

**BEFORE THE PENNSYLVANIA  
HOUSE TRANSPORTATION COMMITTEE**

**Testimony Of**

**TANYA J. McCLOSKEY  
ACTING CONSUMER ADVOCATE**

**Regarding  
House Bill 1446**

**Harrisburg, Pennsylvania  
November 13, 2017**

**Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923  
(717) 783-5048 - Office  
(717) 783-7152 - Fax  
Email: [tmccloskey@paoca.org](mailto:tmccloskey@paoca.org)  
241636**

**Chairman Taylor, Chairman Keller  
and Members of the House Transportation Committee**

My name is Tanya McCloskey. I have been serving as the Acting Consumer Advocate of Pennsylvania since 2012 and have worked at the Office of Consumer Advocate since 1987 with a primary focus on energy issues. Thank you for inviting me to give comments before this Committee regarding House Bill 1446 providing for transportation fueling infrastructure development. This is a timely and important topic as the number of electric vehicles in Pennsylvania has steadily increased.

Let me first introduce the Members of the Committee to the Pennsylvania Office of Consumer Advocate (OCA). The OCA was established by the General Assembly in 1976 to represent the interests of public utility consumers in matters before the Pennsylvania Public Utility Commission, similar federal agencies, as well as state and federal courts. In establishing my Office, the General Assembly sought to fill a gap that had long existed in the representation of consumers – particularly residential consumers – before agencies and courts that regulate the activities of Pennsylvania’s public utilities. Traditionally, utilities have always been well-represented at the PUC by lawyers and expert witnesses who could advocate for utility stockholders in matters such as rate increase requests for utility services. Our Office was created so that the consumers who have to pay those utility bills would also be represented by professional attorneys and experts. Offices like mine have been established across the country, and the National Association of State Utility Consumer Advocates now includes members from more than 40 states and the District of Columbia.

The OCA also serves as a resource to members of the General Assembly by responding to constituent concerns and by providing our views on how proposed legislation

would affect the interests of Pennsylvania consumers. We have worked with Members and Staff of various Committees in addressing public utility matters and we look forward to working with you as you address complex and difficult utility issues that come before you.

House Bill 1446 raises an important issue regarding the best approach to fostering the development of the market for Electric Vehicle (EV) charging stations. The number of electric vehicles in Pennsylvania has steadily increased and it is expected that the number of EVs purchased in Pennsylvania and across the nation will continue to grow. Most EV charging currently occurs at home or at work<sup>1</sup>, but there are currently about 723 public EV charging stations in Pennsylvania.<sup>2</sup> As the number of electric vehicles increases across the country, and EVs are used for more transportation needs, the demand for EV charging stations will also continue to grow. As the Keystone State, with many transportation corridors, it will be important to work toward the development of a robust market for public EV charging stations.

There are two basic components associated with EV charging stations. The first component is the distribution system grid that brings the electricity to the EV charging station location. This is a monopoly function that generally must be provided by the utility that serves the area in which the station is located. The second component is the EV charging equipment that provides the charging service. The EV charging station equipment is not a monopoly function and need not be provided by utilities. Utility ratepayers support the overall electric grid that delivers the electricity to all customers residing or physically located within the service

---

<sup>1</sup> Currently, more than 80% of EV charging occurs at home and when EV drivers are able to charge their EV at their workplace, 98% of charging events were performed either at home or at work on work days. Only about 8-11% of EV charging was performed away from home. See, Idaho National Laboratory, *Plugged In: How Americans Charge Their Electric Vehicles Findings From The Largest Plug-In Electric Vehicle Infrastructure Demonstration in the World*, <https://avt.inl.gov/sites/default/files/pdf/arra/SummaryReport.pdf> (accessed on July 24, 2017) at 8-11.

<sup>2</sup> U.S. DOE Clean Cities Initiative; PA PUC, PA. Bulletin, Doc. No. 17-1146, *Third Party Electric Vehicle Charging—Resale/Redistribution of Utility Service* (July 8, 2017).

territory. That is different from providing a charging service to EV owners, many of whom may only pass through the service area.

EV charging stations operate for the sole purpose of providing electricity as a transportation fuel.<sup>3</sup> The end use charging stations represent a bundled service that includes components such as fees for the use of the equipment, the billing services associated with the facility, the technology offered through the EV charger (including hardware and software), the real estate upon which the facility is located, maintenance service on the equipment, and the cost of the electric commodity. A public EV charging station provides transportation fuel to the mobile transportation public, many of whom may be from another state, another country, or another EDC's service territory. Public EV charging stations will most likely be located along the rest stops and information centers of our highways and turnpike, or at commercial locations such as gas stations or convenience stores that serve the transportation public. EV charging stations may also be located in a non-public manner to serve the needs of a limited group of EV owners, such as in multi-unit residential buildings, workplaces, parking structures, or for fleet vehicle charging.

House Bill 1446 lays out an approach to transportation fueling infrastructure development for both electric vehicles and natural gas vehicles. While I support the development of infrastructure to support EV charging stations, I have concerns with the structure of HB 1446, particularly with the responsibility assigned to public utilities and the resulting costs

---

<sup>3</sup> See, The E.V. Project, *Lessons Learned – The EV Project Regulatory Issues and Utility EV Rates*, ECotality North America (Mar. 14, 2013), <http://www.theevproject.com/cms-assets/documents/103425-835189.ri-2.pdf> at 4. The states noted are California, Colorado, Florida, Hawaii, Illinois, Maryland, Minnesota, Oregon, Virginia, and Washington; see also *Investigation by the Department of Public Utilities upon its own Motion into Electric Vehicles and Electric Vehicle Charging*, D.P. U. 13-182-A (Aug. 4, 2014) at 8; *Re Kansas City Power & Light Company*, File No. ER-2016-0285 Tariff Nos. YE-2017-004 and YE-2017-0005, 337 PUR4th 1 at 25 (effective May 13, 2017); *In the Matter of Electric Vehicle Policies*, N.Y.P.S.C. 13-E-1099, at 4 (Nov. 14, 2013); *Investigation by the Department of Public Utilities upon its own Motion into Electric Vehicles and Electric Vehicle Charging*, D.P. U. 13-182-A (Aug. 4, 2014) at 7.

that will be borne by the utility's ratepayers. I am also concerned that the approach sanctioned in House Bill 1446 that allows the public utility to enter the transportation fueling business and receive monopoly ratemaking treatment for the associated costs from ratepayers, could limit the development of a competitive EV charging station market.

As I read House Bill 1446, the responsibility for developing a transportation infrastructure regional framework as it concerns electric vehicle charging rests with the electric distribution companies serving the counties identified as priority alternative transportation infrastructure counties. I agree that our electric distribution utilities will need to participate in any study that is conducted. The electric distribution companies can provide visibility into the electric grid and identify areas of the grid that can sustain EV charging stations or that may need distribution system improvements to do so. The development of a regional framework for transportation infrastructure (and the establishment of the charging stations themselves), however, seems to be outside of the distribution utility's core function of providing safe, adequate and reliable electric service to the customers in its service territory. A comprehensive study of a regional framework seems to be better suited to entities or agencies with knowledge of the transportation needs of the public and the use of our roads and highways by the transportation public.

Requiring electric distribution companies to complete such a comprehensive study will also result in the electric utility's ratepayers bearing the cost of such effort. Electric distribution companies will not undertake such a mandate without cost recovery from ratepayers. It is not clear why the development of a study to benefit EV owners and the EV charging market should be borne by captive ratepayers of a utility. There is no apparent direct benefit to the

electric distribution system as a whole or to electric distribution ratepayers that would justify the imposition of such costs on utility ratepayers.

The second major concern that I would like to identify is allowing the regulated electric distribution utility to own electric vehicle charging stations and recover the costs of that ownership from captive ratepayers, including a rate of return, or profit margin. House Bill 1446 appears to assume that the utility will have a role in the charging service. In my view, that is not a foregone conclusion and should not be sanctioned at this time.

House Bill 1446 allows our electric distribution companies to enter what is effectively the fuel station business. The business of developing and siting EV charging stations is a competitive business. Utility-owned charging stations, subsidized by ratepayers, would be competing with unregulated companies that must assume all of the risk of the business and recover all costs through the provision of EV charging service. The risks of this business can be significant, particularly with technology that is rapidly changing and developing. Technology investment can become obsolete and assets can be stranded. The regulatory model used in House Bill 1446 would place this risk on the captive ratepayers of the utility rather than on unregulated businesses operating in a competitive market.

In Pennsylvania, the General Assembly has found that the use of competition to drive down prices and spur innovation in the portion of the electric industry sector that is subject to competition will provide the best result for consumers. In the case of EV charging stations, allowing direct competition between monopoly regulated utilities and third party providers does not seem to be the best path. The regulated monopoly will be able to shift the risks of this competitive business venture to its ratepayers. The utility will receive rate recovery for its costs, including a profit margin, from its captive ratepayers. Competitive providers of EV charging

stations will have to recover their costs from the users of the service without being able to rely on captive customers. It will be difficult for a third party provider of EV charging service to compete and bring innovation under such a structure. At the same time, ratepayers will be left to pay the costs of a program that will benefit EV owners, but seems to provide no direct benefit to ratepayers.

While some states have allowed utility participation in EV charging stations on a pilot program basis, other states have prohibited ratepayer funded charging stations owned by utilities.<sup>4</sup> At this point, we are still far from any conclusion that allowing the electric distribution company to enter the EV charging station business will lead to a robust competitive market for EV charging service. To the best of my knowledge, those states that have allowed utility participation have not progressed beyond allowing the utility to participate on a pilot program basis. I would note that in one state, Kentucky, where utilities were permitted to install and operate EV charging equipment under a pilot program, the costs must all be recovered from EV owners using the charging station.<sup>5</sup>

The landscape also continues to change as it concerns EV charging as automotive companies increase the production of EVs and battery technology continues to evolve. In this regard, as part of the recent Volkswagen Settlement and its corresponding Zero Emission

---

<sup>4</sup> See for example, The State Corporation Commission of the State of Kansas, In the Matter of Kansas City Power & Light's Application to Deploy and Operate its Proposed Clean Charge Network, *Order Denying KCP&L'S Application for Approval of its Clean Charge Network Project and Electric Vehicle Charging Station Tariff* (Sept. 13, 2016); see also The Public Utilities Commission of the State of California, Application of Sand Diego Gas & Electric Company (U902E) for Approval of its Electric Vehicle-Grid Integration Pilot Program, Application 14-04-014, Rulemaking 13-11-007, *Decision Regarding Underlying Vehicle Grid Integration Application and Motion to Adopt Settlement Agreement* (Jan. 28, 2016).

<sup>5</sup> Kentucky Public Service Commission, Case No. 2015-00355, *Application of Louisville Gas and Electric Company and Kentucky Utilities Company to Install and Operate Electric Charging Stations in Their Certified Territories, For Approval of an Electric Vehicle Supply Equipment Rider, an Electric Vehicle Supply Equipment Rate, an Electric Vehicle Charging Rate, Depreciation Rate, and For A Deviation From the Requirements of Certain Commission Regulations* (Apr. 11, 2016).

Vehicle Investment, Volkswagen has announced that it will invest \$800 million in California and \$1.2 billion throughout the rest of the country towards EV charging infrastructure.<sup>6</sup>

The final point that I would like to raise at this time is a concern with the potential for competing needs for utility infrastructure dollars. Our electric distribution companies and our natural gas distribution companies are engaged in significant infrastructure repair and replacement programs. It will be important to the safety and reliability of our utility systems that these efforts continue in the accelerated fashion now approved by the Pennsylvania Public Utility Commission. Involving our regulated utilities in areas outside of the core mission of providing safe, adequate and reliable service to all customers, and possibly redirecting ratepayer dollars to these other efforts, should not be done at the expense of the quality of service that utility ratepayers should receive.

Thank you again for inviting me to testify. I look forward to answering any questions you may have.

---

<sup>6</sup> EPA.gov, *Volkswagen Clean Air Act Settlement*, available at: <https://www.epa.gov/enforcement/volkswagen-clean-air-act-civil-settlement> (accessed on Nov. 9, 2017).