March XX, 2022

The Honorable XXX

Commissioner of XXX

XXX

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XXX

**RE: IIJA Section 40431 Implementation**

Dear Commissioner XXX,

We respectfully request a meeting to discuss the Commission’s plans to implement Section 40431 of the Infrastructure Investment and Jobs Act (IIJA).[[1]](#footnote-1)This provision presents public utility commissions with an important opportunity to spur private investment in the electric vehicle (EV) charging market by establishing demand rates designed to incentivize private sector investment in EV charging stations. Our companies offer the services, amenities, and security that consumers have come to expect alongside the refueling network. We are eager to invest in EV charging infrastructure and look forward to working with you to establish EV-specific rates for operators of public EV charging stations.

To create a suitable market for private investment, all owners and operators of publicly accessible fast charging stations should face the same competitive risks and have equal access to the same wholesale electricity markets. Unless it is a regulated utility, direct current (DC) fast charging station owners today are forced to pay retail prices for electricity, as well as exorbitant demand charges.[[2]](#footnote-2) Regulated utilities that own and operate their own charging stations, on the other hand, do not face these challenges and thus have an ongoing, insurmountable competitive advantage over anyone else in the market. This stunts private investment. If it is not addressed, it would undermine federal grant dollars’ capacity to create a new market for EV charging.

For this reason, IIJA included not only federal grant dollars, but a provision that requires each state to establish EV-specific rate structures for private, non-utility owners and operators of EV charging stations.[[3]](#footnote-3) Explaining the need for the provisions, Section 40431’s primary author noted that demand charges are the “most prominent among barriers to deploying commercial EV charging,” and that he crafted this provision to address them.[[4]](#footnote-4)

We welcome the opportunity to discuss our ideas for EV-specific rates or tariffs that would alleviate demand charges as well as learn how the Commission intents to respond to Congress’s directive.

We appreciate your consideration of this matter and look forward to meeting with you to discuss your plan to implement Section 40431 of IIJA.

Sincerely,

1. Public Law No. 117-58. [↑](#footnote-ref-1)
2. Demand charges, billed as kilowatts (kW), are additional charges that most commercial consumers are charged to provide reserve capacity. [↑](#footnote-ref-2)
3. An initial version of the language called for utility investment in EV charging infrastructure. Congress, however, determined Section 40431 was not intended to promote utility-owned programs but rather to incentivize and invest in third-party programs. [↑](#footnote-ref-3)
4. 167 Congressional Record 140 ed. (Aug, 5, 2021) at S5927 *available at* https://www.congress.gov/117/crec/2021/08/05/167/140/CREC-2021-08-05-senate.pdf. [↑](#footnote-ref-4)