

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

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

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
TRANSPORTATION PILOT

INITIAL COMMENTS OF
EVgo SERVICES, LLC
ON PROPOSED PHASE II
ELECTRIC TRANSPORTATION
PILOT PROGRAMS

Pursuant to the North Carolina Utilities Commission’s (“Commission”) *Order Requesting Comments* issued on June 14, 2021, and its *Order Granting Extensions of Time* issued on July 8, 2021, EVgo Services, LLC (“EVgo”) offers the following comments on Duke Energy Carolinas, LLC’s and Duke Energy Progress, LLC’s (“Duke”) May 24, 2021 *Joint Request for Approval of Phase II Electric Transportation Pilot Programs* (“Proposed Phase II Pilot Program”).

In light of the Commission’s directives in its November 24, 2020 *Order Approving Electric Transportation Pilot, In Part* (“Phase I Order”), EVgo expected Duke to propose a Phase II pilot program with a DC Fast Charging (“DCFC”) component focused on “make-ready” build-out of utility infrastructure to foster private investment and ownership of DCFC stations. Instead, Duke has proposed roughly the same scale of utility ownership of DCFC stations that it proposed in Phase I, and, in this respect, ignored the Commission’s entreaty to focus on make-ready or other tools to catalyze private sector investments in its service territory.

BACKGROUND

Founded in 2010, EVgo is a leader in the transportation electrification space, designing, engineering, deploying, operating, and maintaining DCFC stations. Through its partnerships with multiple automakers, fleet and rideshare operators, retail and other site hosts, utilities, governments, and other stakeholders, EVgo has steadily expanded over the last decade to become the largest electric vehicles (“EV”) public fast charging network in the U.S. with more than 800 locations in 65 major metropolitan markets across 34 states. EVgo has accelerated the adoption of EVs by providing a reliable and convenient charging experience, close to where drivers live, work and play, for both daily commuters and commercial fleets. Today, EVgo has 27 DCFC chargers in North Carolina currently in operation, with active expansion underway.¹

By order of the Commission on July 22, 2021, EVgo was granted intervention and its counsel, Jason B. Keyes, was granted admission pro hac vice in this proceeding.

Duke proposed a seven-part Phase I Pilot Program on March 29, 2019, with the largest part being the proposed utility-owned DCFC network of up to 120 DCFC chargers at up to 60 stations.² The cost of Duke’s proposed DCFC network was \$34,470,000 out of a total proposed program of \$76,018,500, or over 45% of the program.³ The Commission approved one third of Duke’s proposed DCFC network, allowing for up to 40 DCFC across approximately 20 locations.⁴ In limiting the scope of Duke’s proposed

¹ One month ago, EVgo opened one of its latest stations in Raleigh, in partnership with North Carolina's Department of Environmental Quality.

² Phase I Order, p. 5.

³ *Id.*, p. 6.

⁴ *Id.*, p. 18.

DCFC network, the Commission cited concerns “that Duke would garner too large of a percentage of what should be a competitive market.”⁵ Further, the Commission directed Duke to work with the Commission’s Public Staff to develop a Stakeholder process to serve as the basis of a subsequent pilot program that “at a minimum” should include consideration of various attributes, including a “Make-Ready Approach.”⁶

Following monthly stakeholder meetings over the course of six months, Duke issued its Proposed Phase II Pilot Program on May 24, 2021. Having been authorized to own and operate up to 40 DCFC at up to 20 stations in the Phase I Order rather than the 120 chargers at 60 stations that it had proposed, Duke proposes in Phase II to own and operate an additional 80 to 180 DCFC, with no proposal to support or enable third party ownership of DCFC and stations (aside from its separate Make-Ready Program) and virtually no justification for the reliance on utility ownership rather than partnership with third parties.⁷ As in Phase I, Duke’s ownership of DCFC stations is the largest component of its overall program, with that component being over 50% of the budget for the high-end of its proposal.⁸

⁵ *Id.*

⁶ *Id.*, pp. 20-21.

⁷ Proposed Phase II Pilot Program, 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.

⁸ *Id.*, p. 15 (at the high-end, with 180 chargers, comprising \$28,500,000 of a \$56,000,000 proposed budget, though at the low-end, with 80 chargers, comprising \$13,100,000 of a \$33,200,000 proposed budget, which would be slightly less than the proposed EV School Bus program at the low-end).

Further, the Proposed Phase II Pilot Program suggests wanting to address “transportation equity issues with specific carve-outs for low- and moderate-income customers and rural areas,”⁹ but seems to only do so with respect to its proposed Phase II Public Level 2 Charging program, EV School Bus Program and its Multi-Family Level 2 Charging Program. While stating that its “Highway Fast Charging Program” also addresses these equity issues, Duke does not address equity issues in that part of its proposal.¹⁰

One month before filing its Proposed Phase II Pilot Program, Duke proposed a Make-Ready Program in this docket on April 30, 2021. The proposed Make-Ready Program does not explicitly call out a DCFC-centric program and appears to be focused primarily on customer-sited Level 2 (“L2”) facilities for the customer’s own use, though it does contemplate chargers faster than L2 and the possibility of serving vehicles other than the customer’s own vehicles.

COMMENT

As an owner and operator of DCFC stations, EVgo focuses its comments on Duke’s Highway Fast Charging Program and does not offer comment on other elements of Duke’s Proposed Phase II Pilot Program. EVgo appreciates Duke’s efforts to develop a pilot program and agrees that such efforts align with North Carolina Governor Roy Cooper’s Executive Order 80 (“EO 80”) in the sense that infrastructure is needed to foster the level of vehicle electrification called for in EO 80. Further, EVgo commends Duke’s

⁹ *Id.*, p. 14.

¹⁰ *Id.*, p. 14 (Paragraph 25), *but see*, pp. 17-18 (Highway Fast Charging Program).

efforts to address transportation equity issues and is a willing and supportive partner to that end.

EVgo urges the Commission to address first the foundational question of roles and responsibilities in expanding the state's EV charging infrastructure and suggests in the following comments that there is no need at this time for Duke to own and operate DCFC stations beyond those already authorized in Phase I. A competitive market exists to build, own, and operate DCFC stations, and Duke has not demonstrated why the utility should develop North Carolina's DCFC network at the expense of the ratepayers rather than encourage the development of a competitive market in its service territory. While a review of the cost of the utility-owned DCFC stations authorized in Phase I has not yet been evaluated, it is unclear if this approach is truly the more cost-effective way for the utility to participate in the development of the charging infrastructure. There is a vital role for Duke to play – whether that be through energizing sites under development by third parties, providing the make-ready infrastructure that enables privately-owned DCFC stations, potentially in conjunction with charger rebates or incentives aimed at a specific desired outcome (i.e. filling gaps in less urban or lower-income areas), as well as DCFC-focused rate designs for both public and fleet-related infrastructure – and EVgo and others are ready and able to meet the market demand for DCFC stations.

Existing efforts are underway in North Carolina through programs administered by the Department of Environmental Quality (“DEQ”), which has yielded \$2.7M in DCFC investments to date, and a stakeholder process is ongoing to determine how a second phase of infrastructure funding to the state will be allocated, with a current

proposal of \$7.1M of funding for DCFC deployment.¹¹ Additionally, an infrastructure package is being negotiated in Congress in the upcoming months that, if successful, would likely provide additional state-level funding to encourage EV charging. In the context of state investments already underway and uncertainty regarding federal funding, it seems premature to grant additional DCFC ownership to Duke at this juncture, particularly without a comparison of its Phase I investments with third-party ownership of DCFC stations.

a. The most important element of private industry participation in DCFC stations is ownership of the stations themselves.

Duke's proposed Highway Fast Charging Program misses the mark on the most important element of the competition that the Commission directed Duke to pursue in the Phase I Order. Duke's approach to competition is to foster competition among hardware and software providers that will respond to Duke's Requests for Proposals, with Duke as the owner of any such hardware and software. For instance, Duke states that, "[t]o address continuing development of competition among hardware and software providers, participating site hosts shall have the choice of at least two (2) vendors of EV charging hardware and software."¹² The more fundamental way to encourage competition is to let private industry develop DCFC stations; EVgo suggests that before authorizing Duke to develop additional stations, the Commission should first determine whether Duke is meeting the charge from the Commission to promote competition. While Duke does

¹¹ See, Volkswagen Settlement Draft Phase 2 Mitigation Plan, July 2021, available at <https://files.nc.gov/ncdeq/Air%20Quality/motor/volkswagen/phase-2/VW-Phase-2-Mitigation-Plan-Stakeholder-Meetings-Presentation.pdf>. (p. 24 for \$2.7 investment in DCFC in Phase I; p. 27 for proposed \$7.1M of Phase II investment in DCFC).

¹² *Id.*, p. 18.

discuss “site host” operation of DCFC stations, and even some flexibility in site host’s pricing of electricity provided to customers, this would still be in the context of site hosts operating equipment owned by Duke.

The overriding concern regarding utility-owned DCFC stations in close proximity to DCFC stations owned by third-party electric vehicle service providers (“EVSPs”) is that the utility-owned stations may undermine the viability of third-party owned stations. The result is undesirable usage that is relied upon for competitive providers such as EVgo to sustain their economics as well as discouragement of future private sector investment in charging infrastructure, which would be counterproductive to the Commission’s policy objective of fostering such investment.

As noted above, the competitive market is ready and available to deploy additional DCFC in Duke’s service territory if market conditions encourage, rather than hinder, private sector investment. In fact, owner-operators are responsible for about 75% of DCFC installations to date in the United States.¹³ Other competitive market participants similarly provided comments on Duke’s Phase I proposal in July 2019, making the distinction between competition amongst equipment providers and network providers.¹⁴ Where the Phase I Order cited concerns “that Duke would garner too large of a percentage of what should be a competitive market,”¹⁵ it was not addressing how Duke would procure equipment, but rather whether Duke should own DCFC equipment in the first place. As has been done across the country, third-party ownership of DCFC stations has been the competitive solution.

¹³ U.S. Department of Energy, Alternative Fuels Data Center July 2020 Data; https://afdc.energy.gov/stations/#/analyze?country=US&fuel=ELEC&ev_levels=dc_fast.

¹⁴ See, *i.e.*, ChargePoint, Inc. comments on Phase I proposal, July 5, 2019.

¹⁵ Phase I Order, p. 18.

DC fast charging providers, such as owner-operators of DCFC stations like EVgo, have significant experience, sophisticated demand-prediction models, and tools and data that inform network planning activities. A customer-centric site selection process will focus on site attractiveness and optimization. EVgo views the development cycle of DCFC stations, which DCFC providers are well-equipped to lead, as a collaborative process among DCFC providers, site hosts and the utilities.

While there is a need for more DCFC station development, that reality can be hindered by a lack of available rate design tied to adequate make-ready programs, as well as supporting charger incentives, all of which should work hand-in-hand to foster market participation. EVgo appreciates Duke's proposed Make-Ready Program, as far as it goes, but suggests that the program needs to explicitly address DCFC stations. Further, the existence of a Make-Ready Program does not justify Duke's ownership of an additional 80 to 180 DCFC chargers, as Duke is proposing. In fact, utility ownership, and through the ability for the utility to either 1) deploy chargers in proximity of other third-party owned chargers or 2) set pricing for users of its network (i.e the "Fast Charge Fee") below that of third-party operators, could even undermine these very investments, and worse, compete against its own make-ready funding (or funded projects). They may even undermine the state's DEQ-supported infrastructure as well, including the 27 DCFC sites funded in Phase I of the Volkswagen settlement, and a proposal for nearly 2.5 times that investment in Phase II.¹⁶

¹⁶ See, Volkswagen Settlement Draft Phase 2 Mitigation Plan, July 2021, available at, <https://files.nc.gov/ncdeq/Air%20Quality/motor/volkswagen/phase-2/VW-Phase-2-Mitigation-Plan-Stakeholder-Meetings-Presentation.pdf>. (p. 24 for 27 DCFC sites in Phase I; p. 27 for proposed \$7.1M of Phase II investment in DCFC, versus \$2.7M in Phase I).

EVgo suggests that the Commission authorize Duke to provide make-ready infrastructure for privately-owned DCFC stations, and with that program in place, the Commission can then evaluate whether there is some unmet need that only Duke can address to get DCFC stations built. Two examples of this approach are from New Jersey and Connecticut. New Jersey created a “Provider of Last Resort” where the utility can own only after meeting certain criteria¹⁷:

- 1) A pre-determined time has to have passed during which no make-ready application has occurred,
- 2) The utility makes the private sector aware that it wants to deploy charging infrastructure at a specific location and offers up an incentive of “up to 50% of the expected capital cost of the charging station for an approved Last Resort location to induce private sector investment”, to see if that would entice the private sector,
- 3) “After the EDC application is filed with the Board, but prior to the installation of a charger, a private owner may opt to become the owner/operator of the equipment, under comparable terms and conditions to those that the EDC had negotiated, or may notify the Board that it intends to request a Make-Ready in a comparable location such that the utility ownership is obviated;”.

Connecticut, meanwhile, provides for initial unincumbered support for the private sector to lead in the deployment of DCFC stations, with a provision to evaluate the status of development with a particular attention to underserved communities and determine whether programmatic changes are necessary at the three-year mark of the state’s nine

¹⁷ New Jersey Board of Public Utilities Docket No. QO20050357, In the Matter of Straw Proposal on Electric Vehicle Infrastructure Build Out, *Order Adopting the Minimum Filing Requirements for Light-Duty, Publicly-Accessible Electric Vehicle Charging*, p. 22 (Sept. 23, 2020).

year program¹⁸. Connecticut utilities will also provide higher incentives for development in environmental justice communities.

Duke claims that “Phase I Pilots were not sufficiently scaled to support the EO 80 goal, particularly for fast charging, and the Phase II Pilots are intended to help close that gap.”¹⁹ However, the Phase I Order only authorized one third of the scale that Duke proposed for DCFC charger ownership; the Commission certainly did not direct Duke to come back in Phase II with a proposal of greater ownership scale than it proposed in Phase I so shortly after approval of Phase I. At the very least, an analysis of Duke’s Phase I DCFC station implementation should precede any authorization of additional stations in Phase II.

b. Data collection is not a reasonable basis for further utility ownership of DCFC stations.

Duke cites data collection as a justification for parts of its Proposed Phase II Pilot Program, largely in the context of how best to serve low income and rural communities.²⁰ In Phase I, Duke more generally noted the need to prepare for massive growth of EV adoption through data collection on how and when EV customers charge their vehicles, and EVgo agrees that Duke needs to model EV charging patterns. However, EVgo

¹⁸ Connecticut Public Utilities Regulatory Authority Docket No. 17-12-03-RE04, PURA Investigation into Distribution System Planning of the Electric Distribution Companies – Interconnection Standards and Practices, *Decision*, p. 28. (July 14, 2021).

¹⁹ Proposed Phase II Pilot Program, p. 2.

²⁰ *Id.*

suggests that there is a good reason why the Proposed Phase II Pilot Program does not claim a need for further data collection regarding DCFC stations.

While it is unclear what data Duke perceives it needs on DCFC, there is ample data available from DCFC stations across the country that is applicable to North Carolina, and significant data from DCFC stations in North Carolina, owned by EVgo and others. Further, in the Phase I Order, the Commission authorized Duke to develop up to 20 DCFC stations of its own. Duke has access to all of the data it needs to prepare for a future with EO 80-levels of EV adoption.

c. Comparison of utility vs. private ownership models is not a reasonable basis for further utility ownership of DCFC stations.

Duke claims that, “the Phase II Pilots will allow for direct comparison to the EVSE Tariff Pilot and the Make Ready Credit deployments, which ultimately involve customer-owned and operated structures.”²¹ Duke does not explain why the 40 Duke-owned chargers authorized by the Commission in the Phase I Order would not be sufficient for such a comparison. EVgo suggests that Duke’s proposed \$28,200,000 investment of ratepayer funds into Duke-owned DCFC stations is unnecessary for the purpose of comparing business models.

d. Equity issues are not a reasonable basis for further utility ownership of DCFC stations.

In its Proposed Phase II Pilot Program, Duke discusses transportation equity for low- and middle-income (“LMI”) customers and rural customers, but not in the context of the Highway Fast Charging Program. It is certainly reasonable to take those equity issues

²¹ *Id.*, p. 14.

into consideration when developing Duke's Level 2 Charging program, EV School Bus Program and its Multi-Family Level 2 Charging Program; the facilities developed through those programs serve the communities where they are sited. On the other hand, DCFC stations located along highways are more generally available to all customers.

What Duke has apparently not considered, is that siting of DCFC stations does indeed have an important transportation equity component. Highways are not the only rational sites for DCFC stations, and locations along corridors utilized by LMI and rural customers can be prioritized. EVgo has played a prominent role in addressing such transportation equity solutions in other states and would welcome the opportunity to participate in such solutions in North Carolina. At a minimum, EVgo suggests that Duke's Highway Fast Charging Program, with no transportation equity component, is evidence that Duke has not adequately taken transportation equity into consideration.

CONCLUSION

EVgo appreciates the opportunity to participate in this process and share its input with the Commission and other stakeholders to aid in the development of a robust and comprehensive EV charging framework and ensure a successful program. As discussed herein, EVgo supports explicitly including owner-operators of DCFC stations as a target of Duke's Make-Ready Program and relying on that program to rapidly serve the need for more DCFC stations in Duke's service territories, rather than authorizing further monopoly ownership of DCFC stations.

Respectfully submitted, this 29th day of July, 2021.

By: /s/ Jason B. Keyes

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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 29th day of July, 2021.

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