

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1811

In the Matter of)	
)	
PORTLAND GENERAL ELECTRIC)	ELECTRIC VEHICLE CHARGING
COMPANY,)	ASSOCIATION’S RESPONSE BRIEF
)	
Application for Transportation Electrification)	
<u>Programs</u>)	

I. INTRODUCTION

The Electric Vehicle Charging Association (“EVCA”) does not oppose the Oregon Public Utility Commission (the “Commission”) approving, with one important exception, the Stipulation offered by Portland General Electric Company (“PGE”) and the other Stipulating Parties. EVCA did not participate in this proceeding prior to the adoption of the Stipulation, recognizes that the Stipulation need not be perfect, and is reluctant to criticize a compromise agreement between the majority of the parties in this proceeding. Still, while EVCA either supports or does not oppose nearly all aspects of the Stipulation, EVCA opposes and recommends that the Commission require PGE to revise the Electric Avenue Charging Stations (“Electric Avenue”) pilot program because it may not promote cost effective electric vehicle (“EV”) development through competition, innovation, and customer choice. The Commission should require PGE to modify its proposal to own and operate public charging stations and gather information, which is generally available in the market, to use limited and critically important utility investment in the form of rebates for EV charging hardware, services, and installation, which would encourage investment in competitive charging technologies.

In addition, EVCA recommends that the Commission condition any acceptance of the Stipulation upon two important clarifications. First, the Commission should confirm that, because the Stipulation only specifically mentions the Stipulating Parties participating in the future processes contemplated in the Stipulation, it does not preclude participation by non-signing parties (“Non-Stipulating Parties”). The Commission should affirmatively direct the Stipulating Parties to include the Non-Stipulating Parties in future meetings and discussions concerning PGE’s pilot programs, including those referenced in the Stipulation. While EVCA intervened late in this proceeding after the Stipulation was agreed to and understands why the Stipulation was drafted to only reference Stipulating Parties, EVCA intends to actively participate in future efforts to electrify the transportation sector and it would be inappropriate to exclude EVCA from the future processes envisioned by the Stipulation. Second, the Commission should confirm that the Stipulation has no precedential effect.

II. BACKGROUND

As the Commission’s staff (“Staff”) points out, PGE first filed its application in this docket on December 27, 2016, and the parties have been working diligently together to vet the issues raised by PGE’s proposals for almost a year.¹ It is noteworthy that “given the novelty of the subject matter and lack of Oregon-specific data,” Staff’s position has “evolved over time” and that Staff believes “at this point in time, we are simply not as far along as we would like to be in terms of access to reliable data and methodologies like attribution, and cost-effectiveness that are necessary to evaluate transportation electrification investments.”² To begin with, EVCA truly appreciates the time and effort that all of the parties have put into the process and their

¹ Staff’s Opening Brief at 2.

² Id. at 2-3.

good-faith efforts to accelerate transportation electrification in Oregon.³ Although EVCA is late to join this proceeding, it appreciates and welcomes Staff’s conclusion that “[t]he nine Stipulating Parties practiced collaboration and continue to support the use of collaboration in the future.”⁴

But, the plain and simple truth is that the Stipulation does not anticipate collaboration with additional interested parties going forward, and the Stipulating Parties have not presented a convincing argument to exclude ongoing participation from any Non-Stipulating Parties, especially EVCA. As the plain language of this Stipulation makes clear, there is a lot of work left to do regarding the programs developed in this docket, and other pilot programs may be proposed by PGE in the near future. No party should be forced to sign the Stipulation in exchange for meaningful participation in the development and review of PGE’s current or future pilot programs.

III. DISCUSSION

Just as the EV charging industry has evolved in recent years, so will PGE’s programs. And so has EVCA’s membership.⁵ Even since this proceeding began, EVCA has added key new organizations to its membership. EVCA strives for membership that includes a variety of perspectives on the best practices for advanced grid technologies, developing electric vehicle supply equipment, deploying charging infrastructure, station maintenance and other services. According to U.S. Department of Energy statistics released in October, four of EVCA’s

³ Id. at 2,

⁴ Id. at 18.

⁵ EVCA is a non-profit organization comprised of member-companies representing the EV charging infrastructure market, including service providers, installation providers, and electric operators. EVCA/100, Cherkaoui/4-5. EVCA’s current and official members include ABM, ChargePoint, Clean Fuel Connection, Inc., Envision Sola, EV Connect, EVgo, SemaConnect, and Volta.

members collectively operate approximately half of all public and private non-residential charging outlets in the nation.⁶ Although many of EVCA’s members are active in the competitive EV-charging market, EVCA’s mission is to educate policymakers, stakeholders, and members of the public about the critical role of EV technology, infrastructure, and services in EV adoption. Just like EVCA itself, PGE’s pilot programs will also benefit from diverse perspectives, and should not be isolated from the views of Non-Stipulating Parties that have a rich set of experiences in the evolving EV industry.

The Oregon Legislature set out a clear vision for the future of transportation electrification in Senate Bill (“SB”) 1547 that naturally provides different roles for Oregon’s utilities and the Commission. EVCA agrees with most of the Stipulating Parties’ briefing on this subject, but sees the utilities’ role in “increasing access” to electricity for EVs a bit differently. EVCA would like to push the Commission to consider ensuring that PGE’s role as more constructive and as incentivizing a marketplace rather than owning one.

EVCA opposes the Stipulation because, in its current form, it positions PGE to limit customer choice, and thwart competition in the EV charging market. EVCA continues to recommend certain revisions to the Electric Avenue pilot that would bring it more in line with industry best practices as well as SB 1547’s directive to stimulate competition, innovation, and customer choice. If PGE were to partner with private capital to provide charging stations, it would be able to foster an open market in its service territory. Although Electric Avenue has been described by the Stipulating Parties as modest in size, its opportunity costs could be much larger, and long-lasting.

⁶ U.S. DEPARTMENT OF ENERGY, citing figures (Oct. 23, 2017) available at http://www.afdc.energy.gov/fuels/stations_counts.html.

That said, there is much more in the Stipulation that EVCA agrees with the Stipulating Parties on than areas of disagreement. Should the Commission adopt the Stipulation without modification, EVCA intends to work with the parties to support the implementation of PGE’s pilot programs and ensure that they lay a foundation to best achieve widespread transportation electrification in Oregon. However, as drafted, EVCA’s ability to participate may be unnecessarily limited. As such, if the Commission adopts the Stipulation, EVCA asks that the Commission clarify its ability to participate with the Stipulating Parties in the work ahead, and confirm that the Stipulation does not have precedential effect regarding the adoption of future programs.

A. The Legislative Intent in SB 1547 Provides Clear Roles for Both the Utility and the Commission to Encourage EV Adoption in Oregon

The Oregon Legislature sought to encourage widespread transportation electrification through new transportation electrification programs. It expressly stated that widespread electrification would require utilities to “*increase access* to the use of electricity as a transportation fuel.”⁷ SB 1547 also lays out a grand vision for transportation electrification programs. According to the Oregon Legislature, “[w]idespread transportation electrification should stimulate innovation and competition, provide customers 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 this state.”⁸ The Oregon Legislature also believed that transportation electrification “should assist in managing the electrical grid, integrating generation from renewable energy resources and improving electric system efficiency and operational flexibility, including the ability of an electric company to integrate variable

⁷ SB 1547, Section 20 (2)(b) (emphasis added); see also (2)(c) (noting a similar requirement to provide access in low and moderate income communities).

⁸ SB 1547, Section 20 (2)(d).

generating resources.”⁹ Implementing this aggressive mandate will take cooperative action from Oregon’s utilities, the Commission, and should include stakeholders with national transportation electrification experience to the fullest extent possible. Importantly, SB 1547 does not include any time limits for implementing the new transportation electrification programs, and the parties should take the additional time needed to continue perfecting the Electric Avenue pilot program.

1. Utilities Have an Important Role in Implementing SB 1547

Electric companies need to play a critical role to electrify the transportation industry, including the opportunity to earn a profit on their investments. Specifically,

electric utilities are the indispensable party to facilitate the transition of the transportation sector to a sustainable electric-fueled future. The utilities’ size, operational role in the distribution system, and expertise can help address some of the obstacles currently preventing wider deployment of networked EV charging equipment.¹⁰

Utilities may also plan an important role in meeting the needs of underserved communities, and “may have a role in deploying charging infrastructure in segments of the market that may be underserved, specifically in disadvantaged communities.”¹¹

EVCA agrees with PGE’s conclusion that “SB 1547 sets the stage for the effort to increase the electrification of transportation in Oregon, and puts electric companies squarely in the middle of that effort.”¹² EVCA also appreciates the amount of effort required for PGE to put forward its initial proposals, engage in settlement discussions with stakeholders, and maintain its commitments to put forward additional proposals for residential and workplace charging. EVCA understands that transportation electrification involves years of effort, and looks forward to

⁹ SB 1547, Section 20 (2)(e).

¹⁰ EVCA/100, Cherkaoui/5.

¹¹ EVCA/100, Cherkaoui/10.

¹² Joint Opening Brief at 4; see also EVCA/100, Cherkaoui/6 (“In entering this competitive space, utility companies would be required to go outside of their traditional roles, going behind-the-meter to effectively sell hardware products to customers.”).

working with PGE in the future to achieve the mutual goal of encouraging EV adoption in Oregon.

That said, it is important to recognize that transportation electrification is not in PGE's traditional area of expertise, and EVCA sees the utilities' proper role differently than PGE appears to. EVCA believes that, if PGE could embrace a more narrowly tailored role than the traditional utility-ownership model reflected in its current proposals, then PGE could expand EV opportunities and increase earlier EV adoption at a lower cost to customers and the public.¹³ For example, PGE is uniquely qualified to implement EV-specific rate design, rate pilots, and engage in rate reform to remove barriers to EV adoption.¹⁴ The proper role of utility ownership should have been resolved before moving forward with any pilot programs. Instead, the Stipulation appears to merely kick resolution of the ownership issue down the road.

Ideally the Commission should identify the proper role for utilities to achieve widespread transportation electrification in Oregon, and then use that vision to inform what kind of learnings will allow the stakeholders to move toward the programs' ultimate goals.¹⁵ PGE's goal should not be to provide cheap, reliable power to EVs, or to simply add capital investment to its ratebase, but to "stimulate innovation and competition, provide customers 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 this state"¹⁶ PGE also has the goal to ensure EVs "assist in managing the electrical grid, integrating generation from renewable energy resources and improving electric system efficiency and operational flexibility, including

¹³ EVCA/100, Cherkaoui/5-6.

¹⁴ See also EVCA/100, Cherkaoui/14-15 (describing broader policy issues).

¹⁵ EVCA/100, Cherkaoui/14 ("the Commission should consider a broader proceeding to fully examine and determine the most scalable and sustainable approach to growing the EV and EV charging markets in Oregon.").

¹⁶ SB 1547, Section 20 (2)(d).

the ability of an electric company to integrate variable generating resources.”¹⁷ These are big goals and are worthy of broader pilots.

For example, PGE could choose to explore how utilities can encourage EV adoption by building up their infrastructure and making interconnection in parking lots and common areas easier for outside investors to access. PGE’s proposal could explore the best use of investment that incentivizes *both* utilities and private capital to invest in transportation electrification. Those are the kind of learnings that would allow this pilot program to be rolled out more broadly—to get from 6 to 600 or even 6000 charging stations. PGE’s proposals do not seem to share the grand vision laid out in SB 1547.

To be clear, EVCA believes that capital investments from utilities are going to be needed to achieve widespread transportation electrification in Oregon. The utilities’ distribution systems are going to need to be safely accessed by drivers all over the state. PGE is in a position to support a new public charging market where businesses in its service territory can compete for EV charging customers. This new market will bring new challenges with respect to interconnection and managing installation risk that may be more appropriately handled by the utility. As mentioned above, utilities are also likely to have an important role in ensuring underserved communities have adequate access to EV charging.¹⁸

In short, EVCA and the Stipulating Parties agree more than they disagree about the utilities’ proper role. Although EVCA agrees that PGE must play an important role in

¹⁷ SB 1547, Section 20 (2)(e).

¹⁸ Compare EVCA/100, Cherkaoui/10 (“disadvantaged communities ... may benefit from utility investment in charging equipment, however, utility programs should maintain the core principle of site host choice in charging technology”) with Joint Opening Brief at 6 (“The pilot will also ‘increase access to the use of electricity as a transportation fuel in low and moderate income communities’ by helping to develop the use by TriMet of electric bus service in low and moderate income communities where bus service is statistically used by a significant portion of the population.”).

transportation electrification, EVCA disagrees that PGE must play an ownership role in Electric Avenue. Likewise, although EVCA agrees with Staff that there is value in the gathering and production of certain data, EVCA disagrees that PGE must own the charging equipment to gather that data.¹⁹ Given the large scope of the Stipulation, these disagreements are relatively minor and should not derail progress toward the parties’ mutual goal of encouraging widespread transportation electrification.

2. The Commission Also Has an Important Role in Implementing SB 1547

EVCA agrees that the Commission has been granted broad discretion to approve the Stipulation. In short, SB 1547 *requires* the Commission to direct the utilities to file applications for programs to accelerate transportation electrification,²⁰ *permits* the Commission to prescribe the “form and manner” of those applications,²¹ and *requires* the Commission to *consider* certain factors when determining cost recovery related to the programs.²² Just because the Commission is able to approve the Stipulation, however, does not mean that it should. Instead, the Commission should consider a full range of roles for a regulated utility that will help support and encourage near-term, accelerated deployment of smart EV chargers. This includes considering a number of successful market models that do not involve utility ownership of customer-side

¹⁹ One of EVCA’s members, EVGO, has a couple hundred charging stations in California that require certain reporting. But see Staff’s Opening Brief at 18 (“the gathering and production of data and learnings to determine what is effective and what is not going forward”).

²⁰ SB 1547, Section 20 (3) (emphasis added).

²¹ Id. (emphasis added).

²² SB 1547, Section 20 (4) (emphasis added).

equipment. This will help the Commission ensure that utility investments create benefits for all of its ratepayers.²³

Simply put, it seems unlikely that the Commission would approve a massive expansion of these pilot programs, requiring ratepayers to fund 600 charging stations in PGE's service territory. There seems to be near-unanimous agreement on that point among the stakeholders,²⁴ with the potential exception of PGE.²⁵ The parties may disagree about the likelihood of that later, after the current pilots have concluded and the parties are able to look to the data gathered. But, at least at this point, the Commission should confirm that PGE's pilot programs are not intended to be scalable to meet the needs of drivers in PGE's service territory. The Commission should use its discretion to adopt pilot programs that can be rolled out more broadly. The Stipulation inherited the main deficiency in PGE's initial proposal: the failure to articulate a long-term plan or vision for a transportation electrification future. The pilot programs should be focused, incremental action that advances PGE's long-term plan to implement the Legislature's vision.

Similarly, the Commission's obligation to protect ratepayers may not direct the result here, but it should inform it. Staff relied upon a recent California Public Utilities Commission

²³ EVCA/100, Cherkaoui/5 (“The Commission should authorize strategic risk averse activities and cost-effective ratepayer-funded infrastructure investments that will help accelerate expansion of EV charging and EV adoption.”).

²⁴ Joint Opening Brief at 19 (“The pilot programs allow us to [make meaningful progress in increasing transportation electrification] for a modest cost, over a defined period of time, and with specific limits”); Staff's Opening Brief at 13 (explaining that limiting PGE's programs to pilots, with “clear time and cost limits to protect ratepayers” make Staff more comfortable recommending its approval).

²⁵ PGE has reserved the right to recommend that the Electric Avenue (and ratepayer dollars only funding programs with 100% utility ownership) should be the model for the future. In contrast, PGE has agreed that the TriMet program that relies upon utility ownership “is not a model to allow utility ownership of transit charging infrastructure beyond this pilot's terms and scope.” Stipulation at 4.

(“CPUC”) decision when considering whether to support the Stipulation. This makes sense, as California has taken a lead role in shaping transportation electrification policy and has therefore already addressed some of these same issues. But, if Staff is going to take a page from California’s playbook, it should consider the entire playbook, and not just one page. As Staff noted in its Reply Testimony, the CPUC originally required utilities to “demonstrate a ‘market failure’ or ‘undeserved market’ as part of any request for authority to own charging infrastructure.”²⁶ And in 2014, the CPUC set aside that requirement, noting “[g]iven the early stage of current [plug-in electric vehicles] market development, it may well be premature to reasonably assess ‘market failure’ or whether ‘underserved markets’ exist when the electric vehicle market as a whole is relatively new.”²⁷ Staff explained, “[t]his perspective is similar to Staff’s perspective that this initial investment must be used to better understand the market, collect data, and amass lessons”²⁸

Although the perspective and rationale between Staff and the CPUC appears to be similar, the situations they were addressing were very different. For example, the CPUC initially allowed no utility ownership, absent the requisite showing, and then later decided to implement a more flexible case-by-case determination. Here, Staff is advocating to begin with 100% utility ownership and then later, perhaps in 2027, determine whether some non-utility investment should be encouraged.²⁹ Moreover, the CPUC order acknowledged concerns over utilities entering into competitive markets, stating “[t]he concerns over utility entrance into competitive market sectors are well taken, and lifting the broad prohibition on utility ownership of charging infrastructure in particular is not without limitation. It may be that certain programs are not

²⁶ Staff/400, Klotz/10 (citing CPUC Decision No. 14-12-079 at 2 (Dec. 22, 2014)).

²⁷ Staff/400, Klotz/10-11 (citing CPUC Decision No. 14-12-079 at 6).

²⁸ Staff/400, Klotz/11.

²⁹ The Electric Avenue pilot appears to be a ten-year program. See Stipulation at 6.

appropriate for either ratepayer funding or ratepayer funding without shareholder contribution.”³⁰

Importantly, the CPUC decision pointed out that it “has a number of rules and regulatory protocols designed to address (and potentially restrict or prohibit) utility activity in competitive markets.”³¹ By way of comparison, this Commission does not have any rules or regulatory protocols in place to protect the EV charging market from utility competition, or unfair utility advantages. Thus, this Commission is not similarly situated to protect ratepayers in Oregon.

B. The Stipulation and the Pilot Programs

EVCA supports or does not oppose the majority of the Stipulation. EVCA has no specific objections to the TriMet Electric Mass Transit pilot or the Education and Outreach pilot. And EVCA supports many aspects of the Electric Avenue pilot as well. For example, EVCA believes visible, reliable charging infrastructure is important to reduce range-anxiety, and promote EV adoption. EVCA also supports the notion that PGE should collect certain local data to inform future program design. But, by relying on a utility-ownership model, the Electric Avenue pilot is likely to limit customer choice, may not ultimately be cost effective for PGE’s ratepayers, and could stifle innovation or otherwise impact the competitive market. Should the Commission decide to adopt the Stipulation, it should clarify its effect on future participation and proposals.

1. EVCA Recommends the Commission Require PGE to Revise the Electric Avenue Pilot to Include Alternative Ownership Options

EVCA worries that, as is, PGE’s Electric Avenue pilot program may not promote EV development through competition, innovation, and customer choice. PGE’s ownership model is

³⁰ CPUC Decision No. 14-12-079 at 8.

³¹ Id. (“We intend to take a more detailed, tailored approach to assessing any proposed utility program based upon the facts of specific requests, the likely competitive impact on the market segment targeted, and whether any anticompetitive impacts can be prevented or adequately mitigated through the exercise of existing rules or conditions.”).

inconsistent with EVCA's principles of utility investment in EV charging infrastructure. Worse yet, offering a fully-subsidized product in a competitive market can distort market forces.³²

There are entire business lines and models in this competitive market ready to serve EV charging site hosts and customers. So, EVCA's objections are not just about investing in charging infrastructure equipment, but are also about limiting access to those that can provide services to customers in a new competitive market. Site hosts should have the ability to choose EV charging solutions that fit their specific needs, and Electric Avenue does provide for customer choice.³³ Alternative ownership models would allow PGE to focus on encouraging existing demand for EV charging, which is more likely to result in a widespread transportation electrification. A one-size fits all utility program will not be able to address the wide range of host needs and wants and may thwart development. Utility ownership is also not necessary to collect data from the charging stations.³⁴ Given the problems with the Electric Avenue pilot program, the Stipulation should be revised.

2. Ongoing Participation is Permissible Under the Terms of the Stipulation and the Commission Should Direct the Stipulating Parties to be Inclusive

EVCA is coming from a unique point of view that is widely shared in the industry, understands from its extensive experience that promoting competition lowers costs for customers, and believes it is important that diverse views be included in this process going forward. The Stipulating Parties should not be permitted to isolate themselves or exclude parties that do not agree with them on all aspects of the Stipulation from ongoing meetings associated

³² See EVCA/100, Cherkaoui/6.

³³ EVCA/100, Cherkaoui/7-8 ("EVCA strongly believes that EV charging station site hosts must be allowed to control siting, pricing, as well as access, to ensure that charging stations meet the needs of both EV charging site hosts and drivers.").

³⁴ EVCA/100, Cherkaoui/9 (explaining how application program interfaces allow utilities to view and manage data from stations in their service territory, which reduces ratepayer investment in hardware, administration and maintenance).

with this proceeding. EVCA’s membership diversity allows it to draw on years of experience, and expertise working with other utilities on other EV programs, which can only help the Stipulating Parties in achieving the vision laid out in SB 1547. One would think the Stipulating Parties would welcome organizations with broad membership that have participated in other transportation electrification programs and already understand some of the key learnings they are seeking.

Some of the Stipulating Parties pointed out that EVCA could have intervened sooner and signed the Stipulation, but chose not to.³⁵ Although EVCA did not intervene until late, it is possible that even if EVCA had participated from the beginning that it still may not have reached an agreement with the other parties. The price of constructive participation in the most important transportation electrification pilot program in Oregon’s history should not be unqualified support of all aspects of the Stipulation. EVCA should be welcomed to play a role in the future of transportation electrification programs in Oregon and it should not be prevented from doing so simply because it disagrees with one aspect of a much broader stipulation.

Since the hearing, the Stipulating Parties appear to have adopted Staff’s position that certain meetings under Section 4 (and perhaps Section 6) of the Stipulation are exclusive, and therefore limited to only the Stipulating Parties.³⁶ With respect to Section 4, which contemplates future meetings to “identify the specific and detailed learnings for each of the three [] pilots”, Staff explains that the “list of pilot learnings” is “essentially already complete, and opening the

³⁵ Joint Opening Brief at 16-17.

³⁶ See Staff’s Opening Brief at 18 (“Staff’s view is that the list of pilot learnings to be filed in this docket is limited to Stipulating Party-input because they flow directly from the pilots that were reached in this Stipulation based on the exchange of policy positions and the collaboration of the nine Stipulating Parties”); Joint Brief at 16 (“Input into the specific learnings as described in Section 4 of the Stipulation and the development of a cost recovery method in Section 6 are both limited by their terms to the Stipulating Parties.”).

list of learnings up to ChargePoint and EVCA could very well unravel the progress made.”³⁷

Staff seems to misunderstand EVCA’s intentions. EVCA will not take any actions to unravel any progress made to date. And if the Commission approves the Stipulation, EVCA will participate as a good-faith partner under the terms established by the Stipulation.³⁸ Moreover, Staff’s example undermines its own argument. If the list of learnings is “essentially already complete” then there should not be much left for EVCA to unravel.

It is important to distinguish between: 1) establishing the list of intended learnings (now); 2) determining what has been learned (later with the Stipulating Parties); and 3) reviewing what has been filed (in annual Commission filings). The Stipulating Parties appear to argue that the list of intended learnings is essentially done and not worth discussing with EVCA, but has not offered any reason to exclude EVCA from future discussions with the Stipulating Parties. Instead Staff explains, “the Stipulating Parties never intended to preclude the participation of EVCA, or future stakeholders, from reviewing PGE’s future annual reports, pilot evaluations, EV charging tariffs, etc. All of these items would, consistent with standard practice, be filed in the docket and subject to review by EVCA and other stakeholders.”

Again, Staff’s statements undermine its own argument. If the Stipulating Parties never intended to preclude participation from the Non-Stipulating Parties, they appear to be free to include them now. And if EVCA will ultimately have access to all of the filings and data collected, consistent with standard Commission practice, then why not include EVCA in the

³⁷ Staff’s Opening Brief at 18; Stipulation at 2.

³⁸ EVCA/100, Cherkaoui/3 (“Should the Commission disregard our recommendation for modifications, however, I recommend allowing EVCA and other stakeholders to inject their valuable insight in post-approval discussions regarding cost recovery”).

meetings with Stipulating Parties reviewing that data?³⁹ Assuming Staff is correct that the “Stipulating Parties practiced collaboration and continue to support the use of collaboration in the future” then they should welcome EVCA’s participation in their future meetings.⁴⁰

The Stipulation includes a draft of the intended learnings for each of the three current pilot programs, which notes that they are subject to revision. After reviewing the draft learnings, it is not clear why EVCA’s disagreement with the Stipulating Parties over ownership of charging equipment is significant enough to exclude EVCA from future meetings discussing these learnings. EVCA should at least be included in the process so it can understand why the Stipulating Parties selected certain learnings, what they mean, what their purpose is, etc., for numerous reasons, including that some of this information may already be publicly available or attainable from other sources. For example, some of the Electric Avenue learnings (load profiles and customer willingness sensitivities, etc.) may be available from other pilot programs in other states. Incorporating learnings from other pilot programs could also help the Stipulating Parties gauge the success of PGE’s pilots. Moreover, the Outreach & Education learnings appear to overlap with the business model of at least one of EVCA’s members.⁴¹ As a national trade association representing electric vehicles, EVCA has ideas and information that can help the Stipulating Parties achieve widespread transportation electrification.

There are other meetings, beyond reviewing the learnings, which EVCA should be provided the opportunity to participate in. With respect to Section 6, which establishes a method

³⁹ Stipulation at 2 (“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.”).

⁴⁰ Staff’s Opening Brief at 18.

⁴¹ EVCA’s witness, Dr. Abdellah Cherkaoui, works for Volta Charging, LLC, which offers prominent community charging that is free to drivers as a catalyst for EV education and adoption. Volta relies upon a sponsorship model, connecting brands with different communities, which would not be available under the Electric Avenue pilot.

for cost recovery, the Stipulating Parties have not articulated any rationale for excluding the Non-Stipulating Parties from these discussions. Some of the Non-Stipulating Parties have indicated that they believe Section 6 is also exclusive, but have not provided any reason to exclude EVCA from future cost-recovery discussions, other than EVCA’s failure to intervene earlier.⁴² There is no reason that parties who “came late to the process” should be excluded from determining how the cost cap is calculated, how revenues will be applied against costs over the life of the projects, or requirements for tracking or reporting costs and revenues.⁴³

Likewise some of the Stipulating Parties appear to argue that Section 17, which requires certain discussions before PGE can propose any future programs to use ratepayer money for mass transit, is neither exclusive nor inclusive, but is permissive.⁴⁴ This means that Section 17 does not preclude PGE from including the Non-Stipulating Parties in those conversations—or from the Commission including interested parties in those conversations—but, does not require any such inclusion either. This would also mean that Section 17 does not preclude PGE from excluding EVCA entirely. Notably, although PGE stated at the hearing that it was willing to include EVCA in certain conversations, the Stipulating Parties have not made any commitments do so. Simply saying that PGE is not precluded from inviting EVCA does not mean that EVCA will be invited.

Oddly, those same parties expressly argue that Section 29, which provides for annual review of PGE’s tariff, is permissive, and suggest that Sections 30 and 31, which address future

⁴² Joint Opening Brief at 16-17.

⁴³ Staff’s Opening Brief at 17; Stipulation at 3; see also EVCA/100, Cherkaoui/14 (“a comprehensive review would allow the Commission to hear from a full range of industry perspectives, and subsequently make a well-rounded decision on how to proceed with cost recovery”).

⁴⁴ Joint Opening Brief at 17 (“the language does not preclude PGE from having such discussions with other parties that express an interest” and “the Commission is free to invite EVCA”).

pilot proposals, may actually be inclusive.⁴⁵ EVCA knows that it can generally participate in any Commission proceedings or review any public filings. What EVCA wants is to be invited to the meetings and processes prior to any filings in this docket rather than learn about them from being served with publicly available filings, because important decisions may be made during these meetings with the Stipulating Parties. Section 29 may be particularly relevant because it contemplates an annual review of PGE’s tariff charges. These meetings may be a key opportunity to determine whether the appropriate mix of public, utility, and private investment is available to achieve a mature, viable public infrastructure market.

3. No Party Believes the Stipulation Has Precedential Effect

Finally, Staff incorrectly argues that EVCA believes the pilot programs in the Stipulation will have precedential impact.⁴⁶ That is not the case, and Staff misunderstands EVCA’s position. EVCA simply believes that the Commission should provide clarity, and confirm that the Stipulation does *not* have precedential effect. The Stipulation is confusing because PGE has committed to do certain things,⁴⁷ committed not to do certain things,⁴⁸ and has not addressed its intentions with respect to future programs.⁴⁹ Staff should not mistake an effort to understand and confirm that the Stipulation is not precedential with a belief that it is. Moreover, the fact that

⁴⁵ Id. at 17-18 (“Section 29 ... is permissive” and “Sections 30 and 31 ... describe future filings by PGE that interested parties such as EVCA and ChargePoint may choose to get involved in early in order to provide input in a constructive and timely manner.”)

⁴⁶ Staff’s Opening Brief at 17 (“EVCA argues that the Stipulation will have a precedential impact”).

⁴⁷ E.g., id. at 4 (PGE will propose two new pilot programs for residential and workplace and/or fleet charging).

⁴⁸ E.g., Stipulation at 5 (“PGE will not undertake any future action that commits ratepayer funding for mass transit electrification projects without first participating in a discussion with the Commission”).

⁴⁹ Compare Staff’s Opening Brief at 13 (“Early on in testimony, Staff explained that it was uncomfortable with the limited amount of data and analysis to support a large roll out of *any* program”); with id. at 18 (noting the Stipulation provides process and methodologies “necessary to confidently recommend larger programs in the future”).

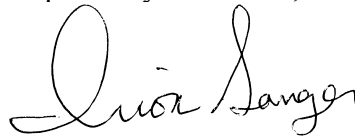
Staff has expressly stated the Stipulation is not intended to be precedential, should make this a simple issue for the Commission to address.⁵⁰ Thus, should the Commission approve the Stipulation, it should clarify that the pilot programs are not precedential and only adopted to produce learnings. The Commission should also clarify, for the record, that utility ownership is not the only way to obtain the data being collected for the intended learnings.

IV. CONCLUSION

EVCA respectfully requests the Commission use its broad discretion to implement the transportation electrification requirements in SB 1547 so as not to inhibit the adoption of EV vehicles, or thwart certain stakeholders from participating in its implementation. Should the Commission adopt the Stipulation, it should require the Stipulating Parties to include the Non-Stipulating Parties in the future meetings and discussions associated with PGE's pilot programs, and confirm the Stipulation has no precedential effect.

Dated this 17th day of November 2017.

Respectfully submitted,



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⁵⁰ Staff's Opening Brief at 17 ("stipulations by their very nature are not considered precedential at this Commission, and there is specific language in the Stipulation explaining that none of the pilots in the Stipulation, including the Electric Avenue Pilot, are intended to be precedential.") (citations omitted).