

**BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
DOCKET NO. E-2, SUB 1197
DOCKET NO. E-7, SUB 1195**

In the Matter of:)
Application by Duke Energy Carolinas,) **NCSEA’S REPLY COMMENTS ON**
LLC and Duke Energy Progress, LLC) **PHASE II PILOT PROPOSAL**
for Approval of Proposed Electric)
Transportation Pilot)

NCSEA’S REPLY COMMENTS ON PHASE II PILOT PROPOSAL

Pursuant to the North Carolina Utilities Commission’s (“Commission”) *Order Requesting Comments on the Proposed Revised Pilot Programs* issued on June 14, 2021 (“Order”), the North Carolina Sustainable Energy Association (“NCSEA”), an intervenor in the above-captioned proceeding, offers the following reply comments on *Joint Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for Approval of Phase II Electric Transportation Pilot Programs* (“Application”) filed by Duke Energy Progress, LLC (“DEP”) and Duke Energy Carolinas, LLC (“DEC”) (DEP and DEC collectively “Duke”) on May 24, 2021, which proposes Phase II Electric Transportation Pilot Programs (“Phase II Pilots”).

I. BACKGROUND

NCSEA has members from many sectors and backgrounds, and there are times when drafting comments on an issue, proposal, or contentious issue requires NCSEA to consider a nuanced position knowing that we may not be able to please each of our interested members. The electric vehicle (“EV”) pilots fall within that area. NCSEA has members who were highly encouraged by the original pilot and who are now even more encouraged by Duke’s Phase II Pilots. NCSEA also has members who believe the Phase II Pilots are far too large and is representative of the creep of the Duke monopoly in North

Carolina and stifling to the competitive marketplace. NCSEA likewise is encouraged by some of the proposals in Duke's Phase II Pilots but echoes many of the concerns that our members have voiced.

Upon review of the intervenors' respective initial filings in this docket, there is an expansive list of issues related to Duke's proposed Phase II Pilot proposal. NCSEA is most surprised by how many unique issues and concerns the intervenors have in this docket. This is not because the Phase II Pilots are generally a bad idea, but rather that there has not been adequate transparency, data analysis, and forward-thinking in the proposal to allow the parties to consider meaningfully some of the underlying issues such as low and moderate income ("LMI") considerations, the effect of the Phase II Pilots on the marketplace for EV charging infrastructure, and, of course, long term adoption of EVs in the state.

II. ANALYSIS

NCSEA stands for the suggestions and critiques it made in its Initial Comments. Below represents NCSEA's analysis and support or rejection of some of the positions taken by other intervenors.

A. PUBLIC STAFF

NCSEA agrees with the Public Staff's position that the Phase II Pilots are not properly sized, like the original Duke pilot, and, on the whole, are more consistent with an "infrastructure program" than pilot programs.¹ Further, NCSEA conceptually agrees with the Public Staff's position that the Make Ready Credit program request ("MRC") pending before the Commission is a better option or basis to propel a competitive marketplace for

¹ *Public Staff's Comments* ("Public Staff Initial Comments"), p. 6.

EV charging infrastructure which should provide better price points for consumers and cost less for ratepayers.²

According to the Public Staff, the

Phase II Request illustrates two options for the Commission to consider when determining the level of funding for the pilots. The first option, requiring an estimated investment of \$56 million, to develop enough charging infrastructure to enable the state to meet 25% of EO 80's goal in the next three and a half years and the second option, \$33.3 million, would allow Duke to build charging infrastructure to meet 10% of EO 80's goal. These requests are not sized in a manner that allows the Companies to 'test a concept at a smaller scale without incurring substantial capital costs. Duke's Phase II Request does not test a concept as much as it allows Duke to implement a business plan to enter the EV charging market.'³

NCSEA agrees that the size of these requests is beyond the scope of what the Commission intended when it asked for Duke to propose further pilots in its *Order Approving Electric Transportation Pilot, in Part* ("Phase I Order").⁴ NCSEA also agrees with the Public Staff's assertion that Duke owning a "large proposition of the EV infrastructure in this state, this is clearly not the proper scale and scope of a pilot program that is consistent with the Commission's definition."⁵

One of the more consistent critiques of the Phase II Pilots is the lack of meaningful data collection and analysis. NCSEA touched on this in its initial comments. NCSEA also agrees with the argument made by the Public Staff:

The Phase II Request does not articulate the objectives, metrics, and verification components for either the EVSE pilot or Phase II Programs, which would allow the Commission and all parties involved to determine what the goals of the pilots are, whether the pilots are meeting those goals, and if the pilots are ready for wide-scale deployment. Duke, in response to a Public Staff data request, stated that it has not developed an Evaluation, Measurement, and Verification (EM&V) plan at this time and plans to

² Public Staff Initial Comments, pp. 7, 15.

³ *Id.* at 8.

⁴ See Phase I Order, pp. 21-22.

⁵ Public Staff Initial Comments, p. 9.

develop one through the stakeholder process with lessons learned from the Phase I EM&V process. Because there is no EM&V plan, Duke has also failed to show how it will track the pilot programs to develop a “future cost-benefit analysis” that must be conducted on each pilot before it can be scaled beyond its pilot program size.⁶

NCSEA also generally agrees with the Public Staff’s position that Duke has failed to gather (or articulate) how it has leveraged outside funding to avoid all ratepayers paying more than necessary for the Phase II Pilots,⁷ and NCSEA agrees with the Public Staff that the MRC program currently pending before the Commission is a better path towards developing North Carolina’s competitive marketplace for EV charging infrastructure.⁸

NCSEA disagrees, though, with many of the positions of the Public Staff and think the Public Staff has failed to consider the long-term impact of robust EV charging infrastructure deployment in North Carolina, especially when considering how successful pilot programs have worked elsewhere. NCSEA believes that it would be in the best interests of the ratepayers to create a robust and competitive electric vehicle charging infrastructure marketplace because it will result in a competitive marketplace that drives down costs for the ratepayers.

NCSEA disagrees with the Public Staff’s assertion that the Phase II Pilot proposal should be rejected because Duke has failed to incorporate MRC into the pilot.⁹ NCSEA believes this argument is form over substance as Duke has proposed an MRC program that Duke explicitly intends to integrate with pilot programs. While NCSEA has issues with the proposal, the fact that the MRC program was not explicitly included within the Phase II

⁶ Public Staff Initial Comments, p. 10.

⁷ See Public Staff Initial Comments, p. 11.

⁸ *Id.* at 15.

⁹ *Id.* at 11.

Pilots, but rather referred to as a complementary program for the Phase II Pilots is not an error significant enough to reject the Phase II Pilots.

NCSEA disagrees with the Public Staff's position that the Phase II Pilots are unnecessary "because the prevailing trends in the EV market suggest that these programs are unnecessary at this time[.]"¹⁰ While Zero Emissions Vehicle ("ZEV") adoption is a good market indicator, as seen in California in the last decade adoption of ZEV's does not mean the marketplace will remain if there is insufficient EV charging infrastructure.¹¹ As noted in its Initial Comments, NCSEA believes modified, limited Phase II Pilots where limited EV charging infrastructure is built strategically in areas without EV charging infrastructure and low market competition, similar to New Jersey's "Last Resort" model,¹² could represent a compromise solution that is not overly expensive. However, NCSEA is persuaded that waiting until "last resort" for utility investment in EV charging infrastructure is not necessary. Instead, certain LMI areas and areas susceptible to energy and wealth inequity could be immediately targeted for utility-owned EV charging infrastructure.

The Public Staff takes the position that it would be "premature" to approve the Phase II Pilots as the "data from Phase I should be collected and analyzed prior to approval of any additional ET pilots."¹³ NCSEA firmly agrees with the position that data needs to be immediately gathered and analyzed to reflect the successes and failures of each individual pilot program, both already active and in the future. However, NCSEA does not

¹⁰ *Id.* at 11.

¹¹ See <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M143/K682/143682372.PDF>

¹² <https://www.nj.gov/bpu/pdf/boardorders/2020/20200923/8F%20-%20ORDER%20Electric%20Vehicle%20MFRs.pdf>

¹³ Public Staff Initial Comments, p. 14.

see the need to wait for data to launch new pilot programs. While NCSEA agrees that the Phase II Pilots are not enough of an evolution and departure from the initial pilots, NCSEA believes that the Phase II Pilots can be modified (as suggested herein and in NCSEA’s Initial Comments) in such a way to provide a new pathway for the state to add needed EV charging infrastructure. NCSEA encourages the analysis of new, universal Tesla EV chargers in that data analysis, as well. But NCSEA does not support further delay of EV charging infrastructure programs that could provide limited EV charging infrastructure where needed and spur the marketplace within the state.

B. CHARGEPOINT

NCSEA endorses generally the *Initial Comments of Chargepoint, Inc.* (“Chargepoint Initial Comments”) in this docket. Specifically, NCSEA agrees that these are three essential components for an effective supplementary utility-owned EV charging infrastructure pilot program: (1) the ability for site hosts to choose among multiple, qualified vendors of charging equipment and networks; (2) site host operational control of EV charging infrastructure located on their properties, including controls over pricing of the charging service provided to drivers; and, (3) private investment in EV charging infrastructure in the form of shared cost with incentives, rebates, or supplemented project funding.¹⁴

Chargepoint rightfully points out that “rather than develop and propose Phase II Pilot programs that provide additional information for the Commission, the Companies, ratepayers, and EV drivers, the Companies’ simply propose utility ownership and operation of more EVSE in the same market segments as the Phase I pilots already approved by the

¹⁴ Chargepoint Initial Comments, pp. 6-7.

Commission.”¹⁵ NCSEA does not believe that further utility ownership of EV charging infrastructure should be a desired outcome of the Phase II Pilots, and, to the extent it occurs, it is targeted to areas which are unlikely to be served by the marketplace.

NCSEA agrees with Chargepoint’s assertion that the “private sector offers many different business models and products to provide turnkey solutions for site hosts, coordinating all aspects of the charging experience from installation to operation and maintenance, including solutions for site hosts that are not seeking to own or operate their own charging equipment.”¹⁶ NCSEA would encourage the Commission to consider this when determining how to require Duke to modify the Phase II Pilots.

NCSEA endorses Chargepoint’s position that Duke should revise its Public Level 2, multi-family dwelling (“MFD”), and highway corridor pilot program offerings to directly allow for third-party turnkey solutions.¹⁷ NCSEA agrees that the Commission directing Duke to “provide site hosts the ability to choose from at least two (2) vendors of EV charging hardware and software for all Phase II Pilot programs [...] [and] to include appropriate tariff language to implement customer choice as to ownership and operation of EVSE”¹⁸ would allow for competition in the EV charging infrastructure marketplace.

Finally, NCSEA specifically agrees with Chargepoint’s recommendations that (1) the Commission direct Duke to clarify that all site hosts participating in the Phase II Pilots have the ability to establish the prices and pricing policies for EV charging infrastructure located on their property;¹⁹ (2) the Commission direct Duke to remove the requirement that

¹⁵ *Id.* at 8.

¹⁶ *Id.* at 9.

¹⁷ *Id.* at 10.

¹⁸ *Id.* at 11.

¹⁹ *Id.* at 11-12.

site hosts must wait a minimum of 12 months to create “alternative pricing mechanisms” for EV charging services;²⁰ (3) Duke and the Commission require any EV charging infrastructure installed through the EVSE Tariff Pilot to be networked;²¹ and, (4) the Commission and Duke should avoid being overly prescriptive with respect to payment methods and should encourage flexibility in customer payment options.²²

C. EVGO

NCSEA supports many of the positions that EVgo Services, LLC (“EVgo”) outlined in the *Initial Comments of EVgo Services, LLC on Proposed Phase II Electric Transportation Pilot Programs* (“EVgo Initial Comments”) filed in these dockets. NCSEA seeks to specifically call out the following positions of EVgo which NCSEA supports.

NCSEA agrees that the fundamental way to encourage competition in the state’s EV charging infrastructure sector is to enable the private industry to develop, install, and own EV charging infrastructure, including specifically DC Fast Chargers (“DCFC”).²³ NCSEA further echoes the concern of EVgo that utility-owned DCFC chargers that are too close to third-party owned DCFC will undermine the viability of those third-party owned EV charging infrastructure while the utility-owned EV charging infrastructure do not have any similar risk as they are funded by ratepayers.²⁴ Therefore, a data-centric solution wherein the utility seeks to bridge gaps in EV charging infrastructure installation throughout the state and to further enable the third-party marketplace is the ideal scenario. NCSEA also amplifies EVgo’s suggestion that Duke should be authorized by the

²⁰ *Id.* at 12.

²¹ *Id.*

²² *Id.* at 14.

²³ See *EVgo Initial Comments*, p. 6.

²⁴ *Id.* at 7.

Commission to provide make-ready infrastructure for privately-owned DCFCs which will enable the Commission and interested parties to review and address where further unmet EV charging infrastructure needs are not being met.²⁵

D. EDF

Similarly, NCSEA agrees with many of the positions of the Environmental Defense Fund (“EDF”) taken in the *Initial Comments of Environmental Defense Fund* (“EDF Initial Comments”). NCSEA agrees with EDF that the Commission should require that any EV charging infrastructure financing that Duke is permitted to include should present customers with terms that

bear a reasonable relationship to the customer economics underlying the transaction – that is, the cost of equipment being financed and the approximate savings it is projected to make available to the customer – and that to the extent any program involves customer paying the full cost to acquire site-specific equipment (or more), customer ownership of equipment should be an option (after the utility’s costs for the equipment are recovered).²⁶

NCSEA also agrees with EDF’s position that the Commission was aware of the upcoming comprehensive rate study when it directed Duke to include EV specific rate designs in future pilot proposals, and Duke should have included these rate design proposals in the Phase II Pilot proposal.²⁷ NCSEA would also call to attention previous filings it has made in general rate cases repeatedly imploring Duke to provide EV specific rate designs to incentivize preferable customer charging patterns.²⁸ NCSEA is interested in EDF’s proposals related to Vehicle-to-Grid (“V2G”), Vehicle-to-Building (“V2B”), and Vehicle-to-Grid Integration (“VGI”) and the many underlying concerns and issues.

²⁵ *Id.* at 8-9.

²⁶ EDF Initial Comments, p. 11.

²⁷ *Id.* at 13.

²⁸ *See generally*, Commission Docket Nos. E-2, Sub 1219 and E-7, Sub 1214 (“2019 Duke Rate Cases”).

NCSEA believes that, at the very least, Duke should be transparent about its efforts to incorporate this burgeoning area of technology and opportunity and should be seeking to utilize data to further these technologies. NCSEA generally supports EDF's positions in this area and believe Duke needs to improve its overall analysis, planning, and transparency in these areas.²⁹

E. NCJC, SACE, AND THE SIERRA CLUB

NCSEA also believes that the *Joint Comments of the North Carolina Justice Center, Southern Alliance for Clean Energy and Sierra Club on Phase II Electric Transportation Pilot Programs* ("NCJC et al. Initial Comments") submitted by the North Carolina Justice Center ("NCJC"), the Southern Alliance for Clean Energy ("SACE"), and the Sierra Club (NCJC, SACE, and Sierra Club, collectively, "NCJC et al.") provided a unique set of issues and NCSEA generally supports the positions made by NCJC et al. in those comments. Specifically, NCSEA agrees that to encourage EV adoption and ensure that additional load from EVs does not exacerbate peak demand, it is important that Duke send clear price signals to encourage charging to take place during less expensive, off-peak times of the day.³⁰ NCSEA also agrees with NCJC et al. that the Commission should push for networked EVSE options in the tariff pilot,³¹ and shares the concern that the high cost of the non-residential networked EV charger available through the Phase II Pilots and echoes NCJC et al.'s suggestion to consider discounted monthly rates for non-residential customers, especially those who meet specific equity criteria.³²

²⁹ EDF Initial Comments, pp. 15-21.

³⁰ NCJC et al. Initial Comments, p. 8

³¹ *Id.*

³² *Id.* at 9-10.

NCSEA further agrees with the concerns of NCJC et al. about the nature of the pilot with no expiration date and believes a three-year term might provide a reasonable time window to gather sufficient data and allow Duke, the intervenors, and the Commission the ability to review and see what steps will be needed moving forward.³³ Relatedly, NCSEA supports NCJC et al.'s suggestions regarding regular reporting³⁴ as part of a robust EM&V process. NCSEA believes that regular reporting within the three-year period, with transparent EM&V review throughout, will inform the pilot as it continues and allow the interested parties and Commission to “reset” in three years to determine how to move forward with utility-related, ratepayer-funded EV charging infrastructure investments in the future, if necessary.

Further alleviating customer cost issues, NCSEA agrees with NCJC et al. that Duke should remove the provision in the EVSE Tariff Pilot requiring a deposit for the contract term, particularly for residential customers.³⁵ Further, NCSEA strongly supports NCJC et al.'s idea for Duke to consider an on-bill tariff financing for the EVSE pilot.³⁶ NCSEA was a settling party in the 2019 Duke Rate Cases where a tariff on-bill financing pilot was agreed upon, and thinks likewise a tariff on-bill component makes sense especially for potentially expensive consumer-located EV charging infrastructure. NCSEA believes that this type of financing scenario is preferable to Duke's plan to duplicate the lighting model.³⁷ Similarly, NCSEA agrees with NCJC et al. that there should be a limitation of demand charges upon further study because these can cause cost prohibitive scenarios for

³³ *Id.* at 10-11.

³⁴ *Id.* at 23-27.

³⁵ *Id.* at 11-12.

³⁶ *Id.* at 12-13.

³⁷ *Joint Request by Duke Energy Carolinas, LLC and Duke Energy Progress, LLC for Approval of Phase II Electric Transportation Programs*, pp. 11-12.

many potential adopters.³⁸ NCSEA also agrees that Duke should offer multi-family dwelling Level 2 charging services based on residential flat rates.³⁹

Finally, NCSEA supports NCJC et al.'s arguments regarding underserved customers including LMI communities and believes robust outreach and educational programs paired with concerted efforts to install all levels of EV charging infrastructure proposed to serve what would have otherwise been underserved communities, including poor and rural communities.⁴⁰ NCSEA will support NCJC et al.'s suggestion to focus on underserved areas and suggest a modified New Jersey/California Model as a starting point to move forward. NCSEA believes this structure would allow Duke to own EV charging infrastructure to serve underserved areas and would not overlap third party-owned EV charging infrastructure. NCSEA believes Duke should be proactive, though, rather than waiting for the procurement process to play out and push underserved communities to the back of the proverbial line. Instead, NCSEA encourages the Commission to direct an analysis of North Carolina's EV charging infrastructure, including Tesla's universal EV chargers, by Duke to find where EV charging infrastructure gaps exist and then limit those Duke installations to gaps where the marketplace might not otherwise serve in the near term.

III. CONCLUSION

For the reasons set forth herein, NCSEA respectfully requests that the Commission approve a modified version of Duke's Phase II Pilots as set forth herein and consistent with the requests made in NCSEA's Initial Comments on the Duke Phase II Pilot proposal.

³⁸ *Id.* at 13-15.

³⁹ *Id.* at 19-20.

⁴⁰ *Id.* at 16-19, 21.

Respectfully submitted, this the 13th day of September, 2021.

/s/ Benjamin W. Smith
Benjamin W. Smith
Regulatory Counsel for NCSEA
N.C. State Bar No. 48344
4800 Six Forks Road, Suite 300
Raleigh, NC 27609
919-832-7601 Ext. 111
ben@energync.org

CERTIFICATE OF SERVICE

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing document by hand delivery, first class mail deposited in the U.S. mail, postage pre-paid, or by email transmission with the party's consent.

This the 13th day of September, 2021.

/s/ Benjamin W. Smith
Benjamin W. Smith
Regulatory Counsel for NCSEA
N.C. State Bar No. 48344
4800 Six Forks Road, Suite 300
Raleigh, NC 27609
919-832-7601 Ext. 111
ben@energync.org