



May 11, 2022

VIA E-File

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

Re: Petition to Initiate a Proceeding to Consider Issuance of a Policy Statement on Electric Utility Rate Design for Electric Vehicle Charging, Docket P-2022-3030743

Reply Comments of CAUSE-PA

Dear Secretary Chiavetta:

Please find the attached **Reply Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA)** in the above noted proceeding.

Respectfully Submitted,

Elizabeth R. Marx, Esq.
Counsel for CAUSE-PA

CC: Certificate of Service

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**REPLY COMMENTS
OF THE COALITION FOR AFFORDABLE UTILITY SERVICES
AND ENERGY EFFICIENCY IN PENNSYLVANIA**

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The Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”), through its counsel at the Pennsylvania Utility Law Project, files the following brief Reply Comments pursuant to the Pennsylvania Public Utility Commission’s (Commission) Secretarial Letter issued on February 25, 2022, and in response to the Initial Comments of other interested parties at the above captioned docket.

I. BACKGROUND

On February 4, 2022, ChargEVC-PA filed a Petition requesting that the Commission initiate a statewide proceeding that will result in issuance of a Policy Statement on electric utility rate design for electric vehicle (EV) charging in Pennsylvania (ChargEVC-PA Petition).

On February 24, 2022, CAUSE-PA filed a Petition to Intervene and Answer to the ChargEVC-PA Petition. Several other parties filed comments and letters in response to the ChargEVC-PA Petition on the same day. In its Answer, CAUSE-PA offered general support for a statewide proceeding to examine EV rate design for EV adopters but raised concerns about the proposed scope of such a proceeding. Specifically, CAUSE-PA noted that EV rate design must be rooted in equity and must explicitly consider the impact of EV-specific rates on economically vulnerable consumers. (CAUSE-PA Answer at 5, para. 14). In turn, CAUSE-PA argued that this proceeding should be narrowly focused on developing rates for EV adopters – and should not undertake a broader inquiry into the structure of default service rates for all residential consumers. (Id. at 6-8, para. 17(a)-(c)).

CAUSE-PA explained in its Answer that time-varying use rates raise serious equity, access, health, and safety concerns. (Id.) While time-varying use rates can promote conservation for those with the ability to shift electric usage to off-peak times, such rates can also cause

deprivation for those without discretionary usage. (Id.) As such, CAUSE-PA urged the Commission to not entertain proposals in this proceeding that would institute mandatory or default time-varying use rates on all residential consumers. (Id.) Rather, CAUSE-PA strongly encouraged the Commission to remain focused in this proceeding on rates for EV adopters – rather than opening the door to fundamental changes in the delivery of default service to all residential consumers. (Id. at 8).

On February 25, 2022, the Commission issued a Secretarial Letter soliciting Comments and Reply Comments, and specifically requested that interested parties address whether the Commission should initiate a statewide proceeding and, in turn, the proposed parameters for such a proceeding. On April 11, 2022, a number of parties filed Initial Comments in response to the Commission’s Secretarial Letter.

CAUSE-PA files the following brief Reply Comments in response to the Initial Comments of other parties. CAUSE-PA notes that the positions expressed in its formal Petition to Intervene and Answer have not changed, and we remain steadfast in our insistence that equity remain a central component of EV rate design – and in our opposition to exploring broader rate design changes for non-EV adopters in the context of this proceeding.

II. REPLY COMMENTS

CAUSE-PA offers a brief response to the procedural recommendations of several parties, and to the substantive recommendation of NRG Energy, Inc., Interstate Gas Supply, Inc., and Vistra Corp. (collectively, NRG/IGS/Vistra).

A. Response to Procedural Recommendations of Other Parties

CAUSE-PA supports the recommendations of several parties – including the Office of Consumer Advocate, PPL Electric, PECO Energy, and Duquesne Light – to reverse the procedural order recommended in the ChargeVC-PA Petition, such that informal collaborative discussions are held before the Commission releases a proposed Policy Statement for formal comment. As the other parties note, this procedural change will allow for the Commission to gather critical feedback from a range of stakeholders before crafting a recommended path forward and, in turn, will help ensure the Commission’s proposed policy is authentically rooted in and reflective of a multitude of perspectives to better serve the public interest. As indicated in CAUSE-PA’s formal Answer, CAUSE-PA intends to fully participate in this process and looks forward to working with interested stakeholders and the Commission to develop a path forward that will help all consumers to benefit from the EV transition – without imposing additional costs on economically vulnerable consumers who already struggle profoundly to afford basic service to their home.

B. Response to Substantive Recommendations of NRG/IGS/Vistra

CAUSE-PA is strongly opposed to the recommendations of NRG/IGS/Vistra to expand the scope of this proceeding to include consideration of Supplier Consolidated Billing (SCB) and to mandate Time of Use (TOU) rates for all default service customers. (NRG/IGS/Vistra Comments at 11-16).

First, with regard to SCB, CAUSE-PA notes that NRG/IGS/Vistra have pushed for the approval of SCB through multiple utility-specific dockets and in the context of a statewide Commission investigation (originally initiated as a result of an NRG Petition) that culminated with

multiple days of *en banc* testimony before the full Commission.¹ Each time this issue is raised, the Commission has rightly concluded that SCB is fraught with legal and policy concerns that make the billing mechanism unworkable in Pennsylvania. On June 21, 2021, in announcing that it would close the statewide docket investigating SCB, the Commission concluded:

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.²

CAUSE-PA was an active participant in the statewide SCB inquiry and submitted multiple rounds of written comments as well as oral testimony at the Commission's *en banc* hearing in the matter. As CAUSE-PA has explained in multiple dockets, and through hundreds of pages of comments and testimony, SCB is not only unlawful, it is also dangerous for uniquely vulnerable residential consumers (including low income households, medically vulnerable consumers, and victims of domestic violence), as it would circumvent the statutory billing, collections, and termination rights of Pennsylvanians and would undermine the effectiveness of universal service

¹ 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 Supplier Consolidated Billing, *Joint Motion of Chairman Gladys M. Brown and Commissioner Norman J. Kennard*, Docket No. P-2016-2579249 (Jan. 18, 2018); Investigation of Pennsylvania's Retail Electricity Market: Joint Electric Distribution Company-Electric Generation Supplier Bill, *Final Order*, Docket M-2014-2401345 (order entered May 23, 2014); Investigation of Pennsylvania's Retail Electricity Market: End State of Default Service, *Final Order*, Docket Mo. I-2011-2237952, at 68 (Feb. 14, 2013).

² Secretarial Letter, *Closing Docket No. M-2018-2645254, re: Supplier Consolidated Billing, without Further Action* (letter issued June 21, 2021).

programming.³ The resulting risk of harm would be greatest for Pennsylvania's low income and medically vulnerable households. For the sake of brevity, CAUSE-PA will not reiterate its lengthy arguments against SCB here, but incorporates those comments and testimony by reference herein.⁴

Including SCB in the context of this proceeding will greatly expand the scope of this proceeding – at great expense of time and resources to the parties and the Commission – yet is unlikely to yield a different result than previous proceedings. The same complex legal issues identified by the Commission just over a year ago have not been resolved and are unlikely to be resolved absent substantial litigation or legislative change.

The issues raised in this proceeding are complex and will require focused attention and feedback from stakeholders to craft an equitable path forward. The Commission should not allow that focus to be derailed by NRG/IGS/Vistra's unyielding desire to push SCB forward in Pennsylvania.

CAUSE-PA is likewise strongly opposed to NRG/IGS/Vistra's recommendation that the Commission utilize this docket to radically transform default service for non-EV adopters by forcing all default service customers onto TOU rates. CAUSE-PA's Answer explains the inherent inequities of time-varying usage rates on low income households, Seniors, individuals with a disability or chronic health condition, and families with young children, as these uniquely vulnerable groups often lack discretionary usage or are otherwise unable to shift their usage to off-peak hours. If a consumer is unable to shift their usage to off-peak hours, they will face substantial

³ See 66 Pa. C.S. §§ 2807(d); 2802(9), (10), (17); see also *En Banc* Hearing on Implementation of Supplier Consolidated Billing, Joint Comments and Reply Comments of CAUSE-PA and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia, Docket No. M-2018-2645254 (filed May 4, 2018 and Aug. 24, 2018, respectively).

⁴ *En Banc* Hearing on Implementation of Supplier Consolidated Billing, Joint Comments and Reply Comments of CAUSE-PA and the Tenant Union Representative Network and Action Alliance of Senior Citizens of Greater Philadelphia, Docket No. M-2018-2645254 (filed May 4, 2018 and Aug. 24, 2018, respectively).

higher bills – exacerbating existing disparities in energy burden for Pennsylvania’s most vulnerable consumer groups.

CAUSE-PA disagrees with the specious legal analysis of NRG/IGS/Vistra, which suggests that the Choice Act permits the Commission to require all default service customers to enroll in a time-varying usage rate. (NRG/IGS/Vistra Cmts. at 15). The brief Reply Comment period in this proceeding did not provide adequate time for a full legal analysis. Nevertheless, CAUSE-PA notes that the statute referenced by NRG/IGS/Vistra is clear that time-varying rates must be optional to residential and commercial customers. In relevant part, the statute provides: “Residential or commercial customers *may elect* to participate in time-of-use rates or real-time pricing.”⁵ NRG/IGS/Vistra argues that its proposal to mandate TOU rates for default service customers is consistent with this statute because “customers can either elect to participate in the EDC’s proposed time-varying rates or shop for their electric supply in the competitive market.” (NRG/IGS/Vistra Cmts. at 15). Pennsylvania’s most vulnerable consumers should not be forced to shop in the competitive market simply because default service rates are too volatile to serve their basic home energy needs. Indeed, this is not the “choice” contemplated by the Choice Act. To the contrary, the Choice Act was explicit that default service must provide a stable, least-cost option to those who choose not to shop for service in the competitive market – and is separate and apart from the additional option provided in the Choice Act for consumers to *elect* a TOU rate.

Default service must remain a safe, stable option for residential customers who choose not to engage in the competitive market, which is their statutory right to do. CAUSE-PA notes here that residential consumers as a whole have not fared well in the competitive market, underscoring the critical need to preserve Pennsylvania’s default service model. Residential shopping data from

⁵ 66 Pa. C.S. § 2807(f)(5) (emphasis added).

the PPL Electric, PECO Energy, and Duquesne Light Default Service proceedings revealed that residential shopping customers were charged in the aggregate roughly \$1.2 billion more than the applicable default service price since 2015.⁶ This is consistent with the experience of residential consumers in other retail energy states. In analyzing national data from the US Energy Information Administration, a recent Wall Street Journal investigation found that from 2010 to 2019, residential consumers in competitive electric market states were charged in the aggregate over \$19.2 billion compared to applicable default service rates.⁷

This proceeding – which seeks to address critical issues of EV rate design *for EV rate adopters* – should not be used as a platform for the suppliers to undermine the stability and least-cost safety net provided by Pennsylvania statutory default service model. Doing so would derail the progress that could be achieved in the context of this proceeding to standardize parameters for equitable EV-specific rate design – an issue that every other party in this proceeding recognizes to be an important matter that the Commission should tackle without delay.

⁶ Petition of PPL Electric Utilities Corp. for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Testimony of Harry Geller on Behalf of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Pa. PUC Docket No. P-2020-3019356, at 8 & Exhibit 1 (June 25, 2020).

Petition of PECO Energy Co. for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Testimony of Harry Geller on Behalf of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Pa. PUC Docket No. P-2020-3019290, at 10 & Exhibit 1 (June 16, 2020).

Petition of Duquesne Light Company for Approval of a Default Service Program for the Period of June 1, 2021 through May 31, 2025, Testimony of Harry Geller on Behalf of the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA), Pa. PUC Docket No. P-2020-3019522, at 10 & Exhibit 1 (July 17, 2020). Note that data prior to 2017 was unavailable in the Duquesne Light Company (DLC) service territory due to system constraints.

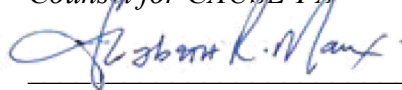
⁷ Scott Patterson & Tom McGinty, *Deregulation Aimed to Lower Home-Power Bills. For Many, It Didn't*, Wall Street Journal (March 8, 2021), <https://www.wsj.com/articles/electricity-deregulation-utility-retail-energy-bills-11615213623?page=16>.

III. CONCLUSION

CAUSE-PA is grateful to the Commission for its thoughtful consideration of this important issue. We urge the Commission to stay focused on developing standardized policies governing EV rate design *for EV adopters* – and to resist efforts to expand the scope of this proceeding to include extraneous issues that will serve to delay necessary progress in laying the groundwork for an equitable EV transition.

Respectfully submitted,

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Issuance of a Policy Statement on Electric Utility : Docket No. P-2022-3030743
Rate Design for Electric Vehicle Charging :

Certificate of Service

I hereby certify that I have this day served copies of the **Reply Comments of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania** upon the parties of record and other interested persons in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54 and consistent with the Commission’s Emergency Orders at Docket M-2020-3019262.

VIA Email

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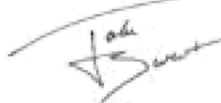
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