

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 13-E-0199 - In the Matter of Electric Vehicle Policies.

NOTICE OF NEW PROCEEDING AND SEEKING COMMENTS

(Issued May 22, 2013)

To support consumer acceptance and use of plug-in electric vehicles (PEVs), the Commission seeks to ensure that its regulations and policies promote the continuing evolution of the market for PEVs and for supporting services, while maintaining the safety and reliability of New York's electric grid. PEVs occupy an increasing share of the automobile market. As noted by Governor Andrew M. Cuomo in his 2013 State of the State, "[i]t is projected that with the adoption of a supportive set of policies, the number of plug-in electric vehicles on the road in New York State could increase from less than 3,000 today to 30,000 - 40,000 in 2018 and one million in 2025." The above captioned proceeding is instituted to review policies that may impact consumer acceptance and use of electric vehicles and to further develop the Commission's policies regarding electric vehicles and the services and infrastructure that they require.

Background

Among the issues that may be addressed in this proceeding are the Commission's policies regarding Electric Vehicle Charging Equipment (EVCE), both at publicly available Charging Stations and at PEV owners' premises; policies regarding metering and rates, e.g., time of use (TOU) rates for PEV charging and the use of single or dual meters for a house with EVCE; the impact the PEVs may have on the electric grid in New York and how the electric grid may have to be modified to support PEVs; and outreach and education concerning PEVs.

The initial inquiry in this proceeding will focus on the Commission's jurisdiction over public Charging Stations. It will also seek comments regarding other Commission actions which may affect consumer acceptance and use of PEVs. Depending on the nature and extent of the comments submitted, this proceeding may require multiple phases.

Commission Jurisdiction over Charging Stations

The availability of Charging Stations is vitally important to increased customer acceptance and use of PEVs. Public Charging Stations may be installed in garages, parking lots, or next to parking spaces along public streets. The availability of public Charging Stations at numerous locations will allow customers to charge vehicles while parked overnight (e.g., at or near residences and hotels), at work, conducting errands, or at shopping, eating and entertainment venues (e.g., at or near shopping malls, arenas and stadia, or in commercial or entertainment districts).

As an initial matter, the Commission must determine whether it will assert or disclaim jurisdiction over publicly available Charging Stations, over their operators, or over the transaction between their operators and members of the public.¹ Public Service Law Sections 2, 5, and 64 provide guidance on this issue.² Based on these statutory provisions, the Commission

¹ Whether or not the Commission has jurisdiction over Charging Stations, the Commission does have jurisdiction over the sale of electric delivery service or commodity to Charging Stations by the distribution utilities operating in the State.

² PSL §5 provides that the Commission's jurisdiction extends "to the manufacture, conveying, transportation, sale or distribution of ... electricity for light, heat or power, to ... electric plants and to the persons or corporations owning, leasing or operating the same." Additionally, PSL §64 states that Article 4 of the PSL "shall apply to the ... generation, furnishing and transmission of electricity for light, heat or power." Also relevant to understanding the

could conclude that the operator of a publicly available Charging Station is engaged in the provision of an unregulated service (e.g., car charging service) or car charging equipment, and the provision of electricity is merely incidental. In that event, such an operator is not engaged in the "manufacture, conveying, transportation, sale or distribution of ... electricity for light, heat or power."³ In this view, the fact that electricity is used in the provision of the car charging service is merely incidental and not determinative for jurisdiction.

Indeed, the transactions between the operator of publicly available Charging Stations and members of the public could be differentiated from traditional sales of electricity. In a traditional sale of electricity the purchaser uses the acquired electricity for myriad purposes, including, for example, lighting, refrigeration or powering electronic devices. The member of the public engaged in a transaction with the operator of a publicly available Charging Station, however, is only able to charge their PEV, while making use of specialized equipment supplied by the publicly available Charging Station. Indeed, the electricity used by the Charging Station is useless to the customer without the Charging Station's equipment. This distinction could be seen as providing additional support for concluding that the transaction is one for "charging services," and not a sale of electricity.

The understanding that the transaction is one for a service and not for the sale of electricity could lead to a conclusion that the Charging Station's operator would not be an electric corporation and that the Charging Station's EVCE would not be electric plant. Thus, if this view is adopted, neither

Commission's jurisdiction are the definitions of the terms "electric plant" and "electric corporation" contained in PSL §§2(12) and (13).

³ PSL §5(1)(b).

the operator, nor the Charging Station, nor the transaction between the customer and the Charging Station operator would be subject to the Commission's jurisdiction.

In considering Charging Stations, the Commission could also observe that, unlike the electric utilities subject to our jurisdiction, Charging Stations are not an inherent monopoly. Potential customers could choose whether or not to use a particular Charging Station or a different Charging Station located at a different site. As a result of this competitive market for Charging Stations, the regulation of Charging Station rates and practices could be characterized as unnecessary.

Request for Comments

Interested parties are encouraged to submit comments addressing the statements, above, regarding the Commission's jurisdiction over Charging Stations and the following questions:

Jurisdiction over Charging Stations:

1. To what extent and in what ways would the development of consumer acceptance and use of electric vehicles and of the supporting services for electric vehicles be affected by the Commission's determination that it does or does not have direct jurisdiction over publicly available Charging Stations, their operators or the transaction between publicly available Charging Station operators and members of the public?
2. In determining whether the provisions of the Public Service Law provide it with jurisdiction, should the Commission consider the manner in which a customer is billed for electric vehicle charging services, e.g., per kWh, per hour, day, month, etc?
3. If the commenter argues that the Commission should assert jurisdiction over publicly available Charging Stations and

their operators, how should the Commission exercise that jurisdiction? For example, should public Charging Stations and their operators be subject to rate regulation?

Utilities as Owners or Operators of Charging Stations:

4. Should the Commission allow electric distribution utilities operating in New York State to own or operate Charging Stations:
 - a. as part of their regulated operations?
 - b. segregated from their regulated operations, treating Charging Station assets as nonutility property and revenues and expenses related to Charging Station operations as revenues and expenses from nonutility operations?
5. Should unregulated affiliates of electric distribution utilities operating in New York State own or operate Charging Stations?

Impact of PEV charging on Electric Infrastructure:

6. State-wide, the number of PEVs has increased from 962 in May 2012 to 3,931 in April 2013. Based on Department of Motor Vehicle Records,⁴ the concentration of PEVs by zip code can be ascertained.

⁴ See, for instance, the Transportation & Climate Initiative Of the Northeastern and Mid-Atlantic States "Assessment of Current EVSE and EV Deployment." Prepared for the New York State Energy Research and Development Authority and the Transportation and Climate Initiative. Published in November 2012. Available for download at: http://www.transportationandclimate.org/sites/default/files/Assessment_of_EVSE_and_EV_Deployment.pdf (accessed on April 30, 2013).

- a. What steps can be taken to ensure that utilities are aware of new EVCE locations so they can proactively address any necessary distribution facility upgrades?
- b. What customer privacy concerns need to be addressed?
- c. If distribution facility upgrades are necessary to accommodate PEV charging, should such costs be shared among all customers (*i.e.*, rate-based), or allocated in some other way?
- d. At what level of PEV use would there be transmission level performance impacts? Are there any strategies that could minimize such impacts?
- e. To what extent can the State's solar photovoltaic (PV) policies, under the NY Sun initiative, be utilized to offset potential increases in peak demand that may result from the expanded use of EVCE, particularly at publicly available charging stations?

Utility Metering and Rate Issues:

7. How should the Commission exercise its regulatory authority to ensure that PEV charging, both at Charging Stations and in private locations, occurs in a manner that is consistent with grid capabilities, *e.g.*, through time of use (TOU) or other rate structures?
8. Do existing rate structures need to be modified to accommodate the evolution of the PEV market? Are additional measures needed to increase the use of TOU rates for EVCE?
9. What additional metering policies or protocols (*e.g.*, dual metering, submetering) may be needed to accommodate various EVCE options?

Consumer Issues:

10. What risks face consumers in the market for EV charging services and how does, or should the market or other entities address those risks?
11. To what extent should outreach efforts integrate PEV and solar PV information?

Interested parties may submit comments addressing the above questions no later than Monday, July 8, 2013. Comments should be submitted electronically, by e-filing through the Department's Document Matter and Management System (DMM)⁵, or to the Secretary at secretary@dps.ny.gov. Those unable to submit comments electronically may mail or deliver them to Hon. Jeffrey C. Cohen, Acting Secretary, New York State Public Service Commission, Three Empire State Plaza, Albany, New York 12223-1350. All comments submitted will be posted to the Commission's Web site and become part of the official case record.

Those who would like to subscribe to the Service List or request Party Status for Case 13-E-0199 should do so through the Commission's Web site at www.dps.ny.gov. At the left side of the home screen, click on "Commission Documents," then "Search by Case Number" for "13-E-0199." When the case page appears, click on the "Subscribe to Service List" or "Request for Party Status" box in the upper right corner, and follow the instructions in the column headed "Parties" or "Service List."

(SIGNED)

JEFFREY C. COHEN
Acting Secretary

⁵ Why Register with DMM, http://www.dps.ny.gov/DMM_Registration.html
How to Register with DMM, <http://www.dps.ny.gov/e-file/registration.html>