



May 9, 2022

Paul Miller, Executive Director
Northeast States for Coordinated Air Use Management (NESCAUM)
89 South Street, Suite 602
Boston, MA 02111

RE: NESCAUM / Multi-State Advance Clean Truck Rule Action Plan

Dear Mr. Miller,

On behalf of a coalition of businesses, associations and individuals that share the common goal of efficiently and effectively developing a charging network for electric vehicles (EVs) across the United States, the Charge Ahead Partnership (CAP) respectfully submits the following comments in response to NESCAUM's request for public comment on the Multi-State Medium- and Heavy-Duty Zero-Emission Vehicle Action Plan Draft ("the Draft Plan"). CAP's members, including the country's largest truckstop and travel center chains that serve heavy-duty vehicles today, look forward to working with the Multi-State ZEV Task Force ("the Task Force") to create a robust marketplace for EV charging. The country's system of charging locations should be developed in a manner that meets drivers' expectations of quality service, safety, and affordable, competitive pricing with which they have grown accustomed. CAP aims to ensure that medium- and heavy-duty (MHD) vehicle fleet owners have the confidence to transition to EVs knowing that drivers will be able to conveniently "recharge" no matter where they go in the country.

Decarbonizing MHD vehicles is essential to mitigating the worst effects of climate change. It is against this backdrop that state policymakers should look for solutions to rapidly expand the EV charging network. CAP believes the most expeditious, efficient and economical way to achieve these environmental advancements in transportation energy technology is through a competitive, market-based approach that removes barriers to installing EV charging stations, establishes fair electricity resale rates for retail charging businesses, and meets the needs of today's – and tomorrow's – drivers. This will not only reduce carbon emissions, but it will also facilitate a long-term competitive marketplace, with charging infrastructure located alongside other driver and vehicle amenities, independent of government or rate-payer subsidies. The sooner a marketplace exists to provide this positive experience, the sooner more fleets will transition to EVs.

Although there is much in the Draft Plan that CAP's members support, including the need for electricity rate reform to accommodate EV charging investment, much of the Draft Plan is exceedingly utility-centric. This is true both in terms of which stakeholders the Task Force plans to engage in the policy formulation process as well as the evident disconnect between the Task Force's policy recommendations and the desire of CAP's members to invest in EV charging equipment. For example:

- The Draft Plan frequently discusses the need for various stakeholders to convene and coordinate with one another. Utilities, fleets, and state and local governments are considered

essential for most of these discussions, while the private real estate owners that would potentially host, own, and operate charging stations are often an after-thought.

- The Draft Plan encourages utility regulators to provide utilities with the flexibility to own and operate charging stations. In practice, this policy signal will stunt private investment. One of the biggest impediments to private companies investing in EV charging infrastructure is the thread of utilities investing ratepayer funds in EV charging stations in a guaranteed rate of return environment with pricing advantages. Private companies cannot compete in this environment. While there is good reason for ratepayers to help underwrite the cost of upgrading the power grid to accommodate EV charging, there is no public policy rationale for encouraging electric utilities to compete with private businesses in an area that they serve remarkably well – vehicle refueling.
- A robust and competitive EV fast charging marketplace depends on the existence of a prohibition of commercial activity at interstate rest areas, including clarity that this ban encompasses EV charging activities. CAP understands the temptation among EV charging advocates to change the law and place chargers at rest areas. It represents a seemingly simple approach that can be appealing when confronted with complex problems such as creating a market framework for private capital to flow toward EV charging stations. But drivers do not want to charge in desolate, unmanned rest areas with no on-site security or maintenance personnel available to repair broken chargers. Pursuing refueling infrastructure at rest areas when private, off-highway businesses interpret it as a disincentive to invest in charging stations would be counterproductive.

Below is a high-level overview of CAP’s perspective on EV charging investment incentive policies. We hope to work with you in furtherance of what we firmly believe are mutually compatible objectives.

I. General Considerations for Building an EV Charging Network

CAP believes our members can meet this challenge if states take a fair, efficient, transparent and competitive approach.

A. Efficient Expansion

With thousands of established fueling locations spanning the nation, existing fuel retailers can replicate today’s refueling experience for MHD EV drivers. Likewise, retailers more broadly are positioned to meet the demand from their customers for EV charging. Retailers are best equipped to own and operate EV charging stations, utilizing their nationwide network of convenient locations to provide transportation energy, including electricity, to America’s drivers and fleets. Power companies, on the other hand, are best suited to perform the electric generation development and power grid restructuring work through their regulated monopoly framework. The most efficient, cost-effective path to deploying EV charging infrastructure therefore is for power companies and retailers to work in partnership, with each focused on their core competencies.

Utilities must focus on ensuring that the electric generation and transmission systems are ready for the rapid growth of electricity usage across the country and allow the retail industry to deploy the necessary EV charging infrastructure. Public policy that incentivizes this partnership structure will be the most efficient, cost-effective, and timely method to encourage consumers to adopt EVs and meet climate change goals.

B. Ensuring Customer Fairness and Equity

Allowing power companies to charge all of their customers more money in their monthly electric bills for the investor-owned utility to own and operate chargers, regardless of whether the customer drives an EV, operates like a regressive tax – particularly to those living in lower-income and fixed-income communities. In some states, the costs of both the physical infrastructure and the electricity used to refuel EVs are added into the rate base upon which the utility collects a guaranteed rate of return and essentially operates as a state-sanctioned, utility-distributed subsidy for EV drivers. This unfairly discriminates against lower-income and fixed-income communities who are both more sensitive to price fluctuations in their utility bills and are rarely EV drivers.

There are more equitable, effective ways of growing the EV charging network. Regulated utilities should not be placing the burden of providing fuel to EV drivers on the backs of hard-working, low- and middle-income individuals, many of whom do not own a vehicle much less an EV. Retailers are willing to foot the bill if an EV charging market exists. We must ensure that all communities – regardless of location or socioeconomic status – are included in the development of an EV charging network, just as there are refueling stations in every community regardless of geography or income.

This is important for not only free market considerations, but also for the National Electric Vehicle (NEVI) Formula Program funds that are being distributed. While the funds cover a bulk of the costs associated with the installation, ownership, and operation of chargers, it requires matching funds as well. We believe that the private market is willing and able to put capital at risk to invest in charging stations; however, the anti-competitive roadblocks of contending with a regulated monopoly – such as public electric utilities – make the financial realities difficult to rationalize for businesses. To that end, the Task Force should emphasize the importance of creating a pro-business, pro-private investment plan to ensure that electric utility customers are not on the hook for floating any additional costs associated with EV charging. **Simply put, citizens should not be paying for services that the private market is willing to cover.** To do otherwise would be an unnecessary burden on the most vulnerable of our neighbors.

C. Competitive, Level Playing Field for Funding and Regulations

As stated above, retailers and other private businesses are prepared to sell electricity for EV charging. Without the appropriate policy signals, however, businesses cannot compete with regulated power companies who have been given a monopoly on the sale of electricity. To create a nationwide charging system, all EV charging providers must be able to compete on an even playing field. This will allow competition to drive down prices and increase the quality of services provided to customers.

In order to effectively create a competitive marketplace, state laws and regulations cannot regulate charging stations as power companies. Instead, public policy should incentivize and leverage private investment in bringing to market more charging stations. Moreover, utilities should not be able to bill their retail competitors that sell electricity to EV drivers more than they charge themselves – including through costly “demand charges.” There must be a viable pathway to profitability and the ability to compete on price for any fuel alternative to gain meaningful market share—meaning more drivers of EVs than internal combustion engines. With the right legal and regulatory framework, the private market can create the infrastructure to serve electrified fleet vehicles.

D. Transparent, Uniform Pricing

Today, consumers refuel at the 125,000 retail fueling locations across the country. The retail fuels market is the most transparent and competitive commodities 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 lower prices for customers. EV drivers should have access to the same competitive, stable and convenient prices that drivers of gas-powered vehicles have enjoyed for decades. The rate charged must be consistent and predictable throughout the country in order for EV charging stations to deliver rates that are competitive with conventional fuels. Any pricing mechanisms considered by policymakers must ensure that rates are fair, predictable, transparent and do not disincentivize private investment into EV charging infrastructure.

E. Demand Charges

As the Draft Plan discusses, demand charges are a uniquely difficult problem with which retailers and other private enterprises offering recharging services must contend. Demand charges are a mechanism for utility companies to recover the costs that high-capacity, high-utilization customers have on the grid. They were created with manufacturing factories and industrial customers in mind as the infrastructure required to supply these firms with such high levels of electricity ultimately required additional back-end investments by the utility. EV charging stations, however, are also being saddled with these additional costs—particularly direct-current fast chargers (DCFC). The major difference though is that while a factory can recover these costs due to its high-utilization rates and demand-side controls (i.e. being able to control when energy is being used), publicly available DCFC stations – which are high-capacity but low-utilization – cannot recover such costs in an economically feasible way.

The primary problem of demand charges in most cases is that they make the electricity supplied to the owner of the charging station so expensive that the cost cannot reasonably be passed through to customers – particularly in the low-utilization, nascent stage of EV market penetration. Presently, demand charges are one of the most significant cost factors in the operation of a fast charger. Customers, however, are not willing to pay for such high energy prices. Simply put: these current costs are too high to pass along to consumers in a way that allows for a return on investment.

Policymakers must create a rate/tariff structure that strikes an even balance between the customer, the retailer, and the utility without undercutting DCFC economics.

Congress has tasked states and utilities to find ways to mitigate the negative economic externalities created by demand charges.¹ States and utilities must consider the establishment of new rates that:

- 1) Promote affordable and equitable EV charging options;
- 2) Facilitate deployment of faster charging technology that improves the customer experience;
- 3) Accelerate third-party investment in EV charging infrastructure; and
- 4) Appropriately recover marginal costs.

CAP encourages state public utility commissions to implement an alternative rate structure in its guidance on EV charging infrastructure deployment.

¹ *Supra* 3 at Section 40431.

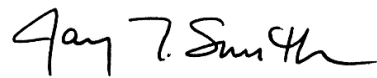
CAP understands the financial realities that utilities face as well regarding the costs required to upgrade host-site infrastructure to accommodate charging hardware – particularly DCFC infrastructure. Regressive demand charges that were never created with EV charging in mind are not a solution. Several states have already looked at alternatives to demand charges for EV charging.² And, some states have created temporary “holidays” from demand charge fees while others have completely carved EV charging out of demand charges.³ We believe that the elimination of demand charges would alleviate the economic restrictions that are holding back private investment in EV charging and would allow retailers to make investments knowing that they will be able to make a return on that investment over time.

To mitigate these high up-front costs that have prevented private entities from entering the market while simultaneously ensuring that utilities are “made whole” for the necessary – and costly – back-end infrastructure improvements a DCFC requires, CAP continues to support “Make-Ready” models that allow the utility to recover costs associated with grid upgrades up to the point of installing, owning, operating, and maintaining the actual charger itself.

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Thank you for your consideration of CAP’s comments. We look forward to working with you on this important issue.

Sincerely,



Jay Smith
Executive Director
Charge Ahead Partnership

² Jeff St. John, *Getting the Rates Right for a Public EV Charging Build-Out*, Green Tech Media, February 16, 2021. <https://www.greentechmedia.com/articles/read/getting-the-rates-right-for-a-public-electric-vehicle-charging-buildout>

³ Rocky Mountain Institute, *ACEEE National Convening on Utilities and Electric Vehicles*, November 14, 2018. <https://www.aceee.org/sites/default/files/pdf/conferences/ev/nelder.pdf>