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By Electronic Filing

Ms. Brinda Westbrook-Sedgwick
Commission Secretary
Public Service Commission of the District of Columbia
1333 H Street, NW, 2nd Floor, West Tower
Washington, DC 20005

Re: Formal Case No. 1130

Dear Ms. Westbrook-Sedgwick:

Attached for electronic filing in the referenced matter please find the Comments of ChargePoint, Inc. on Potomac Electric Power Company's application for approval of a transportation electrification program.

Should you have any questions, please contact me.

Sincerely,

A handwritten signature in blue ink that reads 'Brian R. Greene'.

Brian R. Greene

Enclosure

c: Service List

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA**

IN THE MATTER OF)	
)	
The Investigation Into Modernizing the Energy)	Formal Case No. 1130
Delivery System for Increased Sustainability)	

**COMMENTS OF CHARGEPOINT, INC
On Potomac Electric Power Company's
Application for Approval of a Transportation Electrification Program**

I. Introduction

On September 6, 2018, the Potomac Electric Power Company ("Pepco") filed an Application for Approval of its Transportation Electrification Program in the District of Columbia ("TE Program"). The proposal seeks to expand transportation electrification in the District and presents 13 offerings with varying options for the Commission's consideration. On October 5, 2018, the Commission issued a Public Notice ("Notice") inviting comment on: (1) Pepco's proposal; (2) "whether, and to what extent, Pepco's proposal is consistent with D.C. Code § 34-1513(a) and the Energy Innovation and Savings Amendment Act of 2012;" and (3) a motion to dismiss Pepco's TE Program filed by the Apartment and Office Building Association of Metropolitan Washington ("AOBA").

ChargePoint thanks the Commission for the opportunity to provide comments on Pepco's proposal for a limited, voluntary demand management program for electric vehicle ("EV") charging in the District. With this filing, ChargePoint responds to the Commission's call for comment regarding the threshold question of Commission jurisdiction over utility EV charging

activities.¹ We also provide our perspective on the appropriate procedural path for the Commission's consideration of Pepco's proposed TE Program, and provide our perspective on the merits of the program offerings.²

ChargePoint is the leading electric vehicle ("EV") charging network in the world, with charging solutions for every charging need and all the places EV drivers go: at home, work, around town, and on the road. With more than 57,000 independently-owned charging spots, including over 83 public stations in the District of Columbia, ChargePoint has thousands of customers nationally – workplaces, cities, retailers, apartments, hospitals, and fleets. ChargePoint drivers have completed more than 43 million charging sessions, saving upwards of 45 million gallons of gasoline, and driving more than 1 billion gas-free miles. ChargePoint actively participates in proceedings in Commissions across the country to provide its experience in deploying EV charging stations and in contributing to program designs that foster long-term, sustainable markets for EVs and charging infrastructure nationally.

There are currently more than 83 public charging ports in the District of Columbia in the ChargePoint network. ChargePoint's customers include The George Washington University, the District of Columbia Department of Transportation, Verizon, Vornado, and several Federal agencies. As of the second quarter of 2018, there are 1,604 electric vehicles registered in the District, and over 700 drivers in the District are registered with ChargePoint.³ Those drivers can seamlessly use stations in the ChargePoint network, access data on charging sessions, receive updates on ongoing charging sessions via text, and, if required by station owners, pay for charging sessions.

¹ Public Service Commission of the District of Columbia. Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability. "Public Notice". October 5, 2018. https://edocket.dcpssc.org/apis/pdf_files/7d7fb121-d605-46f6-b314-f6eb46453c2c.pdf

² ChargePoint reserves its right to submit more detailed comments on the merits of Pepco's proposed TE Program at a later date.

³ IHS Polk, "MarketInsight", 2018.

II. The Commission Retains Jurisdiction over Utility Investments into Electric Vehicle Charging Infrastructure

In the Notice, the Commission identified a “threshold question” regarding the Commission’s jurisdiction over EV charging station operators.⁴ Specifically, the Commission noted that the “Energy Innovation and Savings Amendment Act of 2012 (“Act”), “clarified that EV charging station operators are not public utilities, thus, exempting them from regulation by the Commission and encouraging competition in the EV market.”⁵ The Commission pointed to the Act’s revisions to the definitions of: (1) “electric company” to expressly 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;” and (2) “public utility” to expressly 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.”⁶ The Commission invited comment as to “whether, and to what extent, Pepco’s proposal is consistent with D.C. Code § 34-1513(a) and the [Act].”⁷

a. Legislative and Regulatory Foundations Preclude Commission Jurisdiction Over Third-Party Providers of EV Activities, But the Commission May Consider Pepco’s Transportation Electrification Proposal

The plain and unambiguous language of the Act’s definitional revisions is clear that the Commission does not regulate the EV charging activities of third-party providers. At the same time, neither the Act nor § 34-1513(a) expressly require the Commission to abdicate its jurisdiction over a utility’s proposed EV charging activities. ChargePoint submits that the Commission does

⁴ Notice at ¶ 7.

⁵ Id.

⁶ Id. at fn. 12 (citing D.C. Law 19-0252, the “Energy Innovation and Savings Amendment Act of 2012.” See D.C. Code §§ 34-207 and 34-214.

⁷ Id. at § 7. Section 34-1513(a) 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.”

retain jurisdiction over utility investments in EV charging, such as Pepco's proposal for a TE Program.

The Act's legislative history supports ChargePoint's view that the Commission lacks jurisdiction over third-party providers of EV activities and shows the intent of the D.C. Council to open the District's market to competition and reduce regulatory uncertainty for third-party providers of EV charging.⁸ In the Environment, Public Works, and Transportation Committee Report for the legislation, Bill 19-749, the Committee takes up the issue of the exemption "for purposes of regulation under the state's public utility commission," following the example of Maryland's legislature. To the Committee, the language had the effect of exempting "electric car charging station operators from being regulated like utilities." The intent of the Council was to create a clear, unencumbered regulatory environment, in which third-party EV charging providers could compete. The Report claims that: "Clarifying that electric vehicle charging station operators are not utilities creates regulatory certainty for station operators. Creating regulatory certainty encourages more charging station providers to enter the market. More options for charging stations will likely lead to more charging stations."⁹

In providing an analysis of the Act's text, the Committee described the nature of charging station operation as being separate and distinct from utility activities. More specifically, the

⁸ The D.C. Court of Appeals has noted that, "[a]lthough the 'plain meaning' rule is certainly the first step in statutory interpretation, it is not always the last or the most illuminating step. This court has found it appropriate to look beyond the plain meaning of statutory language in several different situations" that do not exist in this proceeding. One such situation is "where the words of the statute have a 'superficial clarity,' a review of the legislative history or an in-depth consideration of alternative constructions that could be ascribed to statutory language may reveal ambiguities that the court must resolve." That's not the case here. Another situation is when "a court may refuse to adhere strictly to the plain wording of a statute in order to effectuate the legislative purpose, as determined by a reading of the legislative history or by an examination of the statute as a whole." That, also, is not the case here as the intent of the D.C. Council was clearly to exempt third-party providers of EV activities from Commission jurisdiction. See *In the Matter of 15 DCMR Chapter 29 – Renewable Energy Portfolio Standard Expansion Act of 2016*, RM29-2016-02, Order No. 18749 (Apr. 13, 2017) (citing *Peoples Drug Stores, Inc. v. District of Columbia*, 470 A.2d 751, 754 (D.C. 1983) (internal quotations marks and citations omitted)).

⁹ Committee on the Environment, Public Works, and Transportation. "Report: Bill 19-749, the 'Energy Innovation and Savings Amendment Act of 2012.'" October 24, 2012.

Committee identified that EV charging is not the traditional sale of electricity of regulated utility, but rather the provision of the service of filling a battery. In addition, in the Committee's perspective, regulation of the charging industry would be unduly burdensome to EV charging entities:

Electric vehicle charging station operators provide fuel for transportation, not energy for distribution or transmission. The fact that their product has an energy component doesn't make them a utility anymore [sic] than perhaps a hotel, which sells electricity as a part of its product, would also be a utility. Subjecting more traditional service companies to the types of regulations normally reserved for utilities would encumber station providers with prohibitive costs and regulatory burdens that would stifle the market for charging stations, and the vehicles that use them.¹⁰

While the Act clarified that third-party providers of EV activities are not within the Commission's jurisdiction, the Act does not expressly restrict utility EV initiatives. The Committee Report shows that the intent of the legislation was to reduce regulatory barriers for the competitive, non-utility market for charging infrastructure. It does not, on its own, preclude utilities from filing programs for EV charging for the Commission's consideration. The Act does, however, acknowledge the presence and activities of a competitive market for third-party operated charging infrastructure in the District.

In the years after the passage of the Act, the Commission opened proceedings to consider the effect of the legislation, primarily in Formal Case No. 1096 ("FC 1096"). Pursuant to the Commission's revised authority over EV charging stations, the Commission determined that third-party providers would not be subject to regulation unless they were selling electricity or charging for their services by kilowatt-hour (kWh) or unit of energy transferred. If these providers did price by kWh, the Commission ordered that they would need to obtain an electric supplier license. The

¹⁰Ibid.

Commission set in place periodic compliance and enforcement site visits to EV charging stations to ensure that pricing to drivers remained in line with this determination of authority.¹¹

ChargePoint finds the Commission's application of the Act through Formal Case No. 1096 does not prevent or prohibit the Commission's consideration of utility proposals regarding charging infrastructure. Instead, the Commission set in place the rules and authority surrounding third-party activities in EV charging. To this extent, ChargePoint sees alignment between the Act and the Commission's findings in Formal Case No. 1096 in clarifying third-party ownership and operation of EV charging, while retaining jurisdiction over utility proposals in the space.

Several similar statutes and regulatory proceedings in other jurisdictions provide guidance regarding the Commission's jurisdiction and authority. Utility commissions exempting EV charging stations from regulatory jurisdiction have considered and approved utility programs for this infrastructure, including Utah¹², Massachusetts¹³, California¹⁴, Florida¹⁵, and Nevada¹⁶. In these cases the commissions approved several forms of investment in EV charging infrastructure, such as rebates for equipment and make-ready incentives, as well as offerings for several rate designs

¹¹ D.C. Public Service Commission. "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. October 16, 2015. https://edocket.dcpsc.org/apis/pdf_files/fe9d30df-3763-4d5c-b305-8772a4ea7591.pdf

¹² See Public Service Commission of Utah. Docket No. 16-035-36. "In the Matter of the Application of Rocky Mountain Power to Implement Programs Authorized by the Sustainable Transportation and Energy Act." June 28, 2017. <https://pscdocs.utah.gov/electric/16docs/1603536/2949541603536ptrao6-28-2017.pdf>

¹³ See Massachusetts Department of Public Utilities. Docket 17-05. "Order Establishing Eversource's Revenue Requirement." November 30, 2017. <https://eeaonline.eea.state.ma.us/EEA/FileService/V1.4.0/FileService.Api/file/FileRoom/dehehcjj>

¹⁴ See California Public Utilities Commission. Application 17-01-020. "Transportation Electrification Proposals Pursuant to SB 350." 2018. <http://www.cpuc.ca.gov/sb350te/>

¹⁵ See Florida Public Service Commission. Docket No. 2017-0183-EI. "In re: Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments." November 11, 2017. <http://www.psc.state.fl.us/library/filings/2017/09951-2017/09951-2017.pdf>

¹⁶ See Public Utilities Commission of Nevada. Docket No. 18-02002. "Joint Application of Nevada Power Company d/b/a NV Energy [...] Electric Vehicle Infrastructure Demonstration Program for Program Year 2018-2019." June 27, 2018. http://pucweb1.state.nv.us/PDF/AxImages/DOCKETS_2015_THRU_PRESENT/2018-2/31126.pdf

to encourage charging at times most beneficial to the grid. ChargePoint believes that the statutory and regulatory foundations around EV charging in these jurisdictions is comparable to the authorities held in the District of Columbia.¹⁷ A regulatory exemption for third-party providers has not prevented the consideration and/or approval of utility EV charging programs, and we extend that same interpretation to Pepco's TE Program Proposal.

Simply put, under the Act, third party charging station providers are not to be regulated like utilities, but that does not mean that utilities may not pursue related activities and remain under Commission jurisdiction.

b. Uneven Applicability of D.C. Code § 34-1513(a) Should Be Resolved to Enable All EV Charging Providers to Charge by kWh.

In its Notice, the Commission requests additional comment on whether, and to what extent, Pepco's proposal is consistent with D.C. Code § 34-1513(a). That section restricts "electric companies" from engaging in the business of an "electricity supplier" in the District. In the definitions at § 34-1501(17), an electricity supplier means "a person, including an aggregator, broker, or marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or, markets electricity for sale to customers." ChargePoint believes that Pepco's proposal for transportation electrification does not constitute an electricity supplier activity. Offerings that involve rebates or incentives for consumer-driven buildout of charging infrastructure clearly do not satisfy the definition of an electricity supplier activity. Those offerings involve no marketing nor selling of electricity to consumers, but rather propose to lower barriers for Pepco customers to procure EV charging infrastructure, who in-turn would provide EV charging services on their properties.

¹⁷ Cal. Pub. Util. Code, § 216(l); Fla. Stat. § 366.94; Mass. D.P.U. 13-182-A; NRS 704.021 (11.); Utah Code §§ 54-2-1(7)(C), 54-2-1(19)(J).

For components of Pepco's proposal where the utility intends to operate charging infrastructure, the applicability of the definition of an electricity supplier is more uncertain. The main point of ambiguity relates to the treatment of EV charging activities as electricity supply. ChargePoint suggests that there is an area of inconsistency between the intent of the Act and the Order in FC 1096, both of which inform the Commission's interpretation of D.C. Code § 34-1513(a). As noted above, the Committee Report clearly states that the intent of the Act is to consider EV charging a service of charging a battery regardless of the way a fee may be assessed, as it is providing a fuel for transportation, and not a traditional sale of electricity to a consumer. By contrast, the Order in FC 1096 enforces charging by the kilowatt-hour as the sale of electricity, but exempts all other forms of payment from regulatory jurisdiction.

This disparity on the issue of charging by kilowatt-hour for EV charging services leads to an uneven reading of the definition of these activities as an electricity supply, as it suggests that EV charging may be both a regulated electricity supply and an unregulated market activity. Overall, these conflicting views on how charging infrastructure may be operated implicate the regulatory status of charging infrastructure in the District, for third parties and utilities alike. From the perspective of the legislative intent of the Act, regardless of the pricing model employed at a charging station, each is assessed as a measure of the charging service and not the distribution of electricity by a utility or supplier.

In providing a regulatory exemption for EV charging, other jurisdictions acknowledge that the practical effect of the revised authority enables all pricing models, including kWh pricing. In a recent example, the Public Service Commission from Alabama completed a generic proceeding on regulatory jurisdiction over EV charging infrastructure operation, concluding that no case exists where EV charging could be considered a utility activity or electric supply:

Upon consideration of the comments and our review of the governing authorities, we cannot at this time discern a circumstance where the operation of an [EV charging station], in and of itself, gives rise to utility status or implicates the

jurisdiction of the Commission. This is so whether the [EV charging station] is situated on an employer's premise and available for use only by employees, is housed in a public parking garage and offered for free to those who otherwise pay to park in the garage, or is located in the parking lot of a large retail chain that permits use of the [EV charging station] on a cents-per-kWh basis.¹⁸

ChargePoint submits this reading mirrors the intent in the Council's passage of 19-749. Should the Commission determine that the kWh pricing at EV charging stations is not electricity supply, then the *operation* of EV charging stations would not fall under Commission jurisdiction. ChargePoint recommends that the Commission review and update the findings in Formal Case No. 1096 to enable charging for charging services by kilowatt-hour, conforming to the intent of the Act.

c. Current Commission Jurisdiction Encompasses Pepco's Application, but Consideration Must be Given to the Competitive Market Conceived in the Act.

Given the jurisdictional foundations detailed above, the Commission could find that nothing impedes its authority over Pepco's TE Program. Accordingly, the Commission should take up the proposal and consider it on its merits. In identifying the framework for the Commission's consideration, however, ChargePoint notes that both the Act and FC 1096 conceive of and reinforce the existence and activities of a competitive market for charging services in the District. The goal of the Act is to provide more options for charging stations, allow for market-driven business models to operate stations, and reduce barriers for more providers to enter the market. Formal Case No. 1096 acknowledges the presence of several providers of charging infrastructure in the District, each with its own model for meeting consumer demands and circumstances. The Commission's Notice also makes clear the effect of these policies, stating that under these laws

¹⁸ State of Alabama Public Service Commission. Docket No. 32694. "Generic Proceeding to Determine the Commission's Jurisdiction Over Electric Vehicle Charging Stations." June 22, 2018. <https://www.pscpublicaccess.alabama.gov/pscpublicaccess/PSC/PSCDocumentDetailsPage.aspx?DocumentId=7a8be751-8e39-410a-b215-811efd182024&Class=Order>

the District is “encouraging competition in the EV market.”¹⁹ ChargePoint believes that in its review of Pepco’s proposal for transportation electrification, the Commission must account for and maintain the existing competitive market for charging infrastructure in the District of Columbia as a matter of established policy.

III. Pepco’s Proposal Should be Considered in a Formal, Standalone Docketed Proceeding

ChargePoint believes that the Commission appropriately determined to incorporate broad topics related to EV charging as part of Formal Case No. 1130 (“MEDSIS”). EV charging is part of a larger vision for a modernized electric grid and its continued reliability, affordability, and sustainability. However, given the specific, developed offerings in Pepco’s proposed TE Program, ChargePoint recommends that the Commission consider the proposal in a standalone docket with a formal proceeding. Pepco provides particular details of each offering in the proposal, which make up a complete set of programs. These details merit a more focused investigation into the scale, scope, and impact of Pepco’s offerings in the District’s market.

Comparisons have been drawn between the District’s MEDSIS process and Maryland’s Public Conference 44 (“PC44”) process on grid modernization. PC44 established at least five working groups on various subjects. ChargePoint was an active participant in the Electric Vehicle Work Group in PC44, and is a signatory party to utility proposals in that proceeding. Although those proposals began in a working group in PC44, the Maryland Commission initiated a formal docket (Case No. 9478) to consider them in detail once they were finalized. The case and proposals remain pending before the Maryland Commission.²⁰ The proposals involve \$104 million in investments and incentives across four Maryland service territories and were the subject of

¹⁹ FC 1130, Public Notice.

²⁰ Maryland Public Service Commission. Case No. 9478. “In the Matter of the Petition of the Electric Vehicle Work Group for Implementation of a Statewide Electric Vehicle Portfolio.” Filed February 6, 2018. <https://www.psc.state.md.us/search-results/?keyword=9478&x.x=0&x.y=0&search=all&search=cas>

legislative-style hearings that took place over multiple days. ChargePoint supports open, transparent stakeholder proceedings to consider EV charging pilots and programs and, in PC44, all stakeholders had a role and input in contributing to the utility offerings. Unlike PC44, however, Pepco's D.C. proposal is a fully-developed product that is not the result of stakeholder input in a Commission-led working group setting. As such, the Commission should conduct a more formal investigation of the offerings than the venue provided in MEDSIS. ChargePoint recommends that the scope of MEDSIS should incorporate EV infrastructure buildout into a transparent discussion on future grid components and impacts, and simultaneously, the Commission should consider Pepco's TE Program exclusively as a limited, near-term pilot.

IV. Support for Utility Investments in EV Charging, and Principles of Market-Driven Programs

Nationally, utilities in many jurisdictions have supported the adoption of electric vehicles through programs that enable the build out of networked charging infrastructure across a range of use cases. Those programs can significantly lower barriers to EV charging infrastructure deployment and accelerate EV charging markets overall. Most importantly, utility investment in charging infrastructure can catalyze and foster a long-term, scalable, and competitive market for charging equipment and networks. To that end, ChargePoint strongly supports utility investment in electric vehicle charging infrastructure that seeks to achieve those outcomes.

ChargePoint's experience as the leading provider of electric vehicle charging infrastructure has informed its recommendations regarding regulated utility investments in EV charging. As a result, ChargePoint has observed and developed principles to support successful implementation of utility programs that align the goals of the utility, competitive market participants, and end customers. Working with utilities across the country, ChargePoint has

strongly supported and recommended approval of programs that promote the following principles.

To the maximum extent possible, utility programs should incorporate²¹:

- a. A core outcome to foster and support the existing competitive market for EV charging infrastructure.*
- b. Ongoing support for a diversity of competitive market offerings, allowing site hosts to continue to have a choice in charging solutions from multiple, qualified vendors of equipment and charging networks.*
- c. Site host control of charging infrastructure located on their properties, including pricing and access control, to align with their circumstances, preferences, and desired driver experience.*
- d. Stimulate private investment in charging infrastructure to ensure site hosts have “skin-in-the-game”, lowering risks to ratepayer funds and making certain site hosts are invested in the success of deployments.*
- e. A requirement for all deployments to be smart, networked charging infrastructure, to maximize flexibility, control, and grid benefits.*

ChargePoint believes that these principles are critical features of cohesive, complementary utility programs for EV charging infrastructure. Importantly, these principles have already been incorporated into many utility programs across the country, including approved

²¹ ChargePoint intends to expand upon and provide context for these principles as part of the Commission’s consideration of electric vehicle charging programs, including a prospective venue for the TE Program.

programs in California²², Nevada²³, Utah²⁴, Ohio²⁵, Massachusetts²⁶, New York²⁷, Rhode Island²⁸, and in programs proposed in Pennsylvania²⁹, Washington³⁰, Maryland³¹, Michigan³², and Missouri³³. Based on this record and our experience in active programs in other states, ChargePoint asserts that multiple utility investment models for EV charging can and should accommodate program designs to maintain a participating site host's choice and control to

²² See California Public Utilities Commission. Application 17-01-020. "Transportation Electrification Proposals Pursuant to SB 350." 2018. <http://www.cpuc.ca.gov/sb350te/>

²³ See Public Utilities Commission of Nevada. Docket No. 18-02002. "Joint Application of Nevada Power Company d/b/a NV Energy [...] Electric Vehicle Infrastructure Demonstration Program for Program Year 2018-2019." June 27, 2018.

http://pucweb1.state.nv.us/PDF/AxImages/DOCKETS_2015_THRU_PRESENT/2018-2/31126.pdf

²⁴ See Public Service Commission of Utah. Docket No. 16-035-36. "In the Matter of the Application of Rocky Mountain Power to Implement Programs Authorized by the Sustainable Transportation and Energy Act." June 28, 2017. <https://pscdocs.utah.gov/electric/16docs/1603536/2949541603536ptrao6-28-2017.pdf>

²⁵ See Public Utilities Commission of Ohio. Docket No. 16-1852-EL-SSO. "In The Matter of the Application of the Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143." April 25, 2018. <http://dis.puc.state.oh.us/DocumentRecord.aspx?DocID=1a7d9c25-92bc-42e4-896d-c888c1a015ac>

²⁶ See Massachusetts Department of Public Utilities. Docket 17-05. "Order Establishing Eversource's Revenue Requirement." November 30, 2017.

<https://eeaaonline.eea.state.ma.us/EEA/FileService/V1.4.0/FileService.Api/file/FileRoom/dehehcjj>

²⁷ See New York Public Service Commission. Matter No. 17-00887. "Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric Service."

<http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?MatterCaseNo=17-E-0238>

²⁸ See Rhode Island Public Utilities Commission. Docket No. 4770. "The Narragansett Electric Co. d/b/a National Grid - Application for Approval of a Change in Electric and Gas Base Distribution Rates." <http://www.ripuc.org/eventsactions/docket/4770page.html>

²⁹ See Pennsylvania Public Utilities Commission. Docket Number R-2018-3000124. "Pa. PUC v. Duquesne Light Company." <http://www.puc.pa.gov/pcdocs/1586084.pdf>

³⁰ See Washington Utilities and Transportation Commission. Docket No. UE-180877. Tariff Revision – Puget Sound Energy. <https://www.utc.wa.gov/docs/Pages/DocketLookup.aspx?FilingID=180877>

³¹ See Maryland Public Service Commission. Case No. 9478. "In the Matter of the Petition of the Electric Vehicle Workgroup for Implementation of a Statewide Electric Vehicle Portfolio."

<https://www.psc.state.md.us/search-results/?keyword=9478&x.x=16&x.y=13&search=all&search=case>

³² See Michigan Public Service Commission. Case No. U-20134. "In the matter of the application of Consumers Energy Company for authority to increase its rates for the generation and distribution of electricity and for other relief." <https://mi-psc.force.com/s/case/500t0000009fPPSAA2/in-the-matter-of-the-application-of-consumers-energy-company-for-authority-to-increase-its-rates-for-the-generation-and-distribution-of-electricity-and-for-other-relief>

³³ See Missouri Public Service Commission. Case No. ET-2018-0132. "In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Approval of Efficient Electrification Program." https://www.efis.psc.mo.gov/mpsc/commoncomponents/view_itemno_details.asp?caseno=ET-2018-0132&attach_id=2018012294

support the current competitive market for charging. Together, these factors work to enhance the effectiveness of utility programs in electric transportation while mitigating the cost burden and risk associated with use of ratepayer funding.

V. More Clarity and Improvements are Needed on Specific TE Program Offerings Prior to Approval

ChargePoint joins several commenters in supporting the intent of the Pepco's proposal to advance transportation electrification and the associated benefits across multiple market segments, including transit, fleets, taxis, multi-unit dwellings, and workplaces. Additionally, as part of the stakeholders workgroups Pepco led over the course of the last year, ChargePoint advocated strongly for inclusion of a portfolio of programs to address these parts of the market in the District. Given our experience as an active third-party provider already providing charging solutions for the city's fleets and residents, ChargePoint remains committed to advancing approaches to reduce barriers related to the electrification of the transit, taxi, and fleet segments.

ChargePoint believes that in order to maximize utility investment impact, reduce risks to ratepayer funds, and achieve the long term goals of a sustainable market, utility program design should align with the principles detailed in Section V above. Throughout the Pepco-led stakeholder workgroups, ChargePoint helped to educate the stakeholders on these market-driven principles and lessons learned from other jurisdictions. As these offerings developed, ChargePoint expressed concerns and need for clarification on several key issues in the working program design. Overall, while several offerings would accelerate the EV charging market in the District near-term, we find many of those issues and questions remain unaddressed in the filed application and limit the TE Program's ability to achieve desired outcomes. Accordingly, ChargePoint recommends these issues in the TE Program offerings be reconciled prior to any program approval and implementation.

When weighing the TE Program's specific offerings against market principles, there are a number of offerings to deploy charging infrastructure that merit greater discussion in a formal

regulatory process. ChargePoint supports Offerings 1-6, as the rebate programs advanced in those offerings align with the principles. The rebate programs for residential, multi-unit dwellings, and workplaces offer a competitive choice to customers, lower cost barriers to deploy EV charging, enable customers to control stations that they have partially funded, and leverage smart charging capabilities to support grid benefits. ChargePoint has supported similar rebate programs that have been approved in other jurisdictions. In addition, we believe the Technology Demonstration and Innovation Fund offerings are important investments in testing and piloting new technologies that could benefit the District's customers.

In contrast, ChargePoint believes that Offerings 7 and 8 require clarification in order to align with common principles of utility investment. As described in the application, under those offerings, the utility would own and operate public charging infrastructure on customer sites, and may determine the charging vendor, pricing, and features of the assets on site hosts' properties.³⁴ It is imperative that the current competitive marketplace dynamics remain intact, and that the utility's cost-free offerings do not impede the sales of other vendors, supplanting current market activities with pre-selected charging solutions. Nor is it clear whether site hosts would maintain operational control of charging stations installed on their properties to maintain flexibility line up with activities on site. Moreover, regulated tariff pricing to drivers, such as those under Schedule PC-PIV, may be a) inconsistent with pricing to drivers from competitive market providers and site hosts, b) inhibit optimal utilization of charging stations, and c) limit flexibility across various use cases. As ChargePoint expressed in workgroup meetings, Pepco could provide similar offerings to meet the needs of these important segments of the market, while maintaining a customers'

³⁴ Pepco Application, at Page 34: "The Company plans to site the charging infrastructure in strategic locations, in all Wards, and on the basis of traffic patterns and need. Pepco will site public charging stations based on driver lifestyle destinations, such as sporting events, retail shopping, dining, community centers, Parks/ Federal and District properties, Park and Rides, etc."

choice among multiple hardware and networks, as well as the ability for site hosts to participate in the operation of stations on their property.

ChargePoint has similar concerns about Offerings 9, 10, and 11, which are designed to offer solutions for the commercial segments of the market, which can be improved. In those offerings the utility is proposing to own charging stations at commercial properties for fleets, taxis, transit buses. To that end, ChargePoint holds the same concerns for site host choice of charging equipment provider present in Offerings 7 and 8. In today's market, commercial customers choose from a number of provider networks and equipment, yet in Pepco's program, customers would presumably be subject to Pepco's determination of vendor and solution. In addition, ChargePoint has specific questions about the operation of charging stations under Offering 9, 10, and 11. In the provided program details, it is unclear what entity would have operational control over the charging stations on commercial sites and what rates and schedules would apply to participating customers. Pepco explains that the utility will provide customers with technical assistance with respect to rate optimization and demand management technologies, however, no details are offered on the customer's ability to control, manage, or assess applicable fees.

Furthermore, some of the segments addressed in Offerings 7-11 are currently served by the competitive market. In the District's EV charging market, private investment and site host engagement has already contributed to public charging deployments and commercial fleet deployments. ChargePoint maintains that given the presence of private investment in EV charging in the District, the TE Program should incorporate utility investment models that reduce barriers while encouraging participating site hosts to contribute financially to charging station deployment. Utility programs with site host contributions could effectively lower barriers and help accelerate those current market activities. The TE Program provides rebates for some segments of the market, but does not extend that effective model to other segments of the market that are currently active. Importantly, pursuing alternatives to a model where the utility bears all costs and responsibilities over charging infrastructure would reduce the overall cost of the program, reduce

risks to ratepayers, and still enable the utility to achieve its main goal to gain insights into charging activities and loads.

ChargePoint reaffirms its support of the intent of Offerings 7-11, but important clarifications should be sought on the issues of customer choice, control, and financial contribution. Addressing these concerns – and perhaps others that arise during the process – will maximize funding to those categories and result in greater and more effective deployments than those proposed in the TE Program. As part of a subsequent formal proceeding, ChargePoint is prepared to provide further details on how to improve these offerings to the benefit of the District’s EV drivers, taxis, fleets, and transit customers.

VI. Conclusion

Thank you for the opportunity to provide comments. ChargePoint looks forward to continuing this discussion and working with the Commission and utilities on smart EV charging in the District of Columbia.

Respectfully submitted,

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By Counsel

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Certificate of Service

I certify that true copies of the foregoing Comments were served on December 12, 2018 to all those on the service list for FC 1130.

/s/ Brian R. Greene
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