



NRG Retail Northeast
3711 Market Street
Philadelphia, PA 19104

July 8, 2013

Electronic Filing

Jeffrey C. Cohen
Acting Secretary
NY State Public Service Commission
Three Empire State Plaza
Albany, NY 12223

**Case 13-E-0199
In the Matter of Electric Vehicle Policies;
Comments of NRG Energy, Inc. Retail Affiliates**

Dear Secretary Cohen:

Enclosed for filing with the Commission is an electronic copy of Comments in the above-referenced proceeding on behalf of Green Mountain Energy Company, Energy Plus Holdings LLC, and Reliant Energy Northeast LLC (collectively, the NRG Retail Affiliates).

If you have any questions regarding this filing, please direct them to me at 609.280.7701 or via email at john.holtz@greenmountain.com.

Respectfully yours,

John Holtz
Director – Market Development

BEFORE THE
NEW YORK PUBLIC SERVICE COMMISSION

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

COMMENTS OF NRG ENERGY, INC. RETAIL AFFILIATES

July 8, 2013

Introduction

Green Mountain Energy Company, Energy Plus Holdings LLC, and Reliant Energy Northeast LLC (collectively, the NRG Retail Affiliates) respectfully submit these Comments in response to the New York State Public Service Commission (Commission) *Notice of New Proceeding and Seeking Comments* issued May 22, 2013 to review policies that may impact consumer acceptance and use of plug-in electric vehicles (PEVs), as well as to further develop the Commission's policies regarding electric vehicles and related services and infrastructure.

The NRG Retail Affiliates are wholly-owned subsidiaries of NRG Energy, Inc. (NRG), a Fortune 500 and S&P 500 Company. NRG is at the forefront of changing how people think about and use energy by building the first privately-funded electric vehicle charging infrastructure in the nation, as well as being one of the largest developers of solar power in the U.S., and by providing customers with the most advanced smart energy solutions to better manage their energy use. NRG is one of the nation's largest independent power generation and retail electricity businesses, delivering cleaner and smarter energy choices for its customers that are backed by a generation portfolio of fossil fuel, nuclear, solar and wind facilities, including over 4,000 MW in New York. NRG's retail electricity providers along with the company's thermal energy division serve more than two million residential, business, commercial and industrial customers in 16 states.

NRG possesses distinct subject matter expertise on the topic of PEV charging services.

NRG EV Services LLC, another subsidiary of NRG which does business under the name eVgo (pronounced "ee-vee-go"), is the developer and operator of the nation's largest network of direct current (DC) fast-chargers for battery-electric vehicles. eVgo currently operates an "ecosystem" comprised of more than three dozen DC fast-chargers in Houston and the Dallas-Fort Worth metroplex, and is building a comparably-sized network in the Maryland / DC / Virginia market. eVgo is also constructing 200 DC fast-chargers, plus infrastructure for at least 10,000 lower-voltage home and workplace chargers, across the state of California. eVgo recently opened its first charging stations in Washington, DC and California.

All in all, eVgo is committed to investing approximately \$150 million of private, non-ratepayer, capital in electric vehicle charging.

The NRG Retail Affiliates commend the Commission for its forward-looking initiative to promote the market in New York for PEVs and charging services. The Commission can best achieve its stated objective of “supporting consumer acceptance and use of PEVs”¹ by allowing this emerging and promising environmentally-friendly personal transportation sector to shift into high gear in New York with as few regulatory guardrails as appropriate.

Accordingly Commission policy should focus on encouraging the development of a robust charging infrastructure through a competitive retail market design which enables PEV owners to fully benefit from innovative products and services. Appropriate market design elements include:

- Ease of entry for electric vehicle charging companies (EVCOs) to install charging stations across New York state and inside customer premises.
- Absence of a determination that EVCOs are resellers of electricity, and therefore should not be regulated as a utility or licensed as an Energy Service Company (ESCO).
- Full evaluation of the need for distribution system upgrades prior to implementation and incurring any costs for such investments.
- Real-time pricing plans delivered by ESCOs for PEV owners to encourage off-peak PEV recharging.
- Statewide implementation of smart meter infrastructure that provides sufficient and timely meter and billing data to all market participants.
- Commission-supported consumer awareness activity, combined with PEV ownership incentives such as preferred public parking, HOV access, and tax breaks.

In a competitive market ESCOs will vie for the opportunity to sell electricity to EVCOs and PEV owners. ESCOs, whose profitability and customer count are dependent on satisfying customers' needs, will undoubtedly respond with products and services that best fit this emerging technology. Ultimately vehicle charging preference will come down to a matter of convenience

¹ Case 13-E-0199 - In the Matter of Electric Vehicle Policies. *Notice of New Proceeding And Seeking Comments*, issued on May 22, 2013.

and value for PEV owners. PEV owners will make their selection regarding public or at-home charging based on how they consume and the prices that are available to match their consumption.

The NRG Retail Affiliates' Responses to Commission 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?***

RESPONSE: The NRG Retail Affiliates believe the successful deployment of electric vehicles and related charging services can be achieved through 1) a regulatory structure that ensures PEV charging remains a competitive service, and 2) policies that make PEV ownership simple and convenient.

Like the historic parallel of the emergence of automobiles and the growth of gasoline filling stations to fuel them at the beginning of the last century, the availability of charging stations will open the road to increased PEV usage. The first public gasoline filling stations were just curbside hand pumps that began appearing in 1907. During the infancy of the "horseless carriage" a New York motorist would find themselves challenged to map a route with sufficient and convenient access to gasoline supply for the 145 mile trip from Manhattan to Albany. Henry Ford's mass-production of automobiles paved a road for gas stations, which exponentially multiplied from 1910 to 1920. In 1920 there were approximately 15,000 service stations in the U.S. By 1930 the growth in the number of gas stations accelerated to more than 100,000.² Just as consumer demand and private investment in fueling service infrastructure made automobiles practical a hundred years ago, a competitive, free-market climate can spur the development of a safe, convenient and affordable 21st Century charging infrastructure that will encourage New Yorkers of drive PEVs.

² "Gas Stations," by John H. Lienhard, University of Houston. www.uh.edu/engines/epi975.htm

In sum, the Commission's determination as to whether it has jurisdiction over charging stations will have the affect of either pressing the accelerator or brake pedal on consumer acceptance of PEVs and related support services.

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?*

RESPONSE: First, consistent with the NRG Retail Affiliates' response to Question #1, the Commission's appropriate role in PEV charging should be more about fostering and less about regulating this important energy and environmental policy category. Second, the Commission needs to think differently about the consumer transaction between PEV owner (the "customer") and the charging station compared to the purchase of electricity supply for a premise from an ESCO or distribution company.

EVCOs provide charging stations for the purpose of allowing their customers to "refuel." EVCOs are not selling electricity. The EVCO is not a Load Serving Entity (LSE), ESCO or distribution utility. The EVCO does not take title to electricity, so technically it never has electricity to resell to the PEV customer. A charging station's primary purpose is not to produce, transmit, furnish or sell electricity. Rather, charging stations simply enable a safe charge to occur in the vehicle battery which is actually housed in the car itself.

The EVCO is the retail customer of an electricity supplier (either ESCO or distribution utility), which provides power to the public charging station. Like any electric customer the EVCO will be billed in the traditional manner (price per kWh) for the electricity that is delivered to the charging facility. That's where the Commission's jurisdiction on "billing" structure ends.

While electricity is required to provide part of the service at the public charging station, it is just one of many other costs, not unlike other kinds of businesses for which electricity is a significant cost component such as air conditioning in hotels, computer or phone charging at airports, and WiFi service at coffee shops, to cite a few examples. Public charging stations function the same way these other businesses cater to temporary guests.

For example, a hotel provides its guests access to rooms and its facilities just as an EVCO provides access to the charging network. A hotel also provides electricity for the convenience of its guests furnished by its energy supplier, just as an EVCO does. The

hotel's guests can turn on the lights, air conditioner or TV, or not use electricity at all. The guest pays a charge for the room and services, not specifically for the electricity consumed. No one would suggest the hotel is reselling electricity, or for that matter expect the hotel to bill guests on a per kWh basis for the electric usage of the room.

Just like the hotel in the example above provides more than electricity to guests, charging stations may offer additional goods and services to PEV owners, which will be priced along the lines of typical consumer items. In the same way that gasoline refueling evolved from stand-alone curbside pumps to modern convenience stores selling a variety of goods ranging from coffee, snacks and fast food to household groceries, it is conceivable that charging stations will similarly adopt the traveler services business model in addition to electric vehicle plug-in.

As demonstrated above, PEV charging stations do not fit the pricing mold of electricity sales. The method for pricing public charging service purchased by a PEV owner should be left to the business model of the EVCO. The EVCO is best positioned to respond to customer preferences about the marketing and pricing of the service.

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?*

RESPONSE: The NRG Retail Affiliates do not believe that the Commission should assert jurisdiction over charging stations and their operators. Public charging stations and their operators should not be subject to rate regulation. Charging stations are a competitive retail service, not a government-franchised monopoly. PEV owners are free to patronize any charging station they wish. The service provided by charging stations is not akin to a utility and therefore should not be subject to rate regulation. By way of analogy, The Home Depot rents power generators to customers for purposes of charging the customer's appliances. Yet no one would argue The Home Depot is a utility that should 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?

RESPONSE: No, the Commission should not allow New York distribution utilities to own or operate PEV charging stations regardless of separation from regulated operations. The utilities should focus on their core business and franchise responsibility, operating as a rate-regulated, public monopoly to ensure the reliable delivery of electricity. The competitive market is best positioned to respond to customer demand and invest in the development and operation of charging stations, in a manner that does not require complicated and socialized cost-recovery mechanisms. Private enterprise is more nimble in developing new products and services in response to consumer needs than an investor-owned distribution utility.

5. Should unregulated affiliates of electric distribution utilities operating in New York State own or operate Charging Stations?

RESPONSE: NRG Retail Affiliates have no objection to ownership and operation of PEV charging stations by unregulated affiliates of New York electric distribution utilities. Such companies should be bound by the same corporate separation rules that exist for the retail access market.

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, the concentration of PEVs by zip code can be ascertained.

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?

RESPONSE:

- a. EVCOs and utilities have a means of communicating where and when PEV charging facilities are being installed, as normally occurs with any service connection request for new commercial development within a service territory. By comparison, hundreds of Starbucks have opened in New York over the last 20 years, with electric outlets for users of mobile devices to plug into. Yet the Commission did not undertake a policy review to address the impact to the electric distribution system of the expansion of Starbucks. The increased energy demand was handled in the normal course of the utilities' procedures for commercial service connection requests. The same procedure applies to PEV charging facilities.
- b. The NRG Retail Affiliates are unsure what customer privacy issues may exist regarding PEV charging. How would PEV "refueling" be any different from a customer purchasing gasoline for a vehicle at an oil company service station?
- c. Any impact to distribution facilities or costs resulting from charging stations should be managed in the same way that the system currently responds to customer growth and demands on the system. As appropriate, system-wide upgrades that benefit the overall reliability of the distribution network should be socialized.
- d. The connection of new charging stations to the local utility are a normal increased demand to the distribution network just like any commercial development in a service territory. Impact to transmission system performance - - if any - - should be managed the same as with any other increase in demand, whether from Starbucks, downtown office buildings, or a new housing sub-division.
- e. The NRG Retail Affiliates do not have an opinion regarding the potential correlation between the State's solar PV policies under the NY Sun initiative and increases in peak demand that may result from the expansion of PEV charging facilities. However, understanding that the management and reduction of peak demand is a goal of New York state energy policy, NRG Retail Affiliates recommend the Commission explore appropriate incentives or other policy means of encouraging off-peak PEV charging.

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?**

RESPONSE: There is a presumption in the Commission's question that charging stations will buy their electricity from the distribution utilities, which may not be the case at all. Charging stations may choose to purchase electric supply from an ESCO. The EVCO is free to negotiate the best pricing plan to meet its business needs. Correspondingly, distribution utilities should not be burdened with the responsibility to incur costs associated with the development of additional pricing plans, products or services specifically designed to support deployment of PEVs. Placing that burden on utilities would be compounded by proceedings to determine how those costs would be recovered.

- 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?**

RESPONSE: Please see response to Question #7.

- 9. What additional metering policies or protocols (e.g., dual metering, submetering) may be needed to accommodate various EVCE options?**

RESPONSE: Additional metering for PEVs is unnecessary. There is no reason to separately meter the PEV charger, just as there is no reason to separately meter an air conditioner, or other electric consuming devices. The charger makes charging the electric vehicle safe; it is not producing electricity. In fact, it is the rechargeable battery in the PEV that supplies the car with the electricity.

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?**

RESPONSE: NRG Retail Affiliates are not aware of any unique "risks" to PEV charging customers compared to other consumer retail transactions. Even if the PSC does not regulate PEV charging stations - - which it should not - - it does not mean consumer protection will be

sacrificed. Federal and state antitrust, fair trade practices, and consumer protection laws will still apply and provide remedies, just like for any other retail consumer product or service.

Conclusion

NRG Retail Affiliates urges the Commission to recognize PEV charging as a competitive retail service. The Commission's policies should support and indeed encourage the widespread deployment of privately funded PEV charging infrastructure in New York.

NRG stands ready to share its extensive PEV charging services and infrastructure expertise toward assisting the Commission in its efforts to support consumer acceptance of electric vehicles in New York.

Respectfully submitted,

A handwritten signature in cursive that reads "John Holtz" followed by the date "7/3/2013". A horizontal line is drawn across the signature.

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