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

RE: Pepco's Electric Transportation Proposal in Formal Case No. 1130

Dear Ms. Westbrook-Sedgwick:

Tesla appreciates the opportunity to provide comments in response to The Public Service Commission's ("PSC" or "Commission") October 5, 2018 Public Notice (as amended by its November 24, 2018 Public Notice) for comments and consideration of Potomac Electric Power Company's ("Pepco" or "Company") September 6, 2018 application for approval of its Electric Transportation Program ("Program"). Pepco's proposal is timely given the increasing customer adoption and interest in electric vehicles ("EVs"). These trends are expected to continue as auto manufacturers introduce more EV models in the coming years. Access to charging infrastructure is a key factor for consumers considering the purchase of an EV, and Pepco's proposal ultimately seeks to increase access to charging in the District.

Tesla's mission is to accelerate the adoption of sustainable energy by developing and manufacturing the world's safest and most advanced electric vehicles, and electric vehicle charging stations, among other clean energy products and services. Tesla has also established a worldwide presence of sales and service centers, including the District's only local automobile dealership. Tesla also makes significant investments in EV charging. As of November 2018, Tesla has over 11,000

Superchargers capable of delivering up to 170 miles of range in about 30 minutes, and 20,000 Level 2 Destination Charging Connectors globally.[1]

On December 3, Tesla filed a letter opposing the Motion filed by the Apartment and Office Building Association of Metropolitan Washington ("AOBA") requesting that the Commission either dismiss the Company's application, or postpone action until after working groups convened in this docket filed reports and recommendations. Additionally, on September 10, 2018, Tesla submitted a letter supporting Pepco's request to open a separate and parallel proceeding to consider Pepco's application. Given the dynamics of a quickly evolving EV market, charging technologies, and program designs around the country, we believe a separate proceeding is appropriate. Tesla is looking forward to working with stakeholders to expand EV charging services in the District and to participate in whatever process the Commission deems as appropriate to review Pepco's programs.

Our comments presented below focus on two primary areas. The first is regarding the Commission's question in its October notice about whether Pepco's proposal is consistent with D.C. law. Second, we provide initial comments and feedback on the design of Pepco's proposal.

Is Pepco's Proposal Consistent with D.C. Law?

In its October 5, 2018 Public Notice in this matter, the Commission noted that the "Energy Innovation and Savings Amendment Act of 2012" ("Act"), clarified, among other things, that EV charging station operators are not public utilities, thus exempting them from regulation by the Commission. In its proposed program, Pepco, as a public utility regulated by the Commission, seeks to own and operate EV charging stations, and provide incentives for customers or third parties to invest in charging stations. This raises questions about whether the proposal is consistent with the Act, and whether it is consistent with D.C. Code § 34-1513.

[1] For more information about locations, please visit https://www.tesla.com/findus.

Tesla believes Pepco's proposed Program is consistent with the Act and that the Commission has authority to review and ultimately take action on the proposal. The Act amends D.C. Code § 34-207 to edit the definition of an "electric company" to exclude "…a person or entity that **does not sell or distribute electricity** and that owns or operates equipment used exclusively for the charging of electric vehicles." (emphasis added). Pepco does not conform with this exemption, because the Company's primary business operation is the distribution of electricity, and therefore their Program falls under the jurisdiction of the Commission.

The Act also amends D.C. Code § 34-214 to edit the definition of a "public utility" to exclude "…a person or entity that owns or operates electric vehicle supply equipment but **does not sell or distribute electricity**, an electric vehicle charging station service company, or an electric vehicle charging station service provider." (emphasis added). Even though Pepco is proposing to own and operate EV charging stations, that does not make Pepco an EV charging station service company or EV charging station service provider because they would be doing so from their position as a regulated public utility.

Finally, the Commission asks whether the Company's Program is consistent with D.C. Code § 34-1513(a). That section of the Code states "Other than its provision of standard offer service, the electric company shall not engage in the business of an electricity supplier in the District of Columbia except through an affiliate." An "electricity supplier" is defined in D.C. Code § 34-1501(17) as "a person, including an aggregator, broker, or marketer, who generates electricity; sells electricity; or purchases, brokers, arranges, or markets electricity for sale to customers…"

Because the Act made clear that the provision of charging services does not constitute the sale of electricity, none of Pepco's proposed offerings need be analyzed to determine if they conform or fail to conform with D.C. Code § 34-1513(a). Tesla agrees with the Sierra Club that the Council intended that the Act distinguish between the provision of a product containing energy (such as occurs when a charging station host provides the electricity with which to fuel a car, or a hotel that provides the electricity with which to light a hotel room), and a utility's sale or distribution of electricity.[2] Tesla further agrees it is precisely such distinction that has permitted other states to uphold utilities' proposals to, e.g., install and operate public Level 2 and DC Fast Chargers,[3] similar to Pepco's Offerings 7 and 8, as well as to provide unique rate structures for DCFCs, similar to Pepco's Offering 1.[4]

Tesla also agrees with the Sierra Club that site hosts who are not regulated utilities, but who may also be "setting a price to charge EV owners based on the actual amount or units of electricity that is transferred to the EV during a charging session"[5] are not selling electricity, and do not become "electricity suppliers" by so doing.[6] Tesla agrees it is critical that the Commission make clear that the nature of the pricing program employed by a charging station site host does not determine the host's regulatory status.

Recommended Modifications to Pepco's Proposed Electric Transportation Program

Pepco's proposed Electric Transportation Program consists of 13 Offerings with a total program cost of over $15.2 million. Tesla generally supports the Company's Program because it seeks to overcome several of the key barriers to increasing EV charging access in the District. As noted in Pepco's application, there is still a general lack of customer awareness and education when it comes to EVs and EV charging due to the industry still being in its early stages. Moreover, deploying

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[2] *See* November 5, 2018 Initial Comments of the Sierra Club Regarding Pepco's Transportation Electrification Proposal ("Sierra Club Initial Comments"), p. 7 *citing* Committee on the Environment, Public Works, and Transportation Report regarding Bill 19-749, the "Energy Innovation and Savings Amendment Act of 2012," at 8 (Oct. 24, 2012) ("Committee Report"). On page 1 of the Report, the Committee made clear "that electric vehicle charging station operators are not utilities **or** electricity suppliers." (emphasis added).
[3] *See* Sierra Club Initial Comments, p. 4, highlighting, *inter alia*, the Florida Public Service Commission's approval of an $8 million program by Duke Energy to deploy 530 Level 2 EV charging stations at multi-unit dwellings.
[4] *See Id*. at pp. 3 – 4, highlighting the California Public Utilities Commission's approval of programs by Southern California Edison that include unique DCFC rates.
[5] Formal Case No. 1096, *In the Matter of the Investigation In To the Regulatory Treatment of Providers of Electric Vehicle Charging Stations and Related Services*, Order No. 18004 (Oct. 16, 2015).
[6] Sierra Club Initial Comments, pp. 9 – 10.

charging in the District can be a challenge. Most homes in the District do not have dedicated off-street parking in which customers can install EV charging stations, and 70% of the homes in the district are in multi-unit dwellings ("MUD"). Charging in MUDs presents a challenge because customers may not have dedicated or deeded parking spaces, and even if they do, installation may be complex and costly due to the location of the parking space relative to the electric service connection.

EV charging technologies and customer preferences are rapidly evolving. While Pepco's proposal seeks to gain experience with a variety of models and programs, having 13 offerings is an overly broad scope for this stage of industry development and may lead to customer confusion given the variety of offerings and relatively small size of each offering. Tesla recommends streamlining the Program to a reduced number of Offerings that maximize access to EV charging in a cost-effective manner.

Tesla recommends focusing on rate design offerings for residential and commercial customers that reduce the cost of EV ownership and encourage customers and third parties to deploy charging stations in the District. For example, Tesla recommends forgoing Offering 2, which provides a device to log vehicle charging and is only available to residential customers that currently have an EV charger. The objective of the Offering is to encourage off-peak charging and test customer's responses to different signals. The Offering will not lead to the deployment of new charging stations in the District. Rather than spending roughly $245,000, or approximately $1630 per participant on Offering 2, the Program can seek to gain similar insights by enrolling customers in a Time of Use rate and examining customer load profiles and experience to understand whether they respond to price signals. Forgoing the program would reduce the overall cost of the Program or free up funding for other Offerings that increase access to EV charging in the District.

An additional recommendation is to consider removing Offering 3 which provides a Smart Level 2 charger for up to 50 qualified residential customers at 50% of the charger's cost along with

50% of the associated installation costs. The Offering also includes the installation of a separate utility meter. Tesla recommends removing the Offering because of its costs of $5000 per charger installed and redundant telemetry capabilities between a separate utility meter and a smart Level 2 charger. Moreover, there are potential complications in that some customers may not qualify because they do not have space for a second meter, and the Offering it may lead to customer confusion with Offering 4 which provides up to $500 rebates for the purchase and installation of Smart Level 2 chargers for the first 500 residential customers. Offering 3 is estimated to cost $250,000 or $5000 per charger deployed, whereas Offering 4 ($500 rebate) also costs $250,000 but will be available to 500 customers.

Since access to charging is a challenge for many of the District's residents and workers, Tesla recommends considering the expansion of chargers deployed in Offering 5 and Offering 6. Offering 5 would provide up to 100 qualifying MUD customers with 50% cost coverage for the purchase of a Smart Level 2 charger, as well as covering all associated installation costs. Similarly, Offering 6 would provide up to 50 qualifying office buildings or parking garages with a 50% cost coverage for the purchase of a Smart Level 2 charger and coverage of all associated installation costs.

Pepco (B)-1, attached to Witness Stewart's testimony,[7] notes that Offering 5 would deploy 100 chargers and Offering 6 would cover 50 chargers. This implies that 1 charger per customer would be provided. There is an estimated cost of about $12,000 per charger for both Offerings. Given that site installations can be costly and complex, such as installing sub panels and running conduit across structures, Tesla recommends that the Offerings require that multiple chargers be installed per location in order to take advantage of the new conduit and other make-ready infrastructure investments. Doing so would achieve some economies of scale with deployments by reducing the

[7] R Stewart, Direct Testimony, D.C. P.S.C. Formal Case 1130, September, 2018, Pepco Exhibit B (Pepco (B)), PEPCO(B)-1, p. 1.

Offering's costs per charger deployed. It would also improve the EV driver's experience by reducing potential station congestion and increasing redundancy in case of charger maintenance or outages.

Finally, Pepco proposes to issue quarterly and annual reports for the Program, which is an appropriate reporting cadence. Tesla recommends that the Company and the Commission utilize the reports to refine Offerings over time, such as increasing or decreasing the size of specific Offerings, as lessons are learned and customer preferences are better understood.

In conclusion, we reiterate the importance of Electric Transportation Programs like Pepco's to increasing access in EV charging in the District, and ultimately leading to more EVs on the road. The District has several ambitious environmental goals, and increasing EV adoption is critical to achieving the goals and improving the District's air quality. We appreciate the opportunity to offer these initial comments and look forward to reviewing and potentially replying to those of other stakeholders to refine the Program.

Sincerely,

Kevin Auerbacher

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