



Andrew S. Johnson
Executive Secretary, Maryland Public Service Commission
William Donald Schafer Tower
6 St. Paul Street, 16th Floor,
Baltimore, Maryland 21202

RE: *PHI Utilities Filing EV Semi-Annual Report* – Case No. 9478

Dear Executive Secretary Johnson and members of the Maryland Public Service Commission,

On behalf of Charge Ahead Partnership, I am writing to you today to provide our comments regarding the request of Potomac Electric Power Company (Pepco) and Delmarva Power and Light Company (DPL) (collectively the “PHI Utilities”), to use the remaining budget from their public electric vehicle (EV) charging programs to fund EV charger replacements and repairs.

Please find our comments below and do not hesitate to reach out if we can be of further help to the commission.

Sincerely,

/s/ Jay Smith
Jay Smith
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STATE OF MARYLAND
BEFORE THE PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE PETITION OF THE
ELECTRIC VEHICLE WORK GROUP FOR
IMPLEMENTATION OF A STATEWIDE ELECTRIC
VEHICLE PORTFOLIO

Case No. 9478

COMMENTS OF CHARGE AHEAD PARTNERSHIP

I. Introduction

In January of 2019 the Maryland Public Service Commission (the Commission) approved filings from several of Maryland's electric utilities, including Potomac Electric Power Company (Pepco) and Delmarva Power and Light Company (DPL) (collectively the "PHI Utilities"), for a five-year electric vehicle (EV) charging infrastructure pilot program that would see more than 5,000 level 2 and direct current fast charging (DCFC) stations installed across the utilities' service territories.¹ March 2024 saw the utilities file their most recent semi-annual EV Pilot Program Progress Reports and Final EV Program Reports, prompting the Commission to request comments regarding evaluation of the utility programs and the appropriate role for utilities within the EV charging sector moving forward.² Charge Ahead Partnership (CAP) submitted comments in these proceedings and testified before the Commission at the May 16 hearing.³ In August of 2024 the Commission issued Order No. 91297 on the EV Pilot Phase I Evaluation which noted the concerns raised about unfair competition with utility-owned charging stations, and indicated that the

¹ Maryland PSC Approves Modified Utility Electric Vehicle Portfolio, Maryland Public Service Commission, January 14, 2019. https://www.psc.state.md.us/wp-content/uploads/MD-PSC-Approves-Modified-Utility-EV-Charging-Portfolio_01142019-1.pdf

² Notice of Hearing In The Matter of the Petition of the Electric Vehicle Work Group for Implementation of a Statewide Electric Vehicle Portfolio, Maryland PSC Case No. 9478, April 2, 2024.

³ Comments of Charge Ahead Partnership, Maryland PSC Case No. 9478, May 1, 2024.
<https://www.chargeaheadpartnership.com/sites/default/files/2024-05/CAP%20Comments%20Case%20No.%209478.pdf>

Commission does not anticipate approving more utility-owned public charging stations in Phase II of the program, but may do so in areas determined to be “underserved.”⁴ Additionally, in a notable shift the Commission also ordered the utilities to “cease developing new utility-owned charging stations as part of their Phase I programs, though they may complete construction of charging stations already in development.” The order also directed the Commissions’ EV Workgroup to work with the Maryland Department of Transportation (MDOT) and Maryland’s Zero Emission EV Infrastructure Council to determine if the state has a process for determining ideal locations for public charging stations and to “develop a process for determining when it is appropriate to permit utility incentives for ownership of public charging stations.”

On August 1, 2024, the PHI Utilities submitted their combined progress report for their Electric Vehicle Charging Program offerings, as directed by Commission Order No. 88997, issued January 14, 2019, in Case No. 9478. Among other things, the PHI Utilities requested Commission approval to use remaining budgets to fund public EV charger replacements and repairs. On December 9, 2024, Commission staff recommended that the Commission approve the PHI Utilities’ request.

II. About Charge Ahead Partnership

Charge Ahead Partnership’s membership is comprised of businesses, organizations and individuals that share the common goal of expanding Maryland’s EV charging network and ensuring Maryland is positioned to meet EV drivers’ expectations of quality service, safety and the affordable, competitive pricing to which they have grown accustomed with the established refueling network. Our corporate members, from big box retailers to grocery stores and restaurants, to existing fuel retailers, own the real estate that is best suited for DCFC infrastructure. Many of these businesses are located along highway corridors and offer the amenities that drivers will demand while refueling.

The biggest challenge to widespread EV adoption in Maryland, and consequently also a barrier to Maryland’s ambitious greenhouse gas reduction goals, is the lack of a robust, statewide DCFC network that is co-located with the services and amenities, such as food vendors, restrooms, lighting and security, that consumers have come to expect when they refuel. CAP believes that a competitive, market-based approach is the most efficient and economical way to build Maryland’s

⁴ Maryland PSC Order No. 91297, Case No. 9478, August 23, 2024.

EV charging network so that it promotes fair competition and encourages private investment in the EV charging business.

Included below is an overview of CAP's response to the PHI Utilities request for approval to use remaining funding to repair and replace their EV charging sites and a reiteration of the consequences of monopoly utility involvement in what should be a competitive market. We encourage you to consider these comments as you evaluate the PHI utilities' request as well as regulatory policy that will best position Maryland to create a competitive and consumer-centric DCFC network across the state going forward.

III. The Importance of Competition in the EV Charging Market

Consumers refuel at approximately 125,000 retail fueling locations across the country. The retail fuels market today is the most transparent and competitive commodity market in the United States. Consumers can easily see fuel prices and decide where to refuel based on the posted price without having to leave their vehicles. This dynamic leads to price competition and consumer choice. EV drivers should have access to the same competitive, stable and convenient prices and options that drivers of internal combustion engine vehicles have enjoyed for decades. This requires an EV charging market driven by competition and innovation, one that cannot be achieved if private investment is discouraged from entering the market.

The widespread ownership and operation of EV charging stations by Maryland's electric utilities illustrates a major barrier to private investment in DCFC stations, which is the threat of electric utilities leveraging their regulated status to generate an artificial competitive advantage over other businesses. This acts as a disincentive for private investment as private entities cannot rationally invest their own capital if there is risk of that investment being undercut by utility investment.

Throughout the country regulatory officials have been grappling with this issue of regulated electric utility participation in the electric vehicle charging market, including here in Maryland where the Office of Peoples Counsel pointed to the risks of monopoly utilities undermining the competitive market through ownership and operation of EV charging stations.⁵

⁵Comments of the Office of People's Counsel, In the Matter of the Petition of the Electric Vehicle Work Group for Implementation of a Statewide Electric Vehicle Portfolio, Maryland PSC Case No. 9478, October 6, 2021, p. 3.

More information on other states and regulatory bodies that have moved away from utility-ownership of EV charging stations can be found in CAP’s May 1 written comments.⁶

Allowing electric utilities to recover the costs associated with owning and operating DCFC stations from ratepayers adversely affects the entire rate base as well as the development of the competitive EV charging market. This has the largest impact on individuals in low-income and fixed-income communities who are more sensitive to price fluctuations and are less likely to own EVs. Also, as discussed in CAP’s previous comments before the Commission, there is the inherent risk of electric utility investments in DCFC stations becoming stranded assets. EV charging technology evolves quickly and can, equally as quickly, render ratepayer funded EV infrastructure obsolete. The investment risk for owning and operating EV charging stations should be on private, unregulated businesses rather than utility ratepayers that may never own an EV.

Many of these concerns have been realized through the Phase I public charging programs from Maryland’s electric utilities which, while well intentioned, have ultimately had a negative impact on reducing range anxiety, and thus EV adoption and the overall buildout of Maryland’s EV charging network. The consistent reliability concerns for utility-owned and operated chargers, coupled with the site locations of the chargers, have likely discouraged EV adoption.⁷ The reliability concerns that have long plagued Maryland’s utility-owned chargers are well documented through utility reports and independent investigation.⁸⁹¹⁰ While efforts continue to be made to improve utility-owned charger reliability, these consistent issues underscore why electric utilities are not well suited to enter competitive markets that are better served by unregulated businesses. When electric utilities use ratepayer funding to finance investments in DCFC stations, instead of private entities risking their own capital, there is no incentive to provide a positive

⁶ Comments of Charge Ahead Partnership, Maryland PSC Case No. 9478, May 1, 2024.

<https://www.chargeaheadpartnership.com/sites/default/files/2024-05/CAP%20Comments%20Case%20No.%209478.pdf>

⁷ See, e.g., Niraj Chokshi, “A Frustrating Hassle Holding Electric Cars Back: Broken Chargers,” The New York Times, (Aug. 16, 2022) available at <https://www.nytimes.com/2022/08/16/business/energy-environment/electric-vehicles-broken-chargers.html>

⁸ Lanny Hartmann, Opinion: Ensuring reliable EV infrastructure for Maryland’s sustainable future, Maryland Matters, March 14, 2023. <https://www.marylandmatters.org/2023/03/14/opinion-ensuring-reliable-ev-infrastructure-for-marylands-sustainable-future/#:~:text=The%20results%20indicated%20that%2029,to%2035%25%20of%20the%20total>

⁹ Potomac Electric Power Company’s and Delmarva Power & Light Company’s Semi-Annual Progress Report regarding Implementation of Approved Electric Vehicle Charging Program Offerings, Maryland PSC Case No. 9478, March 1, 2024.

¹⁰ Southern Maryland Electric Cooperative, Inc. Combined Semi-Annual Progress and Final Electric Vehicle Program Report, Maryland PSC Case No. 9478, March 1, 2024.

consumer experience. Electric utilities operate in a guaranteed rate of return environment and will collect their return irrespective of whether the EV driver has a positive re-charging experience. Conversely, unregulated businesses with their own capital at risk have every incentive to ensure a positive customer experience, which hinges on many factors but none more important than well maintained and operational charging equipment. These shortcomings highlight the need for utility ownership to be phased out over time and instead encourage private enterprise to fill the role of owning and operating publicly available DCFC stations.

It is important to note that CAP acknowledges that Maryland's electric utilities will play a critical role in ensuring Maryland's grid infrastructure is prepared to support a statewide fast charging network. The most effective way to build out Maryland's charging network is through a coordinated partnership between Maryland's electric utilities and private, unregulated businesses. Instead of seeking to participate in the competitive EV charging market, utilities should look to facilitate partnerships through a make-ready model. This model will allow electric utilities to focus on make-ready infrastructure and distribution system upgrades needed to prepare charging sites for DCFC stations while unregulated businesses that compete on price and quality of service invest their private capital to own and operate publicly available DCFC stations. This approach will encourage private investment and increase consumer choices in Maryland's EV charging market.

IV. Specific Comments Regarding the PHI Utilities Request

CAP believes that the Commission should reject the PHI Utilities request, which is a perfect example of how utility-owned EV charging stations that are funded with ratepayer dollars can easily become stranded assets that habitually depend on ratepayer subsidies. Any other charging provider in the market, who would be competing with utility-owned chargers for EV drivers' business, would have to recover all of their costs from the EV driver or from other areas of their business, instead of socializing the cost to captive ratepayers. While use of Maryland's utility-owned chargers has increased slightly as EV adoption rates continue to climb, utility reports show many being underutilized and continuing to rely on ratepayer funds for ongoing maintenance and operation, an option not available to any private competitor. Furthermore, this cycle may continue in perpetuity as presentations from Maryland's utilities regarding their Phase II proposals indicate a desire to continue to see ratepayer funds to cover maintenance costs for their existing utility-owned chargers.

Additionally, it would be premature for the Commission to grant this request from the PHI Utilities while the Commission’s EV Workgroup has yet to work with MDOT and the Zero Emission EV Infrastructure Council to “develop a process for determining when it is appropriate to permit utility incentives for or ownership of public charging stations” as ordered earlier this year. CAP does not believe that the Commission should approve any extensions for EV charging programs that involve utility ownership of publicly available charging stations until these groups have identified if and where it is appropriate for utilities to do so.

V. Conclusion

CAP believes that previous Commission approval of the utilities’ EV charging programs, while well intentioned, has ultimately hindered the development of Maryland’s privately-owned EV charging infrastructure by damaging the competitive market and instead relying on electric monopolies to own and operate DCFC stations. As the Commission considers the PHI Utilities’ most recent request and begins to evaluate Phase II programs from all of the regulated utilities, we encourage consideration of the negative impacts that a lack of fair competition in the EV charging market has had upon the consumer experience, both in terms of amenities and reliability of DCFC stations. Approving this request from the PHI Utilities would serve to further exacerbate the negative impacts of the utility-owned charger programs and further commit Maryland ratepayers to supporting unreliable chargers that continue to undercut the development of a robust EV charging market in Maryland, one that should be driven by competition and innovation and not ratepayer funding.

Thank you for your consideration of CAP’s comments. As the Commission studies this issue, CAP is prepared to be a resource and welcomes all future opportunities to participate in this process.

Sincerely,

/s/ Jay Smith
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