

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1811

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	ELECTRIC VEHICLE CHARGING
COMPANY,)	ASSOCIATION COMMENTS ON
)	JOINT PARTIES' STIPULATION
Application for Transportation Electrification)	
<u>Programs</u>)	

I. INTRODUCTION

Pursuant to OAR 860-001-0350(8), the Electric Vehicle Charging Association (“EVCA”) submits these comments objecting to the stipulation (“Stipulation”) filed by Portland General Electric Company (“PGE”) in this proceeding.¹ In EVCA’s view as a non-profit industry association that advocates to expand clean transportation, each of the nearly 3,000 utilities nationwide will play a critical and unique role in facilitating the transition of the transportation sector to a sustainable electric-fueled future. As PGE’s service territory includes the Portland metropolitan area, however, this Stipulation could play a significant role in shaping future policy for electric vehicle (“EV”) charging. EVCA, like the other parties in this proceeding, wants the EV market in PGE’s service territory to thrive and would simply like to keep collaborating with the stakeholders.

EVCA is uneasy with this Stipulation because in its current form PGE’s proposal appears to limit customer choice, and may ultimately have an anti-competitive effect in

¹ The Stipulation is between PGE, Commission Staff, the Citizens Utility Board of Oregon, the Industrial Customers of Northwest Utilities, the Oregon Department of Energy, Tesla, Inc., the Tri-County Metropolitan Transportation District of Oregon, Forth, and Greenlots (collectively “Stipulating Parties”). ChargePoint also participated in the settlement discussions and has elected not to join the Stipulation. Stipulation at 2.

PGE's service territory, especially if expanded beyond the pilot program. EVCA worries that the Stipulation may not be consistent with Senate Bill 1547's directive to stimulate competition, innovation and customer choice and believes that PGE could alleviate that issue simply by partnering with private capital to provide charging stations.² EVCA has collaborated with utilities across the nation to set up programs supporting the EV market that focus on grid infrastructure and reliability rather than new and expensive technology additions, because EVCA believes consistency on this front is in the public interest.

Finally, because the Stipulation contemplates future meetings that will include only those parties that have signed the Stipulation, EVCA respectfully requests that all stakeholders be permitted to attend these meetings. To be clear, EVCA is not asking the Oregon Public Utility Commission (the "Commission" or "OPUC") to conduct any specific process going forward, but would appreciate the opportunity to participate in any additional proceedings or stakeholder meetings. EVCA would like to share its perspective on best practices, which is based on collaboration between utilities and the EV charging industry.

II. COMMENTS

EVCA cares about this Stipulation because EVCA's core mission is to advocate for policies that will expand clean transportation. EVCA's focus on the greater public interest, and experience in this industry, leads it to conclude that the most important goal for any EV program should be to build EV fueling opportunities that are better than the traditional gasoline option. To accomplish that goal, a utility's rate structure must be fair, fiscally sustainable, and provide equitable service that encourages economic development

² S.B. 1547 § 20(4), 78th Leg. Assemb., Reg. Sess. (Or. 2016) [hereinafter "SB 1547"].

and private investment. Without economic incentives to attract private capital, a utility's program must rely solely on ratepayer capital, which is not fiscally sustainable in light of lessons other businesses and utilities have already learned in this market. The traditional ratemaking model may not be well suited to promote a brand new business technology, like EV charging, and may expose ratepayers to significant cost risk. It is in the public interest to limit risk exposure for utilities and ratepayers in this area.

EVCA worries that PGE's current proposal may not promote EV development through competition, innovation, and customer choice; however, should the Commission decide to adopt the Stipulation it requests the Commission clarify two points. First, that all stakeholders should be invited to future meetings regarding the pilot programs rather than limiting attendance to parties that have signed the Stipulation. Second, because PGE's original proposal was changed to avoid statutory problems and is currently characterized as three pilot programs (that may still face the same statutory problems) the precedential effect of the Stipulation should be limited.

A. Utilities Play an Indispensable Role to Create Successful EV Markets, But That Role Should Limit Risk to Ratepayers

EVCA believes the utilities' proper role centers on their natural monopoly in providing distribution service rather than leveraging ratepayer financing to maximize utility profits in new markets. Utilities should focus on providing fair rates for the assets that they already have a natural monopoly over, and in today's EV market that is grid infrastructure. PGE is uniquely positioned to support a public charging market where businesses in its service territory can compete for EV charging customers. To do this, PGE needs to establish rates that are fair to each of its different classes of customers, and enable businesses and investments in PGE's service territory to flourish. In return, EVs

can provide PGE with flexible load growth that provides unique benefits to PGE's ratepayers. EVCA has experience assisting utilities with different approaches and harmonizing economics with regional needs.

Although EVCA generally embraces technology and innovation, it also believes that utilities should be discouraged from assuming the role of designing scalable utility-owned charging markets. Regulated utilities may not be well suited for making these types of investments or for making quick decisions that will be required to successfully navigate this market. Prudent utilities, like PGE, may see a business opportunity in designing an EV charging market dominated by utility ownership. But, this would be a very expensive, and very risky endeavor, and may not yield favorable results for ratepayers. Instead, utilities should focus on other opportunities presented by EVs, which are more closely related to the utility model, like building grid infrastructure, and integrating more solar and storage in the market. There are established best practices in this market and EVCA can share these and lessons learned that may help improve PGE's programs going forward.

For example, EVCA's experience in this market has made one thing clear: the primary risk for EV programs derives from installation rather than infrastructure. The grid infrastructure for EV charging stations is well established and very stable. Investments in grid infrastructure offer very low risk for utilities and ratepayers alike and can last for 40 years or more. This makes grid infrastructure a good area for utility investment and an important part of maintaining electric reliability standards. Installation of charging equipment on that grid infrastructure, however, involves new technology that increases the risk to utilities and ratepayers significantly. For example, it is not unheard

of for entire networks of EV charging equipment to require multiple rounds of replacement within a five-year period. Ratepayers are not typically subjected to this kind of technology risk.

Separately, the Stipulation asks the Commission to make policy decisions in this proceeding that could create tradeoffs between PGE's ratepayers and the broader EV market. For example, permitting PGE to expand its business model to include EV charging equipment could distort a budding new market and lead to unintended consequences. Instead, PGE could opt to support a robust and competitive EV market by providing open access to its infrastructure and equitable rates that encourage private investment. There is an opportunity for PGE's shareholders to make healthy earnings in a way that does not present such stark policy tradeoffs.

B. PGE's Pilot Programs May Limit Customer Choice

EVCA's primary concern with PGE's proposal (and the Stipulation) is that it could limit customer choice. Although the pilot programs may provide PGE valuable insights, they may not stimulate further innovation in the market. In leaving the option open to potentially own all of its EV charging equipment, PGE is effectively considering adding a brand new line of business where it will most likely control all aspects of a fledgling market. PGE should not be making all of the relevant decisions with respect to design, engineering, construction, operation, management, repair, contracting, reimbursement to property owners, and marketing of the EV charging stations in its service territory without ongoing collaboration from industry partners like EVCA.

The goal of PGE's pilot program should be to demonstrate a fiscally-viable charging service business plan that protects ratepayers and spurs innovation. To that end,

PGE could encourage customer choice by partnering with private industry to provide some or all of the new charging stations. EVCA’s preferred pilot program would leverage ratepayer funded capital to attract and facilitate long-term private investment. This kind of approach would complement public investment in infrastructure without exposing PGE’s ratepayers to as much risk.

PGE’s proposal may also need to scale in staggering proportions to meet the needs of the EV market and give drivers the options to charge at home, work, and their normal path of travel. The six charging stations proposed by PGE may quickly need to become six hundred to make EV successful in Portland. The market will most likely work best if customers can choose which EV charging station or service provider they prefer, and service providers drive down costs by competing for each customer’s business.

C. If Adopted, PGE’s Pilot Programs Should Be Evaluated By All Parties Rather Than Just Those Supporting the Stipulation

The Stipulation contemplates subsequent meetings to evaluate the pilot programs, but limits participation in those meetings to parties that have signed the Stipulation. PGE’s filing states, “PGE will schedule meetings, with the Stipulating Parties to this docket, to identify the specific and detailed learnings for each of the three TE pilots included in this Stipulation.”³ PGE intends to file a written list of “said learnings” with the Commission and “will track and report on such learnings.”⁴ There is no reason to exclude any stakeholders from future meetings associated with this proceeding. It is

³ Stipulation at 2.

⁴ Id.

critical that this process include the full range of stakeholders' opinions, and not be subject to editorial review by PGE through exclusion.

Moreover, the Stipulation notes that the "Stipulating Parties agree to work toward establishing a method for cost recovery" ⁵ Again, there is no reason to condition participation in these conversations on support for the Stipulation. Any non-signing party could have an important point of view on cost recovery and should be included in any future meetings addressing cost recovery. Thus, The Commission should clarify that all parties should be permitted to evaluate the success of PGE's pilot programs and discuss methods for cost recovery, should the Stipulation be adopted.

D. If Adopted, PGE's Pilot Programs Should Not Have Precedential Effect

If the Commission adopts the Stipulation, it should expressly preserve the right for parties to address legal challenges in the future. For example, the Stipulation notes that the parties have not resolved whether PGE's pilot programs meet the statutory criteria laid out in SB 1547. ⁶ One such criteria requires PGE's program to be "reasonably expected to stimulate innovation, competition and customer choice in electric vehicle charging and related infrastructure and services." ⁷ Each of these is a separate and independent statutory requirement that must be complied with.

PGE made certain changes, and withdrew one of its four proposals, ⁸ presumably to avoid these statutory concerns. The Stipulation, however, does not promote customer choice, and therefore may still be inconsistent with the statutory directive in SB 1547.

⁵ Id. at 3.

⁶ Id. at 2 ("the Stipulating Parties have not agreed that the TE proposals meet the six statutory criteria outlined in SB 1547").

⁷ SB 1547 § 20(4)(f).

⁸ Stipulation at 2.

The Stipulation effectively admits that it is ignoring the statutory requirements, and states that the parties have not agreed as to whether the pilot programs meet the statutory directive of SB 1547. Thus, the Stipulating Parties are not taking a position on whether PGE’s current proposal, and in particular Electric Avenue, even complies with the express terms of SB 1547.

PGE also changed its remaining three proposals to pilot programs, which should limit the precedential effect of PGE’s program. PGE notes that the current proposals are “time-limited, cost-limited” and “designed to produce specific learnings.”⁹ The Stipulation suggests that despite the potential statutory infirmities, the current proposal “may provide value as pilot programs.”¹⁰ Because the Stipulation has been reduced to pilot programs, and neither PGE’s original programs or the Stipulation satisfy all the statutory requirements in SB 1547, any Commission approval should not have precedential effect. As such, should the Commission agree that the pilot programs may provide some value, and choose to adopt the Stipulation, it should confirm that the Stipulation has not resolved all legal issues in this docket, and expressly permit parties to challenge whether PGE’s future programs are consistent with the directive in SB 1547.

III. CONCLUSION

For the reasons detailed above, EVCA urges the Commission not to adopt the Stipulation filed by PGE. Should the Commission decide to adopt the Stipulation, the Commission should direct PGE to include all parties in future meetings regarding the pilot programs, and limit the precedential effect of the Stipulation.

⁹ Id.
¹⁰ See id.

Dated this 12th day of July 2017.

Respectfully submitted,

A handwritten signature in black ink that reads "Irion Sanger". The signature is written in a cursive style with a large, looped initial "I".

Irion Sanger
Sidney Villanueva
Sanger Law, PC
1117 SE 53rd Avenue
Portland, OR 97215
Telephone: (503) 756-7533
Fax: (503) 334-2235
irion@sanger-law.com

Attorneys for the Electric Vehicle Charging
Association