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## New York PSC Opens Proceeding on EV Infrastructure, Including Jurisdiction Over Charging Stations, Utility-Provision of Such Services

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The New York PSC has opened a proceeding to review policies that may impact consumer acceptance and use of plug-in electric vehicles and to further develop the Commission's policies regarding electric vehicles and the services and infrastructure that they require.

"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," the PSC said.

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.

Among other things, the PSC sought comment on:

- 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?
- Should the Commission allow electric distribution utilities operating in New York State to own or operate Charging Stations:
  - as part of their regulated operations?
  - 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?
- Should unregulated affiliates of electric distribution utilities operating in New York State own or operate Charging Stations?

The initial inquiry in the 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.

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. Public Service Law Sections 2, 5, and 64 provide guidance on this issue. Based on these statutory provisions, the Commission 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," the PSC opined. 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.

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, the PSC added.

In considering Charging Stations, the Commission could also observe that, unlike the electric utilities subject to its jurisdiction, Charging Stations are not an inherent monopoly. Potential customers could choose whether or not to use a

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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, the PSC said.

The PSC noted that 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.

Case 13-E-0199

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