

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Commission Jurisdiction Over)	CASE NO.
Electric Vehicle Charging Stations)	2018-00372

**SUBMITTAL OF REPLY COMMENTS BY THE
ALLIANCE FOR TRANSPORTATION ELECTRIFICATION**

INTRODUCTION

The Alliance for Transportation Electrification (“the Alliance”) appreciates the opportunity to file reply comments in this proceeding. The Alliance appreciates the Commission’s decision to take a deliberate and transparent approach to study these complex issues in a general investigation type process.

The Alliance was established in November, 2017 at the time of the NARUC meeting in Baltimore, Maryland, as a non-profit mutual benefit corporation (as a 501.c.6), and is led by utilities, EV infrastructure firms, auto OEMs (original equipment manufacturers), and affiliated trade associations. We started with 20 organizations at the launch just over a year ago, and have grown rapidly to include about 45 members and affiliate organizations.

We advocate primarily before State Commissions and other state agencies, preferably prior to litigation, in which we promote policies that remove barriers to EV adoption and accelerate the deployment of EVSE (electrical vehicle supply equipment) in suitable locations in a state. We encourage a collaborative approach, not litigation at the outset, in addressing these issues at Commissions through processes similar to the approach being followed in Kentucky.

REPLY COMMENTS

In this current Docket, the Commission is seeking comments on whether or not it is appropriate to exempt EVCS’s (Electric Vehicle Charging Stations) from Commission regulation as an electric utility based on the express language of KRS 278.010(3)(a). The Commission properly points out that to be an electric utility under the Kentucky statute and subject to the Commission’s full jurisdiction;

1. An EVCS must be a “facility used or to be used for or in connection with” the generation, production, transmission, or distribution of electricity”;
2. An EVCS must be a “facility” that provides electricity “for lights, heat, power, or other uses”; and

3. An EVCS must be a “facility” that provides electricity “to or for the public, for compensation.”

The Alliance wishes to reply specifically to comments filed by ChargePoint, Inc. in this proceeding. ChargePoint makes a categorical statement that EVCS facilities are by definition behind the utility meter and therefore should be always exempt from Commission regulation under the relevant Kentucky statute.

In its initial comments, the Alliance pointed out that a bright line test that exempts all EVCS facilities from all utility regulation forever would be inappropriate. There certainly are cases where the EVCS is simply serving as a conduit of electric service from the utility to an electric vehicle and the Alliance agrees that in these cases, the full burden of regulation is unnecessary. But there are also many circumstances in which the EVCS will not be behind the meter. For example, absent any regulation an EVCS could serve other loads at a host site and become a “mini-utility, perhaps charging customers for additional services. Such services could include load management services provided by the EVCS which, absent regulation, could increase costs to a utility’s other customers.

Other examples relate to the potential for the batteries served by the EVCS to sell power back to the grid, in which case additional metering behind the EVCS station would be needed to properly compensate the EV seller or its agent. In such cases, regulation would be warranted – although not necessarily the full regulatory burden faced by utility suppliers.

ChargePoint points to “25 states and the District of Columbia” that “exempt EV charging from regulatory jurisdiction.” As the Alliance pointed out in its initial comments, the real situation is much more nuanced than blanket exemptions in all these jurisdictions. Many states have exempted only EVCS’s providing certain services or have otherwise caveated exemptions. We urge the Commission to approach the experience of other states by actually reviewing what the states had to say, which indicates some necessary caution.

In summary, the Alliance does not believe that a blanket exemption from utility regulation for EVCS’s is required, necessary, or appropriate. The Kentucky statutes clearly are broad enough to give the Commission jurisdiction to exempt charging from regulation on a case by case basis, or with caveats and limitations designed to protect customers. Especially now, when the industry is in its infancy and the role of EVCS’s is not yet fully developed, we believe caution is advisable. It would not be unduly burdensome to ask charging developers to request exemption on a case by case basis based on a description of their business model and how they intend to interact with customers.

Once again, the Alliance congratulates the Commission for opening this important docket and looks forward to continued participation.

Respectfully submitted,

Philip B. Jones

Philip B. Jones, Executive Director
Alliance for Transportation Electrification
1402 Third Avenue, Ste. 1315
Seattle, WA 98101

March 15, 2019