



September 13, 2021

Ms. Antonia Dunston, Acting Chief Clerk
North Carolina Utilities Commission (NCUC)
4325 Mail Service Center
Raleigh, NC 27699-4300

**Re: Dockets E-2, Sub. 1197, and E-7, Sub. 1195
Duke Energy Carolinas, LLC's and Duke Energy Progress, LLC's Request for Approval of Phase II ET
(Electric Transportation) Pilot Programs**

REPLY COMMENTS OF THE ALLIANCE FOR TRANSPORTATION ELECTRIFICATION

Dear Ms. Dunston:

The Alliance for Transportation Electrification (“ATE” or the “Alliance”) is providing its Reply Comments to Initial Comments that were filed in the above referenced Docket on July 29, 2021, in regards to the filing made in this Docket by the two operating utilities of Duke Energy in North Carolina, namely DEC and DEP (hereinafter “Duke Energy”) seeking approval of Phase II Electric Transportation Pilot Programs and ask that these comments be entered into these Dockets. The Duke Energy filing proposes a portfolio of several ET programs including a Customer-Operated EV Supply Equipment (EVSE) Tariff Pilot, Public Level 2 and Multi-Family Charging, Highway Corridor Fast Charging, and a school bus program. In our Initial Comments, ATE strongly supported Commission approval of each of these programs.

The Alliance, a 501(c)(6) non-profit corporation, is led by electric vehicle (EV) infrastructure firms and service providers, automobile manufacturers, utilities, and EV charging industry stakeholders and affiliated trade associations. We started with 20 organizations at the launch just over three years ago and now we have nearly 55 members nationally. We take a “big tent” approach to advance the industry and focus not just on accelerating EV charging deployments—which necessarily requires a strong utility role—but also promoting public accessibility and open standards. We are presently involved in about 25 proceedings in the States before the PSCs, state energy offices, Legislatures, Governors, state DOTs and DEPs, and other agencies.

General

Many of the Initial Comments in this proceeding focused on perceived deficiencies in Duke’s Phase II Pilot Programs filing. Some of the commentors, for example, suggested that certain types of rate designs should have been incorporated (see Environmental Defense Fund (EDF), North Carolina Sustainable Energy Association (NCSEA), and Joint Comments of the North Carolina Justice Center, Southern Alliance for Clean Energy and Sierra Club (hereafter “Joint Commenters”)). For example, NCSEA states “The development of

tariffs for customers should plainly incent off-peak charging and seek to make ET less costly than internal combustion engine (“ICE”) counterparts” (NCSEA at 2). Parties also noted that evaluation, measurement and verification processes should have been included: “NCSEA would encourage the addition of an Evaluation, Measurement, and Verification (“EM&V”) process to maximize values and benefits further. EM&V is essential to ensuring pilot learnings are captured and that ratepayer investments maximize long-term value and benefits for all.” (NCSEA Initial Comments at page 2).

EDF noted that more focus should have been placed in the Phase II filing on medium and heavy-duty (MHD) EV applications. EDF points to North Carolina having signed on to the Multistate Medium- and Heavy-Duty Zero Emission Vehicle Memorandum of Understanding (“MHDV MOU”) and suggested that North Carolina has an opportunity to play a leading role in promulgating full-scale programs for this sector by intentionally designing full-scale programs based on well-designed pilots (EDF pages 6-7).

And several of the Initial Commentors criticized Duke Energy for only including utility ownership options in its Phase II proposals. ChargePoint claims that contrary to the Commission's Order requiring the use of "additional ownership" models, the Companies have only proposed Phase II Pilots that result in utility ownership of EVSE (ChargePoint at 9). EVgo suggests that “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 (Emphasis added) (EVgo at p 3). And NCSEA states that “The Phase II Pilots are too concentrated on Duke-owned infrastructure and NCSEA believes that Duke should follow best practices established in other states which have resulted in a healthy and robust ET infrastructure buildout where the utility enables the market rather than dominates it” (NCSEA at page 2).

In each of these cases, the parties seem to ignore the guidance given to Duke Energy by the Commission in its Initial Order approving Phase I Pilot Programs, or ignore other filings made by the Company or work underway that respond to some of the objections raised. With respect to the comments lamenting lack of rate design options, on May 7, 2021, Duke Energy filed for the approval of three dynamic rate designs in Docket No. E-7, Sub 1253. These rate designs included a review of the piloted dynamic rate designs in Docket No. E-7 Sub 1146 and the TOU periods for Residential and Small General Service customers. Although these filings were not part of the Companies’ Phase I or Phase II Pilot Programs, the rate designs proposed will apply to EV charging and satisfy some of the objections raised by parties in their initial comments. These rate design proposals were explicitly created based on expected EV charging, and have “the potential to offer the lowest total cost of charging EVs thus far available in DEC’s territory given beneficial load shapes” (Duke Filing at 7).

With respect to EM&V, Duke has made it clear in the Stakeholder process that it is developing such measures with the help of a consultant. Once such measures are developed, Duke can use them to evaluate its Pilot Programs, but given the lead time necessary to implement programs, we think consideration of Duke Energy’s filing should not be delayed.

While it is true that Duke Energy did not focus on medium- and heavy-duty (MHD) use cases in its Phase II filing beyond the School Bus proposal, its transit program was rejected by the Commission in its Phase I Order and MHD programs were not included in those pilots for which the Commission sought Phase II proposals. This does not preclude Duke Energy from making such proposals soon in the future. Given the current salience of multiple MHD use cases, we would support Duke working with its Stakeholder Group to

develop such a proposal to bring to the Commission in the future.

And finally, with respect to Duke allegedly only proposing its own ownership of charging stations in Phase II, ChargePoint in particular states “However, contrary to the Commission’s Order requiring the use of “additional ownership” models, the Companies have only proposed Phase II Pilots that result in utility ownership of EVSE” (ChargePoint at 8). Duke’s MRC program targeted at third party ownership models seems to be ignored by such comments.

The Commission did indeed tell Duke to consider ownership alternatives in its Phase I Order. Specifically, the Commission directed Duke to explore in the second round of the three Phase I pilot programs and any other proposed programs additional ownership options and stations co-owned, co-funded, or co-operated with Duke in partnership with other entities (Duke filing at p 6). Duke has done just that, although not all within the Phase II filing. While not a pilot program, Duke Energy separately proposed its Make Ready Credit (MRC) program that will provide incentives for third-party owned charging stations. In its filing, Duke points out that “the Make Ready Credit program will help lay the necessary foundation for transitioning to the increased EV adoption and infrastructure envisioned by the Commission in the ET Order and will complement the Companies’ Phase II Pilot proposals” (Duke Filing at 7).

We wish to point out that the MRC program was widely supported in comments filed by most stakeholders on that proposal, including by those who now suggest that Duke is focused only on utility ownership models. In addition, the Customer-Operated EVSE Tariff Pilot proposed in Phase II is intended to help site hosts that wish to operate but not own charging stations – the utility will own the station and recover costs over time. And finally, the Public Charging and Highway Corridor Pilots proposed in the Phase II filing, along with the School Bus program will further test utility ownership and operation models. Thus, we believe it is indisputable that Duke has properly responded to the Commission’s request that Duke include a wide breadth of ownership models in its EV programs in following up to its Phase I filing.

In sum, we believe that if Duke’s EV-related filings since the Commission’s Phase I Order, including the Dynamic Rates filing, the MRC program filing, and the Phase II Pilot filings are seen in their totality, Duke has responded to the requirements that the Commission laid down in the Phase I Order. In fact, Duke has addressed many, if not most, of the criticisms that have been made in Initial Comments by the parties who participated in the Stakeholder process on these the programs and rate designs included in this filing.

In the remainder of these Reply Comments, ATE wishes to address one of the major issues that recurred in several of the Initial comments – most notably issues raised by EVgo, ChargePoint, the Carolinas Clean Energy Business Alliance (CCEBA), and NCSEA – that Duke Energy erred in proposing utility ownership models or was too reliant on such models in its Phase II filing. The Alliance believes that utility ownership, either with site host operation or utility operation as proposed in this filing, is a critical component of a portfolio approach, which includes third-party private EVSEs that are the major focus of the MRC program also filed by Duke. The idea behind the portfolio approach is that the utility will not own and operate every segment of the market nor will it “crowd out” potential non-utility service providers. And in fact, Duke Energy’s proposed programs provide for such a portfolio approach by providing rebates for third-party owned stations (via the MRC program) in addition to the utility-owned stations. As in other States, we strongly believe there is ample space for multiple models and forms of ownership to develop as North Carolina needs to add a significant number of charging stations to meet the expected rapid growth in EV adoption in the near future. Range anxiety remains one of the biggest obstacles to buying an EV in North Carolina and other states, meaning that if Duke cannot play a strong role in filling in market gaps and building out infrastructure, the entire virtual cycle of EV adoption and market transformation may stall out

in the state.

Response to Specific Initial Comments

The Alliance believes that utility investment, not just in make ready credits for non-utility EVSEs but also for utility operated and/or owned stations is critical for a variety of reasons. First and foremost, as Duke points out in its filing, the Governor through his Executive Order 80, has set an aggressive goal for market development of EVs. Today, North Carolina only has about 30,000 registered PHEVs and BEVs in its light-duty fleet. As also pointed out by Joint Commenters “Although EV sales and charging station deployment continue to increase in North Carolina, there continue to be barriers to EV adoption and the state has significant progress to make before it reaches the goal set forth in Executive Order 80 of 80,000 zero-emission vehicles by 2025” (Joint Commenters at 3). The need for new charging stations in North Carolina, and indeed for the entire nation is significant. Hence, North Carolina needs an “all hands on deck” approach at this time.

It is critical to note as well that as a result of the Stakeholder process, Duke’s investments proposed for Phase II that involve ownership and operation are limited to low and moderate-income communities and distressed counties. Duke states in its Phase II Filing “... 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. DEC and DEP’s second phase 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” (Duke Filing at 10-11).

Thus, Duke focuses on specific areas where competitive investment by private parties is less likely. Even EVgo, which generally opposes utility ownership of charging stations is supportive of utility investment in these areas. EVgo “... commends Duke’s efforts to address transportation equity issues and is a willing and supportive partner to that end” (EVgo at 4-5). EVgo does oppose utility ownership in the Highway Fast Charging Corridor Program apparently because they mistakenly believe that Duke’s proposal there does not focus on equity. (“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” (EVgo at 4)). EVgo is mistaken in this regard - Duke has indeed targeted the Highway Fast Charging Corridor Program at Tier I and Tier II North Carolina counties, which are the most distressed in the State. Duke, in its filing, states that “The Companies’ Phase II Public Level 2 Charging program, Multi-Family Level 2 Charging Program, and Highway Fast Charging Programs all contain components that are specifically dedicated to expanding equity and access to electric transportation mobility to low- and moderate-income customers or customers in more rural areas” (Emphasis added) (Duke Filing at 14). Given that the Highway Fast Charging is also focused on distressed areas, we believe EVgo should again be supportive. Ample evidence from other states suggests that the private EVSPs focus their locations on the middle and higher-income areas. Therefore, EVgo arguments on this aspect of Duke’s programs are inconsistent and misleading.

And ChargePoint, while opposing any utility ownership in Phase II in its initial comments, has in the context of proceedings in other states always supported a utility role in areas where private investment is less likely. In fact, ChargePoint fails to mention in its Initial Comments that all of the utility ownership and operation of charging stations proposed in Phase II is in low income and distressed communities. It states “However, rather than develop and propose Phase II Pilot programs that provide additional information for the Commission, the Companies, ratepayers, and EV drivers, the Companies' **simply propose utility**

ownership and operation of more EVSE in the same market segments as the Phase I pilots already approved by the Commission” (Emphasis Added) (ChargePoint at 8). This statement is simply untrue as well as misleading. It is clear in its program designs and in the stakeholder process that Duke has focused its Phase II efforts on addressing the equity issues that the Commission raised in last year’s Order.

One of the major arguments used by these opponents of utility ownership or operation in Initial Comments is the fear that utilities will dominate the market and crowd out the competitive private market. EVgo states that “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)” (EVgo at 8). CCEBA expresses concern that “Given the ongoing competitive market activities in this space, CCEBA questions the extent to which ratepayer funding should be leveraged to empower the utility as a new, dominant market entrant” (CCEBA at 4-5). Duke Energy, however, has adequately addressed these concerns. First, it is planning to develop charging stations in those areas that are not being served by the competitive market – i.e., low-income communities and distressed counties. The Company, in its filing, even pledges to work with stakeholders to further refine its selection process to ensure that investment truly match needs in these communities. (“... the Companies have recently engaged with certain ET Stakeholders with expertise in these issues (the Southern Environmental Law Center, the Southern Alliance for Clean Energy, and the North Carolina Justice Center), on eligibility criteria for the Public and Multi-family Level 2 charging and the siting of these chargers. ...The Companies intend to continue these discussions for siting purposes with respect to these Phase II Pilots” (Duke Filing at 16-17).

With respect to the ability of Duke to undercut the price of competitors, that is exactly why it appears that Duke adopted the idea of a “Fast Charge Fee” which will be based on the average price of fast charging within the State, updated quarterly. This straightforward market-based pricing method for charging services from utility-owned stations has been adopted in many jurisdictions that have considered the issue as a way of ensuring fair pricing by the utility. EVgo’s arguments are not persuasive, nor does it offer any viable alternative for pricing or rate design.

The issue of utilities becoming a “monopoly” or dominant provider of charging services is brought up by many of the Initial Commenters. CCEBA, for example, asserts that “If approved, the Companies would hold a 61% market share of all publicly-accessible, open standard DC fast charger installations. Additionally, with a large, near-term deployment, the monopoly would have access to the highest value sites for private sector deployments, stifling competition” (CCEBA at 5). While it’s not entirely clear how CCEBA came up with this market share, it appears that they simply took Duke’s proposed number of chargers in Phases I and II and divided that by the current number of chargers, ignoring the fact that the number of private chargers will grow substantially as well. And as stated earlier, Duke Energy’s chargers will all be in low and moderate-income communities and distressed counties – clearly not the highest value sites for development as CCEBA alleges.

In fact, Duke developed its program to specifically ensure that it would not gain a substantial market share with its Phase II programs. The Companies produced a range of investment levels for the Phase II Public Charging pilots for review during the ET Stakeholder process, corresponding to filling between 10% and 25% of the anticipated 2025 Fast Charge infrastructure gap. (Duke Filing at p 2). Neither the 10 percent or 25 percent assumptions would give Duke anywhere near a dominant position in the charging market.

At this stage of market development, even the statement of a regulated utility having the ability to “crowd

out" other players reflects a disregard for market-based realities, or a tendency by vendors and certain advocates to want to "lock in" certain business models, including proprietary systems. Yet the primary argument made by opponents of utility involvement is that competition and the development of a third-party charging market will be stifled by a dominant utility presence. The Alliance disagrees with that assessment of today's nascent and early-stage market. Clearly, many market gaps exist where a robust role of the regulated utility can help catalyze further development of the market along with private EVSEs.

The market for public charging stations, particularly for public Level 2, for some use cases is somewhat competitive, but not nearly to the point where the competitive market acting alone will install enough chargers to meet expected future demand. In fact, one private EVSE that is a party to this case holds a dominant share in the public Level 2 market here and in other states, and arguably is the entity that can exert market power, not the regulated utility.

We also believe that the DC fast charging market has not reached a stage of maturity yet in North Carolina or elsewhere that could be considered competitive. And in either the level 2 or DCFC case, there are certainly some market segments, such as rural areas (including along highways), multi-family properties, and low and moderate-income disadvantaged communities, where there is little competitive activity and the short-term business case for the private EVSE is very challenging. These are exactly the areas being targeted by Duke Energy for investment in Phase II.

In brief, the Alliance believes there are substantial gaps in the public EV charging market today that will not be filled solely by third-party EVSEs. Further, DC fast chargers on highways, in particular as proposed by Duke Energy, are likely not economical for the third-party private market at this nascent stage of market development and a competitive market is not likely to materialize in the near term. But utility infrastructure investment, including ownership and operation, should not be dependent on the competitiveness of the market nor be limited to specific markets. Utilities ownership and operation of charging stations can ably and effectively complement the private or non-utility market and ensure successful EVSP deployment throughout their service territories – both in the near- and long-terms.

Finally, ChargePoint especially makes the specious arguments that the modest Phase II Pilots of Duke would hamper the private market in their own expansion efforts or somehow limit how they could price their services. For example, ChargePoint asks the Commission to revise (Duke's) Public Level 2, MFD and Highway Corridor Pilot Programs to expressly allow for third party turnkey solutions (ChargePoint at 10). ChargePoint also alleges that "...the Companies limit the ability for site hosts to choose the EV charging solution that works best for them to the Highway Corridor Fast Charging program. The Companies do not provide any explanation or justification for limiting site hosts choice to only one Phase II Pilot program. (ChargePoint at 10). And "ChargePoint further recommends that the Commission direct the Companies to include appropriate tariff language to allow site hosts the ability to establish and adjust pricing for EV charging services" (ChargePoint at 12). Yet there is nothing in the Duke Phase II filing that precludes potential site hosts from choosing a third-party turnkey solution or limits any choices of site hosts. In fact, the MRC program will only serve to incentivize such solutions. As emphasized above, Duke's Phase II programs are almost entirely focused on low-income areas and distressed counties where private competitive investment is considerably less likely. And while the Companies propose a pricing regime for chargers that they own (based on the approximate average statewide Fast Charge price per kWh), in no way does the Phase II proposal address or limit pricing at charging stations owned by third parties.

In summary, there are many misleading and inaccurate assertions made in Initial Comments by organizations such as EVgo, ChargePoint, NCSEA, the CCEBA and others regarding utility ownership and

operation of charging stations. Hence, we strongly urge the North Carolina Commission to reject these arguments and adopt Duke Energy’s Phase II proposals, which will substantially improve the ability of historically underserved communities to participate in the EV revolution. Duke, in its filing, emphasized this focus on the programs it proposed when it stated, “One of the Companies’ specific goals for the Phase II Utility-Operated Public Charging Pilots is to determine how best to prioritize addressing transportation equity issues with specific carve-outs for low- and moderate-income customers and rural areas.” (Duke Filing at 14). The need for these equity programs was not questioned by anyone in the Initial Comments, but many neglected to take these objectives into account when opposing the Duke Energy filing. That will ultimately be the task of the North Carolina Commission.

Submitted this 13th day of September 2021.

Sincerely,

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