I. Introduction

The Alliance for Clean Energy New York ("ACE NY"), AMPLY Power, Inc. ("AMPLY"), CALSTART's Coalition for Commercial Electric Vehicles ("CCEV"), ChargePoint, Inc. ("ChargePoint"), Electrify America, Environmental Advocates, Environmental Entrepreneurs ("E2"), EVgo Services, LLC ("EVgo"), the Natural Resources Defense Council ("NRDC"), Nikola Corporation ("Nikola"), TeraWatt Infrastructure, Inc. ("TeraWatt"), Tesla, Inc. ("Tesla"), the Tri-State Transportation Campaign, and Volvo Group North America ("Volvo") (collectively, the "Joint Commenters"), respectfully submit these comments in response to the Notice Soliciting Comments issued by the Public Service Commission ("PSC," or "the Commission") in Case Nos. 18-E-0138 and 22-E-0236 on April 21, 2022.

The Joint Commenters represent diverse perspectives from the electric vehicle ("EV") charging industry, EV charging operators from all sectors and use cases, EV charging customers, and public interest groups that share a common interest in supporting the development of alternatives to traditional, demand-based electricity rates. By approving alternatives to traditional, demand-based electricity rates for light-duty, medium-duty, and heavy-duty vehicles, the PSC will facilitate the electrification critical to the achievement of New York's Climate Leadership and Community Protection Act ("CLCPA") goals.

II. Background

A. Chapter 822 of 2021 (S3929/A3876) and Chapter 168 (S7836/A8797)

In December 2021, the Governor Hochul enacted S3929/A3876, which was subsequently amended by enactment of S7836/A8797 on March 18, 2022, to direct the PSC to "commence a proceeding to establish a commercial tariff utilizing alternatives to traditional demand-based rate structures, other operating cost relief mechanisms, or a combination thereof,"[1] (collectively, "Solutions"), which "must include, at a minimum:

> "(a) technology-agnostic solutions so long as such solutions would not have the effect of discouraging innovation;
> (b) mechanisms to enable customers with fast electric vehicle charging for eligible light duty, heavy duty, and fleet electric as their largest source of energy demand to opt into solutions without unreasonable delay;
> (c) solutions for both existing and new customers;
> (d) mechanisms that would provide cost relief for customers during each combination gas and electric corporation monthly billing period; and
> (e) combination gas and electric corporation service territory-specific solutions."[2]

B. Infrastructure Investment and Jobs Act

[1] Chapter 168 of 2022.
[2] Id.

In November 2021, President Biden signed the Infrastructure Investment and Jobs Act ("IIJA") into law, which included amendments to Section 111(d) of the Public Utility Regulatory Policies Act ("PURPA"). These amendments direct utility regulators in every state to begin proceedings before November 2022 to "consider measures to promote greater electrification of the transportation sector including the establishment rates"[3] that:

- Promote affordable and equitable EV charging options for residential, commercial, and public EV charging infrastructure,
- Improve the customer experience and reduce charging times,
- Accelerate private investment in charging infrastructure, and
- Appropriately recover the marginal costs of delivering electricity for vehicle charging.

Under the law, utility regulators are directed to consider rates that promote electrification. Such actions could enhance the impact of federal funds made available through the IIJA. By complying with the IIJA's directive, which includes consideration of EV-specific rates, the Commission can help ensure that the New York State Department of Transportation charging infrastructure investments will be economically sustainable for the long term while advancing social equity goals and attracting private sector investment.

III. Comments

A. The Commission should support the development of Solutions that are sufficiently flexible to address a broad range of EV charging use cases and operators and avoid overly prescriptive requirements.

The Joint Commenters encourage the PSC to clarify that developing Solutions for "light duty, heavy duty, and fleet electric vehicles,"[4] includes Solutions that are available for medium-duty vehicles, which are often employed by vehicle fleet operators.

We also recommend that the Commission clarify that the Joint Utilities can, and should, develop and offer a range of different Solutions to address the variety of vehicle technologies and operating use cases. This will ensure that the Commission is able to evaluate Solutions as the EV market develops, which will support increasingly informed ratemaking over time.

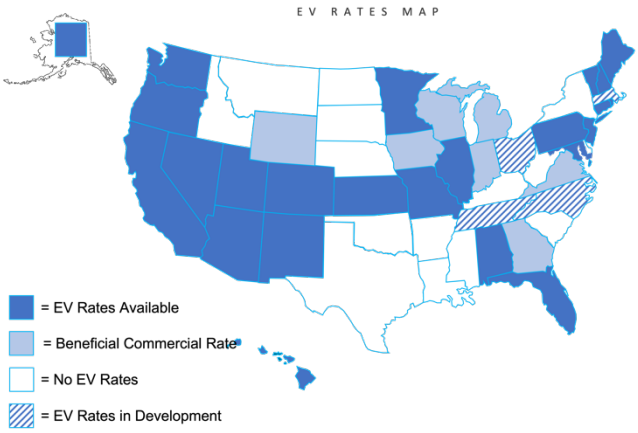
The Joint Commenters respectfully urge the Commission to avoid seeking to predict capital and operating costs, business case, or operating model for every customer that might enroll in a Solution. In its Notice on April 21, the Commission solicited feedback on "what assumptions should be applied to appropriately represent the investment decisions that charging station developers and/or site hosts must make."[5] We are concerned that attempting to predict and analyze such data would either be too generalized to provide effective insights or too specific to meaningfully reflect the wide variety of EV charging use cases and operating models.

[3] Sec. 40431 of H.R. 3684 – Infrastructure Investment and Jobs Act
[4] Notice Soliciting Comments at 1. Case Nos. 18-E-0138 and 22-E-0236. April 21, 2022.
[5] Id. at 4.

Instead, when developing solutions in this proceeding, the PSC should consider design principles that align commercial EV charging, utility customer, and stakeholder benefits. Principles included in the REV Track Two Order referenced in the PSC Notice are relevant, such as encouraging outcomes that include policy goals (e.g., specific emissions reductions as required by the CLCPA), transparency, stability, and encouraging efficient decision making.[6]

B. Alternatives to traditional, demand-based rates are increasingly common

In recent years, numerous utilities have adopted commercial EV ("CEV") rates that utilize alternatives to traditional demand charges, including low load factor rates, demand limiters, all-volumetric rates. In fact, more than 30 states have either approved or proposed commercial EV rates that use alternatives to traditional, demand-based rate designs.



It is important to note that some of the alternative rate structures are "technology-neutral" in that the tariff is applicable to any Commercial & Industrial customer account –irrespective of whether the customer operates direct current fast charging ("DCFC") (e.g., general low load factor rates).

Please see the Appendix for a table of alternatives to traditional, demand-based electricity rates that have either been proposed or are currently available to utility customers in North America.

C. The PSC should consider all costs and benefits for alternative rates.

In its Notice, the Commission stated that the "utilities affected by these possible changes are asked to provide comments regarding the potential impacts to ratepayers from adoption of a rule change that would eliminate or change the traditional demand-based rate for commercial purposes."[7] The Joint Commenters respectfully encourage the Commission to clarify that its request is intended to be consistent with PSL §66-s as amended by Chapter 168, which expressly provides that "the Commission shall evaluate the relative costs ***and*** benefits of proposed solutions."[8] (emphasis added)

Demand charges in the traditional Commercial & Industrial tariffs currently offered by New York utilities constitute a significant portion of DCFC electricity costs and skew the effective cost ($/kWh) borne by DCFC operators, and, therefore, EV drivers and fleet operators, to where it may be multiple times higher than what other Commercial & Industrial customers may pay on average. Demand charges are not found in New York's residential rates, exacerbating the equity

[6] Order Adopting A Ratemaking And Utility Revenue Model Policy Framework. Case 14-M-0101 – Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision. May 19, 2016.
[7] Notice at 3.
[8] Chapter 168 of 2022.

differential between those who can charge at home and those who must charge at public stations or a fleet garage.

For example, a particular light-duty DCFC station in New York that takes service under the Large Commercial General Use tariff experienced an effective charge in one particular month of $2.90/kWh and regularly exceeds $1/kWh, notwithstanding the tariff's energy charge being 11 cents per kWh.[9] Cost barriers are as significant for medium- and heavy-duty vehicles; for example, in New York City, "the cost per mile of fueling an electric bus is in excess of $2.00 per bus mile...[,or] more than twice as high as the cost of fueling a bus with diesel or CNG."[10]

Emerging regulatory best practice increasingly recognizes the potential grid benefit from new load on commercial EV rates. The California Public Utility Commission accepted that commercial EV customers generally provide new, incremental, growing loads to which costs have yet to be allocated. As that commission explained, "[new CEV load] will represent primarily additional load, not load transitioning from existing rates... The purpose of [new CEV rates] is to attract participants who would not have adopted electric vehicles without a discount below standard commercial and industrial rates. Accordingly, revenues collected under [new CEV rates] will benefit ratepayers as long as the [] rate is set above a price floor of marginal costs and non-bypassable charges. Ratepayers benefit even if the revenues collected under the [new CEV] rate are substantially lower than would have been collected under [existing rates]."[11] This finding is consistent with an analysis conducted by Synapse Energy Economics, which demonstrated that between 2012 and 2019, EV drivers in the two utility service territories with the most EVs in the United States (PG&E and SCE) contributed more than $800 million more in revenues than associated costs, driving rates down for all customers. Both the utilities in question offer alternatives to traditional, demand-based electricity rates.

D. The Commission should avoid onerous or expensive information and data requirements as conditions of enrolling in Solutions

Enrolling in a commercial EV charging rate should be as simple as enrolling in any other utility rate for which a customer is eligible. Customers should be able to work with a utility to switch over to an EV charging rate without the need for any specific application, electric vehicle supply equipment vendor request for proposals, qualified equipment lists, or ongoing reporting requirements, which will ensure compliance with the Ch. 168's requirement to implement solutions "without unreasonable delay." Eligibility for commercial EV rates should not be defined by electric vehicle supply equipment ("EVSE") technology, end-use customer, or other restrictive requirements that impede access.

[9] Source: EVgo blog, August 16, 2021, available at https://www.evgo.com/blog/dcfc-cost-components-much-more-than-electricity

[10] MTA Reply Comments at 5. Case No. 18-E-0138. May 11, 2020.

[11] Decision Authorizing San Diego Gas & Electric Company Rate for Electric Vehicle High Power Charging, D.20-12-023, at 28, available at https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M356/K212/356212154.PDF. *See also,* Decision Approving Application for Pacific Gas and Electric Company's Commercial Electric Vehicle Rates, D.19-10-055, available at https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M318/K552/318552527.PDF.

The Joint Commenters respectfully encourage the Commission to avoid imposing onerous, and duplicative, data reporting requirements as a condition of enrolling in Solutions. Furthermore, the utility should be able to access the data it needs from separately metered EV charging installations and should not require additional data reporting requirements as a condition of eligibility to enroll in rate Solutions. Utility meter interval data provides the granularity necessary for both ratemaking as well as understanding the dynamics of EV charging on the distribution grid. The Joint Commenters encourage the utilities to utilize their existing metering infrastructure in conjunction with interval meters to gain valuable insights into EV charging behavior, including time-of-use information as well as how much charging occurs in aggregate. Where EV charging is not separately metered, we recommend the commission ensure any ongoing data reporting requirements remain flexible and allow the use of multiple pathways.

E. The Commission should clarify that electricity rates can mitigate demand charges in a technology-neutral manner that encourages innovation.

The Joint Commenters urge the Commission to clarify that all Solutions can mitigate demand charges through commercial EV rates, including rates that allow for a combination of Level 2 and DCFC on the same meter or distributed energy resources behind the same meter. Providing customers with multiple rate options, including existing demand-based electricity rates, will encourage innovation. It will also be important for the Commission to consider ways to avoid inadvertently creating stark "cliffs" between different rate options or beyond certain levels of utilization and to provide smooth on/off ramps for customers.

Electricity rates that address the barrier of demand charges are not, by definition, technology-specific. Several utilities already offer "low load factor" electricity rates, which are designed to accommodate infrequent (i.e., "spiky") max loads from DCFCs, as well as agricultural use cases, and others. Examples of low-load factor rates for commercial and industrial customers include Dominion Energy (Virginia) and Madison Gas and Electric (Wisconsin).

IV. Conclusion

The Joint Commenters appreciate the opportunity to provide these comments. This proceeding is an opportunity for the Commission to meaningfully mitigate the impacts of demand charges and is crucial to increasing equitable access to electric transportation in New York. Dozens of other states, including New York's neighbors throughout the Northeast, have implemented or are now implementing EV-specific tariffs to address the impacts of demand charges and facilitate additional investment in DC fast charging. For New York to meet its CLCPA goals, it must do the same.

We look forward to working with the Commission, PSC Staff, the Joint Utilities, and all stakeholders to make it easier for all New Yorkers and fleet operators to ride and drive electric.

Appendix - Examples of Alternatives to Traditional, Demand-Based Electricity Rates

EDC	*State*	*Tariff/Rate description*	*Reference*
Southern California Edison	CA	10-year- all volumetric TOU; Demand charges phase in	• CPUC Decision 18-05-040, Ordering Paragraph 45 • SCE Advice Letter 3853-E: See EV-8 rate
Xcel Energy	CO	Low Load Factor Rate	See file page 56, book page 44.
Eversource	CT	EV Rider – Volumetric Rate (No Demand)	https://www.eversource.com/content/docs/default-source/rates-tariffs/ct-electric/ev-rate-rider.pdf?sfvrsn=e44ca62_0
Xcel Energy	MN	Demand Limiter (100kW)	https://www.xcelenergy.com/staticfiles/xe/PDF/Regulatory/CO-Rates-&-Regulations-Entire-Electric-Book.pdf (file page 56, book page 44)
Pacific Power (under PacifiCorp)	OR	Phased Demand Charge Discounts until 5/15/2026 with increased Energy Charges.	https://www.pacificpower.net/content/dam/pcorp/documents/en/pacificpower/rates-regulation/oregon/tariffs/rates/045_Public_DC_Fast_Charger_Optional_Transitional_Rate_Delivery_Service.pdf
San Diego Gas and Electric	CA	Subscription-based rate with 10-year phase in of non-marginal costs	Decision Authorizing San Diego Gas & Electric Company Rate for Electric Vehicle High Power Charging, D.20-12-023, available at https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M356/K212/356212154.PDF.
PECO	PA	50% Demand Discount, 36 months on General Service rate	Rate: File page 86, book page 84. One-page summary available here.
National Grid	RI	100% Demand Discount (Y1, Y2) 3-year/36-month	https://www.nationalgridus.com/media/pdfs/bus-ways-to-save/ee7873-ri-discount-pilot-for-dcfc-stations.pdf
National Grid (*Proposed*)	MA	Sliding scale demand charge, tracks load factor; 10 years	MA D.P.U. 21-91, Exhibit NG-DCA-1 https://fileservice.eea.comacloud.net/FileService.Api/file/FileRoom/13758109
Dominion	VA	Low Load Factor Rate (below 200kWh per kW)	https://cdn-dominionenergy-prd-001.azureedge.net/-/media/pdfs/virginia/business-rates/schedule-gs2.pdf?la=en&rev=65c74050107549f299d48689f738e948&hash=7CBE70107AE10C66B8EB5C5A1E248D12
Pacific Power	WA	Phased Demand Charge Discount w/ increased Energy Charges.	https://www.pacificpower.net/content/dam/pcorp/documents/en/pacificpower/rates-regulation/washington/rates/045_Public_DC_Fast_Charger_Optional_Transitional_Rate.pdf
Tacoma Power	WA	Phased Demand Charge Discounts with increased Energy Charges	Discount Tables: Schedule FC combined with either Schedule B (small) or Schedule G (general) rates https://www.mytpu.org/payment-billing/rate-information/power-rates/power-rates-schedule/
Madison Gas & Electric	WI	Low Load Factor Rate (50% Demand Reduction)	https://www.mge.com/customer-service/for-businesses/electric-rates/low-load-factor-provision
Sierra Pacific Power Company	NV	10-year Demand charge reduction; incremental volumetric transition rate adder	https://www.nvenergy.com/publish/content/dam/nvenergy/brochures_arch/about-nvenergy/rates-regulatory/electric-schedules-north/EVCCR-TOU_Electric_North.pdf
Florida Power and Light	FL	Demand charge limiter 75hrs	Rate Riders GSD-1EV and GSLD-1EV
Exelon Utilities	MD	50% Demand Charge Discount expanded to public DCFC	Approved by the Commission on January 9, 2020; 30 months or until the end of 2023 (permanent rates preferred)