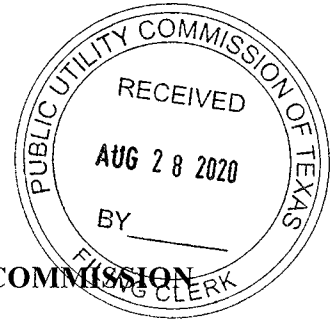


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PROJECT NO. 49125

REVIEW OF ISSUES RELATING TO
ELECTRIC VEHICLES

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PUBLIC UTILITY COMMISSION
OF TEXAS

COMMENTS OF TEXAS ELECTRIC COOPERATIVES, INC.

These comments are filed on behalf of Texas Electric Cooperatives, Inc. (“TEC”), the statewide association of electric cooperatives operating in Texas, representing its members except as their interests may be separately represented.¹

I. Introduction and Summary of Comments

TEC appreciates the opportunity to provide information to the Commission Staff in response to its request for public comment on issues relating to electric vehicles.² Staff’s request addresses policy issues pertaining to the ownership and operation of electric vehicle (“EV”) charging stations and cost recovery of infrastructure associated with the stations. While many of TEC’s member systems have not experienced significant demand for EVs or EV charging stations, TEC recognizes the potential for expanded use of this technology. TEC supports the Commission’s interest in the policy implications of continued development of EV charging stations in Texas.

In summary, TEC responds to Staff’s questions with the following points: (1) TEC’s member systems should retain flexibility in determining the optimal ownership structure of EV charging stations within their service areas; (2) PURA does not directly answer whether the operation of an EV charging station is a retail sale of electric energy; and (3) an electric cooperative may allocate distribution infrastructure costs to EV charging station owners consistent with standard cost-causation principals and the electric cooperative’s retail electric service tariff.

¹ TEC’s 75 members include distribution cooperatives that provide retail electric utility service to approximately 3,000,000 consumers in statutorily authorized service areas that encompass more than half of the total area of the state. TEC’s G&T members generally acquire generation resources and power supply for their member distribution cooperatives and deliver electricity to them at wholesale.

² Review of Issues Relating to Electric Vehicles, Project No. 49125, Public Notice of Second Request for Comments (July 24, 2020), published in the Texas Register on Aug. 14, 2020.

II. Response to Questions

1. *As a matter of policy, which entity or entities should be permitted to own or operate an electric vehicle charging station in the Texas competitive electric market? Is a different ownership structure appropriate for service areas not open to retail competition?*

TEC does not address in these comments which entities should be permitted to own or operate an EV charging station in the Texas competitive electric market. From the perspective of electric cooperatives operating in service areas not open to retail competition, TEC suggests that as a matter of policy an electric cooperative's board of directors should have flexibility in determining ownership models for EV charging stations. The structures available to cooperatives should not be limited by their status as non-opt-in entities, and no single ownership model is more or less "appropriate" in cooperative service areas. A policy supporting flexibility in the types of arrangements cooperatives may enter into will promote the development of EV infrastructure while enabling cooperatives to make decisions based on their members' needs.

The governing body of the cooperative, which is democratically elected and represents the interests of its members, should have the latitude to evaluate a variety of arrangements for its service area. Depending on the circumstances, a cooperative may own and operate a charging station itself, own the station and partner with a third party to operate the charging station, or provide electric service to a third party that owns and operates the charging station. TEC supports a policy that preserves a cooperative's ability to meet the needs of its members and to provide a range of services within its service area, including charging station service. A cooperative's board must retain the ability to engage in an ownership model that best suits the circumstances of the cooperative. TEC does not see a compelling policy argument for hindering further expansion of EV infrastructure by limiting the options available to electric cooperatives.

Although Staff approaches this issue as a matter of policy, the statutory framework supports flexibility in an electric cooperative's determination of the appropriate ownership model. Under the Public Utility Regulatory Act ("PURA")³, an electric cooperative with a service area not open to retail competition "retains the right to offer and provide a full range of customer service

³ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

and pricing programs to the customers within its certificated retail service area.”⁴ Further, the electric cooperative’s board of directors maintains exclusive jurisdiction to “determine the extent to which the electric cooperative will provide various customer services, including nonelectric services, or accept the services from other providers.”⁵ PURA therefore gives an electric cooperative’s board of directors the jurisdiction and discretion to determine the ownership arrangements for EV charging stations that it deems appropriate in the circumstances.

2. *Is the operation of an electric vehicle charging station a retail sale of electricity?*

An electric cooperative’s sale of electric energy to an EV charging station owned by a third party and located in its service area constitutes the furnishing of retail electric utility service to that consuming facility.⁶ However, PURA does not directly answer whether the operation of an EV charging station is a retail sale of electricity. Charging stations can be operated in a variety of configurations not directly contemplated by the provisions dealing with retail electric utility service.⁷ Whether the operation of a charging station is characterized as a retail electric utility service or non-electric service, electric cooperatives have statutory authority to provide such charging station service within their respective service areas.⁸

3. *As a matter of policy, how should the cost of the distribution system infrastructure associated with an electric vehicle charging station be recovered in the Texas competitive electric market?*

4. *Is the answer to Question 3 different for an electric vehicle charging station located in a remote area, primarily for use by long-distance rather than local motorists?*

Questions 3 and 4 above address cost recovery associated with distribution system infrastructure to EV charging stations in the competitive electric market. As a matter of policy,

⁴ PURA § 41.052(b)

⁵ PURA § 41.055(5)

⁶ PURA § 37.051(b)

⁷ PURA § 37.051(b) (requiring certificate to provide retail electric utility service to a consuming facility located in an area already served by another retail electric utility); *id.* § 39.105(b) (“A person or retail electric utility may not provide, furnish, or make available electric service at retail within the certificated service area of an electric cooperative that has not adopted customer choice or a municipally owned utility that has not adopted customer choice. However, this subsection does not prohibit the provision of electric service in multiply certificated service areas to customers of any other retail electric utility.”).

⁸ PURA §§ 41.052(b); 41.055(5).

TEC does not believe distribution infrastructure costs that may occur within a cooperative's service area should be recovered through the competitive market, and TEC is not aware of a mechanism to accomplish cost recovery in this manner.

An electric cooperative's board of directors has exclusive jurisdiction to:

set all terms of access, conditions, and rates applicable to services provided by the electric cooperative, except as provided by Sections 41.054 and 41.056, including nondiscriminatory and comparable rates for distribution but excluding wholesale transmission rates, terms of access, and conditions for wholesale transmission service set by the commission under Subchapter A, Chapter 35, provided that the rates for distribution established by the electric cooperative shall be comparable to the distribution rates that apply to the electric cooperative and its subsidiaries.⁹

In general, distribution costs incurred within an electric cooperative's service area are either recovered from the members of the cooperative through retail rates or are directly assigned to the entity requesting service, consistent with the cooperative's tariff. In the case of distribution infrastructure associated with interconnecting an EV charging station, TEC's member systems may allocate these costs to the station owner in accordance with the line extension provisions of the cooperative's tariff, just as they do with other new loads.

TEC supports allocating costs consistent with the cost-causation principles common to all ratemaking. These principles are embodied in the retail tariffs of investor owned utilities, municipally owned utilities, and electric cooperatives. Accordingly, as the entity causing the new infrastructure costs, the station owner should pay a just and reasonable portion of the costs. Existing members of the cooperative should not be required to pay for all costs related to the provision of service to a station owned and operated by a third party. This situation is no different from cost allocation associated with the addition of facilities to serve other types of new load, irrespective of whether the cooperative is located in a remote area or more urban area. From an equity and policy perspective, this common method of cost recovery becomes particularly important in instances where the station is primarily used by long-distance motorists.

⁹ PURA § 41.055(1).

III. Conclusion

TEC thanks the Staff for the opportunity to file these comments and looks forward to further dialogue on issues relating to EVs and EV infrastructure. TEC is available to provide any additional information that may be useful in consideration of these issues.

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Respectfully submitted,



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