



December 2, 2019

The Honorable Peter DeFazio  
Chairman  
Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Sam Graves  
Ranking Member  
Committee on Transportation and Infrastructure  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman DeFazio and Ranking Member Graves:

As the Committee on Transportation and Infrastructure begins developing highway reauthorization legislation, NACS, NATSO, and SIGMA – representing approximately 90% of retail sales of motor fuel in the United States – are eager to work with the Committee to develop policies that improve our nation's surface transportation infrastructure while also combating the negative effects of climate change.

Along these lines, we recognize the important role that electric vehicles (EVs) can play in helping to mitigate carbon emissions from the transportation sector. Fuel retailers in the United States are well positioned to play an important role in this transition.

In order to do this, however, it is essential that Congress does not allow regulated utilities to misuse their monopolistic status to crowd out private market participation in EV refueling. Allowing utilities to do this would be to learn all the wrong lessons from the past fifteen years of fuels policy – and past sixty years of highway policy – in the United States. It will undoubtedly discourage private companies from investing in electric vehicle charging infrastructure.

#### Learning the Lessons from Biofuels Policy

Fuel retailers are fuel-agnostic, governed by a loyalty not to a particular type of fuel, but to low and stable priced energy for their customers.

Over the past fifteen years, federal policies such as the Renewable Fuel Standard, the Biodiesel Tax Credit, and others, have created a strong incentive for fuel retailers to invest in the infrastructure and intellectual capital necessary to bring cleaner burning biofuels to market. Fuel retailers did not actively support these policies when they were being developed. Once they were enacted, however, retailers responded to them and adjusted their business models accordingly. Today, NACS, NATSO and SIGMA all advocate for robust biofuel incentives before Congress and the executive branch. This has resulted in a vibrant market for biofuels in the U.S., improving vehicles' emissions footprint without forcing consumers to buy a product that they do not want.

Regardless of how one may feel about ethanol and biodiesel, the incentives that Congress established have been successful given the amount of petroleum-based fuels that have been displaced by renewable fuel since 2005.

## Incentivizing Private Investment in Alternative Fuels

Based largely on the lessons learned from this experience, our members support policies that encourage a vibrant, competitive market for alternative fueling – including electricity. We encourage the Committee to examine the history of biofuels incentives over the last two decades. If Congress creates incentives and a regulatory landscape to encourage fuel retailers to invest in alternative fuels, retailers will make those investments.

The retail fuels industry, as well as market-oriented EV charging companies, has serious concerns with the effort in recent years by regulated utility companies to enter the EV charging business. These utilities have successfully convinced public utility commissions (PUCs) across the country to allow them to utilize ratepayer dollars to underwrite their investment in EV charging infrastructure. Where this occurs, the utilities can compete with fuel retailers and others for EV consumers without putting a single dollar at risk. If a state provides special incentives to a public utility to allow it to build, own, and operate electric charging infrastructure at a cost with which the private market cannot compete, existing and new market participants will be placed at a competitive disadvantage when investing in the alternative fuel marketplace. It will undoubtedly stifle the ultimate development of a robust EV charging infrastructure.

This does not mean that utilities do not have an important role to play in the transition to EVs. It is essential, of course, for utilities to use the rate base to fund grid enhancements and line extensions to help support the *underlying needs* of a marketplace that will utilize more electricity. This – unlike utilities owning and operating retail fuel outlets – is consistent with the underlying rationale of providing utilities with a monopoly in the first place.

Moreover, utilities are welcome to compete in the EV charging space when they do *not* use ratepayer funds to support their investment in the charging infrastructure, as this would place them on a level playing field with other market participants.

Beyond ensuring that utilities cannot use their monopolistic status to undercut a competitive EV market, there are other critical policies the Committee should consider as it seeks to grow the EV marketplace, including:

- Developing a standard system allowing operators of charging stations to profitably sell electricity to individual consumers without interference by state laws;
- Establishing grant programs for alternative fuel infrastructure investments similar to the program established in America's Transportation Infrastructure Act of 2019 (S. 2032), which was *unanimously* approved by the Senate Committee on Environment and Public Works in July 2019.
- Maintaining the ban on commercialized Interstate rest areas and not permitting EV charging within federal Interstate rights of way, as this will discourage off-highway businesses from making investments in EV charging.

## Conclusion

When Congress established the Interstate Highway System in the 1950s, it recognized that motorists would need a near-ubiquitous network of refueling stations. Rather than developing government-run stations, or granting a certain sector monopolistic authority to buy and sell motor fuel at artificially depressed prices, Congress relied instead on American ingenuity and entrepreneurialism. Today, one can hardly drive for even a few miles without passing a convenient, competitively priced retail fuel station.

Similarly, fifteen years ago when Congress wanted the country to begin gravitating toward renewable fuels, it did not develop government-run biofuel stations or place such stations at rest areas

throughout the Interstate system. Instead, Congress again relied on the private sector to respond to policy signals and incentives and make the investments necessary to bring new fuels to market.

This approach can work with respect to EV charging infrastructure. The retail fuels industry is eager to work with the Committee to help it achieve these objectives.

Sincerely,

National Association of Convenience Stores  
NATSO, Representing America's Travel Centers and Truckstops  
Society of Independent Gasoline Marketers of America