



March 8, 2022

The Honorable Bobby Rush  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Fred Upton  
Ranking Member  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Rush and Minority Leader Upton:

The National Association of Convenience Stores (“NACS”), NATSO, Representing America’s Travel Plazas and Truckstops (“NATSO”), and SIGMA: America’s Leading Fuel Marketers (“SIGMA”) represent more than 90 percent of retail sales of motor fuel in the United States.<sup>1</sup> Our industry is eager to work with the House Committee on Energy and Commerce to enhance the business case for private investment in EV charging stations. Our member companies are agnostic as to what types of fuel they sell to satisfy consumer demand. Instead, our members firmly believe that it is best for the American consumer, and America’s industrial and geopolitical position in the world, to have reasonably low and stable energy prices and, as much as possible, for our energy needs to be fulfilled by domestic sources and by technologies that are as environmentally attractive as possible.

Investment in EV charging presents significant growth opportunities for the retail fuel industry if there is a business case to make a return on such an investment, or a “pathway to profitability” emerges. There are some key structural changes and assurances needed to make that case for private sector investment, including policies that encourage utilities to do the needed work to provide reliable electricity as well as rate structures that allow private sector participants to sell electricity in a competitive and price-transparent manner.

The removal of certain policy and market obstacles will ensure a meaningful, systemic injection of private capital toward fast, reliable EV charging stations at the places consumers want them the most. Just as it does not exist for gas powered vehicles, range anxiety would cease to exist for electric vehicles. The various grant programs that were enacted as part of the Infrastructure Investment and Jobs Act (“IIJA”) represent a critical opportunity to not just *invest* public funds, but to *drive policies* that will shape the future of fast-charging markets. These

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<sup>1</sup> NACS is an international trade association representing the convenience store industry with more than 1,500 retail and 1,600 supplier companies as members, the majority of whom are based in the United States. NATSO currently represents approximately 5,000 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.

policies should incentivize state governments and utilities to partner with the private sector on terms that make economic sense for all. In addition to encouraging utilities to focus on the underlying work needed to build out a nationwide charging network, tariffs must be adopted that will support partnerships with private sector retailers through simple, controllable electricity costs. Electricity markets will have to provide reliable, transparently-priced wholesale electricity to all EV charging site hosts. This should not be controversial. It would make the charging marketplace highly competitive and EV charging investments more attractive to private businesses throughout the country.

### **Opportunities and Challenges**

The retail fuel industry is an indispensable asset to lowering the carbon footprint of transportation energy 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 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 retail fuel companies 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 their fuel supply in a manner that improved fuels’ greenhouse gas (“GHG”) footprint while also enabling our members 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 must be a viable opportunity to generate a return on investment for any alternative to gain meaningful market share.

For any solution to work, it must promote competitive market dynamics and work with consumers’ existing behavior. Consumers expect convenient and reliable options to refuel at a competitive price in a location that provides the ancillary goods, security, and services they have come to expect. 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 in some ways, incompatible with – the highly competitive and price transparent 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 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 owning and operating EV charging stations. Private companies do not have access to such a pool of risk-free capital and thus would be at an insurmountable competitive disadvantage. If these utilities’ 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.

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 refueling businesses in their communities that are competing for their business.

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 a further 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 (such as 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 the shift appealing to American consumers – which means those changes must work for our industry. Fuel retailers already have the most conveniently located real estate for refueling on the go. We offer the services and amenities that consumers have come to expect alongside the refueling network (such as food service facilities, restrooms, security, and the like). Until consumers see alternatives such as electricity at the outlets where they currently refuel, they are unlikely to feel comfortable adopting those alternatives in large numbers.

Fuel retailers are surrogates for the consumer. If you ensure there are competitive market dynamics governing refueling – including alternatives such as refueling – you will make the transition more affordable and attractive for the public.

## **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 that are shared by lawmakers, fuel retailers, and consumers.

We are eager to continue to work with the Committee, Congress as a whole, and the Biden Administration to achieve meaningful policies that will lower the carbon intensity of transportation energy while ensuring the American consumer is not left behind.

Sincerely,

National Association of Convenience Stores  
NATSO, Representing America's Travel Plazas and Truckstops  
SIGMA: America's Leading Fuel Marketers