



Examination of
NRG, Inc. Compliance with
Electric Vehicle Infrastructure Settlement

July 11, 2018



California Public Utilities Commission
NRG, Inc.
Electric Vehicle Infrastructure Settlement Compliance Examination

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Independent Accountants' Report

California Public Utilities Commission
San Francisco, California

We have examined NRG, Inc.'s (NRG, dba EVgo) compliance with the Requirements listed below included in a legal settlement between the California Public Utilities Commission (CPUC) and certain NRG, Inc. affiliates (NRG, formerly Dynegy Power Marketing, Inc., El Segundo Power, LLC, and Long Beach Generation, LLC) which the Federal Energy Regulatory Commission (FERC) approved on November 5, 2012 and which came into effect on December 5, 2012 (FERC Docket Number EL02-60-010, hereafter referred to as the Settlement Agreement) for the examination period of April 27, 2012 through December 5, 2016. We also have examined whether \$53,512,724 of expenditures reported by NRG to the CPUC for the April 27, 2012 through December 5, 2016 period comply with these Requirements. Management of NRG, Inc. is responsible for NRG's compliance with the Settlement Agreement. Our responsibility is to express an opinion on NRG's compliance based on our examination.

Freedom Station Settlement Agreement Requirements

1. Section 4(a)(i)
2. Section 4(a)(ii)
3. Section 4(a)(iii)
4. Section 4(a)(iv)
5. Section 4(a)(v)
6. Section 4(a)(vi)(1), (3A), (3B) and 4
7. Section 4(a)(vii)
8. Section 4(b)

Make-Readies Settlement Agreement Requirements

1. Section 4(c)(i)
2. Section 4(c)(ii)(1), (2A), (2B), and (2C)
3. Section 4(c)(iii)
4. Section 4(c)(iv)
5. Section 4(c)(v)
6. Section 4(c)(vi)(1B), (1C), (2A), and (2B)
7. Section 4(c)(vii)(1) and (3)

Other Settlement Agreement Requirements

1. Section 1
2. Section 4(d)(i)
3. Section 4(d)(ii)
4. Section 4(e)
5. Section 4(g)
6. Section 4(i)
7. Section 4(j)
8. Section 4(l)

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether NRG complied, in all material respects, with the specified Settlement Agreement Requirements referenced above. An examination involves performing procedures to obtain evidence about whether NRG complied with the specified requirements. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our adverse opinion.

Our examination does not provide a legal determination on NRG's compliance with specified requirements.

Our examination disclosed the following material noncompliance with Settlement Agreement Requirements applicable to NRG during the period from April 27, 2012 through December 5, 2016, as described in the Findings and Recommendations section of the report as findings 1, 2, 4, 6, 7, and 9. NRG failed to demonstrate compliance with:

1. Section 1(vv) of the Settlement Agreement. Specifically, NRG's reported Settlement Expenditures over the examination period included \$1,465,000 in charger costs (e.g., for dual chargers, CHAdeMO chargers) that NRG could eventually use for Non-Settlement charging station installations.
2. Section 4(b)(i)(2) of the Settlement Agreement. Specifically, NRG's reported Settlement Expenditures over the examination period included \$1,640,814 in electricity costs that are not considered eligible Fixed Operating Costs as they are not electricity demand or meter costs.
4. Section 4(b)(i)(2) of the Settlement Agreement. Specifically, NRG's reported \$516,626 in Freedom Station Fixed Operating Costs over the examination period that exceed the required maximum of \$3,000,000 in Fixed Operating Costs.
6. Section 1(vv) of the Settlement Agreement. Specifically, NRG's reported \$1,309,247 in Settlement Expenditures over the examination period that NRG could not substantiate with comprehensive supporting documentation (in the form of a purchase order, invoice, payment approval, or proof of payment) to confirm that these Settlement Expenditures occurred.
7. Section 1(ppp) of the Settlement Agreement. Specifically, based on 34 field visits, we observed that approximately 15 percent of Make-Ready Stubs could not readily be connected to an EVSE and thus do not meet the definition of a Make-Ready Stub. We estimate at total of \$1,016,382 in questioned Settlement Expenditures from these marginalized Make-Ready Stubs.
9. Section 4(a)(vi)(3) of the Settlement Agreement and its own *Supply Chain Policies* document. Specifically, for 15 of 15 Settlement Agreement procurements we reviewed, NRG did not provide adequate documentation to support the evaluation criteria and decision-making process NRG used to select a contractor as well as how NRG developed specific evaluation criteria reflective of preferences for contractors that met certain requirements (e.g., track record of hiring graduates of pre-apprentice program, hiring a substantial number of employees from the local area).

In our opinion, because of the effect of the noncompliance described in the preceding paragraph, NRG has not complied with the aforementioned Settlement Agreement Requirements for the examination period of April 27, 2012 through December 5, 2016.

The results of our examination procedures also disclosed six instances of noncompliance which are described in the Findings and Recommendations section of this report as findings 3, 5, 8, 10, 11, and 12. Our opinion is not modified with respect to the matters reported in findings 3, 5, 8, 10, 11, and 12.

NRG's responses to the findings identified in our examination are described in the accompanying Findings and Recommendations section of the report. NRG's responses were not subjected to the procedures applied in the examination of the compliance with the requirements described above, and accordingly, we express no opinion on them.

California Public Utilities Commission
San Francisco, California

This report is intended solely for the information and use of the CPUC and NRG and is not intended to be and should not be used by anyone other than these specified parties.

Crowe LLP

Crowe LLP

San Francisco, California
July 11, 2018

NRG Electric Vehicle Infrastructure Settlement Agreement Compliance

California Public Utilities Commission
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Executive Summary

The California Public Utilities Commission (CPUC, or Commission) contracted with Crowe LLP (Crowe) to conduct an examination on NRG Inc.'s (NRG, also referred to as NRG EV Services LLC, or EVgo) compliance with the rules, regulations, and requirements (Requirements) specified in a legal settlement between NRG (formerly Dynegy Power Marketing, Inc., El Segundo Power, LLC, and Long Beach Generation LLC) and the California Public Utilities Commission (CPUC) approved by the Federal Energy Regulatory Commission (FERC) on November 5, 2012 (FERC Docket EL02-60-010, referred to as the Settlement Agreement) for the examination period of April 27, 2012 through December 5, 2016.

During the performance of our procedures, we noted twelve (12) findings related to NRG's compliance with the Settlement Agreement as described in the Findings and Recommendations section of this report. In total, the findings resulted in NRG overstating its Settlement Expenditures by \$4,123,079 and our identification of an additional amount of \$2,505,902 in questioned Settlement Expenditures. The following is a summary of our findings:

1. NRG failed to demonstrate compliance with Section 1(vv) of the Settlement Agreement. Specifically, NRG's reported Settlement Expenditures over the examination period included \$1,465,000 in charger costs (e.g., for dual chargers, CHAdeMO chargers) that NRG could eventually use for Non-Settlement charging station installations and thus are not consistent with the definition of eligible Freedom Station Costs. Consequently, NRG should reduce Settlement Expenditures reported through December 5, 2016 by \$1,465,000.
2. NRG failed to demonstrate compliance with Section 4(b)(i)(2) of the Settlement Agreement. Specifically, NRG's reported Settlement Expenditures over the examination period included \$1,640,814 in electricity costs that are not considered eligible Fixed Operating Costs as they are not electricity demand nor meter costs. Consequently, NRG should reduce Settlement Expenditures reported through December 5, 2016 by \$1,640,814.
3. NRG failed to demonstrate compliance with Section 1(vv) of the Settlement Agreement. Specifically, NRG's reported Settlement Expenditures over the examination period included \$421,939 in labor costs that exceeded the high end of the range of comparable wages paid to NRG or other company employees in similar positions, as a result of some NRG salaries and wages including compensation for non-Settlement Agreement business activities, and thus are not consistent with the definition of eligible Freedom Station Costs. Consequently, NRG should reduce Settlement Expenditures reported through December 5, 2016 by \$421,939.
4. NRG failed to demonstrate compliance with Section 4(b)(i)(2) of the Settlement Agreement. Specifically, NRG's reported \$516,626 in Freedom Station Fixed Operating Costs over the examination period that exceed the required maximum of \$3,000,000 in Fixed Operating Costs. Consequently, NRG should reduce Settlement Expenditures reported through December 5, 2016 by \$516,626.
5. NRG failed to demonstrate compliance with Section 1(vv) of the Settlement Agreement. Specifically, NRG reported Settlement Expenditures over the examination period included \$78,700 in travel costs that NRG management used for non-Settlement Agreement purposes, and thus are not consistent with the definition of eligible Freedom Station Costs. Consequently, NRG should reduce Settlement Expenditures reported through December 5, 2016 by \$78,700.

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6. NRG failed to demonstrate compliance with Section 1(vv) of the Settlement Agreement. Specifically, NRG's reported \$1,309,247 in Settlement Expenditures over the examination period that NRG could not substantiate with comprehensive supporting documentation (in the form of a purchase order, invoice, payment approval, or proof of payment) to confirm that these Settlement Expenditures occurred. Consequently, NRG should provide documentation to support these \$1,309,247 in Settlement Expenditures or reduce Settlement Expenditures reported through December 5, 2016 by the unsupported amounts.
7. NRG failed to demonstrate compliance with Section 1(ppp) of the Settlement Agreement. Specifically, based on 34 field visits, we observed that approximately 15 percent of Make-Ready Stubs could not readily be connected to an EVSE and thus do not meet the definition of a Make-Ready Stub. We estimate at total of \$1,016,382 in questioned Settlement Expenditures from these marginalized Make-Ready Stubs.
8. NRG failed to demonstrate compliance with Section 1(vv) of the Settlement Agreement. Specifically, NRG reported \$180,273 in overhead expenditures over the examination period, for California Business Alliance participation and government affairs resources, that may not fit the definition of eligible Settlement Expenditures. There are a total of \$180,273 in questioned Settlement Expenditures for these overhead expenses.
9. NRG failed to demonstrate compliance with Section 4(a)(vi)(3) of the Settlement Agreement and its own *Supply Chain Policies* document. Specifically, for 15 of 15 Settlement Agreement procurements we reviewed, NRG did not provide adequate documentation to support the evaluation criteria and decision-making process NRG used to select a contractor as well as how NRG developed specific evaluation criteria reflective of preferences for contractors that met certain requirements (e.g., track record of hiring graduates of pre-apprentice program, hiring a substantial number of employees from the local area).
10. NRG failed to demonstrate compliance with Section 4(a)(vi)(3) of the Settlement Agreement and its own *Supply Chain Policies* document. Specifically, NRG did not competitively bid services with 11 vendors, with contracts valued at more than \$100,000, totaling \$4,208,563. NRG did not complete a Waiver of Competitive Bid Form to justify sole/single source contracting, a requirement specified in its *Supply Chain Policies* document.
11. NRG failed to demonstrate compliance with Section 4(a)(vi)(1) of the Settlement Agreement. Specifically, based on our field review of 43 Freedom Station sites, we found that NRG did comply with two of the nine required Freedom Station equipment items. NRG did not install 1) customer service interfaces that includes a communications device for single use charging services, and 2) Way-finding. The Freedom Station scope required a Freedom Station to include these two equipment items.
12. NRG failed to demonstrate compliance with Section 4(a)(ii) of the Settlement Agreement. Specifically, NRG has not yet met the Low Income PUMA area installation requirements in the LA Basin and can better document efforts NRG uses to reach this requirement in its Quarterly and Annual status reporting to the CPUC.

In addition to reducing the value of reported Settlement Expenditures by \$4,123,079 (listed in Table 2 of this report) to a total of \$49,389,645 between April 27, 2012 through December 5, 2016, and follow up determination between the CPUC and NRG for how to treat the \$2,505,902 in questioned costs (for lack of supporting documentation, the Make Readies installation problems, and the overhead costs; see Table 2 of the report), we recommend the following:

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Recommendation Related to Finding #1

1. NRG should discontinue the approach NRG uses to include advanced charger purchases for all Settlement and non-Settlement installations. This approach unnecessarily complicates the accounting for Settlement Agreement charger costs, making it difficult to later determine whether advanced charger purchases were properly credited to Settlement or non-Settlement areas. Going forward NRG should only include charger costs used for Settlement Agreement purposes its Settlement Expenditure reports.

Recommendation Related to Finding #2

2. NRG should develop policies and procedures to allocate the basic monthly ongoing electricity charges to other business activities and not to reported Settlement Expenditures.

Recommendation Related to Finding #3

3. NRG should begin reporting Direct Labor Costs that are not in excess of comparable salaries of similar employees in future annual Settlement Expenditure reports. NRG also should use actual salaries paid as a basis for determining Direct Labor Costs for Settlement Agreement purposes rather than the average annual salary estimating methodology NRG used for Settlement Years 1 through 4.

Recommendation Related to Finding #4

4. NRG should not include Fixed Operation Costs above a total of \$3,000,000 in its annual Settlement Expenditure reports.

Recommendation Related to Finding #5

5. NRG should reinforce a process for NRG management to review allocations of non-Settlement Agreement travel and other costs to confirm they are allocated to other business cost centers.

Recommendation Related to Finding #6

6. NRG should provide supporting documentation to substantiate the \$1,462,606 in questioned expenses reported during Settlement Years 1 through 4. NRG should reduce the amount reported in Settlement Years 1 through 4 by the amount for which NRG cannot provide full supporting documentation. In future Settlement Years, NRG should maintain complete documentation to support Settlement Agreement expenditures. NRG also should develop policies and procedures related to retention of supporting documentation. NRG should:
 - Issue written reminders to procurement personnel regarding the expectation that NRG retain purchase orders until the conclusion of the applicable records retention period and also reiterate the instances in which purchase orders are required.
 - Issue a written reminder to personnel with approval responsibilities regarding the expectation for approvals, methods and means of documenting approvals, and significance of the approval process.

Recommendation Related to Finding #7

7. NRG should provide documentation to verify the entire population of Make-Ready Stubs that are non-compliant with the Settlement Agreement based on the identified categories of 1) inadequate fixtures and 2) inability to readily connect to an EVSE. NRG should provide documentation prior to the final compliance examination to demonstrate that NRG has corrected the inadequacies associated with these Make-Ready Stubs in order to be in compliance with the Settlement Agreement definition of a Make-Ready Stub.

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Recommendation Related to Finding #8

8. NRG should seek approval for questioned overhead costs from the CPUC of \$180,273. If determined non-allowable, NRG should reduce the amount of Settlement Expenditures reported for Settlement Years 1 through 4 by \$180,273.

Recommendation Related to Finding #9

9. NRG should clarify in writing its policies and procedures related to the requirement to document and retain documentation to substantiate evaluations and outcomes of its Settlement Agreement competitive bidding process. NRG should maintain well-organized and comprehensive procurement and contracting files.

Recommendation Related to Finding #10

10. NRG should follow Settlement Agreement requirements related to soliciting competitive bids for contracts above \$100,000. Additionally, while not considered non-compliance with the Settlement Agreement, NRG also should follow its own required policies and procedures related to soliciting competitive bids for contracts above \$50,000 (there were four such contracts, with a value above \$50,000 and below \$100,000, that had a total Settlement Agreement cost of \$322,608).

Recommendation Related to Finding #11

11. NRG should provide corrective action to remedy the Freedom Station communications device and way-finding non-compliance items. If the requirement is not deemed necessary, NRG should present a case to the CPUC. In cases where the Freedom Station site host did not want these two installation requirements on its site, NRG should provide documentation supporting this determination from the site host to the CPUC prior to the final examination.

Recommendation Related to Finding #12

12. NRG should increase the number of low-income PUMA installations in the LA Basin in subsequent Settlement Years such that NRG installs at least 20 percent of the Freedom Stations in the LA Basin in low-income PUMA areas. NRG should provide the percent low-income PUMA completion rates by region in its quarterly and annual reporting (not just in total for all regions). NRG also should document, within its Quarterly and Annual reports, its efforts to evaluate, pursue, and install 20 percent of Freedom Stations in the LA Basin within low-income PUMA.

We have issued an adverse opinion for this examination due to the aggregation and pervasive nature of the material noncompliance identified within findings 1, 2, 4, 6, 7, and 9. Though findings 3, 5, 8, 10, 11, and 12 were not deemed instances of material noncompliance, we deemed that it was appropriate to report these instances of noncompliance to users of the report.

On February 22, 2017, after the December 5, 2016 end date covered by this examination report, the CPUC and NRG agreed to a Second Amendment to the Settlement Agreement. In this Second Amendment, and independent of the findings identified in this report, the CPUC and NRG took measures that the parties expect will address some of the noncompliant findings and observations specified in this report. The CPUC plans to conduct a follow up compliance examination, which will again address NRG compliance with the Settlement Agreement (including the Second Amendment), the status of the findings and observations identified in the report, as well as NRG efforts to implement our recommendations.

Regarding the findings with Questioned Costs identified in this report (Findings #6 through #8), the CPUC has directed Crowe to evaluate NRG's response to our recommendations throughout the balance of the Settlement Agreement term and subsequent to issuance of this examination report. Crowe will revisit the status of these Questioned Costs as part of the subsequent compliance examinations.

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Throughout this examination, Crowe met with NRG management to communicate interim progress and preliminary findings and observations. We also conducted an exit conference on completion of our fieldwork to communicate the examination procedure results and to review each of the findings (including Questioned Costs) and recommendations.

Introduction

In February 2002, the CPUC filed a complaint against sellers of long-term contracts, including one of NRG's subsidiaries, alleging that the rates, terms, and conditions of certain long-term contracts were unjust and unreasonable within the meaning of the Federal Power Act. The parties entered into settlement discussions and in 2012, the CPUC entered into a legal settlement ("the Settlement Agreement" or "settlement") with NRG, Inc. (formerly Dynegy Power Marketing, Inc., El Segundo Power, LLC, and Long Beach Generation LLC) in regards to the legal claims the CPUC had raised against one of NRG's subsidiaries. On April 27, 2012, the CPUC and NRG agreed to terms of the Settlement. The Settlement was approved by the Federal Energy Regulatory Commission (FERC) on November 5, 2012 (FERC Docket EL02-60-010) and became effective December 5, 2012.¹ For purposes of determining NRG compliance with the Settlement Agreement, the December 5, 2012 date represents the "Settlement Effective Date" as defined by the Settlement Agreement.²

The Settlement Agreement requires NRG to expend \$120.5 million, including \$102.5 million in the form of electric vehicle charging infrastructure and pilot programs in California. NRG is required to build two types of infrastructure: (1) installation of public electric vehicle charging stations ("Freedom Stations") and (2) installation of Make-Ready Stubs and Make-Ready Arrays. The Settlement Agreement outlines detailed technical and performance specifications for each of these infrastructure types, as well as targeted dates for completing the infrastructure.

NRG's Electric Vehicle (EV) Charging Station Project provides for:

1. Installation of 200 fast-charging Freedom Stations available for use by the general public;
2. Installation of infrastructure to support 10,000 privately-owned Make Ready Stubs at a total of 1,000 multi-family, workplace, or public-interest sites (e.g., public universities); and
3. Development, funding, and implementation of electric vehicle related technology pilot programs and electric vehicle programs for underserved communities.

On November 2, 2015, the CPUC and NRG jointly filed with FERC the First Amendment to the Settlement Agreement (First Amendment), which included eight technical amendments to the Settlement Agreement. On February 24, 2016, FERC issued an order approving this First Amendment. The purpose of the First Amendment was to increase the public benefits of the Settlement Agreement, preserve market balance for all electric vehicle charging market participants, and remove impediments to the implementation of the EV Charging Station Project identified by the Parties during the first two and one-half years of its implementation.³

¹ The December 5, 2012 *Joint Explanatory Statement* related to the First Amendment to Settlement Agreement, indicated that FERC approved the Settlement Agreement on November 5, 2012 and the Settlement Agreement became effective on December 5, 2012 (Section 1, first paragraph, last sentence, page 2).

² Source: Settlement Agreement Section 6(c)).

³ Source: FERC *Joint Explanatory Statement* related to First Amendment, page 3.

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The Settlement Agreement, section 4(e)(iii), specifies that:

- At the conclusion of Settlement Year 2, an independent third-party auditor shall “audit” and verify NRG’s compliance with performance obligations under the Settlement Agreement.
- At such time that NRG believes that it has completed performance of its commitments under the Settlement Agreement to implement the EV Charging Station Project and to spend the full amount of the funds committed by NRG under this Agreement, an independent third-party auditor shall “audit” and verify NRG compliance with its commitments.

This examination is intended to respond to the first of these two requirements.

As required by the Settlement Agreement, section 4(e)(2), NRG submits Quarterly and Annual Status Reports summarizing progress with meeting Settlement Agreement requirements. In its Quarterly and Annual Status Reports, NRG includes Settlement Agreement Expenditure reports which provide a listing of Settlement Expenditures (referred to hereafter as “Settlement Expenditure Reports”). For expenditure reporting purposes in Settlement Years 2 through 4, in order to better align with monthly accounting cycles, NRG captured Settlement Agreement expenditures using a December 1 through November 30 reported period.⁴ **Exhibit 1** on the following page summarizes the first four years of NRG reported Settlement Expenditures. In total for these four years, NRG reported \$53.5 million of Settlement Expenditures to the CPUC.

Thus, this examination report covers four (4) Settlement Years:

Settlement Year	Time Period
1	April 27, 2012 to December 5, 2013
2	December 6, 2013 to December 5, 2014
3	December 6, 2014 to December 5, 2015
4	December 6, 2015 to December 5, 2016

The CPUC requested that Crowe conduct this work as a compliance “examination” under American Institute of Certified Public Accountants (AICPA) attestation standards, with some procedures performed under AICPA consulting standards to cover aspects of the Settlement Agreement which cannot readily be performed using compliance examination procedures. The objective of the compliance examination portion of the work is to provide the CPUC with Crowe’s opinion on NRG’s compliance with Settlement Agreement requirements. For the consulting portion of the work, Crowe is providing applicable findings, conclusions, and recommendations separately, not as part of an opinion in accordance with AICPA attestation standards.⁵

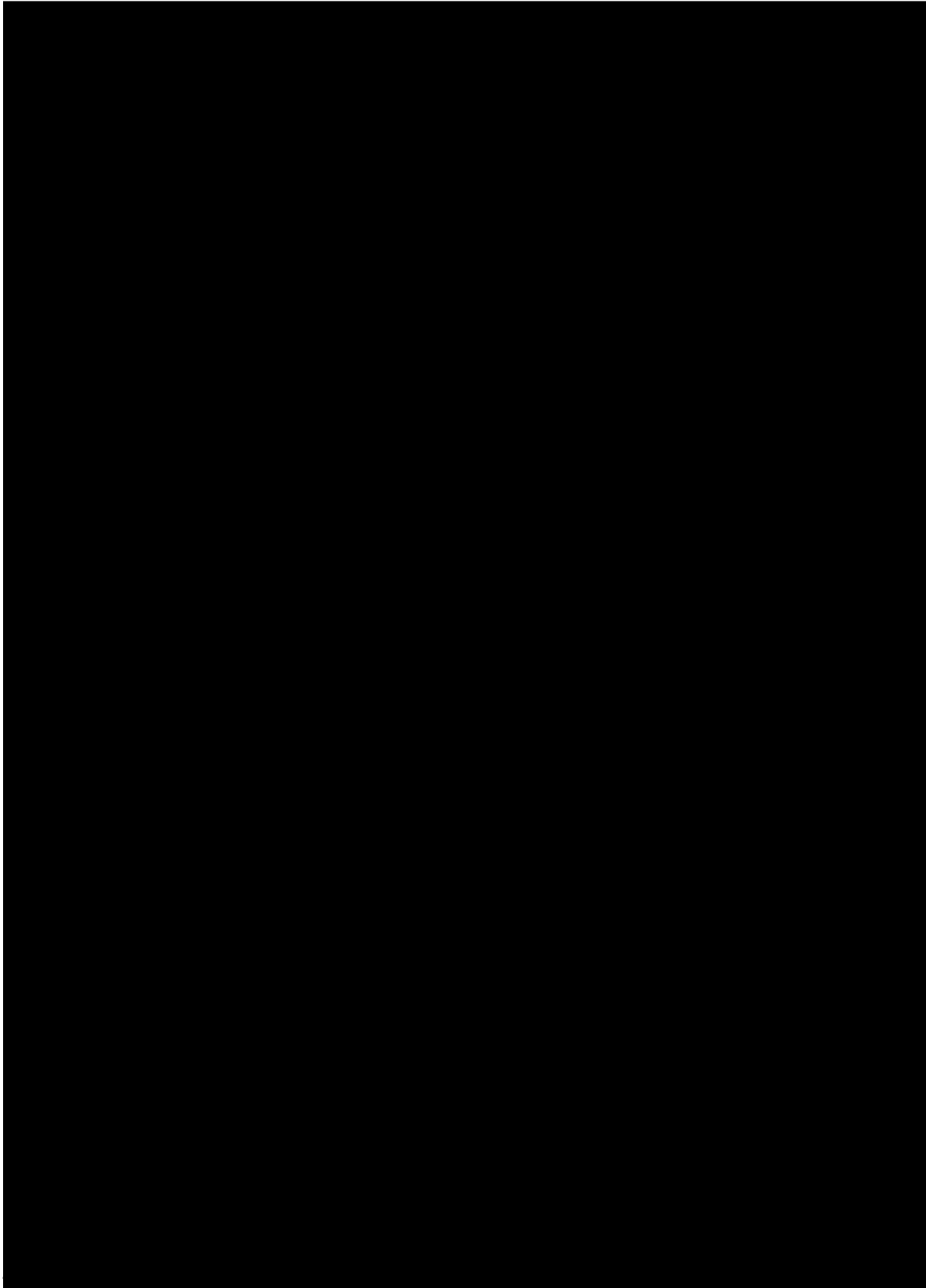
On June 17, 2016, NRG closed the sale of a controlling interest in NRG EV Services LLC (EVgo) to EV Holdings Investment, Inc., an investment vehicle of Vision Ridge Partners, LLC. NRG retains a significant minority investment in EVgo. NRG retains the legal and financial obligation to meet the terms of the CPUC Settlement Agreement and will continue to execute its obligations under the Settlement Agreement through EVgo. In connection with the sale, NRG EV Services LLC changed its legal name to EVgo Services LLC.⁶

⁴ For expenditure reporting purposes in Settlement Year 1, the CPUC allowed NRG to capture start-up related Settlement Agreement expenditures which NRG could have incurred from the Settlement Agreement effective date of April 27, 2012, through November 30, 2013.

⁵ Note that the “examination” and “consulting” terminology contrasts with the term “audit” referenced in the Settlement Agreement. An accountant commonly uses the term “audit” to express an opinion on whether or not financial statements are presented fairly in all material respects in accordance with generally accepted accounting principles and consequently the term “audit” does not meet the specific intent of assessing NRG compliance with the Settlement Agreement’s terms and conditions.

⁶ According to NRG’s Year 4, Quarter 2 public progress report to the CPUC (for the period of March 6, 2016 through June 5, 2016),

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Examination Engagement Process

The CPUC identified three (3) primary goals with eighteen (18) supporting objectives for this project. These goals and objectives are as follows:

- Goal 1: Evaluate NRG's Freedom Station investments to determine if NRG has met all requirements of the settlement, including, but not limited to, the following elements:
- Determine whether NRG has met the Freedom Station annual installation targets as set forth in the settlement. The evaluation should determine the date that each station was completed and obtain customer feedback data from NRG to determine if the station was in working order since its completion.
 - Determine that all Freedom Stations meet the technical requirements as described in the settlement. The settlement lists specific technical requirements that each station must meet. The evaluation should determine whether each station meets all of these requirements.
 - Determine whether all Freedom Station infrastructure is in working order and accessible to electric vehicle drivers in compliance with the performance and accessibility requirements listed in the settlement.
 - Evaluate NRG's labor and equipment procurement processes to determine that competitive processes were used and that labor/technical expenses were reasonable.
 - Evaluate whether NRG has met the standards requirements that require all Freedom stations to be updated to meet both the CHAdeMO and Society of Automotive Engineers (SAE) coupler standards per the terms of the settlement.
 - Determine whether the infrastructure cost less than the original projections and estimate how much additional infrastructure NRG could build with the remaining funding.
- Goal 2: Evaluate NRG's Make-Ready charging stub investments to determine if NRG has met all requirements of the settlement, including but not limited to the following elements:
- Determine whether NRG has met its Make Ready charging stub annual targets (for both facility targets and total stubs target).
 - Validate that NRG's public information related to the exclusivity period for the Make-Ready charging infrastructure is accurate and accessible to the public.
 - Determining that all Make Ready charging infrastructure is in working order and accessible to electric vehicle drivers, per the performance and accessibility requirements listed in the settlement. The settlement lists specific technical requirements that each "Make Ready" site must meet. The evaluation should determine whether each site meets all of these requirements and has met those requirements during the time that a given site has been operable.
 - Evaluate NRG's labor and equipment procurement processes to determine that competitive processes were used and that labor/technical expenses were reasonable.
 - Evaluate NRG's outreach effort to determine whether or not NRG has made satisfactory efforts to complete its obligations.
 - Evaluate NRG's process for determining whether sites were eligible to participate to determine whether NRG has made just and reasonable efforts to complete its goals.
 - Determine whether the infrastructure cost less than the original projections and estimate how much additional infrastructure NRG could build with the remaining funding.

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Goal 3: Determine if NRG has met all the additional requirements under the settlement agreement:

- Determine that all projects are underway as part of the Technology Development and Opportunity programs and are meeting the spending and performance targets.
- Evaluate if NRG has complied with the grants prohibition term that prevents NRG from applying for grants related to the infrastructure categories identified in the settlement.
- Determine whether NRG has made ‘just and reasonable efforts’ to meet its infrastructure requirements, including the evaluation of its customer outreach efforts.
- Evaluate NRG’s spending to determine that all cited spending relate to the outcomes of the settlement and represent reasonable efforts to spend funds efficiently and effectively.
- Ensure that NRG’s procurement of services and equipment meets the settlement’s requirement that competitive processes be used to avoid unfair favoritism toward suppliers and ensure that competitively priced services and equipment are purchased.

To achieve these 18 objectives, we examined whether NRG complied with the Settlement Agreement compliance requirements shown in **Table 1**⁷:

⁷ We did not rely on other related guidance outside of the Settlement Agreement compliance terms listed in Table 1 for our examination.

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Table 1
NRG Electric Vehicle Infrastructure Settlement Agreement
Compliance Requirements

Settlement Agreement Area	Settlement Agreement Reference	General Description
Freedom Station	4(a)(i)	Freedom Station Installation Contribution in an amount equal to \$50.5 million.
	4(a)(ii)	Freedom Station Installation Period; Amount; Locations. Requirement to install 200 Freedom Stations over four (4) years as follows: <ul style="list-style-type: none"> • 110 in LA Basin • 55 in SF Bay Area • 15 in San Joaquin Valley • 20 in San Diego County For each of the four locations above, installation of 20% of the sites must be in the lowest 1/3 among all the Public Use Microdata Areas.
	4(a)(iii)	Freedom Station Implementation Schedule. Requirement to install Freedom Stations as follows: <ul style="list-style-type: none"> • First Settlement Year – 20% • Second Settlement Year – 30% • Third Settlement Year – 30% • Fourth Settlement Year – 20%
	4(a)(iv)	Installation of Infrastructure; Allocation. Guidance for a <i>Freedom Station Savings Event</i> if expenditures fall below the Freedom Station Costs amount for the minimum installation requirement.
	4(a)(v)	Freedom Station Ownership. Requirement for NRG to retain ownership through Fixed Operating Cost Period.
	4(a)(vi)(1)	Freedom Station Scope. Specifies equipment requirements which include: <ul style="list-style-type: none"> (A) one (1) DC Fast charger (B) one (1) Level 2 charger (C) one (1) customer service interface that includes a communications device for Single-Use Charging Services and/or assistance; (D) at NRG’s option, in addition to the equipment specified above NRG may also install either (I) a Freedom Station Stub or (II) a Level 2 Stub (E) to the extent not already present at a location, adequate ambient lighting and other security elements; (F) way-finding and branding signage; (G) the electrical equipment necessary to fully service all the included equipment; (H) each Freedom Station shall be compatible with the CHAdeMO Standard and SAE Standard.
	4(a)(vi)(3)(A), 4(a)(vi)(3)(B)	Bids; Contracting Practices; Employment Practices. Specifies bid evaluation criteria, preference requirements for contractors, and preference requirements for employees.
	4(a)(vi)(4)	Charging Standards. Requirements for compatibility with CHAdeMO and SAE standards.
	4(a)(vii)	Freedom Station Operation and Maintenance. Requirements for NRG to maintain Freedom Stations through the Fixed Operating Period.

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Settlement Agreement Area	Settlement Agreement Reference	General Description
	4(b)(i)	Freedom Station Fixed Operating Cost NRG Contribution. Requirement to expend \$3.0M on fixed operating costs and definition of allowable operating costs.
	4(b)(ii)	Single-Use Scope of Access. Requirement to provide open access to subscribers and non-subscribers during Fixed Operating Cost Period.
	4(b)(iii)	Payment of Customer Charges During NRG Fixed Operating Cost Period. Applicable requirements for subscribers and single-use customers.
Make Readies	4(c)(i)	Make Readies NRG Contribution in an amount equal to \$40.0 million.
	4(c)(ii)(1), (2A), (2B), (2C)	Make Readies Installation Period; Amount; Distribution. Requirement to install 10,000 Make-Ready Stubs at a minimum of 1,000 Make-Readies Arrays. The Make-Ready Stub count is installed at geographic locations as reasonably determined by NRG. Required distribution is as follows: ⁸ <ul style="list-style-type: none"> • Multi-family sites – 35% • Workplace sites – 15% • Public interest sites – 10% • Remaining to be distributed across the above 3 types – 40%
	4(c)(iii)	Make-Readies Implementation Schedule. Requirement to install Make-Readies as follows: <ul style="list-style-type: none"> • First Settlement Year – 10% • Second Settlement Year – 30% • Third Settlement Year – 30% • Fourth Settlement Year – 30%
	4(c)(iv)	Make-Readies Costs Savings. Guidance for a <i>Make-Readies Savings Event</i> if expenditures fall below the Make Readies Cost amount for the minimum installation requirement.
	4(c)(v)	Make-Readies Ownership; Start-Up Period. Requirement that ownership vest with property owner, and for NRG to have exclusive right to install EVSEs through 18 month Start-Up Period.
	4(c)(vi)(1B), (1C)	Make-Readies Installation; Bids. Requirements include for NRG to maintain a publicly available website and use of subscriptions for EVSEs during Start Up Period.
	4(c)(vi)(2A), (2B)	Bids; Contracting Practices; Employment Practices. Specifies bid evaluation criteria, preference requirements for contractors, and preference requirements for employees.
	4(c)(vii)	Make-Readies Arrays Utilization and Access. Requirement for host agreements, compatibility with Level 2 chargers, and limitations on Make-Readies subscriptions during Start-Up period.

⁸ Note that after the December 5, 2016 ending date covered for this examination, the CPUC and NRG agreed to the Second Amendment to the Settlement Agreement, dated February 22, 2017. This Second Amendment allows NRG an extension of the Make Ready Stub installation deadline to December 5, 2018, allows for NRG to redirect \$12,500,000 of the \$40,000,000 Make Readies expenditure requirement to installation of Charging Plazas, and reduces the number of required Make Ready Stub installations by one for each \$4,000 redirected to Charging Plazas. The Second Amendment eliminated the Multi-Family Housing Site minimum installation requirement.

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Other Guidance	1	Definitions
	4(d)(i)	Technology Demonstration Program.
	4(d)(ii)	EV Opportunity Program.
	4(e)	Data and Accounting. Requirements for sharing of usage data, reporting, and audits.
	4(g)	Performance. Requirements if Minimum Freedom Station or Make Readies Counts not met.
	4(i)	Consultation. Requirements for using reasonable efforts to consult with state agencies and to consult with and review data provided by interest groups.
	4(j)	Contractors. Requirements for contractors to be licensed, local, and for contractors to use generally accepted practices.
	4(l)	Use of Grants. Requirements not to be recipient of grants related to specific performance under Settlement Agreement.

Scope

Our examination covered the period of April 27, 2012 through December 5, 2016. The population consisted of all Settlement Expenditures included in NRG's annual Settlement Expenditure reports submitted to the Commission. These included expenditures incurred by NRG over the approximately 4-year examination period. We selected a sample of Settlement Expenditures for testing.

The scope also included determining NRG compliance with Freedom Stations and Make-Ready Stub specifications, and various other requirements, included in the Settlement Agreement. We selected a sample of Freedom Stations and a sample of Make-Readies for field visits and testing.

Risk Based Approach

Crowe utilized a risk-based approach for conducting this examination. As part of this risk-based approach, we assessed risks during the planning phase and re-assessed risks throughout the examination. As such, our planning activities included establishing and documenting an overall examination strategy, developing a detailed written examination plan, and determining the extent of involvement of professionals with specialized skills. Based on the risks identified, we designed and implemented overall responses to address our assessed risks of material non-compliance with the requirements of the Settlement Agreement and we performed examination procedures whose nature, timing, and extent were based on, and are responsive to, the assessed risks of non-compliance.

Examination Procedures

Our procedures performed for this engagement are provided in more detail in **Appendix A – Procedures Performed**.

Sampling Methodology

Our sampling methodology for this examination was based on guidance from the American Institute of Certified Public Accountants – Government Auditing Standards and Single Audits -Audit Guide – Chapter 11: Audit Sampling Considerations of Circular A-133 Compliance Audits.

Sampling is the application of an examination procedure to less than 100 percent of the items within an account balance or class of transactions for the purpose of evaluating some characteristic of the balance or class. In other words, sampling may provide the accountant an appropriate basis on which to conclude a characteristic of a population based on examining evidence regarding that characteristic from a subset of the population.

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It is important to note that sampling is one of many techniques designed to provide sufficient examination evidence to support the accountant's compliance opinion. We often do not solely rely on the results of any single type of procedure to obtain sufficient appropriate evidence on compliance. Rather, our conclusions are based on evidence obtained from several sources and by applying a variety of testing procedures. Combined evidence obtained from the various types of procedures is used to determine whether there is sufficient appropriate evidence to provide an opinion on compliance.

Our sampling methods used a combination of both random and judgmental sampling. Judgmental sampling was utilized to test individually important items. Specifically, we used judgment and experience in examining a population for risky or unusual transactions that were selected for testing. These individually important items were selected based on our risk assessment and based on the data analysis procedures completed during the examination.

When sampling is used to test transactions, sampling risk exists. Sampling risk represents the risk that the sample is not representative of the population. In other words, that the evaluation of a population based on a sample is different from what it would be if the entire population were tested. Based on a statistically valid sample, our sampling methodology is designed to provide a high level of assurance (90 – 95%) in accordance with the AICPA Audit Guide's guidance on sampling.

Findings and Recommendations

In planning and performing our examination of NRG's compliance with the Settlement Agreement requirements for the examination period of April 27, 2012 through December 5, 2016, we noted twelve (12) findings that we considered reportable to the CPUC's management. This section of our report provides a listing of these findings. **Table 2** summarizes the impact of these findings on NRG reported Settlement Expenditures.

Our consideration of internal control was for the limited purpose of designing examination procedures that were appropriate in the circumstances for the purpose of expressing our opinion on the carrier's compliance but not for the purpose of expressing an opinion on the effectiveness of NRG's internal control. Accordingly, we do not express an opinion on the effectiveness of NRG's internal control. Our consideration of internal control was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we identified six (6) deficiencies in internal control that we consider to be material weaknesses and four (4) deficiencies in internal control we consider significant deficiencies.

A deficiency in internal control over compliance exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement on a timely basis. A material weakness in internal control over compliance is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement will not be prevented, or detected and corrected, on a timely basis. We consider the deficiencies in NRG's internal controls identified in findings 1, 2, 4, 6, 7 and 9 to be material weaknesses.

A significant deficiency in internal control over compliance is a deficiency, or a combination of deficiencies, in internal control over compliance with a compliance requirement that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider the deficiencies in NRG's internal controls identified in findings 3, 8 and 10 to be significant deficiencies and finding 5 a deficiency.

We also noted two additional non-compliance items we believed important to report to management, though they did not have a direct relation to internal controls. These additional non-compliance findings are findings 11 and 12.

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Table 2
Summary of Recommended Reductions to
NRG Reported Settlement Expenditures
(Settlement Years 1 through 4)

Finding	Amount
Adjustments to Settlement Expenditures	
1. NRG Settlement Agreement Reports Included \$1,465,000 in Charger Costs that NRG Could Eventually Use for Non-Settlement Installations	(\$1,465,000)
2. NRG Settlement Agreement Reports Include \$1,640,814 in Non-Allowable Electricity Charges Charged by Utilities	(1,640,814)
3. NRG Settlement Agreement Reports Include \$421,939 in Labor Costs for Salaries Paid in Excess of Comparable Salaries	(421,939)
4. NRG Settlement Agreement Reports Include \$520,626 in Freedom Station Fixed Operating Costs In Excess of the \$3,000,000 Spending Requirement	(516,626)
5. NRG Settlement Expenditure Reports Include \$78,700 in Non Allowable Travel Costs	(78,700)
Total Reduction to Settlement Agreement Reporting	(\$4,123,079)
Total Reported Settlement Expenditures	\$53,512,724
Less Total Reduction to Settlement Expenditures	(\$4,123,079)
Total Adjusted Settlement Expenditures	\$49,389,645
Questioned Costs	
6. NRG Was Unable to Provide Complete Documentation to Substantiate \$1,462,606 in Expenses Reported in Settlement Expenditure Reports	(\$1,309,247)
7. Of the Make-Ready Sites Visited, a Minimum of 15 Percent Failed to Comply with Make-Ready Specification Requirements	(1,016,382)
8. NRG Settlement Agreement Reports Include \$180,273 in Overhead Costs for California Business Alliance Participation and Government Affairs Expenses	(180,273)
Total Questioned Costs	(\$2,505,902)
Other Findings	
9. NRG Did Not Adequately Document the Evaluation Criteria and Outcomes, Including Evaluation of Vendor Preferences, for 15 Settlement Agreement Procurements	N/A
10. NRG Did Not Competitively Bid Services with 11 Vendors with Contracts Worth More than \$100,000 totaling \$4,208,563	N/A
11. NRG Complied with 7 of 9 Freedom Stations Equipment Installation Requirements, But Did Not Install Customer Service Interfaces that Include a Communications Device for Single Use Charging Services and Did Not Install Way Finding	N/A
12. NRG Has Not Yet Met the Low-Income PUMA Area Installation Requirements in the LA Basin and Can Better Document Efforts Used to Reach this Requirement in its Reporting	N/A

Finding 1. NRG Settlement Agreement Reports Included \$1,465,000 in Charger Costs that NRG Could Eventually Use for Non-Settlement Installations

Material Weakness in Internal Control and Material Noncompliance

Condition

In Settlement Years 2 through 4, NRG included expenses in its Settlement Expenditure Reports for chargers which it has paid for in advance of the use of these chargers for Freedom Stations installations (both for dual charger and CHAdeMO charger types). NRG uses these advanced charger purchases for either Settlement Agreement Freedom Station installations or for non-Settlement Agreement installations (e.g., in other states such as Colorado, Georgia, Texas, and Utah). NRG then uses the practice of crediting or reducing Settlement Agreement expenses for the amount of advanced purchase charger costs that NRG uses for non-Settlement Agreement installations. As of the end of Settlement Year 4, NRG currently has included \$1,465,000 of advanced charger purchases in its Settlement Expenditure Reports which NRG has not yet deployed and which could ultimately be used for either Settlement Agreement Freedom Station installations or non-Settlement Agreement installations.

Criteria

According to the definition provided in Section 1 (vv), “Freedom Station Costs” means Public Charging Ecosystem costs incurred by NRG or its affiliates that are eligible to count against the expenditure of the full Freedom Station Amount and shall include all “out-of pocket costs” to install and implement the Public Charging Ecosystem (e.g., (A) actual costs to procure, install, and connect the Freedom Stations comprising the Public Charging Ecosystem (as further described in Section 4(a)(vi) below), (B) all related intellectual property costs, (C) the costs to identify, evaluate, negotiate and reach agreement with host locations (including all permitting costs (including signage permitting costs), location and site assessment costs, costs to obtain landlord and/or tenant consents, and any costs related to filings or litigation related to the protection of NRG’s or its affiliates’ legal rights at the host locations *but* excluding (1) any incentive or bonus payments made to a host to obtain access or consent and (2) any litigation costs incurred as a result of NRG’s or its affiliates’ negligence in the installation or operation of the Public Charging Ecosystem), (D) lease, rent or similar payments incurred by NRG during the NRG Fixed Operating Cost Period (excluding, for the avoidance of doubt, costs associated with the acquisition of real property rights, including easements) and (E) all related Capitalized Development Costs *but* excluding any costs related to the initial acquisition of real property rights needed to install a Freedom Station at a given location). For the avoidance of doubt, all costs associated with the installation, operation and maintenance of Freedom Stations and incurred with respect to compliance with the reporting, consultation, bidding, contracting and employee hiring requirements of this Agreement, including those requirements set forth in Section 4(a)(vi)(3), Section 4(e), Section 4(g) and Sections 4(h) through (k) below, shall in each case be eligible Freedom Station Costs.

Cause

NRG indicated that the process of accounting for these advanced purchases eases the internal complexity of accounting for these chargers as Settlement versus Settlement purchases at the time they are made and there were no procedures in place to properly account for the implementation of the chargers. NRG also indicated that the reason these advanced purchases are made in the first place is for NRG to provide some upfront capital to the companies constructing the chargers to ensure these companies continue to provide the chargers when they are needed for actual installation.⁹

Effect

As of the end of Settlement Year 4, NRG reported \$1,465,000 of advanced charger costs in its Settlement Expenditure Reports which NRG may or may not ultimately use for Settlement Agreement installations. There is the potential for NRG overstating charger costs to the Settlement Agreement if credits for non-Settlement Agreement are not applied correctly.

⁹ Note that NRG does not hold chargers in inventory but rather requests their delivery at the time they are needed.

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Recommendation

NRG should reduce the total amount of charger costs reported for Settlement Years 1 through 4 by \$1,465,000. NRG should discontinue the approach NRG uses to include advanced charger purchases for all Settlement and non-Settlement installations. This approach makes it difficult to later determine whether advanced charger purchases were properly credited to Settlement or non-Settlement areas. Going forward NRG should establish procedures to only include charger costs used for Settlement Agreement purposes its Annual Settlement Expenditure Reports.

Settlement Party Response¹⁰

NRG does not deem this Finding to be a material weakness or noncompliance with the Settlement Agreement.

NRG understands the additional complexity involved by including advanced charger purchases in the Settlement expenditure reports. However, the intention was not to overstate equipment purchases by including inventory amounts that have yet to be designated to a specific Freedom Station site. In fact, these advanced charger purchases enabled NRG and EVgo to obtain more competitive pricing that has contributed to the Freedom Station “savings event” that will enable NRG and EVgo to build more than the originally anticipated 200 Freedom Stations under the Settlement. It should also be noted that there is no net impact to the Settlement spend overall, as this is a change in accounting and reporting that will merely shift dollars spent between Settlement years to align with when the assets were designated to a specific Settlement location, instead of when they were purchased.

However, based on Crowe’s recommendation, NRG is working to update its reporting to remove the advanced charger purchases from reported spend. On a go-forward basis, only amounts directly reflective of costs for a specific Freedom Station site will be included in the Settlement spend reports.

Crowe Rebuttal

NRG did not dispute the analysis that \$1,465,000 in charger costs are included in the Year 1 to 4 spend. We appreciate that NRG is taking new steps to remove advance charger purchases from NRG’s future reported spend. No changes to the finding were deemed necessary based on the Settlement Party Response.

¹⁰ For clarification, throughout the findings section of this report, “Settlement Party Response” refers to NRG’s written response to the finding.

Finding 2. NRG Settlement Agreement Reports Include \$1,640,814 in Non-Allowable Electricity Charges Charged by Utilities

Material Weakness in Internal Control and Material Noncompliance

Condition

NRG did not comply with Section 4(b)(i)(2) of the Settlement Agreement related to allowable Freedom Station Fixed Operation Costs. The Settlement Agreement definition of Freedom Station Fixed Operating Costs allows electricity “demand charges” and “meter” costs, but not all other electrical charges. NRG included \$1,640,814 in Freedom Station basic monthly ongoing electricity charges in its Annual Reports which are not allowable in the definition of Freedom Station Fixed Operating Costs.

Criteria

Section 4(b)(i)(1) of the Settlement Agreement requires NRG to expend an amount equal to three million dollars in Freedom Stations fixed operating costs over a five (5) year time period beginning with the Settlement Effective Date. Section 4 (b)(i)(2) of the Settlement Agreement states that eligible fixed operating costs of the Public Charging Ecosystem that may count against the expenditure of the full Freedom Station Fixed Operating Cost Amount shall include all of NRG’s costs related to the Public Charging Ecosystem for (A) electricity demand charges, (B) meter, (C) security and communication charges, (D) periodic site visits to assure Freedom Station security, quality and operation (including related travel expenses and assigned time/cost of NRG’s or it affiliates’ personnel or contractors performing such visits) and (E) maintenance, including preventive maintenance and repairs.

Cause

According to NRG, the company reported all of its electricity charges for ease of reporting and NRG was less precise with this utilities cost area., There were not specific policies and procedures in place to allocate the basic monthly ongoing charges to other business and not to reported Settlement Expenditures.

Effect

NRG overstated electricity costs by \$1,640,814 within the Freedom Station Fixed Operating Costs category in its Annual Settlement Expenditure Reports.

Recommendation

NRG should reduce the total amount of Freedom Station Fixed Operation Costs reported in its Annual Settlement Agreement Reports for Settlement Years 1 through 4 by \$1,640,814. NRG should develop policies and procedures to allocate the basic monthly ongoing electricity charges to other business activities and not to reported Settlement Expenditures.

Settlement Party Response

NRG does not deem this Finding to be a material weakness or non-compliance with the Settlement Agreement as this is an issue of reporting rather than implementation. Furthermore, NRG has not applied any Freedom Station operating amounts in excess of \$3,000,000 to any other Settlement spend bucket (e.g., Freedom Station Costs).

While NRG agrees with Crowe’s determination that ineligible utility costs (i.e., variable kWh costs) were included in the Freedom Station Fixed Operating Costs that are reported in the Annual Settlement Agreement Reports, it is important to note that as evidenced by Crowe’s Finding 4, post the exclusion of non-electricity demand and meter charges from utility bills of \$1,640,814, NRG has already exceeded the required \$3,000,000 spend by the end of Settlement Year 4.

Based on Crowe’s recommendation, NRG is working to update its reporting to remove variable kWh costs and only present eligible electricity cost in reported spend (up to the \$3,000,000 maximum).

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Crowe Rebuttal

While this is characterized as a reporting matter, NRG agrees that it is necessary to remove the \$1,640,814 amount from the Year 1 to 4 Freedom Station Operating Cost amount requested. No changes to the finding were deemed necessary based on the Settlement Party Response.

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Finding 3. NRG Settlement Agreement Reports Include \$421,939 in Labor Costs for Salaries Paid in Excess of Comparable Salaries

Significant Deficiency in Internal Control and Noncompliance

Condition

Based on a market survey of salaries paid for comparable positions, Crowe determined that NRG paid its employees' salaries above market levels. We compared NRG employee salaries with comparable published salary data (using Glassdoor published salaries across multiple industries, and Glassdoor published salaries paid to NRG employees). We found that in total, employee salaries included in Direct Labor amounts reported by NRG in Annual Reports exceeded the high end of the range of comparable published salaries by approximately five (5) percent. As shown in **Table 3**, we determined that the NRG Direct Labor Costs exceeded the high end of comparable published salaries by \$421,939.

We found that NRG used an estimation approach to determine NRG employee labor costs that NRG reported in Settlement Expenditure reports for Settlement Years 1 through 4. NRG based its labor costs on an average salary of NRG employees working on Settlement Agreement activities. Consistent with the Settlement Agreement definition for Freedom Station and Make-Readies Costs, NRG should have reported actual labor costs incurred by employees working on Settlement Agreement activities rather than estimated labor costs.

**Table 3
 NRG, Inc.
 Calculation of Difference in Direct Labor Costs
 Between NRG Reported and Comparable Salaries Surveyed**

Settlement Year	Reported Direct Labor Costs	Difference	Direct Labor Recalculated Based on High End of Comparable Published Salaries
2012	\$ 193,852	\$ (10,468)	\$ 183,384
2013	1,642,986	(88,721)	1,554,265
2014	2,195,448	(118,554)	2,076,894
2015	2,054,884	(110,964)	1,943,921
2016	1,726,518	(93,232)	1,633,286
Total	\$ 7,813,688	\$ (421,939)	\$ 7,391,749

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Criteria

According to the definition provided in Section 1 (vv), “Freedom Station Costs” means Public Charging Ecosystem costs incurred by NRG or its affiliates that are eligible to count against the expenditure of the full Freedom Station Amount and shall include all “out-of-pocket costs” to install and implement the Public Charging Ecosystem (e.g., (A) actual costs to procure, install, and connect the Freedom Stations comprising the Public Charging Ecosystem (as further described in Section 4(a)(vi) below), (B) all related intellectual property costs, (C) the costs to identify, evaluate, negotiate and reach agreement with host locations (including all permitting costs (including signage permitting costs), location and site assessment costs, costs to obtain landlord and/or tenant consents, and any costs related to filings or litigation related to the protection of NRG’s or its affiliates’ legal rights at the host locations *but* excluding (1) any incentive or bonus payments made to a host to obtain access or consent and (2) any litigation costs incurred as a result of NRG’s or its affiliates’ negligence in the installation or operation of the Public Charging Ecosystem), (D) lease, rent or similar payments incurred by NRG during the NRG Fixed Operating Cost Period (excluding, for the avoidance of doubt, costs associated with the acquisition of real property rights, including easements) and (E) all related Capitalized Development Costs *but* excluding any costs related to the initial acquisition of real property rights needed to install a Freedom Station at a given location). For the avoidance of doubt, all costs associated with the installation, operation and maintenance of Freedom Stations and incurred with respect to compliance with the reporting, consultation, bidding, contracting and employee hiring requirements of this Agreement, including those requirements set forth in Section 4(a)(vi)(3), Section 4(e), Section 4(g) and Sections 4(h) through (k) below, shall in each case be eligible Freedom Station Costs.

Cause

NRG did not have policies and procedures in place to require Settlement Agreement reports to include actual labor costs reflective of salaries comparable to the market for similar employees.

Effect

NRG reported \$421,939 of labor costs in its Annual Reports which are in excess of the high end of published salaries surveyed for similar positions.

Recommendation

NRG should reduce the total amount of Direct Labor Costs by \$421,939 for Settlement Years 1 through 4. In addition, NRG should begin reporting Direct Labor Costs based on market-based salaries in future Annual Expenditure Reports. NRG also should use actual salaries paid as a basis for determining Direct Labor Costs for Settlement Agreement purposes rather than the average annual salary estimating methodology used for Settlement Years 1 through 4.

Settlement Party Response

NRG does not deem Finding 3 to be a significant deficiency in internal control and noncompliance with regard to the Settlement Agreement and instead believes this to be an observation by the auditors that reported salaries are roughly 5 percent higher than the auditor’s calculation of market rates.

Eligible Personnel Costs, as defined by the Settlement Agreement, do not contemplate the use of market rates in the determination of the employee related costs to be allocated to Freedom Station and Make-Ready construction. NRG believes it compensates its employees fairly and competitively and the use of an average salary per employee to allocate labor costs was intended to not overly burden the Settlement with overhead costs. Further, NRG did not allocate any Executive compensation (i.e., salary, bonus, incentive, etc.) to the reported Settlement spend for Years 1 through 4.

In addition, the process for capturing direct labor costs has been updated as of April 1, 2017 and the current process involves monthly timesheets being provided by site developers and program managers to indicate how many hours they have worked on the various Settlement programs (FS/MR, HPCP, Tech Demo, EVop, Non-CPUC). The monthly calculation is based on employee’s compensation at month-end multiplied by the hours indicated on timesheet (bonus and benefits are included in employee compensation). We believe that the process implemented in April 2017 is in compliance with the definition of eligible Personnel Costs in the Settlement Agreement.

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Crowe Rebuttal

NRG did not dispute that observation that actual salaries are above the market level. We appreciate that NRG is taking new steps to capture actual time worked to substantiate future Eligible Personnel Costs. No changes to the finding were deemed necessary based on the Settlement Party Response to Finding 3.

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Finding 4. NRG Settlement Agreement Reports Include \$520,626 in Freedom Station Fixed Operating Costs In Excess of the \$3,000,000 Spending Requirement

Material Weakness in Internal Control and Material Noncompliance

Condition

For the Settlement Years 1 through 4, NRG expended \$3,516,626 in allowable Freedom Station Fixed Operation Costs. During this time, NRG met its obligation to expend \$3,000,000 in total Freedom Station Fixed Operating Costs.

Criteria

Section 4(b)(i)(1) of the Settlement Agreement requires NRG expend an amount equal to three million dollars in Freedom Stations fixed operating costs over a five (5) year time period beginning with the Settlement Effective Date. Section 4 (b)(i)(2) of the Settlement Agreement states that eligible fixed operating costs of the Public Charging Ecosystem that may count against the expenditure of the full Freedom Station Fixed Operating Cost Amount shall include all of NRG's costs related to the Public Charging Ecosystem for (A) electricity demand charges, (B) meter (C) security and communication charges, (D) periodic site visits to assure Freedom Station security, quality and operation (including related travel expenses and assigned time/cost of NRG's or it affiliates' personnel or contractors performing such visits) and (E) maintenance, including preventive maintenance and repairs.

Cause

According to NRG, the company reported excess Freedom Station Fixed Operation Costs for ease of reporting. NRG also wanted to demonstrate that its actual Freedom Station Fixed Operating Costs exceeded the \$3,000,000 amount required in the Settlement Agreement. NRG did not have policies and procedures developed to not include Fixed Operating Costs above \$3,000,000 in its reporting.

Effect

NRG reported \$516,626 of costs in its Annual Reports in excess of the amount required to expend of \$3,000,000 specified in Section 4(b)(i)(1) of the Settlement Agreement.

Recommendation

NRG should reduce the total amount of Freedom Station Fixed Operation Costs by \$516,626 for Settlement Years 1 through 4. NRG should not include Fixed Operation Costs above \$3,000,000 in its Annual Settlement Expenditure Reports. NRG should develop policies and procedures so as to not include Fixed Operating Costs above \$3,000,000 in its reporting.

Settlement Party Response

NRG does not deem this Finding to be a material weakness or non-compliance with the Settlement Agreement as this is an issue of reporting rather than implementation. NRG agrees that the Freedom Station operating costs for Settlement Years 1 through 4 have exceeded the \$3,000,000 Freedom Station Fixed Operating Cost Amount stipulated in Section 4(b)(i)(2). However, we do not view the reporting of this excess spend to be a material non-compliance of the Settlement Agreement. NRG is required to operate the Freedom Stations through the end of the Fixed Operating Cost Period (amended to December 2020) regardless of the cost. It is not the intention of NRG to apply any Freedom Station operating amounts in excess of \$3,000,000 to any other Settlement spend bucket (e.g., Freedom Station Costs).

Based on Crowe's recommendation, and in order to avoid confusion in reporting, NRG is working to update its reporting to clearly and separately reflect excess Freedom Station operating costs above the required \$3,000,000.

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Crowe Rebuttal

While this is characterized as a reporting matter, NRG agrees that it is necessary to remove the \$516,626 amount from the Year 1 to 4 Freedom Station Operating Cost amount requested. No changes to the finding were deemed necessary based on the Settlement Party Response to Finding 4. NRG Settlement Agreement Reports Include \$516,626 in Freedom Station Fixed Operating Costs in excess of the \$3,000,000 Spending Requirement.

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Finding 5. NRG Settlement Expenditure Reports Include \$78,700 in Non-Allowable Travel Costs

Deficiency in Internal Control and Noncompliance

Condition

In its Annual Reports for Settlement Years 1 through 4, NRG included travel expenses NRG management incurred for travel to dealerships throughout the U.S. These travel expenses did not relate to Settlement Agreement activities and as a result do not meet the definition of allowable Freedom Station Costs or allowable Make-Ready Costs in the Settlement Agreement.

Criteria

Section 1(vv) of the Settlement Agreement defines “Freedom Station Costs” as Public Charging Ecosystem costs incurred by NRG or its affiliates that are eligible to count against the expenditure of the full Freedom Station Amount and shall include all “out-of-pocket costs” to install and implement the Public Charging Ecosystem (e.g., (A) actual costs to procure, install, and connect the Freedom Stations comprising the Public Charging Ecosystem (as further described in Section 4(a)(vi) below), (B) all related intellectual property costs, (C) the costs to identify, evaluate, negotiate and reach agreement with host locations (including all permitting costs (including signage permitting costs), location and site assessment costs, costs to obtain landlord and/or tenant consents, and any costs related to filings or litigation related to the protection of NRG’s or its affiliates’ legal rights at the host locations *but* excluding (1) any incentive or bonus payments made to a host to obtain access or consent and (2) any litigation costs incurred as a result of NRG’s or its affiliates’ negligence in the installation or operation of the Public Charging Ecosystem), (D) lease, rent or similar payments incurred by NRG during the NRG Fixed Operating Cost Period (excluding, for the avoidance of doubt, costs associated with the acquisition of real property rights, including easements) and (E) all related Capitalized Development Costs *but* excluding any costs related to the initial acquisition of real property rights needed to install a Freedom Station at a given location). For the avoidance of doubt, all costs associated with the installation, operation and maintenance of Freedom Stations and incurred with respect to compliance with the reporting, consultation, bidding, contracting and employee hiring requirements of this Agreement, including those requirements set forth in Section 4(a)(vi)(3), Section 4(e), Section 4(g) and Sections 4(h) through (k) below, shall in each case be eligible Freedom Station Costs.

Section 1(mmm) defines “Make-Readies Costs” as Make-Ready Stub and Make-Readies Array costs incurred by NRG or its affiliates that are eligible to count against the expenditure of the Make-Readies Amount and shall include all “out-of-pocket costs” to install the Make-Ready Stubs and Make-Readies Arrays (e.g., (A) actual costs to procure, install, and connect the Make-Ready Stubs and Electric Service Infrastructure comprising the Make-Readies Arrays, (B) all related intellectual property costs, (C) the costs to identify, evaluate, negotiate and reach agreement with host locations (including all permitting costs (including signage permitting costs), location and site assessment costs, costs to obtain landlord and/or tenant consents, and any costs related to filings or litigation related to the protection of NRG’s or its affiliates’ legal rights at the host locations *but* excluding (1) any incentive or bonus payments made to a host to obtain access or consent and (2) any litigation costs incurred as a result of NRG’s or its affiliates’ negligence in the installation or operation of the Make-Readies Arrays), and (D) all related Capitalized Development Costs *but* excluding any costs related to the initial acquisition of real property rights needed to install a Make-Readies Array at a given host location). For the avoidance of doubt the costs associated with the development and maintenance of the Make-Readies Array website described in Section 4(c)(vi)(1)(B) below, and all costs associated with the installation, operation and maintenance of Make-Readies Arrays and incurred with respect to compliance with the reporting, consultation, bidding, contracting and employee hiring requirements of this Agreement, including those requirements set forth in Section 4(a)(vi)(3), Section 4(e), Section 4(g) and Sections 4(h) through (k) below, shall in each case be eligible Make-Readies Costs.

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Cause

For Settlement Years 1 through 4, NRG did not have procedures to review travel costs to determine whether they were associated with the Settlement Agreement or with other business.

Effect

In the first four Settlement Years, NRG reported \$78,700 of travel costs in its Annual Settlement Expenditure Reports which are considered non-allowable for Settlement Agreement purposes.

Recommendation

NRG should reduce the total amount of travel costs reported for Settlement Years 1 through 4 by \$78,700. In future Settlement Years, NRG should implement a process and procedures for management to review allocations of non-Settlement Agreement travel costs to confirm they are allocated to other business.

Settlement Party Response

NRG acknowledges that the \$78,700 in travel related expenses for NRG employees were incorrectly reported within the qualified Settlement expenditures and will be removed from reported qualified spend. Upon further review of the reported travel costs, NRG identified an additional \$12,875 in costs that it has removed from the reported qualified spend.

In addition, in June 2016, EVgo implemented a new expense reporting system to more appropriately track and report employee expenses and overhead items. Within Certify, all Settlement expenses are clearly identified by project designation and are reviewed and approved by the employee's supervisor and then subsequently by the accounting group. NRG and EVgo believe that the travel expenses identified by Crowe were isolated incidents and that the reporting of employee expenses within Certify easily allows for users to correctly allocate expenses between Settlement and non-Settlement activities.

Crowe Rebuttal

NRG did not dispute the finding and no changes to the finding were deemed necessary based on the Settlement Party Response.

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Finding 6. NRG Was Unable to Provide Complete Documentation to Substantiate \$1,309,247 in Expenses Reported in Settlement Expenditure Reports

Material Weakness in Internal Control and Material Noncompliance

Condition

Management failed to retain complete documentation for expenses, which would have provided evidence that reviews and approvals of costs were occurring prior to their being charged to the Settlement Agreement Account; that purchases were authorized prior to costs being incurred; and that costs were appropriately accumulated to the project based on the presence and use of the identified project account. Further, 84 documents were not provided that were needed to assess eligibility (i.e., invoice copies, payment support, and/or transaction support clearly identifying the link between the incurred cost and the Settlement Agreement requirements). A material amount of costs (\$1,309,247) is in question as a result of these matters. Specific findings included:

- Inadequate supporting documentation provided to determine whether expenses met the Freedom Station and Make Readies Cost definitions for 25 of 314 sample selections amounting to unsupported transactions of \$37,188.
- Project type (either Freedom Station or Make Ready) was not readily identifiable, limiting the determination of whether the expense was allowable. Lack of control over allocation by project for 83 of 314 selections, amounting to \$659,900.12.
- No purchase order was provided for 38 of 314 selections in the total amount of \$620,592.49.
- No invoice was provided for 15 of 314 selections in the total amount of \$587,496.
- No payment documentation (pay stub, batch file) was provided for 29 of 314 selections in the total amount of \$426,270.
- Lack of support demonstrating evidence of management's review for 65 of 314 selections in the total amount of \$2,886,366.23.
- No supporting documentation was provided to determine the nature of the transaction for 1 of 314 selections in the total amount of \$<1.52> (an accrual reversal).

Criteria

Section 1(vv) of the Settlement Agreement defines "Freedom Station Costs" as Public Charging Ecosystem costs incurred by NRG or its affiliates that are eligible to count against the expenditure of the full Freedom Station Amount and shall include all "out-of pocket costs" to install and implement the Public Charging Ecosystem (e.g., (A) actual costs to procure, install, and connect the Freedom Stations comprising the Public Charging Ecosystem (as further described in Section 4(a)(vi) below), (B) all related intellectual property costs, (C) the costs to identify, evaluate, negotiate and reach agreement with host locations (including all permitting costs (including signage permitting costs), location and site assessment costs, costs to obtain landlord and/or tenant consents, and any costs related to filings or litigation related to the protection of NRG's or its affiliates' legal rights at the host locations *but* excluding (1) any incentive or bonus payments made to a host to obtain access or consent and (2) any litigation costs incurred as a result of NRG's or its affiliates' negligence in the installation or operation of the Public Charging Ecosystem), (D) lease, rent or similar payments incurred by NRG during the NRG Fixed Operating Cost Period (excluding, for the avoidance of doubt, costs associated with the acquisition of real property rights, including easements) and (E) all related Capitalized Development Costs *but* excluding any costs related to the initial acquisition of real property rights needed to install a Freedom Station at a given location). For the avoidance of doubt, all costs associated with the installation, operation and maintenance of Freedom Stations and incurred with respect to compliance with the reporting, consultation, bidding, contracting and employee hiring requirements of this Agreement, including those requirements set forth in Section 4(a)(vi)(3), Section 4(e), Section 4(g) and Sections 4(h) through (k) below, shall in each case be eligible Freedom Station Costs.

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Section 1(mmm) defines “Make-Readies Costs” as Make-Ready Stub and Make-Readies Array costs incurred by NRG or its affiliates that are eligible to count against the expenditure of the Make-Readies Amount and shall include all “out-of-pocket costs” to install the Make-Ready Stubs and Make-Readies Arrays (e.g., (A) actual costs to procure, install, and connect the Make-Ready Stubs and Electric Service Infrastructure comprising the Make-Readies Arrays, (B) all related intellectual property costs, (C) the costs to identify, evaluate, negotiate and reach agreement with host locations (including all permitting costs (including signage permitting costs), location and site assessment costs, costs to obtain landlord and/or tenant consents, and any costs related to filings or litigation related to the protection of NRG’s or its affiliates’ legal rights at the host locations *but* excluding (1) any incentive or bonus payments made to a host to obtain access or consent and (2) any litigation costs incurred as a result of NRG’s or its affiliates’ negligence in the installation or operation of the Make-Readies Arrays), and (D) all related Capitalized Development Costs *but* excluding any costs related to the initial acquisition of real property rights needed to install a Make-Readies Array at a given host location). For the avoidance of doubt the costs associated with the development and maintenance of the Make-Readies Array website described in Section 4(c)(vi)(1)(B) below, and all costs associated with the installation, operation and maintenance of Make-Readies Arrays and incurred with respect to compliance with the reporting, consultation, bidding, contracting and employee hiring requirements of this Agreement, including those requirements set forth in Section 4(a)(vi)(3), Section 4(e), Section 4(g) and Sections 4(h) through (k) below, shall in each case be eligible Make-Readies Costs.

Cause

NRG did not have a policy to maintain supporting documentation to support the examination process. In some cases, NRG did not retain all of the source documents we requested, particularly for the early stages of the Settlement Agreement. NRG changed accounting systems in 2014 and some original supporting documents may not have been transferred from the old system into the new accounting system. Some of the older source documents were unavailable for retrieval at the time of the site visit as NRG may have them in long-term storage. Further, some supporting documents reside within NRG corporate systems, which the EVgo staff did not have immediate access to (e.g., for employee expense reimbursements) and consequently require significantly more research and time to locate.

Effect

In the first four Settlement Years, NRG reported \$\$1,309,247 of costs in its annual Settlement Expenditure Reports that are considered questioned costs for Settlement Agreement purposes.

Recommendation

NRG should provide supporting documentation to substantiate the \$\$1,309,247 in expenses reported during Settlement Years 1 through 4. NRG should reduce the amount reported in Settlement Years 1 through 4 by the amount for which NRG cannot provide full supporting documentation. In future Settlement Years, NRG should maintain complete documentation to support Settlement Agreement expenditures. NRG also should:

- Issue written reminders to procurement personnel regarding the expectation that NRG retain purchase orders until the conclusion of the applicable records retention period and also reiterate the instances in which purchase orders are required.
- Issue a written reminder to personnel with approval responsibilities regarding the expectation for approvals, methods and means of documenting approvals, and significance of the approval process.

Settlement Party Response

Based on the additional supporting documentation already provided to Crowe, and the additional ongoing effort to provide missing documentation prior to the Final Audit, we believe that all questioned expenses outlined in Finding 6 will be substantiated appropriately. Therefore, we do not deem Finding 6 to be a material weakness and noncompliance of the Settlement Agreement.

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NRG/EVgo has reviewed in detail the 134 selections that Crowe has determined to be “questioned costs” in the total of \$1,309,247 and has provided additional explanations and documentation on 87 items, totaling \$1,236,415.31, that we feel adequately supports our assertion that these costs are Eligible Settlement expenses.

Of the remaining 47 selections, totaling \$226,190.69, 34 selections, totaling \$209,465.04, relate to transactions that occurred between 2012 and 2013 in legacy NRG systems that are no longer in use. We are in the process of pulling the right resources together to gather supporting documentation to provide to Crowe before the final audit to substantiate these items as eligible Settlement spend. For an additional 12 selections, totaling \$16,725.64, we agree are currently missing supporting invoices within our system and we are in the process of reaching out to external vendors to resend these invoices. Once received, we will provide to Crowe as evidence to substantiate these items as eligible Settlement spend. It should be noted that all other supporting documentation (i.e., payment support) has been provided for these items. One selection made by Crowe, totaling \$0.01, is related to rounding within purchase order processing.

Crowe Rebuttal

On May 18, 2016, Crowe received additional data and information from NRG regarding Finding #6. We reviewed this documentation and NRG’s assertions made within the company’s management response. As a result of our review, we reduced the questioned costs in Finding #6 from \$1.46 million to \$1.31 million based on the following adjustments:

1. We modified the finding to reflect that, for 25 transactions tested, inadequate documentation was not provided that would permit a determination regarding allowability to be made. As a result, \$37,188 is questioned, which is a reduction of \$826 from the draft report.
2. No changes were made with respect to the project account not having been denoted within the population and lack of support for the allocation by cost category.
3. Following our review of additional documentation and management’s response, we have reduced the exception count from 21 instances in which an invoice was not provided to 15 instances. We reduced the questioned cost amount by \$53,466 from \$640,962 to \$587,496.
4. Based on our review of the bank statements, financial system documentation provided by management, and documentation identifying financial entries that were reversed, we reduced the quantity of items for which payment support was not provided from the initial 37 items referenced in the draft report to 29 items. We reduced the questioned cost amount by \$123,903 from \$550,173 to \$426,270.

Due to certain transactions having multiple exceptions, we identified a unique questioned cost amount such that the amounts are not double-counted. The unique questioned cost amount is \$1,309,247.

Finding 7. Of the Make-Ready Sites Visited, a Minimum of 15 Percent Failed to Comply with Make-Ready Specification Requirements

Material Weakness in Internal Control and Material Noncompliance

Condition

We observed three categories of non-compliance with NRG installations of Make-Ready Stubs: (1) 118, or 34 percent of the 343 Make-Ready Stubs we surveyed, had Make-Ready Stubs without fixtures which would allow the host/user to readily install an EVSE, (2) 50, or 15 percent of the 343 Make-Ready Stubs we surveyed, could not be connected to an EVSE without additional conduit/other infrastructure (e.g., a post); and (3) 34, or 83 percent of the 41 Make-Ready Sites we surveyed did not have signage indicating “Ready for EV.”¹¹

Criteria

Section 1(ppp) of the Settlement Agreement defines a “Make-Ready Stub” to mean collectively (A) a Charging Station Fixture, (B) electrical conduit and electrical wiring (capable of supporting at least one 208-240V, 30A capacity circuit to each designated parking space where the EVSE will be installed) from the Charging Station Junction Box to the Charging Station Fixture and (C) signage indicating that the parking spaces where the Make-Ready Stubs are installed as “Ready for EV.” Each Make-Ready Stub shall accommodate either a Level 1 Charger or a Level 2 Charger. For the avoidance of doubt, a Charging Station Fixture that is capable of serving multiple EVSEs and the same number of multiple separate parking spaces simultaneously shall be considered the same multiple number of separate Make-Ready Stubs.

Cause

NRG contractors and construction managers may not have clearly understood the Settlement Agreement definition of a Make-Ready Stub. In some cases, site hosts may have requested that NRG limit the installation configuration of the Make-Ready Stubs. NRG did not have procedures in place to document the implementation of Make-Ready Stubs and determine that the installation met the requirements of the Settlement Agreement.

Effect

Those Make-Ready Stubs with inadequate fixtures and/or that require additional conduit/infrastructure to connect to an EVSE may require additional costs and inconvenience to the host, and the host may be less inclined to use a marginalized Make-Ready Stub to install an EVSE. Under the assumption that 15 percent of the total population of 3,328 Make-Ready Stubs installed through the end of Settlement Year 4 (December 5, 2016), or 499 Make-Ready Stubs, are non-compliant (requiring additional work to be ready for EVSE), and assuming a labor/materials cost of \$2,035 per Stub (for Settlement Years 1 to 4)¹², the total estimated questioned costs for these currently marginalized Make-Ready Stubs is \$1,016,382.

Recommendation

NRG should provide documentation to verify the entire population of Make-Ready Stubs that are non-compliant with the Settlement Agreement based on the above-identified categories. NRG also should provide documentation prior to the final compliance examination to demonstrate that NRG has corrected the inadequacies associated with these Make-Ready Stubs in order to be in compliance with the Settlement Agreement definition of a Make-Ready Stub.

¹¹ Based on this sample, Crowe determined that approximately 31 percent of the Make-Ready Stubs had EVSE's located on the stub at the time we visited the site.

¹² Equal to the \$6,775,883 (labor/materials Make-Readies costs reported to date) divided by 3,328 stubs, or \$2,035 per Stub.

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Settlement Party Response

NRG does not deem this Finding to be a material weakness or non-compliance with the Settlement Agreement. The Make-Readies meet the Settlement Agreement requirements based on the parties' shared goal of cost-effectively deploying Make-Ready infrastructure to serve the diverse needs of the property owner recipients. Crowe's finding is based on an understandably mistaken technical reading of the definition of "Make-Ready Stub" to require fixtures and signage, when it was both parties' intent that the fixture and signage be *permitted* expenditures.

The original Settlement Agreement contemplated that NRG would develop a business selling/leasing charging stations to utilize the Make-Ready Stubs; this business would be marketed under the "Ready for EV" brand with charging equipment that would be mounted on NRG's fixtures. If this model were deployed on each Make-Ready Stub, then a fixture (designed to mount the NRG charging station) with the affixed signage (designed to promote the "Ready for EV" brand) would make sense. By mid -2015, however, NRG intended to exit the "Ready for EV" business and the parties amended the Settlement Agreement to clarify that property owners with Make-Ready Stubs could utilize any equipment or service provider immediately following construction. This change gave property owners freed of choice and greatly expedited the pace of deployment.

As a result, the charging solution chosen by each property owner dictated the termination method for the wire/conduit of the Make-Ready Stub. Potential charging stations come in many variations, including: (a) freestanding chargers with pedestals; (b) pluggable chargers that can be mounted on a wall or pedestal (plugging into an outlet with the appropriate standard); or (c) hardwired chargers that can be mounted on a wall or pedestal. Depending on what equipment was anticipated or the potential use case for the Make-Ready Stubs – as well as the local jurisdiction's permitting requirements - the Make-Ready Stubs actually built ended up terminating in either a junction box, receptacle (outlet), or a fixture.

The variation in how a Make-Ready Stub terminates is a reflection of the flexibility and creativity NRG exercised in serving the needs of diverse property owners. Below are illustrative cases, which together address all of the cases that Crowe cited as non-compliant:

- The California Highway Patrol – the entity with the largest portfolio of properties under the Make-Readies program - chose to utilize a particular Level 2 charging solution that contained its own pedestal and would be hardwired to the junction box. The Office of Sustainability at the California Department of General Services writes: "The California Highway Patrol was the recipient of electrical infrastructure for workplace as part of the NRG Settlement. Since the CHP had decided to install BTC Pedestal Level 2 charging stations on this infrastructure, it was requested that EVgo not install the wired pedestals with receptacle and signage because the BTC had its own pedestal and required hard wiring for connection."

- Hub-and-Spoke — NRG's efforts to provide Make-Ready Stubs at multi-family housing communities led to a creative "hub-and-spoke" solution to serve the maximum number of potential EV drivers while minimizing the chance of stranded assets. This model was developed in conjunction with condominium HOAs at locations with shared parking structures where individual condo owners each have reserved parking spaces. The Make-Ready Stub here was comprised of the conduit from the electrical panel to a central "hub" location on the ceiling. The hub did not immediately serve any particular parking spaces (or have fixtures/signage) but could be extended multiple times with a short additional run of conduit & wire run ("spokes") to serve multiple potential parking spaces. The Plug-in Electric Vehicle Collaborative (now Veloz) provides a case study of how this best met the needs of residents. See http://dev.veloz.org/wp-content/uploads/2017/08/Diamond_Terrace_final.pdf

- Firebaugh HS — NRG's review indicates that the Make-Ready Stubs here are complete. Discussions with the property owner indicate that they currently have three (3) chargers installed, with the remaining seven (7) pads ready to support additional chargers.

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- Finally, certain permitting authorities, including the City of San Diego, would not issue permits for a concrete footing or pedestal unless the EV charger was already connected to it. In an email dated February 23, 2017, the City says: "Both the support footing and the [EV charging] equipment are considered as 'one unit'. When plans are submitted for installation of EV-chargers, it should also have details and specifications for support footings. These support footings are not allowed to be constructed today for EV-chargers that will be installed in the future." Thus, because the property owner had not decided on the exact type of charger they intended to connect to the Make-Ready Stub, a fixture was not permitted.

NRG's construction of Make-Ready Stubs is consistent with the intent to provide Level 2 charging infrastructure to reduce the cost to property owners of providing EV charging to residents, employees, and visitors. In all cases the appropriate electrical service panels, conduit, and wire were provided, and NRG brought the electric infrastructure as far as practicable to facilitate the charging solution that the property owner intended (or if the intent was unknown, to provide the maximum flexibility to the property owner).

Including a fixture or signage when such items were not desired would add costs to installation (as well as costs to subsequent removal of the unwanted fixture) and would be a poor use of Settlement funds.

Crowe Rebuttal

NRG should have obtained written documentation from the CPUC to substantiate NRG's interpretations that qualifying Make-Ready Stubs could have included those where the Make Ready Stub ended up terminating in either a junction box, receptacle (outlet), or a fixture. Absent such a written agreement, we interpret the Make-Ready configuration requirements strictly based on the language in the Settlement Agreement.

For all Make Ready installations where the actual Make-Ready Stub installation deviated from the definition of a Make-Ready Stub in the Settlement Agreement, and this installation decision was determined by the Make-Ready Host, we recommend that NRG provide written documentation (including correspondence with the Make-Ready Host) to the CPUC to substantiate that the Make Ready Host accepted an alternative Make-Ready Stub installation configuration from that defined in the Settlement Agreement. At this time, and until NRG provides such documentation, no changes to the finding are deemed necessary based on the Settlement Party Response.

Finding 8. NRG Settlement Agreement Reports Include \$180,273 in Overhead Costs for California Business Alliance Participation and Government Affairs Expenses

Significant Deficiency in Internal Control and Noncompliance

Condition

In its Annual Settlement Expenditure Reports for Settlement Years 1 through 4, NRG included \$180,273 of overhead expenses for activities related to a California Business Alliance meeting and for a resource to assist with government affairs, outreach, and stakeholder engagement. These expenses did not meet the definition of Allowable Freedom Station Costs or Allowable Make-Ready Costs in the Settlement Agreement.

Criteria

Section 1(vv) of the Settlement Agreement defines “Freedom Station Costs” as Public Charging Ecosystem costs incurred by NRG or its affiliates that are eligible to count against the expenditure of the full Freedom Station Amount and shall include all “out-of-pocket costs” to install and implement the Public Charging Ecosystem (e.g., (A) actual costs to procure, install, and connect the Freedom Stations comprising the Public Charging Ecosystem (as further described in Section 4(a)(vi) below), (B) all related intellectual property costs, (C) the costs to identify, evaluate, negotiate and reach agreement with host locations (including all permitting costs (including signage permitting costs), location and site assessment costs, costs to obtain landlord and/or tenant consents, and any costs related to filings or litigation related to the protection of NRG’s or its affiliates’ legal rights at the host locations *but* excluding (1) any incentive or bonus payments made to a host to obtain access or consent and (2) any litigation costs incurred as a result of NRG’s or its affiliates’ negligence in the installation or operation of the Public Charging Ecosystem), (D) lease, rent or similar payments incurred by NRG during the NRG Fixed Operating Cost Period (excluding, for the avoidance of doubt, costs associated with the acquisition of real property rights, including easements) and (E) all related Capitalized Development Costs *but* excluding any costs related to the initial acquisition of real property rights needed to install a Freedom Station at a given location). For the avoidance of doubt, all costs associated with the installation, operation and maintenance of Freedom Stations and incurred with respect to compliance with the reporting, consultation, bidding, contracting and employee hiring requirements of this Agreement, including those requirements set forth in Section 4(a)(vi)(3), Section 4(e), Section 4(g) and Sections 4(h) through (k) below, shall in each case be eligible Freedom Station Costs.

Section 1(mmm) defines “Make-Readies Costs” as Make-Ready Stub and Make-Readies Array costs incurred by NRG or its affiliates that are eligible to count against the expenditure of the Make-Readies Amount and shall include all “out-of-pocket costs” to install the Make-Ready Stubs and Make-Readies Arrays (e.g., (A) actual costs to procure, install, and connect the Make-Ready Stubs and Electric Service Infrastructure comprising the Make-Readies Arrays, (B) all related intellectual property costs, (C) the costs to identify, evaluate, negotiate and reach agreement with host locations (including all permitting costs (including signage permitting costs), location and site assessment costs, costs to obtain landlord and/or tenant consents, and any costs related to filings or litigation related to the protection of NRG’s or its affiliates’ legal rights at the host locations *but* excluding (1) any incentive or bonus payments made to a host to obtain access or consent and (2) any litigation costs incurred as a result of NRG’s or its affiliates’ negligence in the installation or operation of the Make-Readies Arrays), and (D) all related Capitalized Development Costs *but* excluding any costs related to the initial acquisition of real property rights needed to install a Make-Readies Array at a given host location). For the avoidance of doubt the costs associated with the development and maintenance of the Make-Readies Array website described in Section 4(c)(vi)(1)(B) below, and all costs associated with the installation, operation and maintenance of Make-Readies Arrays and incurred with respect to compliance with the reporting, consultation, bidding, contracting and employee hiring requirements of this Agreement, including those requirements set forth in Section 4(a)(vi)(3), Section 4(e), Section 4(g) and Sections 4(h) through (k) below, shall in each case be eligible Make-Readies Costs.

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Cause

For Settlement Years 1 through 4, NRG included these overhead costs because NRG believes these costs are allowable based on NRG's understanding of the definition of allowable costs in the Settlement Agreement. However, there were no clear policies available to determine that these costs are allowable.

Effect

In the first four Settlement Years, NRG reported \$180,273 of overhead costs in its Annual Settlement Expenditure Reports that may be considered non-allowable for Settlement Agreement purposes.

Recommendation

NRG should reduce the amount of Settlement Expenditures reported for Settlement Years 1 through 4 by \$180,273 or seek clarification as to whether these costs are allowable in accordance with the Settlement Agreement cost definitions.

Settlement Party Response

NRG acknowledges the \$180,273 in overhead-related expenses for NRG employees were incorrectly reported within the qualified Settlement expenditures and will be removed from future reported qualified spend.

EVgo's new expense reporting system described in Finding 5 along with heightened scrutiny of Settlement accounting should prevent further occurrences.

Crowe Rebuttal

NRG did not dispute the finding and no changes to the finding were deemed necessary based on the Settlement Party Response.

Finding 9. NRG Did Not Adequately Document the Evaluation Criteria and Outcomes, Including Evaluation of Vendor Preferences, for 15 Settlement Agreement Procurements

Material Weakness in Internal Control and Material Noncompliance

Condition

For 15 competitive Settlement Agreement procurements, resulting in NRG contracts with a value of \$37,797,768, NRG failed to provide sufficient documentation in its procurement and contracting files to support NRG's selection of awarded contractors based upon the best evaluated bid. Additionally, for these 15 procurements, NRG also failed to provide sufficient documentation in its procurement and contracting files to assess how NRG provided preferences to contractors that satisfied Settlement Agreement contractor requirements.

Criteria

Section 4(a)(vi)(3) of the Settlement Agreement states that except with respect to contracts involving the procurement of services or equipment with a value less than (x) five thousand dollars (\$5,000) individually and (y) one-hundred thousand dollars (\$100,000) in the aggregate, in each case to the extent NRG EV Services uses third parties to provide services or equipment in connection with its installation of the Public Charging Ecosystem, NRG EV Services shall establish a process and procedure for soliciting, evaluating and awarding competitive bids for the provision of such third-party services and equipment (an "RFO Process"). Criteria to be used by NRG EV Services in evaluating bids received pursuant to such an RFO Process shall include:

1. the degree in which the proposal meets or exceeds the requirements of the solicitation;
2. ability to perform the work, including expertise, prior and current experience and service commitment;
3. cost, including financial incentives, discount provisions and other pricing considerations;
4. the "best value contracting" practices specified in Section 4(a)(vi)(3)(B) below; and
5. other factors that may be relevant as determined by NRG.

The Settlement Agreement states that in soliciting, evaluating and awarding contracts for work on the Public Charging Ecosystem, NRG EV Service's RFO Process shall provide preferences for contractors that:

1. are able to demonstrate a track record of hiring graduates of pre-apprenticeship training programs applicable to the trade or trades to be performed under the contract;
2. are able to demonstrate a track record of recognizing the value of quality training for employees by participating in registered apprenticeship programs and other similar credential-granting programs applicable to the trade or trades to be performed under the contract;
3. are able to demonstrate a track record of hiring a substantial number of its employees from the communities surrounding the locations where the work is to be performed under the contract;
4. provide health insurance for their employees;
5. are able to demonstrate a track record of successfully hiring and retaining employees from historically disadvantaged or underrepresented classes, including women, minorities and disabled veterans; *provided* that newer contractors without such a track record may be able to receive such a preference by providing a detailed plan setting forth how such contractor will hire and retain such v employees during the performance of the contract and thereafter; and
6. are able to demonstrate a track record of striving to provide employment opportunities to formerly incarcerated individuals who are seeking lawful self-sufficient career opportunities.

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The Competitive Bidding section of NRG's *Supply Chain Policies* document, dated January 7, 2016 (Section 1, page 5 of 15), requires purchase commitments with a total value of \$50,000 or more in a single transaction to be established through a documented competitive bid process. The Competitive Bidding section of NRG's *Supply Chain Policies* document, dated January 7, 2016 (Section 3, page 5 of 15) requires awards to be based upon the best evaluated bid, with factors including quality, technical capability, lead time, price, and life cycle costs, etc.

Cause

NRG indicated that it had internal management discussions regarding its bid evaluations, but failed to document results of these evaluations in its procurement/contracting files. In some cases, NRG used initial supplier questionnaires to ask suppliers if they satisfied the Settlement Agreement contractor requirements, however it is unclear how NRG carried these outcomes into the RFO process as preferences used when evaluating bids received.

Effect

For \$37,797,768 of contracts, NRG cannot fully support its procurement decisions and may not have received the best value for these Settlement Agreement contracted services. For \$37,797,768 of contracts, it is unclear how NRG used Settlement Agreement contractor specifications as preferences in its evaluation and selection process.

Recommendation

NRG should clarify in writing its policies and procedures related to the requirement to document and retain documentation to substantiate evaluations and outcomes of its Settlement Agreement competitive bidding process. NRG should maintain well-organized and comprehensive procurement and contracting files.

Settlement Party Response

NRG reaffirms that it obtained responses to the selection criteria questions through the issuance of its RFQs (competitive selection of qualifying vendors for certain products & services) and RFI (vendor pre-qualification questionnaire).

The responses to the selection criteria questions were part of the overall mix of information used by NRG in selecting vendors. From a practical perspective, the limited number of construction contractors with experience in electric vehicle charging projects who met other selection criteria (especially NRG criteria regarding safety and insurance) meant that the responses to the selection criteria questions were rarely a deciding factor. In addition, the selection criteria questions (especially regarding apprenticeship programs) are not applicable to specialty equipment providers or other non-construction vendors.

For the reasons discussed above and based on the supporting material provided below, this noncompliance should not be deemed material.

Going forward, NRG has instructed EVgo to develop scoring criteria to do the following: (a) score each applicable vendor based on its responses to the selection criteria; (b) disqualify vendors who do not meet the minimum threshold criteria from participating in Settlement work; (c) use the score as a factor in the selection of vendors where competitive bidding is practicable; and (d) maintain records reflecting the foregoing.

Supporting Material

In NRG's follow-up with the primary construction vendors involved in the projects, it received the following supplemental information that affirms the commitment of the major vendors to the ideals embodied by the selection criteria; responses are direct quotes with minor organizational and clerical edits:

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From MaxGen Energy Services (major Freedom Station contractor):

- Apprenticeships:
 - o Historically we have hired directly from trade specific programs such as electrical trainee programs throughout various states. We are currently in the process of growing this program and expanding the number of trade school partners we have throughout the US.
 - o We currently have a functional training program that focuses on all aspects of the trades associated with the products we deliver to our customers. We are developing our own internal registered electrical apprenticeship program.
- Hiring from the local community: Upward of 95% of our employees are hired locally based on portfolio contract density.
- Health insurance provided to employees: Yes. We provide Medical, Dental, Vision, Life & AD&D, STD/LTD, EAP, & 401(k).
- Disadvantaged/underrepresented groups: As part of our recruiting process, we interact with armed forces job placement programs, post jobs on wide variety of job sites including at times Monster, InDeed, and Craig's List. Due to the quality, training, and work ethic instilled from the military training and discipline.
- Opportunities for formerly incarcerated individuals: We strive to give those who were formerly incarcerated an equal opportunity and career path with MaxGen. We have proactively worked with community re-training organizations and always review on a case-by-case basis.

From Clean Fuel Connection, Inc. (a major Make-Readies contractor):

- Apprenticeships:
 - o Most of the people we hire as electrical apprentices have been trained through a program such as California Electrical Training, Inc., Baldwin Park Adult School, Intercoast College, or a local community college
 - o We solicit applications for apprentices from the attached list of DIR approved schools. <http://www.dir.ca.gov/DLSE/ECU/ListOfApprovedSchools.html>. We encourage employees to continue their education toward becoming journeymen and will offer to pay test fees or other costs of education.
- Hiring from the local community: We have made an effort to hire construction personnel from the local community whenever possible. For example, for a current job in San Diego, we recruited civil construction workers from the local area. We also advertise our jobs based on the areas in which we have upcoming work.
- Health insurance provided to employees: Yes
- Disadvantaged/underrepresented groups: The company President and owner is female. Our current full-time staff is 50% minority. Our construction personnel are approximately 80% minority.
- Opportunities for formerly incarcerated individuals: We have employees who have had previous DUIs or other legal issues. We do not eliminate any applications on the basis of previous incarceration, but we do not currently have any on staff.

From ABM (a major Make-Readies contractor):

- Apprenticeship:
 - o We have an apprenticeship program implemented in every office around the country, and we work with local trade/technical schools to hire new graduates.
 - o We have dedicated trainers within the Franchise group... that travel the world to train employees in the electrical trade. We also have thousands of online courses as well as other classroom training available for Technicians at our Pittsburgh ABM Franchising location.
- Hiring from the local community: We are dedicated in hiring from the local communities and have recruiters all over the country that are dedicated to staffing all of our locations.

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- Health insurance provided to employees: Yes
- Disadvantaged/underrepresented groups: We are partnered with the following organizations to hire and retain disadvantaged and underrepresented classes:
 - o Military.com
 - o Plansponsor.com
 - o Hire Disability Solutions hireds.com
 - o Africanamericancareers.com
 - o AsianMBA International
 - o BlackCEOs.com
 - o BlackWomenConnect
 - o HBCUConnect
 - o Huffington Post Black Voices
 - o Huffington Post Women
 - o Huffington Post Latino Voices
 - o Batanga Network
 - o American Job Center Network (Unemployment Offices/Career Centers throughout the Country and Veterans) careeronestop.org
- Opportunities for formerly incarcerated individuals: candidates must pass a Criminal background check to be eligible for employment at ABM.

Crowe Rebuttal

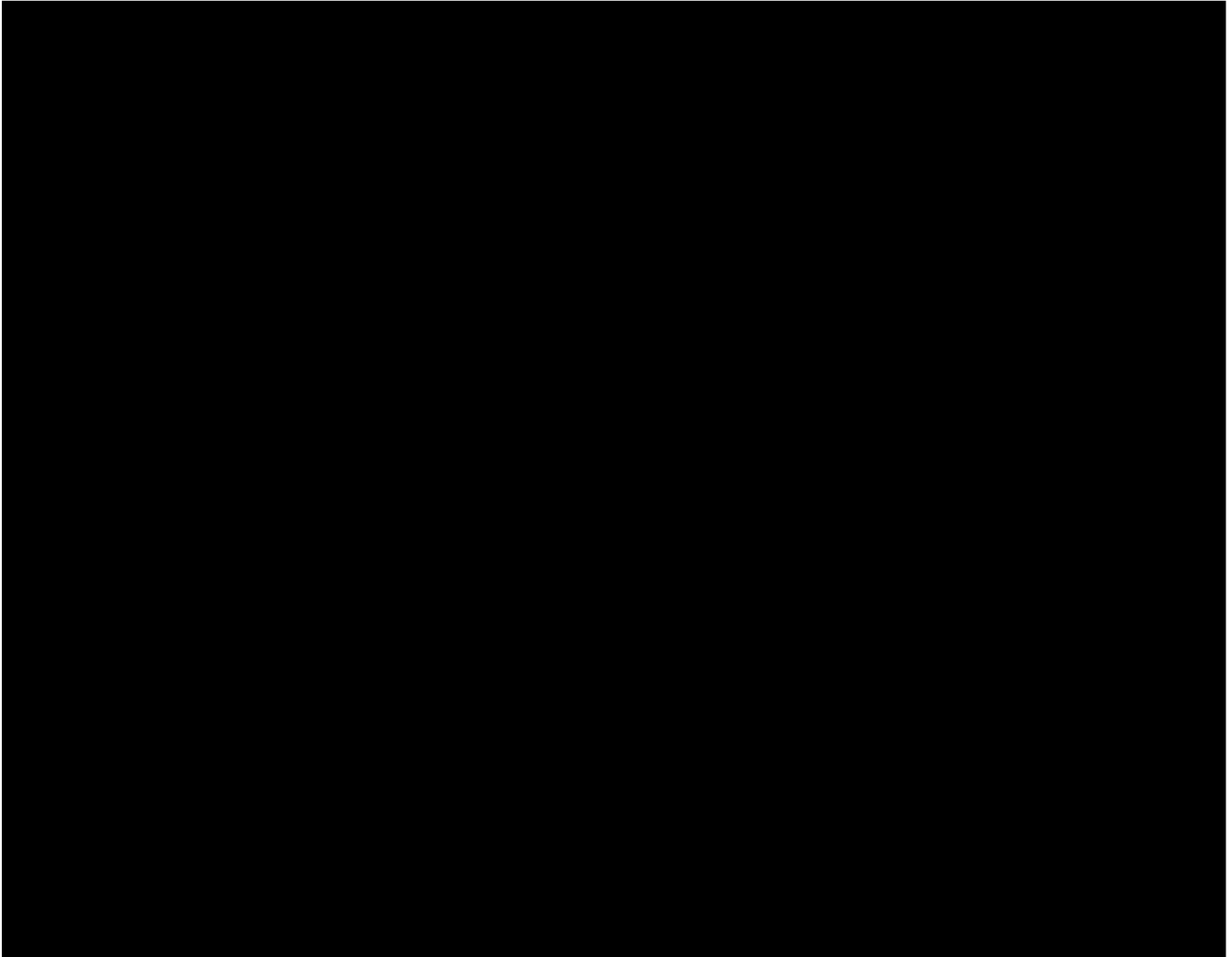
While NRG provided some additional information related to its procurements regarding limitations on the pool of vendors, and actual vendor preference practices, in the documentation made available for the procurements we selected for our review, NRG did not provide adequate documentation to support the evaluation criteria and decision-making process NRG used at the time the procurements were conducted to select a contractor as well as how NRG developed specific evaluation criteria reflective of preferences for contractors that met certain requirements. No changes to the finding were deemed necessary based on the Settlement Party Response.

Finding 10. NRG Did Not Competitively Bid Services with 11 Vendors with Contracts Worth More than \$100,000 totaling \$4,208,563

Significant Deficiency in Internal Control and Noncompliance

Condition

For 11 contracts, each with a value above \$100,000, NRG did not competitively bid these contracts as required by the Settlement Agreement and did not document use of sole/single source contract as required by NRG's own *Supply Chain Policies*. These 11 contracts are shown in **Table 4** below.



Criteria

Section 4(a)(vi)(3) of the Settlement Agreement states that except with respect to contracts involving the procurement of services or equipment with a value less than (x) five thousand dollars (\$5,000) individually and (y) one-hundred thousand dollars (\$100,000) in the aggregate, in each case to the extent NRG EV Services uses third parties to provide services or equipment in connection with its installation of the Public Charging Ecosystem, NRG EV Services shall establish a process and procedure for soliciting, evaluating and awarding competitive bids for the provision of such third-party services and equipment (an “*RFO Process*”).

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The Competitive Bidding section of NRG's *Supply Chain Policies* document, dated January 7, 2016 (Section 1, page 5 of 15), requires purchase commitments with a total value of \$50,000 or more in a single transaction to be established through a documented competitive bid process. The Competitive Bidding section of NRG's *Supply Chain Policies* document, dated January 7, 2016 (Section 3, page 5 of 15) requires awards to be based upon the best evaluated bid, with factors including quality, technical capability, lead time, price, and life cycle costs, etc.

NRG's *Supply Chain Policies* document allows for sole/single source contracting only when one source of supply exists or where only one supplier can provide the material, equipment and/or services due to specific transaction requirements. Sole/single source purchases greater than \$50,000 require written justification and joint approval by the plant manager or retail/corporate vice president and supply chain vice president. Each sole source justification should be included on Attachment B of the *Supply Chain Policies* document, which is referred to as a Waiver of Competitive Bid Form.

Cause

NRG indicated that it had internal management discussions regarding sole/single sourcing these contracts, but failed to document these sole/single source justifications in a Waiver of Competitive Bid Form as required by Attachment B of the *Supply Chain Policies* document. In addition, NRG made a business decision to informally evaluate contracts that it deemed small in nature.

Effect

NRG may not have received the best value for \$4,208,563 of Settlement Agreement Reported costs.

Recommendation

NRG should follow Settlement Agreement requirements related to soliciting competitive bids for contracts above \$100,000. Additionally, while not considered non-compliance with the Settlement Agreement, NRG also should follow its own required policies and procedures related to soliciting competitive bids for contracts above \$50,000 (there were four such contracts, with a value above \$50,000 and below \$100,000, which had a total Settlement Agreement cost of \$322,608).

Settlement Party Response

NRG notes that for many of the items that Crowe cites, there was justification to support the selection of the vendor. In many cases, vendors were selected precisely due to cost effectiveness and speed of execution (e.g. one vendor offered a system integration solution between an EVSE and communications equipment that was similar to that vendor's existing product, ensuring quick development time and lower cost); in other cases, a vendor was selected due to being the sole provider of specialized equipment (e.g. a screen that was needed to modify a particular DC fast charger).

NRG affirms compliance on an ongoing basis. NRG has instructed EVgo to implement procurement procedures to ensure compliance with auditor recommendations. Generally, procurement of goods or services will undergo a competitive evaluation process targeting multiple potentially qualified vendors and/or an open RFI/RFP process. EVgo will maintain records regarding: (1) setting requirements and scope of work; (2) solicitations to multiple vendors; (3) response evaluation and/or scoring based on requirements. In other cases, such as for construction contractors, it may not be practical to engage in a lengthy competitive evaluation process, so there we will ensure that vendors continue to go through a qualification process (e.g. meeting the safety, insurance, and experience requirements of the project management team), along with the "selection criteria" described in Finding 9. Vendors will be scored and those not meeting minimum thresholds will be disqualified. Where multiple vendors may be qualified to work on any particular project, EVgo will bid out and competitively select the most qualified contractor based on its evaluation criteria. In cases where competitive bidding or evaluation is not possible, NRG will maintain records justifying its selection (e.g. specialty vendors, monopoly vendors like utilities, etc.).

Crowe Rebuttal

NRG did not dispute the finding and no changes to the finding were deemed necessary based on the Settlement Party Response.

Finding 11. NRG Complied with 7 of 9 Freedom Stations Equipment Installation Requirements, But Did Not Install Customer Service Interfaces that Include a Communications Device for Single Use Charging Services and Did Not Install Way Finding

Noncompliance

Condition

Crowe conducted field visits of 43 Freedom Station sites. For the 43 Freedom Station sites visited, Crowe observed that NRG had not installed customer service interfaces. In place of these units, NRG instead installed kiosks with credit card and key fob readers and a telephone number for customers to use to contact NRG with questions. For the 43 Freedom Station sites visited, Crowe observed that NRG did not provide way-finding at the site to direct customers to the physical location of the charging station.

Criteria

Section 4(a)(vi)(1) of the Settlement Agreement specifies that each Freedom Station include the following:

- One (1) DC Fast Charger;
- One (1) Level 2 Charger (*provided* that NRG may at its discretion install two (2) DC Fast Chargers in lieu of one (1) DC Fast Charger and one (1) Level 2 Charger; *provided further* that such decision shall not affect such Freedom Station's status as a Freedom Station that counts towards meeting the Minimum Freedom Station count);
- One (1) customer service interface that includes a communications device for Single-Use Charging Services and/or assistance;
- At NRG's option, in addition to the equipment specified in Section 4(a)(vi)(1)(A) and Section 4(a)(vi)(1)(B) NRG may also install either (I) a Freedom Station Stub or (II) a Level 2 Stub (*provided* that in the event that NRG subsequently installs a DC Fast Charger in a Freedom Station Stub, or a Level 2 Charger in a Level 2 Stub, as applicable, such charging station will not affect such Freedom Station's status as a Freedom Station that continues to count toward meeting the Minimum Freedom Station count);
- To the extent not already present at a location, adequate ambient lighting and other security elements;
- Way-finding and branding signage;
- The electrical equipment necessary to fully service all the included equipment;
- Each Freedom Station shall be compatible with the CHAdeMO Standard and SAE Standard as provided in Section 4(a)(vi)(4); and in the event that a CHAdeMO+SAE DC Charger becomes available, NRG may replace or initially install one (1) CHAdeMO+SAE DC Charger in lieu of the equipment specified in 4(a)(vi)(1)(A), Section 4(a)(vi)(1)(B) and Section 4(a)(vi)(1)(D) and such installation shall constitute a Freedom Station (*provided* that with respect to the Minimum Freedom Station count (A) such an installation may only be made in lieu of the equipment specified in 4(a)(vi)(1)(A), Section 4(a)(vi)(1)(B) and Section 4(a)(vi)(1)(D), if such installation reduces the cost of installing a Freedom Station at such location by twenty percent (20%) or more, (B) such installations may not exceed fifteen percent (15%) of the Minimum Freedom Station count and (C) the positive value, if any, of equipment replaced in connection with such installations shall be credited against NRG's Freedom Station Costs).
 - *Provided*, that in order to better provide for the safety and security of electric vehicle drivers and to assure a reliable and convenient solution for electric vehicle charging, each Freedom Station may also include network upgrades as well as additional like equipment or improved technology equipment for charging electric vehicles.
 - *Provided, further*, that, for the avoidance of doubt, Freedom Station Costs shall not include any costs for discretionary service items or additional equipment for consumer services not directly related to electric vehicles, including equipment such as Wi-Fi or vending machines.

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The CPUC clarified that the customer service interface should be a way for the user to communicate directly with NRG for assistance, via an intercom or something similar. The CPUC indicated that a credit card reader would not suffice, and simply printing the customer service telephone number on the stations would not suffice either.

Cause

NRG indicated that offering customers the use of credit card readers and key fob readers, and providing customers with a telephone number to contact NRG with questions was sufficient to meet the intent of a customer service interface that includes a communications device for Single-Use Charging Services and/or assistance. NRG believed that a customer service interface potentially would have created challenges in terms of ongoing maintenance problems and associated costs.

Regarding way-finding, NRG indicated that many Freedom Station site owners did not approve introduction of new way-finding signage on their properties. Additionally, NRG indicated that Freedom Station customers commonly use mobile phone software (e.g., PlugShare) that allows users to precisely navigate to Freedom Station locations and therefore bypassing the need for way-finding.

Effect

NRG is in not in compliance with these two Settlement Agreement provisions and customers may experience more difficulty communicating with NRG regarding questions/problems with Freedom Station use. Some customers also may have more difficulty finding the exact location of a Freedom Station.

Recommendation

NRG should follow the Freedom Station installation requirements for these two items as specified in the Settlement Agreement. Alternatively, NRG should seek relief from these two installation requirements. In cases where the Freedom Station site host did not want these two installation requirements on its site, NRG should provide documentation supporting this determination from the site host to the CPUC prior to the final examination.

Settlement Party Response

As Crowe notes in Finding 11, NRG complied with all the Freedom Station equipment installation requirements except two outdated communications and signage obligations. In both cases, industry standards have evolved significantly since the initial Settlement negotiations concluded nearly a decade ago. With regard to way-finding, the bulk of EVgo's customers find their public charging locations through apps on smartphones, rendering specific signage obsolete, not to mention redundant where signage regarding EV charging is on specific parking spaces dedicated to charging. Additionally, certain site host partners expressed objections to prominent way-finding signage being installed on their property.

Similarly, the need for easy communication with customers has clearly been met through clearly marked contact information to the 24-hour customer call center and direct customer engagement through the EVgo app. 95% of Americans own a cell phone, with 77% of Americans having a smartphone³. Given that 92% of Californians had cell phones in 2013⁴, their ubiquity in the state has been achieved and can reasonably be expected to serve as communications interfaces with charging providers.

Finally, funds spent toward meeting these outdated requirements would divert funds from the Freedom Station savings event that will enable NRG and EVgo to install more than the 200 Freedom Stations anticipated in the Settlement agreement. NRG and EVgo strongly believe that the California driving public is better served by having more fast charging stations with the ability to communicate via app or phone than fewer stations with more expensive signage and communications equipment that also bring additional challenges.

NRG and EVgo intend to seek relief from the CPUC on these two requirements prior to conclusion of the Settlement.

³ <http://www.pewinternet.org/fact-sheet/mobile/>

⁴ <http://www.ppic.org/press-release/big-gains-in-californians-use-of-cell-phones-tablets-to-go-online/>

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Crowe Rebuttal

NRG should have obtained written documentation from the CPUC to substantiate NRG's interpretations that way finding and communications devices were no longer a Freedom Station requirement of the Settlement Agreement. Absent such a written agreement, we interpret the Freedom Station requirements strictly based on the language in the Settlement Agreement. No changes to the finding were deemed necessary based on the Settlement Party Response.

Finding 12. NRG Has Not Yet Met the Low-Income PUMA Area Installation Requirements in the LA Basin and Can Better Document Efforts Used to Reach this Requirement in its Reporting

Noncompliance

Condition

As shown in **Table 5**, NRG has only met the requirement to install 20 percent of Freedom Stations in low-income Public Use Microdata Areas (PUMA) areas for three of the four regions.¹³ At 16.4 percent, by Settlement Year 4, NRG is below the 20 percent low-income PUMA installation requirement for the LA Basin.

Criteria

Section 4(a)(ii) of the Settlement Agreement specifies that NRG shall install twenty percent (20%) of the minimum Freedom Station count in PUMA in which the median incomes for such PUMA are in the lowest one-third (1/3) among all of the PUMA in a given region; provided, however, that such installations shall be geographically dispersed within such PUMA so as to ensure that such Freedom Stations are available and convenient for low- and moderate-income communities as well as higher income communities.

Cause

NRG has found Freedom Station barriers to development more challenging in low-income PUMA within the LA Basin. In the first four Settlement Years, NRG directed its low-income PUMA development efforts toward an overall 20 percent goal, rather than region specific PUMA goals.

Effect

Low to moderate-income communities in the LA Basin may not have access to Freedom Stations to the degree contemplated in the Settlement Agreement.

Recommendation

NRG should increase the number of low-income PUMA installations in the LA Basin in subsequent Settlement Years such that NRG installs at least 20 percent of the Freedom Stations in the LA Basin in low-income PUMA. As shown in **Table 6**, under a scenario where NRG reaches the minimum Freedom Station count in the LA Basin of 110 by the end of Settlement Year 5, for Settlement Agreement compliance NRG would need to install a minimum of ten (10) more Freedom Stations in the LA Basin within low-income PUMA.

NRG should provide the percent low-income PUMA completion rates, by region, in its quarterly and annual reporting (not just in total for all regions). NRG also should document, within its Quarterly and Annual reports, its efforts to evaluate, pursue and install 20 percent of Freedom Stations in the LA Basin within low-income PUMA areas.

Settlement Party Response

NRG affirms its understanding of the low-income PUMA requirement generally and the remaining work to meet the requirement in the LA Basin. NRG actively tracks the sites in its pipeline for “low-income PUMA” status and will ensure that the final site counts reflect that at least 20% of the sites are in low-income PUMAs.

Note that NRG’s Annual Reports do list the percentage of low-income PUMA sites on a geographical basis.

¹³ For purposes of this analysis low-income is defined as where the median income is in the lowest third of all PUMA in the region.

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Year 4 report:

Table 3 | Low-income PUMA and CalEnviro Screen Freedom Stations, by geographic region

	Operational Sites	PUMA	CalEnviro Screen	PUMA %	CalEnviro Screen %
LA	73	12	15	16.4%	20.5%
SF	59	15	13	25.4%	22.0%
SD	14	4	3	28.6%	21.4%
SJV	15	4	4	26.7%	26.7%
CA- all	161	35	35	21.7%	21.7%

Year 5 report:

Table 3 | Low-income PUMA and CalEnviro Screen Freedom Stations, by geographic region

	Installed Sites	PUMA	CalEnviro Screen	PUMA %	CalEnviro Screen %
LA	94	18	20	19.1%	21.3%
SF	72	16	16	22.2%	22.2%
SD	19	4	3	21.1%	15.8%
SJV	15	4	4	26.7%	26.7%
CA- all	200	42	43	21.0%	21.5%

As requested, NRG will also list the percentage of low-income PUMA sites on a geographical basis in its quarterly reports going forward.

Crowe Rebuttal

NRG did not dispute the finding and no changes to the finding were deemed necessary based on the Settlement Party Response.

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Table 5
NRG, Inc.
Freedom Stations Installed in Low-Income Public Use Microdata Areas (PUMAs)
As of End of Settlement Year 4 (December 6, 2012 to December 5, 2016)

Region	Freedom Stations Installed	Reported Installed in Low Income PUMAs ¹⁴	Crowe Verified Installed in Low Income PUMAs	Percent Freedom Stations Installed in Low Income PUMAs
LA Basin	73	12	12	16.4%
SF Bay Area	59	15	15	25.4%
San Joaquin Valley	15	4	4	26.7%
San Diego County	14	4	4	28.6%
Total	161	35	35	

Table 6
NRG, Inc.
Freedom Stations Remaining to Install in Low-Income Public Use Microdata Areas (PUMAs)
As of End of Settlement Year 4 (December 6, 2012 to December 5, 2016)

Region	Minimum Required to Install	Minimum Required to Install in Low Income PUMAs (Based on Minimum 200 Freedom Station Count)	Reported Installed in Low Income PUMAs ¹⁵	Crowe Verified Installed in Low Income PUMAs	Percent of Target Low Income PUMAs Requirement Fulfilled	Remaining to Install in Low Income PUMAs
LA Basin	110	22	12	12	54%	10
SF Bay Area	55	11	15	15	136%	0
San Joaquin Valley	15	3	4	4	133%	0
San Diego County	20	4	4	4	100%	0
Total	200	40	35	35		

¹⁴ Source: 2016 Annual Report, Settlement Year 4 Progress Report to California Public Utilities Commission, Table 3, page 15.

¹⁵ Source: 2016 Annual Report, Settlement Year 4 Progress Report to California Public Utilities Commission, Table 3, page 15.

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In the following pages, we document eight (8) additional observations from our examination of NRG's compliance with the Settlement Agreement. While these observations are not instances of NRG non-compliance as of December 5, 2016, we wanted to identify their status and potential risks related to NRG's progress in meeting these important Settlement Agreement compliance areas. The observations in this section will be evaluated as part of a subsequent compliance examination to occur upon completion of the Settlement Agreement term. Below is a listing of these eight (8) observations:

Observation	Description
1	NRG Did Not Install 200 Freedom Stations within Four Settlement Years But Exceeded 80 Percent of this Target and as of December 5, 2016 Maintained Compliance with the Settlement Agreement Which Allows a 5 th Settlement Year to Complete the Minimum 200 Freedom Station Count
2	NRG Fell Below Annual Freedom Station Installation Targets in Three of Four Years
3	NRG Did Not Install 10,000 Make-Readies within Four Settlement Years
4	NRG Missed Annual Make-Ready Stub Installation Targets in Each of the Four Settlement Years
5	NRG Did Not Meet the Minimum Required Make-Ready Installation Count by Area
6	NRG Did Not Meet the Minimum Required Make-Ready Installation Count by Location Type
7	As of Settlement Year 4, NRG is Well Below the Technology Demonstration Program Spending Target and Must Spend \$4,411,239 in the Remaining Settlement Years
8	As of Settlement Year 4, NRG has Not Spent Any EV Opportunity Program Funds and Currently Must Spend \$4,000,000 in the Remaining Settlement Years

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Observation 1. NRG Did Not Install 200 Freedom Stations within Four Settlement Years But Exceeded 80 Percent of this Target and as of December 5, 2016 Maintained Compliance with the Settlement Agreement Which Allows a 5th Settlement Year to Complete the Minimum 200 Freedom Station Count

Condition

NRG did not install the Minimum Freedom Station count of 200 Freedom Stations by the end of the four (4) year reporting period between December 6, 2012 and December 5, 2016. As shown in **Table 7**, NRG installed 161 Freedom Stations by the end of Settlement Year 4, or 80.5 percent of the Minimum Freedom Station count of 200. Since NRG exceeded 80 percent of the Minimum Freedom Station count at the end of the 4th Settlement Year, Section 4 (g) of the Settlement Agreement allows NRG a fifth Settlement Year to reach the Minimum Freedom Station count of 200.

As of the end of the Settlement Year 4, NRG met the required Minimum Freedom Station installation requirements for the SF Bay Area and San Joaquin Valley areas. However, at the end of Settlement Year 4, NRG had not yet met the required Minimum Freedom Station installation requirements for the LA Basin and San Diego County areas.

Table 7
NRG, Inc.
Number of Freedom Stations Installed
As of End of Settlement Year 4 (December 6, 2012 to December 5, 2016)

Area	Minimum Required to Install	Reported Installed ¹⁶	Crowe Verified Installed	Percent of Target Installed	Minimum Remaining to Install
LA Basin	110	73	73	67%	37
SF Bay Area	55	59	59	107%	0
San Joaquin Valley	15	15	15	100%	0
San Diego County	20	14	14	70%	6
Total	200	161	161	80.5%	43

Criteria

Section 4 (a)(ii) of the Settlement Agreement specifies that over a four-year time period starting from the Settlement Effective Date (the "Installation Period"), NRG will install, and thereafter own and operate in the State of California a minimum of two-hundred (200) Freedom Stations (the "*Minimum Freedom Station Count*") as follows:

- (1) one-hundred ten (110) to be located in the LA Basin;
- (2) fifty-five (55) to be located in the SF Bay Area;
- (3) fifteen (15) in the San Joaquin Valley; and
- (4) twenty (20) in San Diego County.

¹⁶ Source: 2016 Annual Report, Settlement Year 4 Progress Report to California Public Utilities Commission, Table 2, page 9. In Crowe's analysis, Crowe found Freedom Station amounts reported by NRG matched against the master-tracking database provided by NRG.

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Section 4 (g) and 4 (g)(i)(1) of the Settlement Agreement indicates that for purposes of assessing NRG's compliance with its commitments to install the Minimum Freedom Station count, in the event that NRG has not completed the requisite number of installations during the Installation Period required under this Agreement (i.e., by the end of Settlement Year 4), and if NRG has installed eighty-percent (80%) or more of the Minimum Freedom Station count by the end of the initial Installation Period, then the Installation Period shall be extended for, and NRG shall have one additional year (Settlement Year 5) to complete the installation of the Minimum Freedom Station count.

Cause

In its Quarterly and Annual Reports, NRG cited the following reasons for difficulties in meeting the Minimum 200 Freedom Station count within the first four Settlement Years, including:

- Use of high standards for site selection (e.g., site location, power requirements, security requirements, host requirements, and tenant approvals)
- Difficulties negotiating and obtaining necessary agreements from property owners
- Objections to siting based on limited parking, potential for inviting the public to use the property, requests for rental payments to compensate the establishment for lost parking space, and obstructions in the line of site to the retail facade
- Some permitting and easement delays
- Interconnection challenges/delays with utilities.

Effect

As of December 5, 2016, NRG maintained compliance with the terms of the Settlement Agreement. Based on this progress, the Settlement Agreement allows NRG a Fifth Settlement Year to complete the Minimum 200 Freedom Station count.

Recommendation

NRG should install a minimum of 43 new Freedom Stations by December 5, 2017 to meet the Minimum Freedom Station count. Additionally, as of the end of Settlement Year 4, in order to meet the Minimum Freedom Station count requirement by area, NRG should install a minimum of 37 Freedom Stations in the LA Basin and six Freedom Stations in San Diego County by December 5, 2017.

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Observation 2. NRG Fell Below Annual Freedom Station Installation Targets in Three of Four Years

Condition

As shown in **Table 8**, NRG did not meet the annual installation target for the first three of four Settlement Years. In Settlement Year 4, NRG exceeded the annual installation target. Based on a review of available documentation, and interviews with NRG management, NRG exercised efforts to reach these installation targets as evidenced by:

- Engaging contractors during each Settlement Year to assist with site design and installations
- Purchasing charging equipment required for installations in advance of construction
- Making a continuous effort to report NRG’s new development pipeline including:
 - Sites where agreements were signed with owners
 - Sites permitted
 - Sites under construction
- Documenting and reporting rollout challenges, which delayed installation progress, such as technical challenges, integration problems, equipment delays, and permit delays.

Table 8
NRG, Inc.
Number Freedom Stations Installed by Year
As of End of Settlement Year 4 (December 6, 2012 to December 5, 2016)

Settlement Year, Percent of Minimum Freedom Station Count	Minimum Required to Install	Reported Installed ¹⁷	Crowe Verified Installed ¹⁸	Difference between Minimum Required and Crowe Verified	Percent of Installation Target
1 - 20%	40	10	7	-33	18%
2 - 40%	60	46	50	-10	83%
3 - 40%	60	49	48	-12	80%
4 - 20%	40	56	56	+16	140%
Total	200	161	161	-39	80.5%

Criteria

Section 4(a)(iii) specifies that during the Installation Period, NRG will exercise reasonable efforts to install the Minimum Freedom Station count pursuant to the following implementation schedule measured in years from the beginning of the Settlement Effective Date (each, a “*Settlement Year*”):

- (1) First Settlement Year: Twenty (20) percent for a total of forty (40) Freedom Stations.
- (2) Second Settlement Year: Thirty (30) percent for a total of sixty (60) Freedom Stations.
- (3) Third Settlement Year: Thirty (30) percent for a total of sixty (60) Freedom Stations.
- (4) Fourth Settlement Year: Twenty (20) percent for a total of forty (40) Freedom Stations.

Section 4(a)(iii) provides, further, that, for the avoidance of doubt, the inability on the part of NRG to meet the preceding implementation schedule with respect to any given Settlement Year does not in and of itself constitute a failure to exercise reasonable efforts on the part of NRG.

¹⁷ Source: 2016 Annual Report, Settlement Year 4 Progress Report to California Public Utilities Commission, Table 3, page 15.

¹⁸ Based on operational date.

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Cause

In its Quarterly and Annual Reports, NRG cited the following reasons for difficulties in meeting the Minimum 200 Freedom Station count within the first four (4) Settlement Years, including:

- Use of high standards for site selection (e.g., site location, power requirements, security requirements, host requirements, and tenant approvals)
- Difficulties negotiating and obtaining necessary agreements from property owners
- Objections to siting based on limited parking, inviting public to use the property, requests for rental payments that compensate for loss of parking space, and line of site to the retail facade
- Some permitting and easement delays
- Interconnection challenges/delays with utilities.

Effect

Despite exercising efforts to comply with the annual Freedom Station installation targets, NRG is not in compliance with the Settlement Agreement provisions based on exercising reasonable efforts to meet the annual installation targets.

Recommendation

While there are no annual installation targets specified in the Settlement Agreement for Settlement Year 5, NRG should make every effort to complete the balance of Freedom Stations in Settlement Year 5 in order to meet the Minimum Freedom Station count of 200.

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Observation 3. NRG Did Not Install 10,000 Make-Readies within Four Settlement Years

Condition

NRG did not meet the requirement to install the Minimum Make-Ready Stub count of 10,000 by the end of the four (4) year time period from December 6, 2012 through December 5, 2016. As shown in **Table 9**, NRG installed 3,328 Make-Readies by at the end of the Settlement Year 4, or 33 percent of the original Minimum Make-Ready Stub count of 10,000.

Based on our review of available documentation, and interviews with NRG management, NRG exercised efforts to reach Make-Ready Stub installation targets as evidenced by:

- Engaging multi-family, workplace and public interest sites
- Conducting marketing campaigns
 - Documenting and reporting rollout challenges, which delayed installation progress, such as resistance from workplace sites to dedicate charging spaces due to reserved parking models and asset utilization requirements, market immaturity, limitations in the design of the Agreement, and proposed investments by California utilities.

Table 9
NRG, Inc.
Number of Make-Readies Installed
As of End of Settlement Year 4 (December 6, 2012 to December 5, 2016)

Region	Minimum Required to Install	Reported Installed	Crowe Verified Installed ¹⁹	Percent of Original Target Installed
LA Basin	5,500	1,032	1,105	20%
SF Bay Area	2,750	1,505	1,457	53%
San Joaquin Valley	750	72	72	10%
San Diego	1,000	702	694	69%
Total	10,000	3,311	3,328	33%

Criteria

Section 4(c)(ii) of the Settlement Agreement specifies that over a four (4) year time period starting from the Settlement Effective Date (the “Installation Period”), NRG will install a minimum of ten-thousand (10,000) Make-Ready Stubs (the “*Minimum Make-Ready Stubs Count*”).

Section 4(c)(iii) of the Settlement Agreement specifies that *Provided, further*, that, for the avoidance of doubt, the inability on the part of NRG to meet the preceding implementation schedule with respect to any given year does not in and of itself constitute a failure to exercise reasonable efforts on the part of NRG.

Cause

In its Quarterly and Annual Reports, NRG cited several reasons for difficulties in meeting the Minimum Make-Ready Stub count of 10,000 within the four (4) years, including:

- Resistance from workplace sites to dedicate charging spaces due to reserved parking models and asset utilization requirements
- Market immaturity
- Limitations in the design/content of the host agreement
- Proposed competing investments by California utilities.

¹⁹ Crowe identified minor differences in Reported and Verified Installed amounts during the detailed review of the site locations provided in the master-tracking database of Make-Ready sites provided by NRG.

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Effect

In recognition of the limitations on Make-Ready Stub development, the CPUC and NRG agreed to the First Amendment to the Settlement Agreement, effective October 27, 2015. The First Amendment added seven (7) amended terms and conditions terms regarding Make-Readies installations in an effort to provide greater opportunities for NRG to meet the Make-Ready installation targets. Among these terms and conditions, NRG is allowed:

- To install 60 percent of the Make-Ready Stub count to be distributed based on same regional distribution as the Freedom Station distribution. The remaining 40 percent of the Minimum Make-Ready Stub count can be installed in the State of California based on geographic locations reasonably determined by NRG based upon electric vehicle ownership and subscriber demand and potential property host interest.
- To distribute the Make-Ready Stub count such that at each Make-Readies Site there is a maximum of forty (40) Make-Ready Stubs; provided that in order to qualify for the placement of more than ten (10) Make-Ready Stubs, a Make-Readies Site must have more than one (1) building and parking lot and/or parking garage; in order to qualify for more than twenty (20) Make-Ready Stubs, a Make-Readies Site must have more than two (2) buildings and parking lots and/or parking garages; in order to qualify for more than thirty (30) Make-Ready Stubs, a Make-Readies Site must have more than three (3) buildings and parking lots and/or parking garages. In each case, the applicable parking lot(s) and/or garage(s) must have more than ten (10) parking spaces.
- A Start-Up Period equal to the date of the completion of the first Make-Ready Stub at a Make-Readies Array extended for a period of eighteen (18) months thereafter.
- For up to five percent (5%) of the Make-Readies Amount, if the host of a Make-Readies Site requests the use of its selected contractor or vendor, NRG may comply without an RFO process with payments to the vendor eligible under this case.
- Adjustment to the Charging Station Agreement such that NRG cannot seek co-contributions from hosts toward installation targets unless the costs exceed \$3,000 per Make-Ready Stub at a Multi-Family Site or a Public Interest Site; can offer subscriptions for charging services, but not as a condition of entering a Charging Station Agreement; and cannot restrict the host from terminating the Charging Station Agreement.
- Modifications to its quarterly and annual reporting so that NRG does not have to report the number of subscribers or usage data associated with EVSEs.²⁰

Recommendation

We recommend that NRG continue to focus efforts and seek opportunities to maximize Make-Ready Stub installations so that it can comply with the remaining Make-Ready Stub count installation requirement within the Settlement Agreement (reflective of the applicable new Second Amendment provisions).

²⁰ Note that after the December 5, 2016 ending date covered for this examination, the CPUC and NRG also agreed to the Second Amendment to the Settlement Agreement, dated February 22, 2017. This Second Amendment allows NRG an extension of the Make Ready Stub installation deadline to December 5, 2018, allows for NRG to redirect \$12,500,000 of the \$40,000,000 Make-Readies expenditure requirement to installation of Charging Plazas²⁰, and reduces the number of required Make-Ready Stub installations by one for each \$4,000 redirected to Charging Plazas.

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Observation 4. NRG Missed Annual Make-Ready Stub Installation Targets in Each of the Four Settlement Years

Condition

As shown in **Table 10**, NRG fell below the annual installation target in each Settlement Year of the Settlement Agreement. Based on our review of available documentation, and interviews with NRG management, NRG exercised efforts to reach Make-Ready Stub installation targets as evidenced by:

- Engaging multi-family, workplace and public interest sites
- Marketing campaigns

Documenting and reporting rollout challenges, which delayed installation progress, such as resistance from workplace sites to dedicate charging spaces due to reserved parking models and asset utilization requirements, market immaturity, limitations in the design of the Agreement, and proposed investments by California utilities.

Table 10
NRG, Inc.
Number Make-Ready Stubs Installed by Year
As of End of Settlement Year 4 (December 6, 2012 to December 5, 2016)

Settlement Year, Percent of Minimum Make Readies Stub Count	Minimum Required to Install	Reported Installed ²¹	Crowe Verified Installed	Percent of Target Installed
1 - 10%	1,000	56	56	6%
2 - 30%	3,000	529	527	18%
3 - 30%	3,000	747	780	26%
4 - 30%	3,000	1,997	1,965	66%
Total	10,000	3,329	3,328	33%

Criteria

Section 4 (c)(ii) of the Settlement Agreement specifies that over a four (4) year time period starting from the Settlement Effective Date (the “Installation Period”), NRG will install a minimum of ten-thousand (10,000) Make-Ready Stubs (the “*Minimum Make-Ready Stubs Count*”). During the Installation Period, NRG will use reasonable efforts to install the Minimum Make-Ready Stub count pursuant to the following implementation schedule beginning with the Settlement Effective Date:

- (1) First Settlement Year. Ten percent (10%) for a total of one thousand (1,000) Make-Ready Stubs.
- (2) Second Settlement Year. Thirty percent (30%) for a total of three thousand (3,000).
- (3) Third Settlement Year. Thirty percent (30%) for a total of three thousand (3,000).
- (4) Fourth Settlement Year. Thirty percent (30%) for a total of three thousand (3,000).

Provided, further, that, for the avoidance of doubt, the inability on the part of NRG to meet the preceding implementation schedule with respect to any given year does not in and of itself constitute a failure to exercise reasonable efforts on the part of NRG.

²¹ Source: 2016 Annual Report, Settlement Year 4 Progress Report to California Public Utilities Commission, Table 3, page 15. Crowe found minor differences in the total number NRG reported, by year, after reviewing the Make-Ready operational dates as provided in NRG’s master tracking database.

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Cause

In its Quarterly and Annual Reports, NRG cited several reasons for difficulties in meeting the minimum Make-Ready Stub count of 10,000 within the four (4) years, including:

- Resistance from workplace sites to dedicate charging spaces due to reserved parking models and asset utilization requirements
- Market immaturity
- Limitations in the design/content of the host agreement
- Proposed competing investments by California utilities.

Effect

In recognition of the limitations on Make-Ready Stub development, the CPUC and NRG agreed the First Amendment to the Settlement Agreement, effective October 27, 2015. The First Amendment added seven (7) amended terms and conditions terms regarding Make-Readies installations in an effort to provide greater opportunities for NRG to meet the Make-Ready installation targets.²²

Recommendation

We recommend that NRG continue to focus efforts and seek opportunities to maximize Make-Ready Stub installations so that it can comply with the remaining Make-Ready Stub count installation requirement within the Settlement Agreement (reflective of the applicable new Second Amendment provisions).

²² Note that after the December 5, 2016 ending date covered for this examination, the CPUC and NRG also agreed to the Second Amendment to the Settlement Agreement, dated February 22, 2017. This Second Amendment allows NRG an extension of the Make Ready Stub installation deadline to December 5, 2018, allows for NRG to redirect \$12,500,000 of the \$40,000,000 Make Readies expenditure requirement to installation of Charging Plazas²², and reduces the number of required Make Ready Stub installations by one for each \$4,000 redirected to Charging Plazas.

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Observation 5. NRG Did Not Meet the Minimum Required Make-Ready Installation Count by Area

Condition

Based on Make-Ready installation progress through Settlement Year 4, NRG has not met the required target minimum Make-Ready Stub count installation allocations by area. As shown in **Table 11**, NRG installed 3,328 Make-Ready Stubs by the end of Settlement Year 4 by area. At the end of the Settlement Year 4, NRG exceeded the minimum Make-Ready installation requirements for the San Diego County area, but fell below the installation requirement in the LA Basin, SF Bay Area, and San Joaquin Valley areas.

Table 11
NRG, Inc.
Number of Make-Readies Installed by Region
As of End of Settlement Year 4 (December 6, 2012 to December 5, 2016)

Region	Minimum Required to Install	60% of Minimum Installations	Crowe Verified Installed	Percent of Total Installed
LA Basin	5,500	3,300	1,105	33%
SF Bay Area	2,750	1,650	1,457	88%
San Joaquin Valley	750	450	72	16%
San Diego	1,000	600	694	116%
Total	10,000	6,000	3,328	55%

Criteria

Section 4(c)(ii)(2)(A) of the original Settlement Agreement specified that sixty (60) percent of the minimum Make-Ready Stub count shall be distributed following the same regional distribution by percentage as the Freedom Stations comprising the Public Charging Ecosystem are distributed. This distribution is as follows:

1. 55 percent to be located in the LA Basin;
2. 27.5 percent to be located in the SF Bay Area;
3. 10 percent in the San Diego; and
4. 7.5 percent in San Joaquin Valley.

The First Amendment to the Settlement Agreement, effective October 25, 2016, changed Section 4(c)(ii)(2)(A) to read that sixty (60) percent of the minimum Make-Ready Stub count shall be distributed following the same regional distribution by percentage as the Freedom Stations described in Section 4(a)(ii)(1)-(4). The remaining forty (40) percent of the minimum Make-Ready Stub count will be installed in the State of California at geographic locations reasonably determined by NRG based upon electric vehicle ownership and subscriber demand and potential property host interest. In each case, such Make-Ready Stubs shall be installed in regions that are located within the franchise service territories of SCE, SDG&E and PG&E.

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Cause

In its Quarterly and Annual Reports, NRG cited several reasons for difficulties in meeting the minimum Make-Ready Stub count of 10,000 within the four (4) years, including:

- Resistance from workplace sites to dedicate charging spaces due to reserved parking models and asset utilization requirements
- Market immaturity
- Limitations in the design/content of the host agreement
- Proposed competing investments by California utilities.

Effect

NRG is well behind installation targets and based on the original Settlement Agreement would likely not be compliant with the terms of the Settlement Agreement as of December 5, 2016. However, in recognition of the limitations on Make-Ready Stub development, the CPUC and NRG agreed to the First Amendment to the Settlement Agreement, effective October 27, 2015. The First Amendment added seven (7) amended terms and conditions terms regarding Make-Ready Stub installations in an effort to provide greater opportunities for NRG to meet the Make-Ready Stub installation targets.²³

Recommendation

We recommend that NRG continue to focus efforts and seek opportunities to maximize Make-Ready Stub installations so that it can comply with the remaining Make-Ready Stub count installation requirement within the Settlement Agreement (reflective of the applicable new Second Amendment provisions).

²³ Note that after the December 5, 2016 ending date covered for this examination, the CPUC and NRG also agreed to the Second Amendment to the Settlement Agreement, dated February 22, 2017. This Second Amendment allows NRG an extension of the Make-Ready Stub installation deadline to December 5, 2018, allows for NRG to redirect \$12,500,000 of the \$40,000,000 Make-Ready Stubs expenditure requirement to installation of Charging Plazas²³, and reduces the number of required Make-Ready Stub installations by one for each \$4,000 redirected to Charging Plazas.

Observation 6. NRG Did Not Meet the Minimum Required Make-Ready Installation Count by Location Type

Condition

NRG did not meet installation of the minimum Make-Ready Stub count by location type by the end of Settlement Year 4. As shown in **Table 12**, NRG installed 3,328 Make-Ready Stubs by the end of the Settlement Year 4. Based on Make-Ready Stub installation progress to date, NRG fell below the targeted number of Make-Ready Stubs at multi-family, workplace, and public interest locations.

Table 12
NRG, Inc.
Number of Make-Ready Stubs Installed by Location Type
As of End of Settlement Year 4 (December 6, 2012 to December 5, 2016)

Type	Minimum Required to Install	Crowe Verified Installed	Percent of Target Installed
Multi-Family (35%) ²⁴	3,500	1,704	49%
Workplace (15%)	1,500	1,304	87%
Public Interest (10%)	1,000	320	32%
NRG Discretion (40%)	4,000	-	0%
Total	10,000	3,328	33%

Criteria

Section 4(c)(ii)(2)(B) of the Settlement Agreement requires NRG to install Make-Ready Stubs at specific locations types. Section 4(c)(ii)(2)(B) of the Settlement Agreement specifies that the minimum Make-Ready Stub count shall be distributed by type of Make-Ready Site as set forth below:

1. Multi-Family Housing Sites: a minimum of thirty-five percent (35%) of the minimum Make-Ready Stub count shall be installed at Multi-Family Housing Sites;
2. Workplace Sites: a minimum of fifteen percent (15%) of the minimum Make-Ready Stub count shall be installed at Workplace Sites;
3. Public Interest Sites: a minimum of ten percent (10%) of the minimum Make-Ready Stub count shall be installed at Public Interest Sites; and
4. The remaining forty percent (40%) of the minimum Make-Ready Stub count shall be installed, in any proportion at NRG's discretion, at Multi-Family Housing Sites, Workplace Sites or Public Interest Sites.

Cause

In its Quarterly and Annual Reports, NRG cited several reasons for difficulties in meeting the minimum Make-Ready Stub count of 10,000 within the four (4) years, including:

- Resistance from workplace sites to dedicate charging spaces due to reserved parking models and asset utilization requirements
- Market immaturity
- Limitations in the design/content of the host agreement
- Proposed competing investments by California utilities.

²⁴ The Second Amendment eliminated the Multi-Family minimum installation requirement.

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Effect

In recognition of the limitations on Make-Ready Stub development, the CPUC and NRG agreed to the First Amendment to the Settlement Agreement, effective October 27, 2015. The First Amendment added seven (7) amended terms and conditions terms regarding Make-Readies installations in an effort to provide greater opportunities for NRG to meet the Make-Ready installation targets.²⁵

Recommendation

We recommend that NRG continue to focus efforts and seek opportunities to maximize Make-Ready Stub installations so that it can comply with the remaining Make-Ready Stub count installation requirement within the Settlement Agreement (reflective of the applicable new Second Amendment provisions).

²⁵ Note that after the December 5, 2016 ending date covered for this examination, the CPUC and NRG also agreed to the Second Amendment to the Settlement Agreement, dated February 22, 2017. This Second Amendment allows NRG an extension of the Make Ready Stub installation deadline to December 5, 2018, allows for NRG to redirect \$12,500,000 of the \$40,000,000 Make Readies expenditure requirement to installation of Charging Plazas²⁵, and reduces the number of required Make Ready Stub installations by one for each \$4,000 redirected to Charging Plazas.

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Observation 7. As of Settlement Year 4, NRG is Well Below the Technology Demonstration Program Spending Target and Must Spend \$4,411,239 in the Remaining Settlement Years

Condition

At the end of Settlement Year 4, NRG had spent approximately \$588,761 for the Technology Demonstration program as shown in **Table 13**. NRG must spend the remaining amount of \$4,411,239 in the remaining Settlement Years for NRG to be in compliance with the Settlement Agreement spending level for this program.

Table 13
NRG, Inc.
Technology Demonstration Expenditures
As of the End of Settlement Year 4 (December 6, 2012 to December 5, 2016)

	2015	2016		Total
Expenditures	\$42,651	\$573,904		\$588,761

Criteria

Section 4(d)(i) of the Settlement Agreement requires that NRG spend \$5,000,000 on the Technology Demonstration program for the deployment, demonstration and testing of electric vehicle charging technologies in the State of California.

Cause

In its Quarterly and Annual Reports, NRG has indicated that it has made good faith efforts to obtain proposals for Technology Demonstration projects.

Effect

NRG may not meet the requirement to spend \$5.0M on the Technology Demonstration Program.

Recommendation

NRG should take steps to solicit more Technology Demonstration proposals to meet the remaining requirement of \$4,411,239 in eligible and allowable spending.

Observation 8. As of Settlement Year 4, NRG has Not Spent Any EV Opportunity Program Funds and Currently Must Spend \$4,000,000 in the Remaining Settlement Years

Condition

Through Settlement Year 4, NRG has not incurred any expenditures for the EV Opportunity Program. NRG must spend the remaining amount of \$4,000,000 in the remaining Settlement Years for NRG to be in compliance with the Settlement Agreement spending level for this program.

Criteria

Section 4(d)(ii) of the Settlement Agreement requires that NRG spend \$4,000,000 on the EV Opportunity Program.

Cause

In its Quarterly and Annual Reports, NRG has indicated that it has made good faith efforts to obtain proposals for EV Opportunity Program.

Effect

NRG may not meet the requirement to spend \$4,000,000 on the EV Opportunity Program.

Recommendation

NRG should take steps to solicit more EV Opportunity Program proposals to meet the requirement of \$4,000,000 in eligible and allowable spending.

Appendix A – Procedures Performed

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List of Records Obtained

Records obtained for our testing procedures included:

- Four (4) Settlement Years of confidential and public annual reports, and public quarterly reports, submitted by NRG to the CPUC
- Unaudited NRG EVgo financial statements for 2012 to 2016
- Audited NRG EVgo financial statement for 2014
- NRG California Settlement Agreement reports for Settlement Years 2013, 2014, 2015, and 2016
- Master list of Freedom Station
- Freedom Station installation documents, including as-built plans, permits
- Freedom Station usage data
- Freedom Station depreciation schedule
- Master lists of Make-Readies
- Make-Readies host agreements
- NRG's supply chain policy
- Documentation to support expenditure transaction testing for four Settlement Years, including the following transaction types: utilities
- Vendor spend reports
- Sample subscriber agreement
- Sample of single-use revenue transactions
- Supporting documentation (W-2s) for employee salaries/wages
- Procurement and contracting documents (including RFPs, RFQs, and contracts)
- Sample of sole source contracts
- Sample of preventative and corrective maintenance reports
- Site maintenance report
- Technology demonstration program proposals.

Summary of Procedures Applied

Our examination was divided into two phases. The first phase consisted of off-site data analysis and review of documentation. The second phase consisted of an on-site desk review to perform additional testing and compliance procedures.

In the first (data analysis) phase, Crowe issued the Examinee a material request letter describing the documentation needed to complete our testing procedures. The material request letter encompassed general examination and planning documentation, intrastate revenue calculations and supporting documents and included the files needed to support our populations for testing. Crowe analyzed data provided by NRG to identify initial risk indicators.

In phase two (desk review) of the examination Crowe conducted an entrance conference with the Examinee to confirm the scope and extent of our procedures and to request additional documentation. Crowe conducted three on-site visits to NRG's headquarters in Houston, TX on 1/23/17 to 1/27/17, 4/24/17 to 4/28/17 and 7/10/17 to 7/14/17, to gather additional information and interview NRG representatives. Crowe then examined the data and supporting documentation provided by NRG and conducted a series of tests to analyze the data. Phase two resulted in the findings and recommendations identified in the Findings and Recommendation section of this report.

Finally, throughout the examination, Crowe met with NRG management to communicate interim progress and preliminary findings and observations. We conducted an exit conference, on July 12, 2017, upon completion of our fieldwork to communicate the examination procedure results and to review each of the findings (including questioned costs) and recommendations.

The CPUC specified key goals and objectives for evaluating NRG's compliance with the Settlement Agreement. Below, we provide a summary of these objectives and our approach to meet these objectives as part of our testing procedures. The procedures we performed were based on a sample of items.

Goal 1: Evaluate NRG's Freedom Station investments to determine if NRG has met all requirements of the settlement

Objective Number 1: Determine whether NRG has met the Freedom Station annual installation targets as set forth in the settlement. The evaluation should determine the date that each station was completed and obtain customer feedback data from NRG to determine if the station was in working order since its completion.

Approach

We obtained multiple sources of documentation from NRG showing the completion timing and location of actual Freedom Station installations. We sampled Freedom Stations and obtained verification of installation completion dates (e.g., using close out packages, as-built plans, permits, timing of when the Freedom Station began to transfer customer usage data between the Freedom Station site and NRG headquarters). We compared this actual data with required installation locations in the Settlement Agreement within the four (4) regions of the LA Basin, San Francisco Bay Area, San Joaquin Valley, and San Diego County. We also compared the quantities completed, by reporting year, with minimum Settlement Agreement installation quantity requirements.

We also assessed whether actual installation locations met minimum Public Use Microdata Area (PUMA) requirements within each of the four regions. We reviewed Quarterly Status Reports and Annual Reports that NRG submitted to the CPUC to determine whether NRG has documented its efforts to identify, evaluate, pursue, and install twenty (20%) of the minimum Freedom Station count in PUMA.

Objective Number 2: Determine that all Freedom Stations meet the technical requirements as described in the settlement. The settlement lists specific technical requirements that each Freedom Station must meet. The evaluation should determine whether each station meets all of these requirements.

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Approach

We obtained multiple sources of documentation from NRG showing technical specifications (e.g., close out packages, as-built plans, permits). We sampled Freedom Stations and conducted on-site visits to verify installations matched technical specifications required by the Settlement Agreement. Using a combination of documentation review and site visits, we compared actual installation specifications with the following Freedom Station requirements:

- One DC fast charger
- One (1) Level 2 charger, or alternatively one (1) additional DC fast charger for a total of two (2) DC fast chargers
- One (1) customer service interface that includes a communications device for single-use charging services and/or assistance
- Installation of an additional Freedom Station stub or Level 2 stub
- To the extent not already present at a location, adequate ambient lighting and other security elements
- Way-finding and branding signage
- The electrical equipment necessary to fully service all the included equipment

Freedom Station is compatible with the CHAdeMO Standard and SAE Standard as provided in the Settlement Agreement

Objective Number 3: Determine whether all Freedom Station infrastructure is in working order and accessible to electric vehicle drivers in compliance with the performance and accessibility requirements listed in the settlement.

Approach

We obtained multiple sources of documentation from NRG showing technical specifications (e.g., close out packages, as-built plans, permits). We sampled Freedom Stations and conducted on-site visits to verify that installations were in working order at the time of our visit. We also reviewed reports of statistical usage data, by individual charger, to evaluate whether Freedom Stations were continuously available to customers. We also conducted follow-up data requests, and discussions with NRG operations personnel, to understand the basis for chargers that may have been inoperable during the reporting period.

Objective Number 4: Evaluate NRG's labor and equipment procurement processes to determine that competitive processes were used and that labor/technical expenses were reasonable.

Approach

We obtained documentation from NRG, and conducted interviews with NRG personnel involved with procurement and contracting, to assess whether NRG established a process and procedure for soliciting, evaluating, and awarding competitive bids for the provision of third-party services and equipment. We requested and reviewed a sample of NRG procurement and contracting files (including solicitation documents, bids, and bid tabulations) associated with use of third-party services and equipment for Freedom Station installations. We reviewed procurement documentation to assess whether in soliciting, evaluating and awarding contracts for work on the Public Charging Ecosystem, NRG's RFO Process provided required preferences for contractors.

Objective Number 5: Evaluate whether NRG has met the standards requirements that require all Freedom stations to be updated to meet both the CHAdeMO and Society of Automotive Engineers (SAE) coupler standards per the terms of the settlement.

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Approach

We obtained multiple sources of documentation from NRG showing charger installation specifications (e.g., close out packages, as-built plans, permits). We sampled Freedom Stations and conducted on-site visits to verify that chargers matched CHAdeMO and Society of Automotive Engineers (SAE) coupler standards required by the Settlement Agreement.

Objective Number 6: Determine whether the infrastructure cost less than the original projections and estimate how much additional infrastructure NRG could build with the remaining funding.

Approach

We tested the Examinee's detailed expenditures, internal accounting records, and supporting financial documentation to determine Settlement Agreement expenditures. We compared internal accounting reports with the reported Settlement Agreement expenditures to reconcile reported with actual expenditures. Where we determined expenditures did not meet the definition of Allowable Costs in the Settlement Agreement, we reported these differences as findings. Upon completion of the second phase of examination work, we will determine the extent to which the infrastructure cost less than the original projections, and estimate how much additional infrastructure can be built with remaining funding.

Goal Number 2: Evaluate NRG's Make-Ready charging stub investments to determine if NRG has met all requirements of the settlement, including but not limited to the following elements:

Objective Number 7: Determine whether NRG has met its Make-Ready Charging Stub annual targets (for both facility targets and total stubs target).

Approach

We obtained multiple sources of documentation from NRG showing the completion timing, type, and location of actual Make-Ready installations. We sampled Make-Ready installations and obtained verification of installation completion dates and types (e.g., host agreements, as-built plans, permits). We compared this actual data with required installation locations and quantities in the Settlement Agreement within the four (4) regions of the LA Basin, San Francisco Bay Area, San Joaquin Valley, and San Diego County. We compared this actual data with required installation types in the Settlement Agreement for multi-family, workplace, and public interest sites.

Objective Number 8: Validate that NRG's public information related to the exclusivity period for the Make-Ready charging infrastructure is accurate and accessible to the public.

Approach

We obtained documentation to determine whether NRG has a publicly available website that identified each installed Make-Ready Array's location and the Start-Up Period expiration date and assessed whether the website was updated at a minimum on a quarterly basis. We also interviewed IT personnel to determine the frequency of website updates.

Objective Number 9: Determine that all Make-Ready charging infrastructure is in working order and accessible to electric vehicle drivers, per the performance and accessibility requirements listed in the settlement. The settlement lists specific technical requirements that each 'Make-Ready' site must meet. The evaluation should determine whether each site meets all of these requirements and has met those requirements during the time that a given site has been operable.

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Approach

We obtained multiple sources of documentation from NRG showing technical specifications (e.g., host agreements, as-built plans, permits). We sampled Make-Readies and conducted on-site visits to verify installations matched technical specifications required by the Settlement Agreement. Using a combination of documentation review and site visits, we compared actual installation specifications with the following Make-Ready requirements (e.g., maximum of 40 Make-Ready stubs per site, maximum of 4 Make-Ready arrays per site, and subscription service).

Objective Number 10: Evaluate NRG’s labor and equipment procurement processes to determine that competitive processes were used and that labor/technical expenses were reasonable.

Approach

We obtained documentation from NRG, and conducted interviews with NRG personnel involved with procurement and contracting, to assess whether NRG established a process and procedure for soliciting, evaluating and awarding competitive bids for the provision of third-party services and equipment. We requested and reviewed a sample of NRG procurement and contracting files (including solicitation documents, bids, and bid tabulations) associated with use of third-party services and equipment for Make-Ready installations. We reviewed procurement documentation to assess whether in soliciting, evaluating and awarding contracts for work on the Public Charging Ecosystem, NRG’s RFO process provided required preferences for contractors.

Objective Number 11: Evaluate NRG’s outreach effort to determine whether or not NRG has made satisfactory efforts to complete its obligations.

Approach

We interviewed NRG management to identify NRG outreach efforts made to complete its obligations.

Objective Number 12: Evaluate NRG’s process for determining whether sites were eligible to participate to determine whether NRG has made just and reasonable efforts to complete its goals.

Approach

We interviewed NRG management to identify NRG outreach efforts made to complete its obligations.

Objective Number 13: Determine whether the infrastructure cost less than the original projections and estimate how much additional infrastructure NRG could build with the remaining funding.

Approach

We tested the Examinee’s detailed expenditures, internal accounting records, and supporting financial documentation to determine Settlement Agreement expenditures. We compared internal accounting reports with the reported Settlement Agreement expenditures to reconcile reported with actual expenditures. Where we determined expenditures did not meet the definition of Allowable Costs in the Settlement Agreement, we reported these differences as findings. Upon completion of the second phase of examination work, we will determine the extent to which the infrastructure cost less than the original projections, and estimate how much additional infrastructure can be built with remaining funding.

Goal Number 3: Determine if NRG has met all the additional requirements under the Settlement Agreement.

Objective Number 14: Determine that all projects are underway as part of the Technology Development and Opportunity programs and are meeting the spending and performance targets.

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Approach

As part of our on-site work at NRG offices, we obtained and reviewed documentation from NRG supporting project selection, status, and expenditures. We obtained documentation to evaluate expenses incurred by NRG over the NRG Fixed Operating Cost Period. We compared actual amounts NRG expended with the Settlement Agreement requirement of \$5,000,000 over NRG Fixed Operating Cost Period, and reported differences.

Objective Number 15: Evaluate if NRG has complied with the grants prohibition term that prevents NRG from applying for grants related to the infrastructure categories identified in the settlement.

Approach

As part of our on-site work at NRG offices, we obtained and reviewed documentation from NRG supporting types and levels of grant funding received and uses of grant monies. We reviewed available documentation from NRG related to grant funds received from the Settlement Effective Date to the Settlement Year 4. We interviewed NRG management/staff, to assess whether NRG and its affiliates met the requirement that it cannot be a recipient of a grant or cash equivalent from any governmental authority to the extent that such grant or cash equivalent is directly related to the Dynergy Parties' specific performance obligations under the Settlement Agreement to implement the EV Charging Station Project.

Objective Number 16: Determine whether NRG has made 'just and reasonable efforts' to meet its infrastructure requirements, including the evaluation of its customer outreach efforts.

Approach

We will obtain documentation supporting the extent of NRG customer outreach efforts through such areas as advertisements, website materials, collateral marketing material, marketing events, alignment with car dealerships, and internet marketing.

Objective Number 17: Evaluate NRG's spending to determine that all cited spending relate to the outcomes of the settlement and represent reasonable efforts to spend funds efficiently and effectively.

Approach

We tested the Examinee's detailed expenditures, internal accounting records, and supporting financial documentation to determine Settlement Agreement expenditures. Where we determined expenditures did not relate to Settlement Agreement outcomes, or did not represent effective/efficient use of funds, we reported these differences as findings.

Objective Number 18: Ensure that NRG's procurement of services and equipment meets the settlement's requirement that competitive processes be used to avoid unfair favoritism toward suppliers and ensure that competitively-priced services and equipment are purchased.

Approach

We obtained documentation from NRG, and conducted interviews with NRG personnel involved with procurement and contracting, to assess whether NRG established a process and procedure for soliciting, evaluating and awarding competitive bids for the provision of third-party services and equipment. We requested and reviewed a sample of NRG procurement and contracting files (including solicitation documents, bids, and bid tabulations) associated with use of third-party services and equipment for Freedom Station installations. We reviewed procurement documentation to assess whether in soliciting, evaluating, and awarding contracts for work on the Public Charging Ecosystem, NRG's RFO process provided required preferences for contractors.

Appendix B – NRG Responses

The following NRG responses were published before Crowe's name change and makes reference to Crowe as "Crowe Horwath."

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NRG Energy, Inc.

Response to Crowe Horwath
Electric Vehicle Infrastructure Settlement
Compliance Report

Submitted: May 18, 2018

California Public Utilities Commission
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Introduction

NRG Energy, Inc. (“NRG”) appreciates the opportunity to respond to the report conducted by Crowe Horwath on the Electric Vehicle Infrastructure Settlement (“Settlement”) between NRG and the California Public Utilities Commission (“CPUC”). As part of the Settlement, NRG and EVgo¹ are installing public direct current fast charging (“DCFC”) infrastructure and what are known as level 2 (L2) Make-Ready stubs to enable electric vehicle (“EV”) adoption for drivers across California as well as demonstrating new technologies and expanding opportunities to new segments of drivers. To date, the work of the Settlement has been a success. More than 90% of Californians live within 35 miles of an EVgo fast charging station. As of April 2018, more than 400,000 EVs have been sold in California², and the available charging infrastructure is a key factor in those sales to date and their continued growth. The working relationship between NRG / EVgo and the CPUC has been extraordinarily constructive in recognizing the dynamic nature of the EV charging business while remaining focused on maximizing positive impact from the Settlement on the public interest. NRG and EVgo remain committed to continuing to work with the CPUC and its staff to execute the remainder of the Settlement and deliver even more public charging to Californians across geographies and demographics.

NRG offers several high-level observations in response to the Crowe Horwath report in addition to the detailed responses that follow. First, NRG and EVgo are grateful for the productive dialogue with Crowe Horwath and the CPUC throughout the audit process. The companies note that the Settlement Agreement calls for the audit following Settlement Year 2, and this mid-term audit covers the period through Settlement Year 4, with these findings received by NRG well into Year 6. Accordingly, that does limit the opportunity to incorporate feedback into the performance of the remainder of the Settlement. Nonetheless, NRG and EVgo will incorporate applicable recommendations from the Crowe Horwath report as they complete the Settlement obligations.

As explained further below, there are several recommendations in the report where NRG fully agrees with Crowe Horwath, and NRG is making associated changes in certain accounting and reporting practices for the remainder of the Settlement. NRG and EVgo will work closely with the CPUC staff to apply lessons learned from the audit process and may update the expenditure reports to reflect both those lessons and the continual review of Settlement expenditures prior to the next audit.

However, NRG strongly disagrees with Crowe Horwath’s conclusions in many instances, particularly pertaining to findings of non-compliance for immaterial matters of reporting. For example, NRG reported operating costs above the obligation of \$3,000,000, but has not applied those additional expenditures to specific spending commitments, e.g. Freedom Station or Make-Ready requirements. The fact that financial reports provided additional detail demonstrating exceedance of NRG’s obligation does not make NRG noncompliant with the obligation.

Where Crowe Horwath requested additional substantiation, NRG believes that the documentation included in this response supports the conclusion that NRG is in compliance with the Settlement. Additionally, on the particular matters where Crowe Horwath indicated *material* noncompliance (Findings 1, 2, 4, 6, 7 and 9), NRG disagrees with the conclusion, and indicates in detail its reasons in the formal response. Nonetheless, NRG will be implementing improvements in connection with several of those areas as well as in the remaining Findings.

The Settlement is working as intended, and NRG believes the work and engagement of Crowe Horwath will improve practices through the remaining Settlement implementation. The documentation below and previously submitted to Crowe Horwath underscores that NRG is complying with its obligations under the Settlement.

Implementation of the Settlement remains a critical priority for NRG and EVgo, and both organizations look forward to continuing to work with the CPUC on delivering public charging infrastructure to grow the EV opportunity across California.

¹ Settlement work commenced by NRG EVgo; following EVgo’s acquisition in 2016, EVgo Services LLC is contracted to perform services for NRG to deliver upon the latter’s obligations to the CPUC.

² <https://insideevs.com/cumulative-plug-in-electric-car-sales-nearing-400000-in-california/>

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Finding 1

NRG failed to demonstrate compliance with Section 1(vv) of the Settlement Agreement. Specifically, NRG's reported Settlement Expenditures over the examination period included \$1,465,000 in charger costs (e.g., for dual chargers, CHAdeMO chargers) that NRG could eventually use for Non-Settlement charging station installations and thus are not consistent with the definition of eligible Freedom Station Costs. Consequently, NRG should reduce Settlement Expenditures reported through December 5, 2016 by \$1,465,000.

NRG Response

NRG does not deem this Finding to be a material weakness or non-compliance with the Settlement Agreement.

NRG understands the additional complexity involved by including advanced charger purchases in the Settlement expenditure reports. However, the intention was not to overstate equipment purchases by including inventory amounts that have yet to be designated to a specific Freedom Station site. In fact, these advanced charger purchases enabled NRG and EVgo to obtain more competitive pricing that has contributed to the Freedom Station "savings event" that will enable NRG and EVgo to build more than the originally anticipated 200 Freedom Stations under the Settlement. It should also be noted that there is no net impact to the Settlement spend overall, as this is a change in accounting and reporting that will merely shift dollars spent between Settlement years to align with when the assets were designated to a specific Settlement location, instead of when they were purchased.

However, based on Crowe Horwath's recommendation, NRG is working to update its reporting to remove the advanced charger purchases from reported spend. On a go-forward basis only amounts directly reflective of costs for a specific Freedom Station site will be included in the Settlement spend reports.

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Finding 2

NRG failed to demonstrate compliance with Section 4(b)(i)(2) of the Settlement Agreement. Specifically, NRG's reported Settlement Expenditures over the examination period included \$1,640,814 in electricity costs that are not considered eligible Fixed Operating Costs as they are not electricity demand nor meter costs. Consequently, NRG should reduce Settlement Expenditures reported through December 5, 2016 by \$1,640,814.

NRG Response

NRG does not deem this Finding to be a material weakness or non-compliance with the Settlement Agreement as this is an issue of reporting rather than implementation. Furthermore, NRG has not applied any Freedom Station operating amounts in excess of \$3,000,000 to any other Settlement spend bucket (e.g., Freedom Station Costs).

While NRG agrees with Crowe Horwath's determination that ineligible utility costs (i.e., variable kWh costs) were included in the Freedom Station Fixed Operating Costs that are reported in the Annual Settlement Agreement Reports, it is important to note that as evidenced by Crowe Horwath's Finding 4, post the exclusion of non-electricity demand and meter charges from utility bills of \$1,640,814, NRG has already exceeded the required \$3,000,000 spend by the end of Settlement Year 4.

Based on Crowe Horwath's recommendation, NRG is working to update its reporting to remove variable kWh costs and only present eligible electricity cost in reported spend (up to the \$3,000,000 maximum).

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Finding 3

NRG failed to demonstrate compliance with Section 1(vv) of the Settlement Agreement. Specifically, NRG's reported Settlement Expenditures over the examination period included \$421,939 in labor costs that exceeded the high end of the range of comparable wages paid to NRG or other company employees in similar positions, as a result of some NRG salaries and wages including compensation for non-Settlement Agreement business activities, and thus are not consistent with the definition of eligible Freedom Station Costs. Consequently, NRG should reduce Settlement Expenditures reported through December 5, 2016 by \$421,939.

NRG Response

NRG does not deem Finding 3 to be a significant deficiency in internal control and noncompliance with regard to the Settlement Agreement and instead believes this to be an observation by the auditors that reported salaries are roughly 5 percent higher than the auditor's calculation of market rates.

Eligible Personnel Costs, as defined by the Settlement Agreement, do not contemplate the use of market rates in the determination of the employee related costs to be allocated to Freedom Station and Make-Ready construction. NRG believes it compensates its employees fairly and competitively and the use of an average salary per employee to allocate labor costs was intended to not overly burden the Settlement with overhead costs. Further, NRG did not allocate any Executive compensation (i.e., salary, bonus, incentive, etc.) to the reported Settlement spend for Years 1 through 4.

In addition, the process for capturing direct labor costs has been updated as of April 1, 2017 and the current process involves monthly timesheets being provided by site developers and program managers to indicate how many hours they have worked on the various Settlement programs (FS/MR, HPCC, Tech Demo, EVop, Non-CPUC). The monthly calculation is based on employee's compensation at month-end multiplied by the hours indicated on timesheet (bonus and benefits are included in employee compensation). We believe that the process implemented in April 2017 is in compliance with the definition of eligible Personnel Costs in the Settlement Agreement.

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Finding 4

NRG failed to demonstrate compliance with Section 4(b)(i)(2) of the Settlement Agreement. Specifically, NRG's reported \$516,626 in Freedom Station Fixed Operating Costs over the examination period that exceed the required maximum of \$3,000,000 in Fixed Operating Costs. Consequently, NRG should reduce Settlement Expenditures reported through December 5, 2016 by \$516,626.

NRG Response

NRG does not deem this Finding to be a material weakness or non-compliance with the Settlement Agreement as this is an issue of reporting rather than implementation. NRG agrees that the Freedom Station operating costs for Settlement Years 1 through 4 have exceeded the \$3,000,000 Freedom Station Fixed Operating Cost Amount stipulated in Section 4(b)(i)(2). However, we do not view the reporting of this excess spend to be a material non-compliance of the Settlement Agreement. NRG is required to operate the Freedom Stations through the end of the Fixed Operating Cost Period (amended to December 2020) regardless of the cost. It is not the intention of NRG to apply any Freedom Station operating amounts in excess of \$3,000,000 to any other Settlement spend bucket (e.g., Freedom Station Costs).

Based on Crowe Horwath' recommendation, and in order to avoid confusion in reporting, NRG is working to update its reporting to clearly and separately reflect excess Freedom Station operating costs above the required \$3,000,000.

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Finding 5

NRG failed to demonstrate compliance with Section 1(vv) of the Settlement Agreement. Specifically, NRG reported Settlement Expenditures over the examination period included \$78,700 in travel costs that NRG management used for non-Settlement Agreement purposes, and thus are not consistent with the definition of eligible Freedom Station Costs. Consequently, NRG should reduce Settlement Expenditures reported through December 5, 2016 by \$78,700.

NRG Response

NRG acknowledges that the \$78,700 in travel related expenses for NRG employees were incorrectly reported within the qualified Settlement expenditures and will be removed from reported qualified spend. Upon further review of the reported travel costs, NRG identified an additional \$12,875 in costs that it has removed from the reported qualified spend.

In addition, in June 2016, EVgo implemented a new expense reporting system to more appropriately track and report employee expenses and overhead items. Within Certify, all Settlement expenses are clearly identified by project designation and are reviewed and approved by the employee's supervisor and then subsequently by the accounting group. NRG and EVgo believe that the travel expenses identified by Crowe were isolated incidents and that the reporting of employee expenses within Certify easily allows for users to correctly allocate expenses between Settlement and non-Settlement activities.

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Finding 6

NRG failed to demonstrate compliance with Section 1(vv) of the Settlement Agreement. Specifically, NRG's reported \$1,462,606 in Settlement Expenditures over the examination period that NRG could not substantiate with comprehensive supporting documentation (in the form of a purchase order, invoice, payment approval, or proof of payment) to confirm that these Settlement Expenditures occurred. Consequently, NRG should provide documentation to support these \$1,462,606 in Settlement Expenditures or reduce Settlement Expenditures reported through December 5, 2016 by the unsupported amounts.

NRG Response

Based on the additional supporting documentation already provided to Crowe Horwath, and the additional ongoing effort to provide missing documentation prior to the Final Audit, we believe that all questioned expenses outlined in Finding 6 will be substantiated appropriately. Therefore, we do not deem Finding 6 to be a material weakness and noncompliance of the Settlement Agreement.

NRG/EVgo has reviewed in detail the 134 selections that Crowe Horwath has determined to be "questioned costs" in the total of \$1,462,606 and has provided additional explanations and documentation on 87 items, totaling \$1,236,415.31, that we feel adequately supports our assertion that these costs are Eligible Settlement expenses.

Of the remaining 47 selections, totaling \$226,190.69, 34 selections, totaling \$209,465.04, relate to transactions that occurred between 2012 and 2013 in legacy NRG systems that are no longer in use. We are in the process of pulling the right resources together to gather supporting documentation to provide to Crowe Horwath before the final audit to substantiate these items as eligible Settlement spend. For an additional 12 selections, totaling \$16,725.64, we agree are currently missing supporting invoices within our system and we are in the process of reaching out to external vendors to resend these invoices. Once received, we will provide to Crowe Horwath as evidence to substantiate these items as eligible Settlement spend. It should be noted that all other supporting documentation (i.e., payment support) has been provided for these items. One selection made by Crowe Horwath, totaling \$0.01, is related to rounding within purchase order processing.

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Finding 7

NRG failed to demonstrate compliance with Section 1(ppp) of the Settlement Agreement. Specifically, based on 34 field visits, we observed that approximately 15 percent of Make-Ready Stubs could not readily be connected to an EVSE and thus do not meet the definition of a Make-Ready Stub. We estimate at total of \$1,016,382 in questioned Settlement Expenditures from these marginalized Make-Ready Stubs.

NRG Response

NRG does not deem this Finding to be a material weakness or non-compliance with the Settlement Agreement. The Make-Readies meet the Settlement Agreement requirements based on the parties' shared goal of cost-effectively deploying Make-Ready infrastructure to serve the diverse needs of the property owner recipients. Crowe's finding is based on an understandably mistaken technical reading of the definition of "Make-Ready Stub" to require fixtures and signage, when it was both parties' intent that the fixture and signage be *permitted* expenditures.

The original Settlement Agreement contemplated that NRG would develop a business selling/leasing charging stations to utilize the Make-Ready Stubs; this business would be marketed under the "Ready for EV" brand with charging equipment that would be mounted on NRG's fixtures. If this model were deployed on each Make-Ready Stub, then a fixture (designed to mount the NRG charging station) with the affixed signage (designed to promote the "Ready for EV" brand) would make sense. By mid -2015, however, NRG intended to exit the "Ready for EV" business and the parties amended the Settlement Agreement to clarify that property owners with Make-Ready Stubs could utilize any equipment or service provider immediately following construction. This change gave property owners freed of choice and greatly expedited the pace of deployment.

As a result, the charging solution chosen by each property owner dictated the termination method for the wire/conduit of the Make-Ready Stub. Potential charging stations come in many variations, including: (a) freestanding chargers with pedestals; (b) pluggable chargers that can be mounted on a wall or pedestal (plugging into an outlet with the appropriate standard); or (c) hardwired chargers that can be mounted on a wall or pedestal. Depending on what equipment was anticipated or the potential use case for the Make-Ready Stubs – as well as the local jurisdiction's permitting requirements - the Make-Ready Stubs actually built ended up terminating in either a junction box, receptacle (outlet), or a fixture.

The variation in how a Make-Ready Stub terminates is a reflection of the flexibility and creativity NRG exercised in serving the needs of diverse property owners. Below are illustrative cases, which together address all of the cases that Crowe cited as non-compliant:

- The California Highway Patrol – the entity with the largest portfolio of properties under the Make-Readies program - chose to utilize a particular Level 2 charging solution that contained its own pedestal and would be hardwired to the junction box. The Office of Sustainability at the California Department of General Services writes: "The California Highway Patrol was the recipient of electrical infrastructure for workplace as part of the NRG Settlement. Since the CHP had decided to install BTC Pedestal Level 2 charging stations on this infrastructure, it was requested that EVgo not install the wired pedestals with receptacle and signage because the BTC had its own pedestal and required hard wiring for connection."
- Hub-and-Spoke — NRG's efforts to provide Make-Ready Stubs at multi-family housing communities led to a creative "hub-and-spoke" solution to serve the maximum number of potential EV drivers while minimizing the chance of stranded assets. This model was developed in conjunction with condominium HOAs at locations with shared parking structures where individual condo owners each have reserved parking spaces. The Make-Ready Stub here was comprised of the conduit from the electrical panel to a central "hub" location on the ceiling. The hub did not immediately serve any particular parking spaces (or have

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fixtures/signage) but could be extended multiple times with a short additional run of conduit & wire run (“spokes”) to serve multiple potential parking spaces. The Plug-in Electric Vehicle Collaborative (now Veloz) provides a case study of how this best met the needs of residents. See http://dev.veloz.org/wp-content/uploads/2017/08/Diamond_Terrace_final.pdf

- Firebaugh HS — NRG’s review indicates that the Make-Ready Stubs here are complete. Discussions with the property owner indicate that they currently have three (3) chargers installed, with the remaining seven (7) pads ready to support additional chargers.

- Finally, certain permitting authorities, including the City of San Diego, would not issue permits for a concrete footing or pedestal unless the EV charger was already connected to it. In an email dated February 23, 2017, the City says: “Both the support footing and the [EV charging] equipment are considered as ‘one unit’. When plans are submitted for installation of EV-chargers, it should also have details and specifications for support footings. These support footings are not allowed to be constructed today for EV-chargers that will be installed in the future.” Thus, because the property owner had not decided on the exact type of charger they intended to connect to the Make-Ready Stub, a fixture was not permitted.

NRG’s construction of Make-Ready Stubs is consistent with the intent to provide Level 2 charging infrastructure to reduce the cost to property owners of providing EV charging to residents, employees, and visitors. In all cases the appropriate electrical service panels, conduit, and wire were provided, and NRG brought the electric infrastructure as far as practicable to facilitate the charging solution that the property owner intended (or if the intent was unknown, to provide the maximum flexibility to the property owner).

Including a fixture or signage when such items were not desired would add costs to installation (as well as costs to subsequent removal of the unwanted fixture) and would be a poor use of Settlement funds.

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Finding 8

NRG failed to demonstrate compliance with Section 1(vv) of the Settlement Agreement. Specifically, NRG reported \$180,273 in overhead expenditures over the examination period, for California Business Alliance participation and government affairs resources, that may not fit the definition of eligible Settlement Expenditures. There are a total of \$180,273 in questioned Settlement Expenditures for these overhead expenses.

NRG Response

NRG acknowledges the \$180,273 in overhead-related expenses for NRG employees were incorrectly reported within the qualified Settlement expenditures and will be removed from future reported qualified spend.

EVgo's new expense reporting system described in Finding 5 along with heightened scrutiny of Settlement accounting should prevent further occurrences.

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Finding 9

NRG failed to demonstrate compliance with Section 4(a)(vi)(3) of the Settlement Agreement and its own Supply Chain Policies document. Specifically, for 15 of 15 Settlement Agreement procurements we reviewed, NRG did not provide adequate documentation to support the evaluation criteria and decision-making process NRG used to select a contractor as well as how NRG developed specific evaluation criteria reflective of preferences for contractors that met certain requirements (e.g., track record of hiring graduates of pre-apprentice program, hiring a substantial number of employees from the local area).

NRG Response

NRG reaffirms that it obtained responses to the selection criteria questions through the issuance of its RFOs (competitive selection of qualifying vendors for certain products & services) and RFI (vendor pre-qualification questionnaire).

The responses to the selection criteria questions were part of the overall mix of information used by NRG in selecting vendors. From a practical perspective, the limited number of construction contractors with experience in electric vehicle charging projects who met other selection criteria (especially NRG criteria regarding safety and insurance) meant that the responses to the selection criteria questions were rarely a deciding factor. In addition, the selection criteria questions (especially regarding apprenticeship programs) are not applicable to specialty equipment providers or other non-construction vendors.

For the reasons discussed above and based on the supporting material provided below, this noncompliance should not be deemed material.

Going forward, NRG has instructed EVgo to develop scoring criteria to do the following: (a) score each applicable vendor based on its responses to the selection criteria; (b) disqualify vendors who do not meet the minimum threshold criteria from participating in Settlement work; (c) use the score as a factor in the selection of vendors where competitive bidding is practicable; and (d) maintain records reflecting the foregoing.

Supporting Material

In NRG's follow-up with the primary construction vendors involved in the projects, it received the following supplemental information that affirms the commitment of the major vendors to the ideals embodied by the selection criteria; responses are direct quotes with minor organizational and clerical edits:

From MaxGen Energy Services (major Freedom Station contractor):

- Apprenticeships:
 - o Historically we have hired directly from trade specific programs such as electrical trainee programs throughout various states. We are currently in the process of growing this program and expanding the number of trade school partners we have throughout the US.
 - o We currently have a functional training program that focuses on all aspects of the trades associated with the products we deliver to our customers. We are developing our own internal registered electrical apprenticeship program.
- Hiring from the local community: Upward of 95% of our employees are hired locally based on portfolio contract density.
- Health insurance provided to employees: Yes. We provide Medical, Dental, Vision, Life & AD&D, STD/LTD, EAP, & 401(k).
- Disadvantaged/underrepresented groups: As part of our recruiting process, we interact with armed forces job placement programs, post jobs on wide variety of job sites including at times Monster, InDeed, and Craig's List. due to the quality and training and work ethic instilled from the military training and discipline.

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- Opportunities for formerly incarcerated individuals: We strive to give those who were formerly incarcerated an equal opportunity and career path with MaxGen. We have proactively worked with community re-training organizations and always review on a case by case basis.

From Clean Fuel Connection, Inc. (a major Make-Readies contractor):

- Apprenticeships:
 - o Most of the people we hire as electrical apprentices have been trained through a program such as California Electrical Training, Inc., Baldwin Park Adult School, Intercoast College, or a local community college
 - o We solicit applications for apprentices from the attached list of DIR approved schools. <http://www.dir.ca.gov/DLSE/ECU/ListOfApprovedSchools.html>. We encourage employees to continue their education toward becoming journeymen and will offer to pay test fees or other costs of education.
- Hiring from the local community: We have made an effort to hire construction personnel from the local community whenever possible. For example, for a current job in San Diego, we recruited civil construction workers from the local area. We also advertise our jobs based on the areas in which we have upcoming work.
- Health insurance provided to employees: Yes
- Disadvantaged/underrepresented groups: The company President and owner is female. Our current full-time staff is 50% minority. Our construction personnel are approximately 80% minority.
- Opportunities for formerly incarcerated individuals: We have employees who have had previous DUIs or other legal issues. We do not eliminate any applications on the basis of previous incarceration, but we do not currently have any on staff.

From ABM (a major Make-Readies contractor):

- Apprenticeship:
 - o We have an apprenticeship program implemented in every office around the country, and we work with local trade/technical schools to hire new graduates.
 - o We have dedicated trainers within the Franchise group... that travel the world to train employees in the electrical trade. We also have thousand of online courses as well as other classroom training available for Technicians at our Pittsburgh ABM Franchising location.
- Hiring from the local community: We are dedicated in hiring from the local communities and have recruiters all over the country that are dedicated to staffing all of our locations.
- Health insurance provided to employees: Yes
- Disadvantaged/underrepresented groups: We are partnered with the following organizations to hire and retain disadvantaged and underrepresented classes:
 - o Military.com
 - o Plansponsor.com
 - o Hire Disability Solutions hireds.com
 - o Africanamericancareers.com
 - o AsianMBA International
 - o BlackCEOs.com
 - o BlackWomenConnect
 - o HBCUConnect
 - o Huffington Post Black Voices
 - o Huffington Post Women
 - o Huffington Post Latino Voices
 - o Batanga Network
 - o American Job Center Network (Unemployment Offices/Career Centers throughout the Country and Veterans) careeronestop.org
- Opportunities for formerly incarcerated individuals: candidates must pass a Criminal background check to be eligible for employment at ABM.

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Finding 10

NRG failed to demonstrate compliance with Section 4(a)(vi)(3) of the Settlement Agreement and its own Supply Chain Policies document. Specifically, NRG did not competitively bid services with 11 vendors, with contracts valued at more than \$100,000, totaling \$4,208,563. NRG did not complete a Waiver of Competitive Bid Form to justify sole/single source contracting, a requirement specified in its Supply Chain Policies document.

NRG Response

NRG notes that for many of the items that Crowe Horwath cites, there was justification to support the selection of the vendor. In many cases, vendors were selected precisely due to cost effectiveness and speed of execution (e.g. one vendor offered a system integration solution between an EVSE and communications equipment that was similar to that vendor's existing product, ensuring quick development time and lower cost); in other cases, a vendor was selected due to being the sole provider of specialized equipment (e.g. a screen that was needed to modify a particular DC fast charger).

NRG affirms compliance on an ongoing basis. NRG has instructed EVgo to implement procurement procedures to ensure compliance with auditor recommendations. Generally, procurement of goods or services will undergo a competitive evaluation process targeting multiple potentially qualified vendors and/or an open RFI/RFP process. EVgo will maintain records regarding: (1) setting requirements and scope of work; (2) solicitations to multiple vendors; (3) response evaluation and/or scoring based on requirements. In other cases, such as for construction contractors, it may not be practical to engage in a lengthy competitive evaluation process, so there we will ensure that vendors continue to go through a qualification process (e.g. meeting the safety, insurance, and experience requirements of the project management team), along with the "selection criteria" described in Finding 9. Vendors will be scored and those not meeting minimum thresholds will be disqualified. Where multiple vendors may be qualified to work on any particular project, EVgo will bid out and competitively select the most qualified contractor based on its evaluation criteria. In cases where competitive bidding or evaluation is not possible, NRG will maintain records justifying its selection (e.g. specialty vendors, monopoly vendors like utilities, etc.).

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Finding 11

NRG failed to demonstrate compliance with Section 4(a)(vi)(1) of the Settlement Agreement. Specifically, based on our field review of 43 Freedom Station sites, we found that NRG did comply with two of the nine required Freedom Station equipment items. NRG did not install 1) customer service interfaces that includes a communications device for single use charging services, and 2) Way-finding. The Freedom Station scope required a Freedom Station to include these two equipment items.

NRG Response

As Crowe Horwath notes in Finding 11, NRG complied with all the Freedom Station equipment installation requirements except two outdated communications and signage obligations. In both cases, industry standards have evolved significantly since the initial Settlement negotiations concluded nearly a decade ago. With regard to way-finding, the bulk of EVgo's customers find their public charging locations through apps on smartphones, rendering specific signage obsolete, not to mention redundant where signage regarding EV charging is on specific parking spaces dedicated to charging. Additionally, certain site host partners expressed objections to prominent way-finding signage being installed on their property.

Similarly, the need for easy communication with customers has clearly been met through clearly marked contact information to the 24 hour customer call center and direct customer engagement through the EVgo app. 95% of Americans own a cell phone, with 77% of Americans having a smartphone³. Given that 92% of Californians had cell phones in 2013⁴, their ubiquity in the state has been achieved and can reasonably be expected to serve as communications interfaces with charging providers.

Finally, funds spent toward meeting these outdated requirements would divert funds from the Freedom Station savings event that will enable NRG and EVgo to install more than the 200 Freedom Stations anticipated in the Settlement agreement. NRG and EVgo strongly believe that the California driving public is better served by having more fast charging stations with the ability to communicate via app or phone than fewer stations with more expensive signage and communications equipment that also bring additional challenges.

NRG and EVgo intend to seek relief from the CPUC on these two requirements prior to conclusion of the Settlement.

³ <http://www.pewinternet.org/fact-sheet/mobile/>

⁴ <http://www.ppic.org/press-release/big-gains-in-californians-use-of-cell-phones-tablets-to-go-online/>

California Public Utilities Commission
 NRG Inc.
 Electric Vehicle Infrastructure Settlement Compliance

Finding 12

NRG failed to demonstrate compliance with Section 4(a)(iii) of the Settlement Agreement. Specifically, NRG has not yet met the Low Income PUMA area installation requirements in the LA Basin and can better document efforts NRG uses to reach this requirement in its Quarterly and Annual status reporting to the CPUC.

NRG Response

NRG affirms its understanding of the low-income PUMA requirement generally and the remaining work to meet the requirement in the LA Basin. NRG actively tracks the sites in its pipeline for “low-income PUMA” status and will ensure that the final site counts reflect that at least 20% of the sites are in low-income PUMAs.

Note that NRG’s Annual Reports do list the percentage of low-income PUMA sites on a geographical basis.

Year 4 report:

Table 3 | Low-income PUMA and CalEnviro Screen Freedom Stations, by geographic region

	Operational Sites	PUMA	CalEnviro Screen	PUMA %	CalEnviro Screen %
LA	73	12	15	16.4%	20.5%
SF	59	15	13	25.4%	22.0%
SD	14	4	3	28.6%	21.4%
SJV	15	4	4	26.7%	26.7%
CA- all	161	35	35	21.7%	21.7%

Year 5 report:

Table 3 | Low-income PUMA and CalEnviro Screen Freedom Stations, by geographic region

	Installed Sites	PUMA	CalEnviro Screen	PUMA %	CalEnviro Screen %
LA	94	18	20	19.1%	21.3%
SF	72	16	16	22.2%	22.2%
SD	19	4	3	21.1%	15.8%
SJV	15	4	4	26.7%	26.7%
CA- all	200	42	43	21.0%	21.5%

As requested, NRG will also list the percentage of low-income PUMA sites on a geographical basis in its quarterly reports going forward.