

**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

**REPLY COMMENTS OF
KENTUCKY POWER COMPANY**

The Public Service Commission of Kentucky (“Commission”) initiated this administrative proceeding to formally review its jurisdiction over electric vehicle charging stations (“EVCS”). Initial comments were filed by the Kentucky Office of Energy Policy (Feb. 26); Alliance for Transportation Electrification (Mar. 1); Kentucky Utilities Company and Louisville Gas and Electric Company (Mar. 1); Kentucky Association of Electric Cooperatives, Inc. (Mar. 1); the Attorney General of the Commonwealth of Kentucky (Mar. 1); Duke Energy Kentucky, Inc. (Mar. 1); Kentucky Power Company (Mar. 1); Greenlots (Mar. 1); and ChargePoint, Inc. (Mar. 5). Consistent with the Commission’s Order initiating this proceeding, Kentucky Power Company (“Kentucky Power”) provides the following reply comments.¹

Kentucky Power is in general agreement with and supports the comments of Duke Energy, to the extent they are not inconsistent with Kentucky Power’s initial comments. As a cornerstone for the integration of electric vehicles (“EVs”) in Kentucky’s electric grid, Kentucky Power agrees it is crucial that the Commission exercise its jurisdiction over EVCSs to ensure the sustainable, effective, and customer-supportive development of a solid and dependable EV charging infrastructure. The direct and significant involvement of the currently existing retail

¹ Order, *In the Matter of: Investigation Of Commission Jurisdiction Over Electric Vehicle Charging Stations*, Case No. 2018-00372 at 3 (Ky. P.S.C. Nov. 29, 2018) (“Order”).

distribution utilities in the creation of the Kentucky EVCS infrastructure will facilitate and help develop a sustainable EVCS market in Kentucky by leveraging the utilities' long-term presence and stability, technical, and managerial expertise, and long-term planning horizon.²

Kentucky Power also agrees with Duke Energy's point that billing impacts and settlement of electric vehicle adoption must continue to occur via the utility's meter, consistent with 807 KAR 5:041 Section 9.³ This relevant section of the Commission's administrative regulations requires, with narrow exceptions inapplicable to EVCSs, that *all energy* sold within the Commonwealth be "measured by commercially acceptable measuring devices *owned and maintained by the utility.*"⁴

Kentucky Power agrees with Alliance for Transportation Electrification that the regulation of EVCSs "is essential both for maintaining the reliability of the [electric] distribution grid and the development of a more 'integrated energy system' that serves the interests of consumers, utilities, and third party innovators and service providers."⁵ Kentucky Power also wholly agrees with Alliance for Transportation Electrification's observation that the Commission's involvement and exercise of its jurisdiction are vital at this time of rapid technological transformation involving EVs to ensure that "both economic innovation and consumer interests are protected as this transformation occurs over the next decade or two."⁶ Underlying this sustained involvement, Kentucky Power believes it is important that the Commission have a broad range of regulatory oversight over EVCSs. This would allow the

² See *Comments of Duke Energy Kentucky, Inc.* at 3; see also *id.* at 11-12.

³ *Id.* at 4, 10.

⁴ *Id.* at 10 (citing 807 KAR 5:041 Section 9, *with emphasis added*).

⁵ *Comments of Alliance for Transportation Electrification* at 2.

⁶ *Id.* at 9; see also *Comments of Kentucky Association of Electric Cooperatives, Inc.* at 10.

Commission to continue to review and, when necessary, act upon the changing circumstances and opportunities inherent in the development of Kentucky's EVCSs infrastructure now and in the future.

Kentucky Power also echoes Alliance for Transportation Electrification's recommendation that workshops or some similar forum be initiated to encourage the exchange of ideas and information regarding EVs and their integration into Kentucky's electric grid and transportation system. Fostering such dialogue is in alignment with the goals described in Kentucky Power's initial comments regarding cooperation among the Commission and stakeholders to support the development of, and investment in, the EVCS infrastructure in the Commonwealth and specifically in the Eastern Kentucky service territory that Kentucky Power has the obligation and the privilege to serve.⁷

Kentucky Power is in general agreement with the observations made by Kentucky Utilities Company, Louisville Gas and Electric Company, and the Kentucky Association of Electric Cooperatives, Inc., as well as with many of the points made by Greenlots, particularly in regards to the importance of investment by electric utilities such as Kentucky Power in charging infrastructure to overcome the barriers to the integration of EVs into Kentucky's economy and transportation network.⁸

Kentucky Power notes, however, that it disagrees with other stakeholders' comments to the extent they do not recognize that EVCSs distribute electricity within the meaning of KRS 278.010(3)(a) or take the position that EVCSs should not be regulated by the Commission as

⁷ See, e.g., *Comments of Kentucky Power* at 2, 8-9.

⁸ See, e.g., *Comments of Greenlots* at 4.

facilities used or to be used for or in connection with the distribution of electricity.⁹ For the reasons discussed in Kentucky Power's initial comments, the distribution of electricity for monetary compensation, to the public, for the purpose of charging EVs in Kentucky is within the clear language of KRS 278.010 (3), and therefore EVCSs are squarely within the Commission's jurisdiction, and their use must comport with the requirements of KRS 278.010 and KRS 278.016 through 278.018.¹⁰

As exemplified by the Commission's admonition in its April 11, 2016 Order in Case No. 2015-00355 (concerning EVCSs in Kentucky Utilities Company's and Louisville Gas and Electric Company's service territories), customers with private EVCSs in Kentucky are simply not allowed to profit from the resale of electricity, and it is well within the Commission's jurisdiction and statutory mandate to ensure that otherwise-permissible privately-owned EVCSs are not used to re-sell for compensation electricity delivered by a regulated utility such as Kentucky Power to its retail customers. Similarly, the Commission's regulation is necessary to ensure that EVCSs not be used in conjunction with any form of distributed generation or battery storage technology to circumvent the requirements and policy provided by KRS 278.010(3)(a) and the Electric Territorial Boundary Act.¹¹

⁹ *Cf., e.g., id.* at 2-3 (recognizing that EVCSs are subject to the Commission's regulation of Kentucky electric utilities under a strict interpretation of the plain and unambiguous language of the applicable Kentucky laws and regulations, but nonetheless advocating that the Commission conclude that "private EVCS owners/operators are not electric utilities and therefore not subject to utility regulation").

¹⁰ *See, e.g., Comments of Kentucky Power* at 3-4, *see also In The Matter Of Application of Louisville Gas and Electric Company and Kentucky Utilities Company to Install and Operate Electric Charging Stations in their Certified Territories, for Approval of an Electric Vehicle Supply Equipment Rider, an Electric Vehicle Supply Equipment Rate, an Electric Vehicle Charging Rate, Depreciation Rate, and for a Deviation from the Requirements of Certain Commission Regulations*, KPSC Case No. 2015-00355, Order at 3 (Apr. 11, 2016).

¹¹ Kentucky Power highlights that the comments of ChargePoint, Inc. appearing to suggest that the use of EVCSs as means to distribute electricity for compensation to customers charging their EVs is somehow distinguishable from the electric service provided by utilities in Kentucky in accordance with Kentucky law (*e.g., Comments of ChargePoint* at 4-6) are incompatible with the limitations described in the Commission's April 11, 2016 Order in

More broadly, and consistent generally with comments of Alliance for Transportation Electrification and of Greenlots, Kentucky Power notes that in order for Kentucky residents and electric service customers to realize the benefits of integrating EVs into the electric grid and the transportation system certain specific public objectives must be achieved.¹² Concerns such as the inter-relationship between the development of electric vehicle charging infrastructure and the corresponding establishment of rates for their use, so that those rates send better price signals to manage EV loads in ways that best support the needs of the electric grid, must be addressed. Commission regulation of the deployment of EV charging infrastructure also should be addressed and would support minimizing or avoiding unnecessary grid investments by knowing where, when, and how EV loads are interacting with distribution infrastructure.

Kentucky Power respectfully submits that with the required legislation, the Commission should act to exercise and preserve its jurisdiction over EVCSs in order to oversee and, if necessary, provide a framework to resolve disputes within its statutory mandate to achieve these and other similar goals associated with the development of Kentucky's EVCS network.¹³ The proliferation of electric vehicle charging stations without the opportunity for the Commission's prudent review of owner and operator practices could hinder the realization of these objectives.

In closing, Kentucky Power reiterates its support for the Commission's involvement and oversight in connection with the development, effects, and requirements of a robust, dependable, and sustainable EVCS network that is fully integrated with the other components of Kentucky's transmission, generation, and distribution grid. Kentucky Power is committed to work

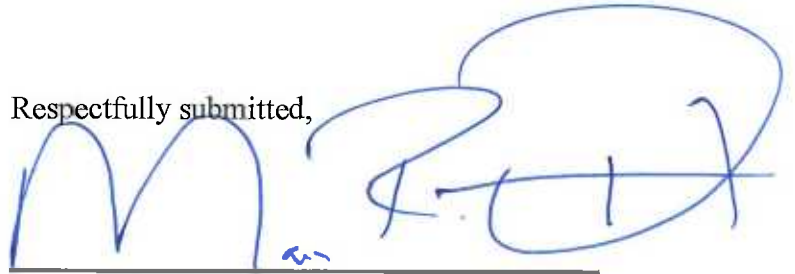
Case No. 2015-00355. Additionally, ChargePoint's initial comments do not address, much less alleviate, the concerns raised by the use of behind-the-meter generation to provide the electricity for EVCSs.

¹² Cf., e.g., *Comments of Greenlots* at 4-5.

¹³ See *Comments of Kentucky Power* at 8.

cooperatively with the Commission and stakeholders to find a way to foster development of the EVCS industry in a manner that does not infringe upon Kentucky Power's standing as the sole retail electric service provider in its certified territory, and appreciates the opportunity to provide these reply comments.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be 'M. Overstreet', written over a horizontal line.

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