



NJ Clean Cities Coalition, A NJ Nonprofit Corporation

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October 16, 2017

NJBPU EV Stakeholder Group

In response to your request for comments, as a member of NJ's electric vehicle coalition, the NJ Clean Cities Coalition is pleased to endorse the attached comments that have been prepared by ChargeEVC.

We very much appreciate the opportunity to submit these comments and look forward to continuing to work with you on this, and other petroleum-reducing activities across NJ. As always, please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Chuck Feinberg". The signature is written in a cursive, flowing style.

October 16, 2017

TO: EVSTAKEHOLDER.GROUP@BPU.NJ.GOV

FR: Pamela Frank, ChargeVC

RE: Task 1: Answers to questions posed by Staff

Background:

On September 15, 2017, the Board of Public Utilities (BPU) convened its first stakeholder meeting on Electric Vehicle Infrastructure. This stakeholder meeting followed the BPU's acceptance of the Regulatory Assistance Project Report (RAP Report) entitled "Getting from Here to There: Regulatory Considerations of Transportation Electrification," after which Staff was directed to initiate an Electric Vehicle (EV) Infrastructure stakeholder process.

At the September 15th meeting, staff circulated questions and asked stakeholders for input.

The following comments are provided on behalf of ChargeVC, an electric vehicle coalition that works to accelerate the adoption of electric vehicles in New Jersey. ChargeVC has twenty-six members including technology companies, utilities, third party suppliers, environmental not-for-profit organizations, community labor and consumer advocate organizations, and original equipment manufacturers (OEMs). For more information, please see chargevc.org.

Questions:

1. Do EVs fall under the definition of demand side management and energy efficiency as set forth at N.J.S.A. 48:3-51 and/or N.J.S.A. 48:3-98.1.d.?

EVs and EV charging stations can carry out similar functions as those identified that fall under the definition of demand side management (DSM) and energy efficiency (EE) as set forth at N.J.S.A. 48:3-98.1.d and 48:3-51. These functions are just one part of a technological ecosystem that is transforming mobility and transportation in New Jersey and throughout the country

The rationale for including EVs in the definition of DSM and EE in both sections of the statute is similar.

First, as has been well established, vehicles powered by electricity are a much more *efficient* way of fueling transportation than the existing internal combustion engine.

For example, the US fleet average is approximately 22.1 MPG, which represents approximately 5,200 BTUs per mile on average. An average Battery Electric Vehicle (BEV) on the market today travels 3.5 miles/kWh, which, for a power plant with an average 35% efficiency, represents approximately 2,785 BTUs per mile. When comparing primary energy sources, and accounting for all relevant efficiencies, an EV gets 1.86 times as many miles from every unit of energy as an average gasoline vehicle. The efficiency of the EV is improved further due to regenerative braking,

avoidance of energy consumption when the vehicle is not moving in traffic, etc. EVs – based on a complete lifecycle analysis – are inherently more efficient than internal combustion vehicles. Therefore, accelerating adoption of EVs that achieves the EE legislation goals.

Second, the EE and DSM statutes and programs were a means to an end – specifically intended to reduce consumer costs and related air emissions. Increased use of EVs helps achieve both of these objectives directly. Based on recent analysis by ChargeVC, every electrically fueled mile is 72% - 82% cleaner (regarding CO₂ specifically) than an average gasoline-fueled vehicle. Similarly, at today's prices for gasoline and electricity, the fueling “cost per mile” for electricity is approximately half that of gasoline vehicles, thereby delivering substantial consumer savings.

Third, the BPU has authority to ensure that electricity, in this case used for “fueling” vehicles, is used in the most efficient way possible, while at the same time, ensuring cost effectiveness for all ratepayers. Put another way, the BPU has the authority to ensure, via time-variant price signals and other load management techniques, that EVs are predominantly being charged at off-peak times and/or at times when renewables are abundantly available (continued growth of renewable energy is another important component of New Jersey's energy future). This approach will enable cleaner, more effective use of the grid.

Therefore, EV and EV charging are a form of EE, consistent with the definition used in 48:3-98.1, which states that (emphasis added):

*“energy efficiency and conservation program” means any regulated program, including customer and community education and outreach, approved by the board, pursuant to this section for the purpose of conserving energy **or making the use of electricity or natural gas more efficient by New Jersey customers**, whether residential, commercial, industrial or government agencies.”*

Fourth, like established DSM technologies, such as stationary storage and demand response techniques, EVs and EV charging, can similarly deliver similar benefits to the electrical distribution system. EVs can be a load management resource; by signaling EVs to charge (or not) at specific times, EVs can be an important part of building a more reliable, resilient grid. At the same time, it is important to note that the primary purpose of electrified transportation is the more efficient conveyance of drivers, riders and goods.

Accordingly, EVs also fall under DSM as defined in 48:3-51, which states:

“Demand side management” means the management of customer demand for energy service through the implementation of cost effective energy efficiency technologies, including, but not limited to, installed conservation, load management, and energy efficiency measures on and in the residential, commercial, industrial, institutional and governmental premises and facilities in this State.”

Lastly, the BPU is tasked with overseeing and ensuring the safety and reliability of electricity service for all ratepayers.¹ BPU authority applies to this situation due to the anticipated increase in adoption of products like EVs that will connect to, and may impact, the safety and reliability of the distribution system.

2. Should owners and operators of EVSE that provide electric vehicle charging service be regulated as electric utilities? Are operators of EVSE reselling electricity or providing a charging service?

Owners and operators of EVSE that provide electric vehicle charging service *should not* be regulated as electric utilities. This principal has been established in many jurisdictions around the country including California, New York, and approximately fifteen other states including Oregon, Colorado, Florida, Hawaii, Illinois, Maryland, Minnesota, Washington, Virginia, and DC.

There have been numerous justifications for this treatment. By way of example, New York's Public Commission (NYPUC) exempts EV charging station service providers from public utility regulation by finding that charging stations only provide a service. Under the New York Public Service Law, the NYPUC has jurisdiction over "the manufacture, conveying, transportation, sale or distribution of . . . electricity for light, heat or power, to gas plants and to electric plants and to the persons or corporations owning, leasing or operating the same."²

New Jersey has similar statutory language in N.J.S.A.48:2-13 a. which states (emphasis added):

The term "public utility" shall include every individual, copartnership, association, corporation or joint stock company, their lessees, trustees or receivers appointed by any court whatsoever, their successors, heirs or assigns, that now or hereafter may own, operate, manage or control within this State any railroad, street railway, traction railway, autobus, charter bus operation, special bus operation, canal, express, subway, pipeline, gas, electricity distribution, water, oil, sewer, solid waste collection, solid waste disposal, telephone or telegraph system, plant or equipment for public use, under privileges granted or hereafter to be granted by this State or by any political subdivision thereof.

The EVSE providers neither own, operate, manage or control electricity distribution systems in the State of New Jersey, and therefore should not be regulated as a public utility.

To answer the second part of the question, EVSE providers are providing a service, and that fact that electricity is inside the service they provide does not automatically subject them to utility regulation. This has been a consistent finding in jurisdictions that have determined that EVSE providers should not be regulated as a public utility. The same finding should be made in New Jersey.

¹ N.J.S.A. 48:2-13d.

² New York Public Service Law § 5.