Removing Regulatory Roadblocks for PEVs

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One oft-cited roadblock to widespread adoption of plug-in electric vehicles (PEV) is a lack of charging infrastructure, commonly referred to as electric vehicle supply equipment (EVSE), or charging stations. While Tesla is well known for designing electric vehicles that can travel more than 250 miles on a single charge, most PEVs can only travel 60 to 90 miles before needing to recharge. A robust residential and commercial charging infrastructure that enables efficient and convenient charging would alleviate consumer "range anxiety"—the fear of running out of juice in the middle of a drive—and encourage PEV adoption.

A large reason for range anxiety is the relative paucity of electric charging stations. The Department of Energy estimates that only 8,857 public PEV charging stations are currently operating in the U.S—a tiny number compared to more than 125,000 gas stations. Worse, these charging stations are not evenly distributed, with most concentrated in a few urban areas. As a result, regulators and lawmakers are helping create favorable market conditions for charging infrastructure growth by focusing on two critical threshold regulatory issues.

Should EVSE Providers Be Regulated as Public Utilities?

Most state public utility laws define "public utility" in extremely broad terms, leading to uncertainty over whether entities that operate PEV charging stations should be subject to the same regulation as traditional public utilities. In 2010, the California Public Utilities Commission (CPUC) ruled that an EVSE provider is not a regulated utility simply by virtue of supplying electricity to PEVs—a determination that the California Legislature adopted into law in 2011.

Numerous other states—including Colorado, Oregon, Utah, Florida, Hawaii, Illinois, Maryland, Minnesota, Washington, West Virginia, and Virginia—have also enacted legislation that specifically exempts EVSE providers from public utility regulations, so long as the electricity they provide is used exclusively for transportation. Most recently, the New York Public Service Commission declined to impose public utility jurisdiction over EVSE providers. It differentiated the provision of a "charging service" from the provision of electricity by a public utility.

Should Electric Distribution Utilities Own and Operate EVSE?

The second threshold issue is whether electric utilities should be permitted to own and operate charging stations, either as part of their regulated activities or as non-utility operations. At the heart of the issue is whether it is in the public interest for PEV charging infrastructure to be deployed by electric utilities—and thus for utility ratepayers to shoulder the cost. In the traditional utility model, regulated utilities build infrastructure to deliver power to their ratepayers and recover the costs of that infrastructure from them, plus a reasonable rate of return.

In 2012, the Oregon PUC ruled in favor of electric utility participation in the EVSE market. In addition to permitting utility EVSE investment as a non-regulated, non-rate-based venture, the Oregon PUC held that it would sanction rate recovery for EVSE installation and operation costs where a utility makes a compelling case that the utility's ownership and operation of the EVSE would benefit its ratepayers.

In contrast, the CPUC originally prohibited utilities from owning and operating PEV charging infrastructure beyond that needed for their own fleets or workplaces. Its concern in this 2011 decision was that utility participation would chill the entry of non-utilities into the fledgling EVSE market.

However, in December 2014, in an effort to encourage PEV deployment, the CPUC reversed course and vacated its blanket prohibition, endorsing an expanded role for utilities in PEV charging infrastructure. Rather than set a specific standard, it pledged to evaluate utility proposals on a case-by-case basis.

Specifically, the CPUC pledged, "at a minimum," to examine the following factors to determine if the benefits of utility ownership of EVSE outweighed the competitive limitations that could result:

- The nature of the proposed utility program and its elements; for example, whether the utility proposed to own or provide charging infrastructure, billing services, metering, or customer information and education.
- The competiveness of the market the utility program would enter, and in what level of concentration.
- The potential for unfair advantages.

If a potential for unfair competition is identified, the commission will determine if rules, conditions, or regulatory protections are needed to effectively mitigate the anticompetitive impacts or unfair advantages held by the utility.

The CPUC's new initiative seeks to facilitate deployment of PEV charging infrastructure by providing a significant potential investment opportunity for California utilities—creating a possible game-changing ally for PEV proponents.

The Future

As PEV use expands, other states may also provide regulatory clarity on these two threshold issues, as well as begin to look at other important issues, including those related to the availability and price of electricity for PEV charging. The removal of regulatory uncertainties will accelerate PEV deployment and encourage charging solutions that can fulfill consumer needs and work harmoniously with the power grid. ■

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