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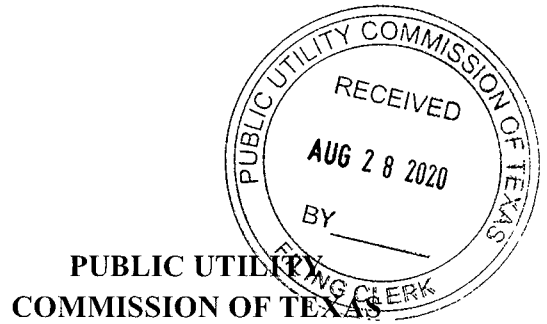
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PROJECT NO. 49125

REVIEW OF ISSUES
RELATING TO
ELECTRIC VEHICLES

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AUSTIN ENERGY'S AND CPS ENERGY'S
RESPONSE TO SECOND REQUEST FOR COMMENTS

Austin Energy¹ and CPS Energy² file these comments in response to the Public Utility Commission of Texas (Commission) staff's second request for comments issued on July 24, 2020. Austin Energy and CPS Energy appreciate the opportunity to offer our responses to the questions posed with respect to electric vehicle (EV) charging stations.

I. Introduction

As customer-driven organizations, Austin Energy's and CPS Energy's EV policies and programs reflect the values and interests of our respective communities and customers. We interpret the Public Utility Regulatory Act (PURA) to allow municipally-owned utilities to own and operate EV charging stations, and we each have robust programs in our communities. We support the expansion of EVs and charging stations and, to that end, our comments focus on the ownership and operation of third-party charging stations.

Austin Energy has promoted EVs since 2007 and is a leader in the Texas EV market. Many Austin Energy customers were early EV adopters and requested innovative solutions to promote the EV charging stations required to remove range anxiety and allow for a seamless driving experience in the Austin metropolitan area. There are over 900 Level 2 charging ports and more than 50 DC fast charging stations under various owner and operator models located within Austin Energy's service territory, serving retail, workplace, multifamily and fleet applications. The third-party EV charging station owner and operator model has succeeded in increasing the supply of EV

¹ City of Austin d/b/a Austin Energy.

² The City of San Antonio, acting by and through its City Public Service Board.

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charging to reflect market demand across the nation and is one model used in Austin to remove barriers so that retailers, multifamily complexes, automakers, and other commercial entities can respond to customer needs.

Generally, over 80 percent of personal EV charging takes place at home.³ This has allowed Austin Energy to support EV charging at existing infrastructure levels without significant changes in investment or planning. However, as more EVs achieve higher penetration levels across Texas, it is important that faster charging stations in convenient locations are available to allow drivers to move through Texas and easily charge their vehicles. Austin Energy continually reviews its EV charging plans and programs to improve and account for EVs on its electric system to ensure that it grows and adapts to this rapidly changing landscape.

CPS Energy's journey with electric vehicles began in 2011 when the City of San Antonio amended its Electrical Code regulations to authorize electricians to install Level 2 chargers in homes for EVs. CPS Energy worked closely with the City in this effort and shortly thereafter began its own demonstration project to better understand the operational and planning issues related to the deployment of this new energy technology. Over the last several years, CPS Energy has installed a network of public charging stations throughout the San Antonio community, and to-date has 118 public charging ports in its service territory. The utility is also in the process of installing charging ports for public, workplace and fleet vehicles at its new headquarters facilities. Austin Energy and CPS Energy support the continued development of EV charging technology and look forward to productive and collaborative discussions with the Commission and industry stakeholders in this Project.

II. Response to Specific 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?**

³ Department of Energy, Office of Energy Efficiency and Renewable Energy on Electric Vehicles Charging at Home. Located at: <https://www.energy.gov/eere/electricvehicles/charging-home>

As a matter of policy, a clear and consistent approach to the owner and operator structure for EV charging stations across the state would best foster innovation and deployment to serve EV drivers and the Texas economy. Given the inherently mobile nature of EVs and the need for drivers to transit between service areas, a piecemeal or complicated approach could frustrate Texas EV automakers, electricity service providers, EV drivers, and innovators looking to improve the mobility market.

The most logical policy, therefore, would view third-party EV charging stations as our commercial customers (acting as owners and/or operators) providing a service. The end-use customer is the third-party charging station, not the EV driver, and the EV charging station should not be viewed as a utility-like provider of electric service. While PURA does not expressly address EV charging stations, there are sound policy reasons for interpreting PURA this way.⁴

As EV adoption continues to expand, we believe that thousands of EV charging stations will provide an essential fueling service throughout the state. As described fully in our response to Question 2 below, we submit that each EV charging station is not a facility to provide retail electric service. Rather, EV charging stations provide a fueling service. Given this interpretation, Austin Energy and CPS Energy support a policy that allows qualified third parties to own and operate EV charging stations.

If this policy approach were adopted, there would be no need for Commission oversight of who could own or operate an EV charging station. Perhaps a regulatory framework for ensuring the accurate measurement of electric fuel dispensed or the accurate price displayed, among other relevant specifications, could be adopted, the way the State oversees the accuracy of gasoline pumps. We understand that the Commission's current focus is on the ownership and operation of EV charging stations, and we expect this rapidly evolving market to ultimately determine appropriate pricing to fuel electric vehicles. While the Commission is not currently looking at consumer pricing and protection at this time, we appreciate the issues currently being addressed to set the groundwork for future efforts in this area.

⁴ Public Utility Regulatory Act, Tex. Util. Code Ann. §§ 11.001-66.016 (West 2007 & Supp. 2019) (PURA).

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

No. As noted in our response to Question 1, we submit that a reasonable interpretation of PURA concludes that a third-party EV charging station, not the EV driver, is the end-use customer. This view considers that the point of delivering electricity is from the utility to the charging station. The transaction between the charging station and the EV driver is not a resale of electricity.

The provision of EV charging services is not, in practice, consistent with what PURA describes as the sale of electricity to a residential or commercial customer, because charging an EV battery using an EV charging station is different than the provision of the generation, transmission, distribution and sale of electricity to a typical metered end-point customer. EV charging station operators purchase electricity to provide a specific service to a transient driver. This service is not delivered by that operator over distribution system wires or circuits, but rather by using a cord and connector for the sole purpose of charging the vehicle. Further, the EV driver is not served through a separate stationary meter dedicated to that customer who may or may not live in a defined service territory and is almost certainly at the station for only the short duration required for their battery to charge.⁵ These are significant differences that justify treating EV charging stations as something other than resellers of electricity subject to Commission regulation or certification.

Moreover, an operator of EV charging services has more in common with an internet café, a laundromat, or a charging kiosk for electronics at the airport than with a transmission and distribution utility providing essential electricity to a home or business through a fixed delivery infrastructure. EV charging stations have specialized equipment and provide a single service – charging an EV battery. The EV charging station provides a service to the transient driver that consists of access to the charging station, a short-term parking space, use of related metered software and participation in a network billing program with a variety of billing plan options, plus the electricity needed to fuel the driver's vehicle. The primary purpose of the transaction between the charging station and the driver is the purchase of this service and the use of this specialized equipment that converts electricity into usable energy for the car as a fueling service.

Ultimately, therefore, the third-party EV charging station that offers charging services, not the EV driver who uses those services, should be considered the retail customer. This interpretation

⁵ See PURA § 31.002 (16).

is consistent with the structure of a metered and stationary customer that PURA envisions.⁶ It recognizes that EV charging is an entirely different kind of service than PURA describes as being provided by an electric utility. It also recognizes another important distinction—that the EV driver has (or will have as the market matures) multiple options for charging, particularly as charging stations proliferate. In all these respects, the economic and policy justification for regulating the retail sale of electricity to homes and businesses and for ensuring the provision of reliable service is not applicable to the EV charging station and PURA does not mandate otherwise.

The sale of electricity to charging stations should be governed by the market rules applicable to the different geographic areas in Texas. For example, in the Austin Energy and CPS Energy service territories, the municipally-owned utility would provide both the delivery infrastructure and the electricity. If the Commission believes legislative changes to modernize PURA are necessary to reflect clear and consistent policy on the retail sale of electricity and EV charging station ownership structure throughout Texas, we respectfully request the Commission take into consideration those factors described above. Additionally, any legislative changes should be approached in a manner that does not negatively impact the rights, obligation and responsibility that municipally-owned utilities have to be the sole providers of electric service to customers within our certificated service areas, nor affect our ability to recover all infrastructure-related costs.⁷

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?

We decline to comment at this time; however, if there are issues raised by others that may impact our customers, our silence should not be interpreted as agreement and we may take positions on additional issues as they arise.

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?

Please see response to Question 3.

⁶ See PURA § 31.002 (16-18).

⁷ See PURA § 40.052

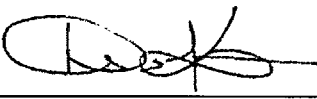
III. Conclusion

Austin Energy and CPS Energy appreciate the opportunity to offer our perspectives and recommendations regarding EV charging stations.

Respectfully submitted,

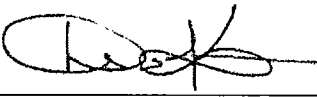
CITY OF AUSTIN d/b/a AUSTIN ENERGY

ANNE MORGAN, CITY ATTORNEY

By:  with permission

Andy Perny
Assistant City Attorney
Division Chief for AE Legal Services
State Bar No. 00791429
Telephone: (512) 974-2447
Facsimile: (512) 974-6491
Email: andy.perny@austintexas.gov

THE CITY OF SAN ANTONIO, ACTING BY AND THROUGH ITS CITY PUBLIC SERVICE BOARD (“CPS ENERGY”)

By:  _____

S. Devi Kumar
Director, Managing Senior Counsel
State Bar No. 24085421
Telephone: (210) 353-2069
Facsimile: (210) 353-2628
Email: sdkumar-namb@cpsenergy.com

Carolyn E. Shellman
Chief Legal Officer & General Counsel
State Bar No. 18196200
Telephone: (210) 353-4966
Facsimile: (210) 353-5636
Email: ceshellman@cpsenergy.com

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