past several months, Pepco, has been invoicing solar installers for exceedingly high "true up" costs for interconnection of systems that were interconnected many months or even years before. Pepco's late and excessive invoices violate the Commission's interconnection rules and interconnection agreements.[2]

CHESSA members have recently begun to receive demands from Pepco for additional payments for interconnection work done several months or even years before in amounts that double, triple, or even quadruple the original payment for the work, with no explanation for the discrepancy between purported actual costs versus the original estimate. Although the Commission's rules do not address Pepco's interconnection "true-up" invoicing practices directly, the rules do require that the pre-construction cost estimate provided to developers prior to the

[2] *See e.g.*, 15 DCMR §§ 4001.3, 4099.

utility's granting authority to install the system be a "good faith" cost estimate,[3] and the rules also require the utility to utilize standard interconnection agreements approved by the Commission.[4]

It is unreasonable for Pepco's good-faith cost estimate to be followed by a true-up invoice for triple the amount (or higher) for the work after it is done. The unpredictable and un-capped cost increase of the project due to the true-up invoice changes the economics of the underlying solar project long after it is built. Indeed, the magnitude of Pepco's true-up invoices can change profitable solar projects into unprofitable projects that likely never would have been built in the first place, had Pepco provided those costs in its original estimate. Moreover, the true-up invoices received do not explain or account for the extreme discrepancy between the original cost estimate and the true-up invoice—despite provisions in Pepco's standard Interconnection Agreement that require such an accounting.[5]

Further, these true-up cost invoices were sent to solar customers significantly after the 90-day deadline that is provided in Pepco's standard Interconnection Agreement for such invoices.[6] Some projects for which interconnection customers received these invoices had been sold to other companies, creating conflict over who should pay the invoices and making it more difficult for current projects to be financed. Additionally, sending these true-up invoices so long after the system is turned on makes it impossible to include them in the developer's 30% federal investment tax credit for the project, further increasing costs of installing solar in the District.[7] In short, Pepco's late and excessive true-up invoicing is causing projects which were formerly economical

[3] 15 DCMR § 4005.6.
[4] *See* 15 DCMR §§ 4001.3, 4004.3, 4005.4, 4099.1.
[5] *See* Pepco's District Of Columbia Level 2, 3, & 4 Interconnection Application and Agreement, section 5.1.2, p. 16, https://azure-na-assets.contentstack.com/v3/assets/bltbb7c204688a1a6a8/blt3000d2d3abd7a35f/Pepco_DC_Level_234_January_2019_Interconnection_Application_and_Agreement.pdf.
[6] *Id*.
[7] 26 U.S.C. § 48.

to become unprofitable. The Commission should take action to address this issue so that the District can continue to attract investment in clean and renewable energy.

Best practices in interconnection regulation require that true-up invoices for EDC interconnection work be received within a reasonable timeframe and limited to no more than 25% of the original cost estimate.[8] In order for interconnection applicants to have confidence that they understand the costs of any necessary upgrades, it is vital that the Commission update its rules to require Pepco to provide cost estimates within a reasonable margin of error and within a reasonable time after the work is completed. CHESSA recommends a lower margin of error in the District than is included in the Interstate Renewable Energy Counsel ("IREC") model rules due to Pepco imposing increasingly high interconnection cost estimates on solar installation in the District since late 2023, as described below. CHESSA respectfully requests that these rules remain effective for the maximum time allowed under the Code, 120 days, to allow the Commission time to conduct a rulemaking to permanently adopt these changes.[9]

Given the gravity of the situation and the chilling effect that Pepco's true-up invoicing is already causing, CHESSA respectfully requests that the Commission act quickly to adopt emergency rules establishing a limit on true-up costs, re-confirming that Pepco must adhere to the standard Interconnection Agreement provisions related to true-up cost invoicing timelines and procedures. CHESSA proposes that Section 4005.6 be amended to add a new subsection (d) with true-up invoicing requirements for Pepco:

[8] *See* IREC Model Interconnection Rules, 2023 Edition, p. 35, https://irecusa.org/resources/irec-model-interconnection-procedures-2023/.
[9] D.C. Code Ann § 2-505(c).

15 DCMR§ 4005.6 Modifications to Level 2 Interconnection Review Process:

…

(d) An Interconnection Customer shall not be required to pay any portion of the balance of Interconnection Facilities or Distribution System Upgrade costs:

(1) *that exceeds the original good faith cost estimate provided by the EDC by more than 15%; or*

(2) *for which an invoice is received by the Interconnection Customer more than 90 days following the completion of the Interconnection Facilities or Distribution System Upgrades; or*

(3) *for which a detailed, itemized accounting of the discrepancy between the good faith cost estimate provided by the EDC under Subsection 4005.6(a) and the actual costs incurred by the EDC is not provided by the EDC within 90 days after the completion of the Interconnection Facilities or Distribution System Upgrades.*

III. REQUEST FOR NON-EMERGENCY RULEMAKING TO UPDATE INTERCONNECTION REGULATIONS IN THE DISTRICT

CHESSA requests that the Commission initiate a (non-emergency) rulemaking to amend Chapters 29 and 40 of the Commissions regulations to improve the interconnection processes for the District. As CHESSA has reported multiple times before, Pepco has been imposing unreasonably high and unpredictable costs and timelines for interconnecting solar systems.[10] There are multiple interconnection issues increasingly causing this in addition to the recent true-up invoicing practice adopted by Pepco described above. CHESSA respectfully requests that the

[10] *See generally, RM40-2020-01, In the Matter of 15 DCMR Chapter 40 – District of Columbia Small Generator Interconnection Rules and FC 1050, In the Matter of the Investigation of Implementation of Interconnection Standards in the District of Columbia*, Chesapeake Solar & Storage Association's ("CHESSA") D.C. Interconnection Study and Final Report, filed Oct. 25, 2021, https://edocket.dcpsc.org/apis/api/Filing/download?attachId=142380&guidFileName=fc2c32ff-6100-458c-bb04-3af97516fe43.PDF; *Id.* Chesapeake Solar & Storage Association's Report detailing D.C. Residential Solar Interconnection Concerns, filed Feb. 17. 2022, https://edocket.dcpsc.org/apis/api/Filing/download?attachId=145944&guidFileName=52fa3e11-820d-41bb-9ebd-14e4151f4e96.PDF; *FC 1050, In the Matter of the Investigation of Implementation of Interconnection Standards in the District of Columbia*, Update: Commercial and Residential Interconnection Issues in the District of Columbia, filed Feb. 2, 2023, https://edocket.dcpsc.org/apis/api/Filing/download?attachId=186042&guidFileName=7fa2bee6-1f5a-4f73-a6c8-e87b8d0035b0.pdf.

Commission also take action to amend its interconnection rules to reflect current best practices, including reasonable deadlines for interconnection milestones and reasonable interconnection cost transparency and control measures. In addition to adopting the above true-up invoicing requirements on a permanent basis, CHESSA recommends the following amendments as part of the RPS and interconnection rulemakings:

1. Adopt a Rule for Cross-Border Feeder Eligibility for District SRECs in RPS Regulations.
2. Clearly outline costs, require itemized cost guides, and require itemized cost estimates.
3. Require evaluation and approval of Technical Interconnection Requirements.
4. Amend the Definition of Approval to Install ("ATI") in the Interconnection Regulations.
5. Clarify and address gaps in regulatory ATI deadlines.
6. Add deadline for Pepco to transmit invoices for grid upgrade work.
7. Add deadline for installation of facilities and distribution system upgrades.
8. Clarify deadline for systems testing required after interconnection work is complete.
9. Add deadline for authorization to operate for Level 2 systems
10. Define how Interconnection Customers may submit documents to the EDC
11. Require reporting of timelines and corrective action plans when exceeded.
12. Establish an Interconnection Ombudsman and Standing Interconnection Task Force to resolve interconnection complaints quickly.

These changes will help improve interconnection in the District, facilitating investment in clean and renewable energy to advance the District's climate policy goals and maximize private investment in the District's clean energy transition.

A. Background

Since 2022, the District's solar interconnection processes have become increasingly lengthy, unpredictable, and costly, particularly for community solar and commercial systems. At least one District solar company, a District certified business enterprise, declared bankruptcy in

2023 driven by interconnection delays for several megawatts' worth of District projects. Other District-based companies have also struggled to meet regular business expenses when faced with interconnection timeline unpredictability. Solar installers expend significant capital to build projects, but they do not realize revenue from projects until the project is interconnected and turned on. Adopting this risk and bringing in outside capital to build solar systems are key benefits that solar installers provide as the District seeks to achieve its climate and resilience goals. However, carrying capital construction debt for months longer than necessary or projected because a fully built project has not received the final utility approval necessary to turn it on can sink a renewable energy company, particularly a small or local business. CHESSA believes this can be prevented, and costs to install solar in the District can be reduced, if the Commission adopts stronger regulations and conducts more active oversight of the utility's interconnection process.

Without such oversight, the lack of predictability and transparency in District interconnection costs and timelines will likely have a chilling effect on commercial and community solar system development as the District strives to achieve its ambitious climate goals in coming years. CHESSA proposes the following rule changes to address gaps in current regulations and facilitate more robust oversight of interconnection by the Commission.

B. Proposed Chapter 29 Rule Change: Adopt a Bright-Line Regulatory Rule for Cross-Border Feeder Eligibility for District SRECs in RPS Regulations.

CHESSA urges the Commission to adopt a bright-line rule for cross-border feeder eligibility for District SRECs in RPS regulations to avoid uncertainty concerning which projects will qualify. In May 2021, the Commission updated its rules with the intent of providing "regulatory certainty" regarding the eligibility of cross-border small generators for the District

RPS solar carve out under the Distributed Generation Amendment Act of 2011.[11] Since then, solar installers have begun using Pepco's District feeder map to develop solar projects in Maryland that are eligible for District SRECs. However, since the rule was passed, some installers have learned the hard way that the regulations do not actually accomplish the goal of providing regulatory certainty about the ability to develop District SREC-eligible projects on District feeders in Maryland. This concern has been raised with regard to community solar projects that are required to be interconnected directly to a nearby feeder rather than behind an existing meter, and developers report it has become a significant problem.

CHESSA does not propose to prohibit Pepco from changing its mind about the appropriate interconnection feeder for projects after ATI, as this determination should remain within the discretion of Pepco before it completes its interconnection work, and late changes to feeder interconnection points typically do not add significant cost or delay to projects except within the context of District feeders in Maryland. Further, oversight of Pepco's interconnection process in Maryland is not within the Commission's jurisdiction. Instead, to provide the regulatory certainty the Commission sought with its May 2021 rulemaking, CHESSA proposes that the Commission adopt a bright-line rule for District SREC eligibility that applies at the time ATI is granted, to provide the certainty that solar installers need before signing contracts and expending significant funds building projects. Such a change is in line with the Commission's rules providing that projects remain eligible for District SRECs once certified, even if Pepco later changes feeder configurations in a way that displaces the project from a District feeder.[12] The needed certainty

[11] *RM-2020-02, In the Matter of 15 DCMR Chapter 29- Renewable Energy Portfolio Standard*, Notice of Final Rulemaking at 1, May 21, 2021, https://edocket.dcpsc.org/apis/api/Filing/download?attachId=125029&guidFileName=e6bcb065-e889-419a-961c-151d4ad11fb3.pdf.

[12] 15 DCMR § 2902.1.

could be accomplished by regulatory amendments that provide that, if the interconnection feeder specified in the ATI is a District feeder, the project is eligible for District SRECs even if Pepco later changes its mind about the interconnection feeder to which the project should be connected. CHESSA recommends the following language to provide this clarity:

15 DCMR § 2902.1(b)(2):

> (2) A Solar Energy System which is not currently connected to the Electric Company's distribution system and is not located in the District may be eligible for certification to meet the solar portion of the Tier One requirement of the RPS, if the appropriate connection point ~~as determined by the Electric Company~~ *as identified in the written notification of Authorization to Interconnect or signed Interconnection Agreement* is on a distribution feeder serving the District. The Electric Company shall not reconfigure its distribution system, including extensions of the system or new service connections, solely to allow a solar energy system to become eligible for certification to meet the solar portion of the Tier One requirement of the RPS.

C. Proposed Chapter 40 Rule Changes

1. Clearly outline the permissible interconnection costs, require an itemized interconnection cost guide, and require cost estimates to provide similarly detailed itemization.

The Commission should adopt a new subsection seven to Rule 4001 to specify the interconnection costs that Pepco may impose on interconnection customers. The rule should also require Pepco to publish an itemized interconnection cost guide for equipment and labor, and provide detailed itemization in cost estimates.

CHESSA members report that Level 2 standard interconnection costs (per watt) in the District have more than doubled since early 2023, from roughly 8 cents per watt to 17 cents per watt. For example, the cost of interconnecting a solar system to the grid via a basic overhead line, requiring no trenching, went from approximately $3,500 to three times that amount.

As noted above, facilities and grid upgrade costs have been increasing significantly, and it is unclear what has changed about Pepco's cost estimate methodology. Further, the requirements seem to be applied unevenly by Pepco in the District. When interconnection customers inquire into the rationale for grid upgrade costs, they frequently change. This lack of consistency and transparency is a serious concern, as high interconnection facilities and grid upgrade costs are frequently the issue that makes a customer's solar project infeasible. Lack of consistency can also lead to significant ratepayer costs as some of those costs begin to be socialized under the Commission's rules.

The Commission should amend its regulations to clearly outline the permissible costs for which Pepco may charge an interconnection customer and to require publication of regularly updated interconnection cost guidelines by Pepco identifying the typical range of costs associated with various types of interconnection equipment and work. This will allow the Commission and other stakeholders to determine if the requirements and costs are reasonable and being applied consistently, if equipment and labor costs are industry standard, and whether new technology might eliminate or reduce some of those costs. CHESSA recommends that the Commission add the following new subsection 7 to Rule 4001:

15 DCMR § 4001.7

> *The EDC shall publish an itemized cost guide for equipment and labor that shall be updated at least annually. The EDC shall only bill the Interconnection Customer for required modifications to the EDC's Electric Distribution System, including the cost of equipment, labor, and other direct costs for completing such upgrades, consistent with the cost guide. The EDC shall provide an itemized list of all costs to the Interconnection Customer.*

2. Require regular evaluation and Commission approval of the EDC's Technical Interconnection Requirements

Pepco's Technical Interconnection Requirements ("TIR") include mandatory requirements that often control whether solar projects are able to be interconnected, and whether interconnection is economically feasible. To increase transparency in interconnection requirements and promote investment in technology that can increase hosting capacity and reduce grid upgrade costs, CHESSA recommends that the Commission require Pepco to file its Technical Interconnection Requirements and any future amendments thereto for Commission approval. Further, updates to TIR should be discussed within the Interconnection Task Force, as proposed below, before Commission approval. To accomplish this, CHESSA recommends the following new subsection 8 to Rule 4001:

15 DCMR § 4001.8

The EDC shall publish Technical Interconnection Requirements on its website. The Technical Interconnection Requirements, and any updates thereto, shall be subject to approval by the Commission, after an opportunity for public comment.

3. Amend the Definition of ATI in the Interconnection Regulations to include stamped single-line drawings, citation to the dated EDC equipment specifications applicable to the project, and identification of the feeder to which the project will interconnect, if applicable.

To prevent significant, costly alterations to projects late in the construction process, CHESSA recommends that the Commission amend the "Approval to Install" ("ATI") definition to:

(1) specify that it includes approval of the single-line drawing of the proposed project;

(2) require that the ATI cite to the dated version of public equipment specifications that apply to the project; and

(3) require that the ATI specify the feeder to which Pepco approves interconnection, when applicable.

Pepco has argued to developers that the current ATI definition in the Commission's regulations contains enough ambiguity that it allows material changes to system configuration and equipment after Pepco has granted ATI, even after systems are built. Over the past several years, the Pepco engineering process has begun extending beyond ATI, sometimes by several months. Given that it only takes two to three months to build a solar system, this means Pepco is often requiring changes to basic system configurations, equipment, and interconnection feeders late in the construction process or even after the system is completely built. Such changes are extremely costly after construction has begun and have even caused projects to be canceled despite significant construction expenditures. The most common issues include alterations to single-line electrical drawings, changes to equipment specifications, and changes in feeder connection point after Pepco has granted ATI.

These post-ATI changes required by Pepco make ATI meaningless both as a construction and financing benchmark for developers and as an interconnection reporting and oversight benchmark for the Commission. Therefore, CHESSA recommends that the Commission amend the definition of ATI to remove the ambiguity by specifying that it includes approval of construction/installation of the system as detailed pursuant to single-line drawings, citations to the utility's dated equipment specifications that apply to installation of the system, and identification of the feeder to which the system will interconnect, if applicable:

15 DCMR § 4099 Definitions

> "Approval to Install" – means written notification that the Small Generator Facility is ~~conditionally~~ approved for installation contingent upon the terms and conditions of the Interconnection Request *at the time of Approval to Install,* and the EDC may provide

such ~~conditional~~ approval by furnishing to Interconnection Customer an EDC-executed copy of the Interconnection Agreement. *The written notification shall include a stamped single-line drawing of the project, provide a link or reference to the dated equipment specifications that apply to the project, and specify the feeder number for which the project is approved for interconnection, if applicable. Changes required by the EDC to the single-line drawing or equipment specifications of the project after written notification of Approval to Install shall be made at the cost of the EDC. If the EDC mistakenly grants and later requires changes to project specifications after project installation or mobilization has begun, any resulting costs shall be borne by the EDC.*

4. Clarify and address gaps in regulatory ATI deadlines.

The time to receive ATI after a Level 2 Request to Interconnect has increased substantially over the last couple of years, sometimes taking more than six months. By contrast, before 2022, developers in the District report that it was taking approximately two to three months. To address this concern, CHESSA recommends that the Commission add language clarifying ATI deadlines. Currently, 15 DCMR § 4005.4(d) provides that, if the Interconnection Request does not require Interconnection Facilities or Distribution System Upgrades and the project can be interconnected safely, then Pepco must notify the interconnection customer whether it has passed Level 2 Adverse System Impact screens within 15 business days of notifying the customer that their Interconnection Request is complete, which must be done within three to five business days of receipt of the complete request. This provision seems to intend that ATI should be issued at the same time of notification that a system passed Level 2 Adverse System Impact screens, but the language introduces an element of uncertainty with regard to the deadline by stating that Pepco shall provide ATI if both: (1) the proposed system passes the screens; and (2) Pepco determines it can be interconnected safely.

Further, the above deadline to notify the interconnection customer of Level 2 screening results only applies if the system does not require interconnection facilities or grid upgrades,

providing no regulatory deadline for Pepco to notify such customers of their Level 2 initial screening results if the proposed project does require grid upgrades. 15 DCMR § 4005.6 requires that, for systems requiring only Interconnection Facilities, ATI must be provided within 15 business days of notification of the Level 2 interconnection screening results—but, as stated, there is no regulatory deadline for that notification. For systems that require Distribution System Upgrades, there is no regulatory deadline to provide ATI to the customer.

Further, the regulations allow Pepco discretion to require a Facilities Study as an alternative to providing ATI.[13] Facilities Studies are very expensive for interconnection customers, but Pepco typically does not require them for systems smaller than two megawatts of alternating current ("AC") capacity. CHESSA recommends that the Commission establish a size limit for projects for which Pepco may require a Facilities Study in its regulations.

To address the lack of clarity in ATI timelines and to prevent such clarity from perversely incentivizing the EDC to require Facilities Studies where they are not needed, CHESSA recommends amending 15 DCMR § 4005.4(d) as follows:

15 DCMR § 4005.4(d):

> (d) ~~*Unless Subsection 4005.6 applies,* w~~Within fifteen (15) business days after the EDC notifies the Interconnection Customer that it has received a completed Interconnection Request, the EDC shall evaluate the Interconnection Request using the Level 2 screening criteria and notify the Interconnection Customer whether the Small Generator Facility meets all of the applicable Level 2 Adverse System Impact screens *and whether the EDC has determined that*

[13] *See* 15 DCMR § 4005.6 (b):

> If the Interconnection Request requires more than the addition of Interconnection Facilities to the Electric Distribution System, the EDC may elect to either provide a non-binding good faith cost estimate and construction schedule for such upgrades within thirty (30) business days after notification of the Level 2 Interconnection Review results, or the EDC may notify the Interconnection Customer that the EDC will need to complete a Facilities Study under Subsection 4007.2, paragraphs (d)(3), to determine the necessary Distribution System Upgrades and complete the construction.

the Small Generator Facility can be interconnected safely and reliably to the Electric Distribution System. If the proposed interconnection meets all of the applicable Level 2 Adverse System Impact screens and the EDC determines that the Small Generator Facility can be interconnected safely and reliably to the Electric Distribution System, the EDC shall provide the Interconnection Customer an Approval to Install *within three (3) business days of notification pursuant to this subsection.* The EDC shall provide an EDC-executed Interconnection Agreement within three (3) business days after notification of Level 2 issuance of the Approval to Install.

…

15 DCMR § 4005.6(a) and (b):

(a) If the Interconnection Request requires only the addition of Interconnection Facilities to the Electric Distribution System, a non-binding good faith cost estimate and construction schedule for such upgrades, along with an Approval to Install, shall be provided within fifteen (15) business days after *EDC* notification of the Level 2 Interconnection Review results *pursuant to section 4005.4(d).*

(b) If the Interconnection Request requires more than the addition of Interconnection Facilities to the Electric Distribution System, the EDC may elect to either provide a non-binding good faith cost estimate and construction schedule for such upgrades, *along with an Approval to Install,* within thirty (30) business days after notification of the Level 2 Interconnection Review results *pursuant to section 4005.4(d), or, for projects greater than two (2) Megawatts AC,* the EDC may notify the Interconnection Customer that the EDC will need to complete a Facilities Study under Subsection 4007.2, paragraph~~s~~ (d)(3), to determine the necessary Distribution System Upgrades and complete the construction.

5. Add a regulatory deadline for Pepco to transmit invoices for grid upgrade work.

CHESSA recommends that the Commission add a deadline for Pepco to transmit invoices for its grid upgrade work to address the lengthy timeline from an installer's submission of a signed cost estimate letter to the receival of an invoice. Current regulations do not provide a deadline for transmission of invoices for Pepco grid upgrade equipment and construction. Although this is an administrative step, once a cost letter has been signed by the installers, it currently takes about two

months for them to receive an invoice, causing unnecessary project delays and related project cost increases, particularly as the EDC will not schedule any required interconnection work until the invoice is paid. CHESSA recommends that the Commission amend 15 DCMR § 4005.6 to adopt a regulatory deadline for transmission of invoices as follows:

15 DCMR § 4005.6:

> *(b)(1) The EDC shall issue an invoice to the Interconnection Customer for the good faith cost estimate provided pursuant to this subsection no later than ten (10) business days after issuance of Approval to Install.*

6. Add a regulatory deadline for installation of interconnection facilities and distribution system upgrades by Pepco.

CHESSA recommends that the Commission also add a deadline for installation of interconnection facilities and distribution system upgrades to address the inordinate amount of time that Pepco is taking to install interconnection facilities and grid upgrades. Current regulations do not provide a deadline for Pepco to provide or install the equipment that it requires for many systems to receive ATI.

In mid-2022, Pepco began including the following statement in some of its cost estimates and letters: "estimated time to complete this work is six to nine months after receipt of a fully executed interconnection agreement, interconnection work is invoiced, and payment is received." Developers report that some cost letters now state that Pepco may take up to twelve months to complete the work after invoices are paid. It only takes two to three months for a solar installer to build even a large solar project in the District after receiving ATI and beginning construction. A six-to-twelve-month timeline from payment of the invoice to installation of interconnection facilities or grid upgrades means that fully-built solar systems that are otherwise ready to be turned on and could be delivering renewable energy to the District instead sit idle for months waiting for

Pepco to complete what is often just a few hours' worth of work, while developers carry high-interest construction loans months longer than necessary.

This has resulted in significant delays that prevent projects from being turned on for months after they are built, causing project cost increases from longer construction loans and missed financing and customer deadlines. CHESSA recommends that the Commission amend its regulations to adopt a deadline for Pepco to install interconnection facilities and distribution system upgrades once the interconnection customer has paid the invoice as follows:

15 DCMR § 4005.6

(b)(2) (A) The EDC shall complete construction and installation of any required Interconnection Facilities, Distribution System Upgrades, or other equipment the EDC needs to provide or install no later than three (3) months after a temporary-pending-final or final inspection certificate from an electric code official is submitted to the EDC by the Interconnection Customer.

(B) If the EDC cannot meet the three (3) month deadline in subparagraph (A), it shall provide written notification to the Interconnection Customer and the Commission explaining the reasons for the delay and providing an estimate of when the work will be completed. If completion of the work exceeds six months from the date of submission of the temporary-pending-final or final inspection certificate, the EDC shall provide the Interconnection Customer and the Commission with a corrective action and reporting plan from the EDC.

(C) The EDC shall provide written notice to the Interconnection Customer within three (3) business days of completing the installation of any required equipment or upgrades.

7. Implement a clear regulatory deadline for systems testing required by Pepco after its interconnection work is complete.

Ambiguity in timelines for system testing is another issue that CHESSA members report is causing increased timelines and related project cost increases for Interconnection Customers in the District. Although a deadline for witness testing was established by the Commission in 15

DCMR § 4005.4(d), it is tolled when a Level 2-4 Part II Small Generator Facility Interconnection Certificate of Completion (i.e., a request for ATO) is submitted, and CHESSA members operating in the District report that Pepco does not allow them to submit a request for ATO until Pepco completes its witness test, effectively negating the regulatory deadline. To give this regulation the intended effect, CHESSA recommends that the Commission clarify that the systems testing may not prevent submission of an ATO request, as follows.

15 DCMR § 4005.4(f)

> (f) The EDC may conduct a Witness Test within ten (10) business days of receiving the completed Level 2-4 Part II – Small Generator Facility Interconnection Certificate of Completion and the signed inspection certificate from the Interconnection Customer, conduct a Witness Test at a time mutually agreeable to the Interconnection Customer and the EDC. If the Witness Test fails to reveal that all equipment has been appropriately installed and that all electrical connections have been made in accordance with applicable codes, the EDC shall offer to redo the Witness Test at the Interconnection Customer's expense at a time mutually agreeable to the Interconnection Customer and the EDC. If the EDC determines that the Small Generator Facility fails the inspection it must provide a written explanation detailing the reasons and any standards violated. If the EDC does not perform the Witness Test within ten (10) business days or other such time as is mutually agreed to by the Interconnection Customer and the EDC, the Witness Test is deemed waived. *The EDC may not prevent or delay submission of the Level 2-4 Part II – Small Generator Facility Interconnection Certificate of Completion and the signed inspection certificate from the Interconnection Customer.*

8. Add a regulatory deadline for Pepco to issue Authorization to Operate for Level 2 systems.

For Level 1 interconnections, the Commission's regulations require Pepco to provide ATO within 20 business days of receiving a completed Level 1 Part II Form.[14] However, there is no

[14] 15 DCMR 4004.3(g).

such requirement for Level 2 interconnections. To address this gap, CHESSA recommends that the Commission adopt the following as an amendment to 15 DCMR § 4005.4(g):

15 DCMR § 4005.4:

> (g) *The EDC shall provide the Interconnection Customer with Authorization to Operate within twenty (20) business days of receiving a completed Level 2 Part II - Small Generator Facility Interconnection Certificate of Completion Form, including the signed inspection certificate.* An Interconnection Customer may begin interconnected operation of a Small Generator Facility provided that there is an Interconnection Agreement in effect, the EDC has received proof of the electrical code official's approval, the Small Generator Facility has passed any Witness Test by the EDC, and the EDC has issued the Authorization to Operate. Evidence of approval by an electric code official includes a signed inspection certificate.

9. Define how Interconnection Customers may submit documents to the EDC.

CHESSA members report that Pepco's interconnection system software, (Connect to Grid or "CTG"), sometimes prevent submission or upload of ATO requests until Pepco determines that it is ready to receive them. If Pepco is indeed using its software systems to block or stall ATO requests, such actions would undermine the deadlines proposed above and ATO delays would increase costs for Interconnection Customers. To enable customers to submit ATO requests and inspection certificates and mitigate any potential CTG software issues or delays, CHESSA recommends that the Commission allow Interconnection Customers multiple options to submit these documents to Pepco as follows:

15 DCMR § 4008.23

> *Interconnection Customers may submit inspection certificates and requests for Authorization to Operate through the EDC's web portal or by emailing the EDC point of contact identified in the Interconnection Agreement.*

10. Amend the regulations to require comprehensive reporting of interconnection timelines and benchmarks and consequential corrective action plans when exceeded.

To provide greater transparency and accountability, CHESSA recommends that the Commission revise its regulations to ensure that the interconnection timelines Pepco reports to the Commission are comprehensive and address the full interconnection process. When required, corrective action plans should: (1) be filed separately; (2) include detailed descriptions of internal policy or staffing changes Pepco intends to implement; and (3) be updated via quarterly progress reports until fully implemented.

CHESSA further recommends that the Commission require Pepco to track and report:

(1) Details on the frequency with which it imposes operating requirements on proposed solar systems;

(2) How many proposed solar systems are not built after an ATI request results in

(a) Pepco operating limitations;

(b) Pepco interconnection cost estimates that exceed $2,000 for residential solar systems; or

(c) $0.5 cents per watt for commercial or community solar systems; and

(3) The total cost of all distribution system upgrades paid for by solar installers each year, broken down by equipment, labor, and other costs.

The Commission's current annual reporting and corrective action plan requirements are not robust enough to provide the Commission or the public with the full picture of the state of interconnection in the District. In its two most recent annual interconnection reports, the EDC noted that it failed to issue at least 90% of ATIs for Level 2 systems within regulatory timelines.

However, its "corrective action plan" amounts to about three (3) bullets in a single paragraph.[15] Interconnection process reporting can provide valuable insights for the Commission about needed grid modernization and potential barriers to future solar development and is important to track as the District seeks expand its renewable energy generating capacity. To address these points, CHESSA recommends the following amendments:

15 DCMR § 4005.8

(a) The EDC shall be required to issue a corrective action plan if, ~~O~~on an annual basis, ~~if~~ the EDC fails to:

(1) Issue at least ninety percent (90%) of all Approvals to Install in the Level 2 interconnection process as specified within the timeline(s) specified in Subsections 4005.4 and 4005.6*;*

(2) Issue at least ninety-five percent (95%) of all cost invoices within the timelines specified in Subsection 4005.6(b)(1);

(3) Complete installation of at least ninety percent (90%) of all Interconnection Facilities or Distribution System Upgrades within the timeline(s) specified in Subsections 4005.6(b)(2)(A);

(4) Issue at least ninety percent (90%) of all Level 2 Approvals to Operate within the timeline(s) specified in Subsections 4005.4(g).~~, and it shall be required to develop a corrective action plan.~~

~~(a)~~ *(b)* The corrective action plan shall *be filed separately from other reports and shall:*

(1) describe the cause(s) of the EDC's non-compliance with Subsection 4005.8,

(2) describe the corrective measure(s) to be taken *with specificity, including specific process and staffing changes*

[15] *See Formal Case 1050*, Annual Interconnection Report for 2023 at 8 (Mar. 29, 2024) https://edocket.dcpsc.org/apis/api/Filing/download?attachId=202949&guidFileName=ba113591-d3c3-4d07-9c1e-389f748d006e.pdf; *see also Formal Case 1050*, Annual Interconnection Report for 2022 at 7 (Mar. 29, 2023) https://edocket.dcpsc.org/apis/api/Filing/download?attachId=188159&guidFileName=247712e7-2fba-4272-80b0-5fa6dd1bdc37.pdf.

and how each change is expected to reduce interconnection timelines to ensure that ~~*the standard is*~~ *regulatory timelines are* met or exceeded in the future, and

(3) set a target date for completion of the corrective measure(s). To the extent automation is an element of the corrective measure(s), this should be described in the plan.

~~(b)~~ *(c)* Progress *reports* on current corrective action plans shall be *filed quarterly until all actions have been completed, and shall also be* included in the EDC's Small Generator Interconnection Annual Report.

~~(c)~~ *(d)* The EDC shall report the actual performance of compliance with *each individual regulatory timeline established in this Chapter* ~~*Subsection 4005.8*~~ during the reporting period in the Small Generator Interconnection Annual Report of the following year, including: ~~*milestones for*~~

(1) the number of Interconnection Requests in total,

(2) the number and percentage *of Interconnection Requests* meeting *the individual* timeline requirements for Approval to Install and estimated cost letter, *invoice transmission, installation of Interconnection Facilities and Distribution System Upgrades, and Authorization to Operate, and*

(3) the average time to achieve Approval to Install and Authorization to Operate from the date of receipt of an Interconnection Request in the previous year.

Additionally, although specific language is not included here, CHESSA recommends that the Commission consider establishing financial penalties for uncorrected issues causing regular exceedances of deadlines.[16] CHESSA also recommends that the amendments above regarding corrective action plans be incorporated into the provisions for Level 1 reviews in 15 DCMR § 4004.7.

[16] *See* Gwen Brown, *Minnesota PUC Fines Xcel Energy $1 Million for Interconnection Failures*, IREC (Jan. 22, 2021), https://www.irecusa.org/blog/regulatory-engagement/minnesota-puc-fines-xcel-energy-1-million-for-interconnection-failures/#:~:text=Minnesota%20utility%20Xcel%20Energy%20was,interconnection%20requests%20for%20solar%20projects.

11. Establish an Interconnection Ombudsman and Standing Interconnection Task Force.

Finally, CHESSA recommends that the Commission establish an Ombudsman to serve as a central resource for customers and project developers to receive advice, discuss issues, develop solutions, and identify when there are issues or recommendations that should be elevated to the Commission for further consideration. To facilitate this Ombudsman program, CHESSA recommends adopting language similar to the language adopted in Maine.[17] The following definition would be an appropriate addition to 15 DCMR § 4099, and the new definition should be used in the dispute provision in 15 DCMR § 4009:

15 DCMR § 4099 (Definitions):

> *"**Ombudsman**" – means a person appointed to assist persons seeking interconnection governed by rules adopted under this chapter. The Commission-appointee shall possess technical expertise related to interconnection and interconnection procedures. The duties of the interconnection ombudsman include but are not limited to: (1) tracking interconnection disputes; (2) facilitating the efficient and fair resolution of disputes between interconnection customers and EDCs; (3) reviewing interconnection policies to assess opportunities for reducing interconnection disputes; (4) convening stakeholder groups as necessary to facilitate effective communication between interconnection stakeholders; and (5) preparing reports that detail the number, type, resolution timeline, and outcome of interconnection disputes and make recommendations to the Commission as to how to increase efficiency and reduce costs of interconnection.*

15 DCMR § 4009 (Disputes):

> *4009.5 When a dispute arises, the parties may contact the Commission's interconnection Ombudsman for assistance with dispute resolution or the Commission may refer the dispute to the Ombudsman.*

[17] Me. Rev. Stat. tit. 35-A, § 3474.

When disagreement about interconnection costs or the application of the Commission's rules to an interconnection arises between installers and Pepco during the course of a project, installers currently have little recourse other than to accept Pepco's position. Project deadlines are usually tight given financing agreements and customer commitments, as well as the various interconnection delays described above, and installers typically do not have the time or resources to go through lengthy processes to resolve mid-project interconnection disputes. The Commission's rules provide that there should be a mechanism for "immediate" resolution of such disputes at the Commission,[18] but to CHESSA's knowledge, no such mechanism exists. To address this, CHESSA recommends establishing a quick interconnection dispute resolution process within the Ombudsman's Office to quickly resolve issues when developers believe the EDC is misinterpreting or improperly implementing the Commission's rules. CHESSA further recommends that the Commission require that the Ombudsman undertake these immediate mediations with resolution deadlines that are under one month.

Additionally, CHESSA recommends establishing a standing interconnection Task Force to better facilitate accord surround interconnection costs and the application of Commission regulations. CHESSA recommends that the Task Force consist of the Department of Energy and the Environment, the Office of the People's Counsel, Pepco, the Ombudsman and other stakeholders, who would report to the Commission every six months on its activity and the challenges and solutions discussed. This group should be tasked with ensuring regular improvement to interconnection processes, updates to relevant regulations and Pepco's Technical Interconnection Requirements, providing mediation and third-party review of interconnection studies, and considering incorporation of new technologies and flexible approaches that can speed

[18] *See* 15 DCMR § 4009.2.

up and reduce the costs interconnection and maximize the benefits of distributed energy resources for the District.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, CHESSA respectfully requests that the Commission:

(1) Initiate an emergency rulemaking to amend 15 DCMR Chapter 40 to prohibit Pepco from forcing interconnecting customers to pay exorbitant "true-up" cost payments for interconnection, and

(2) Initiate a rulemaking to amend 15 DCMR Chapter 29 to adopt a bright-line rule for facilities located in Maryland on a cross-border feeder that are eligible for certification to generate District SRECs; and

(3) Initiate a rulemaking to amend 15 DCMR Chapter 40 to implement reasonable deadlines for interconnection milestones, interconnection cost transparency and control measures, and efficient interconnection dispute resolution options for interconnection customers.

[*Signature on Following Page*]

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing was emailed to the following persons on September 11, 2024:

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