

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION OF)	
COMMISSION JURISDICTION OVER)	CASE NO.
ELECTRIC VEHICLE CHARGING STATIONS)	2018-00372

INITIAL COMMENTS OF GREENLOTS

I. INTRODUCTION

In accordance with the Kentucky Public Service Commission’s (“the Commission”) November 28, 2018 Order (“the Order”) establishing this proceeding and soliciting comments regarding the Commission’s jurisdiction over electric vehicle charging stations, Greenlots provides these initial comments.

Greenlots is a leading provider of electric vehicle (“EV”) charging software and services committed to accelerating transportation electrification in Kentucky. The Greenlots network supports a significant percentage of the direct current fast charging (“DCFC”) infrastructure in North America, and an increasing percentage of the Level 2 infrastructure. Greenlots’ smart charging solutions are built around an open standards-based focus on future-proofing while helping site hosts, utilities, and grid operators manage dynamic EV charging loads and respond to local and system conditions.

II. DISCUSSION

Greenlots appreciates the opportunity to provide its perspective on this key topic relating to transportation electrification, one that a number of jurisdictions across the country have addressed in proceedings that Greenlots has previously weighed in on. Transportation

electrification represents likely the single greatest opportunity to increase the utilization and efficiency of the electric grid to the benefit of all ratepayers. This is in addition to the economic development, cost savings, environmental, and public health benefits associated with transportation electrification. These benefits will not accrue automatically however, and in fact negative consequences could occur if significant transportation electrification load comes onto the grid in an unmanaged fashion. Therefore, thoughtful and deliberate planning and programs will be required to avoid possible negative impacts, and instead maximize the significant benefits presented by EVs. This issue therefore deserves significant and concerted consideration in the context of the Commission's regulation of utilities and potentially other market participants in Kentucky.

The lack of charging infrastructure, public charging in particular, is one of the most significant and enduring barriers to increased EV adoption.¹ For this key reason, Greenlots advocates for a regulatory environment that allows for all market participants to develop this critically important backbone of EV charging infrastructure. This implicates a critical role for both utilities and non-utilities to leverage their resources and capabilities in this endeavor.

Greenlots notes that a strict, literal reading of Kentucky's relevant statutes² and regulations³ as noted in the Order, enacted long before the commercial availability of EVs, could lead to the conclusion that privately-developed EV charging stations ("EVCS") should be subject to the Commission's regulation as an electric utility. We also note that our reading of these texts provides for adequate flexibility for a determination that would not implicate Commission

¹ International Council on Clean Transportation, "Emerging Best Practices for Electric Vehicle Infrastructure" p. iv. Available at: https://www.theicct.org/sites/default/files/publications/EV-charging-best-practices_ICCT-white-paper_04102017_vF.pdf

² KRS Chapter 278

³ 807 KAR 5

regulation. As the Commission notes in the Order, at least 23 states in addition to the District of Columbia have either enacted laws or made regulatory determinations that private EVCS owners/operators are not electric utilities and therefore not subject to utility regulation.⁴ Moreover, Greenlots is unaware of any state which has come to a different determination. Greenlots encourages this Commission to come to a similar finding, preferably through regulatory action, or if it determines is necessary, through a request to the legislature.

Non-utility EVCS operators should not be regulated as a public utility because they are providing a value-added charging service and not specifically reselling electricity. The fact that the charging service involves the transmittal of electricity is a necessary but incidental component of the service provided. That service fundamentally is battery charging, providing mobility, range, or vehicle miles, not electricity, per se. There are many other examples that as with EVCS, provide a service relying upon electricity but are not regulated as a utility, and therefore a determination that EVCS should be regulated as such would require the Commission to look at regulating a range of other services as utilities as well.

Additionally, while a non-utility EVCS provider may be providing a public service, they are unlikely to be operating as a monopoly or exerting monopoly control, thereby warranting Commission oversight. However, that is not to say that there should not be an adequate consumer protection mechanism for these EV infrastructure deployments. EV drivers voluntarily elect to use a public charging station to power their vehicle when traveling, in the same way as drivers of traditional vehicles choose between different gas stations selling fuel at different locations and at different prices. While we are far from having a robust competitive market for

⁴ Order at p. 2.

the deployment of public EVCS, thus far, non-utility market participants certainly are not operating as monopolies.

In addition to private market development, we encourage the Commission and stakeholders to consider the critical role that Kentucky's regulated utilities also have in developing EVCS. As mentioned above, the critically consequential and enduring infrastructure gap, a condition that is particularly large in Kentucky, requires the action and involvement of all market participants. Indeed, utility investment in charging infrastructure – including ownership and operation of charging stations – is an appropriate and necessary role for the utility to help break the market through these barriers, accelerating the market across most segments, and thereby improving the conditions supporting competition, and improving the environment for private investment.

This should not be confused for anti-competitive behavior. Rather, utility investment in charging infrastructure, growing the installed infrastructure base, will help spark EV purchasing decisions and grow the total customer base, getting the market closer to an inflection point where asset utilization rates of charging infrastructure can attract greater private investment to hopefully sustain a healthy, competitive market. At the same time, it provides needed market opportunities for suppliers in the absence of motivated buyers across most market segments, incentivizing competition and product innovation through utility procurement programs.

A deep and flexible utility role is essential to leverage its full involvement, assets and capabilities to accelerate transportation electrification and best position ratepayers to realize the full array of benefits this technology transformation can bring. Whether this be the ownership of charging infrastructure or the development of rates that send better price signals to manage EV loads in ways that best support the needs of the grid, or minimizing or avoiding unnecessary grid investments by knowing where, when and how EV loads are interacting with distribution

infrastructure; these and many other benefits will not be adequately realized without deep and active participation by the utility.

Moreover, the nature of EVCS assets, being a natural extension of existing utility infrastructure, with similar hardware, features and capabilities as for example smart meters, fit very well within the core competencies and capabilities of utilities. This is particularly true with respect to ownership and maintenance of widely-dispersed, long-lived electricity-dispensing and metering equipment; and ensuring the safety and reliability of those assets. Having existing qualified field personnel allows for this, while purchasing economics to lower costs and having relevant system, business process, software and customer service expertise and capabilities further aligns naturally with the demands of successful EVCS deployment. Utilities are also well positioned to support the hiring and training of field support personnel and other key roles necessary execute the electrification of transportation.

Utility programs also by and large can extend the same type of reliability to EV charging infrastructure that ratepayers expect for all other utility services. An undervalued aspect of the EV charging equipment and services market is the cost associated with keeping equipment up and running and repairing or replacing it quickly if and when it encounters an issue. While early adopters of EVs may tolerate the often-poor reliability associated with much of the charging infrastructure that is deployed today, the broader market likely will not. Moreover, as the demands on EVCS deployments increase with more EV drivers on the road, many of the factors that lead to poor reliability may compound. This therefore represents a key barrier to widespread transportation electrification. To achieve the level of reliability drivers currently experience from traditional fueling stations, much more needs to be done. Utility program investment offers opportunity for electric vehicle service providers to benefit from a more accurately valued maintenance service that will not only improve reliability of EVCS within the utility program,

but will likely extend beyond the bounds of the program to benefit EV charging equipment and service providers in the market as a whole.

For these reasons, Greenlots encourages the Commission to both come to a determination on the instant issue that permits private EVCS development without triggering traditional utility regulation, in a manner similar to the action taken in other jurisdictions, and also invite and encourage the state's electric utilities to file applications for developing the charging infrastructure that will be needed for Kentucky to begin to take advantage of the significant array of benefits associated with transportation electrification.

III. CONCLUSION

Greenlots appreciates the opportunity to provide these comments and the Commission's consideration of them. We encourage the Commission to welcome a flexible role for the state's utilities to move with speed and scale in embracing their critical role in transportation electrification, and ensuring this transformation benefits all Kentuckians. Greenlots looks forward to participating in this inquiry, and supporting the Commission's work and ongoing information gathering, analysis and planning efforts.

Respectfully submitted,

Dated: March 1, 2019

A handwritten signature in black ink, appearing to read 'Thomas Ashley', with a stylized initial 'T' and 'A'.

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