

**PENNSYLVANIA PUBLIC UTILITY COMMISSION
HARRISBURG, PENNSYLVANIA 17120**

Third Party Electric Vehicle Charging
- Resale/Redistribution of Utility
Service Tariff Provisions

Public Meeting held March 15, 2018
Agenda No. 2604382-CMR
Docket No. M-2017-2604382

MOTION OF CHAIRMAN GLADYS M. BROWN

On June 15, 2017, the Commission issued a Secretarial Letter seeking comments on electric distribution companies (EDCs) resale/redistribution tariff provisions and how those provisions may affect the operation of third-party electric vehicle (EV) charging stations. Specifically, the Commission sought information on the following items:

- What restrictions, if any, each EDC's existing tariff places on the resale/redistribution of electric power by third-party EV charging.
- The advantages and disadvantages of specific tariff provisions permitting unrestricted resale/redistribution of electric power when done for the purpose of third-party EV charging.
- Whether it is appropriate to encourage EDCs across the state to move toward a tariff design, such as that of Duquesne, which includes provisions permitting the resale/redistribution of electric power for third-party EV charging.
- What other resale/redistribution tariff provision designs may aid in establishing clear rules for third-party EV charging stations.
- What other regulatory options may aid in establishing clear resale/redistribution rules for third-party EV charging stations.

Ten entities provided comments in response to the secretarial letter.¹

Review of these comments exhibits a consensus point-of-view around an overarching concept: elimination of any regulatory uncertainty is an important first step in supporting the build-out of electric vehicle infrastructure. The comments further show that the existing panoply of different tariffs indeed provide a lack of

¹ Commentators included Advanced Energy Economy; ChargePoint, Inc.; Citizens Electric Company of Lewisburg, PA and Wellsboro Electric Company; the Pennsylvania Department of Environmental Protection; Duquesne Light Company; Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, and West Penn Power Company; the Office of Consumer Advocate, PECO Energy Company, PPL Electric Utilities Corporation, the Sierra Club.

clarity and consistency throughout the state regarding resale/redistribution for EV charging.

The Office of Consumer Advocate highlights the distinction between electricity for use as a transportation fuel and electricity as an essential public utility service. Advanced Energy Economy further elaborates on this distinction, stating that third-party EV charging station businesses are unique and should be permitted to resell electricity to drivers as needed. In this vein of discussion, Sierra Club submits that an EV driver receiving charging service from a commercial operation is not a residential customer and therefore the provisions of Section 1313 of the Public Utility Code should not apply. I concur with this position and believe it would be prudent to foster further transparency of this distinction to reduce any uncertainty related to EDC tariff restrictions for resale/redistribution, and/or, statutory restrictions pursuant to Section 1313. Such transparency can be accomplished, as stated by PPL Electric Utilities Corporation, through the development of tariff provisions for EV charging stations that establish clear terms and conditions for service. As I noted in my May 18, 2017 Motion creating this proceeding, the Commission has already approved at least one tariff provision which helps to reduce regulatory uncertainty in this arena – that provision being Rule 18.1 of Duquesne Light Company's tariff.

Based on my review of the record comments at this Docket I submit the following:

- The number of electric vehicles as well as the corresponding infrastructure for charging continues to grow throughout the Commonwealth.
- Notification of third-party electric vehicle charging station locations is vital to electric distribution companies' distribution planning.
- Elimination of any regulatory uncertainty is an important step in supporting, and potentially accelerating, the continued build-out of electric vehicle infrastructure.
- There is a lack of clarity as to the resale/redistribution restrictions applicable to third-party electric vehicle charging stations pursuant to electric distribution company tariffs and pursuant to Section 1313 of the Public Utility Code, 66 Pa. C.S. § 1313 (relating to price upon resale of public utility service).
- There is a lack of uniformity among electric distribution company tariffs relating to the application of resale/redistribution restrictions on third-party electric vehicle charging stations.
- It should be the Commission's policy to remedy this lack of clarity across the Commonwealth for the betterment of the electric vehicle marketplace in the Commonwealth.

Therefore, I believe it is prudent to make third-party electric vehicle charging resale/redistribution tariff provisions more ubiquitous among EDCs. In the interest of further reducing any existing regulatory uncertainty, and, in the interest of supporting the advancement of Pennsylvania electric vehicle marketplace, I submit that a proposed policy statement be issued, consistent with the form and substance attached in Annex A to this motion.

THEREFORE, I MOVE THAT:

1. The Law Bureau prepare a tentative order consistent with this Motion.
2. The tentative order, including Annex A to this Motion, shall be published in the *Pennsylvania Bulletin*.
3. Comments shall be due within forty-five (45) days following publication in the *Pennsylvania Bulletin*.
4. The Law Bureau, with assistance from the Bureau of Technical Utility Services, shall review the comments, and all the information provided therein, and shall present a final order to the Commission for consideration.

March 15, 2018

Date


Gladys M. Brown, Chairman

Annex A

TITLE 52. PUBLIC UTILITIES
Subpart C. FIXED UTILITY SERVICES
CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS
AND GUIDELINES ON FIXED UTILITIES

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**POLICY STATEMENT ON THIRD PARTY ELECTRIC VEHICLE CHARGING –
RESALE/REDISTRIBUTION OF UTILITY SERVICE TARIFF PROVISIONS**

69.3501. Section 1313 of the Public Utility Code (66 Pa. C.S. § 1313).

(a) Section 1313 of the Public Utility Code, 66 Pa. C.S. § 1313 (relating to price upon resale of public utility service), applies restrictions on the resale of utility service to residential customers.

(b) It shall be the policy of the Commission that a person, corporation or other entity, not a public utility, electric cooperative corporation, municipal authority or municipal corporation, owning and operating an electric vehicle charging facility that is open to the public for the sole purpose of recharging an electric vehicle battery should not be construed to be a sale to a residential consumer and should therefore not fall under the pricing requirements of 66 Pa. C.S. § 1313 (relating to the price upon resale of public utility services).

69.3502. Electric vehicle charging tariff provisions.

It is the policy of the Commission that all jurisdictional EDCs should have tariff language providing clarity as to its rules regarding third party owned and operated electric vehicle charging stations that should address at least the following issues:

(1) Reflect the statement of law in 66 Pa. C.S. § 1313, along with this Commission's policy statement that excludes third party electric vehicle charging stations, as described in 69.3501(b), from the pricing requirements of 66 Pa. C.S. § 1313.

(2) When and how owners and operators of such third party electric vehicle charging services are to notify the electric distribution company of a planned installation of the electric vehicle charging facilities and the information the electric distribution company needs in advance.