



November 8, 2010

Chairman Jeff Goltz

Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
P.O. Box 47250
Olympia, WA 98504-7250

Subject: Docket UE-101521

Re: The regulation of electric vehicle charging

Dear Chairman Goltz,

In response to the specific request made during the Washington Utilities and Transportation Commission (“Commission”) October 27th hearing on electric vehicles, the Natural Resources Defense Council (“NRDC”) provides this letter and the attached documents on the question of the Commission’s jurisdiction over electric vehicle charging.

NRDC is a long time supporter of alternative fueled vehicles, including plug-in electric vehicles (“PEVs”), which we believe will provide consumers the means to greatly reduce their environmental footprint, their dependence on oil, and their overall energy bill. The Commission’s primary goals in this area should be to reduce barriers to widespread PEV adoption, maximize the environmental benefits of PEVs, and minimize adverse impacts on the electrical grid. Service planning and load management will be essential to achieve these goals and ensure a smooth transition to PEVs in Washington. Utilities should be notified as to the location and nature of planned charging infrastructure in order to facilitate service planning, streamline installation, and prevent service disruption. Effective load management will also be essential and will require smart charging that can respond to demand response and time variant price signals. These capabilities should exist regardless of who is delivering the charging services and in every context, be it in the home, workplace, or public spaces.

As explained in the attached, requested documents which were filed before the California’s Public Utilities Commission (“CPUC”), NRDC believes the plain language of California code §§216-218 confers jurisdiction over entities offering PEV charging services in California. Unlike other applications that are specifically exempted from the broad language of §§216-218, there is no such exemption for electric vehicle charging. In California, NRDC argued before the CPUC that it should use its jurisdiction in a light-handed, limited manner in order to ensure grid reliability, effective load management, and safety. We believe full public utilities regulation is unnecessary and unwarranted, particularly since the market for charging services will likely be a competitive one. We recommend establishing minimal requirements for utility notification of charging station installation to facilitate service planning and prevent service disruptions, to guarantee the installation of smart charging equipment that is capable of responding to grid signals, including demand response and time variant price signals, and to assure transparency of electricity pricing. As noted below, the CPUC ultimately ruled it did not have jurisdiction over “utility-customer” charging companies under §§216-218, but identified other sources of authority upon which it could rely to address concerns related to electric vehicle charging, including its authority over utility tariffs, rules, and rates.

As a matter of first impression, it would appear that the plain language of the Revised Code of Washington §80.04.010 would confer jurisdiction over electric vehicle charging in Washington. Should the Commission agree with this statutory interpretation, NRDC recommends that it make plain that the scope of its requirements would be significantly limited and that third-party charging service companies would not be regulated as public utilities. The Commission should make it clear it will only use its statutory authority over such charging companies to establish minimal requirements, such as those mentioned above. The Commission could clearly articulate the limits of such minimal requirements (e.g. to facilitate service planning and reliability through utility notification, smart charging that can respond to grid signals, including demand response and time variant pricing, and making electricity fuel costs transparent to PEV drivers). Making such minimal requirements plain would provide clarity, provide greater certainty for industry, and facilitate the deployment of PEVs and electric vehicle service provider models in a manner that will provide the public with assurances that the transition to PEVs will go smoothly.

NRDC also does not recommend the Commission regulate other aspects of “utility-customer” charging company business models, including retail pricing, but limit its authority to the minimal requirements discussed above. Many such companies will likely integrate other services in addition to vehicle charging and should be encouraged to develop innovative business models. Again, NRDC does not recommend the Commission regulate pricing, but only require charging companies to make the electricity cost of their service transparent to end-users. It may be sufficient for price signals to reach charging service companies, and leave it to them as to how to best respond to such price signals in order to manage load. In fact, some charging service companies will likely play an important role in aggregating and managing PEV load. Minimal regulation of charging service companies would provide the Commission the ability to assure electrification goes smoothly as the market develops in ways that cannot be anticipated.

Alternatively, if the Commission determines it does not have jurisdiction over electric vehicle charging under §80.04.010, the Commission could rely upon its authority over the tariffs, rules, and rates that govern the relationship between a utility and its charging service company customer. The CPUC has stated that it intends to do just that in the second phase of a rule-making which is currently ongoing. While it is not yet clear whether or not the CPUC will be able to accomplish all of the goals outlined above within this framework, we are working actively and collaboratively with the CPUC, charging companies, utilities, automakers, and consumer advocates to that end. The CPUC is resolving admittedly difficult and complex issues while balancing many competing concerns. We are grateful the Washington Utilities and Transportation Commission is also addressing these issues with the goal of ensuring successful PEV commercialization.

Whatever decision the Commission makes as to how it will regulate PEV charging, it should clearly articulate that any entity procuring electricity at wholesale for PEV charging will be subject to the same regulatory framework as those procuring electricity for any other purpose. The CPUC made this clear in its final decision in phase one of its rule-making on electric vehicles, concluding as a matter of law:

If a provider of electric vehicles charging services procures electricity on the wholesale market the Commission has jurisdiction to enforce procurement requirements and other laws and rules that apply to direct transactions including Pub. Util. Code § 365.1.¹

NRDC does not anticipate that many charging service companies will want to procure electricity at wholesale, but the Commission should clearly state it will continue to assure the environmental performance and reliability of Washington's electrical grid. The Commission should also make it plain it will play its role in assuring the electrification of the transportation sector in Washington proceeds smoothly and in a manner that maximizes environmental and customer benefits, and minimizes adverse grid impacts.

NRDC appreciates the opportunity to submit this letter and the attached documents and commends the Commission for weighing these issues carefully.

Dated: November 8, 2010

Respectfully submitted,



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¹ California Public Utilities Commission, *Decision 10-07-044*, July 29, 2010, Conclusions of Law 5.