OFFICIAL COPY

Nov 21 2022

STATE OF NORTH CAROLINA

UTILITIES COMMISSION

RALEIGH

DOCKET NOS. E-7, SUB 1195 AND 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 ELECTRIC VEHICLE SUPPLY EQUIPMENT PROGRAM	)))))))	COMMENTS OF EVGO SERVICES, LLC

Pursuant to the North Carolina Utilities Commission ("Commission") *Order Requesting Comments on Proposed Customer Operated Electric Vehicle Supply Equipment Tariffs* ("Order") issued August 23, 2022, EVgo Services, LLC ("EVgo") offers the following comments on Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's (together "Duke" or "the Company") *Joint Petition for Approval of Electric Vehicle Supply Equipment Programs* ("Petition") filed in the above-captioned docket on August 15, 2022. Duke's Petition proposes Duke ownership of Electric Vehicle Supply Equipment ("EVSE") that EVgo contends is not necessary and not in the best interest of Duke's customers.

In these comments, EVgo addresses the following, specifically as they pertain to public DC fast charging ("DCFC") infrastructure:

1. As proposed, the EVSE Programs would curb third-party investments.

OFFICIAL COPY

Nov 21 2022

2. Managed charging is not a justification for utility-ownership of DCFC.
3. The Commission should direct Duke to propose complementary programs and policies to support a competitive EV charging market and public DCFC deployments.

BACKGROUND

EVgo is a leader in charging solutions, building and operating the infrastructure and tools needed to expedite the mass adoption of electric vehicles for individual drivers, rideshare and commercial fleets, as well as businesses. As one of the nation's largest public fast charging networks, EVgo's owned and operated charging network features over 850 fast charging locations – currently serving over 60 metropolitan areas across more than 30 states – and continues to add more DCFC locations through EVgo eXtend™, its white label service offering. In North Carolina, EVgo's public charging currently includes 43 DCFCs. EVgo is accelerating transportation electrification through partnerships with automakers, fleet and rideshare operators, retail hosts such as grocery stores, shopping centers, and gas stations, policy leaders, and other organizations.

On March 29, 2019, Duke proposed a seven-part Phase I Pilot Program, including a proposal for a Duke-owned and operated charging network of up to 120 DCFCs across 60 locations.[1] The Commission approved one third of Duke's proposed DCFC network, allowing for up to 40 DCFC across approximately 20 locations.[2] In limiting the scope of Duke's proposed utility-owned DCFC network, the Commission cited concerns that "Duke would

[1] Phase I Order, p. 5.
[2] *Id*., p. 6.

OFFICIAL COPY

Nov 21 2022

garner too large of a percentage of what should be a competitive market."[3] The Commission directed Duke to work with the Commission's Public Staff to develop a stakeholder process that would serve as the basis of a subsequent pilot program that "at a minimum" should include a consideration of various elements, including rate design and a "Make Ready" approach.[4]

Following stakeholder meetings, Duke filed its proposed Phase II Pilot Program on May 24, 2021, which included an expansion of its utility-owned DCFC network and a Customer-Operated EVSE Tariff Pilot,[5] with no proposal to support or enable third-party ownership of DCFC stations and virtually no justification for the reliance on utility ownership rather than partnership with third-parties.[6] Separately, Duke proposed and the Commission approved the Make-Ready Credit ("MRC") program, which provides customer credits based on the increased revenue from EV charging for the first three to five years after charger installation.[7] However, the Commission stated in its Order that it "is not persuaded that the MRC programs alone represent a complete 'Make Ready Approach,' and encourages Duke to continue to work with stakeholders to identify additional ways to support [make ready infrastructure]."[8]

---

[3] *Id*.
[4] *Id.*, pp. 20-21.
[5] Proposed Phase II Pilot Program, p. 11.
[6] *Id*., p. 18 (for number of chargers and stations) and pp. 10-11 (stating that, "the ET Stakeholder meetings achieved a general consensus that private investment in EV infrastructure may fail to deploy adequate charging infrastructure in income-qualified communities, rural communities, and less-traveled corridor routes." And, that Duke's "Level 2 and fast charger proposals will help link the growing EV market to participation in that market by lower- and moderate-income customers, as well as by customers who are geographically distant from more competitive, urban areas.") However, Duke offers no description of any equity aspects of its fast charger proposal.
[7] Order Approving Make Ready Credit Programs with Conditions, dated February 18, 2022.
[8] *Id*., p. 19.

OFFICIAL COPY

Nov 21 2022

The Commission subsequently issued its *Order Requiring Further Collaboration and Report on Proposed Phase II Pilots* on February 21, 2022, which cited changed circumstances such as the signing of House Bill 951[9] and the Federal Infrastructure Investment and Jobs Act (IIJA) to support its requirement for Duke to "continue working with the [Electric Transportation Stakeholder Group] to modify and refine its Phase II Pilots."[10] On May 11, 2022, Duke 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*, wherein the Company requested to remove the proposed EVSE Tariff Pilot from consideration and refile it as a standalone program.[11] The Commission granted the request in its July 13, 2022 Order, and on August 15, 2022, Duke filed its Petition for approval of the proposed EVSE Programs. In its Petition, Duke describes the EVSE Programs as a "charger rental service" where Duke "owns, manages and maintains the equipment through its lifetime."[12] The program includes rate options for residential Level 2 EVSE and non-residential Level 2 and DCFC EVSE.[13] EVgo's comments herein pertain primarily to the DCFC components of the Petition.

[9] Signed into law on October 13, 2021, House Bill 951 (S.L. 2021-165 or HB 951) directed the Commission to take steps to achieve a 70% reduction in Duke's carbon levels by 230 and carbon neutrality by 2050, including the development and review of a Carbon Plan.
[10] Order Requiring Further Collaboration and Report on Proposed Phase II Pilots, pp. 3-4.
[11] 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, pp. 1-2.
[12] Joint Petition for Approval of Electric Vehicle Supply Equipment Programs, p. 10.
[13] *Id*., Attachment A, pp. 1-4.

OFFICIAL COPY

Nov 21 2022

COMMENTS

EVgo appreciates the intent of Duke's efforts to develop programs that remove barriers to EV adoption, which will not only help North Carolina reach the zero-emission vehicle goal outlined in Executive Order No. 80,[14] but also play a crucial role in Duke's carbon reduction strategy being considered pursuant to House Bill 951 in Docket No. E-100, Sub 179.[15]

In comments filed previously in this proceeding, EVgo limited its remarks to Duke's proposed Highway Fast Charging Program, as the program most clearly demonstrated that the Commission had yet to address the foundational question of roles and responsibilities in expanding the state's public EV charging infrastructure.[16] EVgo continues to assert that this question has yet to be sufficiently addressed, as Duke's proposed EVSE Programs do not adequately recognize or enable the presence of a competitive market for DCFC. In its *Order Approving Electric Transportation Pilot, in Part*, the Commission stated that it "is not sanctioning an open-ended or broad, general participation by Duke in the EV charging infrastructure market" and directed Duke to collaborate with stakeholders to propose alternative EVSE ownership structures in subsequent pilots.[17] While Duke introduced several revisions to the proposed EVSE Programs that were initially filed in this proceeding,[18] the

[14] Executive Order No. 80 sets a goal of 80,000 zero-emission vehicles on North Carolina roads by 2025.
[15] Order Requiring Further Collaboration and Report on Proposed Phase II Pilot Programs, p. 3.
[16] *See* Initial Comments of EVgo on Proposed Phase II Electric Transportation Pilot Programs, dated July 29, 2021; Reply Comments of EVgo on Proposed Phase II Electric Transportation Pilot Programs, dated September 13, 2021.
[17] Order Approving Electric Transportation Pilot, in Part, pp. 19-20.
[18] Joint Petition for Approval of Electric Vehicle Supply Equipment Programs, pp. 10-11.

OFFICIAL COPY

Nov 21 2022

current proposal would still grant Duke ownership of EVSE infrastructure.[19] EVgo maintains that it is premature to grant Duke additional ownership of DCFC at this juncture, and urges the Commission to instead direct Duke to develop programs that appropriately complement a competitive EV charging market.

1. **As proposed, the EVSE Programs pertaining to DCFC will curb third-party investment in EV charging infrastructure.**

EVgo commends Duke for continuing to seek solutions to accelerate EV adoption. Both utility programs and private investment are important in creating a robust competitive market for EV charging that will lead to increased EV adoption over the long term. However, it is important to ensure that there is a balance between utility and private market activities, and that utility-owned infrastructure programs serve needs that cannot be met by the private sector.

Over the past several years, substantial efforts to develop public DCFC infrastructure have been underway in North Carolina thanks to and through programs administered by the North Carolina Department of Environmental Quality, which has yielded over $10M in DCFC investments to date.[20] The success of these programs shows that there is currently robust private sector interest in DCFC deployment in the State, particularly when leveraged through public-private partnerships. Further, North Carolina's share of the National Electric

[19] *Id*., p. 7.
[20] Phase 1 DCFC Program, https://deq.nc.gov/about/divisions/air-quality/motor-vehicles-and-air-quality/volkswagen-settlement/phase-1-volkswagen-settlement. Phase 2 DCFC Program, https://deq.nc.gov/about/divisions/air-quality/motor-vehicles-and-air-quality/volkswagen-settlement/phase-2-volkswagen-settlement/dc-fast-charging-infrastructure-program.

OFFICIAL COPY

Nov 21 2022

Vehicle Infrastructure ("NEVI") program funds, made available through the IIJA, totals approximately $109 million. Through NEVI, the North Carolina Department of Transportation plans to contract with third-party entities to install, own, and operate EV charging infrastructure, which will undoubtedly result in additional public-private partnerships to build out DCFC along highways and in communities across the state.[21] This $109 million through NEVI is in addition to a $2.5 billion national discretionary program, under which entities in North Carolina may also apply for funding.[22]

With this context, site hosts[23] in Duke's service territories that are interested in offering EV charging stations on their premises can choose from a variety of EV charging service providers whose purposes, business models, and relationship with the site host can vary significantly. Duke argues that its EVSE Programs will "remove barriers to EV adoption by reducing both the upfront costs and the uncertainty associated with new technologies and maintenance of those technologies."[24] Duke's attempt to encourage competition is to offer customers a choice among hardware and software providers, stating that its EVSE Program "allows for multiple vendor options and a wide project selection," while Duke remains the owner.[25] The competitive market consists of a diverse set of business models and provides far more value-added activities than selling equipment, and in fact, the owner-operator model is

[21] *See* NC DOT EV Infrastructure Deployment Plan at 46, https://www.ncdot.gov/initiatives-policies/environmental/climate-change/Documents/ncdot-electric-vehicle-deployment-plan.pdf.
[22] *See* Discretionary Grant Program for Charging and Fueling Infrastructure, https://www.transportation.gov/rural/ev/toolkit/ev-infrastructure-funding-and-financing/federal-funding-programs.
[23] 'Site host' refers to the entity on whose property the EV charging station is located, such as a grocery store or a retail shopping center.
[24] Joint Petition for Approval of Electric Vehicle Supply Equipment Programs, p. 7.
[25] *Id*., p. 8.

OFFICIAL COPY

Nov 21 2022

responsible for approximately 77% of DCFC deployed nationally.[26] A program design that reserves a significant portion of activities for the utility, in lieu of a make-ready program as directed by the Commission, would have the opposite effect of limiting competition by decreasing third-party investment in EVSE deployment. Ultimately, this would reduce the overall success of the program in meeting North Carolina's transportation electrification objectives.

The competitive market is ready and available to deploy DCFC in Duke's territory if market conditions encourage, rather than hinder, private sector investment. Where the Phase I Order cited concerns "that Duke would garner too large of a percentage of what should be a competitive market,"[27] it was not addressing how Duke would offer hardware/software choices, but rather whether Duke should own DCFC equipment in the first place. Further, Duke has not completed deployment of its utility-owned DCFC stations authorized in the Phase 1 Order, and in fact had only completed five of its approved 20 sites by the end of the third quarter of 2023.[28] Finally, there has not yet been a full review of the cost or efficacy of these investment, and it is ultimately unclear if this approach is a cost-effective way for Duke to participate in charging infrastructure development.

[26] U.S. Department of Energy, Alternative Fuels Data Center August 2022 Data, https://afdc.energy.gov/stations/#/analyze?country=US&fuel=ELEC&ev_levels=dc_fast.
[27] Phase I Order, p. 18.
[28] Duke shared the status of its program deployments in the most recent Electric Transportation Stakeholder Group meeting held on September 29, 2022.

OFFICIAL COPY

Nov 21 2022

EVgo therefore maintains that it is not appropriate for the Commission to grant Duke additional DCFC ownership at this juncture, and recommends that the Commission reject Duke's Petition for approval of the EVSE Programs.

2. Managed charging is not a reasonable basis for utility-ownership of EVSE.

Duke states that "[e]nergy sales growth from vehicle electrification can benefit North Carolina customers, but that growth must be actively managed to assure the greatest benefits for all customers," and suggests multiple options to smooth charging load, including various potential rate design and programmatic offerings.[29] Duke goes on to argue that "the best time to market managed charging options is when customers are leveraging the MRC and EVSE Programs."[30] However, there is no evidence that station ownership is a relevant factor in Duke's ability to encourage grid-beneficial charging behavior.

EVgo agrees that vehicle electrification can benefit Duke's ratepayers, as several studies suggest the incremental loads created by EV charging growth will reduce electric rates by spreading the costs of the distribution grid over greater usage.[31] While managed charging is an important consideration for some sectors with longer dwell times such as residential, workplace, or fleet charging, public DCFC requires different considerations. EV drivers rely on public DCFC stations for a quick, on-the-go charge, and therefore may be

[29] Joint Petition for Approval of Electric Vehicle Supply Equipment Programs, p. 12.
[30] *Id*.
[31] See, for example: Electric Vehicle Cost-Benefit Analysis, M.J. Bradley, available at https://mjbradley.com/sites/default/files/NE%20PEV%208%20state%20Summary%2009nov17.pdf; Electric Vehicles are Driving Electric Rates Down, Synapse Energy Economics, available at https://www.synapse-energy.com/sites/default/files/EV_Impacts_June_2020_18-122.pdf.

OFFICIAL COPY

Nov 21 2022

unable or unwilling to accept the interruptions to charging sessions that come with managed charging. Duke has provided no evidence that managed charging is an appropriate use case for DCFC, let alone that Duke on its own can encourage this behavior.

Properly designed utility rates, such as volumetric time of use rates, can encourage charging at times that limit grid impacts while addressing the key barrier that demand charges create to the deployment of public fast charging infrastructure, as discussed below. Commercial EV rates that encourage private sector investment in charging infrastructure can drive interest in the MRC Program and further incentivize customers to deploy EV charging. The EVSE Programs are therefore unnecessary for Duke to engage customers on grid-beneficial rates or managed charging offerings, and are not a reasonable basis for expansion of Duke-owned charging stations.

3. The Commission should direct Duke to propose complementary programs and policies to support a competitive EV charging market.

As discussed above, while there is a need for greater DCFC station development, that reality can be hindered by a lack of strong utility programs and policies geared towards incentivizing third-party providers. Holistic frameworks that address EV rates and make-ready infrastructure can work hand-in-hand to encourage a competitive EV charging market and have only become more prevalent across the U.S. since Duke's initial Phase II Pilot proposal was filed nearly 18 months ago.

Across the country, utilities and their regulators continue to recognize the significant barrier demand charges create to the deployment of public fast charging infrastructure.

OFFICIAL COPY

Nov 21 2022

Indeed, as EVgo discussed in its comments in Docket No. M-100, Sub 164, *Consideration of the Federal Funding Available under the Infrastructure Investment and Jobs Act,*[32] the Public Utilities Regulatory Policies Act ("PURPA") amendments included in the IIJA establish directives to utility regulators to consider measures that promote greater electrification of the transportation sector through third-party investments.[33] The amendments specifically require utility regulators in every state to initiate proceedings before November 2022 to consider measures, including EV-specific rate designs that:

1. Promote affordable and equitable EV charging options for residential, commercial, and public EV charging infrastructure;
2. Improve the customer experience associated with EV charging, including by reducing charging times;
3. Accelerate third-party investment in EV charging; and
4. Appropriately recover the marginal costs of delivering electricity to EVs and EV charging infrastructure.

In its *Order Scheduling Hearings* in Docket No. E-22, Sub 658 the Commission seems to imply that its investigation in this docket adequately promotes transportation electrification in Duke's service territory pursuant to the PURPA amendments.[34] EVgo maintains that rate design remains a critical component of a holistic EV program and should therefore be addressed in this docket. It is imperative that commercial EV rates be included as part of Duke's EV programs to address a key barrier to public charging deployment, and

[32] *See* Docket No. M-100, Sub 164, Initial Comments of EVgo Services, LLC, dated March 15, 2022; Reply Comments of EVgo Services, LLC, dated April 14, 2022.
[33] *See* IIJA Section 40431, pp. 620-621.
[34] *See* Docket Nos. M-100, Sub 164 and E-22, Sub 658, Order Scheduling Hearings, dated November 15, 2022.

OFFICIAL COPY
Nov 21 2022

the Commission should direct Duke to propose rate design solutions as expeditiously as possible pursuant to the PURPA amendments.

Additionally, EVgo has consistently advocated for a "shared responsibility" model that leverages different entities' strengths in the EV infrastructure ecosystem, which again, has grown in popularity across the country. While Duke has established MRC tariffs that provide customer credits based on increased revenue from EV charging, the Commission stated that it "is not persuaded that the MRC programs alone represent a complete 'Make Ready Approach,'"[35] as was directed in its *Order Approving Electric Transportation Pilot, In Part*.[36] Utility regulators continue to approve programs incentivizing third-party participating in the EV charging market, in states including but not limited to Colorado,[37] New Mexico,[38] Kansas,[39] Michigan,[40] and many others.[41] In addition to these approved programs, new

[35] Order Approving Make Ready Credit Programs with Conditions, dated February 18, 2022, p. 19.
[36] Order Approving Electric Transportation Pilot, In Part, p. 21.
[37] Colorado Public Utilities Commission, Proceeding No. 20A-0204E, Commission Decision Granting Application with Modifications (January 11, 2021).
[38] New Mexico Public Regulation Commission, Case No. 20-00237-UT, Final Order Adopting Recommended Decision, at 3-4 (November 12, 2021).
[39] State Corporation Commission of the State of Kansas, Docket No. 21-EMKA-320-TAR, Order (December 6, 2021).
[40] *See* DTE Charging Forward, available at https://www.newlook.dteenergy.com/wps/wcm/connect/dte-web/home/service-request/business/electric/electric-vehicles/pev-biz-charge-frwd.
[41] Additional examples include but are not limited to: California (Pacific Gas & Electric) https://www.pge.com/en_US/large-business/solar-and-vehicles/clean-vehicles/ev-charge-network/ev-fast-charge.page; Connecticut (Eversource and United Illuminating) Public Utilities Regulatory Authority Docket No. 17-12-03RE04, Investigation into Distribution System Planning of the Electric Distribution Companies – Zero Emission Vehicles, Decision, dated July 2021; Illinois (Ameren) https://www.ameren.com/-/media/rates/files/illinois/aiel21rdevcp.ashx; New Jersey (Atlantic City Electric, Public Service Electric & Gas Company, Jersey Central Power & Light) Board of Public Utilities Docket No. QO20050357, Order Adopting the Minimum Filing Requirements for Light-Duty, Publicly Accessible Electric Vehicle Charging, dated September 2020; New York (Central Hudson, Con Ed, National Grid, New York State Electric & Gas, Rochester Gas & Electric, Orange & Rockland Utilities) https://jointutilitiesofny.org/ev/make-ready; Rhode Island (National Grid) https://www.nationalgridus.com/RI-Business/Energy-Saving-Programs/Electric-Vehicle-Charging-Station-Program; Massachusetts (National Grid) https://www.nationalgridus.com/MA-Business/Energy-Saving-Programs/Electric-Vehicle-Charging-Station-Program, and (Eversource) https://www.eversource.com/content/ema-c/residential/save-money-energy/clean-energy-options/electric-vehicles/charging-stations.

OFFICIAL COPY

Nov 21 2022

programs have started to emerge in other states such as Arizona, where Tucson Electric Power proposed a make-ready incentive program as part of its Transportation Electrification Implementation Plan.[42] EVgo continues to recommend that the Commission authorize Duke to provide a complete make-ready infrastructure solution to bolster market deployment of charging stations.

Finally, EVgo offers other charging ecosystem best practices that utilities may undertake to enable public DCFC deployment for the Commission's consideration. Through the Connect the Watts™[43] initiative, EVgo has proposed five areas to focus utility efforts that support EV charger project deployment,[44] including: 1) easement process streamlining, 2) utility equipment inventory maintenance, 3) design and construction staffing, 4) study phase streamlining, and 5) utility design approvals streamlining.[45] This would be a welcome topic for the Commission to contemplate in this proceeding.

CONCLUSION

In summary, EVgo recommends that the Commission:

1. Reject Duke's application for approval of the EVSE Programs;
2. Direct Duke to propose rate design solutions as expeditiously as possible pursuant to the PURPA amendments; and

[42] Docket No. E-00000A-21-0104, Tucson Electric Power Company's Comprehensive Transportation Electrification Implementation Plan and Budget, at 15.
[43] *See* https://www.evgo.com/connect-the-watts/.
[44] *See* Best Practices for Charging Infrastructure Program Design: Utilities, https://site-assets.evgo.com/f/78437/x/597fa39fa0/connect-the-watts_utility-best-practices.pdf.
[45] On November 10, 2022, the California Public Utilities Commission issued a Draft Resolution establishing clear deadlines for utilities to complete the steps within their control needed to energize EV charging infrastructure. These steps include site pre-assessments and engineering studies. The utilities must also post on their websites the service energization steps that are within the control of the utility, the customer, and the authorities having jurisdiction. Additionally, utilities must collect data on service requests that exceed the Commission deadlines to inform future energization process improvements and hold a workshop in 2023 to develop a new energization timeline standard based on empirical data. *See* Resolution E-5427, California Public Utilities Commission, issued November 10, 2022.

OFFICIAL COPY

Nov 21 2022

3. Authorize Duke to provide a complete make-ready infrastructure solution to bolster market deployment of charging stations.

EVgo appreciates the opportunity to participate in this process and share input with the Commission and other stakeholders to aid in the development of a robust and comprehensive EV charging market in North Carolina.

Respectfully submitted, this 21st day of November, 2022.

By: /s/ Jason B. Keyes

Jason B. Keyes
Washington State Bar No. 36947
Keyes & Fox LLP
580 California St., 12th Floor
San Francisco, CA 94104
Telephone: (206) 919-4960
jkeyes@keyesfox.com

OFFICIAL COPY

Nov 21 2022

CERTIFICATE OF SERVICE

The undersigned attorney for EVgo Services, LLC hereby certifies that he served the foregoing Comments upon the parties of record in this proceeding by electronic mail and/or depositing copies in the U.S. Mail, first-class, postage prepaid.

This 21st day of November, 2022.

/s/ Jason B. Keyes

Washington State Bar No. 36947
Keyes & Fox LLP
580 California St., 12th Floor
San Francisco, CA 94104
Telephone: (206) 919-4960
jkeyes@keyesfox.com