

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

**April 12, 2019**

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

**and**

**FORMAL CASE NO. 1155, IN THE MATTER OF THE APPLICATION OF THE  
POTOMAC ELECTRIC POWER COMPANY FOR APPROVAL OF ITS  
TRANSPORTATION ELECTRIFICATION PROGRAM, Order No. 19898**

**I. INTRODUCTION**

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) grants in part and denies in part the Application of the Potomac Electric Power Company (“Pepco”) for Approval of its Transportation Electrification Program (“TE Program,” “Pepco’s TE Application” or “Application”).<sup>1</sup> Specifically, the Commission: (1) approves the development of Residential Whole House Time-Of-Use Rate for electric vehicles in Offering 1; (2) directs Pepco to provide “make-ready” infrastructure for Offerings 7 and 8 (public electric vehicle (“EV”) charging) and Offerings 10 and 11 (public transportation charging) to facilitate the deployment of public electric vehicle charging station (“EVCS”); (3) determines that Pepco can only sell electricity from an EVCS through an affiliate; and (4) establishes a temporary Transportation Electrification (“TE”) Working Group to further explore and develop offerings for a fixed price residential rebate, Offering 4, and multi-dwelling unit EVCS deployment, Offering 5, as discussed in paragraphs 42 and 44 in this Order reporting back to the Commission within 180 days of the date of this Order.

**II. BACKGROUND**

2. First, as a threshold matter, the Commission notes that the CleanEnergy DC Omnibus Amendment Act of 2018 (“CleanEnergy DC Act”) grants the Commission authority to approve Pepco’s TE Application and requires that we consider the impact of global climate change and the District of Columbia’s (“District”) climate commitments in our decision.<sup>2</sup> We also acknowledge that the District has set as a goal to reduce greenhouse gas (“GHG”) emissions by

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<sup>1</sup> *Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability (“Formal Case No. 1130”),* Potomac Electric Power Company’s Application for Approval of its Transportation Electrification Program, filed September 6, 2018 (“Pepco’s TE Application”).

<sup>2</sup> D.C. Law 22-0257, “CleanEnergy DC Omnibus Amendment Act of 2018”, March 22, 2019 (“Clean Energy DC Act”).

50% by 2032.<sup>3</sup> The transportation sector contributes more than 20% of the District's GHG emissions, and according to research, achieving an 80% reduction in GHG emissions by 2050 will require the District's passenger vehicle fleets to shift almost entirely to zero GHG emission vehicles.<sup>4</sup> Currently, the District's EV penetration is at 0.23%.<sup>5</sup> It is with this backdrop that we begin our review of the Company's TE Application and relevant regulatory actions.

3. Pepco's TE Application was not filed in a vacuum. On April 21, 2017, Pepco filed a proposal seeking approval for a limited, voluntary demand management program for plug-in electric vehicle ("PIV") charging in the District ("EV Program") consisting of five (5) offerings with varying options and to allow Pepco to focus on expanding PIV use in the District.<sup>6</sup> On October 19, 2017, after soliciting comments on Pepco's EV Program in *Formal Case No. 1143*, the Commission transferred the entire docket of *Formal Case No. 1143* into *Formal Case No. 1130* and closed *Formal Case No. 1143*.<sup>7</sup> In *Formal Case No. 1130*, the Commission adopted recommendations of the Commission's MEDSIS<sup>8</sup> Consultant, Smart Electric Power Alliance ("SEPA"), to create six workgroups with electric vehicles incorporated into two of the recommended working groups (Non-wires Alternatives and Future Rate Design). The Commission anticipated these two working groups would address electric vehicle issues, including EV infrastructure, EV coupling with storage, EV rate design, and EV hosting capacity.

4. **TE Program.** On September 6, 2018, Pepco filed its TE Program proposing "a portfolio of program offerings designed to serve a range of customer types and target multiple segments of the market, including the residential, commercial and public sectors of the market."<sup>9</sup> Pepco's proposed TE Program consists of the following 13 elements:

**Offering 1:** Residential Whole-House Time-of-Use ("TOU") Rate for Plug-In Vehicle ("PIV") owners who receive their electricity supply through the Standard Offer Service ("SOS") Program.

**Offering 2:** Installation credit for up to one hundred and fifty (150) residential customers with existing, installed Electric Vehicle Service

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<sup>3</sup> Clean Energy DC: The District of Columbia Climate and Energy Action Plan, August 2018 [https://doee.dc.gov/sites/default/files/dc/sites/ddoe/page\\_content/attachments/Clean%20Energy%20DC%20-%20Full%20Report\\_0.pdf](https://doee.dc.gov/sites/default/files/dc/sites/ddoe/page_content/attachments/Clean%20Energy%20DC%20-%20Full%20Report_0.pdf) ("Clean Energy DC Plan").

<sup>4</sup> *Formal Case No. 1130*, Pepco's TE Application at 8.

<sup>5</sup> *Formal Case No. 1130*, Pepco's TE Application at 10.

<sup>6</sup> *Formal Case No. 1143*, *In the Matter of the Commission's Consideration of a Demand Management Program for Electric Vehicle Charging in the District of Columbia* ("Formal Case No. 1143"), Potomac Electric Power Company's Proposal for a Limited Demand Management Program for Plug-in Electric Vehicle Charging in the District of Columbia, filed April 21, 2017.

<sup>7</sup> *Formal Case No. 1130*, Order No. 19143, ¶ 9, rel. October 19, 2017; *Formal Case No. 1143*, Order No. 19198, ¶ 4, rel. December 8, 2017.

<sup>8</sup> MEDSIS is the acronym for *Modernizing the Energy Delivery System for Increased Sustainability*.

<sup>9</sup> *Formal Case No. 1130*, Pepco's TE Application at 26.

- Equipment (“EVSE”) to install FleetCarma® data loggers and receive monthly bill credit thereafter for participation.
- Offering 3:** Fifty percent discount on the cost of new Residential Smart Level II EVSE and installation for fifty (50) residential customers.
- Offering 4:** Smart Level II EVSE rebates of \$500 for five hundred (500) residential customers.
- Offering 5:** Fifty percent discount on the cost of new Smart Level II EVSE for Multi-Dwelling Units (“MDU”) and 100% discount on the installation costs for one hundred (100) MDU customers.
- Offering 6:** Fifty percent discount on the cost of new Smart Level II EVSE for fifty (50) customer workplace locations.
- Offering 7:** Install up to thirty-five (35) Public Neighborhood Smart Level II EVSE.
- Offering 8:** Installation of twenty (20) DC Fast Chargers.
- Offering 9:** Installation of charging infrastructure at a minimum of two (2) locations to support the use of Electric Fleet/Light Duty Charging Infrastructure consisting of up to ten (10) Smart Level II EVSE and one (1) DC Fast Charger at each location.
- Offering 10:** Install up to ten (10) Smart Level II EVSE and two (2) DC Fast Chargers to support the Electric Taxi/Rideshare deployment.
- Offering 11:** Install five (5) bus depot charges and one (1) on-route charger to support the use of Electric Buses.
- Offering 12:** Establish a \$1 million Innovation Fund, to be funded by the Modernizing the Energy Delivery System for Increase Sustainability (“MEDSIS”) subaccount, for innovation projects.
- Offering 13:** Establish a \$1.5 million Technology Demonstration program to be funded by the MEDSIS subaccount.<sup>10</sup>

The offerings provide for various levels of cost sharing between ratepayers, EV owners, the owner of EVCS,<sup>11</sup> as well as a variety of different business models. According to Pepco, each offering will have various limitations on the applicable customers, different levels of customer cost sharing for equipment, and will include an optional Green Adder consisting of a 100% renewable energy for an additional charge. Pepco proposes to supply electricity to some of the proposed project elements under the TE Program through the Standard Offer Service (“SOS”) Program, where Pepco serves as the SOS Administrator.<sup>12</sup> Further, Pepco proposes a total of five (5) new PIV-specific rate schedules applicable to seven (7) of the offerings.<sup>13</sup>

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<sup>10</sup> *Formal Case No. 1130*, Pepco’s TE Application at 28-40.

<sup>11</sup> EVCS are synonymous in this Order with EVSE as discussed in the TE Application.

<sup>12</sup> *Formal Case No. 1130*, Pepco’s TE Application at 44-46.

<sup>13</sup> *Formal Case No. 1130*, Pepco’s TE Application at 44, Table 9.

5. **TE Program Costs:** As illustrated in Table 2 below, Pepco estimates that the total estimated cost for the TE Program, net of costs borne by customers for the 13 Offerings, will be \$15,222,900.<sup>14</sup>

Table 2

Program Component	O&M	Capital	Total	Participant Contributions	Net
Offering 1 - Residential Whole House TOU	\$ -	\$ -	\$ -	\$ -	\$ -
Offering 2 - FleetCarma Units for Residential Customers with Existing EVSE	\$ 244,650	\$ -	\$ 244,650	\$ -	\$ 244,650
Offering 3 - Residential Smart Level 2 EVSE	\$ -	\$ 420,000	\$ 420,000	\$ 170,000	\$ 250,000
Offering 4 - \$500 Rebate for Residential Smart Level 2 EVSE	\$ 250,000	\$ -	\$ 250,000	\$ -	\$ 250,000
Offering 5: Smart Level 2 EVSE for Condominiums/Apartments	\$ -	\$ 1,516,000	\$ 1,516,000	\$ 325,000	\$ 1,191,000
Offering 6: Workplace Charging	\$ -	\$ 762,000	\$ 762,000	\$ 162,500	\$ 599,500
Offering 7: Electric Fleet / Light Duty Infrastructure	\$ -	\$ 570,000	\$ 570,000	\$ -	\$ 570,000
Offering 8: Public Smart Level 2 EVSE	\$ -	\$ 612,500	\$ 612,500	\$ -	\$ 612,500
Offering 9: Public DC Fast Charger	\$ -	\$ 2,200,000	\$ 2,200,000	\$ -	\$ 2,200,000
Offering 10: Electric Taxi / Rideshare Infrastructure	\$ -	\$ 570,000	\$ 570,000	\$ -	\$ 570,000
Offering 11: Electric Bus Infrastructure	\$ -	\$ 1,440,000	\$ 1,440,000	\$ -	\$ 1,440,000
Offering 12 - Innovation Fund	\$ 1,000,000	\$ -	\$ 1,000,000	\$ -	\$ 1,000,000
Offering 13 - Technology Demonstration	\$ 1,500,000	\$ -	\$ 1,500,000	\$ -	\$ 1,500,000
Billing	\$ 50,000	\$ -	\$ 50,000	\$ -	\$ 50,000
Customer Enrollment and Outreach	\$ 2,000,000	\$ -	\$ 2,000,000	\$ -	\$ 2,000,000
Program Management	\$ 930,000	\$ -	\$ 930,000	\$ -	\$ 930,000
Systems Interfaces and Updates	\$ 1,605,250	\$ -	\$ 1,605,250	\$ -	\$ 1,605,250
Reward and Credit Processing (FleetCarma)	\$ 135,000	\$ -	\$ 135,000	\$ -	\$ 135,000
Analysis and Reporting	\$ 75,000	\$ -	\$ 75,000	\$ -	\$ 75,000
<b>Total</b>	<b>\$ 7,789,900</b>	<b>\$ 8,090,500</b>	<b>\$ 15,880,400</b>	<b>\$ 657,500</b>	<b>\$ 15,222,900</b>

After accounting for participant contributions, revenues received through the use of the public EV chargers, and the use of funds from the MEDSIS initiative, the TE Program is projected to cost ratepayers \$9,910,400.<sup>15</sup> Additionally, Pepco proposes that costs associated with Offerings 12 and 13 be paid using funds from the MEDSIS subaccount.<sup>16</sup>

Total Program Cost	\$ 15,880,400
Participant Contributions (Offerings 3, 5, and 6)	\$ (657,500)
Public Charger Revenues (Offerings 7 and 8)	\$ (2,812,500)
MEDSIS Initiative Funds (Offerings 12 and 13)	\$ (2,500,000)
<b>Total Program Cost to Company's Ratepayers</b>	<b>\$ 9,910,400</b>

According to the Application, Pepco indicates it would seek recovery of TE Program costs in its next base rate case and proposes the creation of a regulatory asset for Operations and Maintenance ("O&M") costs for the TE Program that would be amortized over five years.<sup>17</sup> Pepco is seeking regulatory asset treatment of O&M costs, totaling \$7.8 million. Assuming full implementation of

<sup>14</sup> *Formal Case No. 1130*, Pepco's TE Application at 46. Several Offerings in Pepco's Table 2 are inconsistent with the rest of the TE Application. Offering 7 should be the Public Smart Level II EVSE row; Offering 8 should be Public DC Fast Chargers row; and Offering 9 should be Electric Fleet/Light Duty Infrastructure row to be consistent with testimony.

<sup>15</sup> *Formal Case No. 1130*, Pepco's TE Application at 46.

<sup>16</sup> The MEDSIS subaccount refers to the funds held in the *Formal Case No. 1119* escrow account to pay for MEDSIS projects established pursuant to Pepco's Commitment No. 5 set forth in Order No. 18148, Attachment B, which approved the Exelon/Pepco merger.

<sup>17</sup> *Formal Case No. 1130*, Pepco's TE Application at 47.

the TE Program, Pepco estimates the impact on customers' monthly residential bill will be 14 cents.<sup>18</sup>

6. **Procedural History:** As stated previously, on September 6, 2018, Pepco filed the TE Application. On September 24, 2018, the Apartment and Office Building Association of Metropolitan Washington ("AOBA") filed a Motion to Dismiss Pepco's TE Application.<sup>19</sup> AOBA primarily objects to: (a) moving Pepco's TE Program proposal out of the *Formal Case No. 1130* MEDSIS stakeholder process; and (b) treating Pepco's TE Program expenses as a regulatory asset that is recovered from ratepayers. A Public Notice inviting comments from interested persons on Pepco's TE Application was posted on the Commission's website on September 27, 2018 and published in the *D.C. Register* on October 5, 2018.<sup>20</sup> The Commission requested comments on the TE Application and comments "as to 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."<sup>21</sup>

7. On October 22, 2018, the Office of the People's Counsel ("OPC") filed a multipart Motion for Clarification, to Hold in Abeyance and to File Out of Time.<sup>22</sup> On October 22, 2018, Pepco responded to OPC's Motion.<sup>23</sup> OPC subsequently filed a Motion for Enlargement of Time to Respond to Pepco's TE Program, and on November 1, 2018, Pepco responded to OPC's Motion.<sup>24</sup> The Commission granted and addressed OPC's Motions by issuing a Revised Public Notice extending the comment period from November 5, 2018, to December 12, 2018, and extending the deadline for replies from November 20, 2018, to January 14, 2019.<sup>25</sup> The Revised Public Notice also clarified what information the Commission was seeking from commenters. Specifically, the Commission stated:

To assist interested persons in preparing comments and reply comments as directed in the Commission's Public Notice, the

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<sup>18</sup> *Formal Case No. 1130*, Pepco's TE Application at 47.

<sup>19</sup> *Formal Case No. 1130*, Motion to Dismiss of the Apartment and Office Building Association of Metropolitan Washington, filed September 24, 2018.

<sup>20</sup> *Formal Case No. 1130*, Public Notice, ¶ 7, rel. September 27, 2018; 65 *D.C. Reg.* 11124-11127 (October 5, 2018).

<sup>21</sup> *Formal Case No. 1130*, Public Notice, ¶ 7, rel. September 27, 2018.

<sup>22</sup> *Formal Case No. 1130*, Office of the People's Counsel for the District of Columbia's Motion for Clarification, to Hold in Abeyance, and to File Out of Time, filed October 15, 2018.

<sup>23</sup> *Formal Case No. 1130*, Potomac Electric Power Company's Response to the Office of the People's Counsel's Motion for Clarification, to Hold in Abeyance, and to File Out of Time, filed October 22, 2018.

<sup>24</sup> *Formal Case No. 1130*, Office of the People's Counsel for the District of Columbia's Motion for Enlargement of Time, filed October 30, 2018; *Formal Case No. 1130*, Potomac Electric Power Company's Response to the Office of the People's Counsel's Motion for Enlargement of Time, filed November 1, 2018.

<sup>25</sup> *Formal Case No. 1130*, Revised Public Notice, rel. November 2, 2018; 65 *D.C. Reg.* 12908-12909 (November 16, 2018) ("Revised Public Notice").

Commission directs that comments focus on the merits of Pepco's proposed TE Program and what actions the Commission should take regarding the TE Program Application. In preparing comments, interested persons should be aware of, and address as they deem appropriate, [AOBA's] Motion to Dismiss Pepco's TE Program Application, filed on September 24, 2018, OPC's Motion to Hold in Abeyance filed on October 15, 2018, and Pepco's response to OPC's Motion filed on October 22, 2018. Additionally, interested persons should be aware of, and address as they deem appropriate, how the "Energy Innovation and Savings Amendment Act of 2012" ["EISA"] might impact the Commission's review of Pepco's proposed TE Program.<sup>26</sup>

8. Between November 5 and 16, 2018, Sierra Club, ABB, Inc. ("ABB"), Greater Washington Metropolitan Board of Trade, Center for Climate and Energy Solutions, Siemens Digital Grid, and Solar United Neighborhoods of D.C. ("SUN DC") filed comments.<sup>27</sup> On December 3, 2018, Tesla, Inc. ("Tesla") filed a response to AOBA's Motion.<sup>28</sup>

9. By December 12, 2018, EVgo Services, LLC ("EVgo"), Tesla, Donna Barbisch, AOBA, Pepco, OPC, ChargePoint, Inc. ("ChargePoint"), Greenlots, Grid 2.0 Working Group, and the District Department of Energy and the Environment ("DOEE") filed initial comments.<sup>29</sup>

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<sup>26</sup> *Formal Case No. 1130*, Revised Public Notice, ¶ 3, citing D.C. Law 19-0252, the "Energy Innovation and Savings Amendment Act of 2012" ("EISA"). See D.C. Code § 34-207 (Supp. 2018) (The term "electric company" when used in this subtitle ". . . also excludes 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."). See also, D.C. Code § 34-214 (Supp. 2018) (The term "'public utility' excludes 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.").

<sup>27</sup> *Formal Case No. 1130*, Sierra Club's Comments to Pepco's Application, filed November 5, 2018; ABB, Inc.'s Comments to Pepco's Application, filed September 12, 2018; Greater Washington Board of Trade's Comments to Pepco's Application, filed November 5, 2018; Center for Climate and Energy Solutions' Comments to Pepco's Application, filed November 5, 2018; Siemen Digital Grid's Comments to Pepco's Application, filed November 9, 2018; Solar United Neighborhood of D.C.'s Comments to Pepco's Application, filed November 9, 2018.

<sup>28</sup> *Formal Case No. 1130*, Tesla, Inc.'s Opposition to the September 24, 2018 Motion filed by the Apartment and Office Building Association of Metropolitan Washington, filed December 3, 2018.

<sup>29</sup> *Formal Case No. 1130*, EVgo's Comments to Pepco's Application, filed November 9, 2018 ("EVgo's Comments"); Tesla Inc.'s Comments to Pepco's Application, filed September 10, 2018, and December 12, 2018 ("Tesla's Comments"); Donna Barbisch's Comments to Pepco's Application, filed December 12, 2018; Apartment and Office Building Association's Comments to Pepco's Application, filed December 12, 2018 ("AOBA's Comments"); Potomac Electric Power Company's Initial Comments to AOBA's Motion to Dismiss, filed December 22, 2018; Office of the People's Counsel's Comments to Pepco's Application, filed December 12, 2018 ("OPC's Comments"); ChargePoint, Inc.'s Comments to Pepco's Application, filed November 9, 2018 ("ChargePoint's Comments"); Greenlot's Comments to Pepco's Application, filed September 10, 2018; GRID 2.0's Comments to Pepco's Application, filed September 10, 2018; and Department of Energy and Environment's Comments to Pepco's Application, filed December 12, 2018 ("DOEE's Comments").

10. By January 15, 2019, the Alliance for Transportation Electrification (“Electrification Alliance”), Charles DeSantis, EVgo, Sierra Club, Greenlots, SUN DC, ChargePoint, Natural Resources Defense Council, the Gridwise Alliance, The Edison Electric Institute, Plug-In America, DNV GL, BizSolutions 360, Inc., M. J. Bradley & Associates, Volt Energy, LLC., McKissack & McKissack, Association of Global Automakers, Inc., Pepco, AOBA, and OPC filed reply comments.<sup>30</sup>

11. **CleanEnergy DC Omnibus Amendment Act of 2018:** On December 18, 2018, the Council of the District of Columbia (“DC Council”) passed the CleanEnergy DC Act, which, among other things, requires the Mayor to establish a Transportation Electrification Program for the District; creates a timeline by which the program is supposed to advance the District’s goal of 100% electrification of certain types of vehicles, and sets the first benchmark at 50% of specified vehicles by 2030.<sup>31</sup> Of note, the legislation sets an even tighter deadline of “100% replacement of public buses, including school buses, with electric buses upon the end of their useful life, by calendar year 2021.”<sup>32</sup> Finally, Subsection (c) sets forth a standard for the Commission’s approval of an application by the electric company to promote transportation electrification through utility infrastructure ownership and other programs and incentives.<sup>33</sup> In accordance with the Act, the Commission may approve an application if it finds that it is: (1) in the public interest, (2) consistent with the District’s public climate change commitments as determined by the Mayor, and (3) consistent with D.C. Code § 34-1101.<sup>34</sup> The legislation became effective March 22, 2019, after the conclusion of the Congressional Review period.

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<sup>30</sup> *Formal Case No. 1130*, Alliance for Transportation Electrification’s Reply Comments to Pepco’s Application, filed January 9, 2019; Charles DeSantis’ Reply Comments to Pepco’s Application, filed January 10, 2019; EVgo’s Reply Comments to Pepco’s Application, filed January 14, 2019; Sierra Club’s Reply Comments to Pepco’s Application, filed January 14, 2019 (“Sierra Club’s Reply Comments”); Greenlot’s Reply Comments to Pepco’s Application, filed January 14, 2019; Solar United Neighborhood of D.C.’s Reply Comments to Pepco’s Application, filed January 14, 2019; ChargePoint, Inc.’s Reply Comments to Pepco’s Application, filed January 14, 2019; Natural Resources Defense Council’s Reply Comments to Pepco’s Application, filed January 15, 2019; Gridwise’s Reply Comments to Pepco’s Application, filed January 15, 2019; Edison Electric Institute’s Reply Comments to Pepco’s Application, filed January 15, 2019; Plug in America’s Reply Comments to Pepco’s Application, filed January 15, 2019; DNV-GL’s Reply Comments to Pepco’s Application, filed January 15, 2019; BizSolutions 360 Inc.’s Reply Comments to Pepco’s Application, filed January 15, 2019; M.J. Bradley and Associates’ Reply Comments to Pepco’s Application, filed January 15, 2019; Volt Energy, LLC’s Reply Comments to Pepco’s Application, filed January 15, 2019; McKissack & McKissack’s Reply Comments to Pepco’s Application, filed January 15, 2019; Association of Global Automakers, Alliance of Automobile Manufacturers, American Honda Motor Co., Inc., General Motors LLC, Ford Motor Company, Hyundai Motor Company, Jaguar Land Rover North America, and Kia Motor Corporation’s Reply Comments to Pepco’s Application, filed January 15, 2019; Potomac Electric Power Company’s Reply Comments to Pepco’s Application, filed January 15, 2019 (“Pepco’s Reply Comments”); Office of the People’s Counsel’s Reply Comments to Pepco’s Application, filed January 15, 2019 (“OPC’s Reply Comments”); and Apartment and Office Building Association’s Reply Comments to Pepco’s Application, filed January 14, 2019 (“AOBA’s Reply Comments”).

<sup>31</sup> “CleanEnergy DC Act,” Sec. 502 (a), (b).

<sup>32</sup> “CleanEnergy DC Act,” Sec. 503 (c)(2).

<sup>33</sup> “CleanEnergy DC Act,” Sec. 502 (c).

<sup>34</sup> “CleanEnergy DC Act,” Sec. 502 (c).

### III. AOBA'S MOTION TO DISMISS AND MEDSIS

12. The TE Program represents a new application following the abandonment of Pepco's EV Application originally filed in *Formal Case No. 1143* and transferred into *Formal Case No. 1130*.<sup>35</sup> As the Commission made clear when we transferred consideration of that earlier application into *Formal Case No. 1130*, there is potential overlap between the Commission's MEDSIS Initiative and certain aspects of the EV programs.<sup>36</sup>

13. EVs are being examined as part of the Commission's MEDSIS Initiative in *Formal Case No. 1130*. In the MEDSIS Staff Report, EVs were included in the discussion of possible Demand Response Resources and were identified as a form of energy storage.<sup>37</sup> A review of the Staff Report's approach to batteries, the essential electrical component of an EV, reveals a detailed discussion about possible future uses of EVs. Under the MEDSIS Initiative, the EVs of the future and associated EV programs can potentially play an important role in providing advanced services to the electricity distribution system. In establishing MEDSIS Working Groups, no separate EV working group was created to explore these issues, but the Commission explained that "[a] matters related to electric vehicles were transferred into *Formal Case No. 1130*, the Commission highlights that two of the recommended working groups (Non-wires Alternatives and Future Rate Design) will address electric vehicle issues including EV infrastructure, EV coupling with storage, EV rate design, and EVs and hosting capacity."<sup>38</sup>

14. However, under Pepco's TE Program, no advanced services are envisioned. The TE Program, in this case, is focused on incentivizing EV owners to charge their EVs in a manner that has the least impact on the reliability of Pepco's distribution system. Contrary to the assertions of OPC and AOBA, addressing basic EV charging-related impacts on the grid in this case does not preclude the Commission from acting, at a later time, on more advanced uses of EVs in *Formal Case No. 1130*. Therefore, the Commission denies AOBA's Motion to suspend the present proceeding pending the conclusion of the MEDSIS process.

15. To ensure that the MEDSIS process and Pepco's TE Application both receive the individual attention they each deserve, while staying informed about developments in each proceeding, the Commission opens a new case, *Formal Case No. 1155, In the Matter of the Application of the Potomac Electric Power Company for Approval of its Transportation Electrification Program* and directs that all filings related to Pepco's TE Application already filed in *Formal Case No. 1130*, be double captioned. Further, Pepco and persons interested in transportation electrification should be clear that all decisions related to the TE Program in *Formal*

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<sup>35</sup> In 2017, Pepco filed its original EV program proposal in *Formal Case No. 1143*, but since then the Company engaged in a series of workshops seeking comments from stakeholders. The Company stated that it intends to file an updated proposal in mid-2018. Therefore, the September 6, 2018, TE Program supersedes Pepco's previously proposed program. See *Formal Case No. 1130*, Pepco's Letter, dated April 2, 2018.

<sup>36</sup> *Formal Case No. 1130*, Order No. 19143, ¶ 9, rel. October 19, 2017.

<sup>37</sup> *Formal Case No. 1130*, MEDSIS Staff Report, pp. 40, 41, 31.

<sup>38</sup> See *Formal Case No. 1130*, Order No. 19432, n.9.



Case No. 1155 are subject to revision at the conclusion of the MEDSIS process to ensure that EV matters, including EV rates, are consistent with MEDSIS outcomes.

#### IV. COMMISSION JURISDICTION

16. It is important to highlight that the Application before us is submitted by Pepco, an electric company and public utility in the District. As it relates to Pepco and this Application, the Commission has full authority over Pepco's activities, including infrastructure, as a public utility under D.C. Code § 34-301.<sup>39</sup> Pepco cannot offer a new service, such as EV rates or deployment of charging stations, without first seeking approval of the Commission,<sup>40</sup> which Pepco seeks as part of its TE Program Application. Regarding Pepco, the Commission is empowered to determine what services are needed to "promote the comfort or convenience of the public" including EV charging rates, EVCS and equipment.<sup>41</sup>

17. In the initial and revised Public Notice; the Commission specifically solicited comments on the Commission's jurisdiction over Pepco's TE Program and identified the EISA, the Commission's interpretation of that Act in Order No. 18004, and D.C. Code § 34-1513 (a) as points of reference.<sup>42</sup> In comments, participants also identified the Electric Vehicle Public Infrastructure Expansion Amendment Act of 2018 ("EV Public Infrastructure Act")<sup>43</sup> and the CleanEnergy DC Act as impacting the Commission's jurisdiction over the TE Program.

##### A. **Jurisdictional Comments**

18. AOBA and OPC, comment specifically on the jurisdictional question raised in the Commission's Public Notice. First, regarding the impact of the EISA, AOBA states that the plain language of the Act "confers no authority to the Commission to regulate companies that own

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<sup>39</sup> D.C. Code § 34-301 (a) (2001). ("The Commission shall, within its jurisdiction: (1) Have general supervision of all gas companies and electrical companies having authority under any general or special law or under any charter or franchise to lay down, erect, or maintain wires, pipes, conduits, ducts, or other fixtures in, over, or under the streets, highways, and public places in the District of Columbia for the purpose of furnishing or distributing gas or of furnishing or transmitting electricity for light, heat, or power, or maintaining underground conduits or ducts for electrical conductors, and all gas plants and electric plants owned, leased, or operated by any person.").

<sup>40</sup> D.C. Code § 34-1101 (b) (2001). ("No public utility shall furnish a service or facility, directly or indirectly, without first proceeding and proving to the satisfaction of the Public Service Commission that the present and future public convenience and necessity requires that the service be provided or the facility be offered."). Note that under D.C. Code § 34-215 "Service" is used in Title 34 "in its broadest and most inclusive sense."

<sup>41</sup> D.C. Code § 34-808 (2001). ("Whenever the Commission shall be of opinion, . . . that any addition of service or equipment ought reasonably to be made thereto, . . . in order to promote the comfort or convenience of the public or employees, or in order to secure adequate service or facilities, the Commission shall have power to make and serve an order directing that such repairs, improvements, changes, or additions to service or equipment be made within a reasonable time and in a manner to be specified therein, and every such public utility is hereby required and directed to obey every such order of the Commission.").

<sup>42</sup> See *Formal Case No. 1130*, Initial Public Notice, ¶ 7; *Formal Case No. 1130*, Revised Public Notice, ¶ 3.

<sup>43</sup> D.C. Law 22-0078, "Electric Vehicle Public Infrastructure Expansion Amendment Act of 2018", Sec. 2 (b)(1) and (2); D.C. Code § 50-921.23 (2018).

electric vehicle charging stations utilized for the purpose of providing fuel to electric and hybrid vehicles,” and summarily concludes “the Commission has no authority to require electric utility ratepayers . . . to finance Pepco’s ownership and deployment of electric vehicle charging stations.”<sup>44</sup> OPC takes a different view, acknowledging that EISA does “not address explicitly whether an EV charging station owned and operated by Pepco—which proposes to engage in the sale and distribution of electricity in the District of Columbia—would be subject to Commission jurisdiction.”<sup>45</sup> Further, both AOBA and OPC argue that the legislative history of EISA, expressed the DC Council’s intent that the Commission should not exercise regulatory authority over public EVCS.<sup>46</sup> Second, OPC and AOBA argue that D.C. Code § 34-1513 (a) and (b), preclude the Commission from approving Pepco’s Application because the operation of EVCS, which entails the sale of electricity from the EVCS to the EV, is outside of SOS and would therefore require a Pepco affiliate to own and operate the EVCS.<sup>47</sup>

## B. Discussion

19. AOBA and OPC’s interpretation of the amendments enacted in EISA are overly broad or rely on the legislative history to the exclusion of the statutory language. It is undisputed that Pepco is an electric company and, by extension, a public utility under D.C. Code §§ 34-207 and 214, respectively, as Pepco is engaged in both the business of distributing electricity and the sale of electricity as the SOS Administrator. As Tesla, the Electrification Alliance, Pepco, and ChargePoint argue, it appears the DC Council’s intent in adopting the EISA was not to prohibit utility owned EV charging infrastructure but to protect private EV charging providers from unnecessary regulation.<sup>48</sup> However, the specific language of the EISA only exempted EVCS owners and operators *who are not selling electricity*, from the Commission’s oversight, leaving charging station owners and operators *who sell electricity* within the Commission’s jurisdiction as an electricity supplier (emphasis added).<sup>49</sup> Tesla, ChargePoint, and Sierra Club all ask the Commission to exclude private EVCS from regulation as an electricity supplier.<sup>50</sup> We cannot

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<sup>44</sup> *Formal Case No. 1130*, AOBA’s Comments at 4.

<sup>45</sup> *Formal Case No. 1130*, OPC’s Comments at 9.

<sup>46</sup> *Formal Case No. 1130*, AOBA’s Comments at 5-7; *Formal Case No. 1130*, OPC’s Comments at 9.

<sup>47</sup> *Formal Case No. 1130*, AOBA’s Comments at 7-8; *Formal Case No. 1130*, OPC’s Comments at 10-11.

<sup>48</sup> *Formal Case No. 1130*, DOEE’s Comments at 11.

<sup>49</sup> *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*, Public Notice, ¶ 2, rel. March 20, 2015. 62 D.C. Reg. 3575 (March 20, 2015). (“[I]f EV charging station owners and operators are not selling electricity, there is no need to obtain an electric supplier license from the Commission. However, if EV charging station owners and operators are selling electricity, i.e., setting a price to charge EV owners based on the actual number of units of electricity that is transferred to the EV during a charging session, the EV charging station owner or operator needs to obtain an electric supplier license from the Commission.”).

<sup>50</sup> See *Formal Case No. 1130*, Tesla’s Second Comments at 4; *Formal Case No. 1130*, ChargePoint’s Comments at 9; and *Formal Case No. 1130*, Sierra Club’s Reply Comments at 8.

ignore the DC Council's intent in setting Commission policy.<sup>51</sup> Thus, to further the DC Council's intent, the Commission will implement a rulemaking to amend its rules and eliminate any licensing and bonding requirements on EVCS owners and operators that sell electricity to EVs. In the interim, by this Order, the Commission temporarily waives the licensing requirements under 15 DCMR § 4601 for EVCS owners and operators who sell or distribute electricity.<sup>52</sup>

20. OPC argues that Pepco is prevented from implementing the TE Program, as filed, because Pepco's engagement in the EV charging station business is outside the scope of SOS and that a Pepco affiliate would need to own and operate the EVCS under D.C. Code § 34-1513.<sup>53</sup> Pepco responded that its TE Program is not inconsistent with D.C. Code § 34-1513 because its TE Program Offerings are operated as part of SOS pursuant to D.C. Code § 34-1509. OPC's argument and Pepco's response, make clear that Pepco intends to act through SOS to sell electricity under the various TE Program Offerings—including from Pepco owned and operated EVCS to EVs.

21. The essential question is whether Pepco is permitted or otherwise obligated to sell electricity under the various TE Program Offerings through SOS. The proposed sales encompass two distinct sales transactions, first is the sale of electricity supply from the wholesale market to the EVCS and second, from the EVCS to the EV. Pepco in its Application and comments is asking the Commission to find that both sales of electricity are within the scope of SOS under D.C. Code § 34-1509. In creating SOS, the DC Council deferred to the Commission to determine the terms and conditions for SOS service.<sup>54</sup> Further, based on the purpose of SOS in providing a backstop in case of default by an electricity supplier, ensuring all electricity service is covered, and serving customers who do not select an electricity supplier, the Commission finds that Pepco's development of wholesale SOS rates that are designed to serve transportation electrification customers is within the purpose for which SOS was established.<sup>55</sup> Therefore, the Commission finds that, as to traditional SOS electricity supply rates, from the wholesale electricity market to the EVCS, for EV related service, there is no jurisdictional barrier to the Offerings' use of SOS

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<sup>51</sup> *Committee Report on Bill 19-746*, "Energy Innovation and Savings Amendment Act of 2012", Committee on the Environment, Public Works and Transportation, Council of the District of Columbia (October 24, 2012) ("*Committee Report on EISA*") at 8. (The DC Council stated in the Committee Report that "electric vehicle charging station operators are not utilities for purposes of regulation under the Public Service Commission;" they "provide fuel for transportation, not energy for distribution or transmission.").

<sup>52</sup> D.C. Code § 34-1504 (c)(7) (2001). ("The Commission may adopt any other regulations, or issue any other orders, consistent with the policies enunciated in this chapter and necessary to ensure the development of a competitive market for electricity supply, billing, and any component of electric service declared to be a potentially competitive service.").

<sup>53</sup> D.C. Code § 34-1513 (a) (2001). ("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.").

<sup>54</sup> D.C. Code § 34-1509 (c) (2001). (Grants the Commission the power to "adopt regulations or issue orders establishing terms and conditions for standard offer service" including "an appropriate rate design . . .").

<sup>55</sup> D.C. Code § 34-1509 (a) (2001). (Defines SOS as "electricity supply . . . to (2) Customers who contract for electricity with an electricity supplier, but who fail to receive delivery of electricity under such contracts; (3) Customers who cannot arrange to purchase electricity from an electricity supplier; and (4) Customers who do not choose an electricity supplier.").

under the TE Program. Considering the environmental synergies between EV ownership and use of renewable energy, the Commission likewise finds no issue with the optional Green Adder, which provides 100% renewable electricity for EV charging. The Commission notes that competitive issues would arise if customers were prevented from switching to an electricity supplier that offered electricity supply to EV charging customers, a position which Pepco agrees with.<sup>56</sup> Further, Pepco's EV tariff must clearly disaggregate SOS and distribution services so that non-SOS EV charging suppliers are afforded the same and equal access to Pepco's distribution system.<sup>57</sup>

22. Turning to the second sales transaction—from Pepco-operated EVCS to the EV, the Commission does not believe that Pepco's proposal to sell electricity from Pepco operated EVCS to a customer's EV falls within the scope of its provision of SOS, since as discussed above such a sale is within the definition of an electricity supplier. Therefore, pursuant to D.C. Code § 34-1513 (a) Pepco can only engage in the business of an electricity supplier through an affiliate.<sup>58</sup>

## V. CLEANENERGY DC OMNIBUS AMENDMENT ACT OF 2018

23. The CleanEnergy DC Act became law on March 22, 2019, and includes, among other things, a requirement that the Mayor establish a transportation electrification program that achieves zero-emission for certain vehicles in the District by year 2045.<sup>59</sup> We note that the CleanEnergy DC climate and energy plan proposes, among other things, that the District of Columbia reduce GHG emissions at least 50% below 2006 levels by 2032 while increasing renewable energy and reducing energy consumption.<sup>60</sup> CleanEnergy DC provides important guidance on the role that transportation electrification is expected to play in helping the District of Columbia meet its GHG target and provides recommended policies and actions that provide electric vehicle infrastructure, such as public charging stations.

24. Under the CleanEnergy DC Act, the Commission may approve Pepco's Application if the Commission finds that the Application: (1) is in the public interest; (2) consistent with the District's public climate change commitments as determined by the Mayor;

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<sup>56</sup> See *Formal Case No. 1130*, Pepco's Reply Comments at 7. (Pepco's TE Program would use SOS supply, however the Offerings would "not preclude customers from choosing a competitive supplier that offers EV charging.").

<sup>57</sup> D.C. Code § 34-1513 (a)(1) (2001). ("The electric company shall provide distribution services to all customers and electricity suppliers on rates, terms of access, and conditions that are comparable to the electric company's own use of its distribution system. The electric company shall not operate its distribution system in a manner that favors the electricity supply of the electric company's affiliates.").

<sup>58</sup> See D.C. Code § 34-1509 (c) (2001), and D.C. Code § 34-1513 (a) (2001).

<sup>59</sup> Section 502 of the CleanEnergy DC Act directs the Mayor to establish a transportation electrification program that requires all public buses, passenger- and light-duty vehicles associated with privately-owned fleets with a capacity of 50 or more passengers or light-duty vehicles licensed to operate in the District, commercial motor carriers, limousine-service vehicles, and taxis certified to operate by the District to be only zero-emission vehicles in the District by year 2045.

<sup>60</sup> Clean Energy DC Plan.

and (3) consistent with D.C. Code § 34-1101.<sup>61</sup> First, to make a public interest finding as directed in the Act, the Commission should assess the public interest by looking at how the program aligns with the MEDSIS Vision Statement the Commission adopted in Order No. 19275.<sup>62</sup> This approach would align with the Act's second and third requirements. The District's public climate change goals, from the second requirement, are incorporated under the Sustainable component of the MEDSIS Vision Statement, while the objectives of D.C. Code § 34-1101, from the third requirement, are incorporated under the Sustainable, Affordable, and Non-Discriminatory components of the MEDSIS Vision Statement.

25. The second requirement for a finding that the TE Program is "consistent with the District's public climate change commitments" closely tracks the revised language of D.C. Code § 34-808.02 contained in Section 103 of the Act, which reads:

In supervising and regulating utility or energy companies, the Commission shall consider the public safety, the economy of the District, the conservation of natural resources, and the preservation of environmental quality, including effects on global climate change and the District's public climate commitments. (Language added by the Act is underlined).<sup>63</sup>

26. The third requirement for a finding that the TE Program is consistent with D.C. Code § 34-1101 requires that any charges made by a public utility are "reasonable, just, and nondiscriminatory" and that "the present and future public convenience and necessity requires that the service be provided or the facility be offered."<sup>64</sup> Under this provision the Commission has latitude to approve a TE program in "whole or in part" and "prescribe terms and conditions upon a grant of an application for a certificate of present and future public convenience and necessity as the Commission, in its discretion, decides are necessary to further the present and future public convenience and necessity."<sup>65</sup>

27. As discussed in greater detail below, the Commission finds that Offering 1 (serving residential EV customers), Offerings 7 and 8 (serving public EV charging), and Offerings 10 and 11 (serving public transportation electrification) as modified and conditioned are "reasonable, just, and nondiscriminatory" and that "the present and future public convenience and necessity requires

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<sup>61</sup> "CleanEnergy DC Act," Sec. 502 (c).

<sup>62</sup> *Formal Case No. 1130*, Order No. 19275, Attachment A, A-2, rel. February 14, 2018. (The MEDSIS Vision Statement is, "The District of Columbia's modern energy delivery system must be sustainable, well-planned, encourage distributed energy resources, and preserve the financial health of the energy distribution utilities in a manner that results in an energy delivery system that is safe and reliable, secure, affordable, interactive, and non-discriminatory.").

<sup>63</sup> "CleanEnergy DC Act," Sec. 103.

<sup>64</sup> D.C. Code § 34-1101 (a)-(b) (2001).

<sup>65</sup> D.C. Code § 34-1101 (b) (2001).

that the service be provided or the facility be offered.”<sup>66</sup> Further, the Commission finds that the approved Offerings further the District’s public climate change commitments as determined by the Mayor through the reduction of GHG emissions in the transportation sector. Finally, the Commission finds that the approved Offerings, as modified and conditioned, are in the public interest because they promote the MEDSIS Vision Statement since the Offerings are sustainable, affordable, and non-discriminatory.

## **VI. DISCUSSION OF PEPCO’S TRANSPORTATION ELECTRIFICATION PROGRAM**

### **A. Make-Ready Infrastructure**

28. As the discussion above makes clear, the DC Council in passing the EISA, expressed a desire for the competitive market to facilitate the deployment of EVCS in the District.<sup>67</sup> To a large degree the DC Council’s intent for deployment of EVCS by the competitive market has been met. EV and related infrastructure have seen impressive growth and have the potential to significantly impact the District’s electric distribution system. The number of public EVCS in the District grew 71% from at least 57 in June 2017 to 98 in August 2018.<sup>68</sup> The number of EVs registered in the District rose by 27% from 567 when Pepco filed the initial EV Program in April 2017 to 721 in August 2018.<sup>69</sup> Pepco contends that “[a]lthough a majority of the investment in charging infrastructure in the District has been achieved using a combination of private financing and state financial assistance, it does not appear that private investment alone will be sufficient to produce wide-spread scale of infrastructure needed throughout the District in time to meet the District’s aggressive 2050 GHG reduction goal.”<sup>70</sup> As AOBA’s comments highlight, all this EV related development occurred without the intervention of Pepco through either direct ownership or the provision of subsidies.<sup>71</sup>

29. EV adoption is a growing presence in the District and on Pepco’s distribution system. Pepco projects that EVs could make up “approximately 34% of the light duty vehicle fleet in the District by 2035.”<sup>72</sup> Pepco Witness Warner presents a broad set of potential benefits to this level of EV adoption in three areas: “a) the impact PIV adoption has on electricity costs, as realized

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<sup>66</sup> D.C. Code § 34-1101 (a)-(b) (2001).

<sup>67</sup> *See Committee Report on EISA* at 8.

<sup>68</sup> *Formal Case No. 1143*, AOBA’s Reply Comments at 5; *Formal Case No. 1130*, Pepco’s Application at 12 n.23.

<sup>69</sup> *Formal Case No. 1143*, Pepco’s Reply Comments at 2 n.3; *Formal Case No. 1130*, Pepco’s Application at 10.

<sup>70</sup> *Formal Case No. 1130*, Pepco’s Application at 13.

<sup>71</sup> *Formal Case No. 1130*, AOBA’s Comments at 8. (“ . . . that the private sector has demonstrated the technical and financial wherewithal to provide electric vehicle charging stations in the District of Columbia without electric utility ratepayers financing Pepco’s ownership and deployment of such infrastructure.”).

<sup>72</sup> Pepco (E) at 30 (Warner).

by rate payers through changes in their utility bill, b) the differences in operating cost between a PIV and a traditional gasoline fueled vehicle, and c) the economic value of the reduced air emissions resulting from increased PIV use.”<sup>73</sup> Pepco’s Witness Warner calculates that EVs will “add an estimated 252.8 GWhrs of consumption” while “PJM-coincident peak load is expected to be modest . . . especially if managed charging programs are implemented to encourage optimal charge times.”<sup>74</sup>

30. On the environmental side, Witness Warner explains that, while EV adoption leads to “increase[d] power plant emission, tailpipe emission are eliminated and the net impact is highly beneficial . . . [as] every electrically fueled mile in DC is projected to be 69.1% cleaner than a gasoline fueled mile in 2019.”<sup>75</sup> Witness Warner projects that “Transportation-induced CO<sub>2</sub> and NO<sub>x</sub> emissions are projected to decline, with CO<sub>2</sub> estimated to drop by about 28%, and NO<sub>x</sub> emissions dropping by about 22% (in both cases, in 2035 compared with 2019).”<sup>76</sup>

31. The Commission applauds Pepco’s proactive approach to address the impact of EVs on the electric distribution system and furthering the deployment of EVCS. These actions are important to advancing the District’s environmental goals. The TE Program broadly envisions Pepco serving EVs from the wholesale market (covering generation and transmission), through the distributions system down to individual service connections to either an existing customer such as a residential dwelling or a commercial building or to a new customer such as a stand-alone EV charging station that would include EVCS owned and operated by Pepco.<sup>77</sup> The Commission notes that as outlined above, the transactions are typical utility transactions. Pepco, as the District’s electric distribution company, is responsible for distributing electricity to a customer under Commission-approved distribution rates. However, Pepco does not have approved EV distribution rates and therefore does not address the deployment of EV infrastructure up to EVCS in its tariffs. Pepco’s TE Program proposes a number of EV rates, which as discussed above, need to be disaggregated into SOS and distribution components to ensure competitive access to the distribution system. Lastly, as detailed in paragraph 28, the third parties are rapidly deploying EVCS in the District. Therefore, based on the record before us, the Commission finds that Pepco cannot own EVCS because there is no showing that the public requires that Pepco own EVCS at this time as prescribed by D.C. Code § 34-1101 (b).<sup>78</sup>

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<sup>73</sup> Pepco (E) at 8 (Warner).

<sup>74</sup> Pepco (E) at 30-31 (Warner).

<sup>75</sup> Pepco (E) at 31 (Warner).

<sup>76</sup> Pepco (E) at 31 (Warner).

<sup>77</sup> Pepco could contract out the ownership and operation of the EVCS but would be able to seek cost recovery for the contract costs under the proposed TE Program, making this indistinguishable from direct ownership and operation by Pepco.

<sup>78</sup> D.C. Code § 34-1101 (b) (2001). (“No public utility shall furnish a service or facility, directly or indirectly, without first proceeding and proving to the satisfaction of the Public Service Commission (“Commission”) that the present and future public convenience and necessity requires that the service be provided or the facility be offered.”).

32. Pepco's TE Program envisions a system where Pepco would assist customers interested in EV charging with the installation, and necessary electrical extensions, required to support EVCS. This additional customer support goes beyond Pepco's typical distribution services, which typically end at a customer's utility meter.<sup>79</sup> In its supportive comments, EVgo characterizes these additional services as "make-ready" infrastructure, which extends past a utility meter all the way to the EVCS.<sup>80</sup>

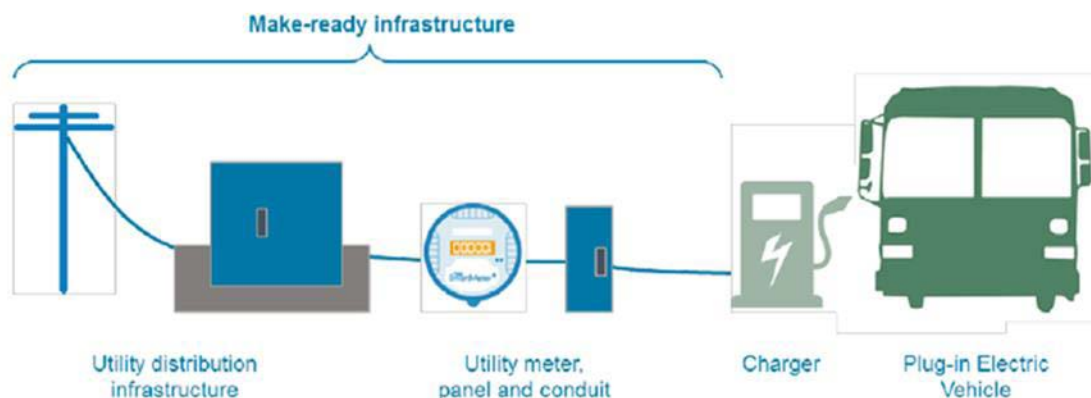


Figure 1: Formal Case No. 1130, EVgo Reply Comments at 3. (“This graphic illustrates the concept of make-ready infrastructure. Source: PG&E.”)

33. Pepco proposes to support EVCS deployment by paying for all or part of the installation costs under several of the Offerings.<sup>81</sup> EVgo and Siemens, while supportive, assert that Pepco should only invest in “make-ready” investments, such as conduit and other electrical infrastructure leading up to the charger, which presents a smaller cost to the utility. This enables the utility to take advantage of its low-cost financing due to this ratepayer backstop and minimizes the upfront capital investment required by EVCS owners and thereby facilitates the deployment of EVCS. OPC and ChargePoint mention Southern California Edison’s Charge Ready Program, which includes features to facilitate third-party EVCS owners. The Commission agrees and to enable fair and equitable access for all EVCS owners, the Commission directs Pepco to file a proposal to update its tariffs to cover “make-ready” infrastructure to facilitate EVCS deployment within thirty (30) days of the date of this Order. This approach may involve possible changes in General Terms and Conditions, if necessary.<sup>82</sup>

<sup>79</sup> Potomac Electric Power Company, *General Terms and Conditions for Furnishing Electric Service in the District of Columbia*, Section 10, issued March 16, 2010, available at [https://www.pepco.com/SiteCollectionDocuments/dc\\_terms%281%29.pdf](https://www.pepco.com/SiteCollectionDocuments/dc_terms%281%29.pdf).

<sup>80</sup> Formal Case No. 1130, Evgo’s Reply Comments at 2-3.

<sup>81</sup> Pepco stated that under Offerings 3 and 4, Pepco would partially rate base the installation costs of EVCS; under Offerings 5 and 6, Pepco would rate base 100% of the installation costs; and under Offerings 7 through 10 Pepco would directly install and rate base all installation costs, required infrastructure and the costs of the EVCS.

<sup>82</sup> An illustrative definition is: “Make-ready: Service connection and supply infrastructure to support Electric Vehicle (EV) charging comprised of the electrical infrastructure from the distribution circuit to the stub of the Electric



**B. Residential Whole House Time-of-Use (“TOU”) Rate**

34. Offering 1 is a whole house time-of-use rate that would be available to residential SOS customers who own EVs and would take service under a new proposed tariff R-PIV. The Offering does not require a second utility meter and does not have any costs associated with it. The Offering is broadly supported by DOEE, SUN DC, Sierra Club, and EVgo. While OPC takes issue with the Offering, parties support Pepco’s proposal to service residential charging at little to no costs, while shifting load to off-peak times. The growth of EVs is important to the District’s electricity system because a Level II charger, when charging an EV in residential home, could cause the home’s peak demand to double.<sup>83</sup> As part of Pepco’s most recent base rate case, the Commission has been looking at ways to improve the accuracy of Pepco’s load growth projections and thereby reduce pressure to expand Pepco’s distribution system in the District. Further, short-term system benefits of night time charging include higher utilization rates throughout a 24-hour period, allowing the volumetric portion of distribution rates to be spread over a greater number of kWh, thus reducing the price paid by ratepayers. The use of EVs presents broad environmental benefits compared to conventional automobiles and furthers the District’s GHG objectives. Given these potential benefits, the Commission believes moving forward expeditiously with the development and ultimate adoption of EV charging rates is important, especially given the 27% growth in registered EVs in the District from April 2017 to August 2018.<sup>84</sup>

35. SUN DC raises a concern that, as presented, Offering 1 appears to charge for electricity to net energy metering (“NEM”) customers who own EVs at the TOU rates but credit those customers at the flat SOS rates. SUN DC also suggests the definition Pepco uses for excess generation in NEM tariff be included in Pepco’s residential TOU tariff. The Commission agrees that this situation presents a miss-match of charges and credits, and that NEM customers who are on the EV Whole House TOU rate should be charged and credited under the same TOU rate. Accordingly, the Commission directs Pepco to address this discrepancy in the EVs revised tariff filing that it will develop and file consistent with this Order thus fully addressing SUN DC’s concern.

36. OPC raises concerns that the TOU rate presented could be more effectively designed to encourage greater load shifting.<sup>85</sup> Further, OPC asserts that “the duration of the on-peak period does not align with best practices for developing a TOU rate,” which “suggest a duration of less than 8 hours.”<sup>86</sup> OPC also takes issue with Pepco’s presentation of the peak and

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Vehicle Supply Equipment (EVSE). It can include equipment on the utility-side (e.g. transformer) and customer-side (e.g. electrical panel, conduit, wiring) of the meter.” See Public Utilities Commission of the State of California, *Application 17-06-031 Application of PacifiCorp (U901E) for Approval of its 2017 Transportation Electrification Program*, Decision 18-09-034, at 11 (October 5, 2018).

<sup>83</sup> *Formal Case No. 1143*, Pepco’s Proposed EV Program at 4 n.15.

<sup>84</sup> Compare, *Formal Case No. 1143*, Pepco’s Reply Comments at 2 n.3; *Formal Case No. 1130*, Pepco’s Application at 10.

<sup>85</sup> *Formal Case No. 1130*, OPC’s Comments at 23.

<sup>86</sup> *Formal Case No. 1130*, OPC’s Comments at 24.

off-peak ratio, but notes that “Pepco did not file the on-and-off peak rates for the Schedule R-PIV.”<sup>87</sup> The Commission recognizes that there are at least 721 EVs registered in the District that currently have no incentive to charge during off-peak hours. While the Commission is approving the creation of a Whole House TOU Rate under Offering 1, Pepco is directed to file a complete updated EV tariff that provides detailed price information for generation, transmission and distribution, such that customers clearly understand the incentives for charging EVs off-peak and know exactly how much they will pay based on their usage.<sup>88</sup> The Commission will review the proposed tariff under our Notice of Proposed Tariff process.

### C. Metering and Data Collection

37. In its Application, Pepco states that second utility meters are needed for some residential situations (Offering 3), MDU applications (Offering 5), and commercial situations (Offering 6), while it is silent as to the need for metering where Pepco would own the charging stations (Offerings 7, 8, 9, 10, 11). ChargePoint, along with Tesla, indicate that Smart Level II chargers can contain embedded meters, which negates the need for a second utility meter.<sup>89</sup> Additionally, in Maryland, Pepco and other utilities have sought permission for submetering of EVs utilizing the charging station’s internal meters. Pepco is directed to confer with stakeholders and report to the Commission on the feasibility of the Maryland Approach in the District within thirty (30) days of the date of this Order.

38. Under Offering 2, Pepco proposes to provide existing residential EV charging station owners with FleetCarma data collection units connected to their EVs. Pepco’s purpose is to obtain better data about when customers are charging EVs and incentivize off-peak charging. DOEE is supportive of this offering because it avoids the cost of a second meter and provides valuable usage data.<sup>90</sup> OPC, Tesla, and Sierra Club take issue with the cost effectiveness of this offering. Tesla points out that Offering 2 costs \$1,630 per customer but does not deploy a single new charging station.<sup>91</sup> Tesla agrees with OPC’s suggestion that Pepco should utilize AMI data to assess the load impacts of EV charging.<sup>92</sup> Additionally, OPC raises privacy and data concerns with collecting charging and locational data from EVs.

39. While the Commission recognizes the value of additional EV charging data, the Commission agrees with the commenters that Offering 2 represents an expensive route to that data. Pepco’s AMI system already provides detailed customer load information and since the adoption of the EISA, Pepco has been aware of the addresses of registered EVs in the District. Pepco gives

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<sup>87</sup> *Formal Case No. 1130*, OPC’s Comments at 24.

<sup>88</sup> The Commission notes that Pepco has provided some TOU rate information in response to Commission Data Request Nos. 1 and 2; however, Pepco has not filed a complete tariff page presenting peak and off-peak rates explicitly as shown in its Maryland TOU tariff for EV users.

<sup>89</sup> *Formal Case No. 1130*, ChargePoint’s Comments at 7.

<sup>90</sup> *Formal Case No. 1130*, DOEE’s Comments at 7.

<sup>91</sup> *Formal Case No. 1130*, Tesla’s Comments at 5.

<sup>92</sup> *Formal Case No. 1130*, OPC’s Comments at 32.

no indication that it examined the impact of public charging on associated commercial or residential Pepco accounts in the District. The Commission rejects Offering 2 and believes Pepco should utilize AMI data and DC Department of Motor Vehicles data about EV registration to assess the impact of EV users on its distribution system, including estimated charging periods, increases in demand after EV registration, and indications of clustering or system stress. Pepco should provide such an assessment in its second quarterly report discussed below.

#### **D. Residential Rebates and Discounts**

40. Pepco proposes rebates and discounts to share the upfront costs with customers of EVCS, the installation costs of those charging stations and associated infrastructure costs necessary to connect the EV charging station to existing electrical systems. Pepco's proposed rebate is a percentage of costs in Offering 3 and a fixed dollar amount in Offering 4.

41. Under Offering 3, Pepco proposes to provide a 50% rebate on the installation and price of Smart Level II residential chargers. This offering is planned for 50 customers and requires the installation of a second utility meter. ABB and ChargePoint support Offering 3 because it utilizes Smart Level II chargers. DOEE opposes the offering because there is already an income tax credit up to \$1,000 to off-set the cost of private EV chargers. OPC expresses concerns with Pepco's explanation of demand response events as they relate to Smart chargers.<sup>93</sup> Finally, Tesla highlights that Offering 3 costs \$5,000 per meter, money which would be better spent on other offerings. Based on the high per customer costs, the duplication of functions between the second meter and the embedded meter in the smart chargers, and consumers' costs are not minimized in this offering, the Commission hereby rejects Offering 3.

42. Under Offering 4, Pepco proposes to provide up to 500 residential customers a \$500 rebate for the price and installation of a Smart Level II Charger. DOEE asserts that deployment of smart chargers can be left to the competitive market. It is not clear from Pepco's filing why the rebate level was set at \$500. While the switch to EVs aligns with the District's environmental goals, Pepco should target rebates toward customer behavior that will benefit the operation of the distribution system. As part of its review, the Commission considered the recent Maryland Public Service Commission Order on EV programs.<sup>94</sup> Specifically, the Maryland Commission set the rebate level to \$300 for a smart charger, as there was testimony to suggest that this price was meant to capture the price difference between a non-smart charger and smart charger.<sup>95</sup> Therefore, to gain greater clarity on the merits of a residential rebate program, and to ensure that any recommended rebate level aligns with the programs specific benefits, the Commission refers Offering 4, a fixed priced residential rebate, to the temporary TE Working Group for consideration. Pepco is directed to meet with Staff and other stakeholders in the TE Working Group to address

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<sup>93</sup> *Formal Case No. 1130*, OPC's Comments at 24-25.

<sup>94</sup> Public Service Commission of Maryland, *Case No. 9478, In the Matter of the Petition of the Electric Vehicle Work Group for Implementation of a Statewide Electric Vehicle Portfolio*, Order No. 88997, rel. January 14, 2019 ("MD PSC Order No. 88997").

<sup>95</sup> MD PSC Order No. 88997 at 47-48.

stakeholders' concerns within forty-five (45) days of the date of this Order and report back within 180 days of the date of this Order.

### **E. Multi-Dwelling Unit Charging**

43. Under Offering 5, Pepco proposes to provide a 50% discount on Smart Level II chargers and a 100% discount on installation of 100 chargers at condominiums, apartments and other multi-dwelling units ("MDUs"). Pepco states that MDUs are a major component of the housing stock in the District, as 70% of the District's housing stock are comprised of apartments, condominiums, and cooperatives.<sup>96</sup> Offering 5 addresses the limited availability of charging alternatives due in part to the lack of street parking for dedicated vehicle charging. Specifically, through Offering 5, MDU residents will now have access to private charging within their apartment complexes or neighboring parking lots. DOEE, Tesla, and Plug In America support Offering 5. DOEE suggests "that the distribution of incentives be prioritized to build out charging infrastructure at older MDUs, as older buildings generally need to offer more amenities to attract residents than newly constructed MDUs that are already equipped with modern features and meet updated building energy codes."<sup>97</sup> Tesla and Plug In America suggest to include more chargers for each location so as to spread the costs of interconnecting the chargers over more stations. Plug In America suggest lower power Level I chargers. OPC takes issue with the flat rate design put forward by Pepco and contends it would not promote off-peak charging.

44. The Commission sees clear value in an EV charging Offering focused on MDUs, such as Offering 5. We agree with Tesla and Plug In America that spreading out costs per charging station is warranted. Additionally, OPC raises a valid concern regarding rate design, and DOEE questions the Offering's selection criteria for MDUs. The Commission notes that if Pepco already uses smart meters, it is not clear why Offering 5 requires the second meter. Moreover, it is unclear from Pepco's Application what specific services Pepco would provide to MDU owners or what tasks Pepco would undertake in coordination with the MDU site host. The Commission believes there is insufficient information on the record to move forward with Offering 5 as filed but recognizes the value in providing EV charging options to MDU residents. To better develop Offering 5 and give interested persons a venue to discuss the specific implementation details, including selection criteria, proposed draft tariffs, identification of the Offerings' beneficiaries, and the appropriate initial EVCS deployment numbers, the Commission refers Offering 5 to the TE Working Group. Pepco is directed to meet with Staff and other stakeholders in the temporary TE Working Group to address stakeholders' concerns regarding Offering 5 within forty-five (45) days of the date of this Order and report back within 180 days of the date of this Order.

### **F. Work Place and Fleet Charging**

45. Under Offering 6, Pepco proposes a 50% discount on the price of a Smart Level II charger and 100% discount on the installation costs for additional electrical work to connect the charger to the customer's electrical service. This service would require a second meter. Pepco would provide service to customers under this offering on a new rate, WP-PIV. Pepco proposes

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<sup>96</sup> *Formal Case No. 1130, Pepco (A) at 12 (Clark).*

<sup>97</sup> *Formal Case No. 1130, DOEE's Comments 7.*

to target more frequently visited workplace sites such as hospitals, schools/universities, and government buildings. Tesla and Plug In America support Offering 6, though Plug In America suggests that slower Level I chargers may be more cost effective for workplace charging. DOEE opposes the offering because incentives already exist for workplace charging and because drivers who commute to such buildings are likely to be from other states and not District residents and ratepayers.

46. Under Offering 9, Pepco proposes to deploy to locations within the District a combination of Smart Level II chargers and DC Fast chargers for use by Electric Fleet and Light Duty vehicles. Pepco will partner with local delivery services and deploy make-ready infrastructure at least two locations in the District to support PIVs. The Company will install up to 10 Level II chargers at each location, and one DCFC at each location. Pepco will target fleet managers and District agencies. Pepco does not propose a specific rate for this offering. DOEE and OPC opposes this offering because companies benefiting from the EVCS should bear the costs of this offering.

47. The Commission agrees with DOEE that there are already sufficient incentives for the deployment of workplace charging. Given that workplace and parking garage charging is responsible for most of the existing EV charging deployment in the District to date, it is unclear as to whether subsidies by ratepayers are warranted. Therefore, the Commission rejects Offering 6 and Offering 9.<sup>98</sup>

### **G. Public Electric Vehicle Charging**

48. Under Offering 7, Pepco proposes to deploy, own, and operate thirty-five (35) Public Neighborhood Smart Level II Public Chargers around the District at locations selected in consultation with the District Department of Transportation (“DDOT”). Under Offering 8, Pepco proposes to deploy, own, and operate up to twenty (20) DC Fast Chargers in the District at locations selected in consultation with DDOT. Pepco proposes allocating 20% of both Offerings 7 and 8 to disadvantaged communities located in Wards 5, 7, and 8 to ensure adequate distribution and equity within the District, which translates into seven (7) Smart Level II chargers and four (4) DC Fast Chargers in those Wards.<sup>99</sup> DOEE expresses interest in the exploration of greater non-ratepayer resources to fund Offerings 7 and 8 because beneficiaries will include EV owners outside the District. DOEE also raises important concerns about the impact of public charging stations on the distribution system. Finally, DOEE asks that Pepco coordinate with DDOT so that there is no duplication of effort when DDOT deploys charging stations under the EV Public Infrastructure Act. EVgo, while supportive, asserts that Pepco should only invest in “make-ready” investments, such as conduit and other electrical infrastructure leading up to the charger, which presents a

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<sup>98</sup> The Commission’s rejections of these offerings should not be read to prevent Pepco, to the extent that it deems prudent, for load management purposes and consistent with the MEDSIS initiative, from seeking to implement distribution rates for the classes of customers covered by these offerings in future distribution rate cases.

<sup>99</sup> Pepco states that “Disadvantaged Communities include Ward 5, Ward 6, and Ward 7, as [identified] by the District Department of Energy and Environment (“DOEE”) as areas in the District as the most vulnerable and impacted by air pollution, based on the following factors: asthma rates in the District, mortality rates from cancer and heart disease, and income levels.” Pepco’s Application at n.2. Based on the rest of Pepco’s Application the inclusion of Ward 6 and exclusion of Ward 8 in this definition is an error.

smaller cost to the utility. OPC views these offerings as beyond the scope of what is appropriate for a distribution utility, while ChargePoint sees these activities as intruding on competitive markets.

49. The Commission recognizes that Pepco plays a critical role in make-ready infrastructure from the electric distribution system to EVCS and supports “make-ready” investments to facilitate transportation electrification. Therefore, consistent with our earlier determinations related to Pepco’s proposed TE Program, the Commission approves that Pepco provide make-ready infrastructure for thirty-five (35) Public Neighborhood Smart Level II Public Chargers under Offering 7 and up to twenty (20) DC Fast Chargers under Offering 8. Also, consistent with our earlier determinations, the Commission rejects at this time Pepco’s proposal to allocate 20% of Offerings 7 and 8 to disadvantaged communities located in Wards 5, 7, and 8. The record submitted identifies the health issues that impact these communities but does not clearly indicate that the competitive market is not providing adequate EV charging opportunities, however, the Commission will revisit this issue after receiving the EV Market Penetration Study, discussed below, to assess the competitive market’s ability to expand EVCS deployment across the District. For the approved fifty-five (55) public charging stations under Offerings 7 and 8, Pepco is directed to facilitate the deployment of make-ready infrastructure in coordination with and as requested by third-party EVCS owner/operators and site hosts. In the siting of these public charging stations in the public rights-of-way, Pepco is directed to coordinate with DDOT, as the site host, in site selection and construction and to the extent issues arise related to these deployments apprise the Commission as part of its reporting obligations.<sup>100</sup> Cost recovery for Offerings 7 and 8 is addressed below in the Cost Recovery section. Lastly, Pepco is directed to file updated EV tariffs that detail how make-ready infrastructure will be provided to public EV charging, the specific SOS electricity rate for public EV charging, as well as the distribution rate for public EV charging.<sup>101</sup> Any necessary changes in the General Terms and Conditions of the tariff should be filed as well. The Commission will review the proposed tariffs under our Notice of Proposed Tariff process.

## **H. Public Transportation Charging**

50. **Taxi or Rideshare Charging:** Under Offering 10, Pepco proposes developing a program that will deploy, own, and operate up to ten (10) Smart Level II EV chargers and two (2) DC Fast Chargers for a total of twelve (12) EVCS accessible for taxis and rideshare services, but has not developed a specific rate for this type of charging nor selected specific locations for deploying the Level II and DC Fast chargers.<sup>102</sup> DOEE supports Offering 10 because it would reduce emissions from the most heavily used vehicles in the District.<sup>103</sup> ChargePoint and EVgo

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<sup>100</sup> The Commission intends that the process does not interfere with the current process by which the EVCS owners/operators presently obtain make-ready infrastructure.

<sup>101</sup> Based on cost recovery section, if there is no need to file any tariff or tariff revisions, Pepco should clearly indicate that and provide explanation within 90 days of this Order.

<sup>102</sup> *Formal Case No. 1130, Pepco (B) at 20 (Stewart).*

<sup>103</sup> *Formal Case No. 1130, DOEE’s Comments at 9.*

oppose Offering 10 as presented by Pepco because utility ownership of charging infrastructure is inappropriate for such charging solutions.<sup>104</sup>

51. The Commission notes that the DC Council has set specific goals in the CleanEnergy DC Act for the electrification of taxis and ridesharing vehicles in the District and supports the creation of specific wholesale and distribution rates to help meet those goals.<sup>105</sup> The Commission agrees with DOEE that electrification of taxis and ridesharing vehicles in the District provides for greater environmental gains for the District and aligns with the District's goals of reducing greenhouse gases. Pepco is directed to work with the appropriate District Government Agencies to select EVCS locations. To the extent issues or new information arise related to these deployments, Pepco is directed to apprise the Commission as part of its reporting obligations. On this basis, the Commission approves Offering 10 as it relates to Pepco's deployment of "make-ready infrastructure" for up to ten (10) Smart Level II EV chargers and two (2) DC Fast Chargers accessible for taxis and rideshare services.<sup>106</sup> Pepco may need to develop its tariffs under Offering 10 to ensure that EVCS owner/operators can offer service under these tariffs.<sup>107</sup> Pepco is also directed to provide a new tariff or update its terms and conditions to detail the provision of make-ready infrastructure to EVCS owners. The Commission will review the proposed Tariffs under our Notice of Proposed Tariff process.

52. **Busing:** Under Offering 11, Pepco proposes to deploy, own, and operate five (5) Level II charging stations and one (1) DC Fast Charging station for a total of six (6) EVCS in selected bus depots and along bus routes.<sup>108</sup> Pepco states that it would target fleet managers and District agencies so that it would be able to provide charging to government owned buses and extend this service to other private buses such as universities or tourist buses. DOEE requests that the Commission require Pepco to work with DDOT and WMATA to: (1) identify the highest traffic bus routes and depots; and (2) confirm that both DDOT and WMATA have committed plans to transition to electric bus fleets to ensure there is sufficient demand to justify investing in electric bus charging infrastructure and minimize the risk of stranded assets.<sup>109</sup>

53. The Commission notes that the DC Council has set specific goals for the electrification of public and private buses in the District, with 100% of public buses being electrified by 2021 and 100% of private buses by 2045.<sup>110</sup> The Commission recognizes that an important part of meeting such goals may include the creation of retail generation, transmission and distribution rates to serve busing fleets as proposed in Offering 11. Pepco is directed to consult

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<sup>104</sup> *Formal Case No. 1130*, ChargePoint's Comments at 16; EVgo's Comments at 6.

<sup>105</sup> *See* "CleanEnergy DC Act," Sec. 502 (b).

<sup>106</sup> Pepco is not authorized to own or contract for the operation of any EVCS under Offering 10.

<sup>107</sup> Pepco should evaluate its new role as provider of make-ready infrastructure and to decide whether a new tariff is necessary or the existing distribution tariff is sufficient for site host purpose.

<sup>108</sup> *Formal Case No. 1130*, Pepco (B) at 21-22 (Stewart).

<sup>109</sup> *Formal Case No. 1130*, DOEE's Comments at 10.

<sup>110</sup> *See* "CleanEnergy DC Act," Sec. 502 (b) and 503 (c).

with appropriate public agencies and private bus operators to develop these rates prior to filing them with the Commission for approval. Further, the Commission recognizes the wisdom of DOEE's comments and directs Pepco to work with DDOT and WMATA to ensure that the deployment of EV charging infrastructure at bus depots and on bus routes coincides with the agencies' deployment of electric buses.<sup>111</sup> To the extent issues or new information arise related to Offering 11, Pepco is directed to apprise the Commission as part of its reporting obligations. On this basis, the Commission approves Offering 11 as it relates to Pepco's deployment of make-ready infrastructure, for five (5) Smart Level II charging stations and one (1) DC Fast Charging station.<sup>112</sup> Pepco may need to develop its tariffs under Offering 11 to ensure that EVCS owner/operators can offer service under these tariffs.<sup>113</sup> Pepco is also directed to provide a new tariff or update its terms and conditions to detail the provision of make-ready infrastructure to EVCS owners. The Commission will review the proposed Tariffs under our Notice of Proposed Tariff process.

### **I. MEDSIS Funds**

54. Under Offering 12, Pepco proposes taking \$1,000,000 from the MEDSIS subaccount to provide grants for 50% cost sharing of demonstration projects such as vehicle-to-grid charging of plug-in-vehicle car share charging.<sup>114</sup> Under Offering 13, Pepco proposes taking \$1,500,000 from the MEDSIS subaccount to develop a demonstration project to assess the use of technology to manage DC Fast Charging.<sup>115</sup> ChargePoint and EVgo are supporters of these offerings as they would further deployment of EV charging infrastructure. DOEE and OPC raise concerns about utilizing MEDSIS funds for these projects and how they overlap with other offerings.

55. The Commission rejects Offerings 12 and 13 because of their attempts to short-cut the MEDSIS Initiative pilot process. Additionally, the Commission does not view the proposals as sufficiently detailed to make a full assessment of the proposed use of funds.

### **J. Cost Recovery**

56. Pepco proposes to place all TE Program costs in a regulatory asset and recover those costs in a future distribution rate case from ratepayers. Pepco recognizes that for some Offerings, participant contributions toward specific infrastructure and public charging station revenues will offset TE Program costs. Pepco proposes that the costs of the residential offerings (Offerings 1, 2, 3, 4, 5 and 6) would be collected from all residential ratepayers, while the costs of

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<sup>111</sup> See *Washington Metro. Area Transit Author. v. Public Serv. Comm'n*, 486 A.2d 682, 686 (D.C. 1984).

<sup>112</sup> Pepco is not authorized to own or contract for the operation of any EVCS under Offering 11.

<sup>113</sup> Pepco should evaluate its new role as provider of make-ready infrastructure and to decide whether a new tariff is necessary or the existing distribution tariff is sufficient for site host purpose.

<sup>114</sup> *Formal Case No. 1130*, Pepco (B) at 22-23 (Stewart).

<sup>115</sup> *Formal Case No. 1130*, Pepco (B) at 24 (Stewart).



the commercial offering (Offering 7) would be allocated to commercial customers. Finally, public charging offerings (Offerings 8, 9, 10 and 11) would be allocated to all ratepayers.

57. OPC, AOBA, and DOEE all express concern about Pepco's cost recovery approach and the socialization of costs related to EV charging. As OPC states:

It is unjust and unreasonable and inequitable to require non-participants to subsidize any program costs. Under the principle of cost causation, which serves as the bedrock for utility ratemaking, only prudent, used and useful, and known and measurable costs that are incurred by a utility through its provision of service to a ratepayer class can be allocated to that customer group.<sup>116</sup>

58. The Commission recognizes that Pepco will seek cost recovery for all prudently incurred costs related to the Offerings approved in this Order. The Commission recognizes that Pepco has a critical role to play in the deployment of EVCS through the construction of make-ready infrastructure from the electric distribution system to EVCS. However, the Commission agrees with OPC and other parties that Pepco's plan to socialize costs broadly is likely not appropriate. The Commission approves establishment of a regulatory asset to track EV expenditures for the make-ready investments related to the approved offerings and for the coordination/management expenses such as billing, customer enrollment and outreach, program management, system interface and updates, analysis and reporting. The regulatory asset shall accrue a pre-tax rate of return at Pepco's authorized rate of return approved by the Commission in the most recent base rate case. Thus, while regulatory assets are established for these Offerings, the applicable revenues received from each offering should be treated as a regulatory liability and tracked in a separate account. Similar to the regulatory asset, this regulatory liability shall accrue a pre-tax rate of return at Pepco's authorized rate of return approved by the Commission in the most recent base rate case. Therefore, Pepco is directed to refile the program coordination and management expenses such as billing, customer enrollment and outreach, program management, system interface and updates, analysis and reporting for Regulatory Asset treatment within sixty (60) days of this Order.

59. As to the impact of EV on utility distribution infrastructure, Pepco projects that the potential grid reinforcement, including substantial replacement or upgrade of single-phase transformers would be necessary between 2026 and 2033. These costs are estimated to be \$47 million (\$24 million NPV).<sup>117</sup> According to a data request, Pepco has not included EV impact in its load forecast for the District. Pepco is directed to perform peak demand and kWh impact study based on its current EV status and report its findings in its second quarterly report to the Commission discussed in detail below. In its second quarterly report, Pepco should also discuss the EV impact on Bill Stabilization Adjustment ("BSA") implementation. The EV impact should also be included in future load forecast, once Pepco performs its initial analysis. Furthermore, once the TE Program is implemented, the Commission expects Pepco to collect data and perform District specific study for EV impact on the distribution grid (also including both kWh and peak

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<sup>116</sup> *Formal Case No. 1130*, OPC's Reply Comments at 8.

<sup>117</sup> Pepco (E) at 33 (Warner).

impact) after a two-year implementation period. Pepco's additional revenues (both SOS revenues and distribution revenues resulting from TE program implementation) should be separately reported every six months to be included in the applicable quarterly reports.

60. Additionally, the Commission agrees with DOEE that Pepco should explore additional private and public partnerships to alleviate the cost to the District's ratepayers for the EVCS make-ready infrastructure with a focus on prioritizing the expenditure of ratepayers funds on programs that will provide the most public benefits to District residents.<sup>118</sup> In the report Pepco filed related to workshops on its Transportation Electrification Program for the District of Columbia, Pepco indicates that it is proactively exploring potential private partnerships to help fund this initiative.<sup>119</sup> We also note that CleanEnergy DC recommends that the District pursue funding options to subsidize electric charging station infrastructure investments.<sup>120</sup> At a time when District ratepayers are being asked to finance distribution system enhancements along with the various public benefit surcharges to fund the Sustainable Energy Trust Fund, the Commission believes it is essential that Pepco make every effort to explore ways to offset these costs from other sources. Accordingly, Pepco is hereby directed to provide the Commission with a status report on the Company's efforts to obtain private partnerships to subsidize electric vehicle charging station infrastructure within ninety (90) days from the date of this Order.

#### **K. TE Program Reporting**

61. In paragraph 33, the Commission directed Pepco to file a proposal to update its tariffs to cover "make-ready" infrastructure to facilitate EVCS deployment within thirty (30) days of the date of this Order. Additionally, to ensure an accurate baseline, Pepco is directed to file, within thirty (30) days of the date of this Order, an Updated Implementation Plan, providing timelines for the filings of relevant tariffs with the Commission, anticipated timelines for meeting with relevant District Government agencies and stakeholders, and when the various approved Offerings will become available in the District. Pepco's plan should further detail how it will seek involvement of certified business enterprises in the TE Program.<sup>121</sup>

62. In the foregoing discussion, the Commission adopts the targeted numbers of EVCS for each of the Offerings we approve. The targeted numbers of EVCS for the Offerings now function as deployment benchmarks and not as firm limits. Therefore, to extent that any specific Offering reaches the prescribed limits, Pepco or other interested persons may notify the Commission and request the lifting of the caps.

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<sup>118</sup> *Formal Case No. 1130*, DOEE's Comments at 3.

<sup>119</sup> *Formal Case No. 1130*, Potomac Electric Power Company's Report Related to Workshops on its Transportation Electrification Program for the District of Columbia at 8, filed August 2, 2018.

<sup>120</sup> Clean Energy DC Plan at 208.

<sup>121</sup> *See* D.C. Code § 2-218.43. (Section 2343 of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005).

63. To track the development of the EVCS market, Pepco is directed to file quarterly reports for the first two years and semi-annual reports for years three through five after implementation begins.<sup>122</sup> The report should provide:

- (a) The total number of EVCS taking service under each approved tariff;
- (b) The Wards where EVCS are located;
- (c) The total number of EVs reported to Pepco by the Department of Motor Vehicles by Ward;
- (d) The increased peak demand and kWh as a result of each of the Offerings;
- (e) Pepco's costs and revenues for each of the Offerings;
- (f) Analysis of obstacles encountered since the prior reporting period; and
- (g) The most recent projected system upgrade requirements based on EV charging projections.

64. Pepco is directed to provide a TE Program Analysis, Evaluation, and Reassessment within two years after implementation begins to make recommendation for reforming the approved TE Program based on EV and EVCS deployment rates, system impacts, and MEDSIS outcomes. Additionally, within two years after implementation begins Pepco should provide a detailed EV Market Penetration Study analyzing the distribution of registered EVs by Ward and the deployment of public EVCS by Ward, so the Commission can assess the effectiveness of the competitive market at serving all parts of the District relative to market demand.

**THEREFORE, IT ORDERED THAT:**

65. The Apartment and Office Building Association of Metropolitan Washington's Motion to Suspend the Review of Potomac Electric Power Company's Transportation Electrification Application pending the conclusion of the MEDSIS process is **DENIED**;

66. The Commission Secretary is **DIRECTED** to open a new case, *Formal Case No. 1155, In the Matter of the Application of the Potomac Electric Power Company for Approval of its Transportation Electrification Program* and all filings related to Potomac Electric Power Company's Transportation Electrification Application already filed in *Formal Case No. 1130*, be double captioned;

67. All persons interested in transportation electrification are **ON NOTICE** that all decisions related to the Transportation Electrification Program in *Formal Case No. 1155* are subject to revision at the conclusion of the MEDSIS process to ensure that EV matters, including Electric Vehicle rates, are consistent with MEDSIS outcomes;

68. Pending the completion of a rulemaking to amend the Commission's Electricity Supplier Rules in Chapter 46 of Title 15 of the District of Columbia Municipal Regulations to eliminate any requirements on electric vehicle charging station owners and operators to obtain a license from the Commission, the Commission's licensing requirements under those rules are

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<sup>122</sup> The Commission may extend or otherwise revise the reporting requirements as transportation electrification develops in the District.

**TEMPORARILY WAIVED** for electric vehicle charging station owners and operators who sell or distribute electricity;

69. The Potomac Electric Power Company's request to operate electric vehicle charging stations directly, as a Standard Offer Service is **DENIED**;

70. The Potomac Electric Power Company is **DIRECTED** to file a proposal to update its tariffs to cover "make-ready" infrastructure to facilitate electric vehicle charging stations deployment within thirty (30) days of the date of this Order;

71. The Potomac Electric Power Company is **DIRECTED** to confer with stakeholders on the Maryland's approach for the submetering of electric vehicles utilizing the charging station's internal meters and report to the Commission on the feasibility of the Maryland Approach in the District within thirty (30) days of the date of this Order;

72. The Potomac Electric Power Company's Offering 1: Residential Whole House Time-Of-Use Rate for electric vehicles, Offering 7: thirty-five (35) Public Neighborhood Smart Level II Public Chargers for electric vehicles, Offering 8: up to twenty (20) DC Fast Chargers for electric vehicles, Offering 10: up to ten (10) Smart Level II EV chargers and two (2) DC Fast Chargers accessible for taxis and rideshare services, and Offering 11: five (5) Level II charging stations and one (1) DC Fast Charging station for public electric buses are **APPROVED AS MODIFIED AND CONDITIONED**;

73. The Potomac Electric Power Company is **DIRECTED** to meet with Staff and other stakeholders through a temporary TE Working Group to address stakeholders' concerns regarding Offering 4 (fixed rebates for residential customers installing Smart Level II chargers), and Offering 5 (Multi-Dwelling Unit Charging) within forty-five (45) days of the date of this Order and reporting back within 180 days of the date of this Order;

74. The Potomac Electric Power Company's proposal to allocate 20% of Offerings 7 and 8 (public electric vehicle charging) to disadvantaged communities located in Wards 5, 7, and 8 is **REJECTED** at this time;

75. The Potomac Electric Power Company's Offering 2, Offering 3, Offering 6, Offering 9, Offering 12, and Offering 13 are **REJECTED**;

76. The Potomac Electric Power Company is **DIRECTED** to establish a regulatory asset and regulatory liability to track electric vehicle expenditures and revenues for the approved Offerings as conditioned outline in this Order;

77. The Potomac Electric Power Company is **DIRECTED** to refile the program coordination and management expenses such as billing, customer enrollment and outreach, program management, system interface and updates, analysis and reporting for Regulatory Asset treatment within sixty (60) days of this Order;

78. The Potomac Electric Power Company is **DIRECTED** to provide the Commission with a status report on the Company's efforts to obtain private partnerships to subsidize electric vehicle charging station infrastructure within ninety (90) days from the date of this Order;

79. The Potomac Electric Power Company is **DIRECTED** to file with the Commission an updated Transportation Electrification Program implementation plan within thirty (30) days from the date of this Order;

80. The Potomac Electric Power Company is **DIRECTED** to file quarterly reports on the implementation of the Transportation Electrification Program for two years after implementation begins and semi-annual reports for three to five years after implementation begins; and

81. The Potomac Electric Power Company is **DIRECTED** to file a TE Program Analysis, Evaluation, and Reassessment, as well as Electric Vehicle Market Penetration Study within two years after implementation begins.

**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**

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

and

**FORMAL CASE NO. 1155, IN THE MATTER OF THE APPLICATION OF THE POTOMAC ELECTRIC POWER COMPANY FOR APPROVAL OF ITS TRANSPORTATION ELECTRIFICATION PROGRAM, Order No. 19898**

**CONCURRING OPINION OF CHAIRMAN WILLIE L. PHILLIPS**

Today, the District of Columbia Public Service Commission (“Commission”) approves, in part, Pepco’s Transportation Electrification Application. Specifically, the Commission directs Pepco to provide “make-ready” infrastructure to facilitate the deployment of public electric vehicle charging stations, but rejects Pepco’s request for utility ownership of electric vehicle charging stations at this time. I concur with the majority and support the offerings approved today; however, I believe this order misses an opportunity to further the District’s climate policy commitments in underserved communities, with the only incumbent electric utility that the Commission regulates.

Section 502(c)(1)-(2) of the landmark “CleanEnergy DC Omnibus Amendment Act of 2018”<sup>1</sup> authorizes the Commission to consider utility ownership of electric vehicle charging infrastructure, if we find it in the public interest, and requires that the Commission consider global climate change and the District’s public climate commitments in making decisions.<sup>2</sup>

The District has set as a goal to reduce greenhouse gas (“GHG”) emissions by 50% in 2032.<sup>3</sup> With 700,000 residents, 400,000 daily commuters, and about 21 million visitors each year, the transportation sector contributes more than 20% of the District’s carbon emissions. However, the electric vehicle adoption rate for the District lags behind other jurisdictions.<sup>4</sup> And the

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<sup>1</sup> D.C. Law 22-0257, “CleanEnergy DC Omnibus Amendment Act of 2018”, March 22, 2019 (“CleanEnergy DC Act”).

<sup>2</sup> Additionally, the Act requires that the Mayor establish a transportation electrification program requiring all public buses, passenger- and light-duty vehicles, commercial motor carriers, limousine-service vehicles, and taxis be zero-emission vehicles in the District by 2045.

<sup>3</sup> Clean Energy DC: The District of Columbia Climate and Energy Action Plan, August 2018, available at: [https://doee.dc.gov/sites/default/files/dc/sites/ddoe/page\\_content/attachments/Clean%20Energy%20DC%20-%20Full%20Report\\_0.pdf](https://doee.dc.gov/sites/default/files/dc/sites/ddoe/page_content/attachments/Clean%20Energy%20DC%20-%20Full%20Report_0.pdf) (“Clean Energy DC Plan”).

<sup>4</sup> In the Matter of the Petition of the Electric Vehicle Work Group for Implementation of a Statewide Electric Vehicle Portfolio, Maryland Public Service Commission, Case No. 9478, Order No. 88997, issued January 14, 2019; *See also* “Maryland Public Service Commission authorizes utilities to install 5,000 electric vehicle charging stations statewide,” available at: <https://www.baltimoresun.com/news/maryland/environment/bs-md-electric-vehicle-charging-stations-20190114-story.html>.

availability of charging stations across all eight wards must be addressed for electric vehicles to flourish in a city.

For this reason, while the offerings that we approve today may help accelerate electric vehicle adoption in certain parts of the District, I believe the goal to increase electric vehicle penetration in underserved communities should be given further consideration without delay. Thus, rather than rejecting even limited utility ownership of charging stations at this time, the Commission could and should have invited interested persons to either file briefs on this issue or initiated a hearing to address limited utility ownership of electric vehicle charging stations, focusing on Wards 5, 7, and 8.

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

**and**

**FORMAL CASE NO. 1155, IN THE MATTER OF THE APPLICATION OF THE POTOMAC ELECTRIC POWER COMPANY FOR APPROVAL OF ITS TRANSPORTATION ELECTRIFICATION PROGRAM, Order No. 19898**

**CONCURRING OPINION OF COMMISSIONER RICHARD BEVERLY**

Although I agree to fund a limited amount of make ready infrastructure as a pilot program, I reach that determination through a different legal analysis than the majority. To me, the threshold question is whether the Commission can grant Pepco's request for rate recovery for its TE Program. If the answer to that question is no, as I believe it is, then it is unnecessary to determine whether Pepco is permitted or otherwise obligated to sell electricity under the various TE Program Offerings through SOS.

**Commission Authority Under the Energy Innovation and Savings Amendment Act of 2012**

The Energy Innovation and Savings Amendment Act of 2012 ("EISA") amended the statutory definition of "electric company" in D.C. Code § 34-207 to exclude a person or entity that does not sell or distribute electricity and owns or operates EVCS equipment.<sup>1</sup> The EISA also amended the statutory definition of "public utility" to exclude a person or entity that owns or operates EV supply equipment but does not sell or distribute electricity, an EVCS service company, or an EVCS service provider.<sup>2</sup> The EISA Committee Report indicates that the legislation "clarif[ies] that electric vehicle charging station operators are not utilities for purposes of regulation under the Public Service Commission."<sup>3</sup> The EISA Committee Report further states that "[c]larifying that electric vehicle charging station operators are not utilities creates regulatory certainty for station operators... [and] encourages more charging station providers to enter the market."<sup>4</sup> I agree with the concerns raised by EVgo that Pepco's ownership and operation of EVCS could adversely affect competition in the EVCS market if the Company receives ratepayer funds for its EVCS

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<sup>1</sup> D.C. Law 19-0252, the "Energy Innovation and Savings Amendment Act of 2012," (March 19, 2013) ("EISA"). See D.C. Code § 34-207 (Supp. 2018) (The term "electric company" when used in this subtitle "... also excludes 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.").

<sup>2</sup> See D.C. Code § 34-214 (Supp. 2018) (The term "'public utility' excludes 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.").

<sup>3</sup> *Committee Report on Bill 19-749* at 8.

<sup>4</sup> *Committee Report on Bill 19-749*, "Energy Innovation and Savings Amendment Act of 2012", Committee on the Environment, Public Works and Transportation, Council of the District of Columbia (October 24, 2012) ("*Committee Report on Bill 19-749*") at 5.



infrastructure while other EVCS owners and operators do not.<sup>5</sup> While commenters support efforts by the District of Columbia to reduce GHG emissions, support private sector deployment of EVCS, and do not oppose Pepco owning and operating EVCS, there is disagreement as to whether Pepco can use District ratepayer funds to pursue EVCS deployment. AOBA, ChargePoint and OPC contend that the Commission has no jurisdiction over EVCS owners and operators because of the EISA and, therefore, the Commission cannot require ratepayers to finance Pepco's ownership and deployment of EVCS.<sup>6</sup> Pepco, on the other hand, argues that since the Commission regulates the Company, the Commission regulates the offerings that Pepco proposes in its TE Program Application and can require ratepayers to finance them.<sup>7</sup>

Pepco is a public utility regulated by the Commission that is required under D.C. Code § 34-1506 to, among other things, provide distribution services to all customers and electricity suppliers on rates, terms of access, and conditions that are comparable to its own use of its distribution system and maintain the reliability of its distribution system in accordance with applicable orders, tariffs, and regulations of the Commission.<sup>8</sup> While Pepco can offer other services beyond those set forth in D.C. Code § 34-1506 (to include owning and operating EVCS), not all services offered by Pepco are regulated by the Commission nor may the Company receive cost recovery for unregulated services.<sup>9</sup> Thus, Pepco is entitled to cost recovery from its ratepayers only for those services the Company provides that are regulated by the Commission.

The EISA clearly affirms the District Council's intent that EVCS owners and operators are not public utilities subject to regulation by the Commission and that the EVCS market is free from any regulatory oversight by the Commission because it is not deemed a monopoly service. Consequently, while Pepco or one of its affiliates is not otherwise precluded from investing in EVCS ownership and operation, as a distribution service company, the Company can only seek rate recovery from District ratepayers for distribution service activities that it undertakes as the electric company, pursuant to D.C. Code § 34-1506. EVCS ownership and operation is not among those distribution service activities because, as clarified by the EISA, it is not considered a monopoly service in need of regulation like electric distribution service provided to a home or business by a sole provider. Moreover, because DOEE indicates that the District government provides income tax credits as an incentive to offset the cost of EVCS for public and private use, ratepayers should not fund rebates to incentivize EVCS deployment.

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<sup>5</sup> See generally *Formal Case No. 1130*, EVgo's Comments and EVgo's Reply Comments. NRG Energy, Inc. notes in Attachment J of the Committee Report on Bill 19-749: "If utilities are permitted to own rate-payer subsidized EV charging infrastructure, private sector investment and innovation in the EV charging sector will languish. In addition to the direct potential of a ratepayer subsidy, indirect subsidies such as cost of capital based upon regulated service and other aspects of being a regulated utility will likely result in only one service provider and one service provider and one business model in each market."

<sup>6</sup> See *Formal Case No. 1130*, AOBA's Comments at 2-6; *Formal Case No. 1130*, ChargePoint's Comments at 7; *Formal Case No. 1130*, OPC's Comments at 7, 9, 12, and 14.

<sup>7</sup> *Formal Case No. 1130*, Pepco's Comments at 6.

<sup>8</sup> See D.C. Code §§ 34-207, 34-214, 34-1101, and 34-1506.

<sup>9</sup> *Classified Directory Subscribers Ass'n v. Public Service Commission of District of Columbia*, 383 F.2d 510 (D.C. Cir. 1967).

## CleanEnergy DC Omnibus Amendment Act of 2018

I recognize that section 502 (c) of CleanEnergy DC Omnibus Amendment Act of 2018 (“CleanEnergy DC Act”), allows the Commission to “consider an application by the electric company to promote transportation electrification through utility structure ownership” and approve that application if “it is in the public interest.”<sup>10</sup> However, the CleanEnergy DC Act does not expressly repeal or implicitly amend any other existing statute. Even if Pepco’s program were otherwise in the public interest, it is not, in my view, in the public interest if it seeks ratepayer recovery for an unregulated service.

The EVCS market serves the public interest by advancing public policy goals, reducing emissions, mitigating climate change, and supporting economic benefits by accelerating District residents’ use of EVs. Although the Commission has very limited authority over EVCS owners and operators, any decision we make must serve the public interest by balancing competing interests so that ratepayer funded projects do not unfairly advance the interest of one stakeholder at the expense of another.

### **Pepco’s Role in Transportation Electrification as the Distribution Company**

Pepco has a vital role in the District’s transportation electrification in its capacity as the electric distribution company. EVgo and Siemens recommend that Pepco provide the make-ready infrastructure needed to interconnect EVCS to the distribution system.<sup>11</sup> According to these commenters, because EVCS owners and operators will need to connect to the electric distribution system that Pepco owns and operates to energize their EVCS equipment, Pepco should provide the EV make-ready infrastructure that facilitates the interconnection of public EVCS to the distribution system, as illustrated in this Order.

The commenters did not offer a definition for “EV make-ready infrastructure” but pending legislation before the District Council includes a definition that I find useful. In the recently introduced “Electric Vehicle Readiness Amendment Act of 2019” EV make-ready infrastructure means “the equipment provided to support electric vehicle charging, including conduit, sufficient electrical panel service capacity, sufficient distribution transformer capacity, overcurrent protection devices, wire, and suitable termination points such as a junction box, but not the electric vehicle supply equipment.”<sup>12</sup>

I believe that the most prudent way to quickly move forward in helping the District of Columbia meet its clean energy goals without negatively impacting competition is to establish a two-year

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<sup>10</sup> See D.C. Code § 50-741 (c).

<sup>11</sup> See *Formal Case No. 1130*, EVgo’s Reply Comments at 2-4; *Formal Case No. 1130*, Siemen’s Comments at 1-3.

<sup>12</sup> Bill 23-193, the “Electric Vehicle Readiness Amendment Act of 2019.” In this bill, electric vehicle supply equipment is defined as “all the charging equipment necessary to deliver electrical energy from an electricity source to charge an electric vehicle’s battery, including cable, conductors, and electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.”

EV Make-Ready Infrastructure Pilot Program. Under the program, Pepco would furnish, install and own the EV make-ready infrastructure and make the infrastructure available, on a nondiscriminatory basis, to any licensed EVCS owner who requests installation. I recognize that DDOT is required to place EVCS in every ward in the city<sup>13</sup>, and this pilot program would not frustrate that requirement, but I believe this pilot program should be market driven (just as it is now). In other words, Pepco should not build the EV make-ready infrastructure first and see if anyone wants to use that location, but rather let the market dictate the need for the location and build it where the EVCS owner thinks it will get the most use. In my view, the latter arrangement offers the greatest opportunity for increased use, which is the most reliable and fastest way to achieve the District's ambitious clean energy goals. I would cap the funding for the pilot at an amount that would cover approximately thirty-five (35) EV make-ready infrastructures for either Smart Level 2 EVSE and DC Fast Chargers and exclude funding for the EVCS. I believe that this serves the public interest by promoting the District's clean energy goals and promoting investment in the competitive EV charging market. I would further decline to grant a request for explicit deferral and recovery authority for administrative costs of this EV Make-Ready Infrastructure Pilot Program. Processing new service interconnections is a core utility competency, and while EVCS pose a new technology application, the incremental administrative costs of this program should be minimal.

While the majority notes Pepco's projected grid reinforcement costs, it is undisputed that EV charging will put increased demand for electric power and can potentially place greater demand on the District's electric distribution system. Indeed, even with improvements in EV efficiency and energy efficiency investments, transportation electrification could increase annual demand nationwide by 5%-15% by 2030 and by 25%-85% by 2050. I have no reason to believe that the annual demand in the District of Columbia would be substantially different. AOBA and OPC recommend that the Commission consider Pepco's request for recovery of reasonable and prudent costs for additional infrastructure that may be needed to accommodate demands on the District's electric distribution and transmission system with the anticipated growth of EVCS deployment contemplated by the Clean Energy DC plan for the EV make-ready infrastructure. The Committee Report on Bill 19-749 acknowledges the need for utilities to assess the added demand on the distribution system and need for upgrades to accommodate EVCS deployment. I further believe that Pepco, in furtherance of its statutory obligation, must take necessary steps to ensure the safety and reliability of the distribution system without delaying the deployment of EVCSs. Therefore, I would direct Pepco to report on the anticipated added stress and distribution system infrastructure plans needed to handle the growth of EVCSs in the District.

### **Retail Electric Competition and Consumer Protection Act of 1999**

The District's retail electric market was restructured in 1999 with the enactment of the "Retail Electric Competition and Consumer Protection Act of 1999" ("RECCPA").<sup>14</sup> The RECCPA, among other things, implemented customer choice in the electricity supply market and required the Commission to unbundle the rates, charges, and services provided by Pepco, the electric

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<sup>13</sup> See D.C. Law 22-0078, the "Electric Vehicle Public Infrastructure Expansion Act of 2018."

<sup>14</sup> D.C. Law 13-107, the "Retail Electric Competition and Consumer Protection Act of 1999," codified in D.C. Code § 1501 et seq.

company.<sup>15</sup> The RECCPA also required the electric company to provide access to its distribution system to all customers and electricity suppliers on non-discriminatory terms, and at non-discriminatory rates and to maintain the reliability of its distribution system in accordance with the requirements of the Commission.<sup>16</sup> The RECCPA established the definition for electricity supplier.<sup>17</sup> The RECCPA also makes clear that, other than its provision of SOS, the electric company is prohibited from engaging in the business of an electricity supplier except through an affiliate.<sup>18</sup> It is important to note that the RECCPA does not mention EVCS nor does it or any other provision of law or regulation require the Commission to determine whether EV charging rates, EVCS and equipment services are needed, especially since it is an unregulated service.

While the RECCPA established SOS as the electricity supply made available to customers who cannot arrange to purchase electricity from an electricity supplier or do not choose an electricity supplier, it provides no guidance on the applicability of SOS for transportation electrification. Nonetheless, I support the adoption of a whole house TOU rate for EV owners who receive their

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<sup>15</sup> See D.C. Code §§ 34-1502, 34-1504. At the time of the RECCPA's enactment, the term "electric company" was defined in D.C. Code § 34-207 to "include[] every corporation, company, association, joint-stock company or association, partnership, or person and doing business in the District of Columbia, their lessees, trustees, or receivers, appointed by any court whatsoever, physically transmitting or distributing electricity in the District of Columbia to retail electric customers. The term excludes any building owner, lessee, or manager who, respectively, owns, leases, or manages, the internal distribution system serving the building and who supplies electricity and other related electricity services solely to occupants of the building for use by the occupants." At the time of the RECCPA's enactment, the term "public utility" was defined in D.C. Code § 34-214 to "mean and embrace every street railroad, street railroad corporation, common carrier, gas plant, gas company, electric company, telephone corporation, telephone line, telegraph corporation, telegraph line, and pipeline company."

<sup>16</sup> See D.C. Code § 34-1506.

<sup>17</sup> See D.C. Code § 34-1501(17): "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. The term excludes the following:

(A) Building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to occupants of the building for use by the occupants;

(B)

(i) Any person who purchases electricity for its own use or for the use of its subsidiaries or affiliates; or

(ii) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not:

(I) Take title to electricity;

(II) Market electric services to the individually-metered tenants of his or her building; or

(III) Engage in the resale of electric services to others;

(C) Property owners who supply small amounts of power, at cost, as an accommodation to lessors or licensees of the property; and

(D) A consolidator.

<sup>18</sup> D.C. Code § 34-1513 (a).

electricity supply through SOS, because this rate not only provides an appropriate and meaningful incentive to support the District's goal to increase EV deployment, but also provides an incentive for residential customers to shift demand to off peak times which can potentially ameliorate the need for additional infrastructure. While I understand the concept of TOU rates is being discussed in the MEDSIS working groups, I see no reason to delay approval for a whole house TOU rate when it is essential to benefiting and empowering ratepayers while providing a price signal that is understood by ratepayers, so they can respond in a way that reduces the cost and environmental impact of energy use.

The EVCS market has been up and running for some time now with Pepco acquiring EVCS market participants who provide EV charging through existing distribution service rates and electric supply rates. Since the Commission does not regulate EVCS and there were no requests made to direct Pepco to have an EV tariff that clearly disaggregates SOS and distribution services as the majority is requesting, I do not see the need to require additional tariffs beyond what currently exists.

### **EV Make-Ready Infrastructure Pilot Program Task Force**

Although the Commission does not regulate the EVCS market, I recognize that there are approximately 100 existing EVCS installed in the District and there may be anomalies that could occur with the siting of the EV make-ready infrastructures being funded by District ratepayers. There may be further anomalies if Pepco participates in the EVCS market through an affiliate. I believe the public interest is served by establishing the EV Make-Ready Infrastructure Pilot Program Task Force consisting of stakeholders to include, but not be limited to, DDOT, DOEE, EVCS developers/owners, OPC and Pepco, to collaboratively address any problems with siting protocols for EV make-ready infrastructures that may occur when an EVCS owner requests to be connected to the District's electric distribution system.

This will enable EVCS developers/owners to select sites after considering the long-term economic business case for a site while also ensuring that Pepco engages in neutral and unbiased engagement with EVCS developers/owners in obtaining ratepayer funded EV make-ready infrastructure to facilitate interconnection with the electric distribution system. The Task Force would develop and submit a recommendation to the Commission for the guidelines and protocols for neutral and unbiased engagement between EVCS developers/owners and Pepco in this pilot program, including whether a lottery or a competitive bid process administered by a neutral third-party could be used to facilitate the program. The Task Force would further coordinate its efforts with DDOT and its obligations under the EVPIEAA and other District agencies that play a role in EVCS deployment.

### **Provision of Transportation Electrification Electricity Supply**

ChargePoint believes that there is an inconsistency between the intent of the EISA and Commission Order No. 18004 and argues that EVCS owners and operators are not electricity suppliers if they are engaged in the sale of electricity.<sup>19</sup> I would decline to allow ChargePoint to

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<sup>19</sup> *Formal Case No. 1130, ChargePoint's Comments at 8-9.*

mount a collateral attack on Commission Order No. 18004 as part of this proceeding. I am not persuaded by the majority that declining to require EVCS owners and operators who sell electricity for use by EVs to be subject to the same licensing requirements as other electricity suppliers furthers the intent of the District Council. Rather, because the services that EVCS owners and operators provide is different that electricity suppliers, there is no need to subject them to the same rules. I further believe that EVCS systems that have valid permits from DDOT and authorization from Pepco to interconnect with its system should be deemed to be licensed by the Commission until further notice.

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

and

**FORMAL CASE NO. 1155, IN THE MATTER OF THE APPLICATION OF THE POTOMAC ELECTRIC POWER COMPANY FOR APPROVAL OF ITS TRANSPORTATION ELECTRIFICATION PROGRAM, Order No. 19898**

**CONCURRING OPINION OF COMMISSIONER GREER J. GILLIS**

The District of Columbia Public Service Commission (Commission) has approved, in part, Pepco's electrification transportation application. I am in support of the District of Columbia's transportation electrification (TE) initiatives as a key component to reduce greenhouse gases (GHG) and promote (resilient) climate change benefits.

The broad statutory authority of the Commission gives us the authority to regulate any utilities' application of TE, in this case, Pepco. What is missing from Pepco's application specifically, is a discussion on how Pepco will account for increased usage of electric vehicles (EV) in its current and future load forecasts. Pepco is a critical partner in the deployment of TE in the District, but as owner of the electric infrastructure and its role as the SOS administrator, it is Pepco's responsibility to ensure that the grid – now and in the future – can adequately support the load increase that will result from a large-scale deployment of Level II and DC Fast Chargers to support our GHG reduction efforts. Thus, Pepco will need to provide data on the make-ready infrastructure needed to support those offerings approved here, as well as any future offerings inclusive of private sector investment in TE charging infrastructure.

However, I am in concurrence with the Commission's approval of Pepco Offerings 1, 7, 8, 10, and 11 as stated in the order. Additionally, I am in concurrence with the determination that Pepco may not own electric vehicle charging stations (EVCS) at this time. As noted in paragraphs 49 and 64, further determination of Pepco as an EVCS owner may be considered after the first two (2) years from TE program implementation based on the reporting standards noted specifically in paragraph 63, as well as and including any information or data provided via technical conferences through the working group, yet not excluding any evidentiary or community hearings thus allowing for a record on the matter of TE to be created.