

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**MOTION TO INTERVENE AND COMMENTS
OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

Pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11, the Ohio Manufacturers' Association Energy Group (OMAEG) respectfully moves the Public Utilities Commission of Ohio (Commission) to intervene in this matter with the full powers and rights granted to intervening parties. As demonstrated in the attached Memorandum in Support, OMAEG has a real and substantial interest in this proceeding that may be adversely affected by the outcome herein, and which cannot be adequately represented by any other party. Accordingly, OMAEG satisfies the standard for intervention set forth in Ohio statutes and regulations.

Therefore, OMAEG respectfully requests that the Commission grant this motion to intervene for the reasons stated herein and as more fully set forth in the attached Memorandum in Support. OMAEG also requests that it be made a full party of record in this proceeding.

Respectfully submitted,

/s/ Kimberly W. Bojko

Kimberly W. Bojko (0069402) (Counsel of Record)

Jonathan Wygonski (100060)

Carpenter Lipps & Leland LLP

280 North High Street, Suite 1300

Columbus, Ohio 43215

Telephone: (614) 365-4100

bojko@carpenterlipps.com

wygonski@carpenterlipps.com

(willing to accept service by e-mail)

*Counsel for the Ohio Manufacturers' Association
Energy Group*

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**MEMORANDUM IN SUPPORT AND COMMENTS
OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

I. INTRODUCTION

On November 2, 2022, the Commission opened a proceeding 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). The IIJA amended PURPA by adding an EV charging standard to the list of standards that state regulatory authorities are required to consider for implementation.¹ In its Entry, the Commission noted that it previously opened a separate proceeding (Case No. 22-755-AU-COI) to review implementation of the IIJA more generally, but separately opened this case to specifically address the EV charging standard.²

PURPA establishes standards for electric utilities, and requires state regulatory authorities, such as the Commission, to "consider each standard established...and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of" PURPA.³ These standards apply to each electric utility if the utility's total sales of electric

¹ Entry at ¶ 3 (Nov. 14, 2022).

² *Id.* at ¶ 4.

³ 16 U.S.C. § 2621(a).

exceed 500 million kilowatt-hours during any calendar year after December 31, 1975.⁴ The EV charging standard created by the IIJA states that

Each State shall consider measures to promote greater electrification of the transportation sector, including the establishment of rates that—

(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.⁵

The automotive industry is important to Ohio, especially Ohio's manufacturers. The Commission should adopt measures to promote greater electrification of the transportation sector in order for Ohio's market to remain competitive, while protecting customers from unreasonable and excessive costs. To protect competition, minimize costs, promote reliability, and promote the electrification of the transportation sector as intended by the standard, OMAEG supports smart charging rates and hosting capacity maps to guide EV charging infrastructure investment to the least-cost locations and to incentivize charging of EVs when electricity costs are the lowest.

The Commission directed all interested stakeholders to submit written comments by February 1, 2023.⁶ Accordingly, OMAEG respectfully requests to be made a party of record in this proceeding, and submits the following comments for the Commission's consideration.

⁴ 16 U.S.C. § 2612(a).

⁵ 16 U.S.C. § 2621(d)(21).

⁶ Entry (Nov. 14, 2022) at ¶ 13.

II. INTERVENTION

R.C. 4903.221 and Ohio Adm.Code 4901-1-11 establish the standard for intervention in the above-captioned proceeding. R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a Commission proceeding is entitled to seek intervention in that proceeding. R.C. 4903.221(B) further requires the Commission to consider the nature and extent of the prospective intervenor’s interest, the legal position advanced by the prospective intervenor and its probable relation to the merits of the case, whether intervention would unduly prolong or delay the proceeding, and the prospective intervenor’s potential contribution to a just and expeditious resolution of the issues involved.

OMAEG is a non-profit entity that strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG members and their representatives work directly with elected officials, regulatory agencies, the judiciary, and the media to provide education and information to energy consumers, regulatory boards and suppliers of energy; advance energy policies to promote an adequate, reliable, and efficient supply of energy at reasonable prices; and advocate in critical cases before the Commission. The Commission should adopt programs that support EV charging infrastructure investment to the least-cost locations and to incentivize charging of EVs when electricity costs are the lowest. However, the, electric distribution utilities (EDUs) should not be allowed to implement EV charging programs in a manner that will be costly to customers. Moreover, customers much be protected against costly EV investments and should not be allowed to improperly use customer dollars to subsidize ownership of a competitive product. As consumers and purchasers of energy and electric distribution and related services from Ohio’s various electric utilities, OMAEG has a substantial

interest in the above-captioned proceeding since its members will be directly affected by the outcome of this proceeding.

For these reasons, OMAEG has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. OMAEG is regularly and actively involved in Commission proceedings, including rulemaking and investigation proceedings.⁷ As in previous proceedings, OMAEG's unique knowledge and perspective will contribute to the full development and equitable resolution of the factual issues in this case. OMAEG's interest will not be adequately represented by other parties and its timely intervention will not unduly delay or prolong this proceeding.

Because OMAEG satisfies the criteria set forth in R.C. 4903.221 and Ohio Adm.Code 4901-1-11, it is authorized to intervene in this proceeding with the full powers and rights granted by the Commission to intervening parties. Accordingly, OMAEG respectfully requests that the Commission grant this motion to intervene and that OMAEG be made a full party of record in this proceeding.

⁷ See, e.g., *In the Matter of the Commission's Investigation into the Implementation of the Federal Infrastructure Investment and Jobs Act's Demand-Response PURPA Standard*, Case No. 22-1024-AU-COI, Motion to Intervene, Memorandum in Support and Comments (Jan. 10, 2023); *In the Matter of the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AUI-COI, Motion to Intervene of the Ohio Manufacturers' Association Energy Group (June 15, 2018); *Id.*, Finding and Order (Oct. 24, 2018); See also *In the Matter of the Ohio Power Siting Board's Review of Ohio Adm.Code Chapters 4906-1, 4906-2, 4906-3, 4906-4, 4906-5, 4906-6, and 4906-7*, Case No. 21-902-GE-BRO, Petition to Intervene and Comments of the Ohio Manufacturers' Association Energy Group (August 5, 2022); *In the Matter of the Review of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company's Compliance with R.C. 4928.17 and the Ohio Adm. Code Chapter 4901:1-37*, Case No. 17-974-EL-UNC, Motion to Intervene of the Ohio Manufacturers' Association Energy Group (Mar. 19, 2021); *Id.*, Entry (May 18, 2021).

III. COMMENTS

A. **Adopting the EV charging standard would facilitate ‘smart charging’ electric rates, which would incentivize off-peak charging of EVs.**

Adopting electric rates specific to EV charging, known as ‘smart charging’ rates, would promote more efficient use of the electric system. Most electric circuits have a peak hour, similar to a ‘rush hour’ of electricity consumption, when demand is highest. However, EV charging technology has the capacity to charge an EV during off-peak times and avoid adding additional load during periods of peak usage.

Access to smart charging rates, which provide economically beneficial rates for customers during off-peak hours, would provide multiple benefits to Ohio customers. For example, these rates would give customers insight into which times of day are the least costly to charge an EV. With this information available, businesses and customers would naturally aim to reduce costs by charging EVs when electricity is cheaper. Reducing the cost of electricity would further encourage EV adoption by improving charging economics, which would further support Ohio’s goal to become a regional hub for EV manufacturing and support. Reducing the cost of recharging and operating EVs would also benefit customers, such as manufacturers, who use EVs as part of their business.

Additionally, smart rates that encourage off-peak charging would reduce the risk of overloading circuits during times of peak usage. This would both improve overall reliability, and reduce the need for costly and unnecessary grid upgrades. Thus, the use of smart rates would benefit all customers, including those who do not use EVs. As such, adopting the EV charging standard would facilitate the design and implementation of smart charging rates that would help promote electrification of transportation while reducing strain on the grid.

B. The Commission should implement the EV charging standard in a way that requires EDUs to publish ‘hosting capacity’ maps to encourage cost effective development of charging infrastructure.

As customers continue to adopt EVs and their requisite chargers, it will be critical to guide new charging installations to electric circuits that have available power capacity, as compared to circuits that do not. Doing so will help avoid unnecessary and costly grid upgrades. EDUs can publish ‘hosting capacity’ maps to help encourage least-cost installations. Hosting capacity maps are color-coded drawings of electric lines that show which lines have available power capacity, and which lines do not have available capacity and may need upgrades.⁸ Many states already require their utilities to publish hosting capacity maps as it leads to transparency for customers, EV businesses, and regulators, to enable them to readily understand which circuits can support additional EV charging infrastructure.

As noted by the National Renewable Energy Laboratory, “[h]osting capacity is a location-dependent concept—in other words, hosting new...EV loads can be accommodated in some locations to varying extents.”⁹ By avoiding lines with limited capacity, EV charging becomes more cost-effective as it is placed on circuits which do not require costly upgrades.¹⁰ EV charging stations that are installed on circuits with available capacity are also cheaper and faster to install, as they do not require the EDU to make time-intensive upgrades. Because of the avoided costs and avoided delays, owners of EV charging stations would gravitate toward circuits with capacity which would pose less risk of overloading circuits as charging is added. Just as smart rates reduce strain on the grid by encouraging customers to charge during off-peak times, capacity maps would

⁸ See *EV Hosting Capacity Analysis on Distribution Grids*, National Renewable Energy Laboratory (July 2021) at 3–4, available at <https://www.nrel.gov/docs/fy21osti/75639.pdf>.

⁹ *Id.* at 1.

¹⁰ *Id.*

reduce strain on the grid by encouraging developers to install EV charging infrastructure on electric lines with available power capacity. Again, this would not only facilitate the adoption of EVs in Ohio, but would lessen the strain on the electric grid and, therefore, have additional reliability and cost benefits for all customers.

C. The Commission should adopt the EV charging standard in a way that avoids subsidizing EDUs.

Ohio's EDUs do not need any additional revenue or cost recovery mechanisms stemming from the adoption of the EV charging standard and the Commission should not allow the EDUs to pass through these extra costs to customers. Ohio's existing laws and regulations already enable EDUs to obtain guaranteed cost recovery of a number of grid upgrades if those upgrades are necessary to operate the grid safely and efficiently. Furthermore, EDUs regularly invest customer dollars in projects that may or may not benefit customers, including grid infrastructure upgrades, new manufacturing production lines, new homes, new buildings and businesses, and new EV charging installations. EDUs already collect billions of dollars per year to maintain and update the electric grid, and have a statutory duty to provide safe and reliable service.¹¹ Accordingly, EDUs do not need additional revenue for EV upgrades.

It is important to note that EV charging stations are a competitive service. OMAEG has long argued that the Commission should treat EV charging stations as a competitive service, and prevent EDU ownership of these facilities.¹² Allowing EDU ownership and operation of EV services conflicts with Ohio's public policy. R.C. 4928.02(H) states that it is the policy of the state to prohibit anticompetitive subsidies. The Commission has acknowledged that since EV charging

¹¹ R.C. 4905.22

¹² See, e.g., *In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Adjust its Power Forward Rider*, Case Nos. 19-1750-EL-UNC, Comments of the Ohio Manufacturers' Association Energy Group (Apr. 16, 2020) at 8-9.

infrastructure is typically on the customers' side of the meter, "EV charging stations should operate within the sphere of a competitive marketplace, especially for home and private business charging."¹³

In this way, EV charging is no different than any other new competitive business development in the energy or telecommunication space. Thus, the EV charging standard can be used to create a framework for improving price transparency and the ability to react to price signals, which will incentivize customer-owned EV infrastructure without the need for subsidizing EDUs or facilitating further EDU rate recovery.

III. CONCLUSION

The electrification of the transportation sector is happening, and adopting measures to support that transition positions Ohio well to capitalize on this inflection point. OMAEG supports smart charging rates and hosting capacity maps to guide EV charging infrastructure investment to the least-cost locations and to incentivize charging of EVs when electricity costs are the lowest. These provisions protect competition, minimize costs, promote reliability, and thus promote the electrification of the transportation sector as intended by the standard. The Commission should adopt measures that promote greater electrification of the automotive sector in Ohio, and avoid unlawful subsidies of EDUs. Promoting policies that facilitate competitive installation of customer-owned infrastructure will have financial and reliability benefits for Ohio manufacturers and customers in general. As such, OMAEG respectfully requests that the Commission adopt the EV charging standard, as well as the recommendations contained herein.

¹³ PowerForward: A Roadmap to Ohio's Electricity Future, Public Utilities Commission of Ohio (2019) at 20, available at https://puco.ohio.gov/wps/wcm/connect/gov/38550a6d-78f5-4a9d-96e4-d2693f0920de/PUCO+Roadmap.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-38550a6d-78f5-4a9d-96e4-d2693f0920de-nLBoZhy.

Moreover, OMAEG requests that the Commission grant its intervention in this proceeding as OMAEG has a real and substantial interest in this proceeding that may be adversely affected by the outcome herein, and which cannot be adequately represented by any other party. OMAEG satisfies the standard for intervention set forth in Ohio statutes and regulations, and requests to be made a full party of record in this proceeding.

Respectfully submitted,

/s/ Kimberly W. Bojko

Kimberly W. Bojko (0069402) (Counsel of Record)

Jonathan Wygonski (0100060)

Carpenter Lipps & Leland LLP

280 North High Street, Suite 1300

Columbus, Ohio 43215

Telephone: (614) 365-4100

Bojko@carpenterlipps.com

Wygonski@carpenterlipps.com

(willing to accept service by email)

*Counsel for the Ohio Manufacturers' Association
Energy Group*

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on February 1, 2023 upon the parties listed below.

/s/ Kimberly W. Bojko
Kimberly W. Bojko

Service List:

john.jones@ohioAGO.gov
tlong@ohiochamber.com
william.michael@occ.ohio.gov
connor.sempel@occ.ohio.gov
knordstrom@theoec.org
emccrum@sheetz.com
Elyse.Akhbari@duke-energy.com
Larisa.Vaysman@duke-energy.com
Rocco.Dascenzo@duke-energy.com
Whitney.Richardson@evgo.com
dborchers@bricker.com
kherrnstein@bricker.com

Attorney Examiner:

jesse.davis@puco.ohio.gov

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

2/1/2023 5:15:24 PM

in

Case No(s). 22-1025-AU-COI

Summary: Motion to Intervene and Comments electronically filed by Mrs. Kimberly W. Bojko on behalf of The Ohio Manufacturers' Association Energy Group