

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation into the Implementation of)	
the Federal Infrastructure Investment and)	Case No. 22-1025-AU-COI
Jobs Act's Electric Vehicle Charging)	
PURPA Standard.)	

**CONSUMER PROTECTION COMMENTS
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

On November 15, 2021, President Joseph Biden signed into law the Infrastructure Investment and Jobs Act (“IIJA”).¹ IIJA contains \$1.2 trillion in total funding for various infrastructure purposes, including for roads and bridges, broadband internet, drinking-water resources, airports, and electric vehicles.² A Council of State Governments analysis shows that there is \$73 billion of funding allocated in IIJA for electricity systems and utilities’ grid improvements and \$12.5 billion for electric-vehicle chargers and buses. Electricity-system improvements are tied as the third largest funding target in IIJA. In addition, IIJA includes a requirement that each state regulatory authority consider the Public Utility Regulatory Policies Act (“PURPA”) electric-vehicle-charging (“EVC”) standard and decide whether it is appropriate to implement the standard.

Specifically, 16 U.S.C. 2621(d)(21) requires each state to “consider measures to promote greater electrification of the transportation sector, including the establishment of rates that:

¹ Pub. L. No. 117-58.

² *See id.*

(A) promote affordable and equitable electric vehicle charging options for residential, commercial, and public electric vehicle charging infrastructure;

(B) improve the customer experience associated with electric vehicle charging, including by reducing charging times for light-, medium-, and heavy-duty vehicles;

(C) accelerate third-party investment in electric vehicle charging for light-, medium-, and heavy-duty vehicles; and

(D) appropriately recover the marginal costs of delivering electricity to electric vehicles and electric vehicle charging infrastructure.”

The Public Utilities Commission of Ohio (“PUCO”) has invited interested stakeholders to provide comments on whether it is appropriate to implement the PURPA EVC standard.

The Office of the Ohio Consumers’ Counsel (“OCC”) appreciates the opportunity to provide comments, given the important consumer-protection matters that are at stake in this case.

OCC recommends that PUCO ensure that all EVC programs be implemented in a fully competitive manner. OCC supports the PUCO’s opinion³ “that an entity providing EVC service in this state is not a public utility as defined in state law” and advocates that EVC services be treated as fully competitive. In addition, OCC urges that the PUCO design EVC programs in a manner that does not create cross subsidies between consumer classes, especially from low- to high-income consumers.

³ PUCO Entry (November 14, 2022) at 2.

II. CONSUMER PROTECTION COMMENTS

A. **To protect consumers, the PUCO should require that electric-vehicle-charging services be implemented as a competitive offering.**

EVC should be implemented as competitive services. There are a range of benefits and consumer protections that electric vehicles can provide to consumers, the electricity system, and society as a whole. Depending upon the underlying fuel source of the energy that is used to charge it, an electric vehicle can be more environmentally benign than a fossil-fueled vehicle. In addition, controlling the timing and rate of EVC can be beneficial to the electricity system, inasmuch as it can facilitate managing the necessary real-time balance between electricity supply and demand. Further, if an electric-vehicle battery can be discharged, it could provide critical energy supplies when a consumer's electricity supply is disrupted (*e.g.*, to power a mobile phone for critical communication). Also, electric vehicles tend to have significantly lower fuel and operating costs to end consumers compared to fossil-fueled vehicles. As such, electric vehicles can help to hedge consumers against price risks associated with reliance upon gasoline, diesel, or other fossil fuels for transportation and mobility.

Given these and other benefits, OCC supports any actions that allow for competitive provision of EVC services, including EVC infrastructure. Competition ensures that consumers benefit from cost-minimal supply and maximal innovation in providing EVC services and infrastructure.

In addition, ensuring competitive provision of EVC services, including EVC infrastructure, will fulfill the requirement of 16 U.S.C. 2621(d)(21) that the state consider “measures to promote greater electrification of the transportation sector, including the

establishment of rates that...accelerate third-party investment in electric vehicle charging for light-, medium-, and heavy-duty vehicles.”⁴

B. To protect consumers, the PUCO should take steps to reduce the risk of cross subsidies.

The PURPA EVC standard raises the potential for cross subsidies, especially from low- to high-income consumers, as a concern. The potential for cross subsidies arises because electric-vehicle ownership is, to a large extent, concentrated among high socioeconomic classes. As such, there are risks that cost-recovery mechanisms for providing EVC services and infrastructure could socialize costs across the entire consumer population, despite the benefits accruing to higher socioeconomic classes (the predominant electric-vehicle owners).

To reduce the risk of cross subsidies, OCC advocates for a beneficiary-pays model (those that benefit from EVC services and infrastructure pays for it). Under this model, service and infrastructure costs are borne by electric-vehicle owners, based on their uses of the services and infrastructures, as opposed to being allocated across all electricity consumers. In addition to reducing the risk of cross subsidies, a beneficiary-pays model ensures that electric-vehicle owners are provided with proper price signals to drive and guide their electric-vehicle use and associated energy consumption.

Finally, a beneficiary-pays model will fulfill the requirement of 16 U.S.C. 2621(d)(21) that the state consider “measures to promote greater electrification of the transportation sector, including the establishment of rates that...promote affordable and equitable electric vehicle charging options for residential, commercial, and public electric

⁴ Competitive provision of EVC services is also consistent with state policy in R.C. 4928.02.

vehicle charging infrastructure; [and] appropriately recover the marginal costs of delivering electricity to electric vehicles and electric vehicle charging infrastructure.”

III. CONCLUSION

If implemented properly, competitive provision of EVC services and infrastructure that avoids cross subsidies can yield significant benefits to electricity and transportation consumers in Ohio and for the electricity system as a whole. OCC reiterates that maximizing these benefits is premised upon allowing (1) unfettered competition in the provision, deployment, and use of EVC services and infrastructure and (2) ensuring that the use of EVC services and infrastructure is not cross subsidized by non-users of the services and infrastructure.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Consumer Protection Comments was served on the persons stated below via electronic transmission, this 1st day of February 2023.

/s/ William J. Michael

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The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Comments Consumer Protection Comments by Office of the Ohio
Consumers' Counsel electronically filed by Mrs. Tracy J. Greene on behalf of
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