

October 23, 2020

To: Public Service Commission of the State of North Dakota

RE: PU-20-388 OPERATION AND OWNERSHIP OF THIRD-PARTY EV CHARGING

From: Zac Smith, communications and government relations director, NDAREC

Commissioners, thank you for requesting comments concerning electric vehicle (EV) charging stations. The North Dakota Association of Rural Electric Cooperatives (NDAREC) represents sixteen electric distribution cooperatives and five generation and transmission cooperatives providing the generation and distribution of electricity all across the state of North Dakota. NDAREC and its members support policies and investments by the membership to develop and deploy EV programs, and further develop charging infrastructure within the cooperative service territories.

The request for comments is regarding the Commission's jurisdiction related to ownership and operation of EV charging stations. North Dakota Century Code § 49-03-01.5 defines the terms "electric provider" (subsection 1) and "electric public utility" (subsection 2) and then goes on to define "rural electric cooperative" (Subsection 6) and clarify that a rural electric cooperative is not an electric public utility. Section 69-09-02-15 of North Dakota Administrative Code deals with the resale and submetering of electric service of public utilities. Because EV charging infrastructure was not contemplated when the above referenced sections of North Dakota Century and Administrative Code were drafted, one could argue that by selling or reselling electricity, the owner or operator of an EV charging station could be considered an "electric public utility" subject to Public Service Commission jurisdiction under North Dakota law.

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Comments

North Dakota Association of Rural Electric Cooperative
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Early iterations of EV chargers in North Dakota appear to be charging for time parked as opposed to the kilowatt hours sold. However, with different vehicle models and different charging equipment that have different voltage capacity and different charging times it would make sense for electric vehicle owners to want at least some portion of the rate charged to relate to the kilowatt hours consumed. Thus as this technology grows and becomes more widely adopted, North Dakota Century and Administrative Code may need to be updated to clarify if electric vehicle charging infrastructure is subject to Public Service Commission jurisdiction. From NDAREC's perspective, charging stations should not be regulated as utilities as long as the purchased energy that is being resold is from the incumbent rural electric cooperative or electric public utility. NDAREC believes that the term "electric public utility" should not include a person who uses an electric vehicle charging station to resell electricity to the public for compensation, provided that all of the following apply: 1. The reseller has procured the electricity from an electric provider, as defined in N.D.C.C § 49-03-01.5(1), that is authorized to engage in the retail sale of electricity within the territory in which the electric vehicle charging service is provided. 2. All resales are exclusively for the charging of plug-in electric vehicles. 3. The charging station is immobile. 4. Utility service to an electric vehicle charging station shall be provided subject to the electric provider's terms and conditions.

Also, rural electric cooperatives should still be allowed self jurisdiction when it comes to determining the rates charged to electric vehicle chargers an electric cooperative serves, including demand and time of day rates. It is also worth noting that NDAREC believes that, should it so choose, a rural electric cooperative or electric public utility should be allowed to own and operate an electric vehicle charging station. NDAREC does not believe that North Dakota law should be construed to limit the ability of an electric provider to use electric vehicle charging stations to supply electricity for charging electric vehicles. While electric vehicle charging infrastructure has expanded in North Dakota

in the last two years, the technology may not be adopted nor infrastructure built in the more rural parts of the state unless the electric cooperative decides to take on the task.

Cooperative utilities see great promise in the electrification of the transportation sector and improvement of our nation's energy sector, including electric vehicle adoption and deployment. Cooperative utilities are ideally positioned to partner with our members, the auto industry, electric vehicle owners, municipal and private vehicle fleets, car sharing companies, and communities to offer products and services that encourage EV adoption and provide convenient and grid friendly vehicle charging options. Many North Dakota cooperative utilities are exploring investments in charging infrastructure, consumer and member education, and even designed rates and incentives encourage EV adoption. NDAREC is very appreciative of the North Dakota Public Service Commission's request for input on this important issue. If the above referenced changes are made, there should be clarity under which the state's rural electric cooperatives, electric public utilities, and existing and potential charging station owners can all operate.