

**STATE OF IOWA**  
**BEFORE THE IOWA UTILITIES BOARD**

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<b>IN RE:</b>	)	
	)	<b>DOCKET NO. RMU-2020-2020</b>
<b>ELECTRIC VEHICLE</b>	)	
<b>INFRASTRUCTURE</b>	)	<b>COMMENTS</b>
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The Environmental Law & Policy Center (ELPC) and Iowa Environmental Council (IEC) file these comments pursuant to the Iowa Utilities Board’s Order Setting Deadline for Additional Comments.

On November 4, 2020, a Notice of Intended Action amending 199 Iowa Administrative Code rule 20.20 was published in the Iowa Administrative Bulletin setting December 8, 2020, as a comment deadline and December 21, 2020, for an oral presentation. ELPC and IEC filed joint comments on December 8, 2020, and participated in the oral presentation. During the oral presentation, the Board set January 11, 2021, as the deadline for the submission of additional comments. In addition, the Board specifically asked about further definition of incidental business use.

In our initial comments, we noted that ELPC and IEC supported the Board’s previous rule to clarify that EV charging stations do not fall under the definition of public utility under Iowa Code § 476.1, and therefore are not subject to the exclusive service territories under § 476.25. The Board’s underlying rationale and conclusions were informed by *SZ Enterprises, LLC v. Iowa Utilities Bd.*, 850 N.W.2d 441 (Iowa 2014). We agreed with the Board’s conclusion that EV

charging from a commercial charging station involves much more than simply selling electricity and that the charging may be an ancillary service. Docket No. RMU-2018-0100, Order Requesting Stakeholder Comment on Potential Rule Changes, February 6, 2019, p. 6. In its original rule, the Board provided a straightforward rule that gets the regulatory balance right. We continue to believe that the existing rule is the right rule, but we offer our comments in an effort to be constructive, collaborative, and provide Iowa businesses and residents as much clarity and certainty as possible moving forward.

ELPC and IEC would support ChargePoint's approach to clarify that a utility customer that takes service in compliance with a utility tariff including the recently approved inflow-outflow tariffs would not be a public utility. That approach could provide a straightforward modification to the Board's language and provides additional certainty for some of the most foreseeable applications of distributed generation and EV charging.

In our initial comments, ELPC and IEC previously recommended that the Board should add a sentence to new rule 20.20(1) that states:

“For purposes of this rule, customers with on-site generation and electric vehicle charging that is incidental to the customer's business-related requirements are not public utilities and do not need an individual determination by the Board.”

During the oral presentation, the Board requested that ELPC and IEC provide additional language to provide further specificity as to what would constitute an incidental business use. (Transcript from Hearing Held on December 21, 2020, at 48 (filed Jan. 7, 2021).) In response, we suggest that the above language we previously proposed become new rule 20.20(1)(a) and that we add subpart 20.20(b) to address incidental business use. We recommend 20.20(1)(b) read:

“At a minimum, electric vehicle charging is incidental to the customer’s business related requirements in any of the following circumstances:

- (i) no individual charging station or unit has an input voltage of more than 240V; or
- (ii) the charging stations occupy no more than 25 percent of the available parking stalls including fueling station stalls at a commercial or governmental location; or
- (iii) the monthly kWh usage of the charging stations does not exceed 50% of the total customer kWh usage.”

This additional language would ensure that the typical commercial EV charging service that is incidental to a business does not repeatedly end up being brought to the Board for a determination. This additional language is meant to provide a safe harbor or automatic determination that if the parameters are met an entity is not a public utility and will not be subject to Board regulation. This language does not and is not intended to create parameters that would deem some entities public utilities. If the parameters are not met, the entity may need to receive a specific determination by the Board as the proposed rule already requires.

The first incidental business use definition looks at the type of charging station. Charging stations with an input voltage of no more than 240 V are Level 1 and Level 2 chargers. A Level 1 charger is equivalent to a plug in the wall, would take approximately 2 days to provide an EV with a 60 kW battery a complete charge, and would not be set up to sell the electricity by the kWh. Level 2 chargers are more commonly found in commercial applications and will frequently include pay terminals that could charge by the kWh. A Level 2 charger with 7.2 kW capacity would fully charge a 60 kW battery in approximately 8 hours. Charging a vehicle over an 8-hour period will

almost certainly not be the primary purpose of the business or an individual's visit to that business. In most cases, the charging station will provide a convenience ancillary to the primary business purpose (e.g. the bank, movie theater, or grocery store). There are instances where Level 2 chargers may be used for a complete charge such as at a hotel or at one's place of employment, but those examples reinforce the idea that the EV charging is an ancillary service or benefit that is incidental to the primary purpose of the business. Nobody is going to spend eight hours someplace solely to charge their vehicle.

The second incidental business use parameter is that charging stations occupy no more than 25 percent of the available parking stalls at a commercial or governmental location. This parameter provides an indication that the vast majority of the visitors or anticipated visitors to a location are not using the EV charging service. The vast majority of visitors to the location are there to serve the primary purpose of the business. Again, the EV charging is an ancillary service that some customers will use but is incidental to the primary business purpose.

The third incidental business use parameter is that the monthly kWh usage of the charging stations does not exceed 50% of the total customer kWh usage. This parameter recognizes that electricity use is just one of many costs or inputs for a business. Building on this, if the majority of a business's electricity is for purposes other than EV charging, that is a good indication that the primary purpose of the business is something other than EV charging and that charging is an incidental use or ancillary service.

These parameters are not an exhaustive list of characteristics that make EV charging incidental to a business. The case-by-case determination by the Board would still be available should the Board adopt our proposed approach. ELPC and IEC are still supportive of the Board's original rule and do not believe charging stations should be classified as public utilities. However,

if the Board moves forward with the proposed rule, the Board should adopt this additional language in order to provide greater regulatory certainty for many of the foreseeable instances of EV charging paired with on-site generation and to make the rule less burdensome for both the utility customer and the Board to implement.

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Respectfully submitted,

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