STATE OF IOWA
DEPARTMENT OF COMMERCE
BEFORE THE IOWA UTILITIES BOARD

RE: CONSIDERATION OF PURPA STANDARDS IN 2021 INFRASTRUCTURE INVESTMENT AND JOBS ACT	**)** **)** **)**	**Docket No. NOI-2022-0001**

COMMENTS OF CHARGE AHEAD PARTNERSHIP

I. Introduction:

In November 2021, President Biden signed into law the Infrastructure Investment and Jobs Act ("IIJA"), which amended several provisions of the Public Utilities Regulatory Policies Act of 1978 ("PURPA"). In particular, Section 40431 of the IIJA directed state utility regulatory boards across the country to consider measures that "promote greater electrification of the transportation sector." On September 23, 2022, the Iowa Utilities Board ("the Board") issued a notice of inquiry ("NOI") pursuant to the requirements in Section 40431.[1] The NOI provides that the Board is seeking input from companies involved in developing, deploying or hosting electric vehicle ("EV") charging stations as well as other interested stakeholders. Interested parties may file comments regarding the standards laid out in Section 40431 as well as additional issues that the Board should consider.

Charge Ahead Partnership ("CAP") thanks the Board for the opportunity to provide comments on this important issue. We firmly believe that the following issues should be considered as the Board addresses the directives laid out in the IIJA:

- The Board should require Iowa's 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 Iowa's EV fast charging market.
- The Board should develop strategies to support increased consumer choices and private capital investment in EV charging stations, particularly direct current fast charging ("DCFC") stations. These strategies should include utility-owned make-ready programs that support customer-owned investments in EV charging stations.
- The Board should require electric utilities to coordinate with the private sector and National Electric Vehicle Infrastructure ("NEVI") formula planning to effectively catalyze a competitive EV charging market in Iowa.

[1] Key provisions of Section 40431 of the IIJA are codified in 16 U.S.C. 2621 (d)(21). *See e.g.*, https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf and also https://www.law.cornell.edu/uscode/text/16/2621

- The Board should develop and implement strategies to ensure the deployment of EV charging stations does not overly burden ratepayers. These strategies should include requirements for electric utilities that choose to own EV charging stations to do so through a separate, unregulated entity that cannot be cross subsidized with their regulated business.

II. About Charge Ahead Partnership

CAP's membership is comprised of businesses, organizations and individuals that share the common goal of expanding Iowa's EV charging network and ensuring Iowa is positioned to meet EV drivers' expectations of quality service, safety and the affordable, competitive pricing to which they have grown accustomed with the established refueling network. Our corporate members, from big box retailers, to grocery stores and restaurants, to existing fuel retailers, own the real estate that is best suited for DCFC infrastructure. Many of these businesses are located along highway corridors, and all of them offer the amenities that drivers will demand while refueling.

The biggest challenge to widespread EV adoption in Iowa is the lack of a robust, statewide EV fast charging network that is co-located with the services and amenities, such as food vendors, restrooms, lighting and security, that consumers have come to expect when they refuel. CAP believes that a competitive, market-based approach is the most efficient and economical way to build Iowa's EV charging network so that it promotes fair competition and encourages private investment in the EV charging business.

Included below is an overview of CAP's perspective on EV charging policies that would address the standards laid out in Section 40431 of the IIJA as well as encourage private investment in Iowa. We encourage you to consider these issues as you implement regulatory policy that will shape the future of Iowa's EV fast charging network. Doing so will position Iowa to create a competitive and consumer-centric approach to building a robust EV fast charging network across the state.

III. Considerations for building an EV fast charging network

A. Electricity tariffs for EV charging stations and compliance with Section 40431 of the Federal Infrastructure Investment and Jobs Act of 2021.

Congress intended for the IIJA to foster a competitive, private market for direct current fast charging. In order to achieve this, systemic challenges with Iowa's current electricity market must be addressed. Specifically, DCFC stations have unique power needs that require high power capacity for charging but consume relatively low amounts of energy per charge. This high demand over short periods of time subjects EV fast chargers to costly "demand charges," which are fees based on the highest level of electricity used during a billing period. Demand charges are a key barrier to private investment in EV charging services.

Demand charges were created to compensate electric utilities for their investment in the capacity needed to meet spikes in demand, largely caused by industrial customers. These charges

pre-date EVs and are incompatible with the realities of owning and operating a DCFC station. The single use of a DCFC station can incur a demand charge that doubles or triples the electric bill of the operator. In the early stages of EV adoption, there are not enough EV drivers to offset these demand charges, making the cost to charge prohibitively expensive.

In IIJA Section 40431,[2] Congress explicitly calls for state regulators to implement rate structures that mitigate the impact of demand charges on the private sector's ability to generate a return on EV charging investments. Section 40431's primary author, Senator John Hickenlooper (D-CO), noted in explaining the need for this provision.

> *Public EV charging stations, particularly high-powered DC fast charging stations designed for highway corridors and for heavier duty EVs like buses and trucks, face a distinct set of hurdles imposed by the current regulatory system and traditional, demand-based electricity rates. Most prominent among barriers to deploying commercial EV charging are demand charges, which are … designed to capture the marginal costs imposed on the grid by high-capacity, high-utilization infrastructure such as factories. However, when demand charges are levied upon high-capacity, low-utilization infrastructure such as EV charging stations, they can place a disproportionate cost burden on the station owners. The high-powered, fast-charging stations our Nation needs to serve the EV driving public ... have different load profiles than most commercial entities, with periods of dormancy punctuated by spikes in activity. And unlike most commercial operations, their demand profile is driven by real-time customer activity. So it is difficult for these stations to optimize their load profiles.*[3]

CAP encourages the Board to propose rules that require rate-regulated utilities to provide commercial tariffs for the sale of electricity to electric vehicle charging providers that utilize alternatives to traditional demand-based rate structures. The Board should prioritize volumetric structures for low-load factor customers, based on the amount of electricity being provided to the EV. Ultimately, the rates that the Board approves should set forth the terms and conditions for the sale of electricity to DCFC station providers. To promote private investment and fair competition in Iowa's EV charging business, it is imperative that the rates, terms and conditions for DCFC stations are properly applied to all DCFC providers, including electric utilities that choose to provide EV charging services. The Board should incorporate strategies to develop and implement competitively neutral electricity tariffs aimed at and optimized for the low-cost operation of EV charging stations while ensuring transparency in pricing.

[2] IIJA Section 40431 amended the Public Utilities Regulatory Policies Act (PURPA).

[3] 167 Congressional Record 140 ed. (August 5, 2021) at S5927 *available at* https://www.congress.gov/117/crec/2021/08/05/167/140/CREC-2021-08-05-senate.pdf.

B. Increased consumer choices and private capital investment

Consumers refuel at approximately 125,000 retail fueling locations across the country. The retail fuels market today is the most transparent and competitive commodity market in the United States. Consumers can easily see fuel prices and decide where to refuel based on the posted price without having to leave their vehicles. This dynamic leads to price competition and consumer choice. EV drivers should have access to the same competitive, stable and convenient prices and options that drivers of gas-powered vehicles have enjoyed for decades.

A major barrier to private businesses investing in 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[4], it would undoubtedly undercut the development of a competitive EV charging market in Iowa. 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.[5] 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.

CAP acknowledges that Iowa's electric utilities will play a critical role in ensuring Iowa's grid infrastructure is prepared to support a statewide fast charging network. The most effective way to build out Iowa's charging network is through a coordinated partnership between the state's regulated electric utilities and private, unregulated businesses. The Board, through its jurisdiction over electric utilities, should implement regulatory policy to facilitate that partnership through the make-ready model. This model will allow utilities to recover the costs of make-ready infrastructure to prepare charging sites for DCFC stations while unregulated businesses that compete on price and quality of service own and operate publicly available DCFC stations. This will encourage private investment and increase consumer choices in Iowa's EV charging market.

C. Coordination with the private sector and NEVI formula planning

The NEVI formula program, which awarded approximately $51 million to Iowa over five years, is an opportunity to develop a burgeoning industry. This funding, however, is only a small down payment. Removing barriers for private businesses to install EV charging stations is essential to support the development of a long-term EV charging market in Iowa, which will continue to

[4] *See, e.g.,* Minnesota Public Utilities Commission Docket No. 22-432, Public Utilities Commission of Nevada Docket No. 22-09006, Arkansas Public Service Commission Docket No. 22-026-TF and Indiana Utility Regulatory Commission Docket No. 45772.

[5] *See, e.g.,* Peter G. Scholtz, Assistant Attorney General comment letter in Docket No. 22-432. "Xcel's EV proposals — particularly $193 million earmarked for an expanded fast-charging network — implicate important public policy questions about whether and under what conditions the Company should be allowed to use its ratepayer-funded monopoly to compete in a new business area," Scholtz wrote.

thrive long after the NEVI funds are completely expended.[6] The Board should ensure that electric utilities are planning to engage with the NEVI formula program in a way that sparks significant private investment in the EV charging business. This will grow Iowa's EV charging industry for decades to come rather than simply distributing money to stranded assets such as broken, poorly maintained EV chargers that currently hinder EV adoption throughout the United States.[7]

D. Strategies to mitigate ratepayer cost burden

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 Iowa's EV fast charging network. CAP firmly believes that without an emphasis on quality consumer service as well as charging availability, EV adoption rates will lag.

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 it or directly benefit from it.

Ensuring that Iowa'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, CAP believes that electric utilities that choose to own EV

[6] *See, e.g.*, Watters, David, "To ensure Biden's EV evolution, states must allow private sector to participate," The Hill, (10/09/2022) *available at* https://thehill.com/opinion/congress-blog/3680450-to-ensure-bidens-ev-evolution-states-must-allow-private-sector-to-participate/

[7] *See, e.g.*, Niraj Chokshi, "A Frustrating Hassle Holding Electric Cars Back: Broken Chargers," The New York Times, (Aug. 16, 2022) *available at* https://www.nytimes.com/2022/08/16/business/energy-environment/electric-vehicles-broken-chargers.html ("Many [chargers] sit in parking lots or in front of retail stores where there is often no one to turn to for help when something goes wrong. Problems include broken screens and buggy software. Some stop working mid-charge, while others never start in the first place. Some frustrated drivers say the problems have them second-guessing whether they can fully abandon gas vehicles... One recent study found that about a quarter of the public charging outlets in the San Francisco Bay Area, where electric cars are commonplace, were not working."); *see also* Andrew J. Hawkins, "Electric Vehicle Owners Are Fed up with Broken EV Chargers and Janky Software," The Verge, (Aug. 17, 2022), *available at* https://www.theverge.com/2022/8/17/23308612/ev-charging-broken-unreliable-survey-jd-power ("Finding a public charger has never been easier, but finding one that works remains a serious problem. According to [a JD Power survey from August 2022], one out of every five respondents ended up not charging their vehicle after locating a public charger. And of those who didn't charge, 72 percent indicated that it was due to the station malfunctioning or being out of service.")

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. This approach is similar to provisions included in §476.71 of Iowa's code regarding utility cross-subsidization of affiliates.[8]

IV. Conclusion

For the reasons previously stated, CAP urges the Board to implement regulatory policy and rate structures that will support private investment in transportation electrification. Thank you for your consideration of CAP's comments. As the Board studies this issue, CAP is prepared to be a resource and welcomes all future opportunities to participate in this process. We look forward to working with the Board on this important issue.

Sincerely,

/s/ Jay Smith
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[8] *See*, Chapter 476 Subchapter XI Public Utility Affiliates, Iowa Code, available at https://www.legis.iowa.gov/docs/code/2022/476.pdf