

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PETITION OF PECO ENERGY COMPANY :
FOR EXPEDITED APPROVAL TO EXTEND : **Docket No. P-2023-3039439**
THE ELECTRIC VEHICLE DCFC PILOT :
RIDER BY 18 MONTHS :

NOTICE TO PLEAD

You are hereby advised that, pursuant to 52 Pa. Code § 5.66, you may respond to the enclosed Petition to Intervene of Electrify America, LLC within twenty (20) days after the date of service. Your answer should be filed with the Secretary of the Pennsylvania Public Utility Commission, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120. A copy should also be served on the undersigned counsel.

Dated: April 19, 2023

Respectfully submitted,



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ELECTRIFY AMERICA, LLC’S PETITION TO INTERVENE

AND NOW COMES Electrify America, LLC (“Electrify America”), pursuant to 52 Pa. Code §§ 5.71-5.76, to file this Petition to Intervene in the above-referenced proceeding (the “DCFC Pilot Rider Extension Proceeding”). Electrify America operates Direct Current Fast Charging (“DCFC”) stations within the service territory of PECO Energy Company (“PECO”), and accordingly Electrify America is directly impacted by PECO’s DCFC Pilot Rider and has an interest in the above-captioned proceeding. More broadly, as one of the leading companies in electric vehicle (“EV”) public charging stations, Electrify America has a direct interest in the adoption and proliferation of EVs and in the success of the private market of charging companies that is necessary to achieve transportation electrification goals. Electrify America does not protest or otherwise object to an extension of PECO’s DCFC Pilot Rider. However, Electrify America provides certain recommendations to the Commission to improve the program, namely that (i) contract demand should not be set at nameplate capacity, which limits the ability of charging companies to benefit from demand charge credits; (ii) initial Procurement Class assignments and corresponding Generation Capacity Tags for Peak Load Contribution should reflect the current Procurement Class 3 as set forth in PECO’s Default Service Plan as opposed to a legacy Procurement Class 4; and (iii) PECO’s reservation of rights to modify and reduce demand credit values without advance notice or further participation introduces too much volatility that

undermines that efficacy of such demand charge credits for DCFC charging companies. Consequently, Electrify America has an interest that may be directly impacted by the DCFC Pilot Rider Extension Proceeding, which is not adequately represented by existing participants, and as to which Electrify America may be bound by the action of the Pennsylvania Public Utility Commission (“Commission” or “PUC”) in this proceeding.

In support whereof, Electrify America states:

1. Electrify America, the largest open DCFC network in the United States, is investing more than \$2 billion over ten years on Zero Emissions Vehicle (“ZEV”) infrastructure, education and awareness. This investment will enable millions of Americans to discover the benefits of electric driving and support the build-out of a nationwide network of ultra-fast community and highway chargers that are convenient and reliable. Electrify America expects to have more than 1,800 total charging stations with over 10,000 chargers in the United States and Canada by 2026. To date, Electrify America has built a coast-to-coast network of DCFC stations across over 780 locations and with over 3,330 individual DC fast chargers in total, including 21 locations with 86 individual DC fast chargers in Pennsylvania. Within PECO’s service territory, Electrify America currently operates 9 stations with 38 individual DC fast chargers. The chargers range from 150 kW to 350 kW of power based on anticipated needs and use cases, as well as available real estate and power. The ultra-fast 350 kW chargers are the most powerful public chargers on the market today, capable of recharging speeds close to gasoline fueling.

2. Electrify America anticipates further expansion in Pennsylvania, particularly given the presence of major highway corridors, metropolitan areas, and the expected influx of \$171 million dollars in Federal funding through the National Electric Vehicle Infrastructure (“NEVI”)

Formula Program.¹ Electrify America is uniquely situated as a non-proprietary charging network capable of providing up to 350 kW to capable vehicles in Pennsylvania, and more broadly is one of few charging networks statewide providing the fastest and most customer-friendly refueling speeds. Faster refueling speeds are widely recognized as instrumental in allowing the Commonwealth (and country) to realize its EV adoption and transportation electrification goals.

3. In Pennsylvania, the Department of Environmental Protection “acknowledges the significant role that electric vehicles (EV) will play in Pennsylvania’s transportation future” and finds that “boosting consumer confidence in EVs with a strategic rollout of EV charging stations to meet the projected demand” is vital “to support a regional clean transportation network.”² The Pennsylvania Electric Vehicle Roadmap provides that “having more charging stations available in workplace and public locations will go a long way to help current electric vehicle owners maximize their vehicle’s capabilities and decrease range anxiety for people considering an electric vehicle purchase.”³ This is in line with Federal policy under recent infrastructure law investments and executive orders to develop a national network of 500,000 EV chargers along highways and in communities.⁴ Public policy for the Commonwealth and the United States strongly support a nationwide buildout of public fast charging stations in order to confront the climate crisis through transportation electrification.

¹ PA PUC Docket P-2023-3039439, PECO Petition for Expedited Approval to Extend the Electric Vehicle DCFC Pilot Rider by 18 Months, p. 3.

² Pennsylvania Department of Environmental Protection, *Electric Vehicles in PA*, <https://www.dep.pa.gov/Business/Energy/OfficeofPollutionPrevention/ElectricVehicles/Pages/default.aspx>

³ Pennsylvania Department of Environmental Protection, *Pennsylvania Electric Vehicle Roadmap: 2021 Update*, at p. 6, <https://files.dep.state.pa.us/Energy/OfficeofPollutionPrevention/StateEnergyProgram/PAElectricVehRoadmapBookletDEP5334.pdf>

⁴ Fact Sheet, *Biden-Harris Administration Announces New Standards and Major Progress for a Made-in-America National Network of Electric Vehicle Chargers* (Feb. 15, 2023), <https://www.whitehouse.gov/briefing-room/statements-releases/2023/02/15/fact-sheet-biden-harris-administration-announces-new-standards-and-major-progress-for-a-made-in-america-national-network-of-electric-vehicle-chargers/>

4. Proceedings before the Commission have focused on the Commission’s potential to develop a Policy Statement on electric utility rate design for EV charging. *See* Docket No. P-2022-3030743. Electrify America has participated in a working group to provide joint stakeholder recommendations on an EV policy statement to the Commission, which were filed with the Commission in the form of a working group report on March 29, 2023.⁵ In the working group report, Electrify America and a broad group of stakeholders recommend, among other things, that “the Commission should explicitly address rate design alternatives to demand rates in a policy statement on EV charging rate design” (p. 17). Electrify America looks forward to participating in future opportunities in this proceeding and with the working group, and Electrify America applauds the Commission, Staff, and other stakeholders for their work in developing a Policy Statement to promote EV infrastructure and electric utility rate design for EV charging.

5. Electrify America’s investment in Pennsylvania depends in part on sustainable economics for the private market of ZEV infrastructure. Utility rates and incentives should be structured to support infrastructure development in order to best align with Commonwealth public policy and ensure the financial sustainability of continued ZEV infrastructure operation. Incentivizing ZEV infrastructure and structuring particular rates for public charging stations are critical steps to allow the Commonwealth to realize its transportation electrification goals.

6. Traditional demand charges pose a significant barrier to achieving transportation electrification goals. This is because demand charges are often one of the most significant cost factors in DCFC station operation, determining whether charging companies have the financial capacity to generate a return on investment and open new locations. The burden presented by demand charges is greater for higher capacity DCFC, such as those operated by Electrify America,

⁵ Pennsylvania Public Utility Commission, *Recommendations of the Electric Vehicle Charging Rate Design Working Group*, <https://www.puc.pa.gov/pcdocs/1779404.pdf>

which allow for faster refueling speeds and are considered to be essential for greater EV adoption. PECO’s Petition recognizes that meaningful demand charge relief is key to supporting “the Commonwealth’s ongoing efforts to incentivize DCFC development.”⁶ Demand credits offered by PECO through its EV-FC Rider have the potential to provide such relief to encourage the private market for DCFC stations.

7. Electrify America supports an extension of the DCFC Pilot Rider, but respectfully requests that this proceeding provide an opportunity for the Commission to reconsider and correct certain suboptimal program elements.

8. Electrify America is supportive of an 18-month extension of the DCFC Pilot Rider, as requested by PECO. However, in the interest of a supportive utility environment to enable the private market of charging companies to succeed, Electrify America requests that the Commission reconsider the following elements of the program:

- a. Contract demand provisions that limit the ability of high-powered EV charging stations to receive demand credits;
- b. Conflict between the tariff language and actual practices regarding the assignment of Procurement Classes for new sites and the impact on initial Generation Capacity Tags for Peak Load Contribution (PLC); and
- c. Broad discretion left to PECO that has resulted in inconsistent assignments for contract demand, initial PLC tags, and surprise revisions to eligible demand credit amounts.

9. First, contract demand provisions should not be based on nameplate capacity, which limits the ability of customer-friendly, high-powered EV charging stations to receive demand

⁶ PA PUC Docket P-2023-3039439, PECO Petition for Expedited Approval to Extend the Electric Vehicle DCFC Pilot Rider by 18 Months, p. 4.

charge relief. Many Electrify America stations have chargers that can furnish EV charging power of 350 kW and Electrify America is sizing DCFC stations in anticipation of the faster charging EVs that automakers are bringing to market.⁷ The result is that Electrify America stations often have nameplate capacities of 1,000 kilowatts (kW) or higher. PECO's tariffs for General Service (GS) and High Tension Power (HT) both have provisions where the minimum monthly billing demand is 40% of the contract demand and the DCFC Pilot Rider incorporates this provision by reference.⁸ In instances where PECO has set the contract demand at station nameplate kW, the result is that Electrify America is often subject to minimum billed demands of 40% of station nameplate – which if applied, is greater than actual station peak loads for EV charging services and precludes the ability to benefit from the demand charge credits available through the DCFC Pilot Rider. Electrify America proposes that this issue could be remedied through policies that (i) set DCFC station contract demands at values less than station nameplate kW⁹ or (ii) a waiver of the minimum billed demand of 40% of contract demand provision for DCFC stations enrolled in the DCFC Pilot Rider.

10. Second, Procurement Class assignments for new stations should align with PECO's current Default Service Plan as opposed to a legacy Procurement Class that leads to inconsistencies and exposes charging companies to higher demand charge costs. The service contract for the DCFC Pilot Rider for new DCFC stations requires PECO to specify the Procurement Class for the account. In practice, this has led to controversies regarding the appropriate Procurement Class

⁷ The trend towards high power charging requirements for DCFC stations is expected to accelerate given the requirement that DCFC stations receiving NEVI funds be able to deliver 150 kW of charging power at all times. *See* National Electric Vehicle Infrastructure Standards and Requirements, Final Rule, 88 Fed. Reg. 12724 (Feb. 28, 2023), § 680.106(d)

⁸ PECO Tariff PA PUC No. 7, Original Page 84 states: "At no time will the billing demand be less than the minimum demand applicable under the provisions of the applicable Base Rate" in the Rate Impact section.

⁹ For example, an engineering estimate of DCFC station peak demand could be estimated based on assumptions regarding high power EV charging sessions that may occur simultaneously.

assignment and Generation Capacity Tags for Peak Load Contribution (PLC) assigned to new DCFC station accounts. Electrify America identifies the following issues with current practices in regard to assignment of Procurement Class and PLC Tags:

- a. The service contract includes provisions for Procurement Class 4, which functionally no longer exists. PECO's tariff, Rules and Regulations Section 22.1(f), no longer includes Procurement Class 4, which was consolidated with Procurement Class 3 in PECO's fourth Default Service Plan (DSP IV) approved by the Commission in Docket No. P-2016-2534980 on December 8, 2016. PECO's DSP V, approved by the Commission in Docket No. P-2020-3019290, continues the consolidation of Procurement Classes 3 and 4. Both the 2016 and 2020 Default Service Plans waived 52 Pa. Code §§ 69.1805 and 54.187, requiring a separate procurement category for customers with peak loads greater than 500 kW under the statutory provision allowing Default Service Plans to propose alternative divisions of customers by registered peak load.
- b. The service contract states that customers assigned to Procurement Classes 2 and 3 will receive PLC tags equal to the average PLC for the customer's rate class, but PLC tags for Procurement Class 4 can be based on the customer's estimated load which has led to inconsistencies and in some cases attempts to set initial PLC's at station nameplate kW. This practice is inconsistent with Section 22.1(f) of the Rules and Regulations section of the PECO tariff which states that "*A new customer in a new facility shall be assigned to a procurement class based upon an engineering estimate of the customer's diversified peak demand.*"

Electrify America suggests that Procurement Class assignments for new DCFC stations should not be subject to arbitrary assignment and should be defaulted to Procurement Class 3 to allow new stations to receive the intended benefits of this program. These benefits to date have not been properly or fully realized due to PECO's discretionary actions that assign an incorrect high Procurement Class that remains in place for an extended period before resetting downwards—a key period when the benefits of the program are meant to help operating economics as utilization for the new stations slowly materializes. The current inconsistency between PECO's filed tariff and the service contract that has been incorporated into the Pilot Rider should be resolved.

11. Third, PECO's discretion to modify demand credits leads to surprise changes and does not afford charging companies the ability to accurately predict operation costs. PECO's tariff¹⁰ affords the company considerable discretion to adjust and reduce the applicable demand credit value that is a key element of PECO's program and necessary to the success of the private market of charging companies. PECO's adjustments to the demand credit value, per the operative tariff, currently occur without oversight, without an ability to participate or protest such changes, and without any definable time schedule. PECO's "reservation of rights," in practice, allows PECO to expose charging companies to burdensome demand charges and introduces significant volatility to the economics of these charging stations, making it difficult to plan or otherwise anticipate increased costs. Electrify America suggests that the Commission eliminate or change this language to temper PECO's ability to modify demand credits during the pendency of this interim program. This will reduce surprises for charging companies, who are seeking to establish predictable rates and costs for operation.

¹⁰ PECO Tariff PA PUC No. 7, Original Page 84.

12. Electrify America urges the Commission to consider these issues in this proceeding because DCFC station operators should be encouraged to build stations that are responsive to the needs of EV drivers who require fast charging and are capable of accommodating the next generation of high charging power EVs that automakers will bring to market in the next few years. The features of the PECO's DCFC Rate Pilot discussed above are at cross-purposes with these objectives.

13. Electrify America is encouraged by the progress made to-date to incentivize EV adoption and DCFC deployment in Pennsylvania and in PECO's service territory. An extension to the DCFC Pilot program, with certain adjustments made as described above, will provide a better utility environment for the private market of charging companies to succeed and will allow for more data to inform future studies and rate-making proposals. A strong private market for ZEV and DCFC infrastructure will additionally avoid utility owned and operated charging stations, which often involve higher costs to utility ratepayers.

14. Electrify America appreciates the efforts made by PECO and the Commission to encourage greater EV adoption in Pennsylvania. However, Electrify America recommends that the Commission implement tariff modifications to ensure that the program is successful and achieves its desired objectives. Minor changes to contract demand settings, Procurement Class and PLC tag assignments, and PECO's discretion to modify demand credits will ensure a more successful program for charging companies that will enable more stations to be opened.

15. Electrify America's counsel in this matter is reflected in the signature block below. Counsel for Electrify America will accept electronic service in this proceeding on behalf of the Company and will not require hard-paper copies of filed documents.

16. As explained in detail above, the Commission's disposition of PECO's Petition will impact the rates and services provided to Electrify America by PECO.

17. Consistent with 52 Pa. Code § 5.72(b), Electrify America has an interest that may be directly affected by this proceeding and that is not represented by any other party of record. Consequently, Electrify America should be granted intervenor status in this proceeding.

WHEREFORE, Electrify America respectfully requests that the Pennsylvania Public Utility Commission grant this Petition to Intervene and provide Electrify America with full party status in this proceeding.

Dated: April 19, 2023

Respectfully submitted,



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