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January 22, 2024

Rosemary Chiavetta, Esq., Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, Pennsylvania 17120

**Re: Electric Utility Rate Design for Electric Vehicle Charging  
Docket No. M-2023-3040755**

Dear Secretary Chiavetta:

Enclosed for filing please find the comments of the Energy Association of Pennsylvania to the Commission's Proposed Policy Statement Order the above-referenced docket.

Sincerely,

A handwritten signature in blue ink, which appears to read "Donna M.J. Clark". The signature is fluid and cursive, written in a professional style.

Donna M.J. Clark  
Vice President & General Counsel

Enclosure

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Electric Utility Rate Design for  
Electric Vehicle Charging

:

Docket No. M-2023-3040755

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**COMMENTS OF THE  
ENERGY ASSOCIATION OF PENNSYLVANIA TO THE PROPOSED POLICY  
STATEMENT ORDER**

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**I. INTRODUCTION**

A petition filed pursuant to 66 Pa. C.S.A. §§ 510, 1301, 1330, 1501 and 2807(f) and 52 Pa. Code § 5.41 by ChargeVC-PA on February 4, 2022 (“Petition”)<sup>1</sup> laid the groundwork for the current proceeding in which the Pennsylvania Public Utility Commission (“Commission” or “PUC”) seeks public input on a Proposed Policy Statement that identifies “factors to be considered in determining just and reasonable distribution and default service rates” to promote implementation of electric vehicle (“EV”) rate design in Pennsylvania. Proposed Policy Statement Order Re: Electric Utility Rate Design for Electric Vehicle Charging, Docket No. M-2023-3040755 (November 15, 2023) (“Proposed Policy Statement Order”) at p. 1. Comments filed to the Petition resulted first in a Commission December 2022 Order<sup>2</sup> convening an EV-charging rate design working group (“WG”) facilitated by the Bureau of Technical Utility Services (“TUS”) “to discuss EV rate design and to file the recommendations of the working group no later than March

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<sup>1</sup> Petition 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.

<sup>2</sup> Order Re: Petition 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 (December 1, 2022).

31, 2023”. Proposed Policy Statement Order at p. 3. The December 2022 Order further directed TUS, working with the PUC Law Bureau, to prepare an order by June 1, 2023 considering both the Petition and the results of the WG.

The WG met on January 25 and February 16, 2023 and filed a report entitled *Recommendations of the Electric Vehicle Charging Rate Design Working Group (March 29, 2023)*.<sup>3</sup> The report contained three main consensus recommendations and further summarized the informal comments filed by the participants in the WG for consideration if the Commission determined to issue a proposal for stakeholder input. The consensus WG recommendations provided: “(1) That the Commission proceed with drafting a proposed Policy Statement concerning EV-charging rate design; (2) That the proposed Policy Statement consider the topics contained in the informally filed comments, and (3) That Commission staff utilize the informal working group, as necessary, when drafting the proposed Policy Statement for Commission review.” Proposed Policy Statement Order at pp. 3 – 4. *See also, Recommendations of the Electric Vehicle Charging Rate Design Working Group (March 29, 2023)* at pp. 2 – 3. The summarized informal comments or topics do not represent consensus recommendations.<sup>4</sup> While the WG agreed that those topics should be considered by the PUC in proposing a policy statement there was no agreement that each topic should be included or adopted in the actual policy statement.

On May 18, 2023, the Commission issued a second order in the Petition proceeding at Docket No. P-2022-3030743 granting the request of ChargeEVC-PA to begin a proceeding that would result in the issuance of a policy statement on electric utility rate design for EV charging in Pennsylvania, directing the Law Bureau in conjunction with TUS to prepare a proposed policy

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<sup>3</sup> <https://www.puc.pa.gov/pcdocs/1779404.pdf>

<sup>4</sup> The WG report provides that the “summary of submitted informal comments...is not intended to state or imply agreement or consensus among all informal working group participants regarding individual comments.” *Recommendation of the Electric Vehicle Charging Rate Design Working Group (March 29, 2023)* at p. 7.

statement, and closing that docket.<sup>5</sup> As stated in that May 2023 Order and as reiterated in the instant Proposed Policy Statement Order, the Commission recognized the growth of transportation electrification in Pennsylvania and throughout the United States as well as its obligation as the economic regulator of eleven (11) electric distribution companies (“EDCs”) pursuant to the Infrastructure Investment and Jobs Act<sup>6</sup> to consider EDC rate design for EV charging programs. *See*, 16 U.S.C. § 2621(d)(21). In both of those orders, the Commission stated that “to ensure that the Commission maintains a **nimble posture** ahead of this electrification transition, it is imperative that the Commission develop a Policy Statement that advances effective management of energy and infrastructure costs.” *See and compare*, May 2023 Order at p. 7 and Proposed Policy Statement Order at p. 4 (emphasis added).

The Energy Association of Pennsylvania (“EAP” or “Association”) and its EDC members<sup>7</sup> strongly agree with the Commission’s statement and commitment to remain flexible as it considers the impact of transportation electrification on the electric distribution system, its operation, and the costs to accommodate this relatively new, rapidly evolving, and growing demand for electricity. Likewise, EAP and its EDC members support the need for a policy statement as described in the Proposed Policy Statement Order which encourages rate structures for EV charging customers without specific and prescriptive requirements, recognizes the demand that electrification will place on existing infrastructure, and enables EDCs to incentivize customers to use excess off-peak capacity. EAP agrees that avoiding unreasonable cross-subsidization between customers, prioritizing customer education, and relying on cost-of-service principles provides

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<sup>5</sup> Order Re: Petition 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 (May 18, 2023) (“May 2023 Order”).

<sup>6</sup> P.L. 117-58, November 15, 2021, 135 Stat. 429.

<sup>7</sup> EAP is trade association with EDC members including Citizens’ Electric Company; Duquesne Light Company; First Energy Pennsylvania Electric Company; PECO Energy Company; Pike County Light & Power Company; PPL Electric Utilities Corporation; UGI Utilities, Inc. - Electric Division; and Wellsboro Electric Company.

appropriate guidance and flexibility for EDCs to propose EV rate designs that are utility-specific and take into account each EDC's service territory with its particular demographics, grid characteristics, and demand profiles.

EAP submits the specific comments below on behalf of its EDC members to clarify language in Annex A to the Proposed Policy Statement Order, noting that its individual EDC members may choose to file company specific comments to be read in concert with these industry comments.

## **II. COMMENTS**

EAP and its EDC members welcome the Commission's decision to pursue a policy statement which identifies factors that the Commission would consider in an EDC initiated tariff proceeding to determine EV charging rates in that EDC's service territory. Proposed Policy Statement Order at p. 11. Concurrently, the Association and its EDC members appreciate that the guidelines established by a final policy statement "are not meant to be the only issues the Commission will consider in any applicable proceeding" or that the guidelines identified are to be prioritized above other possible solutions or principles. *Id.* at pp. 12 – 13. For example, language in proposed Section 69.3553 references "time-of-use rates" that should be higher during peak demand hours and lower during off-peak hours in the context of discussing EV distribution rates as well as default service generation rates applicable for EVs. EAP reads this as guidance that would not preclude EDCs from proposing other tools to properly incentivize customers such as real-time pricing, demand charges, rebates, automatic control devices or subscription plans which have a fixed monthly charge. *Accord*, Proposed Policy Statement Order at p. 12. EDCs agree with this perspective which enables a flexible approach to the development and implementation of

electric utility rate design for EV charging rates aimed at avoiding a decrease or misalignment of distribution network capacity as the penetration of distribution energy resources and EVs increase.

EAP believes that the language in Annex A of the Proposed Policy Statement Order can be modified to more clearly reflect the principles outlined in the Proposed Policy Statement Order. EAP and its member EDCs seek such clarification and provide the following modifications for consideration and inclusion in any final Electric Utility Rate Design for Electric Vehicle Charging Policy Statement approved by the Commission.

**A. Proposed Modifications to § 69.3551. Purpose and scope.**

EAP and its member EDCs generally agree with the purpose and scope of the proposed policy statement to encourage EDCs to develop EV charging rate structures and other load management tools to incentivize efficient utilization of excess grid capacity during non-peak periods. The use of an EV charging rate structure that leads customers to charge during off-peak hours along with the electric utilities' use of other load management technologies, - e.g., advanced metering<sup>8</sup>, advanced grid monitoring, energy efficiency and demand response, - could maximize the potential to place downward pressure on distribution rates for all customers.

EAP suggests a modification to the second sentence in section 69.3551 to better reflect that purpose: strike the word “capacity” as a modifier of “utilization” and include it in the phrase “excess off-peak capacity” to end that sentence. The new second sentence would read “Electric-vehicle charging will increase demand on existing infrastructure, and it is imperative that electric distribution companies are prepared to address this increased demand with distribution and default service generation rate structures that properly signal to electric-vehicle charging customers to incentivize increased utilization of the distribution system’s excess off-peak capacity.”

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<sup>8</sup> While advanced metering includes smart meter technology, EDCs with 100,000 customers or less are not required to implement or utilize such technology per 66 Pa. C.S. § 2807(f)(6).

### **B. Proposed Modifications to § 69.3552. Electric Vehicle Charging Rate Tariffs.**

In this section, EAP offers a modification to the language to clearly provide that the Commission encourages EDCs to use cost-of-service principles in developing tariffs with distribution and default service generation rates for EV charging customers. As the Commission stated in the Proposed Policy Statement Order, it sought to “encourage EDCs to develop EV-charging distribution rates with cost-of-service principles that incentivize increased network capacity utilization of the distribution system.” Proposed Policy Statement Order at p. 10.

Accordingly, EAP suggests striking the phrase “the actual costs of providing charging infrastructure and services, including” in the second sentence of this section and replacing it with the phrase “cost-of-service principles as well as.” The new second sentence would thus read: “These distribution and default service generation electric-vehicle charging tariffed rates should reflect cost-of-service principles as well as the cost of electricity, maintenance, and administrative expenses in a manner that avoids unreasonable cross-subsidization between customers.” This suggested change would further align with language in section 69.3553 which recommends the use of cost-of-service principles in developing electric-vehicle distribution rates and would avoid future arguments based on slightly different wording in sections 69.3552 and 69.3553.

### **C. Proposed Modifications to § 69.3553. Electric Vehicle Charging Rate Design.**

In section 69.3553, EAP proposes replacing the term “public utilities” with the term “electric distribution companies” in the first sentence as well as striking the word “variable” in that sentence. The recommendation to replace “public utilities” with “electric distribution companies” is to align terminology used throughout the Proposed Policy Statement and to avoid the potential for this sentence to be misconstrued and read to apply to legal entities other than the

“electric distribution company” that is the term used elsewhere in the Proposed Policy Statement. The recommendation to strike “variable” is to avoid the potential for it to be misconstrued as synonymous with “volumetric” and to ensure flexibility for EDCs to explore a variety of approaches to meet the needs of customers who own EVs.

Further, and like the modification proposed by EAP to the second sentence in section 69.3551, EAP suggests altering the third sentence to read: “We recommend that electric distribution companies develop electric-vehicle distribution rates with cost-of-service principles that incentivize increased utilization of the distribution system’s off-peak capacity.”

**D. Proposed Modifications to § 69.3554. Electric Vehicle Charging Rate Equity.**

With respect to section 69.3554 of Annex A attached to the Proposed Policy Statement Order, EAP suggests adding the word “unduly” as a modifier to the word “discriminate” in the second sentence. This is consistent with the long-established ratemaking principle that differences in rates and service are permitted as long as the difference is not “unreasonable” or “unduly discriminatory.”<sup>9</sup> The sentence would then read “As such, the distribution and default service generation electric-vehicle charging rates should not unduly discriminate against certain types of electric vehicles or drivers, and should not create undue financial burdens for low-income customers or disadvantaged communities.”

The recommendation to add the modifier “unduly” addresses two further concerns. First, many EV charging programs in other jurisdictions are, to some extent, dependent on the willingness of EV and/or electric vehicle supply equipment (“EVSE”) manufacturers to enable customer participation in those programs by providing electricity consumption data to the EDC.

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<sup>9</sup> See, 66 Pa. C.S. §§ 1304 and 1502; see also *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1015-1016, 2006 Pa. Commw. LEXIS 438, 12 (Pa. Commw. 2006); *Phila. Suburban Water Co. v. Pa. PUC*, 808 A.2d 1044, 1057-1060, 2002 Pa. Commw. LEXIS 850, 33-41 (Pa. Commw. 2002); *Allegheny Ludlum Corp. v. Pa. PUC*, 612 A.2d 604, 610-611, 1992 Pa. Commw. LEXIS 455, 19-20 (Pa. Commw. 1992).



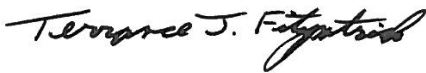
This requirement may cause some manufacturers to opt not to participate or to charge exorbitant fees for data access. Second, any conceivable EV charging rate design will necessarily be more beneficial to some EV drivers than to others, e.g., a rate design incorporating a volumetric discount would offer greater benefits to drivers who charge more frequently at their specific point of electric service, while a rate design that offers fixed pricing or credits for EV charging would provide greater percentage benefits to drivers who charge EVs less frequently at their specific point of electric service. Without the modifier, drivers who receive a lesser relative benefit from any particular rate design may argue that the disparity in benefits causes rate discrimination.

EAP also proposes that the word “proper” which modifies “knowledge” be replaced with the phrase “to provide” so as to clarify that EDCs prioritize customer education “to encourage efficient and effective use of electric-vehicle charging infrastructure and to provide knowledge of available distribution and default service generation rates.”

### III. CONCLUSION

EAP appreciates the opportunity to provide comments to the Commission’s Proposed Policy Statement Order Re: Electric Utility Rate Design for Electric Vehicle Charging. EAP agrees with the Commission that it is timely to set forth general parameters for EDCs which provide a framework and guidance to encourage development of EV-charging rate designs and tariffs that, in turn, incentivize increased customer utilization of the distribution system’s excess off-peak capacity. EAP agrees the policy statement set forth in Annex A generally provides flexibility and non-prescriptive guidance but respectfully suggests the language modifications detailed above to simplify and clarify the language set forth in Annex A to the Proposed Policy Statement Order.

Respectfully submitted,



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