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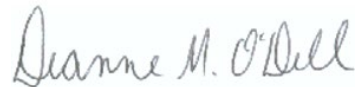
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Enclosed for electronic filing please find the Retail Electric Supply Association (“RESA”) Comments with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Deanne M. O'Dell

DMO/lww

Enclosure

cc: Regi Sam, Energy and Conservation Analyst (rsam@pa.gov)
Joseph P. Cardinale, Jr., Assistant Counsel (jcardinale@pa.gov)
Tiffany L. Tran, Assistant Counsel (tiftran@pa.gov)

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

I. INTRODUCTION

By Proposed Policy Statement Order entered on November 15, 2023 (“Proposed Policy Statement Order”), the Commission invited comments regarding its Proposed Policy Statement regarding electric utility rate design for electric vehicle (“EV”) charging in Pennsylvania (“Proposed Policy Statement”).¹ The Retail Energy Supply Association (“RESA”)² and NRG Energy, Inc. (“NRG”) appreciate this opportunity to present their views on the Commission’s Proposed Policy Statement as they are keenly interested in supporting the development of the EV market. Members of RESA and many of NRG’s subsidiaries include electric generation suppliers (“EGSs”) licensed by the Commission,³ pursuant to the Electricity Generation Customer Choice and Competition Act,⁴ to sell competitive electric generation services to retail customers throughout Pennsylvania. These competitive generation services and products include

¹ Proposed Policy Statement Order at 1-2.

² The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at www.resausa.org.

³ As EGSs in Pennsylvania, NRG subsidiaries hold licenses as follows: Direct Energy Business, LLC – Docket No. A-11025; Direct Energy Business Marketing, LLC – Docket No. A-2013-2368464; Direct Energy Services, LLC – Docket No. A-110164; Energy Plus Holdings LLC – Docket No. A-2009-2139745; Gateway Energy Services Corporation – Docket No. A-200902137275; Independence Energy Group LLC d/b/a Cirro Energy – Docket No. A-2011-2262337; Reliant Energy Northeast LLC d/b/a NRG Home/NRG Business/NRG Retail Solutions – Docket No. A-2010-2192350; Green Mountain Energy Company – Docket No. A-2009-2139745; Stream Energy Pennsylvania, LLC – Docket No. A-2010-2181867; and XOOM Energy Pennsylvania, LLC – Docket No. A-2012-2283821.

⁴ 66 Pa.C.S. §§ 2801 et seq.

ones tailored to meet the needs of EV customers. As such, the Commission’s actions encouraging the electric distribution companies (“EDCs”) to design rate structures and default service supply rates for EV customers will have a direct impact on the ability of RESA members and NRG to develop and deliver competitive alternatives to EV customers in Pennsylvania.

While RESA/NRG do not agree that utility intervention (which will be supported by captive ratepayer funding) is necessary in the already competitive EV market, they acknowledge the intent of the Commission to move in this direction, as evidenced by the Proposed Policy Statement, and have elected to focus here on proposing limited revisions to address three key areas of concern. These areas of concern include: (1) a lack of recognition of the role of the competitive market in supporting EV development; (2) the lack of clarity and/or further consideration of the various types of EV charging and whether or not utility rate design is appropriate in all circumstances; and, (3) the value to consumers of collaborative education efforts regarding EV.⁵ Each of these concerns is discussed further below and RESA/NRG’s suggested revisions to the Proposed Policy Statement are presented in Exhibit A.

II. COMMENTS

A. Role of Competitive Market in Supporting EV adoption

RESA members and NRG have consistently argued in prior Commission proceedings that there is no need for utility intervention in the competitive EV market given the availability of private entities using their own funds to build the required infrastructure to meet EV customer demand.⁶ Reliance on private investment and private entities regarding EV development creates

⁵ RESA/NRG also suggests some language changes for better clarity. Specifically, in Section 69.3553, RESA/NRG suggest that the language regarding prices during peak and off-peak demand be revised based on “**actual market prices at both peak and off-peak demand hours**” rather than requiring higher or lower prices at certain times. *See Exhibit A* at 1. RESA/NRG also offer suggested headers in Sections 69.3553 and 69.3554 to group like-focused concepts. *See Exhibit A* at 2-3.

⁶ *See, e.g., Petition to Initiate a Proceeding to Consider Issuance of a Policy Statement on Electric Utility Rate Design for Electric Vehicle Charging*, Docket No. P-2022-3030743, Comments of Electric Generation Supplier Coalition, dated April 11, 2022; and, *PECO Energy Company – Electric Division 2021 Base Rate*

more flexibility and nimbleness to adapt to changing EV demands. The EDCs' reliance on ratepayer funds is subject to a time consuming Commission litigation process with no specific timeframe for follow-up review given the discretion of the EDCs as to when to file a subsequent rate case. RESA/NRG still strongly support reconsideration of the Commission's current focus on only the EDCs to support EV development.

In the context of the Proposed Policy Statement here, RESA/NRG are offering suggestions to acknowledge the role of the competitive market in support of EV development and to be clear that actions of the EDCs should not impede its development. A sampling of RESA/NRG's suggested language is set forth below.:

- In Section 69.3551, RESA/NRG suggest adding language that the Commission “**supports the development of competitive market energy supply products.**” Suggested revisions to this section also include language stating that “**electric distribution companies shall make available to the competitive market the needed processes and systems and avoid designs which may impede competitive market development.**” *See RESA/NRG Exhibit A at 1.*
- In Section 69.3552, RESA/NRG suggest adding language prohibiting EDCs from offering rate structure designs that “**foreclose the ability of competitive energy suppliers to offer products and services**” to EV customers. Revisions also prohibit the EDCs from withholding “**access to information, systems and processes necessary for electric generation suppliers to offer such products.**” Finally, language is added to make clear that EV customers may still elect to shop even if they are subject to an EV specific distribution rate. *See RESA/NRG Exhibit A at 1.*
- In Section 69.3553, RESA/NRG suggest adding language requiring the EDCs to consider the impact of the competitive market on costs. Revisions also require the any EV default service rate offer “**include all administrative costs needed to support the default service rate offer**” and specifically prohibits EDCs from “**subsidizing the default service rate through distribution rates.**” Revisions also require that any rate structure designs ensure “**that competitive market development of rates and products that support EV customers is encouraged.**” Suggested revisions are also offered regarding the review plan already contemplated by the Proposed Policy Statement to ensure that it includes information about “**available competitive market alternatives**” and identifies

“barriers to such competitive market development.” See RESA/NRG Exhibit A at 2.

- Finally in Section 69.3554, additional language is suggested which requires the customer education plan contemplated by the Proposed Policy Statement in “include informing customers about the availability of competitive supply services available in the market.” See RESA/NRG Exhibit A at 3.

Each of these suggested language revisions is based on the experiences of RESA members and NRG subsidiaries in Pennsylvania and in other states where they have been active participants in the development of a robust competitive market for their products and services. There are many pathways through which barriers may exist to impede the ability of EGSs to develop and market competitive products and services to consumers. These include difficulties accessing the customer information maintained by the EDCs as well as the systems that must interface with EGSs to provide retail service. Other difficulties include breaking through the continuing stronghold EDCs maintain on the customer relationship via the right to be the exclusive billing entity and their role as provider of the default service product – which consumers are encouraged to use to judge competitive offers. The suggested language in Exhibit A is focused on addressing these issues.

Importantly, working to develop the EV market must not only include a strong recognition by the Commission of the value of the competitive market but also clear steps necessary to encourage such development. Thus, the RESA/NRG suggested language revisions to the Proposed Policy Statement minimally require that EDCs, the Commission and interested stakeholders remain mindful of competitive market options and not impede the ability of EGSs to create and offer such products. EV development is a dynamic and rapidly growing market that is attracting investment from energy, technology and automotive players all willing to risk their own capital to meet the anticipated EV adoption growth. Recognizing this reality and being careful not to impede it by creating incentives for EDCs to utilize less efficient ratepayer money against which private investment cannot effectively compete is the best way to support the public

interest. RESA/NRG’s suggested revisions are intended to achieve this outcome and should be incorporated into the final policy statement.

B. Ensuring Flexibility Regarding the Ever-Changing Needs of the Dynamic EV Landscape

As noted in the previous section, EV development is a dynamic and rapidly growing market which will likely continue to evolve in unforeseeable ways. One example of this is the various ways in which customers may need EV charging. In addition to home charging, other public charging options are or will likely be available such as: (1) transport corridors; (2) charging stations at public properties such as shopping centers, movie theaters, hotels; (3) depot charging for fleets; (4) home charging for fleets; (5) wireless charging; and, (5) charging via pavement on roads. The Proposed Policy Statement does not delve into these various types of EV charging leaving open the question of what type of user charging options utilities are being encouraged to address with their rate structure proposals. To deal with this concern, RESA/NRG suggest qualifying language throughout the Proposed Policy Statement to require that the proposed rate structures “be beneficial” to “support the anticipated use for EV charging in the service territory.”⁷ RESA/NRG also suggest that the Commission “undertake a periodic review to ensure the needs of the majority of EV users are being met” in consideration of the ever-developing market for EV charging.⁸

These suggested revisions are designed to keep focus on meeting the existing needs of EV users while also committing the Commission, and stakeholders, to evaluating these needs on a broader basis as the industry continues to evolve and change. This is especially important where, as here, the Commission is encouraging the use of ratepayer dollars to address EV

⁷ See, *Exhibit A*, suggested language for Sections 69.3551-69.3553 at 1-2.

⁸ *Id.* suggested language for Section 69.3551 at 1.

charging needs leaving the specific analysis for the use of these ratepayer funds to individual litigated utility proceedings. Given the cost and time-consuming challenges for competitive market and private entities to participate in multiple and costly rate case proceedings and the importance of being mindful of the broader picture of EV development, RESA/NRG believe their suggested edits offer the appropriate balance while still respecting the expressed desires of the Commission regarding utility rate design structures.

C. Consumer Education

As drafted, the Proposed Policy Statement states the “importance” of EDCs to prioritize customer education.⁹ As discussed above, however, development of the EV market includes more than just the role of EDCs. Directing the EDCs to prioritize education without any guidance or directive to take a holistic view of the EV market, including competitive products and services for EV customers, leaves open an unnecessary pathway for competitive market concerns to arise in the future. Importantly, EGSs market to consumers as a regular part of their business because their success depends on acquiring customers and continuing to serve. EGSs do not have a captive rate base to fund their activities. Thus, EGSs offering EV focused competitive products can be an extremely valuable resource for the development of effective consumer education materials and campaigns. Moreover, consumers benefit from knowing about the availability of competitive EV offers as these alternative products and services may better satisfy the individual needs of the EV customer. For these reasons, RESA/NRG suggest adding language regarding the requirements of the EDC for consumer education to include “**informing customers about the availability of competitive supply services**” and to collaborate with competitive suppliers “**offering such products to coordinate outreach and education**”

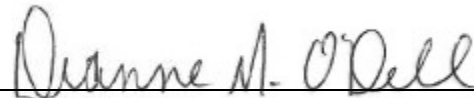
⁹ *Proposed Policy Statement* at Section 69.3554.
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efforts.”¹⁰ Coordinating consumer education and requiring the EDCs to collaborate with active market participants is important to provide consumers complete and useful information to assist in making choices about their EV charging options.

III. CONCLUSION

RESA and NRG appreciate the opportunity to submit these comments to the Commission as the Commission continues to evaluate how best to support and promote the development of the EV market.

Respectfully Submitted,



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¹⁰ See Exhibit A at Section 69.3554 at 3
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Exhibit A – RESA/NRG Suggested Revisions to Proposed Policy Statement

ANNEX A

TITLE 52. PUBLIC UTILITIES PART I. PUBLIC UTILITY COMMISSION

Subpart C. FIXED SERVICE UTILITIES

CHAPTER 69. GENERAL ORDERS, POLICY STATEMENTS AND GUIDELINES ON FIXED UTILITIES

* * * * *

ELECTRIC UTILITY RATE DESIGN FOR ELECTRIC VEHICLE CHARGING

§ 69.3551. Purpose and scope.

Due to Federal and State policy initiatives to promote the proliferation of electric vehicles, as defined in the Vehicle Code, 75 Pa.C.S. §§ 101-9802, the Commission is encouraging development of rate structures for electric-vehicle charging customers where such rate structures may be beneficial. The Commission also supports the development of competitive market energy supply products to provide further benefits in support of electric vehicle development. Specific types of Electric-vehicle charging will increase demand on existing infrastructure, and it is imperative that electric distribution companies are prepared to address this increased demand, where appropriate, with distribution and default service generation rate structures that properly signal to electric-vehicle charging customers to incentivize increased capacity utilization of the distribution system. To support the development of competitive market generation supply products and services, electric distribution companies shall make available to the competitive market the needed processes and systems and avoid designs which may impede competitive market development. The Commission’s policy on electric-vehicle charging also encompasses fairness and equity principles as they relate to consumers and the competitive energy market that electric distribution companies are to consider in developing electric-vehicle charging rates. Finally, in recognition of the ever-developing market for electric vehicle charging, the Commission will undertake a periodic review to ensure the needs of the majority of users are met.

§ 69.3552. Electric Vehicle Charging Rate Tariffs.

The Commission encourages all electric distribution companies to develop tariffs with distribution and default service generation rates for the purpose of implementing rates specifically for electric-vehicle charging customers where such rate structures will support the anticipated use for electric vehicle charging in the service territory. These distribution and default service generation electric-vehicle charging tariffed rates should reflect the actual costs of providing charging infrastructure and services, including the cost of electricity, maintenance, and administrative expenses in a manner that avoids unreasonable cross-subsidization between customers. The distribution and default service generation electric-vehicle charging tariff rate structures shall not foreclose the ability of competitive energy suppliers to offer products and services to electric-vehicle charging customers nor shall the electric distribution companies withhold access to information, systems and processes necessary for electric generation suppliers to offer such products. Choosing the distribution rate product may not preclude an electric-vehicle customer from shopping and, likewise, any default service generation rate intended for electric-vehicle charging customers shall not interfere with the development of competitive rates by electric generation suppliers.

Exhibit A – RESA/NRG Suggested Revisions to Proposed Policy Statement

§ 69.3553. Electric Vehicle Charging Rate Design.

A. Distribution Rate Structures

To promote efficient use of electric-vehicle charging infrastructure and to manage electric grid demand, public utilities should consider variable rates for electric-vehicle customers, where such structures are determined beneficial given the customer’s usage, based on the time of day and the level of demand on the electric grid. This means that electric-vehicle charging rates should reflect the actual market prices at both peak and off-peak demand hours and off-peak hours. ~~be higher during peak demand hours and lower during off-peak hours.~~ We recommend that electric distribution companies develop electric-vehicle distribution rates with cost-of-service principles that incentivize increased network capacity utilization of the distribution system. Electric distribution companies should also take into consideration rates for direct current fast chargers, including demand charges, to manage electric grid stress during peak hours. In addition, the electric distribution companies should take into consideration the differences between the cost of providing distribution service on and off-peak hours and the cost of providing generation services and how the competitive market can impact those costs.

B. Default Service Rate Structures

We also recommend that electric distribution companies develop electric-vehicle charging default service generation rates that, at a minimum, properly reflect the cost of generation services during times of system stress. Default service generation rates shall also include all administrative costs needed to support the default service rate offer. Electric distribution companies are prohibited from subsidizing the default service rate through distribution rates. These default service generation rates may include use of time-of-use rates that should reflect the actual market prices at both peak and off-peak demand hours ~~use on and off-peak periods~~ which appropriately incentivize the movement of charging consumption to off-peak periods or periods of less system stress.

C. General Considerations and Evaluation

The Commission recommends that electric-vehicle charging distribution and default service generation rates should be flexible and adaptable to changing circumstances and technologies while ensuring that competitive market development of rates and products that support electric-vehicle customers is encouraged. As such, electric distribution companies are required to include a plan whereby electric-vehicle charging distribution and default service generation rates ~~should~~ will be periodically reviewed and adjusted, as necessary. The purpose of the evaluation is to ensure that they rate structures remain fair, cost-effective, and efficient. This evaluation shall include a review of: (1) the needs of the majority of electric vehicle customers in the service territory and whether they are being served; and, (2) the available competitive market rates supporting electric vehicle customers in the service territory and any barriers to such competitive market development.

Exhibit A – RESA/NRG Suggested Revisions to Proposed Policy Statement

§ 69.3554. Electric Vehicle Charging Rate Equity and Consumer Education.

A. Low Income Customer Concerns

The Commission recommends that electric-vehicle charging distribution and default service generation rates be designed to promote fairness and equity. As such, the distribution and default service generation electric-vehicle charging rates should not discriminate against certain types of electric vehicles or drivers, and should not create undue financial burdens for low-income customers or disadvantaged communities. The Commission recommends that electric distribution companies consider impacts on low-income customers due to the design of their distribution and default service generation electric-vehicle charging rates. Electric distribution companies may need to consider customer-specific and electric distribution company region-specific rates to best serve the needs of their communities.

B. Consumer Education

It is important that electric distribution companies prioritize customer education to encourage efficient and effective use of electric-vehicle charging infrastructure and proper knowledge of available distribution and default service generation rates. Components of the electric distribution companies' education plan must include informing customers about the availability of competitive supply services in the market and collaboration with competitive suppliers offering such products to coordinate outreach and education efforts.