

## EV transformation: 3 obstacles Wisconsin must overcome



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Over the course of 2021, it has become increasingly clear that the global vehicle fleet is set for an electrified future. In January, a day after U.S. President Joseph R. Biden signed a series of [Executive Orders](#) to prioritize climate change, General Motors (GM) announced plans to introduce 30 new electric vehicle (EV) models globally by 2025. Later, in May, Ford announced that [40 percent of the company's new car sales will be EVs by 2030](#). In August, President Biden issued an [Executive Order](#) aiming to have 50 percent of all new vehicles be electric by 2030.

As if these signs weren't enough, numerous businesses in the logistics space have announced ambitious plans to invest in EV manufacturers, like [Amazon's investment in Rivian](#), or convert existing fleets to EVs, like [UPS ordering 10,000 electrified vans from startup Arrival](#). What's more, the proposed bipartisan infrastructure bill being debated on Capitol Hill includes [billions of dollars to support the development of charging station infrastructure across the U.S.](#)

While an electrified future in the automobile industry is imminent, all these announcements beg the question: Will Wisconsin be ready to serve future EV demand?

The following are three key challenges facing Wisconsin's EV future:

### 1. Regulation may limit Wisconsin utilities' ability to meet demand

While Wisconsin electric utilities are well-positioned to meet part of the future demand EVs will place on the state's electric grid, investor-owned utilities are heavily regulated by the Wisconsin Public Service Commission (PSC). And, despite the [PSC's recent solicitation of public input](#) on the need for EV infrastructure resulting in various new PSC recommendations, more must be done to enable Wisconsin investor-owned utilities to meet future EV infrastructure needs.

One key area that needs to be addressed by the PSC is enabling investor-owned utilities to modernize Wisconsin's centralized electric utility distribution system. Increased demand will undoubtedly strain the existing utility generation fleet during peak hours, especially with the advent of supercharging stations which require high demand during short periods of time. What's more, this same system was recently impacted by the [severe storms that passed through Southeastern Wisconsin on Aug. 10, 2021](#), which resulted in power outages in some areas lasting for days. This event clearly demonstrated the need for investor-owned utilities to be able to improve the system and, if not, that severe weather events may also pose a challenge the state's ability to supply an adequate EV charging infrastructure.

*The information contained herein is based on a summary of legal principles. It is not to be construed as legal advice and does not create an attorney-client relationship. Individuals should consult with legal counsel before taking any action based on these principles to ensure their applicability in a given situation.*

## 2. Range anxiety challenges in remote areas of Wisconsin

With more than 54,000 square miles of territory and a robust tourism industry, Wisconsinites and out-of-state road trippers alike will need to be confident they can reach their destinations—and get back home—in their EVs. With more than 15,000 lakes, natural assets like the Apostle Islands' sea caves, and tourist hotspots like Lake Geneva, Wisconsin Dells, and Door County spread across the entire state, easing range anxiety for Wisconsin's tourists will require a comprehensive EV charging station infrastructure.

## 3. Wisconsin's ambiguous policy toward private charging station developers

There is uncertainty in Wisconsin about the role of private developers in meeting future EV infrastructure demands. Under current Wisconsin law, it is unclear whether a property owner or lessee in Wisconsin can develop a charging station on their property and offer that charging station for use by the general public. The issue at hand is determining whether offering a charging station for use by the general public constitutes electrical services which, under Wisconsin state law, are reserved to regulated public utilities in the area served by the incumbent public utility.

While several cases decided by the courts during the past 100 years have held that offering electrical services to limited groups of users does not constitute regulated public utility services, most charging stations are likely to provide service to the general public as supposed to limited groups, like a landlord's tenants.

In the absence of clarifying legislation, there is great uncertainty about how and under what circumstances third parties will be able to meet future charging station demand for EV owners in Wisconsin. There is some legislation that is being considered for introduction that, if approved by the Wisconsin State Legislature and signed by Wisconsin Governor Tony Evers, would in part reduce some of this uncertainty for developing charging stations.

The potential legislation would authorize private parties to develop and offer charging stations to the general public if the utility serving the area is the power source for the station. If enacted in its current form, this legislation would create more certainty for third party developers given the public utility issue. However, it would prevent third party developers from creating charging stations offered to the public if they generate their own electricity onsite through, for example, renewable energy resources. Onsite generation is an important factor that could mitigate the risk of storm-related or high-peak demand disruption to the centralized utility grid.

Without the necessary legislative clarity on the public utility issue for charging stations, Wisconsin may be faced with a regulatory roadblock' to the development of the necessary charging infrastructure to meet future demand by EV users.

### Will Wisconsin be ready for the EV future?

The answer remains to be seen. Godfrey & Kahn will be carefully monitoring the situation and will pass along any new information to our clients and friends.

**For more information on this topic, or to learn how Godfrey & Kahn can help, contact a member of our Environmental Strategies or Energy Strategies Practice Groups.**