

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of the Application of Union	)	
Electric Company d/b/a Ameren Missouri	)	
for Approval of a Tariff Setting a Rate for	)	Case No. ET-2016-0246
Electric Vehicle Charging Stations.	)	

**CHARGEPOINT INC.’S REPLY BRIEF**

ChargePoint submits the following in reply to the initial briefing in this matter. In submitting this reply, ChargePoint does not abandon or waive any argument, position or issue it asserted in its initial brief.

**1. Jurisdiction**

The parties have immersed the Commission with citations from Sections 386.020 (14) and (15) and case authority which interpret the definitions in those sections. Each of the parties realizes, as the Commission no doubt does itself, that the test of the Commission’s jurisdiction is whether charging stations constitute “electric plant” as defined in Section 386.020(14).<sup>1</sup> The question stated another way, and more in the language of the definition, is whether a charging station is an item of property used for the furnishing of electricity for *light, heat or power*.

Ameren contends that the charging islands it proposes to install are the “end of a long chain of infrastructure” that it owns or operates to supply electricity to its customer base, and the law requires the Commission to regulate those chargers because they are at the “end of the chain.”<sup>2</sup> Yet, as ChargePoint has argued earlier, because Ameren or any electrical corporation buys a piece of property and energizes it does not necessarily convert that item into “electric

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<sup>1</sup> As before, statutory references are to RSMo 2000 or its current cumulative supplement, unless otherwise indicated.

<sup>2</sup> *Initial Post-Hearing Brief of Ameren Missouri*, at page 10.

plant.” Electrical corporation ownership of a piece of equipment alone does not render it “electric plant.”<sup>3</sup>

Other parties which contend charging stations are “electric plant” appear to subscribe to Staff’s position.<sup>4</sup> Staff asserts at page 8 of its initial brief,

EV charging stations are devices used to convey electricity into electric vehicles. Electric vehicles, like all automobiles, convey passengers and property from place to place over the public roads and highways and are equipped with lights and heating systems. The electricity delivered into electric vehicles by EV charging stations are [sic] necessarily used for light, heat and power.<sup>5</sup>

If Staff’s reasoning should prevail, then the Commission may well have jurisdiction over cell phone chargers. Much the same can be written of them. Smart phone chargers are devices used to convey electricity into “smart” cell phones. Smart phone charging towers or stations can be found in a number of public venues including state office buildings, airport and bus terminals and some grocery stores. Smart cell phones, similar to all telephones, convey messages, video and data from point to point, intrastate or interstate, over the internet, or the public wireless network. They are most often equipped with flashlights and also emit some heat. The electricity delivered into smart phones energizes more computing power than what was available in the command capsule for Apollo 17. The electricity delivered by smart phone chargers is necessarily used for light, heat and shattering power.<sup>6</sup>

It cannot be seriously argued that the Commission has authority to regulate smart phone battery chargers.

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<sup>3</sup> On page 12 of its brief, Ameren repeats the offer to modify its “Resale of Service” tariff to remove any obstacles for non utilities or third parties to own and operate charging stations and provide charging services. ChargePoint would welcome this amendment to the Ameren tariff and encourages the Commission to approve it.

<sup>4</sup> Compare KCPL and KCPL GMO which are content with merely declaring that electric vehicle charging stations are “electric plant.” They do not further amplify or offer evidentiary support for the statement. *Initial Brief of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company* at page 3.

<sup>5</sup> *Staff’s Initial Brief*, at page 8.

<sup>6</sup> Staff’s analysis could justify Commission regulation of almost any rechargeable device from laptop computers to vacuum cleaners equipped with LED “headlights” to find hidden debris.

Staff's analysis overlooks an inconvenient whole truth: The EV charging station does not convey electricity into the vehicle. The EV charging station charges the battery in the electric vehicle and the battery is the sole source of power to make the wheels turn, the heater and air conditioner work and the headlights shine. No matter how elaborate or specialized an apparatus it may be now, an EV charging station is no more than a battery charger. What distinguishes it from other battery chargers is that it is the size of a modern gas pump. Its size does not change its basic functionality; neither does it confer jurisdiction upon this Commission.

Ameren has asserted in its brief that ChargePoint's position on the Commission's jurisdiction is unclear. ChargePoint disagrees with that appraisal but to the extent this matter needs clarity, ChargePoint submits the evidence establishes that the power supplied to an EV charging station is a coincident of a charging service and not for purposes of supplying energy for light, heat or power. The Commission should find and determine that charging stations do not constitute "electric plant" and hence any owner and operator of those charging stations is not an "electrical corporation." The Commission lacks jurisdiction over EV charging stations.

## **2. Competition**

Ameren and other public utilities are not the initial entrants into the EV charging services market. Private firms offer those services in Missouri and have for some time. As testified in hearing and as reported in its initial brief, ChargePoint is developing plans to invest in charging facilities along the I-70 corridor in Missouri. ChargePoint and Ms. Smart participated in this docket because ChargePoint considers I-70 a key corridor, and does not want to be "locked out of this area for the next three years." (Tr. 331-332). ChargePoint will not invest in development of the needed infrastructure if Ameren's pilot is approved. (Tr. 332). Ameren's pilot changes

the grade of the playing field. The Commission must decide whether to keep the field level or consign competition in this market to the disabled list for three years or longer.

The Commission should jealously guard against a decision in this matter which adversely affects the growth of competition in the charging services market in Missouri. Ameren's pilot program to install six charging islands along the I-70 corridor is anticompetitive. Unless the pilot is modified to eliminate its anticompetitive effects it should be rejected.

Respectfully submitted,

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Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via email on this 28th day of February 2017, to:

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