

## STATE OF NORTH CAROLINA

## UTILITIES COMMISSION

## RALEIGH

## DOCKET NO. M-100, SUB 164

## BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

IN THE MATTER OF	)	
	)	
CONSIDERATION OF THE FEDERAL	)	REPLY COMMENTS OF
FUNDING AVAILABLE UNDER THE	)	EVGO SERVICES LLC
INFRASTRUCTURE INVESTMENT	)	
AND JOBS ACT	)	

Pursuant to the North Carolina Utilities Commission's ("Commission") *Order Allowing Comments Regarding Federal Funding for Utility Service in North Carolina* ("Order") issued February 1, 2022, EVgo Services, LLC ("EVgo") offers the following reply comments. EVgo applauds the Commission for establishing this docket to assure that North Carolina takes full advantage of the funding available under the Infrastructure Investment and Jobs Act ("IIJA").

**BACKGROUND**

EVgo owns and operates America's largest public electric vehicle fast charging network, with more than 850 direct current fast charging ("DCFC") locations serving over 60 metropolitan areas across more than 30 states. In North Carolina, EVgo has 36 DCFC stations in operation, with active expansion underway.

In its March 15 comments, EVgo focused on the identification of actions that may be appropriate for the Commission to consider taking in order to facilitate appropriate receipt and

deployment of available federal funding within the State. Specifically, EVgo addressed 1) the IJJA's amendments to the Public Utility Regulatory Policies Act ("PURPA") that promote rate designs to support the development of electric vehicle ("EV") charging, including DCFC stations; 2) the potential for North Carolina utilities to enhance their "make ready" programs to complement IJJA funding available through the National Electric Vehicle Infrastructure ("NEVI") program; and 3) the need for North Carolina utilities to expand staffing to prepare for new service requests from a rapidly expanding EV charging market. In these reply comments, EVgo focuses on the first two areas, recognizing that staffing needs will become evident as programs are developed.

Given the breadth of programs funded by the IJJA, a majority of the parties that filed initial comments had no substantive position on the IJJA's EV charging provisions and programs. In these reply comments, EVgo focuses on comments related to the EV charging provisions in Sections 40431 and 11401 of the IJJA, as addressed by Dominion Energy North Carolina and Public Service Company of North Carolina, Inc. (together, "Dominion"); Duke Energy Carolinas, LLC and Duke Energy Progress, LLC (together, "Duke"); and ChargePoint, Inc. ("ChargePoint").

## COMMENTS

### **1. The Commission should initiate a proceeding to consider measures that promote greater transportation electrification, including EV-specific rates.**

Section 40431 of the IJJA amends PURPA by adding a subsection to PURPA Section 111(d), establishing a federal standard in Section 111(d)(21) regarding transportation electrification, focusing on rate design.<sup>1</sup> For the Commission, the importance of this new EV charging provision is that PURPA Section 111(a)<sup>2</sup> requires state utility commissions to consider

---

<sup>1</sup> PURPA Section 111(d) is at 16 U.S.C. § 2621(d), with the new EV charging standard at § 2621(d)(21).

<sup>2</sup> 16 U.S.C. § 2621(a).

adopting the federal standards in Section 111(d), now including the EV charging provisions in Section 111(d)(21). While the Commission has the discretion to establish its own standard, federal law requires that the Commission consider the federal standard. EVgo urges the Commission to establish a docket to consider the federal standard at its earliest opportunity; the Commission can enable the significant expansion of EV charging envisioned by the IIJA through the development and establishment of rates designed to serve the various EV charging use cases.

Outside of this docket, Duke has acknowledged that rate design can impact the rollout of EV charging stations, but has not vigorously pursued such rate design. In the docket for Duke's "Proposed Phase II Electric Transportation Pilot Programs,"<sup>3</sup> the importance of rate design has been raised by EVgo and others. In response, Duke noted that the Commission ordered Duke to perform a Comprehensive Rate Design Study over a year ago, which will include an analysis of rate design for EV charging.<sup>4</sup> Most recently, the issue of rate design arose in Duke's Electric Transportation Stakeholder Group meeting on March 28; when asked about DCFC rate design, Duke said that while not opposed, they are not proposing anything at the moment. In short, rate design specifically for DCFC stations is not being appropriately prioritized to ensure effective deployment of IIJA's EV charging funds, which the Commission should change by establishing a docket on EV-specific rate design, in compliance with PURPA.

ChargePoint addressed rate design at length in its comments, and EVgo strongly supports ChargePoint's recommendations.<sup>5</sup> Simply, ChargePoint recommends that the Commission expeditiously establish a docket and adopt the federal standard regarding EV charging rate design.

---

<sup>3</sup> Docket Nos. E-2, Sub 1197 and E-7, Sub 1195.

<sup>4</sup> See, Duke Reply Comments on Phase II Pilots in Docket Nos. E-2, Sub 1197 and E-7, Sub 1195, pp. 24-26, Sep. 13, 2021.

<sup>5</sup> ChargePoint Initial Comments, March 15, 2022, pp. 9-13, including a useful list of rate designs for EV charging adopted by utilities across the country.

While ChargePoint quoted portions of the new PURPA sub-section 111(d)(21), added by IIJA Section 40431, the full text of that subsection is helpful:

- (21) Electric vehicle charging programs - 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 charging infrastructure.

As both EVgo and ChargePoint explained in initial comments, rate design is crucial because of the misalignment of traditional demand charges with the type of loads DCFC stations represent. EVgo therefore continues to advocate for rate design that addresses this key barrier to private sector investment in fast charging development.

The present docket addresses IIJA funding, and EVgo is not attempting to address EV charging rate design in this docket. However, the IIJA requires the Commission to consider rate design, and EVgo suggests that the present docket is an appropriate place for the Commission to acknowledge the need for an EV charging rate design docket to comply with IIJA Section 40431 and open such a docket.

**2. The Commission should expeditiously approve an expanded make-ready approach for third-party owned DCFC stations.**

To accelerate the adoption of EVs while minimizing the impact on utility ratepayers, EVgo has consistently advocated for a “shared responsibility” model that leverages different entities’

strengths in the EV infrastructure ecosystem. While Duke has established Make Ready Credit (“MRC”) tariffs that provide customer credits based on increased revenue from EV charging for the first three to five years after an installation,<sup>6</sup> the Commission stated 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].”<sup>7</sup> The rapid deployment of NEVI funding elucidates the need for the electric utilities to develop a complementary EV charging ecosystem to support efficient funding deployment.

In their initial comments, ChargePoint addressed the need for expansion and refinement of the MRC programs, and EVgo supports those comments. As ChargePoint succinctly stated, having the utility focus on make ready “aligns with the utility's key competency of installing and maintaining distribution assets.”<sup>8</sup> Make ready investments typically bring rate-based distribution upgrades into the utility scope, while leaving dispenser ownership, marketing, customer service, and network operation in the hands of experienced private operators. The result leverages utilities’ strengths in infrastructure buildout, with the scale learnings and efficiencies that private electric vehicle service providers (“EVSPs”) have built over thousands of installs and years of deployment. With this approach, EVSPs would be primarily responsible for installing, owning, operating, and marketing EV charging stations, while the utility invests in, and earns on, the wiring and backbone infrastructure necessary to make locations ready to energize. The support provided by utility make ready investments would complement federal NEVI funding to improve the economics of siting

---

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

<sup>7</sup> *Id.*, p. 19.

<sup>8</sup> ChargePoint Initial Comments, Mar. 15, 2022, p. 5.

DCFC. With a well-designed make ready program in place, EVSPs can then use their deployment expertise to ensure efficient implementation of IIJA's EV charging funds.

Dominion states that it is still developing a plan to pursue IIJA funds, but notes that "many of the electric vehicle infrastructure-related programs will require coordination between the North Carolina Department of Transportation (NC DOT), the Department of Environmental Quality (NC DEQ), utilities, and other stakeholders involved in the development of North Carolina's clean transportation plan."<sup>9</sup> EVgo is one of the "other stakeholders," and suggests that Dominion's best approach to leverage and enable meaningful impacts of IIJA EV infrastructure funding is to work with DCFC station developers to facilitate make ready build-out for DCFC stations. As noted in EVgo's initial comments, EVgo understands that NC DOT is focused on developing and coordinating programs that enable private sector investments in EV charging through the appropriate allocation of IIJA funds. The utilities should ensure they are well-positioned to support the resulting programs by developing the complementary measures described above.

Like Dominion, Duke is developing a plan for IIJA funding and recognizes the need for coordination with public and private entities. However, Duke's "non-exhaustive" list of "public and private entities" with which they will coordinate includes only state and federal entities.<sup>10</sup> This misses a core and critical segment of participants; the EVSPs. Again, we encourage Duke to work with EVSPs, including EVgo, to develop plans and programs that are complementary to IIJA EV infrastructure funds that will be made available to entities under NC DOT's NEVI plan, currently under development through a stakeholder process.

---

<sup>9</sup> Dominion Initial Comments, Mar. 15, 2022, p. 4.

<sup>10</sup> Duke Initial Comments, Mar. 15, 2022, pp. 10-11.

**3. It would not be appropriate for the utilities to pursue NEVI funds authorized under Section 11401 of the IIJA.**

In their initial comments, both Duke and Dominion identified grants for charging and fueling infrastructure authorized under Section 11401 of the IIJA, now termed the NEVI program, as a potential program that would assist them in meeting their obligations under the North Carolina General Statutes and the Rules of the Commission.<sup>11</sup> However, EVgo contends that any action beyond developing complementary rates and programs, as described herein, would be premature.

Duke's Phase I Pilot Program, as approved nearly a year and a half ago allowed Duke to develop 20 DCFC locations, but none were operational as of March 28, 2022.<sup>12</sup> At Duke's March 28 stakeholder meeting, Duke stated that it expects the first two locations to be operational soon, and the remainder to come online by the end of 2022. While supply chain issues have undoubtedly caused deployment delays across the country, EVgo and other DCFC developers have built hundreds of stations across the country in the past two years. Duke can play the role of market accelerant, therefore, by leading on make ready, which would leverage the speed and scale of third-party EVSPs. Further, a full review of the cost of the utility-owned DCFC stations authorized in Duke's Phase I program has not yet been evaluated, and it is therefore unclear if this approach is truly the most cost-effective way for the utility to participate in the development of charging infrastructure. Notwithstanding, a shared responsibility approach as discussed above will make for a more efficient and timely deployment of IIJA EV

---

<sup>11</sup> *Id.*, pp. 5-6; Dominion Initial Comments, Mar. 15, 2022, p. 2.

<sup>12</sup> Order Approving Transportation Pilot in Part, Docket Nos. E-2, Sub 1197 and E-7, Sub 1195, Nov. 24, 2020, p. 18 (approving stations at approximately 20 locations).

infrastructure funds. It would be premature for the Commission to consider anything further at this time.

### **CONCLUSION**

EVgo appreciates the opportunity to participate in this process and share its input with the Commission and other stakeholders to aid in the efficient utilization of IIJA funds in the State and to assure compliance with IIJA's addition to PURPA regarding consideration of the federal standard for EV charging.

Respectfully submitted this the 14<sup>th</sup> day of April, 2022.

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



CERTIFICATE OF SERVICE

I certify that all parties of record have been served with the foregoing Reply Comments of EVgo Services LLC either by electronic mail or by deposit in the U.S. Mail, postage prepaid.

This the 14th day of April, 2022.

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

OFFICIAL COPY

Apr 14 2022