

**TESTIMONY OF AJ SICCARDI  
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**ON BEHALF THE NATIONAL ASSOCIATION OF CONVENIENCE STORES, THE  
NATIONAL ASSOCIATION OF TRUCKSTOP OPERATORS, AND THE SOCIETY OF  
INDEPENDENT GASOLINE MARKETERS OF AMERICA**

**BEFORE THE**

**HOUSE COMMITTEE ON ENERGY AND COMMERCE  
SUBCOMMITTEE ON ENERGY**

**MAY 5, 2021**

**HEARING ON “THE CLEAN FUTURE ACT: DRIVING DECARBONIZATION OF  
THE TRANSPORTATION SECTOR”**

## **I. Summary of Testimony**

The retail fuel industry is an indispensable asset to lowering the carbon footprint of transportation fuel in the United States. Fuel retailers should be viewed as surrogates for the consumer in that we identify the most reliable, lowest cost transportation energy available, and deliver that energy to every community in the country. In so doing, we compete with one another on price, speed, and quality of facilities and service.

To be effective, policies designed to encourage private sector investment in alternative fuel infrastructure, including but not limited to electric vehicle (“EV”) charging stations, must be predicated upon unambiguous policy signals that such alternatives create attractive economic propositions for our industry and for our customers.

This can be done. Not even two decades ago Congress passed the Renewable Fuel Standard (“RFS”). Although the RFS is far from perfect, it created market incentives for fuel retailers to invest in new fuel dispensers and storage infrastructure to accommodate higher amounts of biofuel. Many fuel marketing companies, including RaceTrac Petroleum, Inc. (“RaceTrac”), have invested in the physical and intellectual capital necessary to participate in agriculture and commodities markets. Fuel retailers did this in order to efficiently incorporate those products into our fuel supply in a manner that improved fuels’ greenhouse gas (“GHG”) footprint while also enabling us to sell the alternative fuel to customers for less money at retail than purely petroleum-based fuels. This has caused more customers to gravitate toward those cleaner burning fuels.

Our industry is eager to work with you to find market-driven ways to address concerns about carbon. To do that, federal policy should incentivize and leverage private investment in bringing to market other alternatives. Equally importantly, federal policies should not undercut the incentives for retailers to invest in alternatives such as EV charging. There has to be a viable pathway to profitability for any alternative to gain any meaningful market share.

For any solution to work, it must promote competitive market dynamics and work with consumers’ existing behavior and the business infrastructure we have. If policy does that and ensures a functioning private market – then private dollars will make sure infrastructure is there to meet consumers’ needs. If that is not done, it is likely that any public dollars spent will be stranded and wasted in ways that do not serve an appreciable number of consumers and cost far more than any benefit they produce.

At the moment, there are several impediments that make it challenging for fuel retailers to locate a pathway to profitability with respect to EV charging. Most of these impediments involve an electricity market structure that was not designed for – and is not surprisingly incompatible with – the retail fuel market.

Foremost among these headwinds is the threat of regulated utilities making use of their status as monopolies to gain a competitive edge over private businesses. Throughout the country today, for example, regulated utilities are seeking to convince public utility commissions that they should be able to charge all of their ratepayers – regardless of income – a higher dollar figure on their monthly electric bill in order to underwrite the utilities’ investment in EV charging stations. Private companies like RaceTrac do not have access to such a pool of risk-free capital. What’s

more, many regulated utilities want to bill EV charging station owners more money for electricity than their own cost to power their utility-owned chargers. If these efforts persist, fuel retailers will not consider EV charging stations to be an attractive investment. No amount of grant money or tax incentives will change that fundamental reality.

The flip side of this is that if policymakers signal that there must be a productive partnership between utilities and fuel retailers, with each sector incentivized to concentrate on its core competencies, progress can be made faster and at a lower cost. For utilities, the focus should be on modernizing the power grid to provide reliable, clean power and meet dramatic increases in demand that will come with enhanced EV penetration. At the same time, the market dynamics that govern the retail fuel industry today should be replicated to accommodate EVs. This will ensure that customers have multiple fueling options that are competing for their business.

Legislation before the Committee includes grant and rebate programs for the installation of EV chargers. As currently constructed, however, these legislative proposals risk encouraging utilities to “double dip” by accessing ratepayer funds to own and operate EV charging stations and also receive a rebate for such installation. This possibility would waste federal funds and block private sector investments from companies such as RaceTrac. It sends the wrong policy signal to the market.

Simple, modest guardrails around how any money should be spent would make these policies far more effective and would leverage rather than waste federal dollars. The legislation should stipulate that businesses that are putting capital at risk in order to own and operate EV charging stations are prioritized over other applicants. This, in conjunction with other tax credits and incentives, can move us toward a viable business model, rather than exacerbating the various challenges that already exist.

Meaningful guardrails can be crafted in a way that would impose no limitations on utilities’ ability to use ratepayer funds and access federal funds for any infrastructure development up to and until the point of owning and operating the chargers. They would also allow utilities to compete with the private sector with no disadvantage if they are putting their own capital at risk and not increasing all of their customers’ electricity bills to pay for EV chargers.

We simply believe the policy should prioritize recipients that are putting capital at risk. If there is no competing rebate application where private capital is being placed at risk, utilities could then access federal funding (even if they are already using ratepayer funds). But, replacing the highly familiar, price competitive fuel market in place today with the opaque pricing of electricity will reduce efficiency, raise costs, and impose large regressive costs on lower income Americans. That is not an attractive solution.

Changes must also be made to electricity pricing. Retailers with EV chargers today are forced to pay retail prices for electricity with very high demand charges. There is no business case for buying at retail prices and selling at retail prices. Regulated utilities that own and operate their own charging stations, on the other hand, are not subject to demand charges and thus have an insurmountable competitive advantage over anyone else in that market.

For the private market to work, there must be a pathway to retailers buying electricity at wholesale prices (like the internal transfer cost that utilities have to deliver electricity) without punitive demand charges. That would make the economics work not only for retailers but, more importantly, for consumers.

The bottom line is that any changes to the transportation energy mix must make it work for American consumers – which means those changes must work for our industry. Fuel retailers already have the real estate that customers visit when they refuel. We offer the services and amenities that consumers have come to expect alongside the refueling network (such as foodservice facilities, restrooms, security, and the like). Until consumers see alternatives like electricity at the outlets where they currently refuel, they will not adopt those alternatives in large numbers.

Fuel retailers are surrogates for the consumer. If you ensure there are competitive market dynamics governing refueling – including alternatives like electricity – you will make the transition more affordable and attractive for the public. We are eager to work with you to ensure policy accounts for that reality.

## **II. Introduction**

Chairman Rush, Ranking Member Upton, and members of the Subcommittee, thank you for the opportunity to testify today. My name is AJ Siccardi and I am the President of Metroplex Energy, Inc. (“Metroplex”). Metroplex is an Atlanta-based wholesale fuel company that secures bulk fuel to supply rack sales and delivery of gasoline, diesel, and biofuel products by pipeline, rail, truck, barge, and vessel and is a wholly-owned subsidiary of RaceTrac.

The marketing and retail companies that currently provide transportation energy across the United States, including RaceTrac, are well positioned to play an important role in the development of infrastructure to offer American motorists not only traditional liquid motor fuels but also a range of alternatives, including electricity to power their vehicles, so long as the policy framework and incentive regime established facilitates a competitive and level playing field. In fact, it is nearly impossible to effectively decarbonize the transportation sector without working with our industry to offer a range of alternatives to our nation’s drivers.

## **III. Background**

### **A. About RaceTrac**

As I mentioned, Metroplex is a wholly owned subsidiary of RaceTrac, which purchases bulk and rack fuel to supply its two operating divisions: RaceTrac and RaceWay stores.<sup>1</sup> Metroplex transports all of its fuel products by rail, pipeline, truck and barge across 13 states.<sup>2</sup>

Almost all RaceTrac stores and 111 RaceWay stores are open 24 hours per day, 7 days a week; and 93 RaceWay stores are typically open from 5am to 11pm. Our continuous and extended hours ensure that consumers are always able to access our stores to refuel when they need.

Every day, RaceTrac operates under its mission to “make people’s lives simpler and more enjoyable”—and for that reason, the company has been named a top workplace across many of the states in which it operates, and has been recognized on the Forbes list of largest private companies every year since 1998.

Since 2015, RaceTrac has built an average of 40 new stores annually, investing about \$225 million each year across our footprint. We plan to invest another \$300 million to build 31 new stores in 2021, which will lead to expanded employment opportunities as each of our stores employs approximately 20-22 people. The company has also invested over \$33 million in alternative fuels infrastructure. Because of those investments, we are able to sell alternative fuels, including E15, E85, and B20 biodiesel to customers that want to buy those products and are a market leader in our sales of higher biofuel blends.

## **B. About the Associations**

I am testifying today on behalf the National Association of Convenience Stores (“NACS”), the National Association of Truck Stop Operators (“NATSO”) and the Society of Independent Gasoline Marketers of America (“SIGMA”)(collectively, “the Associations”).<sup>3</sup> Together, the Associations represent approximately 90 percent of retail sales of motor fuel in the United States. The fuel wholesaling, fuel retailing and convenience industry employed about 2.34 million workers and generated more than \$548.2 billion in total sales in 2020, representing more than 3 percent of U.S. gross domestic product. Of those sales, approximately \$292.6 billion came from fuel sales alone.

The Associations’ members process more than 160 million transactions every single day. That means about half of the U.S. population visits one of our stores on a daily basis. In fact,

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<sup>1</sup> RaceTrac operates 549 RaceTrac-branded retail fuel and convenience stores across seven southern states: Alabama, Florida, Georgia, Louisiana, Mississippi, Tennessee, and Texas; and owns more than 200 franchise-operated RaceWay-branded stores across 11 states: Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia. RaceTrac employs nearly 10,000 individuals across its divisions and subsidiaries.

<sup>2</sup> Alabama, Arkansas, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia.

<sup>3</sup> NACS is an international trade association representing the convenience store industry with more than 2,200 retail and 1,600 supplier companies as members, the majority of whom are based in the United States. NATSO currently represents more than 4,000 travel plazas and truck stops nationwide, comprised of both national chains and small, independent locations. SIGMA represents a diverse membership of approximately 260 independent chain retailers and marketers of motor fuel.

ninety-three percent of Americans live within 10 minutes of one of our locations. The average time a customer spends in one of our stores is about three and one-half minutes and the Associations' members compete to ensure the customer's needs are met as efficiently as possible – saving them time and money.

The Associations' members' sole objective is to sell legal products, in a lawful way, to customers who want to buy them. While agnostic as to what types of fuel they sell to satisfy consumer demand, the Associations' members do have a bias: they believe it is best for the American consumer and America's industrial position in the world marketplace to have reasonably low and stable energy prices.

### **C. The Associations' Environmental Transportation Policy Principles**

The Associations believe the most expeditious and economical way to achieve environmental advancements in transportation energy technology is through market-oriented, consumer-focused policies that encourage our industry to offer more alternatives. With the right alignment of policy incentives, the private sector is best equipped to facilitate a faster, more widespread, and cost-effective transition to alternatives – including electricity – in the coming years.

Policies attempting to improve the environmental characteristics of transportation energy in the United States should adhere to the following principles:

- (1) Science should be the foundation for transportation climate policies – Any effort to improve transportation energy's emissions characteristics requires an accurate accounting of the lifecycle carbon intensity associated with particular fuels and technologies. This analysis should include everything from acquisition of natural resources, engine and battery manufacturing, tailpipe emissions, and vehicle end-of-life consequences. It should also be regularly updated so that policy is nimble enough to adjust to efforts to innovate and improve the environmental characteristics of different alternatives. Additionally, every sector of the economy should assume a burden of reducing carbon emissions.
- (2) Establish performance goals without mandating specific technologies to allow for the benefits of innovation and technology development – Sound policy must recognize that the state of technology can change rapidly, and tie incentives to technologies' lifecycle environmental attributes rather than the underlying technology itself. No one solution will decarbonize transportation energy and policies should incentivize multiple technologies. What policymakers think is the best solution today may be surpassed by subsequent ingenuity and innovation. Sound policy should not stifle innovation by mandating specific fuel solutions. Instead, policy should set performance goals and let the market – guided by consumers – innovate to find the best way to meet those goals.
- (3) Develop competitive market incentives to ensure a level playing field and provide long-term consumer benefits – As described in more detail below, fuel retailers today are best positioned to provide alternative sources of transportation energy – including EV charging stations – because we are fuel agnostic and have a keen understanding of consumer preferences and tendencies. Fuel retailers have strategically located themselves where

refueling demand is greatest and they compete with one another on price, speed, and quality of service. Moreover, fuel retailers offer the security and amenities that consumers demand regardless of the type of fuel their vehicle consumes. Fuel retailers have made investments in renewable fuels and existing alternative fuel incentives allow retailers to offer lower carbon fuels to consumers at a price at which they are willing to purchase them.

- (4) Harness existing infrastructure to help commercialize new technology, maximize diverse investments, and achieve near-term and long-term emission reduction goals – It is far less expensive to leverage existing infrastructure than create entirely new supply chains and infrastructure. To the extent environmental objectives can be achieved by harnessing existing infrastructure, especially retail fuel outlets, customers will more seamlessly gravitate to new types of fuels and vehicles. American companies have spent more than sixty years building out a refueling infrastructure system that optimizes logistics and maximizes customer benefits. Deployment of new technology that complements this infrastructure will (all else being equal) be less expensive and thus more likely to generate consumer loyalty.
- (5) Set consistent, uniform national policy so that (i) the market has certainty to help it invest, and (ii) state policies do not create inconsistent or counterproductive measures – Federal policy should be designed to lower the cost of alternative fuels to make those sources of transportation energy more competitive with petroleum-based fuels. This is the only way to ensure that consumers will gravitate toward low carbon technologies. Although some state incentive programs adopt this approach, others have vacillated between different approaches in a way that does not allow private market participants to plan long-term investments in alternatives. These inconsistent policies are ultimately self-defeating and should be avoided.
- (6) Ensure fair treatment so that all households are not forced to subsidize alternative energy users – Fundamental tenets of fairness dictate that users of transportation energy pay for that energy and related infrastructure. It is patently unfair and inequitable for policymakers to force most households to subsidize the refueling costs for EV drivers. When utilities rate-base their EV infrastructure investments, however, it raises the monthly utility bills for all of a particular rate class, even though the benefits are confined to a small group of users. Vehicle owners should pay the costs of powering their own vehicles in order to create a market system that will keep energy prices down and avoid regressive charges. Moreover, it is imperative that highway infrastructure funding comes from all highway users, and not just those that rely on a particular technology.

By observing these principles, environmental transportation policies can create new jobs, accelerate the deployment of advanced alternative fuel infrastructure and vehicles, benefit consumers through a competitive and robust marketplace and drive massive economic investment and improvements in air quality—objectives fuel retailers and lawmakers share.

## **IV. Fuel Retailers Understand Consumer Behavior and Respond to Consumer Demand**

### **A. Overview of the Retail Fuels Marketplace**

The retail fuels market is the most transparent, competitive commodities market in the United States. Retailers post fuel prices on large exterior signs that consumers use to shop for the best prices. Many consumers drive out of their way to save a few cents per gallon. Our members operate on tiny margins—generally measured in cents per gallon of fuel sold.

Fuel retailers are agnostic to the type of fuel sold to satisfy consumer demand and have demonstrated they are prepared to invest in any transportation energy technology that their customers desire. Over the last thirty years, our industry has adapted to meet consumer demand with increased biofuel blends and other alternative fuels, as well as healthy and made-to-order food and beverage offerings. Fuel retailers provide the security and amenities desired by the motoring public more than any other type of location. These dynamics can be harnessed to facilitate the transition to a growing market for alternative transportation energy sources.

The competitive nature of the retail fuels market compels retailers to pass through cost savings to consumers in order to maintain and increase their market share. It is in retailers' interests to increase the amount of energy they sell to consumers. This is not only because those sales drive profit opportunity in and of themselves, but also because such sales drive in-store traffic, which is another source of profit for the retailer.

### **B. Fuel Retailers Are the Solution to Range Anxiety**

To have any chance to be successful, the refueling experience for alternative fuels should be as similar as possible to today's refueling experience. Fuel retailers are best positioned to provide alternative sources of transportation energy because they have a keen understanding of consumer preferences and tendencies. This fact is essential when it comes to adoption of EVs or other alternative fuel vehicles. The transition to EVs will require what was previously a quick stop to become a 30-minute consumer experience. Currently, it takes the driver of a passenger vehicle approximately two to three minutes to complete a fueling experience. It takes the driver of an EV, on the other hand, 20 to 40 minutes to recharge at a Direct Current ("DC") Fast Charger (depending upon the vehicle and the capacity of the charger available). Fuel retailers will be forced to compete on the service and amenities they offer their customers during this refueling experience to maintain their share of the market. This is a positive market dynamic for consumers.

Observers of vehicle trends and consumer behavior agree that one of the major factors deterring consumers from transitioning to EVs is concern about where they will (and will not) be able "refuel" those vehicles. This "range anxiety" is such a strong sentiment that consumers often decidedly underestimate the availability of EV charging infrastructure that already exists today.<sup>4</sup>

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<sup>4</sup> There are currently 102,621 public charging outlets available at 42,078 public stations across the United States, of which 17,861 charging outlets at 5,040 public stations are DC Fast Chargers. See Alternative Fueling Station Locator available at [https://afdc.energy.gov/fuels/electricity\\_locations.html](https://afdc.energy.gov/fuels/electricity_locations.html).



Availability of EV charging stations at our locations is the most effective way to solve range anxiety. Consumers freely drive their gas- and diesel-powered vehicles to every part of country today without concerns about whether they will be able to refuel whenever they need to do that along the way. Offering EV charging at fuel retailing locations would mean drivers would not need to change their habits if they choose not to—they can refuel on the go at the same convenient locations they do today. The availability of EV charging on large price signs at fuel retailers' locations as they drive down the streets in their communities and traverse America's highways will effectively relieve EV range anxiety.

Consumers frequently use their vehicles for travel—including visits to family and friends and vacations. And, the majority of consumers are not in a position to purchase or rent a separate vehicle solely for these types of trips. If EV charging is not available in the neighborhoods they want to visit as well as along Interstate locations, many Americans simply will not purchase an EV.

Placing chargers only in individual garages in private homes, apartment buildings, and parking lots cannot combat the notion of “range anxiety” the way fuel retailers offering that service would. If EVs are to be adopted at the rate policymakers desire and by broader demographics than those that currently can afford an EV, the charging model must include the full range of options available in the refueling experience that exists today. The majority of renters across the nation do not have garages nor do many homeowners. And, those that have garages often do not have space in their garage for the number of vehicles their family drives nor do they have the electrical capacity in their garage to support a charger or multiple chargers. This is also true for workplaces; many employees will not have the option, for a variety of reasons, to charge at work. Consumers must have viable charging options available outside of their home or workplace.

Refueling stations are strategically located throughout the country where refueling demand is greatest, competing with one another on price, speed, and quality of service. In fact, our industry currently has about 150,000 fueling stations across the country in local communities of all kinds, including in every single congressional district. Furthermore, these locations include accessible restrooms and parking lots, food and beverage options, vehicle service and repair centers, and even showers and other amenities for professional drivers. Consumers demand all of this, regardless of the type of fuel their vehicle consumes, and fuel retailers respond accordingly.

### **C. EV Charging Needs Price Competition**

As described above, our industry provides about 150,000 locations across the country for drivers to currently refuel. This refueling capacity drives aggressive price competition which, in turn, keeps prices as low as possible for consumers. Consumers know how much a gallon of gas costs at a location – either due to a big price sign on the street or some type of fuel price comparison resource – before they decide to refuel. This forces retailers to shave every penny they can off of the price of a gallon of fuel to compete for market share. When adjusted for inflation, the three years with the lowest average gas prices in the United States since 1978 are 2020, 2018, and 2019, in that order.<sup>5</sup> That is not an anomaly. Fuel prices stay as low as possible and generally trend

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<sup>5</sup> See <https://www.usinflationcalculator.com/gasoline-prices-adjusted-for-inflation/>.

slightly downward over time when adjusted for inflation due to price competition. If electricity is to be the transportation fuel of the future, EV drivers should get the benefits of that remarkable price competition.

The overarching structure of wholesale and retail electricity markets are not designed for – and is thus incompatible with – the retail fuel market. Many states are exacerbating this problem by allowing utilities to pass through the costs of EV charging stations to all of their customers on their monthly utility bill, rather than having EV drivers pay for the costs of refueling their own vehicles. And, there are no wholesale purchasing options or pricing structures for retailers to provide electricity as a fuel. If that practice were to continue and become the prevalent model, this country will risk replacing one of the most price-transparent and price-competitive consumer markets in the world (retail fuel pricing) with one of the least price-transparent and price-competitive markets in the United States (utility electricity pricing).

## **V. Federal Policies Should Incentivize Private Investment**

Competitive markets with a level playing field for investments must be the focus for any alternative fuel to be successful. Existing alternative fuel incentives – such as biofuel blending and alternative fuel infrastructure tax credits – have allowed retailers to offer less expensive, lower carbon fuels to their customers, while also supporting investments in renewable fuel production. Regardless of how one may feel about ethanol and biodiesel, the incentives Congress established for those fuels have successfully displaced a large volume of petroleum-based fuel by these renewable fuels since 2005.

In just the past decade, there has been extraordinary growth in consumption of biofuels such as ethanol and biodiesel, as well as other low carbon fuels such as renewable natural gas, compressed natural gas, renewable diesel, and biobutanol. These are all liquid fuels that are mostly compatible with existing infrastructure that was originally developed for hydrocarbons. With all of these fuels, fuel retailers have responded to policy signals by allocating capital toward bringing the fuels to market. Retailers then sell the fuels to consumers for less money than the fuels that were being displaced. This has created enormous environmental benefits in a relatively short period of time.

Federal policy should be designed to lower the cost of alternatives to make those sources of transportation energy more competitive with petroleum-based fuels. This is the only way to ensure that consumers will gravitate toward low carbon technologies. Although some state incentive programs adopt this approach, others have vacillated between different approaches in a way that does not allow private market participants to plan long-term investments in alternatives. Such inconsistent policies are ultimately self-defeating, and that approach should be avoided. Federal policy instead should incentivize and leverage private investment in bringing alternative fuels to market. By the same token, federal policies should not undercut incentives for retailers to invest in alternative fuels. Policymakers can leverage existing infrastructure to achieve meaningful environmental benefits while also incentivizing fuel retailers to invest in new technology if policymakers adopt a market-oriented and consumer-focused perspective.

## **VI. Different but Interdependent Roles of Utilities and Fuel Retailers**

In an effort to decarbonize the transportation sector, the Biden Administration has committed to adding 500,000 EV charging stations over the next decade. A nationwide network of fast charging stations is achievable, but there must be a policy framework to harness the core competencies of the utility and retail fuel sectors. The most efficient, cost-effective path to achieving this goal is a partnership between utilities and fuel retailers, with support from federal policymakers.

In order to develop policies that facilitate productive work from utilities and fuel retailers, there are fundamentally two buckets of activities that need to be pursued. Federal policies should encourage utilities and retailers to focus activities where each is most effective and productive. At the same time, policies that may appear to be quick and easy solutions often undermine either utilities' incentives to modernize the power grid, or retailers' incentive to invest in charging infrastructure.<sup>6</sup>

### **A. Role of Utilities**

The power grid undoubtedly needs to be modernized. As EV charging stations are installed, generation, transmission, and distribution networks will need to be expanded to meet the dramatic increases in electricity demand. Before drivers are willing to transition to EVs, they must be assured that they will be able to refuel as reliably as they do today.

The utility sector is best suited to perform the generation development and power grid modernization work that will be needed. Funding those necessary electricity infrastructure investments through rate increases makes sense – and will be needed for the increasing future demands our electricity grid will face (from all sectors, such as industrial processes and heating homes, as well as transportation energy). Policymakers should encourage and incentivize utilities to focus on these investments.

### **B. Role of Fuel Retailers**

The market dynamics that govern the retail fuel industry today should be replicated to accommodate EVs. Customers should have multiple charging options that are competing for their business on price, speed, and quality of service—the same market dynamics that govern the retail fuel industry today. Fuel retailers are best positioned to own and operate EV charging stations and provide transportation energy to consumers at competitive prices in convenient locations.

### **C. Avoiding Negative Incentives and Outcomes**

One of the biggest impediments currently to fuel retailers investing in EV charging infrastructure is the practice of utilities charging all of their electricity customers more in order to pay for their investments in EV charging stations. Where this occurs, utilities are able to compete

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<sup>6</sup> It is important to distinguish between the charging port and/or charger itself and aspects of the underlying electrical infrastructure that should only be operated by a utility company, including the interconnection, switching station, and/or grid connections behind the charger.

with private sector groups without risking a single dollar of their own. This tilts the cost for EV charging infrastructure in favor of utilities such that the private market cannot compete, placing existing and new market participants at a competitive disadvantage which they cannot overcome. That the private market is reluctant to risk capital investing in EV charging infrastructure is entirely predictable when it knows it cannot make a return on that investment due to the threat of unfair competition from regulated utilities.

As described above, many states allow utilities to charge all of their customers, regardless of the type of vehicle they drive (or if they drive at all), for the utility's investments in EV charging stations via their customers' monthly electric utility bills. There is no public policy rationale for pursuing this approach with respect to refueling, as it will only decrease transparency and competition, increase costs, and stifle innovation.

This is not true for fixed locations like homes and commercial properties that need electricity. In these instances, it might not make sense to have multiple electricity lines and robust price competition. Funding necessary electricity infrastructure investments to carry the electricity to fixed locations through rate increases therefore makes sense and should be done for the increasing future demands our electricity grid will face.

EVs move from place to place rather than remaining in one spot. Policy should enable the motoring public to access every benefit that our competitive market system has to offer. If that customer interface is funded through consumer utility bills, consumers will collectively pay far more than they should for the chargers and electricity to fuel EVs.

That cost burden will hit hardest on those least able to afford it. Individuals who struggle to pay their monthly bills should not be required to underwrite investments that the private sector is willing and better equipped to make. EV drivers – who today have above-average incomes and drive cars that cost much more than average – can and should pay the costs of charging their vehicles. As EVs become more common in less affluent communities, it will be especially important that drivers know that they will pay the smallest amount possible due to retail price competition.

Furthermore, some states classify businesses that sell electricity for the purpose of charging EVs as utilities, effectively prohibiting such sales from anyone other than utilities. Federal policy preempting these state regulations should be established, allowing non-utilities such as fuel retailers to resell electricity for refueling commercially.

Finally, federal policy should maintain the ban on commercialized Interstate rest areas, including disallowing EV charging within federal Interstate rights of way. This will ensure that off-highway businesses are not discouraged from investing in EV charging. Our industry has supported the ban on commercial activity and electric charging should be treated no differently from any other commercial service. If EV charging is opened up at Interstate rest areas, it will undercut private sector investments in that infrastructure at Interstate exits. That will mean fewer, not more, EV chargers.

## **D. Electricity Market Challenges**

In addition to the challenges fuel retailers face investing in EV charging infrastructure, there are challenges with the electricity market that must be addressed before a robust EV charging marketplace is viable. Utilities do not simply charge their commercial customers a fixed price for electricity that is used. Instead, commercial consumers are charged a rate for the energy itself, billed as kilowatt-hours (kWh), and then an additional rate to provide reserve capacity when needed, known as a demand charge, billed as kilowatts (kW).

Demand charges are based on the largest amount of power that a business needs at a particular time during the entire month. They are there to compensate the utility for having enough power in reserve to meet spikes in demand. Private businesses that have short, but high spikes in their power needs will be hit hard by this pricing structure. Utilities' demand charges make it very challenging for private companies to offer electricity to EV drivers at a price that is competitive with gasoline or diesel.

DC Fast Chargers require a large amount of power in a short time frame to recharge vehicles quickly. A DC Fast Charger pulls 150% more power than a RaceTrac store and fueling operation combined does at its peak moment in a month.<sup>7</sup> Accordingly, when businesses offer EV charging, these large demand costs restrict profitability and increase the cost for drivers of EVs to "refuel." DC Fast Chargers are capable of filling a vehicle up half way in about 20 minutes and 80 percent of the way in about 35 minutes. For a customer, a charge can cost anywhere from \$10 to \$30 depending how much charge is required to refuel the battery. For a typical business, adding a single DC Fast Charger can increase its monthly bill by about \$1,600. The demand portion of this bill is \$1,500 and the energy portion of this bill is \$100.

But, it is very difficult for businesses to have consumers fully pay the demand charge. The business would have to precisely know ahead of time how many people would use its chargers over the course of an entire month in order to do that. If it turned out to make the wrong assumptions, consumers could be dramatically undercharged or overcharged – leading to difficult consumer protection questions or business losses, respectively. No matter the incentive for charging infrastructure, the ongoing costs for electricity, particularly demand charges which cannot effectively be passed through to consumers, make profitability near impossible to achieve for private businesses without changes.

Fuel retailers getting hit with demand charges also cannot compete with a utility that has substantially lower cost for energy and power. Utilities have excess capacity and much lower energy costs that allow them to offer EV charging with little impact to their bottom line. What's more, demand charges are compounded so a fuel retailer will be saddled with higher demand charges for every additional charger available to their customers. That will make it more difficult for retailers to deploy DC Fast Chargers and give consumers the benefit of competitive pricing. The utility demand pricing model could not be further from the current retail fuel model, where

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<sup>7</sup> This is assuming a RaceTrac's peak demand is 100 kW and the DC Fast Charger is a 150 kW charger. While a DC Fast Charger can be anywhere from 50 kW to 350+ kW, a 150 kW is comparable to what Tesla's Supercharger network and Electrify America charger network has in place today.

increased consumption and volume results in efficiencies and lower costs for consumers. The utility model, then, will not work for EV charging on a large scale.

The challenges with electricity pricing as it exists today threaten to stunt the growth of the EV market. Congress could address this problem by ensuring businesses offering EV charging only pay the costs that utilities pay for the electricity, without demand charges. Such a wholesale rate would allow businesses to offer charging, compete, and develop the competitive market for EV charging. Demand charges are the greatest barrier to entry to mass adoption of DC Fast chargers by private business, even greater than the large capital costs to install DC fast chargers.

## **VII. Legislative Proposals Before the Committee**

As the Committee considers various legislative proposals to reduce carbon in the transportation sector, lawmakers should harness American ingenuity and innovation and leverage the private sector to the greatest extent possible. With respect to the refueling marketplace, we do not need to reinvent the wheel to transition to new fuels and technology. There is a refueling infrastructure in place that can adapt and attract consumers so long as the regulatory regime governing it allows businesses to justify investment in those new fuels and technologies. Policies should take into consideration the market dynamics that govern the liquid fuel marketplace and replicate those as much as possible to achieve greater adoption of alternative fuels and technologies.

In some states, arcane laws require any entity selling electricity to be regulated as a utility. While this made sense when electricity was only used to power residential and commercial locations, the logic does not extend to the provision of electricity as fuel. The Associations applaud the language included in Chairman Rush's NO EXHAUST legislation that encourages states to consider allowing the resale of electricity for the purposes of refueling. The Committee, however, could go one step further and preempt those arcane state laws so RaceTrac and other fuel retailers can resell electricity just as we sell motor fuel today.

Various proposals before the Committee, including the CLEAN Future Act and the NO EXHAUST Act, incorporate the Electric Vehicle Infrastructure Rebate Act. First and foremost, if the market dynamics exist that fuel retailers can provide electricity as a fuel and make money off of that sale, federal financial incentives will be unnecessary. Fuel retailers do not need federal incentives to install gasoline and diesel fueling equipment today because market forces justify the investment. That said, to the extent the Committee is committed to making such federal investments, the Associations' members have significant concerns that the program as structured will disincentivize businesses from taking advantage of the rebates. As written, the rebate program is silent on the ability of utilities to access ratepayer funds to build out EV charging stations and also receive a rebate for such stations. The allowance of such double-dipping compounds the unlevel playing field on which we find ourselves. The Committee should include simple guardrails on any funding program to ensure that federal dollars going to the installation and operation of EV chargers prioritize businesses putting capital at risk. Doing so will leverage federal dollars and result in a competitive and convenient refueling experience for the consumer.

Similarly, the CLEAN Future Act includes provisions from the Electric Vehicles for Underserved Communities Act that aims to deploy EV charging infrastructure in low-income communities and communities of color. Without these guardrails on federal funding, however, federal dollars are available to utilities that are also accessing ratepayer funds to build EV charging infrastructure. Again, low-income communities and communities of color should not be required to underwrite EV charging investments that the private sector is willing and better equipped to make, especially in legislation that is trying to protect these vulnerable populations.

Finally, there are inherent challenges in shifting our transportation fuel from the liquid marketplace of today, where retailers have the ability to price shop among a variety of suppliers, to a market with one power provider operating in a regulated environment. Without injecting competitive forces throughout the fuel supply chain, fuel retailers will be limited in their ability to lower the prices to the consumer. Congress can help alleviate that challenge by ensuring that utilities sell power to EV charging retailers at their own internal transfer price. Demand charges, which set our rates exorbitantly high during peak demand times, are another impediment to make the EV business case for retailers. Again, demand charges do not make sense for refueling on the go. A driver should not be penalized for needing to refuel at certain times of the day and fuel retailers should not be penalized for providing the fuel this Committee wants sold. Addressing the cost-prohibitive demand charge model will be beneficial to building the business case for investment by our industry.

The Committee should consider policy mechanisms to address these concerns, including:

- Ensure federal funding does not block private sector investment by compounding the problem of utilities charging all their customers more for chargers and not putting capital at risk.
- End the electricity pricing problem of demand charges that make the business case unattractive for retailers to sell electricity.
- Prioritize credit regimes and/or tax incentives that make alternative energy less expensive for the end user, thereby providing a stable economic case for upstream investment. Tax credits and other incentives targeting the underlying economics of different fuels are a far more efficient, effective way to incentivize behavior than grant and rebate programs.
- Permitting all EV charging station owners to generate a profit by selling electricity to EV owners without being subject to regulation as a utility. This allowance is essential if fuel retailers are to have any incentive to invest in EV charging technology.
- Adopting uniform retail pricing measurements (e.g., dollars per kilowatt-hour) and requirements for consumer-friendly price disclosures.

## **VIII. Conclusion**

Race Trac and the Associations believe decarbonization efforts should incentivize private sector investments in the desired behavior – offering alternatives that reduce carbon output. To be effective, any alternative – including electricity – should be offered in an open, competitive market that gives American consumers the fullest economic benefits of robust price competition. This has worked well for consumers for nearly one hundred years with liquid fuels because the market had a business case to invest to meet consumer needs. It can work for alternative energy sources in the future if we follow those lessons.

Our industry is eager to work with the Committee to help it achieve this objective and place critical guardrails on any programs the Committee may pursue to decarbonize the transportation sector.

Thank you for the opportunity to testify, I am happy to answer any questions you may have.