



August 1, 2018

-VIA ELECTRONIC FILING-
Project No. 1598941

Patrick Wruck, Commission Secretary
British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC Canada V6Z 2N3

RE: Greenlots' Final Arguments in Phase One in the Matter of BCUC's Inquiry into the Regulation of Electric Vehicle Charging Services

Dear Secretary Wruck,

In response to the British Columbia Utilities Commission's ("BCUC" or "the Commission") July 4, 2018 Order Number G-119-18 ("the Order"), establishing a regulatory timetable for the three scoped items for final and reply arguments in Phase One of the Commission's Inquiry to review the regulation of electric vehicle (EV) charging service, Greenlots offers the following final arguments in regards to the three scoped issues and the straw man regulatory framework posed by the inquiry's Panel.

Greenlots is a leading provider of electric vehicle charging software and services. The Greenlots network supports a significant percentage of the DC fast charging infrastructure in North America, including that deployed by BC Hydro. Greenlots' smart charging solutions are built around an open standards-based focus on future-proofing while helping site hosts, utilities, and grid operators manage dynamic electric vehicle charging loads and respond to local and system conditions.

Greenlots agrees with the Panel's determination regarding a phased approach for this inquiry and the appropriateness of the three issues scoped into the first phase. Additionally, Greenlots generally agrees with the straw man regulatory framework ("the framework") offered by the Panel:

Entities not otherwise public utilities will, with respect to the provision of electric vehicle charging services, be exempt from Part 3 of the UCA except for sections 25, 26, 38, 42, 43,¹ 44, and 49. Entities that are otherwise public utilities may apply for BCUC approval to provide regulated EV charging services.

Specifically, and as discussed in greater detail below, the framework provides appropriate regulatory relief to non-utility entities developing electric vehicle charging infrastructure or electric vehicle supply equipment ("EVSE") as supported by the vast majority of intervenors to

¹ Excluding 43(1)(b)(ii) where a public utility must provide to the BCUC an annual report regarding demand-side measures.

this inquiry and the testimony and evidence offered. This framework is strongly supported by the record and importantly enshrines the ability of public utilities to continue to be able to provide regulated EV charging services subject to Commission approval as authorized under section 18 of the Clean Energy Act (“CEA”) and section 4 of the Greenhouse Gas (Clean Energy) Reduction Regulation (“GGRR”). Additionally, this framework is consistent with several ministerial mandate letters encouraging fuel switching, electrification of transportation, EV charging stations and support of the Government’s Climate Leadership Plan as described by BC Hydro.²

It is clear that the deployment of EVSE to support EV adoption, transportation electrification and fuel switching is a greenhouse gas (“GHG”) reducing activity, and therefore a “prescribed undertaking” under section 18(1) of the CEA. Section 18(2) provides broad authority to utilities to make prescribed undertaking investments and be able to recover the related costs it incurs. Moreover, section 18(3) prevents the Commission from “directly or indirectly” exercising its power under the Utilities Commission Act (“UCA”) in a way that would prevent utilities from carrying out a prescribed undertaking. Given the broad authority the CEA provides utilities to make GHG reducing prescribed undertakings, not only is the proposed framework authorizing utilities to apply for Commission approval of regulated EV charging services appropriate, it also clearly resolves a key phase one issue as articulated in the Commission’s Order:

Inasmuch as public utilities such as BC Hydro and FBC to participate in the EV market as owners or operators of EV charging stations, clarity is needed on whether BC Hydro and FBC are permitted to invest in EV charging stations as a prescribed undertaking under section 18 of the Clean Energy Act and section 4 of the GGRR.

Greenlots contends that given the limitation that section 18 of the CEA imposes on the Commission in its authority to set only rates and revenues under the UCA for the cost recovery of prescribed undertakings, the framework could be further refined to read “Entities that are otherwise public utilities may apply for BCUC approval of rates and revenues to provide regulated EV charging services”.

Additionally, Greenlots agrees with FortisBC’s interpretation of cost recovery of prescribed undertakings in section 18(2) of the CEA in that it is “referring to the overall rates and revenues of the public utility, not to the specific rates applicable to a particular prescribed undertaking.”³ While this is not the case with EV charging services, there clearly could be a prescribed undertaking that itself brings in no additional revenue. Additionally, there is no requirement of 100% cost recovery in any given year, only that each fiscal year the Commission approve rates for recovery of all prescribed undertakings. Importantly, this statutory environment seems to effectively limit Commission discretion over approval of prescribed undertakings to the overall rates and revenues that account for their cost recovery, provided the undertakings meet the requirements of section 4 of the GGRR.

² Exhibit C1-4, BC Hydro response to Flintoff IR No 1.1.1

³ Exhibit C12-3, FortisBC response to Flintoff IR No 1, p. 19

This lends further support for the slightly refined framework suggested above. It also means that the GGRR and the CEA effectively constrain the Commission's ability to limit cross-subsidies that may result from prescribed undertakings. While the Commission should be cognizant of and aim to limit cross subsidization generally, it must both recognize that this may occur in the context of prescribed undertakings and not through this inquiry set regulation that would prevent cross subsidization categorically, and therefore be at odds with both the CEA and GGRR.

As BC Sustainable Energy Association and Sierra Club BC ("BCSEA-SCBC") elaborate, "there is always a risk of cross-subsidization between rate classes. This risk is managed through cost of service rate design applications. In these applications, a revenue/cost ratio is estimated for each rate class, a 'range of reasonableness' is determined, and adjustments may be ordered if warranted."⁴ Moreover, as we described in our written evidence, "[to] the extent to which some cross subsidization may exist, this can be appropriate and non-discriminatory given broader public policy goals, in the same way this is often the case with rate pricing for certain disadvantaged customer classes."⁵

It is important to realize that a full and accurate assessment of the societal benefits associated with providing EV charging services is difficult to be completely accounted for in the context of any analysis of cross-subsidization, and these shortcomings often point to more cross-subsidization than in fact exists. Greenlots agrees with FortisBC that cross-subsidization risk "needs to be balanced against the need to develop the EV market, to support government policy, and the potential for net benefits to be provided to other rate classes"⁶ and that "the issues pertaining to rate design and cross-subsidization should be revisited after 5-10 years when some of these variables become clearer than what exist today."⁷ At this point, what seems to be most important is accelerating the EV market in support of provincial GHG reduction and climate action goals, and existing law and regulation as defined in the CEA and GGRR provide a mechanism and pathway for this to occur.

We must emphasize that while Greenlots supports the exemption of entities providing EV charging services not otherwise utilities from utility economic and rate regulation, regulation with respect to both consumer protection and safety is appropriate. While utility investments come with certain inherent protections in these areas, this is not necessarily the case with other market participants, especially when competition is non-existent or limited. We believe the Panel has contemplated this in its proposed framework by explicitly not providing an exemption to certain sections of the UCA; sections 25, 26, 38, and 24 in particular. Maintaining such regulation is discussed and contemplated by several intervenors, including the City of Vancouver, which discusses safety considerations and a possible streamlined guidance and complaint-based

⁴ Exhibit C6-2, BCSEA-SCBC Written Evidence, p. 15

⁵ Exhibit C15-2, Greenlots Written Evidence, p. 5

⁶ Exhibit C12-2, FBC Written Evidence, p. 20

⁷ Exhibit C12-3, FBC Response to BCUC IR No 1, p. 31

process for consumer protection,⁸ in addition to how its Electrical By-laws apply to EV charger safety.⁹ Additionally, as the Ministry of Energy, Mines and Petroleum Resources (“MEMPR”) discusses, “Technical Safety BC and eight local governments administer the Safety Standards Act and Electrical Safety Regulation. In addition to adopting the BC Electrical Code, the Electrical Safety Regulation sets out requirements for permitting and worker qualifications.”¹⁰

These laws, regulations, and entities will and should continue to have a role to play in safety and consumer protection regulation relating to non-utility EVSE, and their application can and should evolve over time as needed. In fact, if the Commission rules as described in the proposed framework, as MEMPR notes, entities providing EV charging services that would no longer be public utilities as defined in the UCA would no longer have an exemption to the Electric Safety Regulation that the UCA provides to such entities.¹¹ The proposed framework thus has certain appropriate safety considerations further baked-in to its language as proposed.

As the Commission noted early in this inquiry, citing its 2012 AES Report, a guiding principle should be to “only regulate where necessary, and regulation should not impede competitive markets.”¹² The Panel’s proposed regulatory framework as discussed above is in line with this principle, recognizing that utility and non-utility market participants can co-exist and be subject to different levels of regulation appropriate for their different underlying characteristics. Importantly, regulated utility investment both supports and enhances competition and innovation through utility procurement of charging products and services, given the lack of a market of motivated buyers/investors elsewhere and more accurately values service and maintenance. This accelerates and helps create a more robust and cohesive market over time.

The framework also comports with the Commission’s previous May 9, 2016 Order G-71-16 providing Bakerview EcoDairy Ltd. an exemption to Part 3 of the UCA, building upon and expanding this exemption to other market participants. It is also in line with a similar exemption issued by the Ontario Energy Board for that province, and legislative and regulatory determinations made in over 20 U.S. states.¹³

Greenlots believes that utilities have a critical role to play in supporting BC’s GHG reduction and climate action goals through supporting the growth of the EV market with investments in EV charging infrastructure. As described above, these regulated utility investments are encouraged, supported and protected by both the CEA and GRRR, in different ways, and the Panel’s proposed regulatory framework is generally in alignment with these clear policies.

⁸ Exhibit C5-2, CoV Written Evidence, p. 12-14

⁹ Exhibit C5-5 CoV Response to ChargePoint IR No 1, p.1

¹⁰ Exhibit C19-2, MEMPR Written Evidence, p. 7

¹¹ I.d.

¹² Exhibit A-2, BCUC Establishment of regulatory timetable and preliminary scope, p. 1

¹³ Exhibit C30-2, VEVA Written Evidence, p. 5-6

For these reasons, Greenlots supports the proposed regulatory framework, and we look forward to the Panel's determination in this matter and continued engagement through subsequent phases of the inquiry.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Thomas Ashley', with a stylized, cursive script.

Thomas Ashley
VP, Policy
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