



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 21-146

April 29, 2022

Petition of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, for approval of a Supplemental Budget for its Electric Vehicle Market Development Program.

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I. INTRODUCTION AND PROCEDURAL HISTORY

On November 15, 2021, Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid (together, “Company”), filed a request with the Department of Public Utilities (“Department”) seeking approval of a supplemental budget of approximately \$5.9 million for its Electric Vehicle Market Development Program (“Phase I EV program”) approved in Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 17-13 (2018). The Department docketed this matter as D.P.U. 21-146.

On November 16, 2021, the Department issued a notice of filing and request for comments. On November 17, 2021, the Attorney General of the Commonwealth of Massachusetts (“Attorney General”) filed a notice of intervention pursuant to G.L. c. 12, § 11E(a). On December 15, 2021, the Department granted the petition to intervene as a full party filed by ChargePoint, Inc. (“ChargePoint”).

Thereafter, the Department determined that it did not require an evidentiary hearing in this proceeding and no party to this proceeding requested an evidentiary hearing. On February 16, 2022, the Company filed an initial brief and the Attorney General and ChargePoint each filed initial comments in lieu of briefs. The Company and the Attorney General each filed reply comments in lieu of briefs on February 25, 2022. The evidentiary record consists of the Company’s Phase I EV program funding extension filing and its responses to two sets of information requests from the Attorney General and one set of information requests from the Department.¹

¹ The Department, on its own motion, moves into the evidentiary record the Company’s Phase I EV program funding extension filing and the Company’s responses to

II. BACKGROUND

In Electric Vehicles, D.P.U. 13-182-A at 13 (2014), the Department determined that any EV charging infrastructure proposal from a distribution company must: (1) be in the public interest; (2) meet a need regarding the advancement of EVs in the Commonwealth that is not likely to be met by the competitive EV charging market; and (3) not hinder the development of the competitive EV charging market.

In 2018, the Department found that the Company's EV charging infrastructure program proposal met the three-part standard outlined in D.P.U. 13-182-A at 13. D.P.U. 17-13, at 16, 18, 22, 55. Accordingly, the Department approved a three-year EV charging infrastructure program for the Company, with a total budget of approximately \$25 million, which includes financial assistance in the form of rebates to site hosts for the construction of electric distribution company equipment and the customer equipment necessary for site hosts to install a charging station. D.P.U. 17-13, at 30. The Company recovers the costs associated with the Phase I EV program through an annual reconciling charge, the EV program factor, pursuant to the Company's EV program provision tariff, M.D.P.U. No. 1447.

On July 14, 2021, the Company filed for Department review and approval the next phase of its EV infrastructure charging program, referred to as Phase III. Massachusetts Electric

information requests Exhs. AG 1-1 through AG 1-9; AG 2-1 through AG 2-4; DPU 1-1 through DPU 1-4. In this Order, we refer to the Company's Phase I EV program funding extension filing, which consists of the Company's request for approval of a Phase I program funding extension, the supporting affidavit of May Moy, and a supporting budget exhibit, as Exhs. NG-1 through NG-3.

Company and Nantucket Electric Company, D.P.U. 21-91, NG-EVPP-1.² Similar to its Phase I EV program, the Company's Phase III EV program proposal includes financial assistance in the form of rebates to site hosts for the construction of EV charging infrastructure, including electric distribution company equipment and the customer equipment necessary for site hosts to install a charging station.³ The Department's investigation in D.P.U. 21-91 is currently pending.

III. COMPANY PROPOSAL

The Company states that it exhausted its Phase I EV program rebate budget of approximately \$12.7 million (Exhs. NG-1, at 3; NG-2, at ¶ 6, 8). The Company seeks a supplemental Phase I EV program budget of \$5,936,909.62 to provide funding for 87 projects, representing approximately 200 additional electric vehicle charging stations, currently on its Phase I EV program waitlist to further increase EV charging infrastructure development and support the adoption of zero emissions vehicles (Exhs. NG-1, at 1; NG-2, at ¶ 9; NG-3).

IV. SUMMARY OF COMMENTS AND POSITIONS OF THE PARTIES

A. Attorney General

The Attorney General does not explicitly take a position on whether the Department should approve the supplemental budget. Nevertheless, the Attorney General offers three recommendations should the Department authorize the Company's supplemental Phase I

² In addition to its Phase III EV charging infrastructure proposal, the Company proposes a demand charge alternative rate proposal (D.P.U. 21-91, NG-DCA-1 through NG-DCA-4).

³ The Company's approved Phase II program did not include rebates to site hosts for EV charging infrastructure but targeted off-peak rebate programs for residential customers and advisory services for public fleets. Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 18-150, at 387, 392 (2019).

EV program budget request. First, the Attorney General urges the Department to disallow future cost recovery for any promotional rebate expenses that are inconsistent with the rebate program approved in D.P.U. 17-13 (Attorney General Comments at 1). The Attorney General states that, in D.P.U. 17-13, the Department limited the eligible percentage of EV supply equipment (“EVSE”) rebates to up to 50 percent of the cost of Level 2 EVSE for workplace/business site hosts, up to 75 percent of the cost of Level 2 EVSE for multi-unit dwelling owners, public entities, and non-profits, and 100 percent of the cost of Level 2 EVSE in environmental justice communities (Attorney General Comments at 2). Therefore, the Attorney General argues that future cost recovery should be limited to rebates that comply with this limitation and that any promotional rebate provided above that amount should be denied (Attorney General Comments at 2).

Second, should the Company seek recovery for any costs associated with networking rebates, the Attorney General contends that those costs should be disallowed because the Department did not preauthorize funding for networking rebates in D.P.U. 17-13 (Attorney General Comments at 2). In support of her position, the Attorney General states that the Company has previously identified networking costs as ineligible for rebates under the Phase I EV program in Massachusetts Electric Company and Nantucket Electric Company, D.P.U. 20-64 (Attorney General Comments at 2). Therefore, the Attorney General seeks confirmation that the Department will not authorize the recovery of costs associated with networking rebates in a future cost recovery proceeding involving the projects approved for supplemental funding in this proceeding (Attorney General Comments at 2).

Third, the Attorney General argues that the Department should limit the maximum Phase I EV program performance incentives the Company can earn to \$1,229,412 (Attorney General Comments at 2). The Attorney General states that, in D.P.U. 17-13, the Department approved a formula for the calculation of Phase I EV program performance incentives and that the formula caps performance incentives to \$1,250,000 for 850 stations (Attorney General Comments at 2-3). Further, the Attorney General states that the Company's filing included a statement that the Company would not seek additional performance incentives for any project approved for supplemental funding in this proceeding (Attorney General Comments at 3, citing Exh. NG-2, at ¶ 13). According to the Attorney General, as of December 31, 2021, 836 stations received Phase I EV program funding and, based on the formula for the calculation of Phase I EV program performance incentives approved in D.P.U. 17-13, the Company should be limited to recovery of no more than \$1,229,412⁴ in performance incentives (Attorney General Comments at 3).

Lastly, the Attorney General argues that ChargePoint's recommendation that the Department issue guidance, through a rulemaking or an Order of general applicability, that allows the Company and other electric distribution companies ("EDCs") to recover EV program expenditures through base distribution rates rather than through separate capital trackers is outside the scope of this proceeding (Attorney General Reply Comments at 1-2). According to the Attorney General, this proceeding is limited to the Company's request for supplemental Phase I EV program funding, and the Department's prior determination regarding appropriate

⁴ The Attorney General calculated the incentive as follows: (836 existing stations / 680 target stations) x \$1 million = \$1,229,412 (Attorney General Comments at 3).

cost recovery mechanisms for EV charging infrastructure spending are not at issue in this proceeding (Attorney General Reply Comments at 2). The Attorney General, therefore, contends that ChargePoint's recommendation to alter the process by which the Department reviews the Company's EV program expenditures or changing the applicable standard of review would be an inappropriate expansion of the scope of this proceeding for which proper notice and opportunity for all interested parties to participate would be necessary (Attorney General Reply Comments at 2).

B. ChargePoint

ChargePoint recommends that the Department approve the Company's Phase I EV program supplemental budget request (ChargePoint Comments at 1, 9). According to ChargePoint, approval of the requested supplemental budget will: (1) avoid undermining the Company's credibility with vendors and customers and its ability to support EV adoption in its service territory in the future; (2) accelerate EV adoption in the Commonwealth consistent with the Climate Act; and (3) prevent further EV project development lag (ChargePoint Comments at 4-5). Further, ChargePoint argues that approval of the requested supplemental budget is consistent with Department precedent (ChargePoint Comments at 4-5).

Additionally, to prevent future regulatory lag and avoid subjecting the developing competitive EV markets to regulatory uncertainty, ChargePoint recommends that the Department issue guidance, through a rulemaking or an Order of general applicability, that authorizes EDCs to recover prudently incurred make-ready utility-side infrastructure expenditures through base distribution rates rather than through separate capital trackers (ChargePoint Comments at 1-2,

5-6, 9-10). ChargePoint adds that this recommendation is consistent with regulatory actions taken and laws passed in other states (ChargePoint Comments at 7-8, 10).

C. Company

The Company requests approval of the Phase I EV program supplemental budget (Company Brief at 3). To support its position, the Company states that it has outperformed its initial budget by achieving station development at approximately 27 percent less than the estimated station cost on a per-station average and that the Company has achieved material program savings as compared to the initial program management and marketing budgets of approximately \$7 million approved in D.P.U. 17-13 (Company Brief at 3). Further, the Company contends that, despite prudent management and reallocation of EV program funds, the Company does not have sufficient funding to support the approximately 87 applications remaining on its waitlist, covering approximately 200 EV charging stations (Company Brief at 3-4).

According to the Company, its supplemental budget request of approximately \$5.9 million is narrowly tailored to support the 87 pending applications in its queue and is based on the actual EVSE and customer infrastructure rebates for the 732 EV charging stations activated to date, as well as the average actual or estimated EDC costs for EV charging stations requiring new services (Company Brief at 4). The Company also states that it has provided bill impact analyses indicating that the expected bill impact on a typical customer from approval of the supplemental budget will be minimal, ranging from approximately 0.1 to 0.2 percent per year (Company Brief at 7). Additionally, the Company argues that its supplemental budget request is consistent with Department precedent (Company Brief at 6-7).

Without supplemental funding, the Company contends that many projects currently pending on its waitlist will not proceed (Company Brief at 4). The Company acknowledges that its Phase III EV program proposal is currently under Department investigation; however, the Company states the Phase III EV program is unlikely to receive Department approval until late in 2022 and that a gap in program availability may: (1) interrupt the progress of the EV program; (2) cause the Commonwealth to fall behind in its EV adoption and climate policy goals; and (3) cause disruption to vendors participating in the Phase I EV program (Company Brief at 5). Additionally, to the extent that regulatory lag between the Phase I EV program and Phase III EV program meaningfully disrupts the Company's ability to consistently and predictably implement its EV program offerings, the Company argues that it may see a decline in market support for its EV programs (Company Brief at 6). For these reasons, the Company urges the Department to approve its Phase I EV program supplemental budget request (Company Brief at 7).

Regarding the Attorney General's recommendation for the Department to disallow future cost recovery of promotional rebate and networking costs because funding for those costs was not preauthorized in D.P.U. 17-13, the Company states that its position is that promotional rebate and networking costs are consistent with the primary purpose of the approved EV program to accelerate EV charging access in the Commonwealth and are eligible for recovery under the Company's Electric Vehicle Program Provision (Company Reply Comments at 1). Nevertheless, the Company states that none of the 87 projects for which supplemental funding is sought are eligible for limited time promotional rebates or reimbursement for networking costs, and no such costs were included in the calculation of the requested \$5.9 million supplemental

budget (Company Reply Comments at 2). Therefore, the Company argues that the Attorney General's recommendations regarding promotional rebates and networking costs are not relevant in this proceeding (Company Reply Comments at 2).

As to the Attorney General's recommendation that the Department cap any future request for Phase I EV program performance incentives at \$1,229,412, the Company states that the Attorney General's calculation is based on an assumed 836 stations paid by December 31, 2021 (Company Reply Comments at 2). According to the Company, this calculation does not account for the requirements of the Company's Electric Vehicle Program Provision that allow the performance incentives to be earned for stations committed to before December 31, 2021 but paid and activated in years four and five of the Phase I EV program (Company Reply Comments at 2). Regardless, the Company states that it is not requesting performance incentives for any of the projects at issue in this proceeding (Company Reply Comments at 2). Accordingly, the Company urges the Department not to impose a cap on the recovery of Phase I EV program performance incentives in this proceeding and to defer such consideration to the Company's final Phase I EV program cost recovery filing (Company Reply Brief at 2).

V. ANALYSIS AND FINDINGS

The three-year EV charging infrastructure program term concluded at the end of calendar year 2021, and the Company exhausted its EV program rebate budget of approximately \$12.7 million during the term (Exhs. NG-1, at 3; NG-2, at ¶ 8). D.P.U. 17-13, at 30. To date, through its EV charging infrastructure program, the Company has completed or has committed the funding to complete 1,015 EV charging stations (Exhs. NG-1, at 3; NG-2, at ¶ 8). The Company, however, currently has 87 projects on its waitlist, which cannot advance due to the

lack of available funding and are at risk of withdrawal from the program (Exhs. NG-1, at 3; NG-2, at ¶ 9; DPU 1-1, Att.; DPU 1-4 & Atts.). The Company does not propose any program design changes in connection with its supplemental budget request (Exh. NG-1, at 5).

After review and consideration, the Department finds the following. First, the EV market is still in the nascent stages of development, and we find that the Phase I EV program remains in the public interest because it will reduce the financial barriers to EV charging station development as well as assist the Commonwealth in meeting its climate goals. G.L. c. 21N. Additionally, the requested supplemental budget is narrowly tailored to the 87 projects currently pending on the Company's waitlist and will allow these specific projects, representing approximately 200 additional electric vehicle charging stations, to proceed to completion (Exhs. NG-3; DPU 1-1, Att.; DPU 1-2 & Att.; DPU 1-4 & Atts.). This, in turn, will meet an immediate need in the advancement of EVs in the Commonwealth that is not likely to be met by the competitive EV charging market (Exhs. NG-3; DPU 1-1, Att.; DPU 1-2 & Att.; DPU 1-4 & Atts.). Further, there is nothing in the record to suggest that completion of the 87 projects associated with the supplemental funding will hinder the development of the competitive EV charging market. Additionally, the next phase of the Company's EV charging infrastructure program is currently under review in D.P.U. 21-91⁵ and the supplemental budget will provide continuity and certainty for the Phase I EV program while the Department considers the next phase of the program. Therefore, consistent with our findings in D.P.U. 17-13, at 16, 18, 22, 55, the Department finds that, with the proposed supplemental budget, the Phase I EV program

⁵ Evidentiary hearings in D.P.U. 21-91 were held on March 21, 2022 through March 24, 2022.

remains in public interest, meets a need regarding the advancement of EVs in the Commonwealth that is not likely to be met by the competitive EV charging market, and does not hinder the development of the competitive EV charging market.

Next, we turn to the bill impacts associated with the Company's supplemental budget proposal. After review and consideration, the Department finds the bill impacts to be reasonable in light of the anticipated benefits additional funding for the Phase I EV program will provide (Exh. AG 1-4, Att. 2). Accordingly, the Department approves the Company's request for a supplemental budget of \$5,936,909.62 for its Phase I EV program.

Finally, we address the issues raised by the Attorney General and ChargePoint. The Attorney General urges the Department to disallow cost recovery of certain promotional rebate expenses and all networking rebates and to implement a cap on Phase I EV program performance incentives (Attorney General Comments at 1-3). The record shows, however, that the Company did not factor promotional rebate costs, networking expenses, or additional performance incentives into its calculation of the requested supplemental budget (Exhs. AG 1-6; NG-3). Further, the Department will consider the eligibility for recovery of any such expenses or additional performance incentives if the Company seeks recovery of such expenses or additional performance incentives in a future cost recovery proceeding.⁶ Accordingly, the Department declines to adopt the Attorney General's recommendations at this time.

⁶ We note that the Company stated that it will not seek cost recovery of promotional rebate costs, networking expenses, or additional performance incentives associated with the 87 projects subject to this proceeding in a future cost recovery proceeding (Company Reply Comments at 2).

Regarding ChargePoint’s argument that the Department should issue guidance, through a rulemaking or an Order of general applicability, that authorizes the EDCs to recover prudently incurred make-ready utility-side infrastructure expenditures through base distribution rates rather than through separate capital trackers (see ChargePoint Comments at 1-2, 5-6, 9-10), we agree with the Attorney General and determine that ChargePoint’s recommendation is outside the scope of this proceeding. This proceeding is limited to a review of the Company’s supplemental budget request. Accordingly, we decline to adopt ChargePoint’s recommendation.

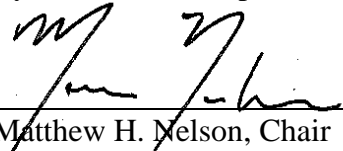
VI. ORDER


Accordingly, after review, opportunity for hearing, and due consideration, it is


ORDERED: That the Petition of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, for approval of a \$5,936,909.62 Electric Vehicle Market Development Program supplemental budget is APPROVED; and it is

FURTHER ORDERED: That Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, shall comply with all other directives contained in this Order.

By Order of the Department,


Matthew H. Nelson, Chair


Robert E. Hayden, Commissioner


Cecile M. Fraser, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.