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January 5, 2023

VIA ELECTRONIC FILING

Ms. A. Shonta Dunston
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

Re: Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Joint Reply Comments on Proposed Electric Vehicle Supply Equipment Program
Docket Nos. E-7, Sub 1195 and E-2, Sub 1197

Dear Ms. Dunston:

Enclosed for filing in the above-referenced dockets is Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Joint Reply Comments on Proposed Electric Vehicle Supply Equipment Program.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Kendrick C. Fentress

Kendrick C. Fentress

Enclosure

c: Parties of Record

STATE OF NORTH CAROLINA
UTILITIES COMMISION
RALEIGH

DOCKET NO. E-7, SUB 1195
DOCKET NO. E-2, SUB 1197

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Application by Duke Energy Carolinas, LLC, and Duke Energy Progress, LLC, for Approval of Proposed Electric Transportation Pilot	))))))	**JOINT REPLY COMMENTS BY DUKE ENERGY CAROLINAS, LLC AND DUKE ENERGY PROGRESS, LLC ON PROPOSED ELECTRIC VEHICLE SUPPLY EQUIPMENT PROGRAM**

NOW COME Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP", collectively, the "Companies") to submit these Reply Comments in accordance with North Carolina Utilities Commission's ("Commission") August 23, 2022, *Order Requesting Comments on Customer-Operated Electric Vehicle Supply Equipment Tariffs* and November 30, 2022 *Order Granting Extension of Time* issued in the above-referenced dockets. These Reply Comments are in response to the Initial Comments filed by the Public Staff – North Carolina Utilities Commission ("Public Staff"), EVgo Services, LLC ("EVgo"), ChargePoint, Inc. ("ChargePoint") and North Carolina Sustainable Energy Association ("NCSEA").

In support of these Reply Comments, the Companies respectfully show the Commission the following:

I. BACKGROUND AND EXECUTIVE SUMMARY

As electric vehicle adoption in North Carolina accelerates, many new programs and services will be needed to create the essential infrastructure to support this rapid transition. The Electric Vehicle Supply Equipment ("EVSE") tariff program ("EVSE Program" or "Program") is designed to provide interested customers with an option to have a Company-owned electric vehicle ("EV") charger that the Companies install and maintain for the customer to further facilitate adoption of EV charging technology in North Carolina. The EVSE Program is an especially valuable option for underserved customers, such as those in multi-family residences or small businesses, because it enables easier access to the latest technology without the burden of upfront cost or maintenance. Charging infrastructure is novel for many customers, and the Companies providing and maintaining the EV charger for a monthly fee is a reassuring option. Because the Program is voluntary, customers may evaluate the benefits of the Companies' offers and decide whether to pursue them or choose from existing options with no utility involvement. When coupled with the recently-approved Make-Ready Credit program, the voluntary EVSE program will help interested customers transition to EV ownership and use. The EVSE Program also lays the groundwork for the Companies to offer managed charging programs to participating customers, thereby helping to offset costs of EV adoption and to enable grid readiness.

Given the State's policy to promote EV adoption, recently-enacted North Carolina General Statutes, and Commission precedent, the Public Staff's opposition to approval of the EVSE Program is both perplexing and unjustified. The Public Staff appears confused about several aspects of the Program and rehashes old and previously-rejected arguments on whether the public utility should own EV charging infrastructure. Regardless of the

status of that issue in other jurisdictions, this issue has been settled in North Carolina. Both N. C. Gen. Stat. § 62-3(23)(n) and the recently-enacted § 62-133.16(c)(2) encourage public utility participation in owning EV chargers for customers to use in charging electric vehicles. Additionally, the Commission has already recognized the role that the public utility may play in encouraging EV adoption in its *Order Approving Electric Transportation Pilot, in Part,* issued in these dockets on November 24, 2020 ("EV Phase I Order"). The Companies already own and operate public charging infrastructure in North Carolina, and Duke Energy owns and operates public charging infrastructure in other states. The EVSE Program builds on this experience but with the distinction that the Program is largely focused on private charging infrastructure, at the customer's option. Private charging occurs at the place of business or home and will be the primary source of charging for the majority of EVs. The EVSE Program is designed to accelerate deployment of EV chargers and incent competition among manufacturers by empowering customers to not only install EV chargers, but also to select their preferred charger. The EVSE Program falls squarely within the traditional utility model and mirrors programs approved both by this Commission and in other jurisdictions.

II. OVERVIEW OF THE EVSE PROGRAM

Similar to the Companies' already approved Outdoor Lighting Programs[1], the costs for this Program are designed to be fully funded by participating customers. Non-participating customers do not bear the costs for operation of the Program as designed. As described in the Companies' Application, the Program will enable customers *at their*

[1] When referring to the Companies' Outdoor Lighting Programs, the Companies are referring to: Schedule ALS-77, Schedule SLS-77, and Schedule SLS-77 (Residential Subdivisions and Neighborhoods), approved in Docket No. E-2, Sub 1294 and Schedule OL and PL, approved in Docket No. E-7, Sub 1246.

option to participate in an affordably priced tariff service, under the Commission's oversight, where the Companies would own and maintain (including replacements and repairs as necessary) the EV charger throughout the duration of the agreement with the customer. The EVSE Program is essentially a charger "rental" program that provides participating customers—residential and non-residential—with the ability to select a charger to be installed for a "all-in" flat amount each month, which includes maintenance. The Program will help customers overcome barriers to EV adoption by making EV chargers more easily accessible to those customers that are concerned with the complexity and responsibility of maintaining/repairing as necessary the EVSE themselves, the upfront expenses of purchasing EVSE, or both. The Companies will own and install the necessary hardware, removing the capital barrier for customers who need to obtain EVSE, and participating customers will benefit from the Companies' expertise in configuring charger power levels, quantities, features, and functions. Participating customers may choose among multiple vendor options and a wide product selection. Once installed, participating customers will operate the charging station as they desire with no interference from the Companies in terms of how participants choose to control access or assess fees for EVSE use. Notably, upon review of the structure of the Program and associated requested rates, the Public Staff found them to be "reasonable."[2]

[2] Public Staff Comments at 9.

III. REPLY TO PUBLIC STAFF'S COMMENTS REGARDING THE EVSE PROGRAM

A. Contrary to the Public Staff's contentions, the Program is not an unnecessary extension of the regulated utility franchise and offerings; instead it encourages EV adoption consistent with North Carolina Law and State Policy.

Although the Public Staff found the structure and requested rates of the Program to be reasonable, it nonetheless argues that the Commission should disapprove the EVSE Program because it represents an unnecessary expansion of the utility model or an expansion of a utility's traditional role in the industry.[3] Despite the Public Staff's "questions"[4] on who may own EV infrastructure in meeting the State's decarbonization goals, North Carolina law and North Carolina state policy expressly support DEC and DEP implementing EV programs where they own and operate the EV chargers.

The Public Staff notes in its Comments that "it is for the Legislature, and not for a court or the Commission" to determine the scope of the public utilities' regulated activities.[5] The Public Staff then inexplicably neglects to cite recent legislation that provides for and encourages public utility participation in the transforming electric transportation market. First, in 2019, when the General Assembly first mandated that persons who used electric charging stations to resell electricity to the public for consumption were not public utilities, it could have also then excluded electric public utilities from that market or otherwise limited the electric public utility's ability to use

[3] Public Staff Comments at 10.
[4] *Id.*
[5] Public Staff Comments at 25, citing *State ex rel. Utils. Comm'n. v Lumbee River Elec. Membership Corp.*, 275 N.C. 257 (1967).

electric charging stations to sell electricity to the public for consumption. [6] It did just the opposite. Although unmentioned in the Public Staff's Comments, N.C. Gen. Stat. § 62-2(23)(n) expressly allows for electric power suppliers[7] to use electric vehicle stations to furnish electricity for charging electric vehicles, as provided in the following:

> Nothing in this sub-subdivision shall be construed to limit the ability of an electric power supplier to use electric vehicle charging stations to furnish electricity for charging electric vehicles. Any increases in customer demand or energy consumption associated with transportation electrification shall not constitute found revenues for an electric public utility.

The Public Staff's recommended limitation on the electric public utility's ability to participate in the growing EV charging market simply is not included in this statute. The North Carolina Court of Appeals has held that, when interpreting a statute, a court "must give effect to the plain meaning as long as the statute is clear and unambiguous." *State ex rel. Utils. Comm'n v. Envir. Defense Fund*, 214 N.C. App. 364, 366, 716 S.E.2d 370, 372 (2011) (citations omitted). The court cannot "'delete words used or insert words not used' in a statute." *State ex rel. Utils. Comm'n. v. N.C. Sustainable Energy Ass'n*. 254 N.C. App. 761, 764, 803 S.E.2d 430, 433 (2017) (citations omitted). Moreover, by expressly directing that "[a]ny increases in customer demand or energy consumption associated with transportation electrification shall not constitute found revenues for an electric public utility", the General Assembly deliberately removed a barrier – found revenues offsetting

[6] *See* 2019 N.C. ALS 132 , 2019 N.C. Sess. Laws 132 , 2019 N.C. Ch. 132 , 2019 N.C. HB 329. Indeed, if owning EV chargers for the purposes of selling electricity to charge electric vehicles were truly considered outside of the traditional "utility model", as the Public Staff contends, N.C. Gen. Stat. § 62-3(23)(n) would not have been necessary. *Cf.* N.C. Gen. Stat. § 62-2(b) where the General Assembly listed specific competitive telecommunications services, such as broadband, that were not subject to Commission authority.

[7] "Electric power supplier" is defined in N.C. Gen. Stat. § 62-133.8(a)(3) as including "electric public utilities."

net lost revenues recovered in DEC's and DEP's Demand-side Management ("DSM")/Energy Efficiency ("EE") Riders – to electric public utilities participating in the electrification of the transportation market.

Also conspicuously absent from the Public Staff's Comments is any mention of HB 951's additional codification of the State's policy to incent utilities to encourage EV adoption. In the recently-enacted N.C. Gen.§ 62-133.16(c)(2), which authorizes decoupling mechanisms as part of performance-based regulation, the General Assembly expressly stated that the electric public utility may "exclude rate schedules or riders for electric vehicle charging, including EV charging during off-peak periods on time-of-use rates, from the decoupling mechanism *to preserve the electric public utility's incentive to encourage electric vehicle adoption*." (emphasis added.) In sum, with these two recent additions to Chapter 62, the General Assembly has authorized and encouraged robust public utility participation in encouraging EV adoption under the Commission's oversight without the "dividing line" limitation that the Public Staff summarily imposes. *See In re Town of Smithfield*, 230 N.C. App. 252, 255, 749 S.E.2d 293, 296 (2013) (North Carolina Court of Appeals explaining that "Where the language of a statute is clear and unambiguous, there is no room for judicial construction and the courts must give it its plain and definite meaning, and are without power to interpolate, or superimpose, provisions and limitations not contained therein.").

The Program also aligns with North Carolina state policy. In 2018, before the Companies filed their EV Phase I, Executive Order No. 80, North Carolina's Commitment to Address Climate Change and Transition to a Clean Energy Economy ("E.O. 80") set ambitious goals for the expansion of EVs in North Carolina. Since the Commission issued

its EV Phase I Order, state policy has continued to evolve, adopting even higher EV adoption goals and in no way limiting the role that public electric utilities may play in this transformation. Both E.O. 246[8] and E.O. 271[9] have been signed by Governor Roy Cooper since the time that this Program was originally filed with the Commission. In addition to requiring the creation of a Clean Transportation Plan, which the Companies have supported through active development participation and feedback, E.O. 246 sets a target of 1.25 million electric vehicles in North Carolina by the end of 2030. With only 44,000 EVs registered in the Companies' North Carolina service territories as of the end of the third quarter of 2022, meeting the goals of E.O. 246 will require North Carolina utilities to participate in enabling and simplifying EV adoption. The EVSE Program is plainly such an enabler. The Companies will similarly support state agencies in their work to respond to E.O. 271, which targets zero-emission medium- and heavy-duty vehicles, while calling for emphasis in communities disproportionately impacted by transportation-related air pollution. Sophisticated fleet operators in these communities may have the wherewithal to make the transition, but smaller scale operators of larger vehicles may require the flexible enablement that the EVSE Program brings. In summary, the State of North Carolina is making strides to reduce the carbon impact of its transportation sector, and the EVSE Program is a way to enable early progress.

The Public Staff offers that one solution to its concerns of DEC and DEP unduly infringing upon the competitive marketplace is simply to bar the public utility from competing in owning EV chargers "behind the meter" and to instead have an unregulated

[8] E.O. 246, North Carolina's Transformation to a Clean Equitable Economy, Jan. 7, 2022.
[9] E.O. 271, Growing North Carolina's Zero Emission Vehicle Market, Oct. 25, 2022.

affiliate of the Companies operate the EVSE Program.[10] (Again, the Public Staff mistakenly appears to believe that the Companies' costs for the EVSE Program are paid by all ratepayers. [11] This is not so. The Program is designed so that voluntary participants pay for the costs of the EVSE Program, not all ratepayers.) The Companies disagree with the Public Staff's recommendation and believe that the Commission continues to have a role to play in overseeing the Companies' participation in this still-developing market. Deregulation of the communications markets provides a helpful comparison. When the communications markets were deregulated, incumbent telecommunications companies were not excluded from the market. In fact, this competitive policy was adopted by the General Assembly in N.C. Gen. Stat. § 62-110(f1). Rather, subject to Commission oversight, they were committed to compete for customers along with new market entrants. In many cases, new entrants leased infrastructure that resulted in the creation of a wholesale market for telecommunications companies and a large number of reseller competitors at the retail level. These new wholesale markets created a new revenue stream for telecommunications companies and attracted new competitors into the market. In most areas today, the communications markets appear to be robustly competitive.

Another example is the Companies' Outdoor Lighting programs, which, as the Public Staff readily acknowledges,[12] served as a model for the EVSE Program. The Outdoor Lighting Programs allow customers to essentially rent outdoor lighting facilities for a fixed monthly charge that includes maintenance. The Companies compete with other third parties to offer this service to customers; yet the Companies are subject to

[10] Public Staff Comments at 29.
[11] *Id*.
[12] Public Staff Comments at 10.

Commission authority. Thus, the structure proposed under the EVSE Program represents familiar territory for the Commission, Companies, and their customers.

Based on the foregoing, the Companies believe that the North Carolina General Statutes demonstrate that the Commission is to play an important role in implementing the state policy to transition to electric transportation.[13] Accordingly, the Companies filed their proposed EVSE tariffs for Commission approval and oversight.

B. **The EVSE Program is consistent with well-established utility practice of placing utility-owned equipment on the "customers' side of the meter" and does not represent an unprecedented expansion of the utility role**.

Although the Public Staff cautions that the EVSE Programs "step over the dividing line and encroach onto the customer side of the meter and into unregulated territory",[14] placing utility-owned electrical equipment in customer homes is not a new and novel practice. The crux of the Public Staff's argument is that the EVSE is "behind the meter" and should be, thus, exempt from regulation by this Commission. This argument is flawed, however. First, while the EVSE is technically located "behind the meter," a customer's EVSE can act essentially *as the meter* for a customer's EV related load. The customer usage associated with an EVSE is specifically limited to charging the EV. With the development of managed charging rates, an EVSE may have a specific tariffed rate applicable to the customer usage from the EVSE/ EV charging. For example, in the recently approved Managed Charging pilot, customers pay a specific monthly amount for charging and usage associated with EVSE that is subtracted from the entire home's

[13] In contrast, a regulatory model with Commission oversight was expressly prohibited for broadband deployment. N.C. Gen. Stat. §62-2(b1).
[14] Public Staff Comments at 30.

monthly usage.[15] Managed charging is a critical piece of the Companies' approach to incenting customer behavior with respect to charging EVs to address growth in the EV market. As the Commission recently noted in its *Order Adopting Initial Carbon Plan and Providing Direction for Future Planning*, "load growth associated with EVs has the potential to reduce system average cost and possibly lead to more optimal system operation at times."[16] The EVSE Programs are part of a suite of initiatives, which include the Managed Charging Pilots and the Make-Ready Credit programs, that are ultimately intended to foster customer adoption of EVs while encouraging EV charging to optimize system operation.

Next, the placement of equipment "behind the meter" concept has been utilized safely and reliably across multiple program formats in this jurisdiction. For example, in North Carolina alone, the Companies have installed, and now support, load-control devices in approximately 385,000 customer homes under EE/DSM programs.[17] Additionally, under the Companies' On-Site Generation Service ("OSG") Programs, the Companies own, install, operate, and maintain a generator "behind-the-meter" for eligible customers.[18] The OSG Programs use the Companies' expertise to provide safe and reliable backup generation services. Finally, the Companies offer an "Extra Facilities" program

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[15] *Order Approving Electric Vehicle Managed Charging Pilot Programs*, Docket Nos. E-2, Sub 1291 and E-7, Sub 1266, June 24, 2022.

[16] *Order Adopting Initial Carbon Plan and Providing Direction for Future Planning*, Docket No. E-100, Sub 179, issued Dec. 30, 2022, at 108.

[17] *See e.g., Order Approving Program*, Docket No. E-2, Sub 927, issued Oct. 14, 2008, (approving program for DEP to install load control switches at customers' premises to control electric central air conditioning and the air conditioning portion of electric heat pumps remotely throughout DEP's control area).

[18] *See e.g., Order Granting Waiver and Requiring Customer Notice*, Docket No. E-7, Sub 692, issued March 10, 2009 (approving program for DEC to provide stand-by diesel generators to non-residential customers. DEC would own all generation and interconnection equipment and would operate the equipment at its sole discretion.)

under which the Companies install and maintain certain equipment "behind-the-meter" for the customer's benefit. As "Extra Facilities," the Companies may install a primary meter and certain distribution facilities between the primary meter and the customer's facility. The Companies then maintain those facilities for the customer, who makes formulaically determined, structured payments under the program tariff. In each of these scenarios, the Companies own, install, and maintain electrical equipment "behind-the-meter" in Commission-approved programs that remove challenges for customers and/or enable grid management. As such, the Public Staff's concern over the "behind-the-meter" aspects of EVSE is misplaced.

C. **The Public Staff's concerns that the EVSE Program could obstruct the private unregulated market from expansion and innovation are unfounded; the EVSE Program is designed to foster competition.**

Even as the Public Staff readily acknowledges that utility ownership of this infrastructure could enhance EV adoption given the utility's expertise, capital resources, and its willingness to take on upfront costs, it still surmises that the utility could also obstruct the private unregulated market from expansion and innovation.[19] In fact, the EVSE Program is intentionally designed to foster competition. The charging hardware and networks to be deployed will originate from existing (or future) market players. The Companies are not attempting to create their own EV charging hardware or network. Importantly, the program removes barriers to EV adoption while allowing customers to choose from multiple vendor options and a wide product selection. This means that the varying features, sizes, and power levels of chargers and networking software are evaluated

[19] Public Staff Comments at 10.

by customers for their specific needs. Furthermore, the Companies do not dictate the pricing that customers pay for these chargers. Rather, the market price flows through to the customers under the tariff, which provides natural incentives for vendors to provide competitive pricing. Additionally, the ability of customers to "rent" chargers, rather than purchase, provides a broader base of customers access to charging stations—thereby eliminating certain barriers to expanding the overall size of the market. This has historically been demonstrated through the Outdoor Lighting program. By giving customers another less capital and maintenance intensive option, more customers choose to install outdoor lighting, thus growing the market for lighting suppliers. The concept for the EVSE program is identical.

The EVSE Program also promotes deployment of infrastructure to support the growing number of EVs purchased and provides customers with complete decision-making authority on what EV charging technology is best for them. Importantly, the EVSE Program is a voluntary program and does nothing to change a customer's existing ability to buy or contract directly for an EV charger. The EVSE Program provides participating customers with the assurance of knowing that their local utility—with expertise in safely and reliably delivering power to their home and now vehicle—is *available* to be a partner in removing a capital burden, uncertainty, technology risk and maintenance hassle, while still providing customers control over their hardware choices. As such, the EVSE Program also reflects recent stakeholder recommendations, which encourage utility involvement in the EV space. In addition to being well-suited for residential customers, the EVSE program, coupled with the already approved Make Ready Credit program, is ideal for the multifamily and small business segments who have been underserved by the current EV charging services

available to them and who may benefit from the Companies' expertise in configuring charger quantities, features, and functions.

The Companies' knowledge of their grids, their electrical components, and the load they serve is unmatched. In this field, the Companies are the experts, and customers will benefit from the option of having the Companies own, install, and maintain EV chargers. As an added safety measure, customers under the EVSE Program would undergo the standard process utilized when all new load is added to the system. Nonetheless, customers who are comfortable proceeding without the Companies' involvement remain free to select a vehicle charger and installer of their choice.

Finally, the Program provides value in that it will give the Companies the opportunity to better offer customers current and future managed charging options, such as TOU rates, off peak charging and EV demand response programs. Managed charging is a key component in grid readiness for growth in transportation electrification, and the need for the utility to be engaged in private customer EV charging is without question.

D. **The Matters Cited by the Public Staff Are From Jurisdictions that Are Not Subject to North Carolina Law and Policies, and They In No Way Compel this Commission to Disapprove the EVSE Program**.

The Public Staff includes a list of both resolved *and unresolved* matters in support of its argument that other jurisdictions may be "cautious of utilities' involvement in the EVSE market and reluctant to allow ownership thereof."[20] First, the Public Staff cites unresolved, ongoing matters in programs in Texas and South Carolina. With no Commission ruling on those programs, they hardly represent benchmarks in the industry.

[20] Public Staff Comments at 10.

The Public Staff also refers to decisions on rate-based public charging owned by the utility in Virginia[21] and New Jersey.[22] This Commission has already expressly authorized the Companies to offer similar programs. In the EV Phase I Order, the Commission approved the Companies' ownership of 40 fast charging stations at 20 sites, 160 Level 2 EV chargers at public locations and 80 L2 EV chargers at multifamily locations.[23] Thus, the relevance of the Public Staff's citations to these matters is simply unclear, when the EVSE Program largely focuses on privately-controlled charging infrastructure operated by, and *funded by*, the participating customer. The EVSE Program involves an EV charger in a single-family home or EV chargers used to charge a business's delivery vehicles at its warehouse. Utility-operated charging infrastructure, which is publicly accessible and rate-based, is not at issue in this proceeding.

Moreover, in the New Jersey matter cited by the Public Staff, the Board of Public Utility ("BPU") staff recommended that "the Board weigh these considerations to ensure that private investment is preferred over ratepayer investment, where possible, but also keep in mind the fierce urgency of meeting our climate goals."[24] In the two years since these recommendations were made on utility-ownership of publicly available, rate-based EV charging infrastructure in New Jersey, North Carolina has codified its own ambitious decarbonization goals in House Bill 951. Thus the North Carolina economic and regulatory framework regarding EV adoption and climate change likely differs from New Jersey's.

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[21] SCC Case No. PUR-2019-00154, Final Order (March 26, 2020).
[22] BPU Docket No. QO20050357: *Order Adopting the Minimum Filing Requirements for Light-Duty, Publicly-Accessible Electric Vehicle Charging* (Sep. 23, 2020, revised Oct. 29, 2020) at 12, *available at* https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2109188 ("New Jersey EV Order").
[23] EV Phase I Order at 17-22.
[24] New Jersey EV Order at 12, *available at* https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2109188 .

Awaiting competitive markets alone to offer EV charging in homes and small businesses is not consistent with North Carolina's goals.

The Public Staff also cites examples where utilities have received approval to implement programs that are very similar to the EVSE program. In the Wisconsin matter cited by the Public Staff, the Commission approved the utility's proposed program, stating that it "fully supports the principle of holding non-participating ratepayers harmless with new utility programs that create optional products in which customers can voluntarily participate and agree to pay all costs associated with the revenue requirements."[25] The Companies' EVSE Program is aligned with the Wisconsin Commission's "hold harmless" finding here. Additionally, although uncited by the Public Staff in its comments, the Kentucky Public Service Commission approved a Louisville Gas & Electric and Kentucky Utilities Company program whereby they offer Option EVSE, which enables the utility to install, own, and maintain a Level 2 charging station for a monthly service fee that the non-residential customer would pay over a five-year agreement.[26] Finally, the Indiana Utilities Regulatory Commission has recently approved a program nearly identical to the EVSE Program[27]. Based upon the decisions described in this paragraph, the Indiana decision was hardly "an anomaly."[28]

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[25] Application of North States Power Company – Wisconsin, as an Electric Public Utility, for Approval of Electric Vehicle Home Programs, Final Decision, Docket No. 4220-TE-104, July 16, 2020 at 11-12, *available at* viewdoc.aspx (wi.gov).

[26] *In the Matter of Application of Louisville Gas and Electric Company and Kentucky Utilities Company to Install and Operate Electric Charging Stations in Their Certified Territories, for Approval of An Electric Supply Equipment Rider, An Electric Vehicle Supply Equipment Rate, an Electric Vehicle Charging Rate, Depreciation Rate, and For A Deviation From the Requirements of Certain Commission Regulations*, Order, Case No. 2015-003355, *available at* 20160411_PSC_ORDER.pdf (ky.gov).

[27] Utility Regulatory Commission Cause No. 45616, Order of the Commission (June 1, 2022).

[28] Public Staff Comments at 23.

In sum, the Public Staff's citations fail to establish any kind of universal agreement on the question of EVSE ownership in circumstances matching the Companies' proposed EVSE Programs.. Instead, they collectively demonstrate that different jurisdictions may have different statutory frameworks, policies, and economic and regulatory considerations that may influence their determinations on EV charger ownership**.**

E. The EVSE Program includes a separate rate structure to include safeguards to ensure costs are not shifted to non-participants.

The Public Staff also expresses concerns about the EVSE Program resulting in potential cross-subsidization due to "putting program costs into rate base" while "operating in a space that is not currently regulated."[29] The Public Staff's concern is wholly misplaced. The EVSE Program is structured to recover *the entirety* of the program costs from participants, thereby mitigating the risk that any costs are shifted to non-participating customers. This mitigation is achieved by placing EVSE Program customers in a separate rate class. Practically, this means that all direct costs associated with the EVSE Program will be tracked and maintained separately in the Companies' cost-of-service to avoid the shifting of costs to non-participants. Importantly, the EVSE Program is voluntary, which means that customers will only take on the costs of the program if they elect to participate. Although the Public Staff voiced concerns regarding the shifting of costs to non-participating customers, the Commission ultimately ensures that rates are fair and reasonable and may disallow recovery if the Companies act imprudently. Therefore, under the Companies' proposal, the EVSE Program poses limited risk to non-participating customers but could provide a valuable service to those

[29] Public Staff Comments at 29.

customers who voluntarily participate. In this way, the EVSE Program meets the demand of the Companies' customers, who are transitioning to EVs in increasing numbers without posing undue risk to other non-participating customers.

IV. REPLY TO NCSEA'S COMMENTS

NCSEA recommends approval of the EVSE program, subject to modifications. These modifications are addressed below.

NCSEA asserts that quarterly or otherwise regular reporting on data gathered through the EVSE Program, particularly as to the location of utility-owned charging infrastructure, is necessary to evaluate if the Companies' investments are filling market gaps in rural and low-income communities.[30] The Companies agree to reporting on regular intervals regarding the aggregate number of EVSEs deployed at zip code level, presuming that the Commission accepts terms within the customers' agreement to participate as sufficient customer authorization for the Companies to aggregate data and report at the zip code level. However, reporting on a quarterly basis is overly burdensome. The Commission has already set a twice-annually reporting schedule for the Make Ready Credit program, which is closely aligned with the EVSE Program in the Companies' intentions to simplify EV adoption for those that both require assistance and choose to participate in these programs.

NCSEA next proposes that the Commission direct the Companies to revise the proposed tariffs to incentivize Off-Peak Charging to enable customer choice and control.[31] The EVSE Program promotes customer choice and control as mentioned

[30] NCSEA's Comments at 3.
[31] *Id*. at 4.

above. Customers choose their preferred EV Charger hardware and choose the most optimal installation time and location. Some customers may elect to choose a non-networked EV charger as they are a simple and easy to operate. The Companies agree that managed charging is an important component of EV grid readiness and are eager to move to a next step of developing programs and rates that incentivize managed charging and build upon the foundation of the Make Ready Credit and the EVSE Programs.

NCSEA also recommends that the Companies explore an alternative tariff-on bill program design, to which Companies are open, with Electric Transportation Stakeholder group. Noting that the EVSE Program is a tariffed, on bill program that allows customers to use one or more EV chargers as they deem fit for their needs in exchange for paying a flat monthly rate on their utility bill, the Companies are open to discussion about other program options that are mutually acceptable.

NCSEA requests clarity on what make-ready costs will be allocated to site hosts under the program. The EVSE Program itself does not allocate make-ready costs in any way. The customer or site host is responsible for securing the necessary make-ready work needed for their site to be prepared for Level 2 or DC fast charging. The customer may elect to participate in the Make Ready Credit program to offset some of these behind-the-meter costs. Additionally, the Companies' line extension policies are applied to all electric service requests received, including those for EV chargers, for front-of-the-meter provision of utility infrastructure. Application of those standard policies that consider both cost to serve and revenue credits will determine if the customer has any "contribution in aid of construction" burden.

NCSEA also asserts that if site hosts are required to pay for grid upgrades, it unfairly burdens said hosts based on the status of the Companies' local grid.[32] As noted above, the cost for grid upgrades is offset by revenue credits per the Companies' approved Line Extension policy. Providing electric service for EVSEs is treated the same as service for any other technology. Local power availability and grid status determine the cost of delivering electric service. Demand and consumption estimates are then factored in to determine revenue credits afforded to the customer. Because upgrades for EV chargers are treated the same as upgrades for other technologies, customers installing EV chargers are treated identically to other customers and are not unfairly burdened.

Finally, NCSEA urges the Commission to direct the Companies, through the continued work of the ETSG, to identify additional make-ready infrastructure programs to develop a complete make-ready approach in accordance with the Commission's directive in its order approving the Companies' Make Ready Credit program**.** There are elements of serving EV loads that the Companies wish to discuss with the ETSG. Specifically, the Companies anticipate that changes may be possible in the way that service is delivered to electric fleet loads, which may develop or grow very quickly compared to traditional load types and which are often clustered together in areas that are conducive to efficient transport of people and goods. Support and input from the ETSG would be welcome in evaluating the best manner in which to fulfill the Companies' obligation to serve for this evolving customer segment.

[32] *Id.*

V. REPLY TO COMMENTS BY CHARGEPOINT

First, the Companies agree with ChargePoint's recommendation that site hosts may chose vendors and EVSE hardware. As noted, the EVSE Program is intended to foster competition in these areas. The Companies also agree with ChargePoint that site hosts may establish pricing and pricing policies for EV Charging Services in the EVSE Program. ChargePoint also opines that any chargers associated with the EVSE Program must be networked. The Companies agree that networked charging plays a critical role in the EV charging ecosystem and are willing to consider this recommendation but note that networked charging is not always necessary nor the most cost-effective means to enable EV charging, particularly for private charging use cases. Additionally, with expanding ability for load management via vehicle telematics, networked charging is not the only means to shape load.

In addition, in response to ChargePoint's recommendation that the Commission direct the Companies to submit alternatives to traditional demand-based tariffs within six months of the data of the order in this proceeding, the Companies note that they are open to exploring alternative rate designs as directed by the Commission. Approval of the EVSE Program does not preclude such exploration.

VI. REPLY TO COMMENTS BY EVGO

EVgo argues that the EVSE Program does not promote competition but instead limits market investment.[33] The Companies do not allege that the EVSE Program is the solution for all situations and use cases. Customers that desire the model provided by EVgo as an owner-operator are unlikely to participate in the EVSE program. The Companies also

[33] EVgo Comments at 6.

agree that the typical customers who work with EVgo for fast charging infrastructure are less likely to participate or accept curtailed or managed charging. However, the Companies believe demand response and managed charging will be well-accepted by other customer segments such as residential and small business customers.

In addition, in response to EVgo's request that the Commission direct the Companies to propose rate design solutions pursuant to amendments to Public Utility Regulatory Policies Act ("PURPA") within the Infrastructure and Investment Jobs Act ("IIJA"),[34] the Companies will continue to provide rate options and other solutions to simplify EV adoption for those that choose to make the transition to EV and to ready the grid for electrification. The Companies further aim to continue to design and explore new options for customers to continue to support EV adoption such as using existing poles to allow for curbside charging, vehicle-to-home and vehicle-to-grid technologies, smart panels and enhanced billing options for EV charging consumption to name a few.

While the Companies intend to further advance EV-centric solutions, the proposed EVSE Program itself is responsive to the requirement of PURPA amendments in Section 40431 of IIJA. This section states:

> Each State shall consider measures to promote greater electrification of the transportation sector, including the establishment of rates that—(A) promote affordable and equitable electric vehicle charging options for residential, commercial, and public electric vehicle charging infrastructure; (B) improve the customer experience associated with electric vehicle charging, including by reducing charging times for light-, medium-, and heavy-duty vehicles; (C) accelerate third party investment in electric vehicle charging for light-, medium-, and heavy-duty vehicles; and (D) appropriately recover the marginal costs of delivering electricity to electric vehicles and electric vehicle infrastructure.

Infrastructure Investment and Jobs Act, H.R. 3684, 117th Cong. (2021)

[34] *Id*. at 11.

The EVSE program promotes affordable and equitable charging because it removes financial barriers by providing a "rental" structure and is configurable to a wide array of charging use cases, including multi-family dwellings. The Program improves the customer experience associated with EV charging and provides Level 2 or higher EV charging equipment installations. These types of chargers reduce the amount of time needed to fully charge the EV. The EVSE Program also removes the burdens and uncertainties of maintenance associated with technology that is unfamiliar to consumers and businesses and makes more EV chargers available more of the time. A wide array of manufacturers and model options are available, thereby encouraging participation by and among market players.

With respect to EVgo's recommendation that the Companies provide a "complete make-ready infrastructure solution" to bolster market deployment of charging stations, the Companies note that they have today an approved portfolio of programs that encompass a make-ready solutions for EV charging infrastructure. The Companies' Line Extension policies provide for the extension of front of meter infrastructure needed to ready the grid for the additional load required by the EV chargers. Customers may then opt to receive a credit for additional behind-the-meter, make-ready construction needed to ready their site or home for EV charging. Participation in the EVSE Program is not required to receive make-ready credits. Furthermore, the Companies continue their engagement and discussions with the ETSG.

VII. CONCLUSION

The EVSE Program aims to simplify EV adoption for North Carolina customers by mitigating barriers to EV ownership. This voluntary program leverages the

Companies' traditional utility functions and existing relationships with customers to provide a safe, reliable, and cost-effective EV charging solution. The programs will also incent competition in the EV charging market by providing customers with the power to choose among a wide range of charging stations. Non-participating customers are protected because the program is tracked separately in the Companies' cost of service and billed only to participating customers. Finally, the Companies intend to create additional managed charging offerings that will create even more benefits for participating and non-participating customers.

WHEREFORE, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC respectfully request that the Commission:

(1) Approve the EVSE Program; and

(2) Grant any other relief as the Commission deems just and reasonable in the furtherance of the public interest.

Respectfully submitted, this the 5th day of January, 2023.

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CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Joint Reply Comments on Proposed Electric Vehicle Supply Equipment Program, in Docket Nos. E-7, Sub 1195 and E-2, Sub 1197, has been served on all parties of record either by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid.

This the 5th day of January, 2023.

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