

June 17, 2020

Aida Camacho-Welch, Secretary
New Jersey Board of Public Utilities
Post Office Box 350
Trenton, New Jersey 08625
Submitted electronically to: board.secretary@bpu.nj.gov

Dear Ms. Camacho-Welch,

Docket #QO20050357: In the Matter of Straw Proposal on Electric Vehicle Infrastructure Build Out

Thank you for the opportunity to provide comments on the straw proposal on electric vehicle infrastructure build out. The Agricultural Retailers Association, American Fuel & Petrochemical Manufacturers, Fuel Merchants Association of New Jersey, National Tank Truck Carriers, New Jersey Petroleum Council, New Jersey Food Council, and New Jersey Farm Bureau (“Associations”¹) recognize New Jersey’s goal to increase the number of electric vehicles (EV) operating in the state and the intent to expand the charging station network that could be needed for those vehicles. We commend the Board of Public Utilities’ (BPU) outreach process soliciting comments in advance of proposed rulemaking and the approach in developing the subject Straw Proposal (Straw).

The BPU must carefully consider the impacts of the ongoing public health emergency and New Jersey's staggering budget difficulties, and their ensuing impact on already financially vulnerable residents and ratepayers.

We strongly oppose the BPU Straw proposal that enrich Electric Distribution Companies and EVSE infrastructure companies at the expense of ratepayers, many of whom could never afford an electric vehicle.

The Associations support a competitive and equitable transportation sector, that provides for consumer choice and allows for a market supplied and funded by private companies - not by captive ratepayers - to determine the mix of energy sources and technologies required to meet societal needs. The best approach to achieving this is through a free market that is transparent to all electricity consumers. To that end, we strongly oppose the BPU’s proposal to allow Electric Distribution Companies (EDC) to use money generated through rate base increases to invest in and earn income from the installation of “charger-ready” infrastructure. We instead strongly support the use of private capital to build out that infrastructure using the Cost Causation Principle that currently applies to every new and existing electric service customer in New Jersey.

¹ Please see the last page for descriptions of these organizations.

When making policies that incentivize the installation of electric vehicle supply equipment (EVSE), the BPU should consider the unintended and uneven socio-economic impacts that could result from such initiatives.

Even small utility rate hikes in good economic times can have a disproportionate impact on households. Nearly 1 in 3 American households reported difficulty paying their energy bill, according to a 2018 Energy Information Administration report.² New Jersey has the 10th highest electricity energy rates of all the 50 states with the average consumers' electric bill costing \$145 per month.³ According to 2017 figures, 9% of the New Jersey population was living in poverty⁴ while the elderly and fixed-income families made up 16% of the population.⁵ It is these New Jersey families who will pay for EV charging infrastructure through higher electricity bills, yet given the high average cost of electric vehicles, they are least likely to benefit from this infrastructure.

To that end, we point you to the concerns raised by Stefanie A. Brand, director for New Jersey Division of the Rate Counsel (NJDRRC), who noted during the June 3, 2020 BPU webinar⁶ that, “We can’t ask people, residential or business customers, [suffering from impacts of the Covid-19 pandemic] to pay more for an essential service like electricity right now, unless it’s absolutely necessary.”

In 2019, Colorado proposed and passed a law that granted utilities the authority to increase customer rates to cover the costs for EV charging infrastructure. In response to the proposed law, AARP⁷ stated that utility customers could have to pay an additional \$50-\$75 per year in utility bills for EV charging infrastructure that very few people use. Regardless of the exact increase, rate increases to cover charger-ready infrastructure will burden residents, most of whom are not going to utilize the service – a service that could be provided by private capital, as is happening across the country.

The Straw will predominantly benefit high earners.

According to the nonpartisan Congressional Research Service, 78% of the total federal expenditures on the EV tax credit have gone to people who earn more than \$100,000.⁸ Researchers at the University of California at Berkeley echoed these findings⁹, concluding in a 2015 study “that the top income quintile has received about 90 percent of all [federal EV] credits.” In contrast, the New Jersey median household income is \$79,400.¹⁰ Further, the consumer purchase price of an average electric vehicle is about 45% more than an internal

² <https://www.eia.gov/todayinenergy/detail.php?id=37072>

³ <https://www.chooseenergy.com/electricity-rates-by-state/>

⁴ <https://www.thebalance.com/us-poverty-rate-by-state-4585001>

⁵ <https://www.prb.org/which-us-states-are-the-oldest/>

⁶ <https://register.gotowebinar.com/recording/1544180925673058822> (starting at approximately at time 1:12:30)

⁷ <https://states.aarp.org/colorado/senate-bill-19-77-is-bad-for-colorado-consumers>

⁸ <https://fas.org/sgp/crs/misc/IF11017.pdf>

⁹ Borenstein, Severin; Davis, Lucas W., “The Distributional Effects of U.S. Clean Energy Tax Credits,” University of California Berkeley, October 2015, <http://conference.nber.org/confer/2015/TPE15/davis.pdf>

¹⁰ <https://www.census.gov/quickfacts/fact/table/NJ,US/INC110218>

combustion engine vehicle (i.e. an EV costs about \$55,600¹¹ while the average ICEV costs about \$38,259¹²). According to the Office of Energy Efficiency & Renewable Energy (EERE), approximately 80% of EV owners will charge their vehicle at home¹³ and it is expected to continue to be the case. In summary, allowing utilities to rate base the charger-ready infrastructure will benefit those who do not need the help, and result in a higher energy bill for those who do not choose to drive an EV or who can least afford an increase in their electric bill. Further, building a large public charging network that attempts to replicate the “gasoline” model of distribution could result in noneconomic decisions and expenditures.

EVs are no longer a nascent technology and automobile manufacturers have demonstrated that further incentives are neither needed nor warranted.

The first electric car was built more than a hundred years ago. More recently EVs have seen a more than eleven-fold increase in EV sales since 2011. One EV manufacturer, Tesla, has a market cap more than twice that of Ford and General Motors combined. The technology is now a commercial-scale, multibillion-dollar industry more than capable of financing its own self-sustaining growth without burdening ratepayers, many of whom are unlikely to purchase their product. Many private businesses form a robust, competitive presence in New Jersey for investment in this market opportunity. The increases in available EV models and battery range do not serve as a call for EDC investment in make-ready infrastructure, but alternatively show the robustness of the current EV market and point to the opportunity for private capital to be invested in the EV Ecosystem described in the proposed Straw proposal. And we already see this type of investment in EV charging taking shape, including:

- Tesla has already installed more than 13,000 “superchargers” nationwide.¹⁴
- In 2019, in collaboration with Greenlots and Electrify America, Ford announced plans to allow driver access to their network of more than 12,000 places to charge in North America.¹⁵
- Electrify America committed to deploy over 2,000 fast chargers at nearly 500 locations across 42 states by the end of 2019. They will spend \$2 billion to install EV infrastructure.¹⁶

Charger-ready infrastructure should be funded according to the existing “beneficiary-pays” model.

¹¹ <https://www.autofinancenews.net/editorial/carousel/new-car-prices-inch-up-ev-prices-tumble-in-june/> (This is the EV transaction price, which does not include the federal EV tax credit but may include other incentives.)

¹² <https://mediaroom.kbb.com/2019-11-01-Average-New-Vehicle-Prices-Up-Nearly-3-Year-Over-Year-According-to-Kelley-Blue-Book>

¹³ <https://www.energy.gov/eere/electricvehicles/charging-home> (accessed 6/9/20)

¹⁴ <https://cleantechnica.com/2019/07/06/tesla-supercharger-networks-evolution/>

¹⁵ <https://media.ford.com/content/fordmedia/fna/us/en/news/2019/10/17/ford-introduces-north-americas-largest-electric-vehicle-charting-network.html>

¹⁶ <https://www.cnbc.com/2019/05/10/vws-2-billion-penalty-for-diesel-scam-builds-ev-charging-network-across-us.html>

The Straw proposes that EDCs be allowed to invest in and earn income on “charger-ready” infrastructure. The “EDCs would request recovery of their investments and other costs through a traditional rate case,” or other authorized statute or regulation. And notes,

“historically, the costs of upgrades on the EDC’s side of the meter necessary to accommodate new development including, for example, EVSE, are assigned under a ‘beneficiary-pays’ model, where the entity creating the need for the upgrades (here, presumably the EVSE Infrastructure Company) pays for the upgrade costs, consistent with the Boards regulations on extensions of utility service...”

We oppose the EDC’s being allowed to invest in these infrastructure upgrades, thus requiring the recovery of both the cost of the investments and the associated shareholder returns from rate payers through traditional rate cases. Per the state’s own watchdog, we also believe this proposal may extend beyond the BPU’s authority. As NJDRC wrote in their April filing¹⁷ other than [Societal Benefit Charge¹⁸] funds, the [Plug-In Vehicle] Act does not authorize or direct the Board to allow the investment of any ratepayer funds on its implementation. In fact, the PIV Act does not provide any role or authority for regulated public utilities to invest in or subsidize EVs or EVSE.” The legislature authorized \$30 million in SBC funds to incentivize EVs, had it wanted to provide more, it would have done so in the PIV Act. In fact, that’s exactly what the representatives of the electric charging industry requested, and the legislature rejected.

There is no need to change the “beneficiary-pays” model where the entity that creates the need for the upgrades pays for the upgrade costs.

To make the costs and associated climate benefits of EV charging infrastructure more transparent to the New Jersey resident, the infrastructure should be funded by private businesses (or a deregulated utility using non-regulated funds) that charge a market price for the electricity and the convenience of charging that is borne by the person actually receiving the electricity. This would parallel the existing gasoline station business model that has resulted in placing stations in locations where they are needed. This would also result in investing capital where there is market opportunity, thus minimizing the risk of charger-ready infrastructure installation where it is not economic. The Associations do not support changing the time-tested beneficiary-pays model.

The use of private capital to fund projects requires companies to hone their analysis and ensure that they are utilizing their resources in the most efficient and effective manner. While assuming companies will have the best intent, being able to identify where a charging station is placed by the EDC, and having that asset available to the EVSE Infrastructure Company essentially for free, does not force companies to most effectively manage their resources. Such an approach will result in inefficient placement of EDC capital and likely lead to stranded assets.

¹⁷ https://www.nj.gov/rpa/docs/PSEG-Clean_Energy_Future_Electric_Vehicle_Energy_Motion_to_Dismiss_4-17-20.pdf

¹⁸ NJDRC, PSEG-Clean Energy Future Electric Vehicle Energy Motion to Dismiss 4-17-20, “The legislation directs the Board to undertake certain statewide tasks, including promulgating rules, conducting studies and allocating \$30 million per year from the Societal Benefit Charge (“SBC”) to subsidize the purchase of certain types of EVs and EVSE in New Jersey. N.J.S.A. 48:25-7.”

Alternatively, if private capital is utilized to buildout the infrastructure as has historically been done, the pace of the infrastructure buildout will match the EV adoption rate and as EVs become more prominent, the demand for charging stations will increase and create more opportunity to invest in that infrastructure; accordingly, drawing more private capital to buildout infrastructure. Allowing the market to function will result in the most robust development of the EVSE and ensure it is placed in the best locations.

A model that envisions rate-based investment with a rate of return on that investment will send an adverse signal to private investors that the utilities could be allowed to dominate the EV charging sector, ultimately stifling innovation in new technologies and pricing structures.

The BPU policies should provide for consumer choice and allow the market to determine the mix of energy sources required to meet societal needs.

BPU policies should not include special rates that are intended to artificially set the benchmark of EV charging below the equivalent cost of diesel or gasoline on a per-mile traveled basis as suggested in the Straw. The Straw also allows for time of use pricing by which multiple rates are charged during the course of a 24-hour period.¹⁹ New Jersey law prohibits motor fuel prices from changing more than once in a 24-hour period.²⁰ The price of fuel (e.g., liquid fuel, electricity, hydrogen, etc.) should be set by the market and the rules for pricing should be consistent among all fuels.

The goal of the 2019 Energy Master Plan is to electrify everything, including space and water heating in the building sector. As such, the EMP recognizes that New Jersey will move to winter peaking load for its electric demand.²¹ What will happen to nighttime rates when the demand for electric heat spikes overnight in the winter? Will additional upgrades be needed to the electric distribution system to ensure its reliability?

Cross-subsidization of EV infrastructure costs by customer classes that are not using the infrastructure is not appropriate.

Additional clarity is needed on the Straw's proposal to reform "commercial and industrial demand charge structures so that the effective cost of electricity for public charging facilities does not exceed an agreed to amount on a per-KW-hour basis."

The Associations support the adoption of policies that focus on the consumer, strengthen our energy security, improve our standard of living and protect our environment.

There will be consumers for whom electric vehicles work well for their needs, taste, lifestyle, and finances, and there will be consumers who will continue to prefer vehicles powered by an efficient internal combustion engine fueled with gasoline and diesel. There are also New Jersey residents that do not own a vehicle and commute to work or navigate around the city using NJ Transit's extensive network of Light rail, commuter rail and bus routes that touch almost every community in the state. As the Board considers the Straw, the public policy should ensure an

¹⁹ https://www.nj.gov/bpu/pdf/Final_EV_Straw_Proposal_5.18.20.pdf (Footnote 4, page 9)

²⁰ N.J.S.A. 56:6-2(a)

²¹ https://nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf (pp.54,160,175,260)

equitable footing for all technologies and all consumers. Public policy should not favor a small group of upper-income households who use EVs at the cost of the rate payers and lower-income households. Instead, we encourage the creation of a level playing field for all technologies and more importantly for all consumers and residents in the State of New Jersey.

If you have any questions or would like to further discuss these issues, please contact Jim Benton, NJPC at (202) 682-8533, or Don Thoren, AFPM at (202) 844-5526. We look forward to continuing engagement and dialogue on this most significant public policy issue. Thank you.

Sincerely,

Agricultural Retailers Association

American Fuel & Petrochemical Manufacturers

Fuel Merchants Association of New Jersey

National Tank Truck Carriers

New Jersey Petroleum Council

New Jersey Food Council

New Jersey Farm Bureau

About Associations:

Agricultural Retailers Association -- Agricultural retailers supply farmers and ranchers with products and services. These products include seed, nutrients, crop protection products, feed, equipment and technology. Retailers also provide consultative services such as crop scouting, soil testing, field mapping, custom planting and application and development of nutrient management and conservation plans.

American Fuel & Petrochemical Manufacturers (AFPM) is a trade association representing U.S. refining and petrochemical manufacturing capacity across the country, including in New Jersey. AFPM members produce the fuels that drive the U.S. economy and the chemical building blocks integral to millions of products that make modern life possible.

Incorporated in 1933 the **Fuel Merchants Association of New Jersey** represents distributors of branded and unbranded motor fuel to service stations, fleets, marinas, construction, agricultural, and government customers. FMA's members also distribute heating fuel and perform HVAC services.

The **National Tank Truck Carriers, Inc.** has represented the tank truck industry before Congress and various federal agencies since its founding in 1945. NTTCC's membership is comprised of over 600 companies that specialize in bulk transportation services by cargo tank throughout North America. The tank truck industry generates approximately 5% of all truck freight revenue, but that represents 30% of all truck freight in terms of tonnage because of the heavy nature of the liquid bulk products handled.

New Jersey Petroleum Council is a division of the American Petroleum Institute (API) which represents all facets of the natural gas and oil industry, supporting 10.3 million US jobs and nearly 8% of the USA economy. API's more than 600 members include large integrated companies, as well as exploration and production, refining, marketing, pipeline, marine businesses, and service and supply firms and provide the majority of the nation's energy.

New Jersey Food Council is an alliance of food retailers and their supplier partners united to provide vision and leadership to advance the interest of its members. The member companies provide food and nourishment on a daily basis to 9 million New Jerseyans and the regional neighbors.

New Jersey Farm Bureau the largest general farm organization in the state consisting of more than 8,100 members; leading private sector advocate for crop and livestock commodity producers.