


COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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May 11, 2022

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition of ChargEVC-PA to Initiate a
Proceeding to Consider Issuance of a
Policy Statement on Electric Utility Rate
Design for Electric Vehicle Charging
Docket No. P-2022-3030743

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Reply
Comments in the above-referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

/s/ Harrison W. Breitman
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Certificate of Service

*328372

CERTIFICATE OF SERVICE

Re: Petition of ChargEVC-PA to Initiate a :
Proceeding to Consider Issuance of a : Docket No. P-2022-3030743
Policy Statement on Electric Utility Rate :
Design for Electric Vehicle Charging :

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's Reply Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 11th day of May 2022.

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Dated: May 11, 2022
*328373

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Re: Petition of ChargeVC-PA to Initiate a Proceeding to Consider Issuance of a Policy Statement on Electric Utility Rate Design for Electric Vehicle Charging : : Docket No. P-2022-3030743

REPLY COMMENTS OF THE OFFICE OF CONSUMER ADVOCATE
TO CHARGEVC-PA PETITION TO INITIATE A PROCEEDING
TO ISSUE AN ELECTRIC VEHICLE CHARGING POLICY STATEMENT

I. INTRODUCTION AND BACKGROUND

On February 4, 2022, ChargeVC-PA (Petitioners) filed with the Pennsylvania Public Utility Commission (Commission) its “Petition to Initiate a Proceeding to Issue a Policy Statement.” The primary purpose of the Petition is to request that the Commission initiate a proceeding that will result in issuance of a Policy Statement on electric utility rate design for electric vehicle (EV) charging in Pennsylvania. Petition at 1. The Petition was filed pursuant to 66 Pa.C.S. § 501, 1301, 1330, 2807(f) and 1501, and 52 Pa. Code § 5.41.

On February 25, 2022, the Office of Consumer Advocate (OCA) filed an Answer in response to the Petition, recognizing that Pennsylvania’s transition to electric vehicle usage represents an inflection point that requires careful consideration and planning to ensure that rates and rate design are well structured to ensure equity, fairness, and principles of cost causation. The same day the OCA filed its Answer, the Commission issued a Secretarial Letter seeking comments from all interested parties preliminarily addressing whether to initiate a proceeding and the parameters of the proceeding, if opened. On April 11, 2022, the OCA, Citizens’ Electric Company of Lewisburg and Wellsboro Electric Company, PPL Electric Utilities Corporation, UGI Utilities Inc. – Electric Division, FirstEnergy Companies, National Resources Defense Council (NRDC) and Sierra Club, NRG Energy Inc., the Pennsylvania Department of Environmental Protection and

the Pennsylvania Department of Transportation, Duquesne Light Company, PECO, and ChargePoint, Electrify America, EVgo, and Tesla filed comments.

As discussed in the OCA's Comments, the OCA will fully participate in any proceeding that results from this Petition to ensure that ratepayers who currently have EVs and/or are considering EVs have access to rate designs that are appropriate and fair, but also to ensure that other ratepayers are not burdened with unreasonable rates and have appropriate consumer protections in place as electrification of our transportation sector moves forward. The OCA has reviewed the Comments of the other parties and has not changed its views. In these Reply Comments, the OCA will address some of the points raised in NRG's Comments.

II. OCA REPLY COMMENTS

NRG argues the following in their Comments in regard to the scope of the proceeding:

- The Commission should not focus solely on utility rate design (NRG Comments at 10-11)
- Supplier Consolidated Billing (SCB) would support broader EV rate design development (NRG Comments at 11-14)
- Making EDCs' Time of Use (TOU) rates the default service rate would support EV adoption (NRG Comments at 14-16)

There are a number of critically important issues that will need to be addressed with regard to vehicle electrification (e.g. the costs of infrastructure investments for dedicated charging stations, ownership of those charging stations, placement, among others). The focus of this proceeding must be rate design and rate structure for both public and private EV charging. Simply put, the issues of Supplier Consolidated Billing (SCB) and Time Of Use (TOU) as the default service rate are far outside the scope of this proceeding contemplated here. Inserting additional issues unrelated to EV rate design into this proceeding does not serve the public interest.

In regard to SCB, the Commission recently held *en banc* hearings and sought comments in response to an NRG petition to implement SCB. *See En Banc Hearing on Implementation of Supplier Consolidated Billing*, Docket No. M-2018-2645254; *see also Petition of NRG Energy, Inc. for Implementation of Electric Generation Supplier Consolidated Billing*, Docket No. P-2016-2579249, Opinion and Order (Jan. 31, 2018) (*SCB Order*). The Commission addressed the legality of SCB, as follows:

Upon review, we find that the record in this proceeding lacks sufficient detail to substantiate a definitive determination on both the policy prudence and legality of numerous pivotal issues. While the Commission has a long history of deliberating SCB, the question of its legality under Chapters 14 and 28 of the Public Utility Code has never been directly addressed. Neither NRG's Petition nor the comments adequately address this fundamental issue regarding the legality of SCB under the Public Utility Code.

SCB Order at 60-61. Subsequently, the Commission closed the proceeding to consider SCB and held:

Even after considering the testimony and exhibits presented at the two *en banc* hearings, and the comments and reply comments, the record still lacks sufficient detail for the Commission to definitively conclude that implementation of SCB would be prudent from a public policy perspective or legal under Chapters 14 and 28 of the Code. Outstanding questions, primarily related to consumer protections and the Commission's lack of jurisdiction over EGSs under current law, include, but are not limited to, (1) the legal authority for SCB; (2) the legal authority for EGSs to bill and collect EDC distribution charges; (3) the legal authority for EGSs to order termination of a customer's electric service; (4) how to properly account for EGS value-added-service charges; and (5) the administration of EGS purchase of receivables programs.

As there is neither clear authority for, nor consensus on how to implement SCB, we cannot move forward with proposing implementation of SCB at this time and will close this proceeding.

See En Banc Hearing on Implementation of Supplier Consolidated Billing, Docket No. M-2018-2645254, Secretarial Letter at 2 (Aug. 24, 2018). As such, the Commission has held an *en banc* proceeding thoroughly exploring SCB, as well as a proceeding in which the Commission considered and denied an SCB petition filed by NRG. This issue has been explored in detail over

many years and dismissed by the Commission. There is no need to explore it again, especially within the narrow focus of this proceeding on EV rate design.

Similarly, NRG's attempt to shoehorn a radical change to default service in a proceeding about EV rate design should be summarily rejected. Default service in Pennsylvania has been carefully constructed to provide access to the competitive generation of wholesale electricity for all Pennsylvania customers and is a creature of statute. The Public Utility Code, as amended under Act 129 of 2008, ensures that customers receiving default service be provided with a stable, competitively procured service at a rate that changes *no more frequently than quarterly*. 66 Pa. C.S. 2806(e)(7). Act 129 further provides that customers should have an optional, voluntary TOU option should they choose to participate in such a rate schedule. NRG's position, on its face, is in violation of Pennsylvania law. 66 Pa. C.S. 2806(f)(5).

Additionally, customers are free to choose EGSs as their supplier to the extent that the EGS can provide lower cost service or some other value that customers deem appropriate, such as renewable energy attributes. Customers can also choose variable rate options, TOU options, and fixed contracts of various lengths. This current rate design is consistent with the statutory intent to require Default Service Providers to offer least cost procurement, reliable electric generation service that must be available to any customer upon request and as a "default" when the customer has not selected a competitive supplier or if the customer's competitive supplier ceases to serve them. 66 Pa. C.S. Section 2807. NRG's effort to expand the proposed EV investigation into a referendum on the merits and Time of Use default service is without merit and should not be considered.

II. CONCLUSION

For the reasons detailed above and in the OCA's Comments and February 25th Answer, if the Commission determines that it is an appropriate time to develop statewide principles for

electric charging issues, it should initiate a series of directed questions and then working groups to address the issues surrounding EV rate design prior to the formal issuance of a policy statement. The Commission should not broaden the scope of the proceeding beyond utility rate design to include SCB and TOU as the default service rate. The Office of Consumer Advocate looks forward to participating in this process and will seek to ensure that any and all EV rate design is simple and easy to understand, fair and reasonable, that it balances the interests of consumers, promotes equity and access for underserved communities and includes appropriate consumer protections.

Respectfully submitted,

/s/ Harrison W. Breitman

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Dated: May 11, 2022

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