



off-peak hours. A breakdown of the proposed monthly charges for DEP and DEC was included as Attachment A to Duke's application. The length of the customer's contract period would range from three years to ten years, depending on customer specific situations. Duke did not state a limit on the number of customers who would be allowed to participate in the EVSE, and Duke did not state the anticipated cost of the EVSE.

On February 21, 2022, the Commission issued an Order Requiring Further Collaboration and Report on Proposed Phase II Pilots (Phase II Pilot Order). Based on changed circumstances discussed in the Order, the Commission directed Duke to continue working with the Electric Transportation Stakeholder Group (ETSG), and to refine and modify its Phase II Pilots to take into consideration the possibility of receiving direct funding under the Infrastructure Investment and Jobs Act (IIJA), H.R. 3684, 117th Cong. (2021), enacted on November 15, 2021, and/or other recently available sources of federal funds. In addition, the Commission directed Duke to file a report within 90 days updating the Commission on its progress on these directives.

On May 11, 2022, DEC and DEP filed a Joint Motion to Withdraw Customer Operated Electric Vehicle Supply Equipment Pilots from Phase II Pilot Proposals and to Hold Phase II Pilot Dockets in Abeyance (Joint Motion). Duke explained that it wishes to remove the EVSE Pilot from Commission consideration as a Phase II Pilot and, instead, quickly refile the EVSE for approval as a standalone commercial program. Duke contended that this would be appropriate because the EVSE differs from the Phase II Pilots in a number of significant ways, including: (1) it would be fully funded by participating customers that have voluntarily chosen to participate in the programs and, thus, the potential for IIJA funding does not impact the EVSE; (2) the EVSE complements the Companies' approved Make Ready Credit (MRC) programs and will complement the Companies' Electric Vehicle Managed Charging pilot programs if they are approved by the Commission;<sup>1</sup> (3) working together, the MRC and the EVSE could broaden the customer base that participates in future, innovative demand response pilots involving EV battery storage; (4) the EVSE tariffs did not evolve or extend from Phase I Pilots and, therefore, the Phase I Pilots will not be as informative to the EVSE as to the other Phase II Pilots.

In addition, Duke requested that the Commission

[h]old the dockets in abeyance until October 1, 2022, to enable them [Duke] to fully evaluate the impacts that changes in regulatory and economic policies and circumstances since the May 2021 Phase II Pilots filing may have on the Companies' proposed Phase II Pilots and whether those impacts compel the Companies to revise their Phase II Pilots.

Joint Motion, at 1.

In support of its request for an order holding the dockets in abeyance, Duke discussed several circumstances that have changed since the issuance of the Phase II Pilot Order. The circumstances include COVID impacts resulting in supply chain shortages

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<sup>1</sup> The Commission approved the Electric Vehicle Managed Charging pilot programs by Order issued in Docket Nos. E-2, Sub 1291 and E-7, Sub 1266 on June 24, 2022.

and bottlenecks that have hindered the Companies' ability to install EV chargers. Duke opined that because of these delays the data available from installation of chargers in the Phase I Pilots is insufficient to inform the Companies' evaluation, measurement and valuation (EM&V) efforts and potential modification of the Phase II Pilots.

Duke also explained that the Companies' usual distribution system expansion practices call for landowners to sign easements and releases of liability to receive electric service, and that landowners generally are willing to make such commitments because they need electric service. However, Duke has found that customers have been less willing to sign standard agreements to voluntarily host company ET assets. As a result, Duke is reworking the verbiage of its standard agreements to better fit the EV pilot structure. Nonetheless, the Companies stated that their installation of EV chargers is not expected to reach targeted levels until the latter part of 2022.

In addition, Duke cited uncertainties about how the IIJA may affect the Companies' funding, planning and designing of their EV offerings. Duke stated that the processes and eligibility criteria that the Department of Energy (DOE), will employ regarding the receipt and use of funds under the IIJA are still being developed. Duke further stated that the Federal Highway Administration (FHA) and other elements of the Department of Administration will play a significant role in the funding decisions. Moreover, the State's initial plan for use of IIJA funds, to which the Companies are key developmental contributors, will begin to shed light on infrastructure gaps that will remain after IIJA funding is exhausted. However, the State's plan is not due until August 2022, after which it must be reviewed by the FHA.

In conclusion, Duke stated that a comprehensive and detailed review of the Phase II Pilots is necessary to incorporate new state and federal laws and policies, including a review of the State's initial plan for use of the IIJA funds and evolving economic and regulatory circumstances. Duke stated that during the requested abeyance period the Companies would explore bringing forward additional EV related rate offerings to continue to provide different EV charging price signals to customers.

Finally, Duke stated that it consulted with the ETSG about the Joint Motion's contents, and that it discussed withdrawal of the EVSE with the Public Staff before filing the motion, and the Public Staff recommended the procedure of filing a motion.

## DISCUSSION AND CONCLUSION

Based on the foregoing and the record, the Commission is persuaded that the EVSE is better suited to operate as a standalone tariff than as a pilot program. As a result, the Commission concludes that DEC and DEP should be allowed to withdraw the EVSE from consideration as a Phase II pilot program and refile it as a standalone tariff.

With respect to Duke's request to "hold the dockets in abeyance," the Commission interprets Duke's motion as a request for more time to work on the directives of the Phase II Pilot Order rather than for an abeyance in activity on the Phase II Pilots. The typical meaning of "abeyance" is a suspension of activity. The tenor of Duke's Joint Motion is not that Duke wants to call a halt to investigating funding options and other aspects of the

Phase II Pilots, but that it requires more time to study the options available, some of which options are still being developed in processes over which Duke has no control. Moreover, the Commission's Phase II Pilot Order was not intended to set a 90-day limit on Duke's finalization and implementation of the Phase II Pilots but, rather, to give Duke guidance on pursuing those efforts and to require a report on the status of those efforts after 90 days. As a result of the circumstances and factors cited by Duke in its Joint Motion, the Commission concludes that there is good cause to extend the time for Duke to continue working on developing alternative funding sources and the details of its proposed Phase II Pilots, and to require Duke to file a report on its progress by October 3, 2022.

IT IS, THEREFORE, ORDERED as follows:

1. That DEC and DEP shall be, and are hereby, allowed to withdraw their proposed Customer Operated Electric Vehicle Supply Equipment pilot programs from consideration as Phase II pilot programs;

2. That within 30 days of the date of this Order DEC and DEP shall file proposed Electric Vehicle Supply Equipment tariffs for the Commission's consideration;

3. That DEC and DEP shall continue to investigate options for planning, designing, and implementing their remaining Phase II Pilots in ways that take into consideration the possibility of receiving funding under the IIJA and other initiatives, including pursuing direct funding for the Phase II Pilots, and shall continue working with the ETSG to refine the proposed Phase II Pilots, as directed in the Commission's Phase II Pilot Order; and

4. That on or before October 3, 2022, DEC and DEP shall jointly file a report updating the Commission on the status of their progress towards meeting the requirements of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of July, 2022.

NORTH CAROLINA UTILITIES COMMISSION



Erica N. Green, Deputy Clerk