

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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July 24, 2018

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

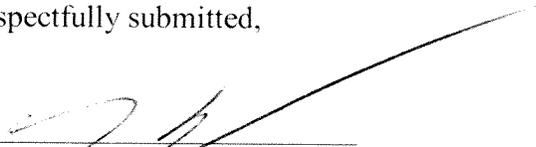
Re: Third Party Electric Vehicle Charging  
Resale/Redistribution of Utility  
Service  
Docket No. M-2017-2604382

Dear Secretary Chiavetta:

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

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

Respectfully submitted,



Harrison W Breitman  
Assistant Consumer Advocate  
PA Attorney I.D. # 320580  
E-Mail: HBreitman@paoca.org

Attachment

cc: Public Utility Commission Office of Competitive Market Oversight  
[ra-ocmo@pa.gov](mailto:ra-ocmo@pa.gov)

\*254369

CERTIFICATE OF SERVICE

Third Party Electric Vehicle Charging :  
Resale/Redistribution of Utility : Docket No. M-2017-2604382  
Service :

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate's Additional 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 24<sup>th</sup> day of July 2018.

SERVICE BY INTEROFFICE MAIL

Scott Thomas  
Joseph Cardinale  
Law Bureau  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
Harrisburg, PA 17120

Office of Attorney General  
Bureau of Consumer Protection  
15<sup>th</sup> Floor, Strawberry Square  
Harrisburg, PA 17120

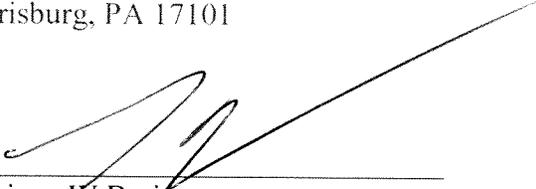
Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

SERVICE BY FIRST CLASS MAIL, POSTAGE PREPAID

Pennsylvania Office of Small Business Advocate  
300 North Street, Suite 202  
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Energy Association of Pennsylvania  
800 N 3rd Street  
Harrisburg, PA 17102

Pennsylvania Department of Environmental Protection  
Office of Policy  
400 Market Street  
Harrisburg, PA 17101

  
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Advanced Energy Economy, Duquesne Light Company, the Sierra Club, the Pennsylvania Department of Environmental Protection, PECO Energy Company, PPL Electric Utilities Corporation, Metropolitan Edison Company, Pennsylvania Electric Company, Pennsylvania Power Company, West Penn Power Company, Citizens Electric Company of Lewisburg, PA and Wellsboro Electric Company.

As noted by the Commission, most commentators were in agreement that Section 1313 of the Public Utility Code, 66 Pa. C.S. § 1313, creates uncertainty which should be eliminated to encourage the development of EV charging stations and that EV charging stations should not be subject to Section 1313 since EV charging is a service and not a resale of electricity. Proposed Policy Statement at 2. The disagreements between the parties largely concerned which procedural vehicle would be appropriate to alleviate any confusion. Proposed Policy Statement at 2-3.

In its Comments, the OCA argued that a policy statement and corresponding tariff language could provide improved clarity surrounding the definition of resale/redistribution without requiring a lengthy rulemaking proceeding or adjudication. The OCA suggested that a Policy Statement and clear tariff language would mitigate the likelihood of any potential future litigation. OCA Comments at 16-17. Moreover, since a policy statement does not constitute a binding precedent, the Commission has the ability to revisit any determinations regarding public third-party EV charging stations should the nature of public third-party EV charging businesses change.

In the Proposed Policy Statement, the Commission clarifies that while Section 1313 of the Public Utility Code applies restrictions on the resale of electricity service to residential

customers, 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 EV charging facility that is open to the public for the sole purpose of recharging an EV battery should not be construed to be a sale to a residential customer and should therefore not fall under the pricing requirements of 66 Pa. C.S. § 1313. Proposed Policy Statement at 6; Proposed 52 Pa. Code § 69.3501(b). Through this Proposed Policy Statement, the Commission is also proposing that all jurisdictional EDCs have language in their tariffs to provide clarity to their rules regarding third party owned and operated EV charging stations. Proposed Policy Statement at 7; Proposed 52 Pa. Code § 69.3502. The Proposed Policy Statement instructs EDCs to reflect in their tariffs that Section 1313 of the Public Utility Code excludes public third party owned electric vehicle charging stations from the pricing requirements of Section 1313. Id. Moreover, through the Proposed Policy Statement, the Commission directs the EDCs to clarify in their tariffs how and when the owners and operators of third party EV charging services are to notify the EDC of a planned installation of the EV charging facilities and the information the EDC needs in advance. Id. The Proposed Policy Statement is intended to not only clarify the policy of the Commission in relation to EV charging and Section 1313, but also to have EDCs expressly address EV charging stations in their tariffs. Id.

The OCA agrees with the Commission's conclusion that publically available third-party EV charging stations do not constitute the resale of electricity to residential customers under Section 1313 of the Public Utility Code. The OCA supports the proposed Policy Statement, specifically the two major steps that it takes. First, the proposed Policy Statement clarifies any confusion that could arise from a reading of Section 1313 of the Public Utility Code in relation to

EV charging. According to the OCA's understanding of Section 1313 of the Public Utility Code, the Section is intended to prohibit the resale of electricity to a residential consumer above the amount that a public utility would bill its own residential customer for the same service under its residential rate. 66 Pa. C.S. § 1313. The Commission's proposed Policy Statement correctly recognizes that public third party owned EV charging should not fall under the pricing requirements of 66 Pa. C.S. § 1313. Proposed Policy Statement at 5-6. As noted in the OCA's Comments, EV charging equipment outputs electricity as a transportation fuel, and is not designed to merely resell electric utility service to a residential consumer. See, OCA Comments at 12. The clarification contained in the proposed Policy Statement resolves any uncertainty and will allow development of third party owned EV charging stations open to the public to move forward.

Secondly, by establishing a policy that electric distribution companies (EDCs) should additionally have language in their tariffs defining when and how owners and operators of EV charging services notify the EDC of a planned installation, the Proposed Policy statement alleviates EDC concerns regarding any upgrades that may be required to support EV charging infrastructure. See, Proposed Policy Statement at 3. Efficient integration of EV charging infrastructure avoids adverse impacts on the system, and on customers, from EV loads. Furthermore, encouraging notification for the purpose of distribution planning minimizes system risks and allows for adequate information to be provided to the utility. The OCA submits that the Commission's proposal to encourage EDCs to place notification requirements in their tariff is reasonable for planning purposes.

The Office of Consumer Advocate appreciates the opportunity to provide additional comments on this important issue. The OCA supports the Commission's proposed Policy

Statement as it is consistent with the Public Utility Code and will provide much needed clarity in regards to the emerging EV charging market.

Respectfully Submitted,



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Dated: July 24, 2018

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