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PUC PROJECT NO. 49125

REVIEW OF ISSUES RELATING TO ELECTRIC VEHICLES	§ § § §	**PUBLIC UTILITY COMMISSION OF TEXAS**

GREENLOTS, MP2 ENERGY, AND SHELL ENERGYS' RESPONSE TO PUBLIC NOTICE OF REQUEST FOR COMMENTS

TO THE HONORABLE CHAIRMAN AND COMMISSIONERS OF THE PUBLIC UTILITY COMMISSION OF TEXAS:

Pursuant to Public Utility Commission of Texas (Commission) procedural rules Greenlots, MP2 Energy Texas LLC (MP2 Energy), and Shell Energy North America (US), L.P. (Shell Energy), (hereby jointly referred to as Shell) file this response to public notice of request for comments filed on July 31, 2020 regarding Project No. 49125, *Review of Issues Relating to Electric Vehicles*. As these comments are filed on or before August 28, 2020, they are timely filed. Shell appreciates the Commission's attention to this topic and the opportunity to participate in the discussions.

Royal Dutch Shell PLC and its subsidiaries have operated in the U.S. for more than 100 years with interests in all 50 states, employing more than 17,900 people. Shell's purpose is to deliver more and cleaner energy. Shell's long-term objective is to expand its position in the U.S. power sector and build a modern, integrated power business by offering customers power generation and energy storage options, distributed energy resources such as combined heat and power and microgrid systems, and demand-side management including energy efficiency, metering and controls, demand response, energy storage, electric vehicle (EV) charging products and services, and more. Shell is offering these comments as an active participant in the EV charging market with first-hand insight into this emerging space.

Greenlots is a leading provider of EV charging software and services committed to accelerating transportation electrification across Texas, and a wholly owned subsidiary of Shell New Energies. The Greenlots network supports a significant percentage of the DC fast charging infrastructure in North America, and a growing amount of Level 2 charging. Greenlots' smart charging solutions are built around an open standards-based focus on future-proofing while helping site hosts, utilities, and grid operators manage dynamic EV charging loads and respond to local and system conditions.

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MP2 Energy is a Retail Electric Provider (REP) in the ERCOT marketplace and a wholly owned subsidiary of Shell Energy. Additionally, MP2 Energy is a provider of QSE services to wholesale, distributed, and load resources. MP2 Energy's customer base includes residential, commercial, and industrial customers. MP2 Energy offers its residential customers at-home charging plans, and also supplies energy to a large network of EV charging stations within the competitive regions of the ERCOT marketplace. Additionally, MP2 Energy supports unique solar and battery electric storage solutions to its diverse customer base, which includes optimized EV charging.

Shell Energy is one of the U.S.'s top 5 gas suppliers and wholesale energy traders. Shell Energy trades and markets natural gas, wholesale and retail power, and environmental and risk management products. In North America, Shell Energy manages more than 10,000 MW of generation capacity, about a third of which comes from renewable sources, and sells more than 270 million MWh of power each year. Shell Energy has been actively trading in the US electricity market since 1995 and has been a leading gas and power supplier to independent energy retailers. Shell Energy is licensed to supply natural gas and electricity to industrial and commercial consumers in many states and is developing opportunities across the supply chain as an energy services provider.

Shell appreciates the opportunity to provide its broad, multijurisdictional, and multi-business perspective on issues related to EV charging infrastructure development. Shell supports EV adoption and encourages the Commission to develop EV policies that support a sustainable, well-functioning, transparent, and competitive electric market.

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?**

Shell believes that ultimately there should be a competitive market in Texas for all aspects of EV charging. Given the early stages of EV market development in Texas, there may be an initial need to leverage a diversity of capital resources to facilitate market transformation, including private capital, public funds, and utility/TDU ratepayer investment to build out the infrastructure needed to support EV market development. This seems necessary to overcome underlying market barriers and help to support the development of a competitive market while,

importantly, ensuring equitable access to transportation electrification in areas the existing market has difficulty with or is unable to reach.

In most contexts today, the market is too nascent, and the business case for investing in, owning, and operating charging infrastructure is not attractive for private entities to invest in infrastructure to adequately serve or scale the market for eEVs and EV charging products and services. As such, rules may need to be flexible initially to allow for all market participants to participate in the market. The same is true for non-ERCOT utility service territories where market rules and roles are less constraining. In these territories, at this stage of the market there is a need for strategic investment to drive EV adoption, accelerate the market, and drive incremental EV charging load, which has been shown to benefit all utility customers, not just those with EVs.[1]

Shell also believes that transportation electrification represents a growing opportunity to scale the use of clean and lower carbon energy resources, and that drivers and the market could benefit from creative partnerships, including in areas of Texas not fully participating in the competitive market. Shell is excited to work with the Commission and stakeholders in exploring these opportunities, which similarly hold the promise of enabling creative and collaborative solutions with public and private entities to deliver a greater range of customer EV charging solutions that works effectively in a competitive electric market.

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

In the over thirty other jurisdictions where this or a similar question has been contemplated, the question has generally come down to whether selling EV charging by the kWh constitutes a retail sale and if this triggers the local regulation implicated. If charging is done by the minute, or other non-energy unit, it is generally understood not to be a retail sale of electricity. When selling charging services by kWh/energy delivered, the fact that the charging service involves the transmittal of electricity is a necessary but incidental component of the service. That service fundamentally is battery charging to provide mobility, range, or vehicle miles, but not electricity per se. EV charging stations deliver a service via specialized cords and connectors, specific to the

[1] Between 2012 and 2019, in the two utility service territories with the most EVs in the U.S , EV customers have contributed more than $800 million in net-revenue to the body of utility customers beyond their associated costs to serve, driving down rates for all utility customers See Synapse Energy Economics, "Electric Vehicles are Driving Rates Down", June 2020. Available at: https://www.synapse-energy.com/sites/default/files/EV_Impacts_June_2020_18-122 pdf

act of charging. This is distinct from the act of electricity retailing, which provides a substitute for a service that a consumer would otherwise receive from another provider. Moreover, with standard supply electricity service, the customer can choose how to use the electricity, while in the case of EV charging, the service only permits the refueling of an EV.

For these various reasons, Shell does not believe that operating an EV charging station should be considered the retail sale of electricity, regardless of whether that service is priced by the kWh or in any other manner. If the Commission finds that either third party EV charging station owners generally, or those who bill customers based on units of energy consumption or demand, fall within the definition of "retailer" or another regulated entity, we would urge the Commission to consider making any necessary recommendation to the Legislature clarifying that third party charging station owners are exempt from regulation as a REP. In making a determination on this issue, of whether an EV charging provider is a REP, the Commission may find it useful to draw a distinction based on if that provider is buying the energy and then reselling it at a wholesale level. With such a distinction, if an EV charging provider wishes to purchase energy at wholesale, it would need to register as a REP. If it is buying energy from a REP at the retail level, then such regulation would be unnecessary.

In the event the Commission does not seek to exempt the provision of energy through EV charging stations, any related regulation should be carefully crafted to recognize that EV charging is different and unique from traditional electricity provision. For example, an EV customer using electric charging services in a Non Opt-In Entity (NOIE) territory may not even be a resident of Texas. Commission policy on this topic should be constant across the state and establish flexible and consistent rules with respect to entities that operate or own a charging station.

Shell supports regulation that is focused and adopted only when necessary. Even at its most basic level, compliance can be costly, as well as time and resource intensive. For third party EV station owners, the cost and burden of registering as a REP and tracking and complying with associated regulations is likely to further disincentivize investment. For example, acquiring the resources to understand and comply with the regulatory requirements of electric retailers would add significant costs and investment risk for a prospective station owner to install charging stations at a convenience store. In such a scenario, of which there are many other practical examples today, instead of protecting the social and economic interest of Texans by increasing access to EV

charging services, regulation of EV charging service may in fact impede private market development in achieving its objectives.

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?**

In addressing this question, it is important to understand that many – not just EV drivers – benefit from electrifying transportation. These benefits include, but are not limited to, economic development, cost savings, environmental, human health, energy security, grid utilization and resiliency. These benefits collectively have the power to unlock opportunities for individual Texans – those who drive EVs and those who do not alike – and the broader state economy.[2]

For these reasons and broader benefits, it is appropriate at this stage of the market to consider distribution system cost recovery mechanisms that do not solely place this burden on EV drivers or EV charging station operators. Accordingly, Shell encourages the Commission to reduce barriers to the development of charging stations across Texas and enhance the value of those investments to the grid. An example of this enhancement is through vehicle-grid integration (VGI) technologies and strategies as discussed in Greenlots' February 3, 2020 comments submitted in this Project.[3]

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?**

Shell does not believe that this specific EV charging scenario would warrant different treatment than what is discussed in response to the above questions. Infrastructure developments in more rural locations not only support drivers driving through but are critical to ensuring Texans in these areas have sufficient public charging infrastructure to support their own EV purchase or use decisions.

Conclusion

Shell is encouraged by the Commission's continued examination of critical issues in supporting the development of EV charging infrastructure and proliferation of EVs in Texas,

[2] See February 3, 2020 comments of Greenlots at p 5-6.
[3] At p 8-12

ensuring that all Texans can benefit from this transformation. Designing flexible rules and market constructs that fully leverage and employ the resources of all market participants will be critical to maximizing benefits and establishing Texas as a leader in transportation electrification. Shell strongly encourages the Commission to adopt flexible EV policies that support the development of a sustainable, well-functioning, transparent, and competitive electric market.

Respectfully submitted,

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