



Testimony of

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on behalf of

NATSO, Representing America's Travel Plazas and Truck Stops

SIGMA: America's Leading Fuel Marketers

before the

the Subcommittee on Highways and Transit

of the

Committee on Transportation and Infrastructure

April 30, 2024

Hearing on

"It's Electric: A Review of Fleet Electrification Efforts"

I. SUMMARY OF TESTIMONY

Chairman Crawford, Ranking Member Holmes Norton, and distinguished members of the House Transportation and Infrastructure Subcommittee on Highways and Transit. Thank you for the opportunity to testify at this important hearing reviewing fleet electrification efforts.

NATSO and SIGMA members are responsible for more than 80 percent of retail sales of motor fuel in the United States. Our industry is extraordinarily attuned and responsive to our customers' preferences and proclivities. As new fuels enter the market, NATSO and SIGMA members want to be able to sell those fuels lawfully, with manageable risk, and a clear opportunity to generate a return on investment. While agnostic as to what types of fuel we sell to satisfy customer demand, fuel retailers do have a bias: we believe low and stable energy prices are best for the American consumer and America's industrial and geopolitical position across the world.

When it comes to transportation energy, we have found that our customers want the most reliable, convenient, lowest-cost fuel available.¹ Our industry's function is to identify that fuel and deliver it to every community in the country. In so doing, we compete with one another on price, speed, and quality of service. The retail fuels market is the most transparent, competitive commodities market in the United States.

The Love's Family of Companies ("Love's"), along with the broader retail fuel industry, has over the years integrated a variety of alternative fuels into the fuel supply. These investments were made in direct response to policy incentives. Our experience has equipped us to help policymakers understand – and overcome – the impediments to an increasingly electrified passenger fleet.

NATSO and SIGMA support policies that incentivize fuel retailers to invest in alternative fuels, and reward businesses that make those investments. Because fuel retailers are fuel agnostic, we are invaluable partners to policymakers whose objectives include increasing the consumption of alternative fuels at lower prices. With the right alignment of policy incentives, fuel retailers are best equipped to facilitate a fast, cost-effective transition to alternative fuels – including electricity – in the coming years. The optimal way to lower transportation fuels' carbon footprint is through policies that (i) encourage businesses such as Love's to offer more alternatives, and (ii) make those alternatives more attractive to consumers.

Consumers will not purchase electric vehicles ("EVs") if they do not feel confident in the charging network. American drivers expect a seamless, predictable public charging experience not unlike their current refueling experience, which is grounded in safe, convenient, accessible amenities and affordable, competitive pricing. Replicating the market dynamics that govern today's liquid retail sector is the optimal approach to facilitating greater EV adoption.

¹ Fuel marketers and retailers prefer long markets with a diverse array of supply options at our disposal. This dynamic tends to enhance consumer choice and inject an additional layer of competition into the market. This leads to downward pressure on retail fuel prices, which is good for both our customers and the American economy.

Many seem to think that an electrified passenger fleet requires creating an entirely new refueling network. That is not the case. Our industry has spent the last sixty years building out a competitive refueling infrastructure system that optimizes logistics and maximizes customer benefits, and we want to be able to do this long into the future.

Love's and our fellow NATSO and SIGMA members are actively engaging in the National Electric Vehicle Infrastructure ("NEVI") grant program, which was created as part of the bipartisan Infrastructure Investment and Jobs Act ("IIJA"). Under the NEVI program, federal dollars are distributed to states, which in turn develop a grant solicitation process and award criteria, and then distribute and oversee the funds. If implemented properly, the NEVI program will prompt investments that will enable recharging to look and feel similar to the existing on-the-go refueling experience. If implemented poorly, it will lead to chargers being installed in places that consumers have no interest in refueling.

The NEVI program, along with broader market developments, has prompted Love's and others in our industry to invest in EV charging infrastructure because we think our customers will increasingly elect to purchase electric vehicles in the future. Our industry has therefore invested in the personnel necessary to navigate states' different application processes and criteria, along with the intellectual capital necessary to engage in opaque electricity markets and regulatory regimes that were not designed to drive private capital toward EV charging stations.

With a full year of experience navigating the NEVI program, it is clear that the program would be more successful if the Federal Highway Administration ("FHWA") strongly encouraged states to: (i) prioritize driver amenities and the consumer experience; (ii) require executed site host agreements; (iii) prohibit caps on rates of grantees' returns; (iv) refrain from overly restricting evaluation areas; and (v) ensure adequate time for grant solicitations.

Even amid federal grant funding for EV charging, there are several impediments that make it challenging for fuel retailers to identify a pathway to profitability with respect to EV charging. Most of these impediments involve an electricity market structure that functions very differently than the retail fuel market. As recently as ten years ago, for example, approximately 80% of states prohibited anyone other than a regulated utility from selling electricity to EV drivers. This made it virtually impossible to generate a return on EV charging station investments. Those laws have all been reexamined over the last decade, and today every state permits EV charging station operators to charge EV drivers for electricity.

More updates are necessary. Changes must be made to electricity pricing structures. Most retailers with EV chargers today are forced to pay retail prices for electricity with excessive demand charges. There is no business case for buying at retail prices and selling at retail prices. For the private market to work, there must be a pathway for retailers to buy electricity at wholesale prices (*i.e.*, 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.

In addition, federal EV charging incentive policies are generally limited to relief from upfront capital expenditures associated with installing the physical charging equipment. There are no incentives to lower station owners' ongoing costs for acquiring and dispensing electricity into EVs. This distinguishes electricity from other alternative fuels that have had more success gaining commercial acceptance: those fuels have federal incentives that *make the fuel less expensive* (such as blending or production tax credits), in addition to incentives that make *installing the refueling infrastructure* less expensive.

If Congress is interested in resolving challenges to fleet electrification in the United States, it should proactively redress these obstacles rather than assume they will dissipate on their own under unachievable mandates that forgo consumer choice.

Any changes to transportation energy must work for American consumers. If Congress ensures there are competitive market dynamics governing refueling – including alternatives like electricity – electrified transportation will be available, affordable, and attractive for the driving public. Congress can do this by (i) recognizing the importance of harnessing the existing refueling network to mitigate so-called “range anxiety”; (ii) ensuring that existing federal incentives for charging infrastructure are not squandered; and (iii) addressing structural electricity market impediments to public EV charging.

II. INTRODUCTION

My name is Kimberly Okafor, and I am the General Manager of Zero Emission Solutions at Trillium Energy Solutions and the Love's Family of Companies. In this capacity, I oversee our development and management of EV charging, hydrogen fueling and solar businesses. I am testifying today on behalf of NATSO, Representing America's Travel Centers and Truck Stops, and SIGMA: America's Leading Fuel Marketers.² NATSO and SIGMA are the leading national trade associations representing transportation energy retailers, representing more than 80 percent of retail sales of motor fuel in the United States. In addition to transportation energy, our industry provides the services, amenities, and security that American motorists want when they refuel. This is due to the convenient locations of our real estate and the highly competitive and transparent pricing we offer. On behalf of NATSO and SIGMA, we are eager to work with the Committee to continue to support the nation's motorists in the coming decades.

A. The Love's Family of Companies

Founded in 1964 and headquartered in Oklahoma City, Love's Travel Stops and Country Stores and its affiliated companies employ over nearly 40,000 Americans and is still family-owned and operated. Our core business is travel stops and convenience stores, with 643 locations (translating to approximately 50,000 truck parking spaces) in 42 states. Each year the company

² NATSO represents more than 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.

adds between 20-25 new locations and between 55-125 jobs to each community we join. Love's is a significant economic contributor to the communities in which we operate and is often the largest taxpayer in those communities. Love's starts giving back to the communities that it joins the day a new store opens. Team members, who live locally, choose a nonprofit organization to which Love's donates \$5,000 and each district has an annual donation budget moving forward. Through the annual Children's Miracle Network Hospitals campaign, and recently added year-round giving at the pin pad, Love's has raised more than \$54 million for sick and injured children.

In 2016, Love's acquired the Trillium alternative fuels company and has made it a member of the Love's Family of Companies. This year, Trillium Energy Solutions celebrates its 30th year. For the first 20 years, Trillium projects mostly involved designing, building, and operating a network of compressed natural gas fueling stations for Fortune 500 companies' trucking fleets and public entities (such as transit agencies). Since the Love's acquisition, we have aggressively grown our renewable natural gas and hydrogen businesses and, for the last several years, have been developing EV charging infrastructure at Love's locations across the country. Love's expects to add multiple fast chargers at approximately 100 of its locations over the next few years.

Love's locations provide professional truck drivers and passenger vehicles with 24-hour access to purchase transportation energy, coffee, and restaurant offerings, along with more than 430 truck service centers for professional drivers. Our locations are open 24 hours a day, seven days a week, and provide restrooms, food and beverage options, sufficient lighting, and security. We always have on-site employees whose responsibilities include contacting law enforcement or EMS in the event of an emergency. After natural disasters occur, our stores are often the first up and running to provide necessary services to motorists and first responders.

B. Our Experience Bringing Alternative Fuels to Market

Over the past twenty-five years, Love's and our broader industry have made significant investments in bringing alternative fuels to market. Many seem to think that a transition to electric transportation energy requires creating an entirely new refueling network. That is not the case. The U.S. already has in place a robust, highly competitive refueling network. Fuel retailers are in the business of providing competitively priced fuel and services to their customers. Unlike power generators, refiners, or biofuels producers, fuel retailers are agnostic to the type of fuel they sell at their locations; their goal is to provide customers *what they want, where they want it, when they want it, and at a price they are willing to pay.*

For any alternative fuel solution to work, it must promote competitive market dynamics and work within (not against) consumers' existing behavioral patterns and proclivities. Policies designed to encourage private sector investment in alternative fuel infrastructure, including (but not limited to) EV charging stations, must be predicated upon unambiguous policy signals that such alternatives create attractive economic propositions for our industry and for our customers.

Love's and the industry's investments in alternative fuels have been the direct result of federal and state policies that are designed to make the alternatives more attractive to consumers. Below is a brief overview of some of these investments and incentive schemes:

i. *EV Charging*

Love's offers publicly accessible EV charging infrastructure at dozens of our locations and is actively investing in this space. We have also supported fleets with EV charging design and installation from California to Florida. Love's customizable power portfolio enables fleets to source electricity as a "fuel" from the grid, solar panels, energy storage, or an on-site generator powered by RNG.

At the federal level, the Department of Transportation's ("DOT's") NEVI and Charging and Fueling Infrastructure ("CFI") grant programs, and the "30C" refueling infrastructure tax credit, help offset certain upfront capital expenditures associated with installing EV charging infrastructure.

ii. *Ethanol, Biodiesel and Renewable Diesel*

Ethanol is a renewable fuel made from corn that can be blended into gasoline as an octane booster and to reduce a vehicle's GHG emissions. Biodiesel is made from animal fats, vegetable oils, or recycled restaurant grease. It can be blended with diesel up to 20% ("B20") and used as a *drop-in fuel* in diesel vehicles. Renewable diesel is also made from animal fats, vegetable oils, or recycled restaurant grease, but the production process makes it chemically identical to petroleum diesel. This enables it to be used as a *substitute*, rather than a *blend*. Biodiesel and renewable diesel achieve between a 50% and more than 80% lifecycle reduction in greenhouse gas emissions. Love's is an industry leader in blending and selling all of these low-carbon fuels.

At the federal level, incentives for these fuels consist of: Financial support from the Department of Agriculture under the Higher Blends Infrastructure Incentive Program ("HBIIP") for the infrastructure (storage tanks, blending equipment and dispensers) necessary to bring these fuels to market; the Renewable Fuel Standard ("RFS"); and the biodiesel tax credit. The RFS is a permanent program administered by the Environmental Protection Agency ("EPA"), whereas the biodiesel tax credit expires at the end of 2024. It is essential that Congress extend the biodiesel tax credit before the end of this year to avoid surrendering the emission reductions that technology provides.

iii. *Diesel Exhaust Fluid ("DEF")*

Diesel engine manufacturers use DEF in conjunction with Selective Catalytic Reduction ("SCR") technology to reduce nitrous oxide ("NOx") emissions from exhaust gases. Love's sells DEF at all of our truckstops and operates more than a dozen DEF production terminals across the United States. At the federal level, incentives for DEF consist primarily of Clean Air Act and EPA requirements for mitigating NOx and particulate matter from heavy-duty trucks.

iv. *Compressed Natural Gas (“CNG”) and Renewable Natural Gas (“RNG”)*

CNG is a clean-burning fuel produced by harnessing methane from shale formations throughout the United States. RNG is a renewable fuel made from the methane that is released when organic waste (*e.g.*, livestock manure, food waste, etc.) breaks down. CNG and RNG are utilized to fuel vehicles that are designed to run on natural gas. Love’s is an industry leader in marketing, selling, and helping fleets manage CNG and RNG vehicles. At the federal level, incentives for these fuels consist primarily of the Alternative Fuels Excise Tax Credit (“AFTC”) and the RFS.

v. *Solar and Onsite Power Generation*

Love’s provides full-service design, installation, and maintenance for on-site solar and power generation projects, enabling customers to reduce their energy bills and improve resiliency. At the federal level, the Investment Tax Credit (“ITC”) is the most important incentive for solar technology. Additionally, “net metering” throughout the country drives solar economics by crediting solar energy system owners for the electricity they add to the grid.

vi. *Clean Hydrogen*

Hydrogen is a zero-emission fuel that is used in fuel cell vehicles. Love’s is an industry leader in developing hydrogen vehicle fueling stations and is continuing to expand its portfolio. At the federal level, the “45V” clean hydrogen production tax credit, along with the DOT’s CFI grant program and the Department of Energy’s “Hydrogen Hubs” investments comprise the primary financial incentives for hydrogen investment.

Our experience at Love’s is similar to that of dozens of other retail fuel companies across the United States. As an industry, we have adapted in response to policy incentives to sell lower carbon intensity fuels. Our customers have benefited from our industry’s ability to offer a suite of refueling options.

II. *Fuel Retailers are Eager to be Collaborative Partners in Decarbonizing Transportation*

To be most effective and expeditious, decarbonization efforts should incentivize (rather than mandate) the private sector to invest in the desired refueling technologies. Any alternative, including electricity, should be offered in an open, competitive market that gives American consumers the fullest economic benefits of robust price competition. The market is extraordinarily capable of efficiently and expeditiously bringing the lowest-cost fuels to market. Conversely, it is stubbornly reluctant to consume more expensive or less convenient alternative fuels.

Because we are fuel agnostic, fuel retailers are surrogates for the consumer and invaluable partners for policymakers whose objectives include increasing consumption of alternative fuels. We believe more of our consumers will demand electricity as a fuel over the coming years, and we want to be able to sell consumers whatever fuel they want to purchase.

A. Technology-Neutrality

Our industry has ample experience bringing alternative fuels (including electricity) to market. Based on that experience, it is abundantly clear that clean fuel policies must assess low-carbon fuels and vehicle technologies comprehensively. Different technologies should compete with one another to reduce emissions and appeal to consumers. This will maximize our chances of expeditiously achieving desired environmental and economic outcomes. Proven decarbonization technologies such as biofuels, for example, can deliver material emissions and fuel economy improvements using existing infrastructure, existing vehicles, and working within consumers' existing behavior. We cannot ignore policies that incentivize these low carbon solutions.

NATSO and SIGMA encourage policymakers, including federal agencies, to take a technology-neutral approach to decarbonization. Incentives for alternative fuel technologies should be tied to those technologies' lifecycle environmental attributes rather than the underlying technology itself. No one solution will decarbonize transportation energy. The best solution today may be surpassed by subsequent ingenuity and innovation. Mandating a specific technology will ultimately stifle innovation and progress rather than advance it. A single technology approach also undermines energy security.

Less expensive, low-carbon solutions for *today* can be pursued alongside more aspirational objectives for the future. Policymakers should leverage existing infrastructure to encourage customers to gravitate to new types of fuels and vehicles.³ Love's and the rest of NATSO and SIGMA's membership and our upstream partners in the pipeline and terminal industries have spent more than sixty years building out a refueling infrastructure that optimizes logistics and maximizes consumer benefits. Deployment of new technology that compliments, rather than competes with, this infrastructure will (all else being equal) be less expensive and thus more likely to ensure consumer satisfaction.

In the heavy-duty long-haul space, for example, we believe that the commercial and emission-reduction opportunities in *hydrogen* are more crystallized and compelling than is the case with *electricity*. Transitioning to battery electric trucks would adversely impact commercial trucking operations by extending refueling times and injecting a patchwork of electricity tariffs and regulations into what today is an efficient private commercial trucking market. It also requires expensive grid upgrades, with uncertain time horizons and fluid cost projections. Hydrogen used in over-the-road trucking, on the other hand, could leverage existing refueling infrastructure and a supply chain familiar to the industry – centralized production, transportation to market and retail fuel sales through a nationwide network of well-functioning and convenient refueling locations. In addition, the time it takes to refuel a hydrogen truck is similar to the time it takes to refuel a

³ This applies both to real estate sites for EV charging stations – where it is more efficient to leverage existing refueling sites and driver amenities rather than building new ones – as well as the broader energy and supply chain landscape (e.g., leveraging the existing energy pipeline network rather than building a new one).

diesel truck, causing minimal operational disruptions compared with battery electric trucks that take longer to refuel.

When addressing transportation emissions and their contribution to climate change, there are no perfect answers. All vehicles have emissions associated with their manufacture and use. In order to understand the benefits and costs of any clean fuel policy, we need to examine and account for the full lifecycle emissions of all alternative fuels and vehicle technologies and where possible harness the infrastructure that is at our disposal.

III. Barriers to EV Charging Investments and Federal Efforts to Overcome Them

A. Fuel Retailers are the Solution to Range Anxiety

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 to “refuel” those vehicles.⁴ This “range anxiety” is such a strong sentiment that consumers often decidedly underestimate the availability of EV charging infrastructure that already exists today. The widespread availability of EV charging advertised on the familiar large price signs at fuel retailers’ locations as motorists drive down the streets in their communities and traverse America’s highways will effectively relieve EV range anxiety.

To have any chance at success, the refueling experience for alternative fuels should be as similar as possible to today’s refueling experience and offer the services and amenities that consumers have come to expect alongside such a network (e.g., security, foodservice facilities, restrooms, lighting, etc.). Fuel retailers are best positioned to provide alternative sources of transportation energy because we have a keen understanding of on-the-go refueling preferences based on decades of studying them. This fact is essential when it comes to adoption of EVs or other alternative fuel vehicles, where what has been a quick “fill-up” becomes a 30-minute charging experience.⁵ Fuel retailers who seek to maintain their share of the market will be forced to compete on the services and amenities they offer during this experience. This is a positive market dynamic for consumers.

⁴ The extent to which EV penetration is outpacing public charging station deployment is changing the landscape of the EV market. A 2022 national, representative survey by Consumer Reports and the University of Chicago found that 61 percent of Americans point to “not enough public charging stations” as the primary issue preventing them from buying or leasing an EV. In fact, 2022 was the first year in which the study found that ‘access to charging’ exceeded ‘upfront cost’ as the greatest barrier to consumers purchasing an EV. The same survey found that 45 percent of Americans say that easy access to public fast-charging stations would be the most likely variable to affirmatively *encourage* them to buy or lease an EV. See Consumer Reports, “Battery Electric Vehicles and Low Carbon Fuel: Overview of Methodology,” April 2022, *available at* https://article.images.consumerreports.org/prod/content/dam/surveys/Consumer_Reports_BEV%20AND%20LCF%20SURVEY_18_FEBRUARY_2022.

⁵ Currently, it takes the driver of a passenger vehicle approximately two to three minutes to complete a refueling experience. It takes the driver of an EV, on the other hand, 20 to 40 minutes to recharge at a Direct Current Fast Charger (“DCFC”), depending upon the vehicle and the capacity of the charger available, as well as how many other EVs are recharging at the specific site.

B. EV Charging Needs Price Competition

Our industry provides approximately 125,000 locations across the country for drivers to 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 on a mobile device – 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. EV drivers should get the benefits of that remarkable price competition.

Recently enacted federal incentives have prompted fuel retailers to devote increasing resources to exploring EV charging business opportunities. Through that process, we have engaged with electric utilities to ascertain the viability of installing the requisite electrical infrastructure to accommodate multiple fast chargers at a particular site. We have also engaged with automakers and commercial fleets to better understand the likely demand curve for EV charging services.

The unambiguous story we are being told by these various segments of the value chain is that the pace at which this new technology will penetrate the market is inconsistent with the timelines adopted by the Biden Administration. Although the obstacles present today can undoubtedly be overcome by innovation or other market developments, in our pursuit of clean energy we should resist the temptation to abandon realistic timelines and expectations. Congress cannot disregard less comprehensive yet nevertheless environmentally compelling solutions that can be pursued while a longer process unfolds.

At the moment, there are several impediments that make it challenging for private businesses to identify 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 incompatible with – the retail fuel market. Foremost among these market impediments is antiquated electricity pricing schemes that many utilities are reluctant to modernize for purposes of EV charging stations. Some states are exacerbating this problem by allowing utilities to pass through the costs of EV charging stations to all of the utilities' respective customers on monthly utility bills, rather than having EV drivers pay for the costs of refueling their own vehicles. On the other hand, several states are beginning to forbid this practice in order to catalyze private investment (comparable to the developments over the last decade by which states began permitting non-utilities to sell electricity to EV drivers).⁶

Perhaps of greatest import, there are no purchasing options or pricing structures for retailers to provide electricity as a fuel. There are generally no wholesale purchasing options or pricing structures for retailers to provide electricity as a fuel. Retailers with EV chargers today are forced

⁶ Recently, Nebraska became the final state to allow non-utilities to sell electricity to EV drivers and included in that legislation guardrails to prompt competition in electricity rate structures. NATSO and SIGMA support legislative efforts such as this and encourage FHWA to further leverage the NEVI program to not just invest public funds, but to drive policies that will shape the future of EV charging markets.

to pay retail prices for electricity with very high demand charges.⁷ There is no business case for buying electricity at retail prices and selling electricity at retail prices. If this continues and becomes 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).

Businesses in our industry are making these investments today, but we are struggling to make a profitable return on our investments. Instead, we are using this opportunity to learn about the market in anticipation of future growth. It is a mistake to assume that the presence of EV chargers at our locations today means that market problems have been solved. We have a long way to go to ensure there is a business case for EV charging investments such that the infrastructure can be built to the scale that is needed to support future EV drivers.

C. Our Experience with the NEVI Program

The retail fuel industry supports the NEVI program and is actively participating in the program in almost every state. The industry's collective experience with NEVI over the last year has varied greatly from state to state, however. The divergent approaches among the various states threaten NEVI's long-term success. The market simply cannot build an efficient network of charging stations across the continental United States if the business case for installing chargers varies drastically from state-to-state. We believe Federal Highway Administration ("FHWA") should be far less accommodating of such a balkanized approach to EV charging markets; instead, it should more assertively demand consumer-centric uniformity across the states as it considers each respective state's EV charging plan. FHWA should use the NEVI program as an opportunity to prompt state-level policy reforms that are necessary to create a robust, ubiquitous market for EV charging.

Specifically, public investments in fast charging stations should require site hosts to be financially motivated to offer positive consumer experiences. This incentive to provide a positive consumer experience should emanate from revenue that is realized when charging stations are *utilized* (as opposed to *deployed*). NEVI dollars can go the furthest when they mobilize grant recipients to not only *install* charging stations but to provide an *ongoing, positive consumer experience* for EV drivers even after the NEVI program lapses.

a. Importance of Prioritizing Amenities

The more attractive and ubiquitous this experience is for consumers, the more comfortable they will be buying EVs. This, in turn, will further incentivize charging station investments even

⁷ A demand charge is an amount added to a monthly utility bill that is not based on the amount of electricity used by that business. Instead, the charge typically is based on the highest rate of usage the business has during the two 15-minute periods in a month in which the business draws electricity from the grid at the highest pace. Fast EV chargers inevitably prompt exceedingly high demand charges. This can add thousands of dollars to a fuel retailer's monthly utility bill that it cannot possibly recover from drivers charging their cars.

in the absence of government support. States that recognize and prioritize the importance of the consumer experience (*e.g.*, Ohio, Pennsylvania) are installing chargers alongside driver amenities. Other states conducted only high-level assessments of surrounding amenities; in those states far fewer of the awards were co-located with 24-7 amenities, despite being sited in close proximity to 24-7 locations. There is no reason for such disparate approaches and outcomes to be embedded in a grant program that is designed to create a *single*, harmonious network of EV charging stations.

b. Executed Site-Host Agreements

It is also essential that states do not issue grant awards to applicants without committed site host agreements with site owners. States have seen proposals with candidate sites that rely upon *future* infrastructure or development; this creates a significant risk that those developments may not advance as anticipated.⁸ Instead, states should be required to conduct detailed, in-person assessments of a grantee’s proposed site. Awarding grants to applicants without executed site agreements not only risks allotting funding to projects that will not come to fruition, it encourages entities like charging station companies (including Tesla) to find less stable, but more passive, site host arrangements to simplify commercial relationships. (In one instance, a NEVI grant was awarded to an applicant who plans to site the chargers at a liquor store.)

c. Capping Rate of Returns

FHWA should not allow states to issue caps on rate-of-return. Some have instituted an artificial cap on returns on investment (with “excess” funds remitted to the states’ respective department of transportation). These guardrails might make sense for traditional infrastructure projects, but they do not for programs designed to incentivize private investment to flow to a nascent market. Caps on the rate of return are dissuading private businesses from applying for NEVI grants in states that institute them. A competitive market does not accommodate uncompetitive pricing; such pricing would invite new market entrants to offer a more attractive proposition to consumers. (This, incidentally, is how the existing retail fuel industry was built.) When charging becomes more profitable as utilization rates increase, NEVI awardees will be at a competitive disadvantage relative to privately funded chargers. Placing a cap on returns will also mean that less revenue will be available for future upgrades and dissuade the retailer from reinvesting profits back into charging capacity to keep up with competition (*e.g.*, investing in faster charging speeds or the installation of additional chargers.)

⁸ *See, e.g.*, Ohio Department of Transportation RFP #556-23, Proposal Debrief (August 1, 2023) (“Claims regarding hours of accessibility to restrooms for certain businesses (*e.g.*, hotels) were not accurate due to time and manner restrictions (*e.g.*, doors were locked at certain times and required room keys for access). ... Proposed site amenities were often at “off-site” businesses that were not accessibly using pedestrian-friendly infrastructure (*e.g.*, sidewalks, signalized crossings, etc.).”)

d. Overly Restrictive Evaluation Areas

FHWA should dissuade states from unnecessarily restricting evaluation areas. Some states, for example, use a “grouping” approach to their NEVI awards: Instead of rewarding the best individual sites, these states will award a whole highway segment to one bidder. This approach makes it virtually impossible for consumer-oriented fuel retailers who are inextricably tethered to fixed real estate to apply; grants will inevitably be awarded to charging station networks and/or public utilities that will have little financial incentive to create a positive consumer charging experience.

e. Adequate Response Time

Finally, FHWA should ensure that states provide adequate response time for grant solicitations (90-120 days is appropriate); establish clear grant application expectations and engage in open communication with potential applications in advance (*e.g.*, hosting webinars before releasing a grant solicitation); offer one-on-one meetings before, and throughout, the grant solicitation process; and provide easy access to maps of locations being evaluated for potential awards. There should be as much uniformity as possible between the grant application processes from state-to-state.

IV. Conclusion

Thank you for the opportunity to testify before you today. On behalf of NATSO and SIGMA, I look forward to continuing to work with Congress on these issues, and am happy to answer any questions you may have.