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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF TEXAS



REVIEW OF ISSUES RELATED TO
ELECTRIC VEHICLES

PROJECT NO. 49125

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF TEXAS
PUBLIC NOTICE OF SECOND REQUEST FOR COMMENTS
RESPONSE OF CALSTART, AMPLY, EV-GO, NIKOLA, VOLVO GROUP N.A.

Introduction

CALSTART appreciates the Commission's attention to issues around electric vehicle charging, and the opportunity to respond to these questions with our members: Amply, Volvo Group N.A. (collectively, "CALSTART and CALSTART members").

With five offices across the country, CALSTART is a member-based nonprofit (501c3) organization that seeks to accelerate the commercialization of clean transportation technologies in the U.S., and with our "Global Drive to Zero" program, across the world. CALSTART has over 250 organizational members including vehicle and component manufacturers, transit agencies, goods movement operators, investor-owned utilities, publicly-owned utilities, and electric vehicle service providers. CALSTART has many members headquartered in Texas, including Caterpillar, Frito-Lay, Toyota and Trillium.

AMPLY Power, Inc. ("AMPLY") provides commercial and government fleets with electric vehicle charging-as-a-service. AMPLY removes risks for fleet operators as they electrify their fleets of buses, trucks, vans and cars, with a turnkey charging solution that is paid for as-a-service over time as the vehicles are operated.

EVgo owns and operates America's largest public electric vehicle (EV) fast charging network, with more than 800 DC fast charging (DCFC) locations in 34 states and 66 metro markets nationwide, including 50 locations across Texas with plans for expansion. Currently, more than 115 million Americans live within a 15-minute drive of an EVgo fast charger.

Nikola Corporation is globally transforming the transportation industry. As a designer and manufacturer of zero-emission battery-electric and hydrogen-electric vehicles, electric vehicle drivetrains, vehicle components, energy storage systems, and hydrogen station infrastructure, Nikola is driven to revolutionize the economic and environmental impact of commerce as we know it today.

Volvo Group North America is one of the world's leading manufacturers of trucks, buses, construction equipment and marine and industrial engines. The Volvo Group develops, manufactures, and sells heavy-duty trucks, buses, construction equipment, and motor coaches and their powertrains are sold in the U.S. under the brand names: Volvo Trucks, Mack Trucks, Volvo Construction Equipment, Nova Bus, Volvo Bus, and Prevost.

Response to Question 1

As a matter of policy, which entities should be permitted to own or operate an electric vehicle (EV) charging station in the Texas competitive electric market?

CALSTART has observed through our work in other states that the greatest public and ratepayer benefit can be realized through a diversity of public charging station ownership. Therefore, any individual, for-profit, or non-profit organization, should be permitted to own or operate EV charging stations.

CALSTART and CALSTART members have also observed that, in certain market segments, and in certain hard to reach geographical areas, it can be in the public/ ratepayer interest to have utilities take on some limited level of charging station ownership, or creating utility incentives for these hard to reach segments/ areas that will make it easier for the private sector to participate. For example, CALSTART recently supported a filing by Southern California Edison that would include partial utility ownership of chargers in multi-unit-dwellings (MUDs) as an option, given how difficult and costly MUD retrofits can be.¹ In the past CALSTART has also supported utility involvement/coordination in rural areas and at state parks, through legislation in Michigan, for example.²

Response to Question 2

Is the operation of an electric vehicle charging station a retail sale of electricity?

¹ Before the California Public Utilities Commission, Application of Southern California Edison Company (U338E) for Approval of its Charge Ready 2 Infrastructure and Market Education Program A.18-06-015, https://apps.cpuc.ca.gov/apex/f?p=401:56:0::NO:RP,57,RIR:P5_PROCEEDING_SELECT:A1806015

² See Michigan House Bills 4787, 4788, 4789 of 2019-2020 session, *available at* legislature.mi.gov .

No, CALSTART and CALSTART members firmly agree with the 35 jurisdictions³ that have already considered this issue and settled on the answer that operation of an EV charging station is not a retail sale of electricity. The reasoning followed by other jurisdictions includes the following:

- 1) An EV charging station does not distribute, furnish, or sell electricity for general use. Rather, an EV charging station provides a battery charging service, which is distinct from a retail sale of electricity. An EV charging station owner or operator is therefore neither an electric utility, a transmission and distribution utility, nor a retail electric supplier.
- 2) Charging a user volumetrically for the amount of charging received by their vehicle is not equivalent to providing utility service. Utility service includes many other elements that are missing from providing electricity for EV charging as a service, which is for a very narrow purpose, and for a distinct period of time. Further, the EV drivers, similar to drivers fueling at a gas station, are free to use whatever station they choose, nothing involving an EV charging station is equivalent to the “natural monopoly” of the distribution or transmission system.

Ensuring that the Texas PUC makes clear that EV charging is not a retail sale of electricity, and therefore ensuring that EV Service Providers (EVSPs) and others who own, install, and operate public charging stations, is absolutely critical to transportation electrification of all vehicle types. EVSPs will not be able to operate in the long term unless they are able to charge customers for charging, since they are buying electricity volumetrically, they must be able to charge their customers in the same way, if they choose to do so. Some may continue to choose to offer a “subscription” service, yet regardless of how customers are being charged, providing EV charging is not a retail sale of electricity given EVSPs themselves are retail electric customers. At the same time, public charging is increasing, not just to serve light-duty vehicles, but also to serve medium- and heavy-duty vehicles (M-HDVs).

Texas suffers greatly from air pollution in its major cities, which comes in large part from NO_x and PM 2.5 emissions from M-HDVs. Electric heavy-duty trucks, especially “Class 8” tractor-trailers, can only be enabled to meaningfully displace their diesel equivalents, and therefore dramatically improve air quality, with regional charging solutions that include shared, or fully public, truck charging stations. Innovative partnerships are working to pioneer these pilot and at-scale projects elsewhere in the U.S.,

³ Utility Commissions or legislatures in the following states have ruled on the issue of EV charging and found that it is not a public utility function: Alabama, Arkansas, Arizona, California*, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Utah, Vermont, Virginia, Washington, West Virginia and the District of Columbia. *CALSTART will happily provide full citations to Commission staff.* *California previously provided the exclusion for Light-Duty EV charging only, but has now issued a proposed decision to expand the definition to all vehicle types. See R.18-12-06 Drive OIR, https://apps.cpuc.ca.gov/apex/f?p=401:56:0.:NO:RP,57,RIR:P5_PROCEEDING_SELECT:R1812006

supported by public policy and large investments of public and private capital. In fact, the first public truck charging station is currently under construction in Southern California, and is a joint project of Trillium Volvo/ Mack Trucks and Greenlots.⁴ We hope Texas will be the next place to see public truck charging, and the development of truck charging corridors along the major interstates in Texas.

Issues around the “retail sale of electricity” may also, if not dealt with properly, hamper innovative EVSP service models, critical to the growth of transportation electrification, such as companies that seek to provide fleet charging services. In these instances, the owner of the chargers used by the fleet may be distinct from the vehicle owner, and the charging provider will need to charge the fleet volumetrically for the energy needs of the fleet.

This Commission also has a duty to ensure that utilities do not overstep their role, and therefore it is important to promote as much competition as possible in the public EV charging space. Through competition, the costs of charging offered to the public will come down and EVSPs will find innovative ways to reduce costs. Competitive public charging, with diverse ownership is critical to expanding electrification across all vehicle sectors, which will in turn have dramatic benefits to air quality in Texas, public health, and will also save consumers money. The cost of owning and operating a light-duty electric vehicle can be lower than the lifetime cost of owning a traditional internal combustion vehicle and fueling with gasoline,⁵ even though up-front costs remain higher. Texans can realize real benefits to their household and business budgets through adoption of EVs in the coming years if utilities offer thoughtful rate designs for different EV charging applications.

Furthermore, if the Commission clarifies that EV charging is not a retail sale of electricity, such a decision will not in any way alter or abridge the Commission’s existing authority to ensure the safety of public electric-vehicle charging stations and regulation of otherwise regulated utilities and retail electric providers.

Conclusion

CALSTART and CALSTART members greatly appreciate your consideration of our comments and look forward to working with the Commission staff moving forward. We hope that this will be just the

⁴ See <https://www.lightsproject.com/charging-infrastructure/>. Overall cost savings is dependent upon federal tax credit eligibility.

⁵ When off-set by federal tax credits, which are not available for all vehicle types, and comparing the most comparable vehicle models using the U.S. Dept of Energy Calculator at <https://afdc.energy.gov/calc/>

beginning of the Commission's work on EV charging, and that the Commission will bring forward, in a timely manner, a comprehensive framework to lay out the appropriate and necessary role of utilities to support the growth of transportation electrification, which will great benefit all Texans and ratepayers.

Specifically, we also hope to see proceedings that consider the critical role of distribution system utilities to provide the necessary distribution system improvements (make-ready) to serve public fast charging and charging for MHDVs. Texas should work towards full-scale utility programs to incentivize the electrification of and adoption of zero emissions commercial fleets to address current and pending market demand. Furthermore, CALSTART would encourage the Commission to look at the role of hydrogen production, development of a favorable electricity rate design structure for hydrogen to support medium and heavy-duty zero emissions transportation and the benefits to grid operators and utility customers.

Respectfully submitted this 28th day of August, 2020,

Meredith L. Alexander

Meredith L. Alexander, J.D.
Policy Director
CALSTART
2600 Tenth Street
Berkeley, CA 94710
(626) 744-5617
malexander@calstart.org

Simon Lonsdale
Co-founder, Sales and Strategy
AMPLY Power, Inc.
335 E. Middlefield Rd.
Mountain View, CA 94043
(650) 533-1862
simon@amplypower.com

Sara Rafalson
Senior Director, Market Development
EVgo Services LLC
11835 W. Olympic Blvd. Suite 900E
Los Angeles, CA 90064
Tel: (877) 494-3833
E-mail: sara.rafalson@evgo.com

Alana Langdon
Sr. Manager, External Affairs and Public Policy
Nikola Corporation | www.nikolamotor.com
4141 E Broadway Rd | Phoenix | AZ | 85040
alana.langdon@nikolamotor.com

Aravind Kailas, Ph.D.
Advanced Technology Policy Director
Volvo Group North America
575 Anton Blvd, Suite 860
Costa Mesa, CA 92626
(714) 277-8172
Aravind.kailas@volvo.com

Submitted Electronically