

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF THE STATE OF OREGON**

**IN THE MATTER OF PACIFICORP'S     )**  
**APPLICATION FOR                             )**  
**TRANSPORTATION                             )**  
**ELECTRIFICATION PROGRAMS             )**  
**)**

**DOCKET NO. UM 1810**

**OBJECTIONS TO STIPULATION AND**  
**REQUEST FOR HEARING OF CHARGEPOINT, INC.**

**August 25, 2017**

Pursuant to OAR 860-001-0350(8), ChargePoint, Inc. (ChargePoint), through its undersigned counsel, files these Objections to the Stipulation filed by PacifiCorp d/b/a Pacific Power and the Stipulating Parties in this docket.

**I. INTRODUCTION AND SUMMARY OF ARGUMENT**

The Stipulation is not binding on the Commission, and the Commission should reject the Stipulation's request for approval of Pacific Power's proposed Public Charging program.<sup>1</sup> Despite the Stipulating Parties' willingness to recommend approval of a program that they acknowledge does not meet SB 1547's criteria, the Commission has an independent duty to ensure that Pacific Power's transportation electrification (TE) programs comply with the requirements of Senate Bill (SB) 1547, comply with the Commission's own rules, are consistent with the Legislative Assembly's intent behind SB 1547, and is in the public interest. The Commission should find that Public Charging program fails to meet these requirements and must be denied.

Pacific Power seeks the Commission's authorization to "pilot" the Public Charging model because it hopes to expand it to a full-fledged program in the future. However, even the Stipulating Parties acknowledge that Public Charging does not meet the requirements of SB 1547, but excuse this failure because they consider Public Charging to be a pilot program. The Commission should not allow Pacific Power to "pilot" a business model that fails to meet the statutory criteria and is therefore not viable as a future program and that would cause significant market distortions in the near term.

Pacific Power's Public Charging proposal, if adopted, would lead to stifling innovation, competition, and customer choice in EV charging infrastructure and services, rather than stimulate the market as SB 1547 intended. The Public Charging proposal would also be an

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<sup>1</sup> OAR 860-001-0350(9).

imprudent use of ratepayer funds because Pacific Power would be entering and distorting a competitive market with ratepayer funds, and could not ensure that its investments will remain used and useful. This approach also fails to leverage private capital investment as SB 1547 intended, and which would lessen the overall financial impact on all ratepayers. The Public Charging proposal is contrary to both the requirements and the intent of SB 1547, and should be rejected.

For all of the reasons that will be discussed herein, the Commission should reject Pacific Power's proposed Public Charging program. Pursuant to OAR 860-001-0350(8), ChargePoint requests a hearing regarding the Stipulation.

## **II. STANDARD OF REVIEW**

Pacific Power filed its Application for Transportation Electrification Programs pursuant to Section 20 of SB 1547. When the Oregon Legislative Assembly passed SB 1547,<sup>2</sup> it found, among other things, that “[w]idespread transportation electrification should *stimulate innovation and competition*, provide consumers with *increased options in the use of charging equipment and in procuring services* from suppliers of electricity, attract *private capital investments* and create *high quality jobs*” in Oregon.<sup>3</sup> When evaluating the Stipulation, the Commission should ensure that Pacific Power's proposed TE programs would fulfill the Legislative Assembly's clearly stated purpose in enacting SB 1547.

The Legislative Assembly specified certain factors that the Commission must consider when determining whether or not to approve Pacific Power's proposed TE programs and when determining whether Pacific Power can recover the cost of its TE programs. Among those factors, the Legislative Assembly instructed the Commission to consider whether Pacific

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<sup>2</sup> Oregon Laws 2016, Chapter 028, Section 20 (hereinafter SB 1547).

<sup>3</sup> SB 1547, Section 20(2)(d) (emphasis supplied).

Power’s proposed TE investments and expenditures “[a]re prudent,” and whether they “[a]re reasonably expected to *stimulate innovation, competition and customer choice* in electric vehicle charging and related infrastructure and services.”<sup>4</sup>

Finally, the Commission itself, in its rules implementing Section 20 of SB 1547, ordered Pacific Power to explain how its TE programs will address the considerations specified by SB 1547, including the requirement that TE programs stimulate innovation, competition, and customer choice.<sup>5</sup> The Commission’s rules also require Pacific Power to evaluate whether and how its TE programs “[s]timulated innovation, competition, and customer choice” when it reports the results of its evaluation of each TE program.<sup>6</sup>

**III. THE COMMISSION SHOULD NOT ALLOW PACIFIC POWER TO PILOT THE PUBLIC CHARGING PROGRAM BECAUSE THE PROGRAM FAILS TO MEET SB 1547’S CRITERIA AND THEREFORE HOLDS NO PROMISE AS A FUTURE PROGRAM.**

Pacific Power was required by Oregon statute and the Commission’s rules to file its Application for TE Programs, but the Commission may only approve Pacific Power’s Application, as modified by the Stipulation, if it finds that Pacific Power’s proposed TE programs will comply with SB 1547’s requirements and accomplish the goals of SB 1547. Pacific Power’s proposed Public Charging program, as modified by the Stipulation, fails to meet SB 1547’s criteria and is not a prudent use of ratepayer funds. The Commission should reject the Stipulation with respect to the Public Charging program.

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<sup>4</sup> *Id.* at Section 20(4)(b) and (f) (emphasis supplied).

<sup>5</sup> OAR 860-087-0030(1)(h).

<sup>6</sup> OAR 860-087-0040(1)(h)(B).

A. The Commission must evaluate the Public Charging program according to SB 1547's criteria, regardless of the Stipulating Parties' characterization of Public Charging as a "pilot."

The Stipulation states, "Commission approval of this Stipulation does not imply that these pilots meet the six statutory factors established in Section 20(4) of Senate Bill 1547."<sup>7</sup> In other words, at least some of the Stipulating Parties admit that Pacific Power's proposed TE programs do not satisfy the criteria established by the Legislative Assembly for TE programs, but recommend that the Commission approve them anyways. The Stipulating Parties also apparently believe that the Commission is interested in approving programs regardless of whether or not the programs not comply with statute.

Considering Pacific Power proposed the Public Charging program pursuant to SB 1547, it would seem to follow that the program must comply with the terms of SB 1547. However, the Stipulation tries to explain away Public Charging's failure to meet SB 1547's criteria because it will be "time-limited, cost-limited, and require specific learnings."<sup>8</sup> In the testimony supporting the Stipulation, Staff focuses on "the necessary data and tools for analysis" that Pacific Power has promised to develop, the fact that the proposed programs are pilots, and the supposedly "small size of the capital investment" involved.<sup>9</sup> In other words, both Staff relies heavily on the fact that the TE programs will be considered pilots in recommending that the Commission approve the programs. There is no indication in SB 1547, or the Commission's implementing rules, that the statutory criteria do not apply to a program if the utility characterizes it as a "pilot" program or if the utility plans to learn something from the program. There is also no indication that SB 1547's statutory criteria do not apply if a program might be considered relatively small when compared to the vast size of a utility's total rate base.

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<sup>7</sup> Stipulation, ¶ 18.

<sup>8</sup> *Id.*

<sup>9</sup> Stipulating Parties/100, Morris-Klotz-Mullins-Jenks-Allen-Ashley-Avery/15, l. 13 and p. 18, l. 19.

The Stipulating Parties also try to explain away the Public Charging program’s failure to meet SB 1547’s criteria because, as they argue, “SB 1547 only requires the Commission to *consider* the six factors.”<sup>10</sup> ChargePoint acknowledges that SB 1547 uses the phrase “shall consider” with respect to the six statutory factors.<sup>11</sup> However, contrary to the Stipulating Parties’ suggestion, that phrase does not mean that the Commission has the discretion to simply ignore one of the factors. The Commission can and should decide how much weight to give each factor, and, as the finder of fact, should decide how reasonable it is to expect that a particular program will meet each criterion, but it must consider each of the six factors.

The Commission should decline the Stipulating Parties’ invitation to disregard SB 1547’s clear directives and requirements. Regardless of the agreement among the Stipulation Parties that the TE programs can and should be approved despite the programs’ failure to satisfy clear statutory criteria, the Commission must evaluate the programs independently according to the criteria that the Legislative Assembly, and the Commission itself, have established.<sup>12</sup> For reasons that will be explained below, when the Commission evaluates the Public Charging proposal, the Commission will find that it is not a prudent use of ratepayer funds and cannot reasonably be expected to stimulate innovation, competition, and customer choice, as required by SB 1547. Accordingly, the Commission should reject the Public Charging program.

B. *It is inappropriate and unnecessary for Pacific Power to conduct a pilot for a program that does not meet SB 1547’s criteria.*

The typical purpose of a pilot program is to test a particular program on a small-scale, in the hope that the program can be rolled-out on a large scale if the pilot is successful. However, because the Public Charging pilot does not meet the statutory criteria, any future full-fledged

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<sup>10</sup> Stipulating Parties/100, Morris-Klotz-Mullins-Jenks-Allen-Ashley-Avery/11, ll. 23 (emphasis in original).

<sup>11</sup> SB 1547, Section 20(4).

<sup>12</sup> Stipulation, ¶ 18; as provided in OAR 860-001-0350(9), the Stipulation is not binding on the Commission.

Public Charging program based on the pilot will also not meet the statutory criteria and would not be approved by the Commission. The Stipulation fails to explain why it is necessary or prudent for Pacific Power to spend ratepayer funds to pilot a new business model, so ChargePoint assumes that Pacific Power plans or hopes to develop a large-scale Public Charging program that would not be “time-limited” or “cost-limited” in the future.

ChargePoint also notes that the Stipulating Parties place great importance on their expectation that the Public Charging program will produce “learnings,” but have punted the determination of what exactly those learnings should be to 30 days after a Commission decision, if the Commission approves the Public Charging program.<sup>13</sup> In ChargePoint’s view, the Commission should not disregard SB 1547’s criteria for any reason, but it certainly should not do so based on vague promises that the Public Charging program might produce some to-be-determined learnings that may or may not benefit ratepayers and that may or may not accelerate transportation electrification.

The Stipulating Parties recommend that the Commission ignore SB 1547’s directives and approve Public Charging because it is only a pilot program. The Commission should not allow Pacific Power to spend ratepayer money to conduct a pilot program unless that program holds promise for the future. Because it fails to meet SB 1547’s criteria – as the Stipulating Parties admit – Public Charging holds no such promise and should be denied.

**IV. THE PUBLIC CHARGING PROGRAM CANNOT REASONABLY BE EXPECTED TO STIMULATE INNOVATION, COMPETITION, AND CUSTOMER CHOICE, AND IS AN IMPRUDENT USE OF RATEPAYER FUNDS.**

As ChargePoint discussed extensively in its Reply Testimony, Public Charging would stifle innovation, competition, and customer choice in EV charging infrastructure and services,

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<sup>13</sup> Stipulation, ¶ 4.

contrary to the clear directive of SB 1547 and the Commission's implementing rules. Public Charging would also require Pacific Power to spend ratepayer funds to enter a competitive market, which is an imprudent use of ratepayer funds.

*A. The Public Charging program would stifle innovation in the market for public charging infrastructure and services.*

Pacific Power plans to procure charging stations and network services for Public Charging through a request for proposals (RFP) process.<sup>14</sup> In other words, Pacific Power, with its limited experience in the EVSE market, will specify the minimum requirements for EVSE infrastructure and services and choose the provider that is able to provide this minimum infrastructure and minimal services for the lowest cost. The Commission should not allow Pacific Power to assume the exclusive role of innovator for public EV charging stations in its service territory.

A utility RFP works well when a utility is seeking to procure a commodity, like transformers or utility poles, at the lowest possible cost. EVSE infrastructure and network services are not commodities, and innovation does not occur when competitors compete to offer a product at the lowest cost. A "race to the bottom" approach that is focused solely on acquiring equipment for the lowest possible price and ignores site-host benefits and the EV driver experience does not promote innovation.

Rather, innovation occurs when market participants, such as the competitive EVSE industry, seek to distinguish themselves through new designs and offerings that they believe will excite different end-users. Here, drivers are the end-users, but Pacific Power will be selecting the product and service offerings for them. There is absolutely no reason to think that Pacific Power will select through its RFP the same charging stations and network that drivers would choose,

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<sup>14</sup> Application, p. 59.



and regardless, different drivers will prefer different charging stations and networks. Moreover, since Pacific Power is subject to Commission oversight, Pacific Power is likely to choose the lowest-cost bid that meets the minimum specifications, rather than have to justify choosing a higher-cost bid to the Commission.

Additionally, Pacific Power's proposed RFP process for Public Charging would lock-in the winner of the RFP for the foreseeable future. The EVSE market is changing rapidly, and there is every reason to expect that the equipment that Pacific Power would procure through an RFP would be obsolete within just a few years. When a private entity, such as an EVSE industry player or a charging station site-host, owns charging stations, the private entity can choose to replace their charging stations if they want to offer drivers the latest, most innovative technology. Pacific Power, however, will be hamstrung by utility accounting rules and required to keep obsolete stations in service long past the time those stations are put in service.

Finally, it is telling that the Stipulating Parties do not mention the words "innovation," "innovate," or "innovative" with respect to the Public Charging pilot, other than a rote recitation of Section 20(4)(f) of SB 1547 in their description of the package of proposed programs that fails to explain how exactly innovation is involved.<sup>15</sup> Simply put, there would be no room for creativity or innovation in Pacific Power's proposed RFP process for Public Charging. As a result, Public Charging would stifle, rather than stimulate, innovation in EV charging infrastructure and services, to the detriment of Pacific Power's customers and EV drivers in its service territory.

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<sup>15</sup> Stipulating Parties/100, Morris-Klotz-Mullins-Jenks-Allen-Ashley-Avery/11, ll. 3-4.

*B. The Public Charging program would allow only one opportunity for competition – an RFP – and would not reap any of the benefits of competition.*

An RFP is admittedly a competitive process, but as discussed, the RFP that Pacific Power proposes for Public Charging would incorporate competition exclusively on the basis of cost and competition would occur only once at the outset of the program. As a result, Pacific Power and its ratepayers would only receive one benefit of competition, namely, a low-cost product. Pacific Power, and by extension, EV drivers, would lose out on the other consumer benefits that typically arise from a competitive market, such as innovative products and a variety of options to meet drivers' unique needs and preferences.

Further, by selecting a single “winner” in the RFP, Pacific Power will completely eliminate site-hosts' ability to choose the EVSE equipment and network services provider that best fits their individual needs. This approach also stifles potential cost reductions that would occur in the future, because a robust, competitive market with multiple vendors competing for customers is essential to driving price reductions in products and services over the long-term.

Pacific Power and the Stipulating Parties have implicitly acknowledged that the Public Charging program would do nothing to stimulate competition in the market for EV charging infrastructure and services, and that Pacific Power's proposal has the potential to damage and distort the market. The Stipulating Parties' testimony supporting the Stipulation asserts, “There is no evidence that the proposed pilot programs will have a negative impact on the market for electric vehicle charging services.”<sup>16</sup> First, this statement ignores the substantial evidence that ChargePoint's witness Mr. Dave Packard provided in his Reply Testimony in this docket demonstrating that the Public Charging pilot will have a significant and negative impact on the

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<sup>16</sup> Stipulating Parties/100, Morris-Klotz-Mullins-Jenks-Allen-Ashley-Avery/12, ll. 17-18.

market for EV charging services.<sup>17</sup> The Stipulating Parties apparently prefer to ignore the substantial, un rebutted evidence of market harm that ChargePoint provided in the record of this proceeding, rather than rebut it.

Moreover, the Stipulating Parties have misconstrued the standard that they must meet in order for the Commission to approve a TE program proposal. The Legislative Assembly notably did not direct Pacific Power to try to avoid having a “negative impact” on the market for EV charging infrastructure and services – rather, it directed Pacific Power to “stimulate” that market. The choice of the word “stimulate” in SB 1547 was deliberate, and it indicates that the Legislative Assembly contemplated that Pacific Power would play a unique role that only a utility could play to support and enhance the market. Pacific Power cannot stimulate the public EV charging market by entering that market, especially given Pacific Power’s built-in advantages of being a monopoly utility.

Likewise, Pacific Power will not stimulate the EV charging market merely by promising not to undercut other providers in its pricing to drivers, because Pacific Power (backed by its ratepayers) will inevitably take market share away from competitive providers. These competitive providers, like ChargePoint, do not have captive ratepayers who can cover their costs if revenues fall short. Moreover, Pacific Power’s focus on pricing to drivers ignores the business model and value streams of competitive EVSE providers. As ChargePoint explained in its Reply Testimony, many charging station site-hosts (such as big box retailers or convenience stores) install stations not because they want to make a profit on charging services, but to attract EV drivers to visit their businesses.<sup>18</sup> By promising not to undercut other public charging stations, Pacific Power would do nothing to stimulate the market and would do little to mitigate

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<sup>17</sup> ChargePoint/100, Packard/11-18.

<sup>18</sup> ChargePoint/100, Packard/7, ll. 8-16.

the massive market distortion that its participation in the market will cause. Instead, Pacific Power would be competing with charging station site-hosts for drivers, which would actually discourage market expansion from competitive EVSE providers.

*C. The Public Charging program would not offer any choices to customers.*

No part of Pacific Power’s Public Charging proposal would incorporate customer choice, much less stimulate customer choice, as required by SB 1547. Pacific Power and the Stipulating Parties apparently realize that Public Charging utterly fails to meet this statutory criterion, because neither the Stipulation nor the Stipulating Parties’ joint testimony includes the words “choice” or “choose,” except for the rote recitation of Section 20(4)(f) of SB 1547 mentioned above and a reference to “promoting customer choice in transportation fuel.”<sup>19</sup> While nearly any TE program would create choices for customers in transportation fuel, the Legislative Assembly specifically directed Pacific Power to stimulate “customer choice in electric vehicle charging and related *infrastructure and services*.”<sup>20</sup> Merely offering electricity as a transportation fuel choice is not enough to meet the requirements or goals of SB 1547; rather, Pacific Power must promote choices in the infrastructure and services that provide that electricity. Because Pacific Power would procure a “one-size-fits-all” solution for the Public Charging program through an RFP, customers – including both drivers and charging station site-hosts – would have no choice in the charging infrastructure or services that Pacific Power provides.

In ChargePoint’s experience, customer choice is the most critical of the three factors that Pacific Power is required to stimulate under SB 1547. Each site-host<sup>21</sup> has unique needs and

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<sup>19</sup> Stipulating Parties/100, Morris-Klotz-Mullins-Jenks-Allen-Ashley-Avery/13, ll. 17-18.

<sup>20</sup> SB 1547, Section 20(4)(f) (emphasis supplied).

<sup>21</sup> The most reasonable interpretation of SB 1547’s reference to “customer choice” is that it refers to “utility customer choice.” Because drivers may or may not be a customer of the utility, it is imperative that a charging station site-host, who would be the utility’s customer-of-record, be able to choose the charging infrastructure and

unique motivations for installing a charging station. As ChargePoint illustrated in Reply Testimony:

[A] big-box retailer may want to offer free charging for the first hour as an incentive to bring customers into its store, but then require a nominal payment to encourage customers to move their vehicles and make the EVSE available for another customer. A convenience store or gas station may decide that a high-powered DC fast charger (DCFC) is the best way to attract customers to its store, and may want to experiment with different pricing schemes after the EVSE is installed. Employers may want to offer EVSE at the workplace as a way to attract and retain talent, and may opt for Level 2 chargers since the vehicles they serve will be parked most of the day. Municipalities and other local governments may want to offer public EVSE as a part of their commitments to sustainability, and be more focused on visibility and ease of use.<sup>22</sup>

There is an inherent relationship between a particular charging station and the drivers that want to charge at that station, and **the site-host – not Pacific Power – is best equipped to determine the number and type of charging stations that will best meet those drivers’ needs. If Pacific Power were to support site-hosts and allow them to choose the technology that best fit their unique needs, Pacific Power would thereby also stimulate innovation and competition, because competitive providers would work to create the most appealing solutions possible for drivers and site-hosts.**

Because the Public Charging program would not, and does not attempt to, stimulate customer choice in EV charging infrastructure or services, it does not comply with SB 1547 or the Commission’s implementing rules. As discussed above, characterizing the Public Charging program as a “pilot” cannot remedy this shortcoming, because the purpose of the pilot is to eventually develop a large-scale program based on the same design. Also, because the Commission cannot and should not simply ignore one of SB 1547’s statutory criteria. The Commission should reject the Public Charging proposal.

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services that best meet the needs of the site-hosts and the drivers that the site-host expects will use the charging station. That said, Pacific Power’s proposed Public Charging pilot would not offer drivers any choices, either.

<sup>22</sup> ChargePoint/100, Packard/7, ll. 11-20.

*D. The Public Charging program is an imprudent use of ratepayer funds because Pacific Power would be entering a competitive market beyond the boundaries of a regulated monopoly.*

ChargePoint recognizes that SB 1547 contemplates that Pacific Power’s TE programs may include direct investments in EVSE charging and infrastructure, but it also requires the Commission to ensure that any such investments are prudent and reasonably expected to be used and useful.<sup>23</sup> Though “prudent” is not defined in the statute, the statute’s use of a term so common in utility regulation indicates that the Legislative Assembly did not intend change the standard by which the Commission evaluates Pacific Power’s activities related to transportation electrification. Specifically, the Commission should require Pacific Power to demonstrate that its proposed investment in the Public Charging program would be reasonable and consistent with standard, cautious utility business practices. Under this standard, Pacific Power has failed to demonstrate that the Public Charging program would be a prudent use of ratepayer funds.

Pacific Power describes the transportation electrification market as “under- or undeveloped.”<sup>24</sup> This nascent market is also competitive, high-risk, and rapidly developing, and includes several market players backed by venture capitalists. A prudent utility would not risk its ratepayer funds trying to compete with the players in this market, in which its only competitive advantage is its ability to leverage and rely on those same ratepayer funds if its foray into the market is unsuccessful.

Largely because the market for publicly available charging stations is so competitive and in its nascent stages, the Stipulating Parties acknowledge that Pacific Power is unable to provide the Commission “with sufficiently reliable data” or information that would allow the Commission to determine that a TE program meets the prudence and used-and-useful

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<sup>23</sup> SB 1547, Section 20(4)(b).

<sup>24</sup> Stipulating Parties/100, Morris-Klotz-Mullins-Jenks-Allen-Ashley-Avery/11, l. 12.

standards.<sup>25</sup> ChargePoint concurs with Pacific Power’s admission that Pacific Power cannot demonstrate that its proposed investments in the Public Charging program would be prudent (as it is required to do under SB 1547) and agrees that Pacific Power does not fully understand how the prudence standard would even apply to its Public Charging program. These acknowledged shortcomings, which Pacific Power once again brushes off on the basis that it labels the programs as “pilots,” are sufficient reasons to deny the proposal altogether.

A prudent utility TE program would mitigate its ratepayers’ risk by investing only in infrastructure that Pacific Power is familiar with, such as the installation components needed to support charging stations – frequently called the “make-ready” – and leave the investment in quickly evolving EVSE technology to those customers interested and willing to host charging stations. Such an approach would mitigate Pacific Power’s risk and ensure that its infrastructure investments would remain used and useful. ChargePoint recommended such a role for Pacific Power in its Reply Testimony, but Pacific Power apparently was not interested in exploring such a role for itself.<sup>26</sup>

Further, running the Public Charging program would be well outside the activities traditionally undertaken by a regulated monopoly utility. Under the regulatory compact, Pacific Power is allowed to operate as a monopoly because the State of Oregon has deemed it more economically efficient and socially desirable for a single entity, rather than the competitive market, to provide essential electric utility services. Transportation electrification is an important and laudable goal, and Pacific Power has a crucial role to play in transportation electrification, but there is no economic or social justification to allow a monopoly to take over the entire market. The existence of numerous competitors in this space demonstrates that public charging

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<sup>25</sup> *Id.* at 11, ll. 15-19.

<sup>26</sup> ChargePoint/100, Packard/9, l. 14 – p. 10, l. 5; and p. 16, l. 20 – p. 17, l. 11.

services are not the function of a natural monopoly, so there is no reason to allow Pacific Power to become a market player fulfilling the same functions as non-regulated, private competitors. Instead, the Commission should require Pacific Power to play a role in transportation electrification that only the utility can play, as will be discussed next.

*E. The Commission should not allow Pacific Power to distort the public charging market with the Public Charging program prior to determining a proper market role for Pacific Power.*

As ChargePoint explained in Reply Testimony, if Pacific Power installs ratepayer-funded public charging stations, prospective charging station site-hosts will be reluctant to invest in their own charging stations when they see the utility fulfilling this role.<sup>27</sup> Competitive EVSE providers may then exit the Oregon market, because it is difficult to compete against “free” (i.e., ratepayer-funded) charging stations.<sup>28</sup> Further, if Pacific Power begins installing Public Charging sites without requiring any investment from site-hosts, it would teach the market that public charging stations are supposed to be free.<sup>29</sup> Prospective site-hosts would be further discouraged from investing in charging stations, because they will worry that Pacific Power would install more Public Charging sites above and beyond the seven Pacific Power has proposed in the Stipulation. These prospective site hosts will only install charging stations if they see a potential value stream from the stations, and this value will be lost or diminished if Pacific Power is permitted to install stations and lean on ratepayers to recover its costs.

In other words, by using ratepayer money to deploy public charging stations, Pacific Power will significantly distort the market for public charging stations and discourage participation and investment in this market by private companies. This result is contrary to the

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<sup>27</sup> ChargePoint/100, Packard/12, l. 18 – p. 13, l. 4.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*



Legislative Assembly’s intent behind SB 1547, which stated that “[w]idespread transportation electrification should ... attract private capital investments and create high quality jobs” in Oregon.<sup>30</sup> Instead of designing a TE program to attract private capital investment, with the Public Charging program Pacific Power seeks the Commission’s authorization to invest ratepayer funds in a manner that will actively discourage private investment from site-hosts. Though the Public Charging program might result in up to seven additional charging stations owned by Pacific Power in the immediate future, the market distorting effect of these seven stations would lead to far fewer stations in Pacific Power’s service territory over the medium- and long-term. Such an unstable, unsustainable market based on ratepayer subsidies is contrary to the intent behind SB 1547 that Pacific Power *accelerate* transportation electrification.<sup>31</sup>

In testimony supporting the Stipulation, Staff explains that Pacific Power’s proposed programs will allow it and the other Stipulating Parties to understand “the proper and most effective role of the utility within the electric vehicle market.”<sup>32</sup> However, the Stipulating Parties offer no details on the criteria by which they will assess Pacific Power’s role and make this determination. Further, the public charging market would be significantly distorted by the Public Charging program, and the Public Charging program itself will hamper the private industry’s ability to provide charging services in Pacific Power’s service territory, as just discussed. By entering and distorting the market in its early stages, Pacific Power is setting the stage to demonstrate that its direct participation is necessary over the long-term. The Commission should not allow Pacific Power to use ratepayer money to make the public charging market entirely dependent on ratepayer money for the foreseeable future.

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<sup>30</sup> SB 1547, Section 20(2)(d).

<sup>31</sup> *Id.* at 20(3).

<sup>32</sup> Stipulating Parties/100, Morris-Klotz-Mullins-Jenks-Allen-Ashley-Avery/16, ll. 10-11

ChargePoint emphatically supports accelerating transportation electrification in Oregon, and agrees that Pacific Power has a critical role to play in these efforts. There is no reason to think that the optimal role for Pacific Power is to offer public charging infrastructure and services in direct competition with private companies who are already providing these infrastructure and services. Instead, Pacific Power should play a role that only Pacific Power, as the utility, can play.

Based on its extensive experience in other markets across the US and Europe, ChargePoint offered detailed suggestions in Reply Testimony for the role that Pacific Power can and should play in transportation electrification programs.<sup>33</sup> For example, Pacific Power could develop a program in which it provides the “make-ready” infrastructure needed to make a site ready for charging stations, including any distribution line, transformer, or other “in front of the meter” upgrades.<sup>34</sup> Pacific Power could also provide rebates for charging stations and allow site-hosts to choose the technology that best fit their needs, consistent with Pacific Power’s mandate to stimulate innovation, competition, and customer choice.<sup>35</sup> Under SB 1547, Pacific Power could request that the Commission authorize it to earn a return on the rebates it provides to customers.<sup>36</sup> ChargePoint also recommended that Pacific Power work with multi-unit dwellings, where it is especially difficult for EV drivers to install charging stations due to the landlord-tenant split incentive barrier.<sup>37</sup> As ChargePoint explained, these recommendations would allow Pacific Power to focus on its core competencies as a utility, such as building distribution

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<sup>33</sup> ChargePoint/100, Packard/9, l. 14 – p. 10, l. 5; and p. 16, l. 20 – p. 17, l. 11.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 10, ll. 11-15.

facilities, without engaging in anticompetitive activities with ratepayer money.<sup>38</sup> Unfortunately, ChargePoint's recommendations are not addressed or acknowledged by the Stipulation.

## V. CONCLUSION AND REQUEST FOR RELIEF

For all of the reasons discussed, ChargePoint recommends and requests that the Commission reject the Stipulation's request for approval of the Public Charging program. As ChargePoint recommended in its Reply Testimony, the \$1.85 million that Pacific Power proposes to spend on the Public Charging program would be much more effective and would lead to the deployment of far more charging stations if it were deployed through the grant-based Demonstration and Development program. Accordingly, ChargePoint recommends that the Commission direct Pacific Power to reallocate the funds it proposed to spend on the Public Charging program to the Demonstration and Development program.

ChargePoint further recommends and requests that the Commission provide direction to Pacific Power on the appropriate role of the utility in transportation electrification efforts to guide Pacific Power's future applications for TE programs. Specifically, the Commission should instruct Pacific Power that any future TE application for public charging must allow customers (i.e., site-hosts) to choose the type of charging stations and network services that best fits their needs, consistent with SB 1547's mandate that Pacific Power's TE programs stimulate innovation, competition, and customer choice. The Commission should also instruct Pacific Power that any future TE application should not involve Pacific Power competing directly in the public charging market against private companies. Instead, Pacific Power should leverage private investment and play a role in the market that only the utility can play, such as by providing rebates or make-ready infrastructure to charging station site-hosts.

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<sup>38</sup> *Id.* at 10, ll. 2-5.

Pursuant to OAR 860-001-0350(8), ChargePoint requests a hearing on the Stipulation. ChargePoint respectfully requests that the Commission convene a prehearing conference to determine a procedural schedule, including dates for a live hearing, written testimony, and additional briefing as needed.

Respectfully submitted this 25<sup>th</sup> day of August, 2017,

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