STATE OF IOWA
DEPARTMENT OF COMMERCE
IOWA UTILITIES BOARD

IN RE: ELECTRIC VEHICLE CHARGING SERVICE RULE	DOCKET NO. RMU-2020-2020

Comments of Winneshiek Energy District

Winneshiek Energy District is a not for profit corporation leading, implementing, and accelerating the locally owned clean energy transition, in pursuit of both clean energy prosperity for all, and climate stewardship for current and future generations. We have worked extensively in recent years on distributed renewable electricity generation, on electric vehicles (EVs) and EV charging infrastructure, and on the synergies between the two topics.

WED offers the following comments in response to the Board's *Order Commencing Rulemaking* of October 14th, 2020, and the Board's *Order Setting Deadline for Additional Comments* of December 30th, 2020. We concur with the Board's own disagreement of the ARRC's asserted grounds for objection[1], and with the OCA's belief that the Board's proposed rule 20.20 was neither improper nor incorrect.[2] We encourage the board to hold to the original rule, or a version equally protective of the rights of all ratepayers and customers to invest in both distributed generation and

[1] See page 2, https://wcc.efs.iowa.gov/cs/groups/external/documents/docket/mday/mdqy/~edisp/2042834.pdf
[2] See page 1, https://wcc.efs.iowa.gov/cs/groups/external/documents/docket/mday/mdq2/~edisp/2046772.pdf

electric vehicle charging in any combination they choose, without regulation as a public utility or an electric utility, and without penalty or discrimination from the utility.

EV Charging Doesn't Create an Electric Utility, but Creates A New Product

The Board's *Order Commencing Rulemaking* in this docket stated that during the prior EV rulemaking docket (RMU-2018-0100), "all commenters appeared to agree that an entity that acquires its electric power from an incumbent electric utility may provide commercial EV charging services without being considered an electric utility."[3] The utility's and ARRC's objections appear to revolve largely around the situation where an entity providing EV charging also owns (or is part of a third party contract for) on-site, behind the meter distributed generation.

The Board provides clarity on this point in the *Order Adopting Amendment* in RMU-2018-00100, stating[4]

> There are at least two separate and distinct potential electric energy transactions implicated in commercial EV charging. First, an electric energy transaction occurs between the EV charging station and the vehicle (i.e., charging the EV's batteries). Second, a potential electric energy transaction occurs through the electric energy generator supplying electricity to the EV charging station. The primary intended purpose of this rule making is to address the former of two described transactions — to clarify that an EV charging station does not become a public utility under § 476.1 solely by virtue of the commercial EV charging transaction between the EV charging station and the vehicle. Under the version of rule 20.20 published in the NOIA, the legality of the latter of the two-described transactions (i.e., between the electric energy generator and the EV charging station) is determined under existing adjudicatory and statutory law, and the determination of whether the electric energy-supplying entity is a public utility will be dependent upon application of the multifactored test.

[3] See page 3, https://wcc.efs.iowa.gov/cs/groups/external/documents/docket/mday/mdqy/~edisp/2042834.pdf
[4] See page 5, https://wcc.efs.iowa.gov/cs/groups/external/documents/docket/mday/mdaz/~edisp/1881954.pdf

This separation of transactions is important, because the objections of utilities and the ARRC appear to focus not on the transaction between the charge station and the vehicle, but on the transaction between the energy supplying entity and the charge station. Yet the Board also made clear that this transaction is already covered under existing rules[5]:

> The NOIA version further protects consumers through the unnecessary duplication of electric service through subrule 20.20(2), which declares that entities furnishing electricity to an EV charging station must comply with the exclusive service areas. In other words, if an entity furnishing electricity to an EV charging station is a public utility under the "facts-and-circumstances" approach, Iowa Code § 476.25(3) could be implicated, which precludes an electric utility from serving or offering to serve "electric customers in an exclusive service area assigned to another electric utility . . . ."

If the ARRC objections are meant to uncover potential legal challenges to the Board's proposed rules, it appears that the rules adopted in RMU-2018-0100 are fully capable of withstanding any such legal challenge, perhaps more so than the revised rule proposed in this current docket.

Another perspective in support of the Board's transaction distinction is to consider the products involved in the two transactions as fundamentally different in commercial and legal terms. It is certainly true that the electrons provided by the incumbent utility or by an onsite distributed generation system may be the same electrons that flow into the vehicle batteries of the charge station customers. But the charge station owner (whether a "filling station", or employer, or public entity) is not in the business of providing electricity for the on-site needs and uses of a customer (as a

[5] Ibid, page 6

traditional utility does), but rather is providing a form of transportation fuel to a mobile customer.

All transportation fuel ultimately involves energy conversion into kinetic energy. If the charge station were providing battery swaps (as some predict may be in our EV future), that would make them no more or less of an electric utility than filling the customer's battery tank directly with electrons. In both cases, the incoming electricity – whether on-site DG or utility provided through the distribution grid – is serving the on-site need of the charge station (utility customer), which is then adding value to that product through investing in infrastructure necessary for the provision of transportation energy.

Creation of Value and Opportunity for Iowa Customers and Communities

We do not mean to diminish the fact that there are important legal questions in this docket, but we also submit that the issue under consideration is fundamentally one of business models and wealth flows as much as it is about rules and regulations.

The electrification of transportation is accelerating, and it appears very likely that the EVs will largely replace fossil fueled vehicles by the middle of the century. The exact date is irrelevant, but the coming shift from petroleum fueled transportation to electricity fueled transportation is not. Currently, according to the Iowa Department of Transportation, there are about 33.8 billion vehicle miles travelled in the state each year (86% of which are cars, pickups and passenger vans).[6] If at some point these vehicles all run on electric power, and achieve an average of 2.5 miles/kWh (40 kWh per 100

[6] See https://iowadot.gov/maps/msp/vmt/clvmt19.pdf

miles), at a rough estimate of 10 cents/kwh this transition could easily represent over $1.35 billion/year of new electrical expenditures.

In the US, somewhere between 50 and 75% of this vehicle charging will likely take place in the home, representing significant growth potential for incumbent electric utilities.[7] Significant charging will also take place, however, at workplaces and in public and long-distance charge stations. In many of these locations, the energy will be provided by the incumbent utility. In other locations, employers, public entities, entrepreneurs, or current service station business owners may decide to invest in distributed generation in combination with the EV charging infrastructure.

These charge station owners will be creating a business model, jobs, and an increased level of community resilience and self-reliance through their investment not only in retail charging, but also through their investment in distributed generation renewable energy production. Incumbent utilities may see this as a lost sales opportunity, but we encourage the Board to see it as critical opportunity for economic development and wealth creation and retention throughout Iowa – one that will likely be frozen and lost without clear rules authorizing and enabling this combination of customer-owned DG with EV charging.

The Board Should Support Competition and Clean Energy Prosperity Over the Expansion of Captive Markets and Investor Owned Monopolies

The granting of exclusive service territories and near-guaranteed rates of return to private, investor-owned monopoly utilities has always been a highly imperfect solution

[7] McKinsey, 2018, see Charging ahead: Electric-vehicle infrastructure demand (mckinsey.com)

to the problem of inefficient duplication of services. In pursuing one set of efficiencies, tremendous moral hazard is incurred through the loss of market competition and state-enforced captive markets.

Yet even within the regulated utility monopoly paradigm, regulators and policymakers increasingly have an obligation to – and often succeed in – prioritizing the opportunities of customers and communities to invest, compete, and prosper in the clean energy transition. Despite the dire industry warnings of a business model "death spiral", Iowa has kept the door open to distributed generation and is experiencing stable utilities and major growth in solar industry jobs, customer-owned wealth creation, and – in a growing number of locations – community prosperity.

With the growing likelihood of economy-wide electrification (transportation as well as buildings and industry) due to both climate imperatives and economic opportunities, the industry is facing major demand growth in coming decades. In this context it is especially unfortunate, if not surprising, that the investor-owned utilities continue their aggressive tactics of absolute monopolization even in new markets such as transportation, and exclusion of customer, entrepreneurial, and community participation in the combination of DG and EV charging. (We ARE surprised, however, that the consumer-owned utilities have joined the IOUs in this position, as they have generally exhibited greater leadership towards the local benefits of energy efficiency and participatory renewable energy development that are clearly beneficial to their community even if not to the utility's bottom line.)

The utilities appear to suggest that opening the door to private sector resale of utility provided electricity is a generous concession, and that a case-by-case Board

analysis of any customer desiring to combine distributed generation with EV charging is a viable scenario. We work regularly with businesses, farmers, and institutions interested in DG and increasingly also in EV charging for employers and/or the general public. Under the proposed rule, the ability of a utility to challenge any potential DG+charging situation – or put otherwise, the potential need for a customer to plead their case for DG+charging in front of the Board – is nothing more than a full freeze on the DG+charging option for customers, and an abuse of monopoly power by the utility.

We encourage the Board to adopt a rule that keeps the door fully open to the maximum level of grid access, customer ownership, and local prosperity achievable under the law. We encourage the board to hold to the original rule, or a version equally protective of the rights of all ratepayers and customers to invest in both distributed generation and electric vehicle charging in any combination they choose, without regulation as a public utility or an electric utility, and without penalty or discrimination from the utility. We hope and believe the judicial and legislative branches would support such an effort, if necessary.

Respectfully submitted,
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