BEFORE THE LOUISIANA PUBLIC SERVICE COMMISSION

LOUISIANA PUBLIC SERVICE COMMISSION,	)	
ex parte	)	
RE: DETERMINATION OF COMMISSION	)	
JURISDICTION OVER THE VARIOUS	)	Docket No. R-36131
METHODS OF PROVIDING ELECTRICITY TO	)	
ELECTRIC VEHICLES, AND THE	)	
INFRASTRUCTURE ASSOCIATED	)	
THEREWITH.	)	

**NOTICE OF STAFF PROPOSED PHASE II RECOMMENDATION,
REQUEST FOR COMMENT, AND NOTICE OF PROCEDURAL SCHEDULE**

COMMENTS OF THE ALLIANCE FOR TRANSPORTATION ELECTRIFICATION (ATE)

The Alliance for Transportation Electrification (ATE) is pleased to provide these comments to the Louisiana Public Service Commission in response to its Proposed Phase II Recommendation, Request for Comment, and Notice of Procedural Schedule that was issued on February 23, 2024. We were granted intervenor status in this proceeding by Order of the Commission on November 18, 2021. ATE believes that the PSC has raised important issues in Phase II of this Proceeding that should be resolved to help move the electric vehicle market forward in the State. As a general matter, our main concern with the Commission Staff's February 23 request for comment is the proposal that electric utilities be precluded from owning and operating electric vehicle charging stations (often referred to as EVSEs) except through a separate unregulated subsidiary. We believe this proposal reduces the flexibility of the Commission and the State to ensure that a sufficient number and type of EVSE stations are built in Louisiana to meet all future needs and use cases. We do comment below on all of the Commission Staff's Requests for Comment, but our focus and main concern is on the ownership and operation issue.

ATE is a 501(c)(6) non-profit corporation established in early 2018. We primarily engage with policymakers at the State and local government level to remove barriers to EV adoption and to encourage the acceleration of EV infrastructure deployment with a particular emphasis on open standards and interoperability. We currently have over 60 members that include many electric utilities, auto and bus manufacturers, EV charging and service providers (EVSPs), and related trade associations and non-profit organizations. 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 30 proceedings in the States before the PSCs, state energy offices, Legislatures, Governors, state DOTs and DEPs, and other agencies.

Below, we provide our responses to the questions posed by the Commission in this phase of the Docket, and we stand ready to assist the Commission as it develops regulatory policies regarding EVs.

As Commission Staff notes in its February 23 Request for Comment, Staff's Phase I Report provided recommendations associated with identified key issues from the Commission's determination on jurisdiction within this docket. Those key issues were whether residential customers installing EV charges should be required to have a separately installed meter; do incentives exist for customers to install EV charging equipment; should, and to what extent, should an electric utility be able to recover the costs of installing and maintaining EV charging stations; and whether EV charging pricing to the end user should be based on volumetric or time-based pricing. The Commission Staff also seeks information on additional issues including cybersecurity and on-site generation at EVSE facilities. We address each of these issues in turn.

1. **Separate meters for EV charging stations - Whether or not utility customers installing EV charging equipment at their homes, workplaces, or other properties will be required to have such EV charging equipment separately metered, submetered, or incorporated into the existing meter.**

ATE agrees with the Commission Staff's recommendation that the choice be left to the customer on whether they decide to separately meter the EV charging equipment. Separate meters can be expensive and are not always needed. But we suggest that the final policy allow for a nuanced exception to this general policy to allow maximum flexibility for the future. Specifically, utilities should be able to develop load management programs that customers can take advantage of to lower their costs of residential charging. Such load management programs, which help ensure that utility costs due to charging load are minimized, may require the use of a separate meter to ensure that customers adhere to the terms and conditions of the program. Or in place of a separate meter, utilities might rely on analytics of AMI data through disaggregation to monitor charging behavior, smart chargers that control charging times, or telemetry data from the vehicles themselves. In any event, utilities should have the ability to require a separate meter or one of the other methods for monitoring time of use for charging as a condition of participating in a load management program. Participation would still be optional, so this is not really an exception to the general rule – customers would still make the ultimate decision whether to participate in a specific program according to its terms.

While we are not aware of any utilities in Louisiana that have such current load management programs, providing a path for such programs is important as load management programs can help ensure that as new charging loads become more significant, they do not place undue burdens on customers. We do understand that Entergy Louisiana has a proposed demand adjustment rider in which they would require a separate meter. By encouraging off-peak charging when utility costs are lower than increased costs of serving new load, load management programs can help provide downward pressure on rates over time for all customers of a utility. And in some cases, such programs may require a separate meter.

Other innovative rates may also be proposed in the future which also would require either separate meters or submetering of some type. For example, subscription rates that provide customers with an all-in monthly charge provided they charge off-peak, or utility leasing programs where utilities provide a vehicle charger in exchange for a monthly lease payment which may or may not include charging costs.

Again, these are examples of programs that might be of interest to Louisiana utilities in the future as they are becoming common in utility programs in other jurisdictions. The Commission, while appropriately leaving separate meters as a decision of the customer, should also not inadvertently preclude innovative utility EV programs which may provide customer benefits in the future,

2. **<u>Incentives to customers to install EV charging equipment</u> - What incentives, if any, might be available to customers to install EV charging equipment?**

In general, we don't believe that the caveat in this Section on promotional practices is necessary. Staff cautions the use of incentives could be considered a violation of the Commission's General Order dated April 7, 2004 (Promotional Practices Rules). The Commission's Promotional Practices Rules prohibit a utility from permitting any payment, rebate, or preference for the purpose of enticing, persuading, or causing a subscriber or potential subscriber to take service of one utility in preference of another utility. We do not believe that EV incentive programs are or could be designed to cause a customer to switch from one fuel source to another (e.g., fuel-switching). Utility incentive programs should have as their objective the further development of the EV market in Louisiana. Such incentives may result in decreased use of gasoline due to more EVs on the road, but gasoline sales are not a utility service.

As Staff notes, Entergy Corporation currently has an eTech program which provides customer support to those customers who purchase select electric equipment, as well as offers cash incentives to those customers who purchase, on their own, at their own expense, select electric equipment. ATE strongly supports the use of incentive programs as a means to support beneficial electrification that benefits all of a utility's customers. Such programs may include equipment leasing or a rate schedule that is similar to an Additional Facilities Charge ("AFC"), with repayment over a period of time as the Staff suggests, subscription rate programs, temporary rate incentives to deal with the effects of demand charges when charger utilization is low (such as Entergy's proposed demand adjustment rider), make-ready incentives or rebates to help with the costs of installing commercial charging stations, and rebates to help cover the costs of charging stations themselves, such as the eTech program. And this is not an all-inclusive list. Utilities around the country have a multitude of incentive programs that are designed to encourage the adoption and use of EVs to provide consumer and grid benefits. The goal should be program and rate designs, such as the Additional Facilities Charge, which eases the burden of upfront capital costs to the customer over a certain period.

Finally, we agree with Staff that should a utility offer an incentive, such incentives should be clearly stated and transparent, including any terms and conditions.

3. **<u>Electric Utility's ability to recover costs</u> - To what extent an electric utility might be able to recover the costs of installing and maintaining EV charging stations, assuming the LPSC allows electric utilities to participate in providing EV charging stations to retail customers.**

In its February 23rd Request for Comment, Commission Staff proposes that utilities be prohibited from owning and operating (called "O&O") an EV charging station except through an unregulated subsidiary. We strongly disagree with this proposed position. We stated in our Initial Comments in this Docket that while private development of charging stations should be encouraged and should be the primary mode of station development, there are clear and tangible cases in which utility involvement will be necessary to supplement private development and meet state objectives. The strict prohibition in the Staff's proposal would remove any future flexibility, for example, to rely on utilities to serve those areas of the state or end use cases that are not or are unlikely to be served by the private market. Such instances could include development in rural areas where utilization may be low initially, multi-family dwellings, medium and heavy-duty truck charging, on-street charging, and particularly low- and middle-income disadvantaged communities. Without utility participation in the market, such areas, and others, may simply not get served.

ATE published a paper in 2023 which outlines in detail why we believe allowing some utility ownership and operation of charging stations is critical. That paper, entitled "Driving for Benefits: The Utility Role in Transportation Electrification" is available at https://evtransportationalliance.org/wp-content/uploads/2023/06/Utility.role_.OO_.whitepaper.FINAL_.6.6.23.pdf. As described in that paper there are many benefits to a robust utility investment role in EV charging. These benefits include:

- Increasing the pace and scale of infrastructure development by opening the market to utility capital, expertise, and other resources.
- Utilities can fill immediate market needs which may take longer for third parties to fill.
- Maintaining reliability, enhancing resiliency, minimizing negative grid impacts, and optimizing required distribution and transmission system upgrades by coordinating with existing utility investment and planning processes.
- Utilities are more likely than others to place value on off-peak charging and achieving system benefits to meet both the system peaks, and the non-coincident peaks for distribution circuits.
- Utilities are well positioned to smooth a key pain point in operating charging stations, namely ensuring reliability. Utilities have an obligation to reliably serve all customers and are accountable to regulators creating strong incentives to maintain reliability.
- Utilities have a proven ability to communicate with and educate customers through existing channels and creating incentives to promote vehicle charging at times that provide grid benefits.
- Providing more equitable access to charging infrastructure for all ratepayers and communities and increasing mobility for all through utility partnerships with transportation programs focused on serving disadvantaged and rural communities.

In this Docket, and regulatory and legislative proceedings across the country, some companies, and organizations – primarily representing convenience stores and fuel marketers - continue to voice concerns about whether utilities should invest in helping to accelerate the EV revolution, particularly with respect to utility ownership and operation of infrastructure but also in some cases with respect to make-ready investments, pricing, and cost recovery. Many of these parties, who often participate in commission proceedings perceive the utility as an adversary who enjoys a monopoly with its exclusive franchise, resulting in an unfair competitive advantage, rather than a potential partner. Despite the large and growing size of this potential market, they fear that utilities will push them out of the market entirely.

ATE believes, however, that utility investment can complement, not supplant, third-party private investment and will serve as a catalyst for market growth and customer adoption. Utilities can help fill market gaps such as rural areas, disadvantaged communities, and multi-family dwellings where charger utilization may be lower in the early stage of market development. Utility involvement in EV infrastructure is not unlike previous models of utilities integrating new technologies into the distribution grid such as energy efficiency, energy storage, smart thermostats - even going back to the AC (air conditioning) transformation several decades ago - and home energy management systems more recently. Utilities have played a role with respect to all these demand-side technologies beyond the meter adopted by customers.

The primary argument of these opponents is that utility O&O amounts to unfair competition – that being able to place costs in rate base gives utilities an economic advantage in building charging stations and may undercut market pricing in a competitive market. Some suggest that they will not invest in chargers if even the threat of utility competition exists and thus, they seek regulatory or legislative prohibitions on utility ownership of charging stations (and sometimes even prohibitions on make-ready investments or the ability of the regulated utility to recover its capital costs with a return).

At this nascent stage of market development, ATE believes that the competitive markets are not meeting all the nation's infrastructure needs. In other words, significant market gaps have developed and continue to persist and grow with the higher levels of EV adoption. The needs for charging station development over the next decade are so significant relative to current deployment levels that action is needed now and the overall market size should allow many firms – both utilities and third-parties in the private sector as well as others to invest, whether it be by deploying make-ready infrastructure in front of and/or behind the meter, own and operate, leasing with subscription rates, or a partnership model with utility working with the private company on a turnkey basis.

Utilities can also work with private entities to help them get stations built – it is not in any way an either-or situation. Both utilities and non-utility entities have key roles to play. Indeed, early utility investment can help kickstart the market leading to more EVs on the road and better economics for private investment. A rising tide lifts all boats.

In addition, proposed utility investments in EV charging infrastructure are generally small compared to the overall investment needs of the regulated utility in generation, transmission, and distribution upgrades. Moreover, ATE has observed that there is a tendency by certain vendors and certain advocates to want to "lock in" certain business models and proprietary systems. We believe that the overall "charging infrastructure pie" is growing rapidly with room for many actors, but there are examples in other jurisdictions of litigating over a small number of public chargers even with an expected goal for that state that is substantially larger. In other words, the Commission need not worry that utility-make-ready or O&O programs, which are properly scoped and overseen by the Commission, result in a zero-sum outcome.

Experience has shown that involvement by a trusted utility as a complement to the private sector is important because the electric vehicle charging landscape is challenging to most of the population. While certain residential consumers and commercial landlords invest the time and resources to learn and execute on the options, unfortunately a more common outcome is the "do nothing" approach. Many landlords and property owners simply lack the time, resources, and motivation needed to move forward with installing, owning, and operating charging infrastructure. One way to jump-start the market is for the utility to complement private third-party investment in this early phase of market development by providing, installing, operating, and maintaining infrastructure, both public and private. Direct utility investment in developing charging stations (make-ready and O&O) may not be as broadly needed further down the road as the market reaches maturity, but still may be needed where the private sector does not venture, such as in multifamily units, low- and moderate-income neighborhoods, rural areas, on-street charging and for publicly accessible DC fast charging where there is no third-party EVSE offering charging.

But perhaps most importantly, the Commission would be limiting future flexibility by prohibiting utility O&O of charging stations at this time. Allowing utility ownership is not a blank check. Utilities would still have to file proposed investment programs with the Commission and demonstrate that such investments are in the public interest. Those opposed to any utility ownership could still intervene and make their arguments. **Such a case-by-case determination on whether utilities should own and operate, based on a filing by the utility, is the normal course of business and would maintain the Commission's flexibility to allow programs with demonstrated benefits to move forward but still prohibiting programs which they believe may unfairly affect competition.**

We would note that almost all states that have examined utility ownership and operation have allowed it to some extent, either through legislation or through Commission guidance. We believe Staff's proposed broad prohibition in the Staff Recommendation is contrary to the public interest, would preclude future flexibility, and would ultimately harm Louisiana consumers – particularly those least likely to be served by the private market.

4. **<u>Volumetric vs. time-based pricing</u> – Whether or not electric vehicle charging pricing to the end user should be based on volumetric or time-based pricing.**

We agree with Staff that by its issuance of the Phase I Order in this Docket that the Commission does not have jurisdiction over how power to end users should be priced. We do not take a position as to whether the Louisiana Department of Agriculture & Forestry has such authority.

5. **<u>Cybersecurity</u> issues**

ATE agrees that cybersecurity and EV charging equipment, both hardware and network-operated software, is an important and emerging issue that needs greater attention. We would note that the Staff seems to offer a non-sequitur – utilities are expected to report on cyber protections for facilities that they are not allowed to own or operate. Utilities should not be in any way liable for cyber breaches of equipment they don't own or don't exercise direct operational control, or indirectly with a vendor. But even with a utility O&O option, EVSE should not be singled out for special reporting at this stage of development. We assume that the Commission already receives briefings on the broader cybersecurity topics from expert federal and state agencies. We believe the best practice is for the Commission to establish a verbal, confidential briefing with utilities on a regular basis to get updates on all cyber issues including the potential vulnerabilities of public EV charging stations that are interconnected with the distribution grid. In addition, the Commission should take advantage of technical assistance of the Joint Office of Energy and Transportation (a joint initiative of USDOE and USDOT and FHWA) and the CESER (Cybersecurity, Energy Security, and Emergency Response) office in USDOE, since it has worked with the Joint Office to establish a cyber-EVSE working group. Also, the Electric Power Research Institute (EPRI) has a strong and robust cybersecurity program and has been extending its work to distributed energy resources (DERs) such as EVs and charging infrastructure. The Commission should take advantage of learning key lessons and best practices from all of these agencies and resources.

6. **<u>On-site generating units for EV charging stations</u>**

We agree with Commission staff that on-site generation raises issues of jurisdiction that have not been addressed thus far in this Docket. We are also concerned that future case by case adjudication could cause further confusion and uncertainty. We think the best approach would be for the Commission to further consider and resolve those concerns within this Docket.

Respectfully Submitted this 28th Day of March, 2024,

Philip B. Jones

Philip B. Jones, Executive Director
Alliance for Transportation Electrification (ATE)
1402 Third Avenue, Ste. 1315
Seattle, WA 98101
206-335-5451
Phil@evtransportationalliance.org
Web: https://evtransportationalliance.org

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served upon all parties of record by email properly addressed on this 28th day of March, 2024.

Philip B. Jones

Executive Director
Alliance for Transportation Electrification