

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

ORDER

March 17, 2016

**FORMAL CASE NO. 1130, IN THE MATTER OF THE INVESTIGATION INTO
MODERNIZING THE ENERGY DELIVERY SYSTEM FOR INCREASED
SUSTAINABILITY, Order No. 18144**

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia (“Commission”) announces that its next workshop in *Formal Case No. 1130* will be held on April 27, 2016 and will focus on the legal and regulatory framework that is necessary to facilitate and support a modern energy delivery system that includes distributed energy resources (“DER”). DER includes clean and renewable distributed generation systems (such as high-efficiency combined heat and power and solar photovoltaic systems), distributed storage, demand response and energy efficiency. The Commission invites interested persons to submit comments as outlined in Paragraph 6 within 30 days from the date of this Order.

II. BACKGROUND

2. On June 12, 2015, the Commission issued Order No. 17912 which opened this proceeding for the purposes of identifying technologies and policies that can be implemented to modernize the energy delivery system for increased sustainability (“MEDSIS”) and make it more reliable, efficient, cost-effective and interactive.¹ Since the issuance of Order No. 17912, the Commission has held two workshops; the first in October 2015 and the second in November 2015. In the first workshop, our two local energy utility companies, the Potomac Electric Power Company and Washington Gas Light Company, the District of Columbia Department of Energy and the Environment, the General Services Administration and the DC Sustainable Energy Utility provided an overview of the status of the current energy infrastructure in the District of Columbia and shared plans to modernize the system. In the second workshop, various developers of DER facilities shared information about their projects and about policy and legal barriers encountered while pursuing their initiatives.

¹ *Formal Case No. 1130, In the Matter of the Investigation into Modernizing the Energy Delivery System for Increased Sustainability, Order No. 17912, rel. June 12, 2015.*

III. DISCUSSION

3. The presentations in the two previous workshops underscore the fact that the development community in the District and various government entities are exploring a number of new technologies and business models for potential economic development projects that will use both renewable and other fuel energy sources. These include projects that may incorporate distributed energy resources into new planned mixed use developments for residential and commercial ratepayers, into university facilities, into distribution grid facilities, and into projects that support governmental facilities, among other things. There is also a growing interest in the development and use of microgrids on university campuses and some public and private sites. Besides the projects discussed at the first two workshops, there are additional DER facilities that are currently authorized under the D.C. Code. These include customer-generators authorized under D.C. Code § 34-1518; community renewable energy facilities authorized under D.C. Code § 34-1518.01; electric vehicles and electric charging stations authorized under D.C. Code §§ 34-207 & 34-214;² and various co-generation facilities like the new anaerobic digesters at D.C. Water's Blue Plains facilities and the combined heat and power facilities currently owned and operated by various government, university and commercial entities.

4. A threshold question for many of these projects is to what extent would D.C. Code § 34-1516, and existing Commission rules regarding the construction of an electric generating facility in the District, be applicable to these types of projects. Specifically, D.C. Code § 34-1516 states:

No person shall construct an electric generating facility for the purpose of the retail or wholesale sale of electricity unless the Commission first determines, after notice and a hearing, that the construction of the electric generating facility is in the public interest.³

D.C. Code § 34-205 defines an electric generating facility as:

all buildings, easements, real estate, mains, pipes, conduits, fixtures, meters, wires, poles, lamps, devices, and materials of any kind operated, owned, used, or to be used by a person for the

² D.C. Law 19-0252, Energy Innovation and Savings Amendment Act of 2012 ("Act"). The term "electric company" as defined in D.C. Code § 34-207 was amended by adding the phrase: "The term 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." The term "public utility" as defined in D.C. Code § 34-214 was amended by adding the phrase: "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." See also, *Formal Case No. 1096, In the Matter of the Investigation into the Regulatory Treatment of Providers of Electric Vehicle Charging Stations and Related Services*, Order No. 18004, at n.5, rel. October 16, 2015 (Order transferring topic of treatment of providers of electric vehicle charging stations to *Formal Case No. 1130*).

³ D.C. Code § 34-1516 (2000).

generation of electricity. The term includes all buildings, easements, real estate, mains, pipes, conduits, fixtures, meters, wires, poles, lamps, devices, and materials of any kind operated, owned, used, or to be used by a person for cogeneration of electricity.⁴

These D.C. Code provisions are further addressed in Commission Rules in Title 15 of the District of Columbia Municipal Regulations (“DCMR”), Chapter 21, Provisions for Construction of Electric Generating Facilities and Transmission Lines. Specifically, 15 D.C.M.R. §§ 2100-2103 and 2106-2108, provide the filing requirements and procedures for Commission approval of the construction of an electric generating facility in the District.

5. The Commission realizes that D.C. Code § 34-1516 was enacted in 1999 in the wake of restructuring and the Commission’s implementing regulations were promulgated in 2000. At the time that this language was added, the Council of the District of Columbia (“Council”) discussed the intent of D.C. Code § 34-1516, specifically stating that there are three criteria for determining if the construction of an electric generating facility is in the public interest. In that Report, the Council stated:

In determining whether the construction of such a facility is in the public interest, the Commission should focus primarily on three factors. The first is whether the applicant has complied or will comply with all applicable zoning and environment laws . . . The second involves whether a proposed generating facility will: [] be relatively unobtrusive; and [] increase the reliability of the electric system serving the District of Columbia. . . The third factor is whether the generating facility will run on clean sources of power.⁵

These criteria are reflected in the Commission’s regulations in 15 DCMR §2100 *et seq.*

6. The Commission is aware, based on the comments received in our workshops, participant interaction, and information reported widely in energy sources, that much has changed in the interim. Consequently, in our third workshop, the Commission will focus on the legal and regulatory framework that will facilitate and support a modern energy system that includes distributed resources. In that regard, the Commission is seeking comments on the following issues:

- How can the Commission support and facilitate the review and approval of distributed generation facilities that are in the public interest? Specifically, what type of review criteria should be used in the approval process (*e.g.*,

⁴ D.C. Code § 34-205 (2000).

⁵ Council Committee on Consumer and Regulatory Affairs Report on B13-284, the “Retail Electric Competition and Consumer Protection Act of 1999,” pp. 90-91.

environmental, safety, and zoning), and what timelines should be implemented, how should public input be considered?

- Are the Commission's current regulations adequate and appropriate to regulate the construction, operation, and maintenance of distributed generation facilities and microgrid facilities?
- Are the current regulations a barrier to the development of distributed generation facilities, and if so, what type of regulatory structure would be appropriate for these kind of facilities and why?
- What constitutes the retail or wholesale "sale" of electricity produced by a distributed generating facility?
- Some demand response facilities "shed load" by ramping up distributed generation – an action that could adversely impact the reliability of the electric grid. Due to current federal/state jurisdictional structures, there can be a lack of clarity with respect to what regulatory body governs the actions of a demand response facility. What should be the Commission's role in this instance?
- What statutory provisions or regulations adopted in, or proposed for, another jurisdiction should the Commission review and consider to promote a more modern energy system in the District of Columbia?

7. The Commission invites interested persons to submit comments regarding these identified issues or other issues related to the type of legal and regulatory framework that is needed to support a more modern energy delivery system that includes distributed energy resources within 30 days from the date of this Order. Please submit your comments by email to psc-commissionsecretary@dc.gov.

8. The third workshop in this proceeding is scheduled for April 27, 2016 at 10:00 am in the Commission's Hearing Room. The third workshop will focus on discussing the comments submitted in response to this Order. Workshop participants will also be afforded an opportunity to further elaborate on their comments and engage other participants. The full agenda for the workshop will be posted on the Commission's website within 10 days of the date of this Order.

THEREFORE, IT IS ORDERED THAT

9. Interested persons are invited to submit comments regarding the issues identified in Paragraph 6 within 30 days from the date of this Order. Please submit your comments by email to psc-commissionsecretary@dc.gov; and

10. A third workshop is being scheduled for April 27, 2016 at 10:00 am in the Commission's Hearing Room.

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 style with a large initial 'B' and a long, sweeping tail.

CHIEF CLERK:

**BRINDA WESTBROOK-SEDGWICK
COMMISSION SECRETARY**