



McNees Wallace & Nurick LLC  
100 Pine Street  
P.O. Box 1166  
Harrisburg, PA 17108-1166

**Ryan Block**  
Telephone: 717.237.5446  
Fax: 717.237.5300  
rblock@mcneeslaw.com

February 21, 2024

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

**VIA ELECTRONIC FILING**

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

Dear Secretary Chiavetta:

Attached for filing with the Pennsylvania Public Utility Commission are the Reply Comments on Behalf of the Pennsylvania Energy Consumer Alliance ("PECA"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, "Large Users Groups"), in the above-referenced proceeding.

Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Ryan Block".

Ryan Block  
MCNEES WALLACE & NURICK LLC

Counsel to the Pennsylvania Energy Consumer Alliance,  
Met-Ed Industrial Users Group, Penelec Industrial  
Customer Alliance, Philadelphia Area Industrial Energy  
Users Group, PP&L Industrial Customer Alliance, and  
West Penn Power Industrial Intervenors

c: Regi Sam, Bureau of Technical Utility Services ([rsam@pa.gov](mailto:rsam@pa.gov))  
Joseph P. Cardinale, Jr., Esq., Law Bureau ([jcardinale@pa.gov](mailto:jcardinale@pa.gov))  
Tiffany L. Tran, Esq., Law Bureau ([tiftran@pa.gov](mailto:tiftran@pa.gov))  
Karen Thorne, Law Bureau ([kathorne@pa.gov](mailto:kathorne@pa.gov))

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Electric Utility Rate Design for Electric Vehicle Charging** : **Docket No. M-2023-3040755**  
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**REPLY COMMENTS ON BEHALF OF PENNSYLVANIA ENERGY CONSUMER ALLIANCE, MET-ED INDUSTRIAL USERS GROUP, PENELEC INDUSTRIAL CUSTOMER ALLIANCE, PHILADELPHIA AREA INDUSTRIAL ENERGY USERS GROUP, PP&L INDUSTRIAL CUSTOMER ALLIANCE, AND WEST PENN POWER INDUSTRIAL INTERVENORS**

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**I. INTRODUCTION**

Pennsylvania Energy Consumer Alliance ("PECA"), Met-Ed Industrial Users Group ("MEIUG"), Penelec Industrial Customer Alliance ("PICA"), Philadelphia Area Industrial Energy Users Group ("PAIEUG"), PP&L Industrial Customer Alliance ("PPLICA"), and West Penn Power Industrial Intervenors ("WPPII") (collectively, the "Large Users Groups")<sup>1</sup> submit these Reply Comments in response to select Comments filed by other parties regarding the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Proposed Policy Statement (hereinafter, "Proposed Policy Statement"), as set forth in the above-captioned proceeding.<sup>2</sup>

On February 4, 2022, ChargEVC-PA filed a Petition requesting that the Commission initiate a proceeding that would result in the issuance of a policy statement concerning electric utility rate design for electric vehicles ("EV"). On December 1, 2022, the Commission entered an Order directing, among other things, the Commission's Bureau of Technical Utility Services to

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<sup>1</sup> The Large Users Groups are associations of large commercial and industrial energy consumers taking service from Electric Distribution Companies ("EDCs") in Pennsylvania, including Metropolitan Edison Company ("Met-Ed"); PECO Energy Company ("PECO"); Pennsylvania Electric Company ("Penelec"); PPL Electric Utilities Corporation ("PPL"); and West Penn Power Company ("West Penn").

<sup>2</sup> See *Utilization of Storage Resources as Electric Distribution Assets*, Proposed Policy Statement; Docket No. M-2020-3022877 (Aug. 24, 2023) (hereinafter, "Order").

convene a working group to discuss EV charging rate design and provide recommendations by March 31, 2023.

On March 30, 2023, the working group filed its recommendations, and on May 18, 2023, the Commission entered an Order agreeing with the working group's recommendations. As a result, on November 15, 2023, the Commission issued the aforementioned Proposed Policy Statement. The Commission's Order directed interested parties to file Comments on the Proposed Policy Statement within 30 days after publication of the Order in the *Pennsylvania Bulletin* and to file Reply Comments within 60 days after publication of the Order in the *Pennsylvania Bulletin*.

Although the Large Users Groups did not submit Comments in this proceeding, the Large Users Group reviewed Comments from the following parties: Advanced Energy United ("AEU"); Alliance for Transportation Electrification ("ATE"); Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"); Charge Ahead Partnership ("CAP"); ChrgEVC-PA; Duquesne Light Company ("Duquesne"); Energy Association of Pennsylvania ("EAP"); Electrification Coalition; Electric Vehicle Service Providers ("EVSPs"); Industrial Energy Consumers of Pennsylvania and Walmart Inc. ("IECPA and Walmart"); Joint Fuel Retailers; Landis+GYR; MCR Performance Solutions ("MCR"); Office of Consumer Advocate ("OCA"); Office of Small Business Advocate ("OSBA"); PPL Electric Utilities Corporation ("PPL"); Representative Danielle Friel Otten; Retail Electric Supply Association and NRG Energy, Inc. ("RESA and NRG"); Sierra Club; and Weave Grid, Inc. ("WeaveGrid").

Per the Commission's Order, the Large Users Groups submit the following Reply Comments in response to certain issues raised in the Comments. Specifically, the Large Users Groups agree with the language in the Proposed Policy Statement that EV rate design should not result in any unreasonable cross-subsidization between customers; however, several parties'

Comments suggest that temporary mitigation of demand charges for EVs or socialization of EV costs would not run afoul of this requirement. The Large Users Groups' Reply Comments address how such actions would result in unreasonable cross-subsidization and must be rejected by the Commission. In addition, the Large Users Groups' Reply Comments support the OCA's and CAUSE-PA's concerns regarding the definition of fairness and equity, while also rejecting several parties' suggestions that any actions by EDCs pursuant to this Policy Statement should be expedited.

## **II. REPLY COMMENTS**

### **A. Temporary Mitigation of Demand Charges.**

Section 69.3552 of the Proposed Policy Statement provides that "rates should reflect the actual costs of providing charging infrastructure and services . . . in a manner that avoids unreasonable cross-subsidization between customers."<sup>3</sup> As part of their Comments, both ATE and Electrification Coalition propose a short-term mitigation of demand charges with the argument that, because such mitigation would be temporary, this mitigation would not produce unreasonable cross-subsidization between customers.<sup>4</sup>

Contrary to ATE and Electrification Coalition's claims, the fact that demand charge mitigation would be temporary does not obviate the fact that this mitigation would result in unreasonable cross-subsidization. Longstanding precedent establishes cost-of-service ratemaking as the "polestar"<sup>5</sup> of the ratemaking process in Pennsylvania. The Commission does not have a history of setting aside this guiding principle simply on the grounds that rates contrary to cost of

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<sup>3</sup> Proposed Policy Statement at § 69.3552.

<sup>4</sup> Comments of the Alliance for Transportation Electrification, p. 3; Comments of the Electrification Coalition, p. 2.

<sup>5</sup> *Lloyd v. Pennsylvania Pub. Util. Comm'n*, 904 A.2d 1010, 1020 (Pa. Commw. Ct. 2006).

service would be temporary. Accordingly, the proposals from ATE and Electrification Coalition should be denied.

### **B. Socializing the Costs of Electric Vehicle Infrastructure**

Along that same vein, MCR Performance Solutions proposes "to socialize incremental infrastructure needs across the whole of the customer population or certain classes of customers across the whole of the service territory."<sup>6</sup> Similar to the issue of mitigating demand charges, socializing the incremental costs of electric vehicle infrastructure is contrary to cost-of-service ratemaking, which, as referenced above, is the principle that serves as the "polestar"<sup>7</sup> of the Commission's ratemaking process. In cost-of-service ratemaking, customer classes are responsible for the costs the utility incurs for the services provided to such customers. To spread the costs of EV infrastructure across all customers irrespective of cost-of-service (*i.e.*, socializing these costs) is contrary to cost-based ratemaking, as certain customers would be required to unreasonably subsidize the EV infrastructure benefitting other customers. Accordingly, MCR's proposal, that socializing EV costs would be feasible under the Proposed Policy Statement, runs contrary to the fundamentals of cost-of-service principles and must be rejected.

### **C. Fairness and Equity**

As part of the Proposed Policy Statement, Section 69.3554 provides "that electric-vehicle charging distribution and default service generation rates be designed to promote fairness and equity."<sup>8</sup> In their Comments, both OCA and CAUSE-PA submit the need for the Commission to gather more information about how to define the fairness and equity objectives as applied to electric vehicle rates. As OCA concisely states: "[m]ore clarity is necessary . . . Regardless of

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<sup>6</sup> Comments of MCR Performance Solutions, p. 10.

<sup>7</sup> *Lloyd v. Pennsylvania Pub. Util. Comm'n*, 904 A.2d 1010, 1020 (Pa. Commw. Ct. 2006).

<sup>8</sup> Proposed Policy Statement at § 69.3554.

the route the Commission encourages, guidelines should be set." <sup>9</sup> CAUSE-PA adds: "we are nevertheless concerned that the statement lacks crucial detail to explain *how* utilities should apply principles of fairness and equity in the design of EV rates to prevent harm. . . and avoid cross-subsidization."<sup>10</sup> With respect to this issue, the Large Users Groups agree with both the OCA and CAUSE-PA , as the Commission must establish a more detailed framework for utility EV rate proposals in order to ensure consistent application of the overarching principles identified in the Commission's Proposed Policy Statement.

#### **D. Procedural Consideration for Electric Vehicle Rates**

As part of its Comments, ChargEVC-PA "urges all Pennsylvania EDCs to promptly file specific EV charging rates. ChargEVC-PA recommends that such tariff offerings be made in separate filings, to avoid delay."<sup>11</sup> Representative Danielle Friel Otten also seeks "stronger language that reflects the urgency and necessity of developing EV rate structures."<sup>12</sup> The Large Users Groups are concerned with these stakeholders' desire to have EDCs expedite designing their EV rates. In this instance, the Proposed Policy Statement provides for several parameters, including ensuring no unreasonable cross subsidization among customers. In order to ensure that these parameters are met, EDCs must be provided adequate time to develop these rates, while interested parties must be provided adequate time to review these rates. In other words, the Large Users Groups strongly advocate for implementation of any EV rates to occur as part of an EDC's distribution rate case or, where necessary, as part of an EDC's default service proceeding. This requirement would afford parties and customers a reasonable opportunity to evaluate the rate proposals and meaningfully respond to the proposed rates. Conversely, the aforementioned

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<sup>9</sup> Comments of OCA, p. 11.

<sup>10</sup> Comments of CAUSE-PA, p. 2.

<sup>11</sup> Comments of ChargEVC-PA, p. 3.

<sup>12</sup>Comments of Representative Danielle Friel Otten, p. 1.

expedition of these proposals would be detrimental to full review and confirmation among the parties and must be rejected accordingly.

### III. CONCLUSION

PECA, MEIUG, PICA, PAIEUG, PPLICA, and WPPII appreciate the opportunity to provide these Reply Comments and respectfully request that the Commission take these Reply Comments into consideration in the development of its final policy statement.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

By 

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Susan E. Bruce (Attorney I.D. #80146)  
Charis Mincavage (Attorney I.D. #82039)  
Adeolu A. Bakare (Attorney I.D. #208541)  
Harrison Ryan Block (Attorney I.D. #334653)  
McNees Wallace & Nurick LLC  
100 Pine Street  
Harrisburg, PA 17108-1166  
Phone: 717.232.8000  
Fax: 717.237.5300  
[sbruce@mcneeslaw.com](mailto:sbruce@mcneeslaw.com)  
[cmincavage@mcneeslaw.com](mailto:cmincavage@mcneeslaw.com)  
[abakare@mcneeslaw.com](mailto:abakare@mcneeslaw.com)  
[rblock@mcneeslaw.com](mailto:rblock@mcneeslaw.com)

*Counsel to Pennsylvania Energy Consumer Alliance, Met-Ed Industrial Users Group, Penelec Industrial Customer Alliance, Philadelphia Area Industrial Energy Users Group, PP&L Industrial Customer Alliance, and West Penn Power Industrial Intervenors*

Dated: February 21, 2024