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The Honorable Marc Korman and Delegates  
Maryland House Environment and Transportation Committee

*Submitted electronically*

Re: SWTCH testimony in OPPOSITION to **HB 1039 – Department of Agriculture – Public Electric Vehicle Supply Equipment – Registration, Regulation, and Oversight**

Dear Chair Korman and Members of the Committee:

SWTCH respectfully offers this testimony in OPPOSITION to HB 1039.

### Comments

SWTCH shares HB 1039's goal of widespread deployment of consistent and reliable public EV charging across Maryland. However, this bill is not the way to achieve it. If enacted, it will burden Maryland businesses and will dampen EV adoption in Maryland.

The business case for deploying, owning, and operating EV chargers remains challenging. For most owners and managers of multifamily, commercial, and workplace properties — e.g., apartment and condominium buildings, shopping centers, office buildings, parking garages, and similar properties — EV charging is not core to their mission. When they decide to purchase and deploy chargers, it is usually because they want to offer charging as an optional amenity for tenants or guests.

Adding new regulatory, reporting, compliance, and financial burdens to EV charging — as HB 1039 would do — will discourage Maryland businesses from deploying chargers. If enacted, this bill will undercut the state's efforts to achieve its ambitious EV adoption, climate change, and emission reduction commitments.

For background, HB 1039 seeks to enact into law several recommendations from last year's EVSE Workgroup, as transmitted to the legislature in its Nov. 1 report.<sup>1</sup> Broadly speaking, the Workgroup Report's recommendations fall into two categories: reliability and reporting, and consumer protection. I served on the Workgroup on behalf of SWTCH. Although I appreciated the thoughtful and collaborative nature of the Workgroup, I differed on several of the Report's recommendations, as did my counterpart at another EV charging company who also served on the Workgroup. He will not be testifying on this bill because his company recently reduced several positions including his. I feel comfortable speaking for both of us in stating that, while we appreciated the Workgroup members' widespread support for EV charging, not enough consideration was given to the very real challenges associated with private sector deployment, ownership, and operation of chargers. If implemented, the Report's recommendations would make Maryland one of

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<sup>1</sup> Final Report. Nov. 1, 2024. Maryland Electric Vehicle Supply Equipment Workgroup. Maryland Public Service Commission, Public Conference 62. <https://www.psc.state.md.us/wp-content/uploads/EVSE-Report-Final-11-1-24.pdf>

the most – if not the most – heavily regulated states when it comes to EV charging. This is not the way for Maryland to encourage new charger deployments and accelerate EV adoption at this time.

Relatively few states have begun to implement the EVSE provisions of the National Institute of Standards and Technology (NIST) Handbook 44, Section 3.40. Many of these states are experiencing significant challenges when it comes to implementation. This has prompted the National Council on Weights and Measures (NCWM) to hold a first-ever training and technical conference this August focused on EV charging equipment.<sup>2</sup> Until regulators and industry stakeholders are able to address these implementation challenges as the regulatory environment matures, SWTCH urges Maryland to refrain from acting too quickly and investing scarce resources into this matter when a lighter-touch approach may be sufficient.

### Summary of Recommendations

1. **State agency responsibility for EV charging standards:** State agency oversight and tracking of EV charging-related issues such as reliability and uptime should primarily rest with an agency that has experience and expertise in this space, such as the Public Service Commission (PSC), or alternatively the Maryland Department of Transportation (MDOT) or Maryland Energy Administration (MEA), instead of the Maryland Department of Agriculture's Weights and Measures program.
2. **Reliability mandates for privately funded chargers:** Any government-mandated reliability and reporting requirements should apply only to publicly financed chargers.
3. **Weights and Measures:** The bulk of the bill about Weights and Measures should be stricken. It is premature because MDA does not yet have regulations, staffing, or resources to implement the bill's requirements. It is burdensome and will drive up expenses for the charging industry. It will add delays to getting chargers back online and available for public use. Moreover, it is unnecessary because there is no widespread concern about EV charger metering accuracy that warrants such a statutory approach.

### Comments

1. **State agency responsibility for EV charging standards:** The state will benefit from a consistent set of reliability and reporting standards for publicly financed chargers. To date, a mix of ratepayer, taxpayer, and grant-funded chargers have been deployed through programs led or administered by the PSC, MDOT, MEA, and the Maryland Department of the Environment (MDE). Aligning the reliability and reporting requirements for these various programs will benefit drivers and industry alike.

The EVSE Workgroup's Report was inconclusive about which agency is best positioned to lead this effort for consistent EV charging standards. The bill proposes to place that responsibility with the Maryland Department of Agriculture. MDA's Weights and Measures Program inspects and regulates devices associated with measurement of commodities such as food products and fuel oils but has no current expertise in the broad range standards associated with EV charging. SWTCH recommends that the PSC, or,

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<sup>2</sup> <https://www.ncwm.com/evse-training-for-wm-inspectors-and-service-agents>

alternatively, MDOT or the MEA, be designated as the primary agency for promulgating statewide EV charging standards for publicly funded chargers.

2. **Reliability mandates for privately funded chargers:** Much of the attention on EV charger reliability in Maryland over the past several years has largely been driven by early, first-generation deployments, including several of the utility-owned chargers first authorized by the Public Service Commission in its 2018 Phase I charging pilot.

A key lesson learned across the industry from its earlier deployments is the need to plan and budget for ongoing operations and maintenance (O&M). Fortunately, the industry as a whole has learned from and evolved its products and services to regularly include O&M plans to ensure ongoing uptime and reliability. This is an example of how the competitive market in a nascent industry has evolved to improve service for its customers.

The business case to deploy EV charging remains challenging, whether a company's business model is to be an owner/operator or as a solutions provider to customers, as SWTCH is. Although mass-market EVs have been around for 15 years, it is not hyperbole to describe the industry as still nascent and focused on scaling effectively. Over just the past few months, several well-known charging providers have gone out of business, terminated network service for its customers, and/or executed layoffs. Imposing heavy administrative burdens even on chargers that receive no public funding, as this bill would do, would be counterproductive to supporting increased charger deployment. Moreover, opening the door to civil penalties for charger owners who fail to meet certain standards would make it an easy "no" for any prospective customers or site hosts who otherwise would have been receptive to installing chargers.

The state has the prerogative to establish uptime and performance standards for chargers that it incentivizes with public dollars. However, this is not the time for the State to impose new regulations on privately funded chargers that would add costly compliance requirements and disincentive private deployment and ownership of EV chargers.

3. **Weights and Measures:** Maryland has adopted NIST Handbook 44 which includes Section 3.40 on EV charging metering accuracy, tolerances, and related subjects. MDA's Weights and Measures Program is the appropriate agency to implement and enforce this section. While it has begun the process, there remains a great deal of uncertainty about how MDA intends to carry out its responsibilities and implement HB44.

By MDA's own estimates, its successful implementation of HB44 would require increasing its budget to pay for new staff positions, procure expensive field-testing devices, and stand up a new regulatory procedure that will involve education, training and certification of industry stakeholders.

To establish an effective date for new regulations, as this bill would do, before MDA has even promulgated draft regulations, and without MDA having clear budget authority to staff up and procure the resources it would need to implement the regulations, is a recipe for a bureaucratic nightmare.

Ironically – given the bill's goal to improve the consistent reliability and uptime of EV chargers – its proposed statutory commencement of Weights & Measures implementation

would lead to more chargers being out of commission and unable to be used by drivers for longer periods of time. This is because a key aspect of such regulations is to require field testing and reporting of chargers by registered service agents (RSAs) before the charging provider can make the charger available for public use. Maryland lacks even a small amount of qualified RSAs who can perform this work. Moreover, given the uncertainty about the details of the forthcoming regulation, it is unclear how the field inspection process would work, what its additional cost would be, and how MDA proposes to ensure that it does not detract from the state's goal of ensuring uptime.

Now is not the time for the state to statutorily impose a new expensive and time-consuming regulatory burden on the EV charging industry when the MDA has yet to develop the proposed regulations and lacks the budget and resources to smoothly commence implementation.

### About SWTCH

SWTCH is a leading provider of electric vehicle (EV) charging and energy management solutions for multifamily, commercial, and workplace properties across Maryland and North America. SWTCH's end-to-end solution optimizes EV charging usage and manages load to benefit drivers, property owners, and the grid. SWTCH has deployed more than 10,000 charging stations, with a particular focus on ensuring equitable access to EV charging. SWTCH's charging management platform is built upon a foundation of open communication standards and interoperability to ensure future flexibility, scalability, and innovation even after purchase and installation.

### In Closing

SWTCH respectfully urges opposition to this bill. Thank you for your consideration of these comments. If you have questions or if I can provide more information, please contact me at [josh.cohen@swtchenergy.com](mailto:josh.cohen@swtchenergy.com) or 202.998.7758.

Respectfully,



Josh Cohen  
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