

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:


Please find enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") the Joint Reply Comments of Industrial Energy Consumers of Pennsylvania ("IECPA") and Walmart Inc. ("Walmart"), in the above-referenced matter.

This document was filed electronically with the Commission on this date. All parties are being served a copy of this document in accordance with the enclosed Certificate of Service.

Please contact the undersigned if you have any questions concerning this filing.

Sincerely,

SPILMAN THOMAS & BATTLE, PLLC

By 
Barry A. Naum

Derrick Price Williamson
Steven Wing-Kern Lee
dwilliamson@spilmanlaw.com
slee@spilmanlaw.com

*Counsel to Industrial Energy Consumers of
Pennsylvania and Walmart Inc.*

BAN/sds
Enclosure

c: Regi Sam, Bureau of Technical Utility Services (via E-mail)
Joseph P. Cardinale, Jr., Law Bureau (via E-mail)
Tiffany L. Tran, Law Bureau (via E-mail)
Karen Thorne, Law Bureau (via E-mail)
Certificate of Service

Daniel A. Garcia
FirstEnergy
800 Cabin Hill Road
Greensburg, PA 15601
dagarcia@firstenergycorp.com

Jack R. Garfinkle
Caroline S. Choi
PECO Energy Company
2301 Market Street
P.O. Box 8699
Philadelphia, PA 19101-8699
Jack.garfinkle@exeloncorp.com
Caroline.choi@exeloncorp.com

Kimberly A. Klock
Michael J. Shafer
PPL Services Corporation
Two North Ninth Street
Allentown, PA 18101
kklock@pplweb.com
mjshafer@pplweb.com

Michael S. Swerling
Timothy K. McHugh
UGI Corporation
460 N. Gulph Road
King of Prussia, PA 19406
swerlingm@ugicorp.com
mchught@ugicorp.com

Pamela C. Polacek
C&T Enterprises, Inc.
P.O. Box 129
Venetia, PA 15367
ppolacek@ctenterprises.org

Terrance J. Fitzpatrick
Donna M.J. Clark
Energy Association of Pennsylvania
800 North Third Street
Suite 205
Harrisburg, PA 17102
tfitzpatrick@energypa.org
dclark@energypa.org

Leah Meredith
Advanced Energy Economy
1010 Vermont Avenue NW
Suite 1050
Washington, DC 20005
lmeredith@aee.net

Shawn Kelly
Advanced Energy United
1010 Vermont Avenue, NW
Suite 1050
Washington, DC 20005
skelly@advancedenergyunited.org

Philip B. Jones
Alliance for Transportation Electrification
1402 Third Avenue, Suite 1315
Seattle, WV 98101
phil@evtransportationalliance.org

Jay Smith
Charge Ahead Partnership
jay@chargeaheadpartnership.com

Matthew Deal
Mal Skowron
ChargePoint, Inc.
240 East Hacienda Avenue
Campbell, CA 95008
Matthew.deal@chargepoint.com
Mal.skowron@chargepoint.com

Scott Dunbar
Keyes & Fox LLP
1580 Lincoln Street, Suite 1105
Denver, CO 80203
sdunbar@keyesfox.com

Elizabeth R. Marx
John W. Sweet
Lauren N. Berman
Ria M. Pereira
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org

Benjamin Prochazka
Celia Kosinski
Anne Blair
Electrification Coalition
1111 19th Street NW, Suite 406
Washington, DC 20036
bprochazka@electrificationcoalition.org
ckosinski@electrificationcoalition.org
ablair@electrificationcoalition.org

Tyler Stoff
Electrify America
2003 Edmund Halley Drive
2nd Floor, Suite 200
Reston, VA 20191
Tyler.stoff@electrifyamerica.com

Anthony Willingham
Electrify America
2003 Edmund Halley Drive
2nd Floor, Suite 200
Reston, VA 20191
Anthony.willingham@electrifyamerica.com

Carine Dumit
Lindsey Stegall
EVgo
11835 W Olympic Blvd.
Suite 900E
Los Angeles, CA 90064
Carine.dumit@evgo.com
Lindsey.stegall@evgo.com

Bernice I. Corman
Bicky Corman Law PLLC
1250 Connecticut Avenue, NW
Suite 700
Washington, DC 20036
bcorman@bickycormanlaw.com

Joy J. Royes
Page Legal Firm, PLLC
415 Center Street
Pittsburgh, PA 15221
Joy.royes@gmail.com

Ted Harris
Pennsylvania Petroleum Association
tharris@petroleum.org

Marguerita Behringer
Landis+Gyr
30000 Mill Creek Avenue
Suite 100
Alpharetta, GA 30002
Marguerite.behringer@landisgyr.com

Cynthia A. Menhorn
MCR Performance Solutions
155 N. Pfingsten Road
Suite 155
Deerfield, IL 60015
cmenhorn@mcr-group.com

Mark Szybist
Natural Resources Defense Council
1152 15th Street NW
Suite 300
Washington, DC 20005
mszybist@nrdc.org

Kathy Harris
Natural Resources Defense Council
40 West 20th Street
11th floor
New York, NY 10011
kharris@nrdc.org

Susan Bruce
Charis Mincavage
Adeolu A. Bakare
McNees Wallace & Nurick LLC
100 Pine Street
P.O. Box 1166
Harrisburg, PA 17108-1166
sbruce@mcneeslaw.com
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com

Deanne M. O'Dell
Karen O. Moury
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17108-1248
dodell@eckertseamans.com
kmoury@eckertseamans.com

Tom Schuster
Clean Energy Program Director
Sierra Club, Pennsylvania Chapter
P.O. Box 1621
Johnstown, PA 15907
tom.schuster@sierraclub.org


Nathaniel Shoaff
Sierra Club
2101 Webster Street, Suite 1300
Oakland, CA 94612
Nathaniel.shoaff@sierraclub.org

Zachary M. Fabish
Sierra Club
50 F Street, NW – 8th Floor
Washington, DC 20001
Zachary.fabish@sierraclub.org

Bill Ehrlich
Tesla, Inc.
3500 Deer Creek Road
Palo Alto, CA 94304
wehrlich@tesla.com

Steve Bright
WeaveGrid
375 Alabama Street
Suite 325
San Francisco, CA 94110
Steve@weavegrid.com

Richard C. Culbertson
1430 Bower Hill Road
Pittsburgh, PA 15343
Richard.c.culbertson@gmail.com


Barry A. Naum

Dated: February 21, 2024

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**JOINT REPLY COMMENTS OF
INDUSTRIAL ENERGY CONSUMERS OF PENNSYLVANIA
AND WALMART INC.**

On December 23, 2023, the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Proposed Policy Statement Order ("Proposed Policy Statement") in the above-referenced docket was published in the *Pennsylvania Bulletin*. The Proposed Policy Statement requested interested parties submit Comments on the Proposed Policy on electric utility rate design for electric vehicle ("EV") charging in Pennsylvania.

The Industrial Energy Consumers of Pennsylvania ("IECPA")¹ is an association of energy-intensive industrial consumers of electricity taking service from regulated utilities in Pennsylvania, including Duquesne Light Company ("Duquesne"); FirstEnergy Pennsylvania Electric Company ("FirstEnergy"); PECO Energy Company ("PECO"); and PPL Electric Utilities Corporation ("PPL").

Walmart Inc. ("Walmart") is an energy-intensive commercial consumer of electricity taking service from multiple regulated utilities in Pennsylvania. Walmart also has substantial experience with offering EV charging to its customers and is actively growing its presence in the

¹ For the purpose of this matter, IECPA's membership consists of: Air Products & Chemicals, Inc.; Benton Foundry, Inc.; Carpenter Technology Corporation; East Penn Manufacturing Company; Keystone Cement Company; Knouse Foods Cooperative, Inc.; Linde, Inc.; Marathon Petroleum Corporation; Nestle Purina PetCare Company; Proctor & Gamble Paper Products Company; and United States Gypsum Company.

EV charging space. Specifically, Walmart currently hosts more than 1,200 public Direct Current Fast Chargers ("DCFC") at 285 different locations and across 43 states. As announced recently, Walmart intends to build its own EV fast-charging network at thousands of Walmart and Sam's Club locations across the U.S. over the next few years. Walmart retail sites are ideally situated for EV charging stations because of their large parking lots, easy public access, and multi-site locations.

IECPA and Walmart offer these Reply Comments in response to Initial Comments filed by other parties in this matter, specifically the Initial Comments of Office of Consumer Advocate ("OCA"); Giant Eagle, Inc., Glassmere Fuel Service, Onvo, Sheetz, Inc., and Wawa, Inc. (collectively, "Joint Fuel Retailers"); Advanced Energy United ("United"); Charge Ahead Partnership ("Charge Ahead"); and Retail Energy Supply Association ("RESA") and NRG Energy, Inc. ("NRG"). The absence of a response by IECPA and Walmart in these Reply Comments to a specific issue raised by any filers' Initial Comments does not constitute a change of position from IECPA's and Walmart's Joint Initial Comments or endorsement of any Initial Comments presented by other stakeholders. Absent modification, IECPA and Walmart maintain their positions and recommendations from their Joint Initial Comments.

A. **The Role of Electric Distribution Companies Regarding Ownership of EV Chargers, Cost Recovery, and Allocation of Costs Requires Further Clarification.**

The Initial Comments of stakeholders addressed a variety of issues regarding the role that electric distribution companies ("EDCs") can or should play in the EV charging space. Specifically, a number of Initial Comments addressed the issue of whether EDCs should own and operate their own EV charging stations. Other stakeholders addressed the types of costs an EDC should recover in EV charging rates and the customers from which those costs should be recovered.

IECPA and Walmart respond and expand on these issues to emphasize the importance of EV charging competition and the appropriate scope of EDCs' EV charging-specific rates.

1. Encouraging third-party ownership of EV chargers and promoting EV charging competition should be a priority of the Commission.

Multiple stakeholders addressed concerns regarding utility ownership of EV chargers and the impact that such ownership may have on competition.² As explained in their Initial Comments, IECPA and Walmart share these concerns.

IECPA and Walmart agree that utility ownership and operation of EV chargers, depending on how the rates are designed, could easily be anticompetitive and inequitable from a cost recovery perspective. Unlike third-party owners, utilities are able to recover all costs related to the development, installation, and operation of EV charging stations while also able to recover costs from their captive ratepayers if charging revenues are not sufficient to recover the costs of operation. This creates an anticompetitive framework that could deter third-party development of EV chargers.

Due to this complication, the risk of unreasonable cross-subsidization is high for utility-owned chargers. Alternatively, third-party charger ownership will encourage development of EV chargers that can have rates designed to avoid unreasonable cross-subsidization between customers while promoting competition.

2. For third-party owned EV chargers, the services and costs recovered by EDCs require further clarification.

A number of Initial Comments discussed the types of service EDCs would provide and costs that an EDC would recover from EV charging station customers.³ IECPA and Walmart

² See United Initial Comments, p. 3; Charge Ahead Initial Comments, pp. 4-5; MCR Performance Solutions Initial Comments, pp. 8-9; Joint Fuel Retailers Initial Comments, pp. 3-4.

³ See United Initial Comments, p. 4; OCA Initial Comments, pp. 4-6; RESA/NRG Initial Comments; p. 3.

believe that further clarification regarding the scope of EDC distribution and generation EV charging rates can promote principles of cost causation.

For third-party owned EV chargers, IECPA and Walmart recommend that EDCs should provide distribution service to the charging station customers, and then recover the distribution connection and operations and maintenance costs through distribution rates from those customers. IECPA and Walmart further believe that EDCs should only supply electricity generation to the charging station if the customer owning that charging station chooses to be a default service customer, consistent with the Competition Act. This will allow the EDC to create specific default service energy supply tariffs for EV charging that are recovered only from default service customers and not distribution service customers. By clarifying the parameters of services provided and costs recovered in this way, the Commission can ensure that EV charging rates are aligned with principles of cost causation and avoid unreasonable cross-subsidization between customers.

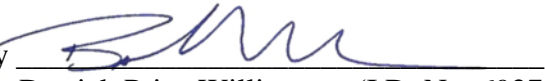
Further, IECPA and Walmart agree with RESA/NRG that competitive energy suppliers should be able to provide electricity to third-party owned EV charging customers.⁴ Allowing competitive suppliers to provide electricity can further promote competition and development of EV chargers by providing the most flexibility for third-party owned EV charging customers. As long as the separation of distribution and generation rates is clarified as discussed above, permitting competitive energy supply for charging stations should not create unreasonable cross-subsidization between customers.

[SIGNATURE APPEARS ON THE FOLLOWING PAGE]

⁴ RESA/NRG Initial Comments, p. 3.

Respectfully submitted,

SPILMAN, THOMAS & BATTLE, PLLC

By 

Derrick Price Williamson (I.D. No. 69274)

Barry A. Naum (I.D. No. 204869)

Steven W. Lee (I.D. No. 332797)

1100 Bent Creek Boulevard, Suite 101

Mechanicsburg, PA 17050

Phone: (717) 795-2740

Fax: (717) 795-2743

dwilliamson@spilmanlaw.com

bnaum@spilmanlaw.com

slee@spilmanlaw.com

*Counsel to Industrial Energy Consumers of Pennsylvania
and Walmart Inc.*

Dated: February 21, 2024