

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

ORDER

April 20, 2016

**FORMAL CASE NO. 1098, IN THE MATTER OF THE INVESTIGATION INTO
RETAIL ELECTRICITY SUPPLIER ACCESS TO THEIR CUSTOMERS' SMART
METER DATA, Order No. 18168**

I. INTRODUCTION

1. By this Order the Public Service Commission of the District of Columbia (“Commission”) directs the parties to review the record in this case and file supplemental pleadings and comments as needed to update the record and provide responses to the questions set forth below within 30 days of the date of this Order.

II. BACKGROUND

2. On May 17, 2012, Washington Gas Energy Services (“WGES”) requested that the Commission initiate an investigation into Retail Electric Supplier Access to Smart Meter Data.¹ WGES’ petition is styled as a request for an investigation but does not assert that the Potomac Electric Power Company (“Pepco”) is acting contrary to its tariff or Commission regulation. Instead, the petition essentially asks Pepco to explain the extent to which Suppliers will have access to certain Smart Meter Data. WGES’ petition raises questions concerning four broad areas: 1) questions related to billing; 2) questions related to real-time data and communications; 3) questions related to PJM settlement; and 4) questions related to customer enrollment.²

3. By order issued July 13, 2012, the Commission scheduled a Technical Conference for July 31, 2012.³ The Commission also directed Pepco to file a Post Technical Conference Report and allowed attendees to file any exceptions to the Report that they deemed appropriate.⁴

¹ *Formal Case No. 1098, In the Matter of the Investigation into Retail Electricity Supplier Access to Their Customers’ Smart Meter Data* (“*Formal Case No. 1098*”), Washington Gas Energy Services’ Petition for an Investigation into Retail Electric Supplier Access to Smart meter Data, filed May 17, 2012 (“WGES’ Petition”).

² *Formal Case No. 1098*, WGES’ Petition at 2-4.

³ *Formal Case No. 1098*, Order No. 16838, ¶ 7, rel. July 13, 2012.

⁴ *Formal Case No. 1098*, Order No. 16838, ¶ 8, rel. July 13, 2012; and *Formal Case No. 1098*, Order No. 16904, ¶ 5, rel. September 10, 2012.

Pepco filed the Report as directed.⁵ WGES and the Retail Energy Supply Association (“RESA”) filed comments; Pepco filed Reply Comments.⁶

4. In a related matter in *Formal Case Nos. 1086 and 1109*, Pepco filed a proposed Advanced Metering Infrastructure (“AMI”) Enabled Dynamic Pricing Plan for the District of Columbia (“Plan”) in which it sought to implement its proposed Dynamic Pricing Program beginning on June 1, 2014, if the Commission approved the Plan by January 31, 2014.⁷ The Commission declined to adopt Pepco’s Plan and stated that it would explore dynamic pricing in a separate docket and hold an informal hearing on April 23, 2014.⁸

5. As part of the Commission’s examination of Pepco’s dynamic pricing proposal in *Formal Case Nos. 1086 and 1109*, parties provided the Commission with information that was relevant to Smart Meter Data access in this case. On January 24, 2014, the Commission moved eight data responses received from Pepco in *Formal Case Nos. 1086, 1098, and 1109* onto the record of all three cases.⁹ Subsequently, on February 6, 2014, the Commission, in Order No. 17373, directed parties to review the record in *Formal Case No. 1098* and file any supplemental

⁵ *Formal Case No. 1098*, Potomac Electric Power Company’s Post-Technical Conference Report, pursuant to Commission Order No. 16838, filed August 30, 2012 (“Post-Technical Conference Report”).

⁶ *Formal Case No. 1098*, Washington Gas Energy Services’ Reply with Exceptions to the Post-Technical Conference Report, filed September 19, 2012 (“WGES’ Comments”); Retail Energy Supply Association’s Comments in Response to Pepco’s Post-Technical Conference Report, filed September 19, 2012 (“RESA’s Comments”); Potomac Electric Power Company’s Reply Comments to Post-Technical Conference Comments and Exceptions, filed October 1, 2012 (“Pepco’s Reply Comments”).

⁷ *Formal Case No. 1086, In the Matter of the Investigation into the Potomac Electric Power Company’s Residential Air Conditioner Direct Load Control Program* (“*Formal Case No. 1086*”) and *Formal Case No. 1109, In the Matter of the Investigation into the Potomac Electric Power Company’s District of Columbia Dynamic Pricing Program Proposal* (“*Formal Case No. 1109*”), Proposed Advanced Metering Infrastructure (AMI) Enabled Dynamic Pricing Plan of the Potomac Electric Power Company, filed October 7, 2013. (All documents related to Pepco’s proposed AMI Enabled Dynamic Pricing Plan were also filed in *Formal Case No. 1086* because a part of the Company’s proposal relates to its Direct Load Control (“DLC”) Program that is the subject of that case.)

⁸ *Formal Case No. 1086, Formal Case No. 1109*, Order No. 17375, ¶ 75, rel. February 6, 2014.

⁹ *Formal Case No. 1086, Formal Case No. 1098, Formal Case No. 1109*, Order No. 17359, rel. January 24, 2014. Placing *DR1098*, Responses of the Potomac Electric Power Company to Commission Data Request No. 1, filed December 27, 2013 (“Pepco December 2013 Data Response”); *DR1098*, Responses of the Potomac Electric Power Company to Commission Data Request No. 1, filed January 17, 2014 (“Pepco January 2014 Data Response”); *DR1086 and 1109*, Responses of the Potomac Electric Power Company to Commission Data Request No. 1, filed December 16, 2013 (“Pepco December 16, 2013 Data Response No. 1”); *DR1086 and 1109*, Responses of the Potomac Electric Power Company to Commission Data Request No. 2, filed December 16, 2013 (“Pepco December 16, 2013 Data Response No. 2”); *DR1086 and 1109*, Responses of the Potomac Electric Power Company to Commission Data Request No. 3, filed December 17, 2013 (“Pepco December 17, 2013 Data Response No. 3”); *DR1086 and 1109*, Responses of the Potomac Electric Power Company to Follow-up Commission Data Request No. 1, filed December 23, 2013 (“Pepco December 23, 2013 Data Response No. 1”); *DR1086 and 1109*, Responses of the Potomac Electric Power Company to Follow-up Commission Data Request No. 2, filed December 23, 2013 (“Pepco December 23, 2013 Data Response No. 2”); and *DR1086 and 1109*, Responses of the Potomac Electric Power Company to Commission Data Request Nos. 1 and 2, filed January 3, 2014 (“Pepco January 3, 2014 Data Response Nos. 1 and 2”); on the record of *Formal Case No. 1098*.

pleadings and comments, as needed, and directed parties to respond to specific questions for Pepco or Third-Party Suppliers.¹⁰ WGES, Pepco, the Office of the People's Counsel ("OPC"), the Apartment and Office Building Association of Metropolitan Washington ("AOBA"), and RESA filed responses.¹¹

6. On March 28, 2014, the Commission opened *Formal Case No. 1114*, to investigate the policy, economic, legal and technical issues, and questions related to establishing a dynamic pricing plan in the District of Columbia.¹² Also, in the same Order, the Commission restated its previous decision to hold an informal hearing on April 23, 2014, to take testimony and evidence from which the Commission can provide further guidance to companies that seek to implement dynamic pricing in the District.¹³ The Commission invited interested groups or individuals to provide written comments concerning the testimony given by others at the hearing.¹⁴ On September 4, 2014, the Commission, by Order, moved data responses received from the National Energy Marketers Association, Pepco, WGES, and RESA in *Formal Case Nos. 1098*, and *1114* onto the record of both cases.¹⁵ On May 13, 2015, the Commission suspended *Formal Case No. 1114*, due to uncertainties regarding demand response in the PJM marketplace caused by litigation currently pending with the U.S. Supreme Court.¹⁶ On February

¹⁰ *Formal Case No. 1098*, Order No. 17373, ¶ 7, rel. February 6, 2014.

¹¹ *Formal Case No. 1098*, Comments of Washington Gas Energy Services in Response to Commission Order No. 17373, filed March 7, 2014; *Formal Case No. 1098*, Comments of Office of People's Counsel in Response to Commission Order No. 17373, filed March 10, 2014 ("OPC's Updated Comments"); *Formal Case No. 1098*, Comments of the Potomac Electric Power Company in Response to Commission Order No. 17373, filed March 10, 2014 ("Pepco's Updated Comments"); *Formal Case No. 1098*, Comments of the Apartment and Office Building Association of Metropolitan Washington in Response to Commission Order No. 17373, filed March 24, 2014 ("AOBA's Updated Comments"); and *Formal Case No. 1098*, Comments of the Retail Energy Supply Association in Response to Commission Order No. 17373, filed March 24, 2014 ("RESA's Updated Comments").

¹² *Formal Case No. 1086; Formal Case No. 1109, and Formal Case No. 1114, In the Matter of the Investigation of the Policy, Economic, Legal and Technical Issues and Questions Related to Establishing a Dynamic Pricing Plan in the District of Columbia ("Formal Case No. 1114")*, Order No. 17432 ¶ 9, rel. March 28, 2014. Dynamic pricing is an economic term referring to the offering of goods at prices that change according to a number of factors, including level of demand and state of the weather.

¹³ *Formal Case No. 1086; Formal Case No. 1109, and Formal Case No. 1114*, Order No. 17432 ¶ 6, rel. March 28, 2014. The Commission had previously stated in *Formal Case Nos. 1086 and 1109*, Order No. 17375 ¶ 76, rel. February 6, 2014, that it would hold an informal hearing on this issue.

¹⁴ *Formal Case No. 1114*, Notice of Hearing Procedures for the April 23, 2014 Informal Hearing on Dynamic Pricing, filed April 18, 2014, and Hearing Tr. at 12-13.

¹⁵ *Formal Case No. 1098, Formal Case No. 1114*, Order No. 17620, ¶ 9, rel. September 9, 2014. Placing *DR1114*, Responses of National Energy Marketers Association to Commission Data Request No. 1, filed June 25, 2014 ("NEM Data Response"); *DR1098*, Responses of the Potomac Electric Power Company to Commission Data Request No. 1, filed June 24, 2014 ("Pepco June 2014 Data Response"); *DR1098*, Responses of Washington Gas Energy Services to Commission Data Request No. 1, filed June 25, 2014 ("WGES Data Response"); and *DR1098*, Responses of the Retail Energy Supply Association to Commission Data Request No. 1, filed July 18, 2014 ("RESA Data Response") on the record of *Formal Case No. 1098*.

¹⁶ *Formal Case No. 1114*, Order No. 17877, ¶ 6, rel. May 13, 2015.

10, 2016, OPC filed a Motion Requesting Expedited Commission Action.¹⁷ OPC “asks that the Commission (a) grant this Motion; (b) take administrative notice of the recent United States Supreme Court (“Supreme Court”) decision *Federal Energy Regulatory Commission (“FERC”) v. Electric Power Supply Association (“EPSA”)*, 2016 U.S. Lexis 853 (2016) (“EPSA II”); (c) resume this proceeding as expeditiously as possible; and (d) establish a new procedural schedule for this proceeding as expeditiously as possible.”¹⁸

III. DISCUSSION

7. Since the filing of the Post Technical Conference Report and the parties updating of their comments in response to Order No. 17373, Pepco has taken a significant action that may have a bearing on the subject of this investigation. In January 2015, Pepco deployed a new billing system, the SAP Customer Relationship Management and Billing system, known as “Solution One.”¹⁹ Pepco indicated that its stabilization efforts for Solution One would continue into the fall of 2015.²⁰ As a result, the Commission has concluded that there is a need to update and supplement the record in this proceeding. Therefore, the Commission directs parties to review the record in this case and file supplemental pleadings as needed to update the record. Additionally, the Commission directs parties to respond to the following questions:

Questions for Pepco

- 1) How do Suppliers currently access their customer’s smart meter day, using EDI 867 IU transactions, in the District?
- 2) What information has Pepco provided to Suppliers regarding data access improvements resulting from the deployment of Solution One?
- 3) What is Pepco’s plan for activating the second transmitter (HAN radio) that is part of the smart meters installed in the District and is designed to communicate with In-Home Devices (“IHD”)?

Questions for Third-Party Suppliers

- 1) Do any other PJM jurisdiction where daily EDI 867 IU data is available to Suppliers within 24 to 48 hours? If so please identify the jurisdiction.
- 2) What issues if any are Suppliers currently experiencing with accessing historical EDI 867 HIU data from Pepco and how does this access compares to other PJM jurisdictions?

¹⁷ *Formal Case No. 1114*, Office of the People’s Counsel for the District of Columbia’s Motion Requesting Expedited Commission Action, filed February 10, 2016 (“OPC’s Motion”).

¹⁸ *Formal Case No. 1114*, OPC’s Motion at 1.

¹⁹ *Formal Case No. 1120*, *In the Matter of the Investigation into the Structure and Application of Low Income Assistance for Electricity Customers in the District of Columbia* (“*Formal Case No. 1120*”), Technical Conference Final Report, p. 2, filed May 27, 2015 (“Final Report”).

²⁰ *Formal Case No. 1120*, Final Report at 2.

- 3) What issues if any remaining data access issues currently inhibit suppliers from offering dynamic pricing and other innovative consumer products?

8. Parties are directed to file any supplemental pleadings and the responses to the questions posed above within 30 days of the date of this Order. In their supplemental pleadings or in additional comments, parties may bring to the Commission's attention any additional information that would be of assistance to the Commission as it reviews and refreshes the information in this record.

THEREFORE, IT IS ORDERED THAT:

9. Parties are **DIRECTED** to review the record and file any supplemental pleadings and comments, as needed, and the responses to the questions in paragraph 7 within 30 days of the date of this Order.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:

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

CHIEF CLERK:

**BRINDA WESTBROOK- SEDGWICK
COMMISSION SECRETARY**