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NEWS RELEASE

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PSC Clears Road for Electric Vehicle Charging Stations

Removes potential obstacle of regulation of EV charging stations as utilities

FRANKFORT, Ky. (June 14, 2019) – The Kentucky Public Service Commission (PSC) ruled today that electric vehicle (EV) charging stations are not utilities and therefore should not be subject to regulation.

The ruling, contained in an order issued today, is intended to remove any ambiguity over the legal status of EV charging stations and pave the way for the deployment of more such stations in Kentucky. The PSC noted in the order that Kentucky has lagged behind neighboring states in the availability of public EV charging stations, with only 94 in the state thus far.

Today's order states that any EV charging station that purchases power from a regulated electric utility or generates its own power solely for the purpose of charging EVs is not subject to PSC jurisdiction.

The ruling hinged on whether EV charging stations are providing electric service to the public, which would make them fall under PSC jurisdiction. The PSC determined that EV charging stations are themselves consumers and end users of electricity.

The EV charging stations then use that purchased electricity to provide a specific service – battery charging - to a specific group of customers – those driving EVs. The PSC drew no distinction between EV charging stations that serve all-electric or hybrid electric vehicles, or both, or the type of entity operating the charging stations.

Similarly, an EV charging station that generates its own power would not be regulated as a utility as long as that power was used solely for EV battery charging and not sold to anyone else for other purposes, the PSC said.

The PSC opened the proceeding in November 2018 and sought comments from interested parties. Comments were received from the Kentucky Office of Attorney General, the Kentucky Office of Energy Policy, The Alliance for Transportation Electrification, The Kentucky Association of Electric Cooperatives, Kentucky Utilities Co., Louisville Gas and Electric Co., Duke Energy Kentucky, Kentucky Power Co., ChargePoint, and Greenlots. Chargepoint is a commercial EV charging station network; Greenlots provides software and services to the EV charging industry.

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Most of the commenters took the position that EV charging stations are not utility providers and should not be regulated as such. The Attorney General took no position but submitted a list of decisions from other states that generally supported the idea that EV charging stations should not be under PSC jurisdiction.

Comments from the Kentucky Office of Energy Policy, Duke Energy and others favored policies that promote the development of EV charging stations, saying they would be beneficial to the state's economy and environment.

The Alliance for Transportation Electrification, while generally supporting a robust EV charging network, said that some level of state regulation may be necessary to avoid effects on the electric distribution grid.

Kentucky Power took the position that EV charging stations infringe on an electric utility's exclusive right to serve its territory and thus should be allowed only if owned by the utility.

In its legal analysis, the PSC said that an EV charging station does not fall within the clearly established definition of a utility and therefore is not subject to PSC jurisdiction.

Today's order and other records in the case are available on the PSC website, psc.ky.gov. The case number is 2018-00372.

The PSC is an independent agency attached for administrative purposes to the Energy and Environment Cabinet. It regulates more than 1,100 gas, water, sewer, electric and telecommunication utilities operating in Kentucky.

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