STATE OF SOUTH CAROLINA

BEFORE THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

IDENTIFICATION OF REGULATORY CHALLENGES AND OPPORTUNITIES ASSOCIATED WITH ELECTRIFICATION OF THE TRANSPORTATION SECTOR PURSUANT TO S.C. CODE ANN. SECTION 58-27-265	)))))	**DOCKET No. 2023-121-E**

REPLY COMMENTS OF CHARGE AHEAD PARTNERSHIP

Charge Ahead Partnership ("CAP") respectfully submits the following reply comments regarding the South Carolina Public Service Commission's ("Commission") proceeding to identify the regulatory challenges and opportunities associated with electrification of the transportation sector pursuant to S.C. Code Ann. Section 58-27-265 and to consider the Public Utility Regulatory Policy Act of 1978's ("PURPA") electric vehicle ("EV") charging standard established by the federal Infrastructure Investment and Jobs Act of 2021 ("IIJA"). It is apparent from the initial comments filed by various parties that there are several areas of alignment as well as areas of disagreement among commenters. CAP respectfully offers the following additional comments in response to the initial comments filed by the other stakeholders.

I. Areas of agreement and items for consideration

Several parties made initial comments which substantially align with CAP's concerns regarding utility involvement in EV charging services as discussed in our initial comments. CAP believes that a competitive, market-based approach is the most efficient and economical way to build South Carolina's EV charging network so that it promotes fair competition and encourages private investment in the EV charging market. Private businesses should work in collaboration with electric utilities to expand South Carolina's EV charging market through utility make-ready programs that support private investments in direct current fast charging ("DCFC") stations. CAP supports comments made by ChargePoint, Wal-Mart and the Americans for Affordable Clean Energy ("AACE") that the Commission should encourage electric utilities to develop make-ready programs.[1]

A major barrier to private businesses investing in DCFC stations is the threat of electric utilities investing ratepayer funds to own and operate EV charging stations without market or competitive forces at play. In this sense, CAP agrees with the comments made by AACE and the Office of Regulatory Staff ("ORS") that EV charging stations are a competitive service and the

[1] Initial Comments, ChargePoint, Page 2, (February 1, 2023)

Commission should establish defined guardrails governing the scope of utility involvement in transportation electrification.[2] As noted in CAP's initial comments, as well as AACE's initial comments, to provide private businesses with investment certainty and remove unfair competitive advantages, electric utility ownership of DCFC stations should only be permitted if it is done so through a separate, unregulated subsidiary.

CAP's initial comments discussed the financial barrier that demand charges create for private businesses seeking to invest in EV charging stations. Several other commenters were in alignment with CAP's concerns regarding demand charges. Specifically, CAP supports the recommendations made by ChargePoint, Wal-Mart and AACE regarding the establishment of a rate structure that utilizes alternatives to demand based rates and increases the viability of third-party investment in EV charging infrastructure.

Comments made by South Carolina Coastal Conservation League, Southern Alliance for Clean Energy, and Vote Solar ("the non-profits") encourage the Commission to establish a Transportation Electrification Planning process for electric utilities under the Commission's jurisdiction. CAP takes no position on the creation of a TEP process. However, if the Commission chooses to adopt a TEP process, it should be clear that electric utility ownership and operation of publicly available DCFC stations may not be included in TEP proposals and will only be permitted if done so through a separate, unregulated subsidiary.

II. Areas of Disagreement

CAP has concerns with the comments made by the Alliance for Transportation Electrification ("ATE"). ATE claims that competitive markets are not meeting South Carolina's EV charging needs and that direct utility ownership and operation is vital to fill potential gaps in the market. As an initial matter, ATE has not demonstrated that the competitive market in South Carolina has failed. Indeed, many of CAP's members have made and are planning to make increased investments in EV charging stations in South Carolina and across the country. However, as ATE describes in their initial comments[3], private businesses, such as CAP's membership, are deeply concerned by the prospect of competing with a regulated electric utility that can subsidize their ownership and operation of EV charging stations with ratepayer funding. This concern is justified considering that electric utilities are increasingly seeking to access ratepayer funds to build out large networks of utility owned and operated DCFC stations across the country.[4]

Second, ATE claims that there are, "numerous examples around the country where even a proposal to build small numbers of new charging stations receives opposition from private

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[2] Initial Comments, Office of Regulatory Staff, Page 8, (July 28, 2023)

[3] Initial Comments, Alliance for Transportation Electrification, Page 5 (July 28, 2023)

[4] Weiser, Scott, "Xcel wants to bill customers $140 million to build massive, company-owned EV charging network", Denver Gazette, May 29, 2023, ("As part of its state-mandated transportation electrification plan, Xcel Energy is seeking permission to bill ratepayers $140 million to build a statewide company-owned, high-speed EV charging network") *available at* https://denvergazette.com/news/business/xcel-proposing-to-build-company-owned-ev-charging-network/article_a97b9606-fcbb-11ed-9542-c7879af920fd.html

companies…"[5] Indeed, CAP opposes ratepayer funds being used to subsidize utility ownership and operation of EV charging stations. Using ratepayer funds to construct utility-owned EV charging stations acts as a regressive tax on those that may not even own a vehicle, much less an EV. In particular, CAP has opposed efforts by regulated electric utilities across the country that, if approved, would allow them a monopoly to own and operate expansive EV charging networks, permanently hindering private businesses' ability to invest and access capital in those jurisdictions.[6] Private businesses simply cannot compete with a state sanctioned monopoly that has access to risk free capital from its captive ratepayers. Additionally, these insurmountable advantages lead to limited incentives for innovation and improvements in the EV charging customer experience. Ratepayers should not be required to help electric utilities extend their monopolies to markets where the private sector is prepared and equipped to invest. The attempts in South Carolina[7] and across the country to place EV charging stations into the rate base underscores the need for unambiguous legislative and regulatory policy to direct electric utilities to own and operate EV chargers through a separate subsidiary. Without these safeguards, private businesses and ratepayers will be at risk.

Third, ATE's comments misconstrue the competitive concerns related to electric utilities undercutting the market. ATE states that utilities would be "unlikely to be able to undercut prices of third-party charging stations."[8] CAP disagrees with ATE, as there have been documented instances across the country where regulated electric utilities have tried to undercut the competitive market when setting regulated rates for utility-owned EV charging stations. For example, in 2022, Xcel Energy Minnesota petitioned the Minnesota Public Utilities Commission for approval of an expansive utility-owned public charging network. Xcel Energy's proposed charging stations would provide EV charging services at $0.25251 per kWh, well below the third-party charger average which Xcel's own data showed was around 36 cents per kWh.[9] All owners and operators of publicly accessible fast charging stations should operate with the same competitive risks and access to electricity rates on a level playing field. Requiring utilities to own EV charging stations through a separate entity would ensure they could compete fairly in the free market without an unfair pricing advantage.

Finally, ATE claims that utility owned and operated chargers are necessary to "kickstart" the market and that a "rising tide lifts all boats."[10] However, these arguments fail to recognize that direct utility investments in owning and operating publicly available EV charging stations will

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[5] Initial Comments, Alliance for Transportation Electrification, Page 7 (July 28, 2023)

[6] *See e.g.,* Minnesota Public Utilities Commission, Docket 22-432, *as well as*: Colorado Public Utilities Commission, Proceeding No. 23A-0242E

[7] South Carolina Public Service Commission, Docket 2022-158-E

[8] Initial Comments, Alliance for Transportation Electrification, Page 9 (July 28, 2023)

[9] Minnesota Public Utilities Commission, Docket 22-432, *Xcel Energy – Initial Filing*, filed August 2, 2022, ("We [Xcel] propose reducing the kWh adder from $0.30 per kWh to $0.25251 to better reflect market pricing in Minnesota. Our current market data indicates that pricing at third-party chargers averages about 36 cents per kWh")

[10] Initial Comments, Alliance for Transportation Electrification, Page 6 (July 28, 2023)

undoubtedly supplant private capital investment, and stifle market development while burdening ratepayers with the costs. As previously stated, the best way to enhance the customer experience and encourage EV adoption is for electric utilities to support private sector investment through make-ready programs. This will ensure that EV charging stations are co-located with the secondary amenities that drivers have grown accustomed to with the existing refueling market. Many of CAP's corporate members already own the real estate located along highway corridors, with amenities, such as food vendors, restrooms, lighting and security. The Commission should implement regulatory policy that leverages private capital and ensures retailers and other private businesses have a pathway to invest in this burgeoning industry without fear of competing on an unlevel playing field.

III. Conclusion

For the reasons previously stated, CAP urges the Commission 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 Commission 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 Commission on this important issue.

Sincerely,

/s/ Jay Smith
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