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Case No. P.S.C. KY. Case No: 2022-00369

Introduction

The Energy Marketers of America (EMA) is a federation of 47 state and regional trade associations representing family-owned and operated small business energy marketers throughout the United States. Energy marketers represent a vital link in the motor and heating fuels distribution chain. EMA members supply 80 percent of all finished motor and heating fuel products sold nationwide including renewable hydrocarbon biofuels, gasoline, diesel fuel, biofuels, heating fuel, jet fuel, kerosene, racing fuel and lubricating oils. Moreover, energy marketers represented by EMA own and operate approximately 60,000 retail motor fuel stations nationwide, supply motor fuels to an additional 40,000 gas stations and heating fuel to more than 5 million homes and businesses.

The Infrastructure Investment and Jobs Act (IIJA) was signed into law in November 2021, and on November 7, 2022, the Kentucky Public Service Commission (“PSC”) initiated an investigation into Electric Vehicle (EV) rates. The investigation stems from 2021 amendments to Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) made by the 2021 IIJA. The IIJA amendments require the PSC to 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.

Use the Expertise and Experience of EMA Members

EMA members have extensive experience in consumer vehicle refueling habits and needs, as well as providing a consistent and positive customer experience associated with vehicle refueling. Furthermore, the price of the fuel is a significant component of consumer refueling decisions where prices are displayed on the street and a one-penny difference can determine where customers choose to refuel and come inside the store to buy other products. This leads to price competition and consumer choice. To have any chance of being successful, the EV charging experience should be as similar as possible to today’s refueling experience. We therefore encourage you to take advantage of this expertise and experience during the development and implementation of the programs and the implementation of EV charging infrastructure in the state.

Regulated Electric Utilities Underwriting Their Investment in EV Charging with Utility Rates Will Adversely Impact the Rate Base

EMA urges the Commission to implement regulatory policy and rate structures that will support private investment in transportation electrification. A major barrier to private businesses investing in direct current fast charging (DCFC) stations is the threat of electric utilities investing ratepayer funds in EV charging stations without market or competitive forces at play. If electric utilities are permitted to provide DCFC services directly to the public, as they are seeking to do across the country, it would undoubtedly undercut the development of a

competitive EV charging market in Kentucky. Private businesses cannot compete with a regulated monopoly that can pass on the costs of their investments in DCFC stations to all of their ratepayers. Additionally, it is not prudent for rate-regulated electric utilities to utilize ratepayer funding to expand their monopolies to EV charging services when there are private companies eager to invest their own capital. Finally, utility investments in charging stations could lead to stranded assets as EV charging technology evolves quickly and could render ratepayer funded EV infrastructure obsolete before the amortization period is complete.

EV charging services and the ownership and operation of charging stations should be left to private companies that compete on price and quality of services. This approach will ensure that the current fuel transition does not unnecessarily burden utility ratepayers. Private investment will be essential to create a more positive customer experience for EV drivers, which will support the growth of Kentucky's EV fast charging network. Without an emphasis on quality consumer service as well as charging availability, EV adoption rates will lag. Removing barriers for private businesses to install EV charging stations is essential to support the development of a long-term EV charging market in Kentucky.

Utilities should be focused on providing adequate connections along with a reasonable rate structure to support a competitive market not only along major roadways and urban areas, but in rural communities. Consumers will look for the lowest cost option. Retailers providing EV charging services must be able to buy electricity at wholesale prices without punitive demand charges for the private market to work. Varying electric rates based on time of use (e.g., charging during peak versus off-peak hours) will affect charging habits and adversely affect small businesses unfairly forcing them out of the EV charging marketplace and hamper the deployment of charging stations. Further, Kentucky should require electric utilities to propose rates for the sale of electricity to EV charging providers that utilize alternatives to traditional demand-based rate structures and supports a level playing field for competition in EVs fast charging market.

The Bottom Line

As previously mentioned, regulated electric utilities are increasingly seeking to underwrite their investments in owning and operating DCFC stations by recovering their costs in their customer's monthly electric bills. Electric utilities rate basing costs associated with building, owning, and operating networks of DCFC fast chargers will adversely affect the entire rate base, regardless of how many customers actually drive an electric vehicle. This would have the largest impact on individuals in low-income and fixed-income communities who are more sensitive to price fluctuations and are less likely to own EVs. In this sense, rate-basing the costs of EV charging infrastructure operates like a regressive tax, particularly on those least able to afford or directly benefit from it.

Ensuring that Kentucky's EV charging market is based on fair competition and transparency for all EV charging providers will mitigate financial impacts on ratepayers by encouraging private investment. However, private businesses need certainty that their investments in EV charging services will not be competed with unfairly by rate-regulated electric utility owned charging stations. To address this uncertainty, electric utilities that choose to own EV charging stations should do so through a separate, unregulated entity that cannot be cross subsidized with their regulated business as such, they can compete fairly with other private sector entities in the free market.

Sincerely,



Rob Underwood
EMA President