

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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February 24, 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 Answer to ChargeVC-PA Petition to Initiate a Proceeding to Issue an Electric Vehicle Charging Policy Statement to in the above-referenced proceeding. The OCA has attached the verification of Patrick M. Cicero, Acting Consumer Advocate, pursuant to the requirements of 52 Pa. Code § 1.36.

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

Respectfully submitted,

/s/ Harrison W. Breitman
Harrison W. Breitman
Assistant Consumer Advocate
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Enclosures:

cc: The Honorable Charles E. Rainey, Jr. (**email only**)
Rick Hicks, Law Bureau (**email only**: rehicks@pa.gov)
Office of Special Assistants (**email only**: ra-OSA@pa.gov)
Certificate of Service

*324638

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 Answer to ChargEVC-PA Petition to Initiate A Proceeding to Issue an Electric Vehicle Charging Policy Statement, 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 24th day of February 2022.

SERVICE BY E-MAIL ONLY

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Dated: February 24, 2022
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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

ANSWER 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. The Office of Consumer Advocate (OCA) files this 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.

While we set out an initial response to Petitioners’ requests here, we do not fully respond to all the issues with the expectation that if a proceeding is developed there will be an opportunity to provide formal comment and input. 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 that also 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 Petitioners requested that the Commission issue the following proposed draft policy statement on electric utility rate design for EV charging. The proposed Policy Statement is limited to broad principles, with an emphasis on advancing electrification of the transportation sector in Pennsylvania, as follows:

POLICY STATEMENT ON ELECTRIC UTILITY RATE DESIGN FOR ELECTRIC VEHICLE CHARGING

§ 69. Electric Utility Rate Design for Electric Vehicle Charging

1. Electric vehicle deployment can bring a variety of benefits to Pennsylvania.
2. Electric Utilities in Pennsylvania should take steps to foster electric vehicle deployment.
3. In particular, it is the policy of the Commission that all jurisdictional electric distribution companies should propose specific tariff language addressing rate design for electric vehicle charging for its residential, commercial and industrial customers, and customers who operate public charging stations.
4. Those tariff proposals should strive to:
 - (a) Lower electricity rates for all utility customers through efficient utilization of existing grid assets
 - (b) Avoid unnecessary grid upgrades by encouraging customers to shift charging to off-peak hours
 - (c) Encourage customer adoption of EVs by reducing charging costs and maximizing fuel-cost savings
 - (d) Help create a viable business case for public charging infrastructure
 - (e) Rely on industry best practices for customer communications, data analysis, and reporting

Petition at 15. Of particular note, the proposed Policy Statement does not address cross-subsidization of electric charging infrastructure development. The Petition also recommends that the Commission require responses from interested parties to more than 20 questions, some with subparts/sub-questions. Petition at 15-16. The Petition further requests that the proceeding be limited to considerations of electric utility rate design for EV charging. Petition at 16.

Regarding process, the Petitioners note that, while they find value in holding *En Banc* hearings and additional workshops, there may be other means of addressing the issues in a collaborative manner, such as the following:

- A. Issuance of an Order by the Commission (a) initiating this proposed proceeding to consider issuance of a Policy Statement, (b) proposing a Policy Statement, and (c) inviting comments to be filed by interested parties within 90 days after publication in the Pennsylvania Bulletin
- B. Filing of written reply comments within 60 days after initial comments are due
- C. An en banc public hearing before the full Commission within 30 days after reply comments are due; Commission Staff to organize speaker panels
- D. Up to three informal workshops, led by Commission Staff, among interested parties within 60 days after the en banc public hearing, designed to further share information and ideas and to reach as much consensus as possible on Policy Statement language
- E. Issuance by the Commission of a final Policy Statement and publication in the Pennsylvania Bulletin no later than December 2022.

Petition at 17.

II. OCA ANSWER

The Petition raises significant policy issues that would, in large part, inform the role that Electric Distribution Companies (EDCs) and others play in the future electrification of Pennsylvania's transportation sector. The implications of such a policy proposal could have far-reaching consequences. Key among the OCA's concerns are principles of equity, cost, including the potential for cross-subsidization, rate simplicity, and access to infrastructure investments for all Pennsylvanians. The OCA supports the initiation of a proceeding and stakeholder process to begin answering questions about the appropriate rate design for EVs. While many of the questions posed by Petitioners begin to address the issues that should be considered, the OCA notes that this list of questions and issues presented by Petitioners are incomplete and that some of the policy and principles espoused may be in tension and/or may be more appropriate for other forums.

To be sure, there are clear issues that the OCA agrees with Petitioners, including that EV rates should be designed to lower electricity rates for all customers and should not contribute to

unnecessary grid upgrades. Petition at 13. How this occurs and the mechanics of getting to this point are complex. The OCA agrees that the Commission should create a forum to consider these issues thoughtfully, on a statewide level, and without the inherent pressures of a litigated rate proceeding.

The OCA offers the following in response to some of the issues outlined in Petitioners' request. At the outset, the OCA agrees with Petitioners that this proceeding – if there is one – should be limited to EV rate design and rate issues. There are a myriad number of issues that can and need to be addressed with regard to vehicle electrification, the costs of infrastructure investments for dedicated charging stations, ownership of those charging stations, placement, etc. All of those issues are critically important, but the focus of this proceeding should be rate design and rate structure for both public and private EV charging.¹ As recognized by Petitioners, the instant proceeding should remain narrowly focused on rate design. Petition at 16.

Regarding the various rate designs proposed by Petitioners, the OCA agrees that significant thought and attention must be paid to the rate design and rate structure, as well as incentives and price signals. While not espousing specific preferences at this point, the OCA strongly favors rate designs that are easy for customers to understand and utilize. The OCA agrees with Petitioners that EV rate designs should be cost-based and not result in either inter- or intra-class subsidization. Careful thought must be given to whether the application of generic Time of Use requirements throughout all the various service territories in Pennsylvania is appropriate.

¹ The OCA notes that the Infrastructure and Jobs Act of 2021 includes \$7.5 billion for a nationwide EV charging network along highway corridors. Petition at 7 n.47 *citing* The Infrastructure Investment and Jobs Act will Deliver for Pennsylvania. August 2021. The White House fact sheet. Additionally, the Infrastructure and Jobs Act amends the Public Utility Regulatory Policies Act of 1978 (PURPA) to require states to consider measures to promote electrification of the transportation sector. Petition at 7, n. 48 *citing* Infrastructure Investment and Jobs Act of 2021. Public Law 117-58 November 15, 2021. Section 40431(a)(21)(A-D).

As currently written, the OCA does not support the specific Policy Statement and Questions proposed by the Petitioners. The OCA submits that a full investigation would be necessary before making a proposal about the content of the policy statement. While the elements proposed by Petitioners may well be part of an effective policy statement, the content is premature. That said, the OCA supports a broad policy statement that would allow for implementation and refinement within EDC service territories.

In support of a statewide approach, the OCA submits that while issues related to EV charging have previously been discussed in several rate proceedings at the pilot level, there may be a benefit in examining EV charging issues on a statewide level. The OCA notes that it previously supported the Commission's effort to establish a final policy statement regarding third party electric vehicle charging and its relation to resale/redistribution of utility service tariff provisions.² As discussed in the OCA's Comments in that matter, it was the OCA's view that public third-party EV charging stations do not constitute the resale of electricity under Section 1313 of the Public Utility Code.³

In the Section 1313 rulemaking proceeding, the OCA supported a policy statement regarding EV charging and argued that, as a policy statement does not constitute a binding precedent, the Commission would also have the ability to revisit any determinations regarding EV charging should the nature of the EV charging businesses change. The OCA has also previously proposed that one measure which could be considered is a requirement for the clear and conspicuous posting of EV charging prices by operators of third-party public EV charging stations similar to the manner in which gasoline fuel prices are clearly posted at gas stations in the

² See Policy Statement on Third Party Electric Vehicle Charging – Resale/Redistribution of Utility Service Tariff Provisions, Final Policy Statement Order, Docket No. M-2017-2604382 (Nov. 8, 2018).

³ See Policy Statement on Third Party Electric Vehicle Charging – Resale/Redistribution of Utility Service Tariff Provisions, OCA Comments at 17, Docket No. M-2017-2604382 (Aug 22, 2017).

Commonwealth.⁴ These issues should be addressed and considered in this proceeding. Since EV charging stations will also be providing a form of transportation fuel to vehicles, it would be reasonable for EV charging stations to also be required to post their pricing in a manner that is understandable to the general public.

The OCA submits that the Petition raises many significant issues that must be thoroughly examined by the Commission and all interested stakeholders. Petitioners propose that the Commission proceed by issuing a policy statement and then inviting comments, reply comments, an *en banc* hearing, and then informal workshops. Petition at 17. The OCA believes that the Commission and all stakeholders would benefit significantly from a series of directed questions and then working groups and/or workshops that could be formed to address issues related to EV rate design *prior to* the Commission issuing a proposed policy statement. This would allow for a robust exchange of ideas without the need to specifically address a proposed policy straw proposal. This process would also allow the Commission to work with other agencies, such as the Pennsylvania Department of Transportation, and the General Assembly to ensure that there is no regulatory or oversight gap, disparity, or inconsistency in the development of EV rates and rate design as those issues intersect with EV infrastructure buildout.

After these initial steps, the Commission could then assess whether it believes a policy statement is needed or whether the issues of rate design should be worked out through utility-specific proceedings and/or pilots.

⁴ “Each retailer of automotive fuel in this Commonwealth shall label in a clear and conspicuous manner each automotive fuel dispenser which is used to sell or offer or expose for sale automotive fuel, with the automotive fuel rating of the fuel, which shall be consistent with the automotive fuel rating certified to the retailer by the refiner, distributor or oxygenate blender, as the case may be.” *See*, 3 Pa. Code § 4187.5(b)(1).

III. CONCLUSION

For the reasons detailed above, 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 prior to the formal issuance of a policy statement. 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,

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Dated: February 24, 2022
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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 :
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VERIFICATION

I, Patrick M. Cicero, Acting Consumer Advocate, hereby state that the facts above set forth above are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

DATED: February 24, 2022
*324643

Signature:



Patrick M. Cicero
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