May 11, 2020

VIA ELECTRONIC FILING

Hon. Michelle L. Phillips
Secretary to the Commission
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 18-E-0138 – Proceeding on Motion of the Commission Regarding Electric Vehicle Supply Equipment and Infrastructure

Dear Secretary Phillips:

Multiple Intervenors, an unincorporated association of approximately 60 large industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State, hereby submits these Reply Comments on the Department of Public Service Staff ("Staff") *Whitepaper Regarding Electric Vehicle Supply Equipment and Infrastructure Deployment* ("Whitepaper"), issued in the above-referenced proceeding on January 13, 2020. These Reply Comments are submitted in response to the *Notice Clarifying Comment Period and Provision of Meeting Materials*, issued herein on March 30, 2020. After reviewing the Whitepaper and party comments in response thereto, Multiple Intervenors hereby raises two concerns and advances recommendations to address those concerns.

The Whitepaper proposes to spur the adoption of electric vehicles ("EVs") through a Make-Ready EV Infrastructure Program that would encourage new charging station development. (Whitepaper at 30.) Under the Whitepaper's proposal, electric customers would fund up to 90% of the "make-ready" infrastructure costs for qualifying charging station sites through 2025 (the "make-ready incentive"). (*Id.* at 31-33.) These charging stations would serve mass-market EV customers, as the make-ready incentives favor publicly accessible charging stations. (*Id.*) Workplace stations for employees – but not fleets – only would be eligible for a reduced incentive, and "the program is not envisioned to support electrifying commercial fleets comprised of medium and heavy-duty vehicles." (*Id.* at 31-32; 60.) Staff suggests a statewide maximum budget for the make-ready incentive of approximately $291 million. (*Id.* at 34-35.) The utilities would treat these investments as a regulatory asset, and then as plant-in-service once rate plans are updated to include these costs, eventually collecting the make-ready incentives from the general body of customers. (*Id.* at 39.) Staff proposes to allocate the costs of the incentives to customers based on transmission and distribution revenues, using a "beneficiaries pay" rationale. (*Id.*) In initial comments, this proposed allocation was supported or unchallenged. (*See, e.g.*, Initial Comments of the Alliance for Transportation Electrification, at 21.)

Multiple Intervenors is not opposed to increased reliance on EVs as a general policy objective. The transportation sector accounts for the largest portion of New York's greenhouse gas and criteria pollutant emissions; any strategy to reduce emissions must electrify transportation to a greater extent. (*See* Whitepaper at 3.) Moreover, Multiple Intervenors recognizes that EV proliferation, especially in the market's nascent stage, is predicated on charging infrastructure deployment. Yet absent sufficient utilization early on, charging stations may not realize sufficient revenue to justify their deployment. Accordingly, incentivizing charging station deployment may be a logical policy step. That noted, Multiple Intervenors has three concerns regarding the customer impacts of the Whitepaper's proposals and various positions advanced by other parties.

First, the Whitepaper and the vast majority of commenting parties assume or accept that electric customers should fund the electrification of the transportation sector. (*See, e.g.*, Initial Comments of the Joint Utilities at 6.) Multiple Intervenors questions such assumption, which has not been supported adequately, if at all. Increasing energy costs hurts the State's competitiveness vis-à-vis other states and countries, and also impedes economic development objectives. The electric sector has funded – and continues to fund – the decarbonization of the electric generation sector. It seems fitting, given economic development concerns (especially at this time, in the midst of an economic depression), that the transportation sector fund its own electrification initiatives. Multiple Intervenors is concerned that proposal after proposal calls for the electric sector – and, more specifically, electric customers – to fund not only the decarbonization of the electric generation sector, but also similar efforts in the housing/heating sectors and the transportation sector. From an economic development perspective, imposing more and more costs on electric customers is a very poor strategy for New York to adopt. Accordingly, Multiple Intervenors recommends that the Public Service Commission ("Commission") and Staff explore, in conjunction with other State agencies, alternative funding sources (*e.g.*, from the transportation sector) for electrifying the transportation sector to a greater extent.

Second, Multiple Intervenors continues to be concerned that the costs of an individual policy initiative – in this case, the make-ready incentives for EV charging stations – are being evaluated in isolation, with little to no apparent consideration of other demands being placed on scarce customer resources (particularly at this time). In this regard, Multiple Intervenors agrees with certain comments submitted herein that raise cost-related concerns – minimizing costs to customers is a vital component of any initiative. (*See, e.g.*, Initial Comments of the Environmental Defense Fund at 5-7 [noting that the objective of controlling customer costs is a component of its proposals). If approved, the make-ready incentives would add yet another layer of incremental costs to the costs of all the other public policy related programs approved by the Commission in recent years, including, but not limited to:

- The Clean Energy Fund ("CEF"), which requires customers to pay over $5 billion in utility surcharges to fund customer-sited renewable projects, energy efficiency programs, and market transformation programs, as well as capitalizing the New York Green Bank;
- The Clean Energy Standard, which requires procurement of increasing amounts of Renewable Energy Credits and Zero-Emission Credits to provide many billions of dollars

in out-of-market compensation to new renewable projects and to a corporation owning upstate nuclear facilities;

- Utility-administered energy efficiency programs of increasing magnitude that are dependent upon hundreds of millions of dollars in customer collections annually, and which the Commission has expanded substantially in recent years;[1]
- Utility-administered heat pump programs that are dependent upon almost half a billion dollars in incremental collections from electric customers;[2]
- The offshore wind initiative, which requires procurement Offshore Wind renewable energy credits to provide at least hundreds of millions of dollars in future, annual, out-of-market compensation to offshore wind projects;
- An energy storage initiative, intended to increase substantially the amount of energy storage capacity in the State, to be funded by customers at a cost expected to be in the hundreds of millions of dollars;
- The Value of Distributed Energy Resources tariffs, which require non-participating customers to pay out-of-market compensation and incentives to customers with qualifying distributed energy resource projects;
- Earnings Adjustment Mechanisms in individual utility rate cases, which require customers to pay utility shareholders millions of dollars in incentive payments, above and beyond the cost to provide safe and reliable electric and/or gas service, for achieving certain outcomes for which the utility's management may or may not have been directly responsible; and
- Revenue Decoupling Mechanisms, which will require customers to pay much-higher costs in the year ahead due to lower-than-projected sales volumes – exacerbated by an abnormally warm winter and then the Covid-19 pandemic – because such mechanisms effectively shift sales volume risk from utility shareholders to customers.

It does not appear that the aggregated impacts of these and other policy initiatives that customers are being forced to fund are being evaluated in their totality, if at all. That is a problem, and it is not limited to the instant proposed EV infrastructure incentives. From Multiple Intervenors' perspective, it appears that every few months – if not more frequently – new customer-funded initiatives are being brought forward and adopted, and most of those financial commitments being imposed on customers are substantial and long-term in duration. Before approving any new spending programs, the Commission should be focusing on evaluating the aggregated costs and economic impacts of the numerous initiatives being implemented and under consideration. Additionally, given the COVID-19 pandemic and economic depression, the Commission should be especially leery about imposing new, incremental financial obligations on customers at this time and for the foreseeable future.

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1 The Commission recently authorized the New York utilities to spend nearly $2 billion of customer funds on additional energy efficiency investments through 2025. *See* Case 18-M-0084, *In the Matter of a Comprehensive Energy Efficiency Initiative*, Order Authorizing Utility Energy Efficiency and Building Electrification Portfolios Through 2025 (issued January 16, 2020).

2 *Id.*, Appendix C (authorizing $454,318,200 in spending on heat pump programs).

Third, Staff's proposed cost allocation methodology is inequitable. Staff proposes to allocate the cost of the make-ready incentives to all classes based on distribution and transmission revenues. (Whitepaper at 39.) Staff uses a "beneficiaries pay" rationale for this proposal, arguing that because this would serve to reduce GHG emissions, all customers benefit and thus all should pay. (*Id.*) While such proposed allocation is far more equitable than one based solely on volumes, it is far from optimal and should be modified by the Commission. The purpose of the make-ready incentives is to promote publicly-accessible charging stations for mass-market customers with EVs. (*Id.* at 31-32.) Workplace chargers for employees are for mass-market customers, not the large, non-mass-market employers, and fleet chargers and chargers for medium- and heavy-duty vehicles explicitly are excluded. (*See id.*) Simply, this predominantly is a program for mass-market customers, and only those customers benefit directly. Moreover, from a cost causation basis, mass market customers are the ones responsible for the proposed incurrence of costs here. The cost allocation adopted here, should Staff's proposed incentives be adopted in whole or large part, should be modified to recognize that large non-residential customers are not responsible for, or direct beneficiaries, of the expenditures under consideration.[3]

For the reasons set forth above, Multiple Intervenors urges the Commission to adopt the positions set forth herein.

Respectfully submitted,

MULTIPLE INTERVENORS

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MBM/sr
Attachment
cc: Active Parties (via E-Mail)
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[3] Notably, Commission policy is to strongly favor cost-causation methodologies, a policy that previously was relied upon in this proceeding. *See* Case 18-E-0138, *supra*, *Order Establishing Framework for Direct Current Fast Charging Infrastructure Program* (issued February 7, 2019), at 34-35 (declining to grant a demand-charge holiday for EV charging stations due to a desire to maintain "a rate that reflects cost causation").