

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

**IN THE MATTERS OF PACIFICORP)
DBA PACIFIC POWER, APPLICATION)
FOR TRANSPORTATION)
ELECTRIFICATION PROGRAMS)**

DOCKET NO. UM 1810

CHARGEPOINT EXHIBIT 200

RESPONSE TESTIMONY IN OPPOSITION TO STIPULATION OF DAVID PACKARD

October 4, 2017

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1 **I. INTRODUCTION AND SUMMARY OF RECOMMENDATIONS**

2 **Q: Please state your name.**

3 A: My name is David Packard.

4 **Q: By whom are you employed and in what position?**

5 A: I am the Vice President of Utility Solutions at ChargePoint, Inc.

6 **Q: Have you previously filed testimony before the Oregon Public Utility Commission?**

7 A: Yes, I filed Reply Testimony in this docket on May 24, 2017. I also filed Reply Testimony
8 and Testimony Opposing Stipulation in Docket No. UM 1811 on April 24, 2017 and
9 August 25, 2017, respectively.

10 **Q: Did your Reply Testimony in this docket include a description of your witness
11 qualifications?**

12 A: Yes, and I would like to incorporate that description here by reference.

13 **Q: Would you like to incorporate any other parts of your Reply Testimony here?**

14 A: Yes. I would also like to incorporate page 11, line 9 through page 17, line 11, and page 20,
15 lines 7-9 of my Reply Testimony into the record. ChargePoint continues to oppose Pacific
16 Power’s proposed Public Charging program, and the minor modifications made to the
17 program through the Stipulation do not alter my earlier position that I expressed in my
18 Reply Testimony.

19 **Q: What is the purpose of your Response Testimony in Opposition to the Stipulation?**

20 A: The purpose of my testimony is to explain to the Commission why ChargePoint opposes
21 Pacific Power’s proposed Public Charging program, as modified by the Stipulation filed
22 by Pacific Power and the Stipulating Parties. As the Stipulating Parties admit, the Public
23 Charging program fails to meet the statutory criteria for transportation electrification

1 programs established by the Legislative Assembly in Senate Bill (SB) 1547. Because it
2 fails to meet the statutory criteria that it must meet, and because it would hamper rather
3 than accelerate transportation electrification in Pacific Power's service territory, it could
4 never be approved as a full-fledged utility program. The Commission should therefore not
5 approve it as a pilot program, either.

6 I recommend that the Commission deny the Public Charging program for failing to
7 meet the statutory and rule criteria that it must meet. I further recommend that the
8 Commission provide guidance to Pacific Power regarding the types of utility programs that
9 would satisfy SB 1547's criteria that it would be interested in approving. To that end, I
10 provide several examples of utility transportation electrification programs from around the
11 country that would satisfy SB 1547's criteria and reflect an appropriate role for the utility.

12 **Q: Please summarize your recommendations to the Commission.**

13 A: I recommend that the Commission:

- 14 • Deny the Public Charging program for failing to meet the statutory criteria in Section
15 20 of SB 1547 that it must meet;
- 16 • Direct Pacific Power to reallocate the \$1.85 million it has proposed to spend on the
17 Public Charging program to the Demonstration and Development program;
- 18 • Provide guidance to Pacific Power regarding the appropriate role of a utility in the
19 public charging market that will balance the six statutory criteria in Section 20 of SB
20 1547.

21 **Q: Does ChargePoint oppose the Demonstration and Development program or the**
22 **Outreach and Education program, as modified by the Stipulation?**

1 A: No. ChargePoint supports Commission approval of the Demonstration and Development
2 program and the Outreach and Education program, as modified by the Stipulation.

3 **II. THE PUBLIC CHARGING PROGRAM FAILS TO MEET SB 1547'S**

4 **CRITERIA**

5 **Q. What will you discuss in this section of your testimony?**

6 A. In this section of my testimony, I will discuss the Public Charging program's failure to
7 meet the criteria established by the Legislative Assembly in SB 1547 for evaluating
8 Pacific Power's proposed transportation electrification programs. I will also discuss the
9 Legislative Assembly's stated intent in enacting Section 20 of SB 1547 and will
10 demonstrate that the Public Charging program will fail to fulfill the intent of SB 1547.

11 **Q: What criteria does SB 1547 establish for evaluating Pacific Power's proposed Public**
12 **Charging program?**

13 A: SB 1547 establishes six criteria under which the Commission must evaluate any utility
14 transportation electrification program. Of particular interest to ChargePoint, the
15 Commission must consider whether the Public Charging program is "reasonably expected
16 to stimulate innovation, competition and customer choice in electric vehicle charging and
17 related infrastructure and services."¹ SB 1547 indicates that the Commission must make
18 such a determination both when it decides whether or not to approve a program, and
19 when it considers whether or not to allow a utility to recover the costs of the program.

20 **Q: Before discussing innovation, competition, and customer choice, what do the**
21 **Stipulating Parties say about SB 1547's six criteria?**

¹ SB 1547, Section 20(4)(f).

1 A: The Stipulation itself states, “Commission approval of this Stipulation does not imply
2 that these pilots meet the six statutory factors established in Section 20(4) of Senate Bill
3 1547.”² The Stipulating Parties have also opined that “SB 1547 only requires the
4 Commission to *consider* the six factors. This language indicates that the six factors
5 provide guidance for the Commission, as opposed to substantive obligations that must be
6 satisfied before a transportation electrification program is approved.”³

7 *A: Customer Choice*

8 **Q: Let’s discuss innovation, competition, and customer choice in turn, starting with
9 customer choice. What do the Stipulation and the Stipulating Parties’ testimony say
10 about customer choice?**

11 A: The word “choice” appears only twice in the Stipulation and the Stipulating Parties’
12 testimony. First, it appears in a rote recitation of SB 1547’s statutory criteria, without any
13 explanation for how the Public Charging program would stimulate customer choice.⁴
14 Second, in discussing the Public Charging program, the Stipulating Parties’ Joint
15 Testimony refers to “promoting customer choice in transportation fuel.”⁵

16 **Q: Did SB 1547 or the Commission’s implementing regulations direct Pacific Power to
17 promote customer choice in transportation fuel?**

18 A: Not exactly. SB 1547 directed Pacific Power to “stimulate ... customer choice in electric
19 vehicle charging and related infrastructure and services.”⁶ In other words, the Legislative

² Stipulation, ¶ 18.

³ Stipulating Parties/100, Morris-Klotz-Mullins-Jenks-Allen-Ashley-Avery/11, line 23 – page 12, line 3.

⁴ Stipulating Parties/100, Morris-Klotz-Mullins-Jenks-Allen-Ashley-Avery/11, line 4.

⁵ *Id.* at 13, lines 17-18.

⁶ SB 1547, Section 20(4)(f).

1 Assembly wanted Pacific Power to do more than simply offer electricity as an additional
2 transportation fuel option – it wanted there to be choices and options among the charging
3 infrastructure and services that provide electricity for transportation. ChargePoint
4 emphatically supports increasing the availability of electricity as a transportation fuel
5 choice, but the Public Charging program proposal is likely to be ineffective at achieving
6 that goal, for reasons I will discuss later in my testimony.

7 **Q: Why do you think the Stipulation and the supporting testimony does not address**
8 **customer choice with respect to charging infrastructure and services, as required by**
9 **SB 1547?**

10 A: It does not surprise me that customer choice with respect to charging infrastructure and
11 services is not mentioned in the Stipulation or the supporting testimony because customer
12 choice is not a feature of the Public Charging program. Pacific Power has proposed to
13 procure charging stations for the Public Charging program through a Request for
14 Proposals (RFP) process, in which the utility – and not customers – would be choosing
15 the electric vehicle charging equipment and services. This proposal clearly violates SB
16 1547’s requirement that customers be allowed to choose charging equipment and
17 services.

18 The Stipulating Parties seem to think that the Public Charging pilot program
19 would stimulate customer choice on the basis that there are no Public Charging stations
20 owned by Pacific Power today, so adding up to 28 utility-owned DC fast chargers
21 (DCFCs) and seven Level 2 chargers would provide additional charging options.⁷ Again,
22 SB 1547 directs Pacific Power to stimulate customer choice specifically among different

⁷ PAC/100, Morris/17.

1 types of charging infrastructure and services. Allowing Pacific Power to choose one type
2 of charging station and network⁸ and offering one charging service option to all
3 customers would not fulfill this requirement.

4 **Q: In your understanding, who is the “customer” that the Commission should be**
5 **concerned with in order to ensure that a transportation electrification program**
6 **stimulates customer choice?**

7 A: In my opinion, the “customer” intended by the statute is the entity that hosts a charging
8 station and allows drivers to charge their vehicles at the station. I provided many
9 examples of such customers in my Reply Testimony, including big-box retailers,
10 municipal governments, convenience stores, employers, and the owners of multi-unit
11 dwellings (MUDs). These entities may offer a charging station to their shoppers, their
12 constituents, their employees, or their tenants, but they are the ones paying the electric
13 bill, so they are the customer-of-record. Because the drivers that use a particular station
14 are also the shoppers, constituents, employees, or tenants of the site-host, site-hosts are in
15 regular contact with those drivers and are best equipped to understand their needs and
16 preferences.

17 That said, it is also reasonable to interpret “customer choice” in SB 1547 to refer
18 to EV drivers, because drivers are the ultimate end-users of charging stations. Even under
19 this interpretation, however, the Public Charging program would not include any
20 customer choice. Again, the Public Charging program would offer only one type of

⁸ I acknowledge that Pacific Power would be choosing two “types” of stations in that it has proposed to provide both DCFCs and Level 2 chargers at the Public Charging program pods, but Pacific Power has indicated that it prefers a single vendor for all aspects of all of the pods. UM 1810 – PacifiCorp’s Application for Transportation, p. 40.

1 charging station and one type of network service that Pacific Power would choose for
2 drivers through its RFP process.

3 **Q: Why do you consider customer choice to be so important?**

4 A: In ChargePoint's extensive experience with publicly available charging station programs
5 around the country and in Europe, and in my 19 years of experience in the EV charging
6 industry, we have found that customer choice is the linchpin that determines whether a
7 program will be successful or not. By "successful," I mean that a program that
8 incorporates customer choice is more likely to create a self-sustaining market that can
9 thrive without the need for constant investments of ratepayer money.

10 Charging station site-hosts are generally well-equipped to determine the needs
11 and preferences of the EV drivers who will use the charging station. Because EV drivers
12 are typically the site-host's customers, tenants, employees, or constituents, site-hosts are
13 well-positioned to understand how and when a charging station will be used and what
14 features are important to the drivers who will use the charging station. When site-hosts
15 can choose the type of charging station, they will be motivated to choose the type that
16 best fits the needs of the drivers who will use it, based on their understanding of those
17 drivers. Further, site-hosts have the flexibility to change the rates and pricing structure
18 that they charge drivers for charging based on drivers' preferences and habits. Because
19 they are paying the electric bill for the station, site-hosts are generally motivated to
20 maximize the utilization of their station or stations.

21 Public Charging would not allow charging station site-hosts any choice in
22 charging station infrastructure or services, because Pacific Power would make the choice
23 for them through an RFP. There is simply no reason to think that a utility would be

1 effective at determining the needs of particular EV drivers, and regardless, different EV
2 drivers have different preferences. Pacific Power's proposed "one-size-fits-all" approach
3 – both with respect to charging infrastructure and its rate structure – assumes that all EV
4 drivers are the same and have the same needs regardless of where they are or when they
5 are trying to charge their vehicle, which is simply not true.

6 Finally, customers (both site-hosts and EV drivers) will not enjoy the benefits of
7 competition or innovation – the other two relevant criteria – if Pacific Power locks-in a
8 particular technology and prevents any customer choice through an RFP.

9 **Q: What do you ultimately conclude regarding SB 1547's customer choice criterion**
10 **with respect to the Public Charging program?**

11 A: The Public Charging program would not involve any customer choice with respect to
12 charging infrastructure and services, much less stimulate customer choice as the
13 Legislative Assembly intended and required. As a result, and as will be discussed in more
14 detail later in my testimony, the Public Charging program can be expected to hamper
15 transportation electrification in Pacific Power's service territory, rather than accelerate it.
16 In ChargePoint's view, the Public Charging program's failure to involve any aspect of
17 customer choice with respect to charging infrastructure and services is sufficient reason
18 for the Commission to deny the program.

19 *B. Competition*

20 **Q: An RFP is by nature a competitive process – why did you say earlier that an RFP**
21 **will prevent customers from enjoying the benefits of competition?**

22 A: An RFP will allow for exactly one opportunity for competition, which does not strike me
23 as consistent with SB 1547's directive that Pacific Power "stimulate" competition in the

1 market. Moreover, in an RFP, bidders compete almost exclusively on the basis of cost,
2 which means that competition will not lead to innovation or additional customer choices,
3 as I will discuss next.

4 ChargePoint is also concerned that Pacific Power apparently believes that it
5 would stimulate competition in the EV charging market by entering that market with the
6 Public Charging program. Pacific Power forgets that it would be entering that market
7 with a massive advantage in the form of its captive ratepayer base, and the funding and
8 access to capital that those captive ratepayers provide. Adding Pacific Power to the
9 market will do much more to dampen competition than to stimulate it.

10 *C. Innovation*

11 **Q: Why do you think that Public Charging will fail to promote innovation?**

12 A: Utilities procure through an RFP process that is designed to minimize product features so
13 that they can purchase at commodity pricing. RFPs do not provide for customer choice,
14 nor do they stimulate innovation. Rather than allowing site-hosts to select the product that
15 best meets their needs, utility RFPs define the criteria to which vendors need to build
16 their product, choose the solution with the lowest price, and then force this solution on
17 the market.

18 Additionally, Pacific Power does not have the experience to define the necessary
19 features for the network of DCFC stations it proposes to deploy in Oregon. Pacific Power
20 does not have the framework to be able to move quickly enough to redefine features and
21 redeploy products, as is currently happening in the market. Instead, Pacific Power would
22 lock-in one solution for the ten-year life of the program.

1 Pacific Power is not the customer that “customer choice” in SB 1547 refers to,
2 and “customer choice” was not intended to promote a process by which Pacific Power
3 defines and selects what it wants. Stimulating customer choice, as defined by the
4 legislation, requires a process by which vendors sell products to end-use customers (i.e.,
5 site-hosts, not utilities), who, with their variety of needs and desires help shape product
6 features that will build the market into a sustainable industry. The vendors in the EV
7 charging industry has thousands of site-host customers who are helping shape the
8 industry. The industry is constantly innovating to create exciting products that meet the
9 unique needs and desires of site-hosts and the drivers that visit their stations. Oregon’s
10 DCFC deployment cannot be based on PGE’s Electric Avenue installation (which offers
11 free charging) in a busy downtown area being spread into an area wide model.

12 **III. THE PUBLIC CHARGING PROGRAM WOULD FAIL TO PROMOTE THE**
13 **LEGISLATIVE ASSEMBLY’S GOALS FOR TRANSPORTATION**
14 **ELECTRIFICATION**

15 **Q: What will you discuss in this section of your testimony?**

16 A: In this section of my testimony, I will discuss the Legislative Assembly’s stated intent
17 behind Section 20 of SB 1547 with respect to Public Charging. Specifically, I will discuss
18 the Legislative Assembly’s vision that “Widespread transportation electrification should
19 stimulate innovation and competition, provide consumers with increased options in the
20 use of charging equipment and in procuring services from suppliers of electricity, attract
21 private capital investments and create high quality jobs in this state.”⁹

⁹ SB 1547, Section 20(2)(d).

1 *A. Increased options*

2 **Q: Let's discuss each of these criteria in turn. You've discussed above the reasons that**
3 **you believe the Public Charging program would fail to stimulate innovation and**
4 **competition. Would the Public Charging program provide consumers with**
5 **increased options in the use of charging equipment?**

6 A: No, it will not. As I have discussed, the Public Charging program would provide
7 customers with only one option for charging equipment: namely, the equipment vendor
8 that wins the RFP. It is difficult to see how such a result comports with the Legislative
9 Assembly's intent to provide increased options.

10 By contrast, Pacific Power's proposed Demonstration and Development program,
11 which ChargePoint supports, would provide a wide variety of additional options for
12 charging station site-hosts and the drivers that would visit those site-hosts. By relying on
13 grants and by allowing site-hosts to determine the number and type of charging stations
14 to deploy, the Demonstration and Development program would further the Legislative
15 Assembly's stated intent for transportation electrification programs.

16 *B. Private capital investments*

17 **Q: Would the Public Charging program attract private capital investments in Pacific**
18 **Power's service territory?**

19 A: No. The winner of the RFP to supply the equipment and network services for Public
20 Charging will not be investing in Pacific Power's service territory; rather, it will be
21 making a large sale to Pacific Power that will be paid for by Pacific Power's ratepayers.
22 In other words, the only investors in Public Charging will be Pacific Power's ratepayers. I
23 cannot imagine the ratepayer investment that Pacific Power has proposed for the Public

1 Charging program is the type of investment the Legislative Assembly had in mind when
2 it stated that transportation electrification should encourage “private capital investments.”

3 In fact, I would expect that the Public Charging program would actually
4 discourage private capital investments in publicly available charging stations. If the
5 Commission approves the Public Charging program contrary to ChargePoint’s
6 recommendations, prospective site-hosts who may be considering investing in publicly
7 available charging stations would be much less likely to do so when they learned that
8 Pacific Power was providing charging stations for free (i.e., without any investment from
9 site-hosts). Electric vehicle service equipment (EVSE) vendors would also be less likely
10 to invest in their own publicly available charging stations when they learned that Pacific
11 Power was providing charging stations. If vendors learned that the Public Charging pods
12 did not even need to produce enough revenue to recover the costs of the stations because
13 any shortfall would be made up by ratepayers, vendors would be even less likely to invest
14 in publicly available charging stations.

15 **Q: Wouldn’t Public Charging encourage private investment by encouraging more**
16 **drivers to purchase EVs, thereby increasing demand for additional publicly**
17 **available charging stations?**

18 A: Increasing the number of EV drivers will increase demand for additional publicly
19 available charging stations, but it is doubtful that private investment would materialize to
20 meet that demand if the Commission approves the Public Charging program. The
21 Stipulating Parties seem to believe that Public Charging would not have a major impact
22 on the market for publicly available charging stations because it would involve “only”

1 seven charging pods, each with four DCFCs and one Level 2 charger, for a total of 28
2 DCFCs and seven Level 2 chargers.

3 Despite characterizations that this would be a “modest” foray by Pacific Power
4 into the public charging market,¹⁰ in my opinion it would be quite significant both
5 because of its size and because of the precedent that it would set. Even with “only” seven
6 pods (with 35 total charging ports), the structure of the Public Charging program would
7 teach the market that Pacific Power will provide ratepayer-funded charging stations, and
8 that there is no reason or opportunity for private investment to participate in the market.
9 For example, why would a convenience store invest in a charging station if Pacific Power
10 could install one down the road, especially if Pacific Power did not even need to recover
11 the cost of the charging station or the cost of the electricity? Similarly, why would an
12 EVSE vendor invest in its own publicly available charging station if Pacific Power could
13 undercut the rates that the private company would need to charge by relying on ratepayer
14 funding?

15 Private companies do not have captive ratepayers to rely on the way that Pacific
16 Power does, and I expect that few if any private companies would be interested in
17 competing with Pacific Power on such an uneven playing field. While the Public
18 Charging program would result in additional charging pods in the near-term, I expect that
19 Pacific Power’s participation in the publicly available charging station market would
20 severely distort and hamper the market over the medium- and long-term, resulting either
21 in far fewer charging stations or resulting in Pacific Power taking over the entire market.

¹⁰ Stipulating Parties/100, Morris-Klotz-Mullins-Jenks-Allen-Ashley-Avery/21, line 4.

1 Approving Public Charging would set the stage for a market that is dependent on
2 ratepayer subsidies indefinitely.

3 **Q: In addition to the legislative intent of SB 1547, are there other reasons that private**
4 **capital investments are important to the success of a transportation electrification**
5 **program?**

6 A: Yes. In ChargePoint's experience, a site-host is more likely to choose the right type and
7 right number of charging stations if the site-host shares in the cost of the charging
8 stations. If a utility pays for 100 percent of the upfront cost of charging stations, a site-
9 host will typically choose to have as many charging stations installed as the utility will
10 pay for, even if those stations are unlikely to be optimally utilized. Further, when a site-
11 host has "skin in the game," the site-host is more likely to ensure that charging stations
12 are sited in the most optimal location on the property, are visible, are well-maintained,
13 and offer affordable charging options to the drivers who will visit the station. For these
14 reasons, ChargePoint typically recommends that even a utility EVSE rebate or grant
15 program require site-hosts to share in the upfront cost of charging stations. I recognize
16 that the Demonstration and Development program would provide up to 100 percent of the
17 cost of charging station for grant applicants and we do not oppose this aspect of that
18 program, but I expect that those projects in which site-hosts share in the cost of the
19 charging stations will be the most successful.

20 **Q: If the Commission were to approve the Public Charging program, would**
21 **ChargePoint opt not to install publicly available charging stations in Pacific Power's**
22 **service territory?**

1 A: As a private company, ChargePoint is not able to disclose all of its investment plans. That
2 said, the outcome of this case will determine whether or not we as a company market our
3 fast chargers in Pacific Power's service territory over the next few years. If Pacific Power
4 has the ability to offer site-hosts free charging stations or charging stations located on
5 rights-of-way that are subsidized by ratepayers, it will have a substantial impact on our
6 consideration to make investments in Oregon and whether we consider other markets that
7 are more competitive.

8 *C. High-quality jobs*

9 **Q: Do you expect that the Public Charging program would help create high quality**
10 **jobs in Oregon?**

11 A: No, I do not see how it would. The Public Charging program would result in one large
12 purchase of charging equipment and network services at the conclusion of the RFP. After
13 the RFP is over, there would be little reason for EVSE vendors to continue participating
14 in Pacific Power's service territory because Pacific Power would then dominate and
15 control the market. EVSE vendors would have little reason to employ sales, marketing, or
16 support personnel in Pacific Power's service territory if the only opportunity to make a
17 sale was to win an RFP.

18 By contrast, I expect that the Demonstration and Development program, through
19 which Pacific Power will provide grants for transportation electrification projects
20 designed by charging station site-hosts, will lead to the creation of some high-quality
21 jobs. EVSE vendors will likely deploy teams of sales and marketing professionals to
22 recruit prospective site-hosts, who would be excited by the possibility of attracting
23 additional customers or providing a value-added service to their tenants, employees, or

1 constituents. Because both EVSE vendors and prospective site-hosts would know that
2 Pacific Power was willing to help reduce the upfront cost of charging stations through a
3 grant (if the proposal is chosen through the grant-making process), it would be even more
4 likely that a charging station would be deployed.

5 The Demonstration and Development program is the type of transportation
6 electrification program that I believe the Legislative Assembly had in mind when it
7 passed SB 1547. Only this type of program – in which the utility plays a supporting role
8 in the market that only the utility can play, rather than competing directly in the market –
9 can balance SB 1547’s criteria and legislative intent. For these reasons, ChargePoint
10 continues to recommend that the Commission direct Pacific Power to reallocate the \$1.85
11 million it has proposed to spend on the Public Charging program to the Demonstration
12 and Development program. As I discussed in my Reply Testimony, by leveraging private
13 investment from site-hosts, I expect that this \$1.85 million would support far more than
14 the 28 DCFCs and seven Level 2 chargers that Pacific Power has proposed for the Public
15 Charging program, if it is reallocated to the Demonstration and Development program.

16 **IV. PACIFIC POWER CANNOT AVOID STATUTORY REQUIREMENTS BY**
17 **LABELING THE PUBLIC CHARGING PROGRAM AS A “PILOT”**
18 **PROGRAM**

19 **Q: What will you discuss in this section of your testimony?**

20 A: In this section of my testimony, I will discuss the fact that the Oregon Public Utilities
21 Commission Staff (Staff), the Citizens’ Utility Board (CUB), and the other Stipulating
22 Parties have recommended that the Commission approve the Public Charging program
23 because they have labeled it as a “pilot” program.

1 A. *The Commission must consider SB 1547's criteria for pilot programs.*

2 **Q: What do the Stipulating Parties say about Public Charging being a pilot program?**

3 A: With respect to each of Pacific Power's transportation electrification programs, including
4 Public Charging, the Stipulation states the following: "PacifiCorp's programs approved
5 in this docket are pilot programs, meaning they are time-limited, cost-limited, and require
6 specific learnings; further, Commission approval of this Stipulation does not imply that
7 these pilots meet the six statutory factors established in Section 20(4) of Senate Bill
8 1547."¹¹

9 **Q: How do you interpret this statement from the Stipulation?**

10 A: This statement indicates that at least some of the Stipulating Parties attach considerable
11 importance to labeling Pacific Power's proposed programs, including the Public
12 Charging program, as pilot programs. Logically, I understand this statement to mean that
13 at least some of the Stipulating Parties believe that the programs do not meet SB 1547's
14 six statutory criteria and that they do not need to meet these criteria if they are considered
15 pilots.

16 **Q: What is your reaction to this position taken by the Stipulating Parties?**

17 A: Frankly, I am disturbed that certain parties, particularly Pacific Power, Staff, and CUB,
18 would recommend that the Commission approve a program that they acknowledge does
19 not meet the statutory criteria that the programs are supposed to meet. As I mentioned
20 earlier, I am also surprised that these parties would suggest to the Commission that it can
21 and should approve a program even if it finds that the program does not meet the relevant
22 statutory criteria. I am also concerned that the Stipulating Parties seem to believe that

¹¹ Stipulation, ¶ 18.

1 because the programs are “time-limited, cost-limited, and require specific learnings,” that
2 SB 1547’s criteria somehow do not apply or are not relevant.

3 **Q: What is your understanding of the Commission’s discretion with respect to**
4 **evaluating Pacific Power’s proposed transportation electrification programs,**
5 **including the Public Charging program?**

6 A: In my understanding, the Commission can and should consider how much weight to give
7 each of the six statutory criteria. The Commission also has the discretion to consider how
8 reasonable it is to expect that a program will actually meet a particular criterion based on
9 the facts and arguments in the record. However, I do not think that the Commission has
10 the discretion to find that a particular criterion does not apply or does not need to be met
11 at all. Otherwise, there would be no point in the Legislative Assembly establishing these
12 criteria in the first place.

13 As I have discussed extensively in this testimony and in my Reply Testimony, and
14 as ChargePoint explained in our Objections filed in this docket, the Public Charging
15 program is not “reasonably expected to stimulate innovation, competition and customer
16 choice in electric vehicle charging and related infrastructure and services.” Significantly,
17 the Stipulating Parties have not even tried to argue that the Public Charging program
18 would stimulate customer choice in EV charging infrastructure and services, and they
19 would not be able to do so because Pacific Power – and not customers – would be
20 choosing all infrastructure and services involved in the Public Charging program.

21 *B. There is no reason to pilot a utility program that has no future viability.*

22 **Q: What is your understanding of the purpose of utility pilot programs generally?**

1 A: My understanding is that generally a utility will pilot a program on a small scale or to a
2 limited number of customers before rolling out the program on a large scale or offering it
3 to all of its customers. Typically, the pilot will be designed in such a way that, if
4 successful, the same program design can be offered as a full-fledged program. If the pilot
5 is successful, the utility will typically seek to offer the same program on a large scale, or
6 it may make minor modifications to the pilot program design before offering it to all of
7 its customers. If a utility pilot program is unsuccessful, the utility typically goes back to
8 the proverbial drawing board and designs a new pilot, rather than rolling out a full-
9 fledged program that has not been piloted.

10 **Q: What then is your understanding of the purpose of piloting the Public Charging**
11 **program?**

12 A: Based on the above understanding of pilot programs, the most logical explanation for
13 why Pacific Power wants to pilot the Public Charging program is that it would like to
14 expand the program to be much larger in the future, if it believes that such a program
15 would be beneficial to its business. Pacific Power has admittedly not stated in its
16 Application whether it has plans to seek Commission approval for an expanded Public
17 Charging program in the future, if the Stipulation is approved. However, I'm not sure
18 why Pacific Power would choose to pilot the Public Charging model if it did not hope to
19 eventually expand the program in the future.

20 An expanded Public Charging program with more than the seven charging pods
21 that Pacific Power has proposed would not meet SB 1547's statutory criteria for the same
22 reasons that the proposed pilot program does not meet the criteria. By the same token,
23 even if characterizing Public Charging as a pilot somehow changed the standard under

1 which the Commission evaluates it, there would be no point in piloting a program design
2 that could not be approved as a full-fledged program.

3 **Q: Do you believe there is any value in Pacific Power exploring transportation**
4 **electrification through the Public Charging program and sharing the results of its**
5 **findings with the Commission and stakeholders?**

6 A: No, I do not. The Stipulating Parties place great importance on the fact that Pacific Power
7 would report on its “learnings” from the Public Charging program as a reason to approve
8 it as a pilot program. I am concerned that the Stipulating Parties believe that as long as
9 the Public Charging program produces some data, ratepayers’ money would be well-
10 spent regardless of the result of the pilots. I am also concerned that the Stipulating Parties
11 believe that other market participants, such as ChargePoint, will somehow benefit from
12 these learnings.

13 **Q: Why do you have these concerns?**

14 A: As I discussed earlier, Pacific Power’s participation in the market for publicly available
15 charging stations through Public Charging would distort the market for years to come by
16 setting a precedent and teaching the market that there is no reason for anyone to invest in
17 publicly available charging stations, because Pacific Power will provide ratepayer-
18 subsidized stations. Even Pacific Power’s proposed seven charging pods (for a total of up
19 to 28 DCFCs and seven Level 2 chargers) would make the market dependent on ratepayer
20 funds for years to come. As a result, any learnings that the Public Charging program
21 produced would reflect the market distortions that Pacific Power itself caused.

22 To put it another way, if the Commission were to approve the Public Charging
23 program, it would be difficult if not impossible for private market participants to compete

1 with Pacific Power’s ratepayer-funded Public Charging pods. In that case, I would expect
2 that the primary “learning” Pacific Power would report to the Commission would be that
3 Pacific Power’s participation in the charging market is necessary because Public
4 Charging would have crowded out all other market participants. Under the guise of
5 “studying” the market for publicly available charging stations, the Public Charging
6 program would allow Pacific Power to begin dominating that market while it is still in its
7 nascent stages.

8 As I discussed earlier, the size of the Public Charging program is less important
9 than the precedent that it will set for the market in Pacific Power’s service territory. *Any*
10 direct utility participation in the public charging market through an own-and-operate
11 structure, such as Pacific Power has proposed for the Public Charging program, would
12 teach the market that the utility will use ratepayer funds to own and operate charging
13 stations. If the Commission approves the Public Charging program, I would expect that
14 the market would adjust itself to be dependent on those ratepayer funds for the long-term.

15 *C. Public Charging would be an imprudent and inefficient use of ratepayer funds.*

16 **Q: Allowing Pacific Power to dominate the market for charging station infrastructure**
17 **and services is clearly bad for ChargePoint, but how would it affect ratepayers?**

18 A: I fully recognize that the Commission is under no obligation to protect private market
19 participants like ChargePoint. However, the Commission is obligated to protect Pacific
20 Power’s ratepayers, and the Public Charging program would be detrimental to ratepayers’
21 interests and an imprudent use of ratepayer funds.

22 In my opinion, the most prudent use of ratepayer funds for transportation
23 electrification would be to use those funds to stimulate a self-sustaining market for

1 publicly available charging stations. As I have mentioned, the Public Charging program
2 would likely require long-term ratepayer support, because Pacific Power would crowd
3 out other market participants. By contrast, with the grant-based Demonstration and
4 Development program, it will be much easier for Pacific Power (and by extension,
5 Pacific Power's ratepayers) to discontinue supporting the market when it matures because
6 Pacific Power will not own or be responsible for any hardware or network services.

7 It also makes little sense for ratepayers to foot the entire bill for public charging
8 stations, as they would if the Public Charging program were approved. EVSE vendors
9 such as ChargePoint have demonstrated that private businesses, multi-unit dwelling
10 owners, and municipalities want to invest in publicly available charging stations for their
11 customers, tenants, and constituents. These prospective site-hosts would be even more
12 likely to make these investments if Pacific Power chipped in some ratepayer money in the
13 form of a grant to reduce the upfront cost, as it will if the Demonstration and
14 Development program is approved and the prospective site-host wins a grant application.

15 By leveraging private investment from site-hosts, I expect that the \$1.85 million
16 in ratepayer money that Pacific Power proposes to spend on the Public Charging program
17 could support double or triple the number of charging stations if it were reallocated and
18 deployed through the Demonstration and Development program. Such a program
19 structure would also further the Legislative Assembly's goal of attracting private capital
20 investments through transportation electrification programs.

21 **Q: Do you believe the Public Charging program would be a prudent use of ratepayer**
22 **funds under the traditional regulatory prudence standard?**

1 A: No. SB 1547 also requires that the Commission consider whether a transportation
2 electrification program would be a prudent use of ratepayer funds. Under traditional
3 regulatory standards, a utility investment is prudent if it is consistent with the actions of a
4 cautious, reasonable utility and if the investment is likely to be used and useful to
5 ratepayers over the course of its useful life. As mentioned, the public charging market is
6 in its nascent stages and is generally considered to be highly risky. Non-utility players in
7 that market are typically focused exclusively on EV charging infrastructure and services
8 and are often backed by venture capitalists. While it is true that SB 1547 contemplates
9 that Pacific Power may participate in the transportation electrification market, it may only
10 do so if its participation is consistent with cautious, prudent utility practices. Pacific
11 Power has failed to demonstrate that it can ensure its proposed investments in the Public
12 Charging program on behalf of ratepayers would be prudent or that the assets it would
13 purchase would remain used and useful for the life of the program.

14 **Q: Under the Public Charging program design, Pacific Power may be able to recoup**
15 **some or all of the cost of the program through revenue from drivers and Clean**
16 **Fuels Program credits. Isn't it better to spend ratepayer money on a program that**
17 **might produce a return for ratepayers, rather than just give ratepayer money out**
18 **through grants?**

19 A: Not necessarily. First, the capital investment in the Public Charging program would
20 treated as an addition to Pacific Power's rate base, so ratepayers would pay Pacific Power
21 its authorized rate of return over the useful life of the charging stations, regardless of
22 whether or not Pacific Power is able to collect the \$1.85 million cost of the program
23 through driver revenue and Clean Fuels Program credits. Second, as I have discussed, the

1 Public Charging program would set up the public charging market for long-term
2 dependency on ratepayer funds, so if the Public Charging program is approved and
3 Pacific Power is serious about accelerating transportation electrification, it would likely
4 need to ask for authorization to spend even more ratepayer money in the future.

5 **Q: How would Public Charging affect EV drivers?**

6 In addition to these financial concerns for ratepayers, the Commission should consider
7 the interests of EV drivers in Pacific Power's service territory, the vast majority of which
8 are likely to be Pacific Power's customers. The transportation electrification industry is
9 developing rapidly, with new and exciting products and network services being
10 introduced continually. If Pacific Power were allowed to pursue Public Charging, Pacific
11 Power would lock-in one low-cost technology through an unimaginative RFP process for
12 years to come. Rather than accelerating transportation electrification, would-be EV
13 drivers might be so uninspired by the lack of options that they forego electric
14 transportation options altogether.

15 **V. PACIFIC POWER SHOULD LOOK TO NATIONAL EXAMPLES OF THE**
16 **APPROPRIATE ROLE FOR UTILITY INVOLVEMENT IN**
17 **TRANSPORTATION ELECTRIFICATION**

18 **Q: What positions have other public utility commissions around the country taken with**
19 **regard to utility proposals to own-and-operate EV charging stations?**

20 **A:** Utility commissions across the country have reviewed this very issue and have
21 overwhelmingly favored a more measured utility involvement in the EV infrastructure
22 industry, rather than allowing utilities to own-and-operate charging stations without any
23 opportunity for customer choice.

1 The California Public Utilities Commission (CPUC) has ruled strongly against the
2 elimination of customer choice. PG&E’s “Charging Network” and SCE’s “Charge
3 Ready” program¹² are designed around utility make-ready investment and customer
4 choice, allowing with multiple vendors to compete and provide options to customers.
5 SCE’s Charge Ready program was closed in roughly 8 months because it was so popular
6 it quickly became fully subscribed. Even SDG&E’s “Power Your Drive” program, while
7 allowing utility ownership (to implement a creative rate tariff), still allows for customer
8 choice and any vendor’s product that meets the requirements of the program is able to
9 participate. The CPUC in all these cases has ruled that utility procurement of a single
10 solution for the market will eliminate customer choice and competition, and therefore
11 would eliminate the innovation that is desperately needed to improve the driver
12 experience and truly accelerate transportation electrification.

13 The Utah Public Service Commission recently approved a rebate program¹³ that
14 will likely deploy hundreds of both L2 and DCFC stations across Rocky Mountain
15 Power’s service territory. Because it is a rebate program, customers can choose the
16 charging stations that best fit their particular needs and the needs of the drivers likely to
17 visit the station.

¹² SCE Charge Ready – California Public Utilities Commission A.14-10-014: Southern California Edison Charge Ready Pilot Program

¹³ Rocky Mountain Power: Utah Public Service Commission Docket No. 16-035-36: RMP STEP Phase III.

1 Make-ready and rebate programs to incent the EV infrastructure market have been
2 filed by National Grid¹⁴ and Eversource¹⁵ in Massachusetts, and by PG&E¹⁶ and SCE¹⁷ in
3 California as part of their SB350 filing.

4 The Missouri Public Service Commission (PSC) also ruled against a similar
5 program¹⁸ in Missouri, in which Ameren filed an application to own and operate a
6 network of DCFC stations. Similarly, KCP&L's request¹⁹ to fund the deployment and
7 ownership of a network of 1,000 L2 charge stations was rejected both by the Missouri
8 PSC and the Kansas Corporation Commission.

9 **VI. CONCLUSION AND RECOMMENDATIONS**

10 **Q: Please summarize your recommendations to the Commission.**

11 A: My recommendations are the same as the recommendations that ChargePoint made in our
12 Objections to the Stipulation that we filed on August 25, 2017. ChargePoint recommends
13 and requests that the Commission reject the Stipulation's request for approval of the Public
14 Charging program. ChargePoint further recommends that the Commission direct Pacific

¹⁴ National Grid: Massachusetts Department of Public Utilities (DPUC) 17-13, Petition of Massachusetts Electric Company and Nantucket Electric Company, each d/b/a National Grid, for Approval of its Electric Vehicle Market Development Program, and of its Electric Vehicle Market Development Program Provision, pursuant to G.L. c. 164, §§ 76, 94, and Acts of 2016, c. 448.

¹⁵ Eversource: Massachusetts Department of Public Utilities (DPU) 17-05, Petition of NSTAR Electric Company and Western Massachusetts Electric Company, each doing business as Eversource Energy, Pursuant to G.L. c. 164, § 94 and 220 C.M.R. § 5.00 et seq., for Approval of General Increases in Base Distribution Rates for Electric Service and Approval of a Performance Based Ratemaking Mechanism.

¹⁶ Pacific Gas & Electric: California Public Utilities Commission A. 17-01-022: Application of PG&E for Approval of its Senate Bill 350 Transportation Electrification Program.

¹⁷ Southern California Edison: California Public Utilities Commission A. 17-01-021: Application of SCE for Approval of its 2017 Transportation Electrification Proposals.

¹⁸ Ameren - Missouri Public Service Commission File No. ET-2016-0246, In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Approval Of a Tariff Setting a Rate for Electric Vehicle Charging Stations.

¹⁹ KCP&L – Missouri Public Service Commission File No. ER-2016-0285, In the Matter of Kansas City Power & Light Company's Request for Authority to Implement a General Rate Increase for Electric Service.

1 Power to reallocate the \$1.85 million that it has proposed to spend on the Public Charging
2 program to the Demonstration and Development program.

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

15 **Q: Please summarize your recommendations to the Commission.**

16 A: I recommend that the Commission:

- 17 • Deny the Public Charging program for failing to meet the statutory criteria in Section
18 20 of SB 1547 that it must meet;
- 19 • Direct Pacific Power to reallocate the \$1.85 million it has proposed to spend on the
20 Public Charging program to the Demonstration and Development program;
- 21 • Provide guidance to Pacific Power regarding the appropriate role of a utility in the
22 public charging market that will balance the six statutory criteria in Section 20 of SB
23 1547.

1 **Q: Does this conclude your Response Testimony?**

2 A: Yes.

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

IN THE MATTER OF PACIFICORP)
DBA PACIFIC POWER, APPLICATION)
FOR TRANSPORTATION)
ELECTRIFICATION PROGRAMS)
)

DOCKET NO. UM 1810

CHARGEPOINT EXHIBIT 300

TESTIMONY OPPOSING STIPULATION OF ANNE SMART

October 4, 2017

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1 **I. INTRODUCTION AND SUMMARY OF RECOMMENDATIONS**

2 **Q: Please state your name.**

3 A: My name is Anne Smart.

4 **Q: By whom are you employed and in what position?**

5 A: I am the Vice President of Public Policy at ChargePoint, Inc.

6 **Q: Have you previously filed testimony before the Oregon Public Utility Commission?**

7 A: Yes, I provided Testimony Opposing the Stipulation in Docket No. UM 1811 on August
8 25, 2017.

9 **Q: Please describe your qualifications.**

10 A: In my role at ChargePoint, I manage state and local government relations and regulatory
11 affairs for North America. Before joining ChargePoint, I was the Executive Director of
12 The Alliance for Solar Choice (TASC), a rooftop solar advocacy group founded by
13 SolarCity, Sunrun, and Sungevity. I was also previously the Director of Energy at the
14 Silicon Valley Leadership Group. I have a Master of Energy and Environmental Policy
15 degree from the University of Delaware and Bachelor degrees in Public Administration
16 and Environmental Studies from Miami University. I have provided testimony in electric
17 vehicle (EV) charging utility cases before the California Public Utilities Commission, the
18 Kansas Corporation Commission, the Missouri Public Service Commission, and the
19 Washington Utilities and Transportation Commission. I have also participated in the
20 development of legislation on utility policy for EV charging in Washington, California,
21 Oregon, Massachusetts, and Utah.

22 **Q: What is the purpose of your testimony?**

1 A: The purpose of my testimony is to explain ChargePoint's role in the legislation leading
2 up to Senate Bill (SB) 1547, discuss the legislative intent of SB 1547, and explain why
3 the Public Charging program fails to meet the legislative intent of SB 1547.

4 **Q: Please summarize your recommendations to the Commission.**

5 A: I recommend that the Commission:

- 6 • Consider the Legislative Assembly's clearly stated intent in passing Section 20 of SB
7 1547 when it evaluates Pacific Power's proposed Public Charging program, including
8 the Legislative Assembly's expectation that transportation electrification should
9 "stimulate innovation and competition, [and] provide consumers with increased
10 options in the use of charging equipment;"
- 11 • Find that the Commission cannot and should not ignore any of the six criteria for
12 evaluating utility transportation electrification programs when it evaluates the Public
13 Charging proposal, regardless of whether or not the Public Charging program would
14 be considered a pilot program and regardless of the size of the Public Charging
15 program;
- 16 • Find that, consistent with the admission of the Stipulating Parties, the Public
17 Charging program would not meet the statutory criteria established by SB 1547;
- 18 • Reject Pacific Power's proposed Public Charging program;
- 19 • Direct Pacific Power to reallocate the \$1.85 million that it proposed to spend on the
20 Public Charging program to the Demonstration and Development program; and,
- 21 • Consistent with the recommendations that we provided in our Objections and in the
22 testimony of ChargePoint's other witness in this docket, Dave Packard, provide
23 guidance to Pacific Power for the types of transportation electrification programs that

1 would meet SB 1547's statutory criteria and the rules that the Commission has
2 established for utility transportation electrification programs.

3 **II. THE PUBLIC CHARGING PROGRAM FAILS TO MEET SB 1547'S**

4 **LEGISLATIVE INTENT**

5 **Q. What will you discuss in this section of your testimony?**

6 A. In this section of my testimony, I will discuss my participation in the legislative hearings
7 on SB 1547 and the subsequent rulemaking at the Commission to implement the
8 legislation once it was signed into law.

9 **Q. What was ChargePoint's position on SB 1547 (previously HB 4036)?**

10 A. I first became aware of the legislation that would become SB 1547 in January 2016. A
11 coalition of environmental groups, utilities, and the Citizens Utility Board (CUB),
12 announced that they had worked behind closed doors on a deal to develop legislation that
13 would allow utilities to invest in EV charging stations, among other provisions in the bill,
14 in exchange for the utilities agreeing to eliminate coal from their fuel supplies. One
15 environmental group had threatened to move forward with a ballot measure, which would
16 have been costly, so a legislative deal was struck. Once the legislation was introduced, it
17 was clear that the parties to the deal were going to protect the bill language in the form it
18 was negotiated. ChargePoint had not been a part of the negotiations and had not seen the
19 bill prior to its introduction, so we had never had a chance to express our concerns with
20 certain components of the legislative language until it was already moving through the
21 process. ChargePoint raised concerns that as written, the legislation failed to consider the
22 impacts of utility investments on the competitive EV charging market. We requested
23 throughout the legislative process that language be amended into the bill to authorize the

1 Commission to establish rules for evaluating utility transportation electrification
2 proposals and to require that customer choice, competition, and innovation be considered
3 in that evaluation.

4 **Q. Did ChargePoint make this position known publicly?**

5 A. In testimony on behalf of ChargePoint provided to the Oregon House Committee on
6 Energy and Environment on February 2, 2016, I stated that the legislation as introduced
7 limited the ability of the Commission to actually require utility program applications to
8 further the legislative intent to stimulate innovation, competition, and customer choice.¹
9 ChargePoint called for three changes to the bill: 1) that the Commission revisit the 2012
10 Order in UM 1461 on the utility role in transportation electrification, 2) prioritization of
11 utility transportation electrification investments in low income communities, and 3)
12 specific language requiring any proposed utility program to protect customer choice and
13 competition.

14 **Q. Were changes made to the legislation that changed ChargePoint's position on the**
15 **bill?**

16 Yes, HB 4036, which became SB 1547 and was signed into law, included amendments
17 giving the Commission authority to establish rules under which the utilities could file
18 program proposals and requiring that the Commission consider whether a proposed utility
19 EV charging program would stimulate customer choice, competition, and innovation.

20 **Q. Would ChargePoint have withdrawn opposition to SB 1547 without this language?**

21 A. No, ChargePoint would have opposed SB 1547 had it not been amended to include these
22 requirements.

¹ My testimony to the Oregon House Committee on Energy and Environment is available at the following link:
<https://olis.leg.state.or.us/liz/2016R1/Downloads/CommitteeMeetingDocument/84975>

1 **Q. Do you believe the legislature intended to require utility EV charging programs,**
2 **including any pilot programs, to stimulate customer choice, competition, and**
3 **innovation?**

4 A. Yes. I think that the members of the Legislative Assembly that voted on this legislation
5 were seeking the details of how the utility programs would be evaluated. It is clear from
6 the changes made between the originally filed legislation and the final version of SB
7 1547 that legislators desired numerous changes to the bill in order to pass it into law. This
8 included, among other changes, this language that was intended to protect the
9 consumer/ratepayer and the competitive EV charging marketplace in Oregon by ensuring
10 that customers would be able to choose among different charging station infrastructure
11 and services.

12 **Q. What role for utilities do you think was envisioned by the Legislature in approving**
13 **SB 1547?**

14 A. I believe that the Legislature envisioned utilities would play an active role in stimulating
15 the market and in supporting increased deployment of EV charging stations. I do not
16 believe that the Legislature envisioned Pacific Power becoming an owner of its own
17 Pacific Power-branded fast chargers, directly competing with the private EV charging
18 marketplace, without offering customers any choices. The use of the word “stimulate”
19 indicates to me that the Legislative Assembly wanted Pacific Power to support the EV
20 charging market in a way that only the utility – as a regulated monopoly with captive
21 ratepayers – could. In addition, I do not believe the Legislature envisioned a limited RFP
22 process that puts innovation at risk and could lead to stranded outdated equipment that
23 was paid for by ratepayers. I also do not believe that the Legislative Assembly anticipated

1 or intended that Pacific Power would be able to bypass the legislative intent and statutory
2 requirements for its proposed programs by characterizing them as pilot programs.

3 **Q. Is Pacific Power's proposed Public Charging program consistent with your**
4 **understanding of the legislative intent behind SB 1547?**

5 A. No, the Public Charging program is not consistent with the intent behind SB 1547. This
6 proposal fails to meet the standards set by SB 1547 and the subsequent rules established
7 by the Commission, including demonstrating prudence and stimulating customer choice,
8 competition, and innovation. Most importantly, the Public Charging program would
9 foreclose customer choice in charging station infrastructure or services, because Pacific
10 Power would choose one hardware and service provider. Pacific Power and the
11 Stipulating Parties have not even attempted to argue that Public Charging would
12 stimulate customer choice with respect to charging infrastructure or services, because no
13 aspect of the program proposal would allow customers (either drivers or charging station
14 site-hosts) to choose their preferred charging station or network service provider.
15 ChargePoint's witness Dave Packard discusses these failings in more detail in both his
16 Reply Testimony and his Testimony Opposing the Stipulation. We also explained these
17 failings of Public Charging in detail in our Objections that we filed to the Stipulation in
18 this docket on August 25, 2017. By entering the public EV charging market using
19 ratepayer dollars, Pacific Power will not only fail to stimulate innovation, competition,
20 and customer choice, it will actively hamper that market and make it more difficult for
21 private companies to compete.

22 The Public Charging program would admittedly provide one additional option
23 that does not currently exist. However, if the Legislative Assembly was simply concerned

1 with increasing the total number of charging stations, it probably would have said so. The
2 use of the term “increased options” in SB 1547 indicates to me that the Legislative
3 Assembly wanted to create a robust competitive EV charging market with a wide variety
4 of options for the wide variety of prospective site-hosts and EV drivers in Pacific Power’s
5 service territory. If the Legislative Assembly simply wanted the utilities to spend a lot of
6 ratepayer money and increase the sheer number of charging stations, Section 20 of SB
7 1547 would have been much shorter.

8 **Q. Prior to SB 1547, was there guidance for how utilities could make investments in EV**
9 **charging stations?**

10 A. Yes. On January 19, 2012, the Commission issued Order No. 12-013 in Docket UM 1461
11 stating that utilities in Oregon would not be precluded from seeking rate recovery for
12 providing EV charging services. Specifically, the Commission noted that those
13 investments should be found to be beneficial to ratepayers and made the following
14 statement:

15 We note, however, that a showing that utility EVSE investment has net benefits to
16 customers may be dependent on a showing of Staff’s other criteria, such as the
17 necessity of installing and operating charging infrastructure at the particular
18 location to facilitate plug-in EV adoption in the greater area, and the lack of a
19 third party EVSP [electric vehicle service provider] or utility affiliate to provide
20 the same services at the location or a nearby location.²
21

22 **Q, Given that the Commission had already ruled that utilities can seek rate recovery on**
23 **EV charging stations, what was the reason for including EV charging language in**
24 **SB 1547?**

25 A. Utilities did not (to my knowledge) try to file any transportation electrification
26 applications at the Commission based on the Commission’s UM 1461 decision. In

² UM 1461 page 10

1 discussing the purpose of Section 20 of SB 1547, proponents argued that the language in
2 the Commission's UM 1461 order suggesting that a utility could only install electric
3 vehicle supply equipment (EVSE) infrastructure if a third-party EVSP was unable to
4 provide the same service at the proposed location or nearby would have prevented utility
5 proposals from being approved because EVSPs are able (legally, at least) to serve all
6 locations. It was argued that this very high burden placed on potential transportation
7 electrification programs prevented any utility proposals from being considered.
8 Therefore, proponents of SB 1547 wanted to establish a new standard for how utilities
9 can make investments in and support EV charging stations in Oregon.

10 **Q. What is the new standard under which the Commission evaluates utility investments**
11 **in charging stations under SB 1547?**

12 A. SB 1547 sets forth a new standard for reviewing proposed utility investments in EVSE,
13 superseding UM 1461. SB 1547 directs the Commission to prescribe the form and
14 manner with which utilities will file applications, including establishing a prudence test
15 (as determined by the Commission) and requires the Commission to consider whether or
16 not the proposed EV charging programs "are reasonably expected to stimulate
17 innovation, competition and customer choice in electric vehicle charging and related
18 infrastructure and services," among other factors. Essentially, SB 1547 establishes a
19 balancing test with six criteria, which are listed in Section 20(4) of the statute. In my
20 understanding, the Legislative Assembly considered each of these criteria to be essential
21 to ensuring a proposed utility program would actually accelerate transportation
22 electrification in Oregon, and achieve its goals for allowing utility involvement in EV

1 charging. As indicated by the use of the word “shall,” the Commission must consider
2 each criterion.

3 **Q. After SB 1547 passed, what steps did the Commission take to set rules for utilities to**
4 **file their proposals?**

5 A. The Commission Staff led workshops with stakeholders, including ChargePoint, during
6 which parties were given the opportunity to comment on and discuss a draft proposal by
7 Staff. The rulemaking was focused mostly on filing requirements for utilities to ensure
8 that the Commission and Commission Staff would have the information they needed to
9 fully vet the transportation electrification programs and plans. There was no indication
10 during the rulemaking proceeding that the standard established by Section 20 of SB 1547
11 would be changed or not apply to the utilities’ program proposals or pilots. The
12 Commission eventually adopted its existing rules, which appear at OAR 860-087-0001.

13 **Q. During those workshops and the rulemaking proceeding generally, was it**
14 **communicated that the Commission’s rules or the standards for evaluating**
15 **transportation electrification programs established by SB 1547 would not apply to**
16 **pilot programs?**

17 A. No. In fact, the Commission explicitly opened a separate rulemaking on long term EV
18 charging plans, suggesting that these rules intended to apply to programs that would be
19 filed by the end of 2016, which includes the Public Charging program. In other words,
20 there was every indication that Staff and the Commission viewed the utilities’ first
21 applications as the foundation for the future of utility involvement in transportation
22 electrification.

1 As Dave Packard explains in his testimony and as we explained in our Objections,
2 ChargePoint is surprised and disappointed that Pacific Power and the other Stipulating
3 Parties have indicated that the Commission can and should ignore some SB 1547's
4 statutory criteria because they consider the Public Charging program to be a "pilot"
5 program. Since the Stipulating Parties admit that the Public Charging program does not
6 satisfy all of SB 1547's criteria, the Commission should not approve it, regardless of the
7 Stipulating Parties' belief that the Commission can ignore the statutory language.

8 **III. CONCLUSION AND RECOMMENDATIONS**

9 **Q: Please summarize your recommendations to the Commission.**

10 **A:** I recommend that the Commission:

- 11 • Consider the Legislative Assembly's clearly stated intent in passing Section 20 of SB
12 1547 when it evaluates Pacific Power's proposed Public Charging program, including
13 the Legislative Assembly's expectation that transportation electrification should
14 "stimulate innovation and competition, [and] provide consumers with increased
15 options in the use of charging equipment;"
- 16 • Find that the Commission cannot and should not ignore any of the six criteria for
17 evaluating utility transportation electrification programs when it evaluates the Public
18 Charging proposal, regardless of whether or not Public Charging would be considered
19 a pilot program;
- 20 • Find that, consistent with the admission of the Stipulating Parties, the Public
21 Charging program would not meet the statutory criteria established by SB 1547;
- 22 • Reject Pacific Power's proposed Public Charging program;

- 1 • Direct Pacific Power to reallocate the \$1.85 million that it proposed to spend on the
2 Public Charging program to the Demonstration and Development program; and,
- 3 • Consistent with the recommendations that we provided in our Objections and in the
4 testimony of ChargePoint's other witness in this docket, Dave Packard, provide
5 guidance to Pacific Power for the types of transportation electrification programs that
6 would meet SB 1547's statutory criteria and the rules that the Commission has
7 established for utility transportation electrification programs.

8 **Q: Does this conclude your Testimony Opposing the Stipulation?**

9 A: Yes.