

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION  
DOCKET NO. M-100, SUB 164**

**In the Matter of:** )  
**Consideration of the Federal Funding** ) **NCSEA’S REPLY COMMENTS**  
**Available Under the Infrastructure** )  
**Investment and Jobs Act**

**NCSEA’S REPLY COMMENTS**

Pursuant to the North Carolina Utilities Commission’s (“Commission”) February 1, 2022 Order Allowing Comments Regarding Federal Funding for Utility Service in North Carolina (“Order”), the North Carolina Sustainable Energy Association (“NCSEA”) hereby offers the following reply comments on the Commission’s request for comments regarding appropriate actions for the Commission to take to facilitate receipt and deployment of federal funding made available by the Infrastructure Investment and Jobs Act, H.R. 3684, 117<sup>th</sup> Cong. (2021) (“IIJA”).

Due to the long lead-time likely involved in receiving federal funding under the IIJA, NCSEA believes such funding should be utilized to achieve North Carolina’s long-term goals, while the Commission continues to progress and, as necessary, update programs which are already underway, such as the Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (collectively, “Duke Energy”) “make-ready” programs to allow for private entities to install electric vehicle charging equipment. In addition, the Commission can ensure that federal funding is appropriately utilized to meet the state’s carbon emissions reduction goals in a least-cost manner and proceed with electric vehicle (“EV”) specific rate designs pursuant to amendments to the Public Utility Regulatory Policies Act of 1978 (“PURPA”).

**I. COMMISSION CONSIDERATION OF FEDERAL FUNDING FOR TRANSMISSION AND DISTRIBUTION SYSTEM UPGRADES**

To meet the clean energy goals in Session Law 2021-165 (“HB951”), transmission and distribution system infrastructure must be upgraded to enable a substantial number of renewable energy resources to interconnect to the electric grid on an accelerated timeline.<sup>1</sup> NCSEA is particularly interested in seeing investments made to transmission and distribution system infrastructure to benefit communities in which utilities have historically under-invested, such as in rural areas, communities of color, which are often disproportionately exposed to generation resources with higher levels of pollution,<sup>2</sup> and low-income communities which experience higher rates of energy-burden. The IJA prioritizes providing financial assistance to both rural communities<sup>3</sup> and low-income and communities of color.<sup>4</sup> Investing federal funds in transmission and distribution system upgrades that will enable clean energy resources to be deployed more quickly and on a greater scale than the grid could currently support will help ensure the statutory requirements in HB951 for least-cost planning are met and will allow a clean energy

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<sup>1</sup> See *Duke Energy Carolinas, LLC 2020 Integrated Resource Plan*, Docket No. E-100, Sub 165, at 16-17 (September 1, 2020); *Duke Energy Progress, LLC 2020 Integrated Resource Plan*, Docket No. E-100, Sub 165, at 16-17 (September 1, 2020).

<sup>2</sup> See Tessum, C. W., Paoletta, D. A., Chambliss, S. E., Apte, J. S., Hill, J. D., & Marshall, J. D., *PM<sub>2.5</sub> pollutants disproportionately and systemically affect people of color in the United States*, *Science Advances* (2021) (available online at <https://www.science.org/doi/10.1126/sciadv.abf4491>).

<sup>3</sup> U.S. White House, *Bipartisan Infrastructure Law Rural Playbook* (April 2022) (available online at <https://www.whitehouse.gov/wp-content/uploads/2022/04/BIL-Rural-Playbook-.pdf>) (“The Bipartisan Infrastructure Law will invest billions of dollars in rural communities across the country. Supporting Americans living in rural areas remains a top priority for the Biden Administration, and the Bipartisan Infrastructure Law delivers on the President’s promises to work toward delivering affordable, high-speed internet, safe roads and bridges, modern wastewater systems, clean drinking water, reliable and affordable electricity, and good paying jobs in every rural community.”)

<sup>4</sup> Exec. Order No. 14052, 86 C.F.R. 64335 (2021) (The President’s Executive Order on Implementation of the IJA directs implementing agencies to “invest[] public dollars equitably” in accordance with the Biden administration’s Justice40 Initiative, to ensure that 40% of federal investments in climate and clean energy benefit disadvantaged communities) (available online at <https://www.govinfo.gov/content/pkg/FR-2021-11-18/pdf/2021-25286.pdf>).

transition that is inclusive of the communities disparately impacted by both higher electricity rates and carbon pollution. One important way the Commission can ensure Duke Energy meets the least-cost requirements of HB951 is by ensuring that no utility is able to recover from ratepayers for any investments made with federal funding.<sup>5</sup>

## **II. COMMISSION CONSIDERATION AND IMPLEMENTATION OF EV-SPECIFIC RATES IN COMPLIANCE WITH PURPA**

As noted in NCSEA’s initial comments, NCSEA urges the Commission to move forward with considering a managed charging program and to pursue other avenues for enabling a robust electric vehicle marketplace, such as authorizing Duke Energy’s Make Ready Credit Program,<sup>6</sup> while private-sector companies, as market participants, simultaneously pursue pathways for federal funding under the IIJA by working directly with implementing agencies such as the North Carolina Department of Transportation. Additionally, ChargePoint, Inc. and EVgo Services, LLC both draw attention in initial comments to the amendments to PURPA enacted by the IIJA.<sup>7</sup> The PURPA amendments direct states to consider establishing rates that will promote affordable and equitable electric vehicle charging infrastructure, improve customer’s charging experience, accelerate third-party investment in electric vehicle charging, and recover the marginal costs of delivering electricity.<sup>8</sup> NCSEA supports the development of EV-specific rate designs that encourage efficient use of the grid and ensure customers realize cost savings.<sup>9</sup>

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<sup>5</sup> See *Initial Comments of CIGFUR I, II, & III*, Docket No. M-100, Sub 164, at 3 (March 15, 2022).

<sup>6</sup> *Order Approving Make Ready Credit Programs with Conditions*, Docket Nos. E-2, Sub 1197 and E-7, Sub 1195 (February 18, 2022)

<sup>7</sup> *Initial Comments of EVgo Services LLC*, Docket No. M-100, Sub 164, at 4-5 (March 15, 2022); *Initial Comments of ChargePoint, Inc.*, Docket No. M-100, Sub 164, at 9 (March 15, 2022).

<sup>8</sup> IIJA § 40431(a).

<sup>9</sup> See, e.g., *Direct Testimony of Justin R. Barnes on Behalf of North Carolina Sustainable Energy Association*, Docket No. E-7, Sub 1214 (February 18, 2020).

Such rates will help facilitate the development of a competitive market for electric vehicle charging services. NCSEA agrees with both ChargePoint, Inc. and EVgo Services, LLC that the Commission should initiate a separate proceeding in which to consider EV-specific rate designs pursuant to the PURPA amendments. As part of the Comprehensive Rate Design stakeholder process, stakeholders presented EV-specific rate designs and principles and provided feedback on Duke Energy's proposed EV rate designs.<sup>10</sup> Any proceeding wherein the Commission considers EV-specific rate designs should be informed by the stakeholder feedback that has been generated by the Comprehensive Rate Design process.

### **III. CONCLUSION**

The Federal Highway Administration has issued guidance to States with respect to the National Electric Vehicle Infrastructure Formula Program.<sup>11</sup> The Environmental Protection Agency ("EPA") has issued an implementation memorandum with guidance for States on how the EPA will administer Clean Water and Drinking Water State Revolving Funds.<sup>12</sup> The Department of Energy ("DOE") has issued multiple Requests for Information for new and existing DOE programs impacted by the IIJA.<sup>13</sup> As implementing agencies continue to develop programs for receipt and deployment of IIJA funds, NCSEA will

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<sup>10</sup> See *Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Rate Design Study Quarterly Report*, Docket Nos. E-7, Sub 1214 and E-2, Sub 1219, at 9 (October 21, 2021); *Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Rate Design Study Quarterly Status Report*, Docket Nos. E-7, Sub 1214 and E-2, Sub 1219, at 4-7 (January 21, 2022).

<sup>11</sup> Federal Highway Administration, *The National Electric Vehicle Infrastructure (NEVI) Formula Program Guidance* (February 10, 2022) (available online at [https://www.fhwa.dot.gov/environment/alternative\\_fuel\\_corridors/nominations/90d\\_nevi\\_formula\\_program\\_guidance.pdf](https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/nominations/90d_nevi_formula_program_guidance.pdf)).

<sup>12</sup> U.S. EPA Office of Water, *Implementation of the Clean Water and Drinking Water State Revolving Fund Provisions of the Bipartisan Infrastructure Law* (March 8, 2022) (available online at [https://www.epa.gov/system/files/documents/2022-03/combined\\_srf-implementation-memo\\_final\\_03.2022.pdf](https://www.epa.gov/system/files/documents/2022-03/combined_srf-implementation-memo_final_03.2022.pdf)).

<sup>13</sup> See the DOE's Bipartisan Infrastructure Law Program & Funding Opportunity Announcements online at <https://www.energy.gov/bil/bipartisan-infrastructure-law-programs> (last visited on April 13, 2022)

continue to monitor the details of federal and state funding programs which will further inform our positions on appropriate actions for both utilities and the Commission to take with respect to receipt and deployment of such funding.

Respectfully submitted, this the 14<sup>th</sup> day of April, 2021.

/s/ Benjamin W. Smith  
Benjamin W. Smith  
Associate General Counsel  
NCSEA  
N.C. State Bar No. 48344  
4800 Six Forks Road  
Suite 300  
Raleigh, NC 27609  
919-832-7601 Ext. 111  
ben@energync.org

**CERTIFICATE OF SERVICE**

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing filing by hand delivery, first class mail deposited in the U.S. mail, postage pre-paid, or by email transmission with the party's consent.

This the 14th day of April, 2021.

/s/ Benjamin W. Smith  
Benjamin W. Smith  
Associate General Counsel  
NCSEA  
N.C. State Bar No. 48344  
4800 Six Forks Road  
Suite 300  
Raleigh, NC 27609  
919-832-7601 Ext. 111  
ben@energync.org