

STATE OF NORTH CAROLINA

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1197

DOCKET NO. E-7, SUB 1195

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| In the Matter of Application by Duke Energy LLC |) | RESPONSE OF CHARGEPOINT, INC. TO GREENLOTS' MOTION THAT THE PARTIES BE ALLOWED TO COMMENT ON SETTLEMENT AGREEMENT |
| and Duke Energy Progress, LLC |) | |
| |) | |
| For Approval of Proposed Electric Transportation |) | |
| Pilot |) | |
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ChargePoint, Inc. ("ChargePoint"), by and through its undersigned counsel, herewith responds to Greenlots' Motion That The Parties Be Allowed To Comment On Settlement Agreement, filed in this docket on behalf of Zeco Systems, Inc., d/b/a ("Greenlots"), on April 24, 2020 ("Greenlots' Motion").

In response to Greenlots' Motion, ChargePoint shows the following to the Commission:

1. On March 29 of last year, Duke Energy, LLC ("DEC") and Duke Energy Progress, LLC ("DEP"), referred to collectively as "Duke Energy," filed proposed tariffs and associated materials describing each utility's initial plan for an Electric Transportation Pilot Program ("Duke Energy's EV Plan"). Duke Energy requested expedited approval by the Commission for the reasons stated in its filings.
2. The Commission, by its Order dated April 4, 2019, established May 6, 2019, as the date for interested persons to seek leave to intervene and for Intervenors and the Public Staff

to file initial comments regarding Duke Energy's EV Plan, and May 20, 2019, as the date by which all parties should file any reply comments. Thereafter, many statements of position were filed with the Commission, motions to intervene on behalf of several parties were made and allowed, and the Commission issued orders that extended the dates for filing initial comments to July 5, 2019, and for filing reply comments to August 9, 2019, all as appears of record.

3. The Commission allowed ChargePoint to intervene as a party by Order dated May 1, 2019. In accordance with the orders of the Commission, ChargePoint filed initial comments on July 5, 2019, and reply comments on August 9, 2019. Greenlots and other parties also filed initial and reply comments on the same dates. Duke Energy filed reply comments on August 9, 2019.
4. During the rounds of public comment, ChargePoint and Duke Energy opened discussions of a possible settlement of their differences that contemplated amendments to Duke Energy's EV Plan to address some of the concerns discussed in ChargePoint's filings in these dockets.
5. On October 25, 2019, the Commission issued its Order scheduling a limited hearing in these dockets, which was held on November 21, 2019.
6. By Order dated December 17, 2019, the Commission directed that proposed orders be filed by February 3, 2020, then subsequently extended that date to February 28, 2020.
7. The settlement discussions between Duke Energy and ChargePoint continued into February of this year, and ultimately resulted in the Settlement Agreement that was filed in these dockets by Duke Energy on February 28, 2020.
8. On the same date, February 28, 2020, DEC and DEP filed their Joint Proposed Order seeking approval of the Settlement Agreement, and Approval of Duke Energy's EV

Plan, as modified by the Settlement Agreement (the “Joint Proposed Order”). Greenlots filed a Partial Proposed Order on the same date.

9. As stated by Duke Energy in the letter transmitting the Settlement Agreement for filing on February 28, 2020, the “Settlement Agreement makes certain modifications to the Companies’ Electric Transportation Pilot as proposed by the Companies in these dockets on March 29, 2019. These modifications will support the development of a more competitive marketplace for electric vehicle charging in North Carolina.”
10. ChargePoint did not file a proposed order. Instead, as stated in the same transmittal letter from Duke Energy, ChargePoint authorized Duke Energy to confirm that “ChargePoint supports the Companies’ proposed EV Pilot with these modifications.”
11. No further filings were made in these dockets until April 24, 2020, when Greenlots’ Motion was filed.
12. Greenlots “...has concerns as to the implications of certain provisions of the changes proposed in the Settlement Agreement....”. [Greenlots’ Motion, ¶6.] Greenlots asks the Commission to re-open these dockets to receive another round of initial and reply comments from all parties over a period of at least two weeks. [Greenlots’ Motion, ¶ 15.]
13. Greenlots’ Motion specifically identifies two topics from the Settlement Agreement that Greenlots believes justify re-opening these dockets and further delaying the Commission’s decision on Duke Energy’s request in its Joint Proposed Order for approvals of the Settlement Agreement, and Duke Energy’s EV Plan, as modified by the Settlement Agreement: (1) the selection of the product and provider of charging hardware and software, and (2) the inclusion of power sharing DC Fast Charger (DCFC) products.

Provider Selection

14. As modified, Duke's EV Plan will permit site hosts to select from hardware and software products that have been pre-qualified by Duke Energy, and only from vendors who Duke Energy has pre-qualified for purposes of supplying those products. This enhances competition at the retail level, at the point where the consuming public is engaged. As Duke Energy stated in its transmittal letter, the Settlement Agreement contemplates that the EV Plan "modifications will support the development of a more competitive marketplace for electric vehicle charging in North Carolina." ChargePoint's support of expanding competition by providing site hosts with choices among different pre-qualified hardware and software products and vendors was discussed in both rounds of its comments.
15. Likewise, the record reflects Greenlots' preference for a utility to choose a single EV equipment/software provider as a single source and to directly provide charging services themselves. Greenlots' support of what it calls a "wholesale competition" pilot plan structure denies retail site hosts any voice in the selection of hardware or software products or vendors. Greenlots introduced its arguments on this issue in its initial comments (p. 13), detailed them in approximately seven pages of reply comments (pp. 5-12), and, as paragraph 8 of Greenlots' Motion admits, Greenlots also "... addressed [Greenlots' position] in its Partial Proposed Order", using more than four pages (Partial Proposed Order, pp. 10-15). Greenlots' Motion then reiterates its position. (Greenlots' Motion, ¶¶ 7-9).
16. ChargePoint respectfully submits that this "selection" issue has not changed; Duke Energy simply has agreed to changes in the pilot structure to address concerns raised by several intervenors, including ChargePoint. ChargePoint is skeptical that the

Commission requires or would benefit from two more rounds of comments on the topic of the selection of vendors and products.

High Powered Fast Chargers

17. Another modification proposed in the Settlement Agreement relates to higher powered DCFC equipment. “While Greenlots strongly supports the intent to require higher powered fast charging...), at 100+ kW or more, Greenlots believes “the language in the proposed Settlement Agreement is problematic.” (Greenlots’ Motion, ¶ 11).
18. Greenlots reads the Settlement Agreement to “specify criteria for the fast charging stations in a needlessly narrow way that would limit the market and advantage a small minority of companies-including, notably, ChargePoint—while disadvantaging others.” (Greenlots’ Motion, ¶ 10.)
19. Greenlots completely misinterprets the Settlement Agreement. Duke Energy’s EV Plan proposed the use of higher powered (100 kW +) DCFC equipment, but did not clearly permit DCFC hardware/software solutions that provide such 100 kW + services using power sharing from two co-located chargers, an approach permitted by the hardware/software products of ChargePoint and others. Greenlots supported, and still supports, Duke’s original DCFC proposal, which could/would exclude such power sharing DCFC products.
20. As modified by the Settlement Agreement, Duke Energy’s EV Plan must use criteria for **both** DCFC products that use power-sharing to provide such service, **and** DCFC products that provide higher powered service but are incapable of power sharing. Contrary to the allegations in Greenlots’ Motion, the Settlement Agreement expands, rather than narrows, the potential number of pre-qualified products and vendors of higher-powered DCFC hardware/software. To paraphrase a statement from Greenlots’

Motion, Duke's EV Plan, *as modified by the Settlement Agreement*, now includes product criteria that supports "power sharing in a higher-powered fast charging context and also enable a wider range of commercially-available products to qualify." (See, Greenlots' Motion, ¶ 12.)

CONCLUSION

21. Greenlots' Motion claims that the Commission and others would benefit from another two rounds of comments from all parties on the foregoing two issues, as well as "other [unidentified] proposed modifications to [Duke's EV Plan] found in the Settlement Agreement"; Greenlots urges the Commission to defer these proceedings for at least another two weeks to receive those comments. (Greenlots' Motion, ¶¶ 13 – 15.)
22. For the reasons stated above, ChargePoint sees no benefit to the Commission or the public from receiving further comment on the thoroughly discussed topic of Provider Selection, or comment on Greenlots' misinterpretation of the Settlement Agreement's modification of Duke Energy's EV Plan to expand the criteria for Higher Powered DCFC Products to include more products.
23. Whether to further delay disposition of these proceedings to receive comments addressing the unidentified "other modifications" to Duke Energy's EV Plan as proposed by Duke via its Settlement Agreement with ChargePoint, is a question in the discretion of the Commission. The Commission may have other routes available to avoid or resolve questions it may have regarding Duke Energy's requests in their Joint Proposed Order for approval of the Settlement Agreement, and for approval of Duke Energy's EV Plan, as modified by the Settlement Agreement.
24. To the extent the Commission chooses to consider a further round of comments and reply comments, ChargePoint respectfully suggests consideration of a process that

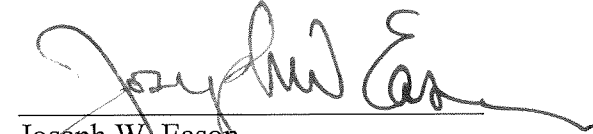
requires parties objecting to the Settlement Agreement to state the grounds upon which the Commission should deny approval of either the Settlement Agreement, or Duke Energy's EV Plan as modified by the Settlement Agreement, or both, and also provide a subsequent date by which Duke Energy and/or ChargePoint may file comments in reply to any such objections.

25. Finally, ChargePoint observes that, to the extent Greenlots' Motion is granted and a further round of comments and reply comments is requested, the Commissioner should adopt Greenlots' recommended time frame of one week for comments, and one week for reply comments. ChargePoint also respectfully suggests that the Commissioner limit the scope of comments and reply comments to specific changes that the Settlement Agreement proposes to make in Duke Energy's EV Plan.

WHEREFORE, ChargePoint respectfully requests that the Commission consider the foregoing responses of ChargePoint while engaged in its consideration of Greenlots' Motion.

Respectfully submitted this 5th day of May, 2020.

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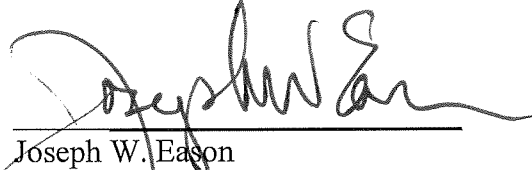
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Comments of ChargePoint, Inc. filed in Docket Nos. E-2, Sub 1197 and E-7, Sub 1195 was served electronically or via U.S. mail, first-class postage prepaid, upon all parties of record.

This the 5th day of May, 2020.



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