COMMONWEALTH OF PENNSYLVANIA

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January 22, 2024

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

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

Dear Secretary Chiavetta:

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

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

Respectfully submitted,

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Certificate of Service
*4865-9768-8223

CERTIFICATE OF SERVICE

Electric Utility Rate Design For Electric Vehicle Charging	:	Docket No. M-2023-3040755

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate's 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 22nd day of January 2024.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

COMMENTS OF THE OFFICE OF CONSUMER ADVOCATE

I. INTRODUCTION AND BACKGROUND

On February 4, 2022 ChargEVC-PA 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 was 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. *Electric Utility Rate Design for Electric Vehicle Charging,* Docket M-2023-3040755 (Order issued November 15, 2023), 53 Pa.B. 7935 at 1. (*Policy Statement Order*). Multiple parties including the Office of Consumer Advocate (OCA) filed comments regarding ChargEVC-PA's Petition. *Id.* at 2. On December 1, 2022 the Commission entered an order directing the Bureau of Technical Utility Services (TUS) to convene a working group of interested parties to discuss EV-charging rate design and to file a recommendation no later than March 31, 2023. *Id.* at 3.

On March 30, 2023, the working group filed its recommendations, recommending that:

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.

3. That Commission staff utilize the informal working group, as necessary, when drafting the proposed Policy Statement for Commission review.

Policy Statement Order at 3-4.

On May 18, 2023, the Commission entered an order at Docket No. P-2022-3030743, that agreed with the working group's recommendation, and approved the petition to initiate a proceeding and, on November 15, 2023, the Commission issued an Order issuing the policy statement at this docket on electric utility rate design for EV charging in Pennsylvania. *Id.* at 14. The Commission's Order was published in the Pa. Bulletin on December 23, 2023 and provides that comments are due within 30 days of publication. *Electric Utility Rate Design for Electric Vehicle Charging,* Docket M-2023-3040755 (Order issued November 15, 2023), 53 Pa.B. 7935. (*Policy Statement Order*).

The OCA appreciates the opportunity to provide comments on the proposed policy statement and agrees with the Commission that the utility landscape is evolving rapidly and that "the increasing penetration of distributed energy resources and EVs presented both a challenge and an opportunity for regulators and utilities." *Policy Statement Order* at 4 The OCA is encouraged about the opportunity to develop appropriate policy surrounding just and equitable rate design for EV charging in the Commonwealth. While the proposed policy statement includes language that the OCA supports, there remain areas that are unclear, and pose potentially unintended consequences that should be clarified in any final policy statement to ensure that EV charging rates are equitable and tied to cost causation.

II. COMMENTS

As an initial matter, the OCA notes that the Commission's proposed policy statement seeks to encourage Electric Distribution Companies (EDCs) to develop both distribution rates and, in their roles as Default Service Providers (DSPs), to develop default service rates that reflect the cost of generation services during times of system stress. This is a tall task for EDCs to accomplished given the restructured nature of Pennsylvania's energy markets and it will be incumbent upon the Commission and the EDCs to ensure that the development of these rates is appropriately coordinated so that they do not conflict with each other. Distribution rates are and must be developed in a distribution base rate case whereas default service rates and offerings must be developed in an EDC's default service plan filing. These two case types happen at different times with base rate cases typically occurring at frequencies determined by each EDC and default service plans filed on a schedule. Some EDCs will be filing default service plans in 2024, and some will not be filing again until 2025.[1]

The Commission's policy statement should be amended to require EDCs to coordinate the implementation of any EV charging distribution rate with the implementation of its EV charging default service generation rate so that the two sides of the equation can balance. From the OCA's perspective, this is incredibly important for consumer education and understanding. Customers – despite our collective best efforts – do not generally understand the difference between distribution and generation rates and it may pose unnecessary educational barriers to adoption of these rates if they are rolled out at different times with different marketing and education from the EDC. Coordination is paramount and the policy statement should require the EDCs to coordinate the roll out and implementation of both sides of the equation.

[1] PECO, PPL, Duquesne, and UGI-Electric all will be filing in 2024. First Energy Pennsylvania will be filing in 2025.

A. §69.3551 Purpose and Scope

Section 69.3551 states as follows:

> **§ 69.3551. Purpose and scope.**
> Due to Federal and State policy initiatives to promote the proliferation of electric vehicles, as defined in the Vehicle Code, 75 Pa.C.S. §§ 101-9802, the Commission is encouraging development of rate structures for electric-vehicle charging customers. 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 capacity utilization of the distribution system. The Commission's policy on electric-vehicle charging also encompasses fairness and equity principles that electric distribution companies are to consider in developing electric-vehicle charging rates.

The OCA agrees that rates should be developed with cost-of-service principles, as the use of these principles is meant to help avoid any unreasonable cross-subsidization. However, the OCA is concerned that specifying that EDCs develop "distribution and default service generation rate structures" could be viewed as an endorsement of a move away from fixed rate default service prices. The default service component of an EDC's rates is not procured as a Time of Use (TOU) product from the wholesale market. If an EDC were to obtain a default service rate as a TOU product from the wholesale market, it could lead to a mismatch in price between the time when the TOU product was procured and the time that the ratepayer is charged. Furthermore, as outlined above, encouraging EDCs to develop both distribution and default service generation rate structures inevitably leads to the question of whether these rates would be determined through a base rate case for the distribution rates, a default service proceeding for the default service rates, or both. As such, without clarification, the proposed policy statement could potentially be interpreted as the Commission encouraging EDCs to buy TOU in the wholesale market with potentially adverse implications for default service.

The OCA agrees with the use of the word "incentivize" in the proposed policy statement as it relates to increased network capacity utilization of the distribution system, and believes that, as outlined below, incentivization that rewards ratepayers should play a larger role throughout the proposed policy statement. Order at Annex A. The OCA commends the Commission on its statement that fairness and equity principles should be addressed but would encourage stronger language to ensure that these principles are adequately considered.

B. §69.3552 Electric Vehicle Charging Rate Tariffs

Section 69.3552 states as follows:

> **§ 69.3552. Electric Vehicle Charging Rate Tariffs.**
> The Commission encourages all electric distribution companies to develop tariffs with distribution and default service generation rates for the purpose of implementing rates specifically for electric-vehicle charging customers. These distribution and default service generation electric-vehicle charging tariffed rates should reflect the actual costs of providing charging infrastructure and services, including the cost of electricity, maintenance, and administrative expenses in a manner that avoids unreasonable cross-subsidization between customers.

As outlined throughout these comments, encouraging EDCs to develop tariffs with both distribution and default service generation rates for EV charging is a significant new mandate and that could have unintended consequences for both the wholesale and the retail market. For example, with EDCs developing both generation and distribution tariffs, the proposed policy statement does not clarify whether these rates should be reviewed in distribution base rate cases, Default Service cases, or both. The OCA believes that clarity in this area would improve the policy statement.

The OCA agrees that rates for EV charging should reflect the actual costs of EV charging, including the costs of electricity, maintenance, and administrative expenses in a manner that avoids unreasonable cross-subsidization between customers. In order to prevent and mitigate any negative impacts of EV charging rates to either low-income consumers or consumers in general, the OCA recommends the Commission consider requiring a measurement and evaluation plan for EDC EV charging pilots that requires statistically valid data on usage, demographics of customer participation peak load impacts, bill impacts, costs to administer, and additional factors that the Commission deems reasonable. These measurement and evaluation plans can help ensure that the Commission's policy goals in Section 69.3554, discussed below, are effective and would promote the use of successful EV charging programs. Therefore, to avoid unreasonable cross-subsidization, the policy statement should also include language to ensure that any EV charging tariff should be tested as a well-designed pilot and be analyzed and reviewed on a regular basis to ensure that it is functioning as intended and is revenue neutral to ratepayers who do not utilize EV charging. In other words, true pilots that have clearly defined goals that are measured and assessed will be critical to ensuring both that the rates are comprehensive and targeted and that they fully cover all costs.

C. §69.3553 Electric Vehicle Charging Rate Design

Section 69. 3553 states as follows:

> **§ 69.3553. Electric Vehicle Charging Rate Design.**
> To promote efficient use of electric-vehicle charging infrastructure and to manage electric grid demand, public utilities should consider variable rates for electric-vehicle customers based on the time of day and the level of demand on the electric grid. This means that electric-vehicle charging rates should be higher during peak demand hours and lower during off-peak hours. We recommend that electric distribution companies develop electric-vehicle distribution rates with cost-of-service principles that incentivize increased network capacity utilization of the distribution system. Electric distribution companies should also take into consideration rates for direct current fast chargers, including demand charges, to manage electric grid stress during peak hours. We also recommend that electric distribution companies develop electric-vehicle charging default service generation rates that, at a minimum, properly reflect the cost of generation services during times of system stress. These default service generation rates may include use of time-of-use rates that use on and off-peak periods which appropriately incentivize

> the movement of charging consumption to off-peak periods or periods of less system stress.
>
> The Commission recommends that electric-vehicle charging distribution and default service generation rates should be flexible and adaptable to changing circumstances and technologies. As such, electric-vehicle charging distribution and default service generation rates should be periodically reviewed and adjusted, as necessary, to ensure that they remain fair, cost-effective, and efficient.

The OCA agrees that EV charging rates should be periodically reviewed and adjusted to ensure that they remain fair, cost-effective, and efficient. The continued review and adjustment of these rates is crucial given the changing landscape of the grid and demand for EV charging. Continual analysis and review will allow the programs to evolve over time and utilize the most appropriate methods to maximize efficiency for both EDCs and consumers. The OCA encourages the Commission to include specific requirements of the proposed review in order to increase the clarity and effectiveness of these reviews.

Importantly, the OCA is also concerned that the proposed policy statement does not include a requirement for well-designed pilots to test various rate design options, including incentives. The use of well-designed pilots is crucial to determining the appropriate rate design. The Commission's guidance in this section fails to require that the EDC (1) determine the penetration of EVs in their service territory; (2) monitor and gather EV sales and usage trends such as type of charging systems in use, usage and demographic profiles for those customers, analysis of alternative EV charging rate designs based on literature, ongoing pilots in other jurisdictions, and the development of one or more pilot programs that will be evaluated for cost effectiveness and impact on charging behavior. As currently drafted, the proposed policy statement does not ensure that EDC EV charging rate proposals will be cost effective or even effective at addressing the intended outcomes. It is important for the Commission to specifically set out a requirement that mandates evaluation and analysis of actual costs and impacts. The most successful way to design novel rates is through iteration, analysis, and refinement. The use of pilot programs will allow for more effective review and will allow parties to review the programs more closely for potential improvement. The proposed policy statement also does not identify the potentially significant difference in approaches for private residential charging (e.g. plugging-in at home), publicly accessible charging systems, workplace charging, and fleet charging. Additionally, the proposed policy statement does not discuss whether optional opt-in EV charging rates should be available for residential consumers. Clarification on each of these would be useful.

The OCA further notes that there is no explicit mention in the proposed policy statement of super off-peak rates for TOU rates, or any other rate option beyond TOU. While TOU rates are available to Pennsylvania consumers, they are often poorly subscribed and have rarely been evaluated as pilots. While the proposed policy statement relies on TOU rates, focusing solely on TOU runs counter to many ongoing pilots and programs that are focused on end-use technology-based rates and incentive programs that show significant promise and avoid the complications associated with TOU rates. These programs further illustrate the importance of pilots when developing an EV rate design that works for both the utility and the consumer. Incentivized rates help avoid the punitive nature of TOU rates in promoting customer acceptance. A key benefit of end-use rate incentive programs is that it avoids actively purchasing generation supply rates targeted to EV owners and users, but, if successful, will result in shaping the load shape curves that are used to purchase default service contracts, which benefits all customers.

The OCA is aware of several EDCs in other states that currently have ongoing pilot programs that utilize incentivized rates and encourages EDCs and the Commission to consider.

Additionally, any EV-charging rates or pilots should be offered on an optional opt-in basis, rather than forced on residential ratepayers. For example:

In New York, Consolidated Edison offers a SmartCharge program, in which ratepayers can earn the following by charging their EV in Consolidated Edison's service territory:

- $25 3-Month Bonus: Earned per vehicle or charging station after 3 months of charging (does not need to be consecutive)
- 10 cents per kWh Off-Peak Charging Incentive: Earned for charging at off-peak times
- $35 per month Avoided Summer Peak Incentive: Earned per vehicle or charging station for avoiding charging weekdays 2 p.m. to 6 p.m. EST, June 1 through September 30
- $35 Avoided Summer Peak Bonus Incentive: Earned per vehicle or charging station for avoiding all charging weekdays 2 p.m. to 6 p.m. EST, June 1 through September 30.[2]

El Paso Electric in New Mexico provides incentivized credits, which are made available to residential and commercial customers that have a qualifying plug-in electric vehicle that is registered with the New Mexico Motor Vehicle Division using the same address as listed on the El Paso Electric's residential or commercial account.[3] El Paso Electric's EV Rate Riders provide an incentive, in the form of a credit, to energy usage during the super off peak hours.[4] The Rate Riders provide EV customers and businesses the opportunity for an incentive without the added cost for installation of a second meter which is required to take service under the Company's EV

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[2] Consolidated Edison, Electric Vehicle Charging Incentives, https://www.coned.com/en/save-money/rebates-incentives-tax-credits/rebates-incentives-tax-credits-for-residential-customers/electric-vehicle-rewards (previously accessed on Jan. 16, 2024).

[3] El Paso Electric, New Mexico Rate Tariffs, https://www.epelectric.com/customers/rates-and-regulations/residential-rates-and-information/new-mexico-rate-tariffs-rules-and-regulations/new-mexico-rate-tariffs (previously accessed on Jan. 16, 2024).

[4] *Id.*

rate.[5] No additional monthly charges are tied to this rate rider.[6] The credit is applied to all power consumed during the super off-peak hours.[7]

As shown in these two examples, there is a growing sense that incentive-based programs are both popular and effective. The OCA would encourage that the Commission to include language relating to other tools beyond TOU rates in the proposed policy statement such as incentivization programs to encourage the use of EV-charging during times of low-demand, rather than punishing EV-charging during times of high-demand. The OCA appreciates the Commission's mention of incentivization programs in the Proposed Policy Statement Order, but would encourage the Commission to put a greater emphasis on these programs and specifically include them within the Policy Statement as an option the Commission encourages. *Policy Statement Order* at 11. Rate options beyond TOU should be explicitly mentioned and considered.

D. §69.3554 Electric Vehicle Charging Rate Equity

Section 69.3554 states as follows:

> **§ 69.3554. Electric Vehicle Charging Rate Equity.**
> The Commission recommends that electric-vehicle charging distribution and default service generation rates be designed to promote fairness and equity. As such, the distribution and default service generation electric-vehicle charging rates should not discriminate against certain types of electric vehicles or drivers, and should not create undue financial burdens for low-income customers or disadvantaged communities. The Commission recommends that electric distribution companies consider impacts on low-income customers due to the design of their distribution and default service generation electric-vehicle charging rates. Electric distribution companies may need to consider customer-specific and electric distribution company region-specific rates to best serve the needs of their communities. It is important that electric distribution companies prioritize customer education to encourage efficient and effective use of electric-vehicle charging infrastructure and proper knowledge of available distribution and default service generation rates.

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[5] *Id.*
[6] *Id.*
[7] *Id.*

The OCA commends the Commission for its express statement to promote fairness and equity. The express statement that rates should not discriminate or create undue financial burdens for low-income customers and disadvantaged communities is language that is crucial to the policy statement. However, the OCA believes that more clarity is necessary. For example, it is unclear in the policy statement whether low-income EV charging rates should be established, or if the effect of these rates should just be considered. It is also unclear how these rates would be paid or how utilities should effectively avoid unreasonable cross subsidization. Regardless of the route the Commission encourages, guidelines should be set. If the Commission desires for EDCs to consider the effect on low-income consumers rather than creating rates based on income levels or other socio-economic factors the commission should provide guidance such as what measures must be taken to measure the effect on these consumers. The policy statement currently recommends that impacts on low-income consumers be considered but fails to provide any recommendation of how EDCs should assess these impacts, weigh them, and mitigate any unintended consequences. This consideration and mitigation is especially important given that the policy statement currently has no requirement for well-designed pilots to test rate options such as incentives.

The proposed policy statement is also vague as to how low-income rates should be developed to avoid cross-subsidization. The proposed policy statement could be interpreted as either suggesting ratepayer subsidies for low-income EV owners and/or EV charging subsidiaries for low-income communities. Additionally, merely suggesting time of use rates for EV charging does not address the shortcomings of TOU rates for low-income communities. As such, the OCA submits that incentive-based rates that rewards ratepayers instead of punishing them with more costly and punitive TOU rate options is like a better approach for many residential customers, including low income customers.

III. CONCLUSION

The OCA commends the Commission on the steps it has taken and appreciates the opportunity to offer input in this policy statement. While the proposed policy statement moves in the right direction, as outlined above, the OCA believes that more clarity must be added to ensure that the Proposed policy statement, and EV-Charging rate design, function as intended. The OCA respectfully requests that the Commission considers the potential unintended consequences of this proposed regulation and provide further clarity regarding the implementation of this policy. A more thorough evaluation of the potential impacts of this policy is necessary to ensure that it serves the best interests of both consumers and the interested parties.

Respectfully submitted,

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