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APPLICATION OF ENTERGY	§	PUBLIC UTILITY COMMISSION
TEXAS, INC. FOR AUTHORITY TO	§	
CHANGE RATES	§	OF TEXAS

ENTERGY TEXAS, INC.’S
EXCEPTIONS TO THE PROPOSAL FOR DECISION

Entergy Texas, Inc. (“ETI” or the “Company”) appreciates the State Office of Administrative Hearings (“SOAH”) Administrative Law Judge’s (“ALJ”) consideration of the issues addressed in the Proposal for Decision (“PFD”) issued on June 19, 2023. The Company respectfully provides the following exceptions to the PFD.

I. Introduction

ETI is pleased to present to the Public Utility Commission of Texas (“Commission”) an unopposed, near-global settlement of the issues in this matter. The Unopposed Stipulation filed on May 10, 2023, resolves all issues in this matter except two, which were considered in the PFD:

Preliminary Order Issue No. 68: Is it appropriate for an electric utility in a vertically integrated area to own vehicle-charging facilities or other transportation electrification and charging infrastructure, or should the ownership of such facilities be left to competitive providers?

Preliminary Order Issue No. 69: Should Entergy be allowed to own transportation electrification and charging infrastructure—including vehicle-charging facilities—in the manner it has proposed in its application, or should such ownership be wholly left to customers or third parties?¹

The answer to both questions is unequivocally “yes.” ETI’s testimony, exhibits, and briefing, as well as those of the majority of interested parties, demonstrate that it is appropriate for vertically integrated electric utilities to own transportation electrification (“TE”) and charging infrastructure in general and in the manner proposed by ETI under the law as it existed at the time

¹ See Unopposed Stipulation and Settlement Agreement at 1-2, 7 (May 10, 2023); *see also* Preliminary Order Question Nos. 68-69 (Aug. 4, 2022). Hereinafter, “TE” refers to transportation electrification and “EV” refers more specifically to electric vehicles.

of ETI's application. And, the recent passage of Senate Bill 1002 ("SB 1002")² eliminates any doubt. As explained below, SB 1002, subsection (o) specifically permits vertically integrated utilities to own TE and charging infrastructure and collaborate with customers in the manner facilitated by ETI's proposed Transportation Electrification and Charging Infrastructure TECI-1 Rider ("TECI-1").

ETI excepts to the PFD's failure to address the legal and policy issues presented by Commission Preliminary Order Issue Nos. 68 and 69. Whether considered under the law as it existed at the time ETI filed its application or under SB 1002, the right of vertically integrated utilities to own TE infrastructure is clear. ETI appreciates the PFD's recommendation that its TECI-1 Rider be approved, but as discussed below, excepts to the recommendation that the Transportation Electrification and Charging Demand Adjustment Rider ("TECDA-1) be denied.

II. Background

For years, Texas has unlocked electric industry innovations through regulatory tools in order to make benefits available to everyone. Indeed, that is a key purpose of regulation: to ensure that certain types of goods and services are available to all, especially where there are obstacles to the development of an efficient competitive market.³ Through the exercise of its regulatory authority, the Commission ensures that all Texans have access to water, telephone service, and electricity by fostering the development of the infrastructure necessary to make these services available. That authority enables this Commission, under a clear policy mandate, to help foster the development of much needed TE infrastructure in general, and EV charging facilities specifically. The Legislature recently found that "electric utilities . . . and the commission have important roles to fill in supporting the installation and use of infrastructure for electric vehicle

² Act of May 8, 2023, 88th Leg., R.S., 2023 Tex. Sess. Law Serv. Ch. 53 ("SB 1002") (to be codified as Public Utility Regulatory Act ("PURA") ch. 42).

³ See e.g., PURA § 11.002(c) ("Changes in technology and market structure have increased the need for minimum standards of service quality, customer service, and fair business practices to ensure high-quality service to customers and a healthy marketplace where competition is permitted by law. It is the purpose of this title to grant the Public Utility Commission of Texas authority to make and enforce rules necessary to protect customers of telecommunications and electric services consistent with the public interest."); *United States v. Sw. Cable Co.*, 392 U.S. 157, 167 (1968) ("The Commission's responsibilities are no more narrow: it is required to endeavor to 'make available... to all the people of the United States a rapid, efficient, Nation-wide, and world-wide wire and radio communication service.'").

charging,”⁴ and that “competitively neutral electricity tariffs” are a necessary part of fostering the development of the EV charging market.⁵ While the specific legal provisions that accompany these findings become effective on September 1, 2023,⁶ the Commission has the existing authority to approve ETI’s two TE charging-related riders, which are entirely consistent with the new legislation. Moreover, while practical considerations will likely delay ETI’s implementation of the TECI-1 and TECDA-1 Riders beyond SB 1002’s September 1, 2023 effective date, if the Commission deems appropriate, ETI would be amenable to a September 1, 2023 effective date for these proposed Riders.

SB 1002 is in step with Governor Abbott’s March 22, 2022 letter directing the Texas Department of Transportation (“TxDOT”) to develop an Electric Vehicle Infrastructure Deployment Plan:

Texas’ sheer volume of roadway miles leaves ample opportunity for EV charging deployment. The plan should ensure that every Texan can access the infrastructure they need to charge an EV. Additionally, I direct TxDOT and stakeholders to include in the plan a way for Texans to easily get from Beaumont to El Paso and Texline to Brownsville in an EV-with a focus on rural placement and connectivity.⁷

ETI’s proposed TECI-1 and TECDA-1 Riders support and advance state policy through voluntary solutions funded by the customers seeking them—solutions that will exist alongside, not in place of, all other options the market might provide. In particular, these riders promote EV charging deployment within ETI’s largely rural service area. Of the counties served by ETI, 17 of 27 are considered rural.⁸ In addition, pursuant to SB 1002, ETI’s proposed voluntary, customer-oriented solutions under the TECI-1 and TECDA-1 Riders will not be subject to the requirements in PURA § 42.0103(f) – (l) pertaining to an electric utility seeking to provide public EV charging

⁴ SB 1002 (to be codified as PURA § 42.0101(c)).

⁵ *Id.* at subsection (d)(2).

⁶ SB 1002 at Section 3.

⁷ SPS Ex. 1, Attachment JWC-2 at 1 (Bates 35).

⁸ Compare ETI Ex. 28 at Schedule 10 at 15-17 with SPS Ex. 1 at 17 (citing <https://www.arts.texas.gov/initiatives/rural-initiatives/rural-texas-counties/>) (The rural counties include Burleson, Chambers, Falls, Grimes, Houston, Jasper, Leon, Limestone, Madison, Milam, Newton, Polk, Robertson, San Jacinto, Trinity, Tyler, and Washington.).

service directly to end-use customers, which provisions require implementation through a Commission rulemaking; ETI's current proposals and plans do not include public EV charging.⁹ Instead, ETI's two proposals will be used by customers choosing to host and pay for such investments in the manner determined by those customers in their sole discretion. ETI's proposed solutions will directly advance the development of EV charging infrastructure in Texas, and have thus obtained broad support from a wide variety of stakeholders, including intervening competitive EV charging providers FlashParking, Inc. and ChargePoint, Inc., industry trade groups such as the Alliance for Transportation Electrification¹⁰ and the Edison Electric Institute,¹¹ Cinemark Theaters, the Huntsville Walker County Chamber of Commerce, the Greater Beaumont Chamber of Commerce, and Port Arthur Transit.

TECI-1 Rider

The TECI-1 Rider will allow interested non-residential customers to contract with ETI to construct, own, and maintain TE-related infrastructure and equipment on customer-owned property for the customer's own use, or for the *customer's* provision of public charging service, should they so choose.¹² This is precisely what SB 1002 authorizes through new PURA sections 42.0102(7)(B) and 42.0103(o).

The legislation permits utility ownership of vehicle charging equipment located on an electric utility's customer's premises that is "(i) used by the customer or the customer's tenants, affiliates, or guests, and (ii) not used commercially for electric charging service."¹³ In addition, PURA § 42.0103(o) provides:

(o) This section does not prohibit a person who is not an electric utility or an affiliate of an electric utility from entering into an agreement with an electric utility for the utility to own or operate a public electric vehicle charging station on the person's property if:

(1) the utility does not:

⁹ SB 1002, to be codified as PURA § 42.0103(q) provides, "A public electric vehicle charging station operated under an agreement under Subsection (o) is not subject to the requirements of Subsections (f) – (l)."

¹⁰ Alliance for Transportation Electrification's Comments at 1-2 (Nov. 18, 2022).

¹¹ ETI Ex. 53 at 4-5; Exhibit SFH-R-1 at 2, 4.

¹² ETI Ex. 40 at 8.

¹³ SB 1002, to be codified as PURA § 42.0102(7)(B) ("The term [public electric vehicle charging station] does not include vehicle charging equipment that is: (B) located on the premises of a customer of an electric utility, a transmission and distribution utility, or an affiliate and: (i) used by the customer...").

- (A) provide electric vehicle charging service using the public electric vehicle charging station; or
- (B) brand or market the public electric vehicle charging station as owned or operated by the utility, including by presenting the utility's name, logo, or any other distinguishing mark to indicate that the utility owns or operates the public electric vehicle charging station;
- (2) the person solely determines:
 - (A) physical access to and use of the public electric vehicle charging station necessary to carry out responsibilities associated with ownership and operation of the public electric vehicle charging station; and
 - (B) prices for the electric vehicle charging service; and
- (3) the person pays for all electric utility-related costs under a tariff approved by the commission that provides for full recovery of the costs of the public electric vehicle charging station from the person, including incremental revenues paid by the person to the utility associated with the electric vehicle charging service.

These provisions exactly describe the voluntary, host customer-funded option ETI proposes to offer under its TECI-1 Rider. Such customers are expected to include residential property developers, fueling stations, fleet managers, governmental agencies and schools, ports considering electrifying shore operations, and other business owners.¹⁴ Importantly, the TECI-1 Rider is completely voluntary and merely adds another contracted tariff option for ETI's customers.¹⁵ In no way will ETI's proposal hinder solutions the market could otherwise provide or compete with private entities that desire to offer charging to the public for compensation. Rather, the TECI-1 Rider directly benefits both customers and competitive EV charging companies by working as a bridge between the two while helping to address infrastructure costs.

Under the TECI-1 Rider, customers retain the full range of options they would otherwise have plus new ones. For example, a customer may choose a "turnkey" solution in which ETI installs, owns, and maintains both the make-ready infrastructure and charging facilities. Alternatively, a customer could have ETI install, own, and maintain only the make-ready infrastructure, with the customer installing, owning, and maintaining the charging facilities. And, of course, a customer could disregard the TECI-1 alternative entirely, as is currently their option,

¹⁴ ETI Ex. 40 at 9.

¹⁵ *Id.*

which would limit ETI's role to the provision of electric service.¹⁶ Importantly, under all of these scenarios, the TECI-1 Rider does not result in ETI providing public EV charging service. Instead, the host customer utilizing the TECI-1 Rider (or not) determines who is permitted to use the charging facilities and sets the pricing and conditions for that use.

ETI modeled the TECI-1 Rider on the Commission-approved Additional Facilities Charge ("AFC") Rider, Option B, in which the Company constructs, owns, and maintains electrical infrastructure for the benefit of a specific customer who pays for that infrastructure via a fixed payment each month.¹⁷ The costs incurred by ETI for the equipment, installation, and any ongoing operations and maintenance ("O&M") will be added to each TECI-1 Rider customer's monthly bill as a fixed payment in accordance with well-established cost causation principles.¹⁸ No costs associated with ETI's investment will be imposed on the Company's other customers,¹⁹ which is consistent with the new statutory language that was enacted via passage of SB 1002.²⁰

ETI notes the PFD's findings that, as with the AFC Rider, customers will "similarly benefit" from the TECI-1 Rider, and the PFD's ultimate conclusion that the TECI-1 Rider should be approved (subject to Commission determination of the utility ownership question).²¹

TECDA-1 Rider

The TECDA-1 Rider is a *temporary* and self-adjusting measure that would reduce electric bill uncertainty for non-residential Rate Schedule General Service ("GS") customers installing separately metered charging equipment.²² Depending on a customer's load and resulting "load factor" (*i.e.*, the relative proportion of monthly energy usage to peak demand), demand charges can represent a significant proportion of a monthly electric bill.²³ A separately metered EV charger with high demand (kilowatt ("kW")) but relatively low monthly energy usage (kilowatt-hour ("kWh")) can present two challenges for the customer: (1) a rate structure where demand charges

¹⁶ *Id.* at 9.

¹⁷ ETI Ex. 53 at 14-15.

¹⁸ ETI Ex. 40 at 9.

¹⁹ ETI Ex. 53 at 16.

²⁰ SB 1002, to be codified as PURA § 42.0103(o)(3)

²¹ *See* PFD at 32-33.

²² *Id.* at 23; ETI Ex. 53 at 37.

²³ ETI Ex. 40 at 31.

represent a significantly greater share of the bill than energy charges; and (2) a resulting high “effective cost per kWh,” where the total bill is divided by a relatively low volume of energy usage (kWh).²⁴ As a result, without the temporary relief provided by the TECDA-1 Rider, it may be prohibitively expensive for an EV charger site host to operate during the early phase of EV market growth, which may deter capital investment in EV chargers with separate electric service.²⁵

The PFD’s recommendation that the TECDA-1 Rider be denied is inconsistent with the state’s policy goal of fostering the competitive EV charging market and is contrary to the overwhelming and uncontroverted record evidence. The PFD’s sole basis for denial is a “concern” that costs will be shifted from EV charging customers to other GS customers.²⁶ However, as discussed in more detail below, no costs will be shifted under the TECDA-1 Rider. Rate Schedule GS customers will continue to pay the Commission-approved, tariffed rate based on their applicable customer profile and consumption characteristics, without regard to the addition of new EV charging customers taking service under the TECDA-1 Rider. If and when new customers begin taking separately metered service under ETI’s Rate Schedule GS and applying the TECDA-1 Rider, the new revenues obtained from such customers will be incremental, and will ultimately reduce rates for all customers.²⁷ Importantly, ETI performed and submitted a Ratepayer Impact Measure (“RIM”) test as evidence to demonstrate that the TECDA-1 Rider would not cause adverse impacts to other customers.²⁸ No party disputed the results of this RIM test. The Commission should approve this important rider, which will remove an existing barrier to entry for EV charging facilities, and modify the PFD’s findings to the contrary.

²⁴ *Id.*

²⁵ *Id.* at 31-32.

²⁶ PFD at 37.

²⁷ ETI Ex. 53 at 32.

²⁸ ETI Ex. 53 at 28-32, 38-40.

III. Argument

A. Vertically Integrated Utilities Should Be Permitted to Own TE Infrastructure.

Notwithstanding its finding that it was appropriate for vertically integrated electric utilities to own TE infrastructure,²⁹ the PFD ultimately declined to address Preliminary Order Question Nos. 68 and 69, which ask:

68. Is it appropriate for an electric utility in a vertically integrated area to own vehicle-charging facilities or other transportation electrification and charging infrastructure, or should the ownership of such facilities be left to competitive providers?

69. Should Entergy be allowed to own transportation electrification and charging infrastructure—including vehicle-charging facilities—in the manner it has proposed in its application, or should such ownership be wholly left to customers or third parties?

The Legislature’s recent amendments to PURA Chapter 42 reveal that the answer to both of these questions is unquestionably “yes.”

1. *SB 1002 answers the policy question regarding whether utility ownership of TE infrastructure is appropriate.*

New PURA § 42.0103 specifies the manner in which electric utilities “outside of ERCOT,” *i.e.*, in the vertically integrated areas of Texas, may help in the “deployment of public electric vehicle charging stations,” which is “essential to foster the rapid installation and widespread use of public electric vehicle charging stations.”³⁰ That includes authorization for utilities to “own or operate a public electric vehicle charging station” by entering into an agreement with a customer to do so, provided certain conditions are met.³¹ Similarly, under the new law “a municipality that is a customer of an electric utility may enter into an agreement with the utility under which . . . the utility owns and operates a public electric vehicle charging station . . .”³² While these provisions

²⁹ PFD at 16-17 (“Thus, the ALJ concludes that as of September 1, 2023, it is appropriate for a vertically integrated electric utility to own such infrastructure and equipment in accordance with the soon to be codified PURA chapter 42. However, because SB 1002 does not go into effect until that date, as well as the potential policy implications involved in setting precedent under new laws, the ALJ finds it prudent to defer to the Commission on Issue No. 68 concerning the appropriateness of any vertically integrated electric utility owning TE and charging infrastructure as considered in the current proceeding.”).

³⁰ SB 1002 (to be codified as PURA § 42.0101(b)).

³¹ *Id.* at § 42.0103(o).

³² *Id.* at § 42.0103(r)(1).

take effect September 1, 2023, they immediately and decidedly confirm the answer to the *policy question* of whether it is “appropriate for an electric utility in a vertically integrated area to own vehicle-charging facilities or other transportation electrification and charging infrastructure”³³ The Legislature found that “electric utilities . . . have important roles to fill in supporting the installation and use of infrastructure for electric vehicle charging,” and has made clear that utility ownership of TE equipment is a key aspect of fulfilling that role.³⁴

The Legislature’s decisions reflect sound policy, as electric utilities are well positioned to help foster much needed investment in EV charging facilities. These facilities require line extensions that will be identical to those in the rest of the electric grid, and therefore a utility’s ability to own such line extensions is clear.³⁵ Utilities are likewise experienced in installing and maintaining equipment similar to make-ready EV charging infrastructure, and should be permitted to install, own, and maintain such make-ready infrastructure on their customers’ behalf.³⁶ Utility ownership and cost recovery in the manner contemplated by SB 1002 can have a positive impact on the competitive market by reducing financial barriers to entry.³⁷

2. *There is no legal barrier to implementing the Legislature’s policy decision now.*

Although SB 1002 will not become effective until September 1, 2023, the Commission is not barred from implementing the policy decisions reflected in the new statutory provisions. As a practical matter, regardless of the effective date of the proposed TECI-1 Rider, it is likely that ETI’s implementation of it (which involves utility ownership) will not commence until after September 1, 2023, when the new law will be in effect. Moreover, as noted above, if the Commission deems appropriate, ETI would be amenable to a September 1, 2023 effective date for the Rider. As a legal matter, the Commission has always possessed the authority to implement the policy now confirmed by the Texas Legislature through SB 1002 and approve ETI’s proposed TE-related riders.

³³ Preliminary Order Question No. 68 (Aug. 4, 2022).

³⁴ SB 1002 (to be codified as PURA § 42.0101(c)).

³⁵ SPS Ex. 2 at 10.

³⁶ *Id.* at 10-11; SB 1002 (to be codified as PURA §§ 42.0102(6), 42.0103(d), (o)).

³⁷ SPS Ex. 2 at 10-11; SB 1002 (to be codified as PURA §§ 42.0103(d), (o)).

In addition to declining to answer the question, the PFD also confuses the issue by mischaracterizing ETI's position and offering an incorrect legal interpretation of PURA § 31.002(6). The PFD misconstrues ETI's position to be the "Legislature's failure to explicitly prohibit ETI and other vertically integrated electric utilities from owning TE and charging infrastructure means there is no statutory restriction."³⁸ That is not ETI's position. Instead, ETI's position in its Initial Brief, just as it is here, is simply: (1) the plain language of PURA § 31.002(a) makes TE ownership a function of electric utilities, subject to the Commission's jurisdiction; and (2) the Legislature's decision to *also* permit private ownership of TE infrastructure does not itself act as a ban on utility ownership, in the same way that private ownership of electric generation facilities does not bar electric utilities outside ERCOT from owning generation.³⁹

PURA establishes "a comprehensive and adequate regulatory system for electric utilities to assure rates, operations, and services that are just and reasonable to the consumers and to the electric utilities."⁴⁰ Thus, a key feature of PURA and the basis for the Commission's jurisdiction centers on whether an entity is an "electric utility."⁴¹ Absent a statutory exception, an "electric utility" is a person that "owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state."⁴² Someone who owns or operates TE charging and related infrastructure and receives compensation for its use (as ETI proposes through the TECI-1 Rider) thus falls squarely within that statutory definition. The Legislature amended PURA in 2021 to provide a statutory exception for an owner or operator of "equipment used solely to provide electricity charging service" from the definition of "electric utility."⁴³ But just as with other statutory exceptions (such as the generation example above), the Texas Legislature's decision to permit new entrants to participate in this aspect of the market for electric services does not thereby prohibit existing electric utilities from TE ownership today. The PFD's erroneous and extraneous proposed finding that "[t]he recent amendment to PURA

³⁸ PFD at 15.

³⁹ See ETI's Initial Brief Addressing Preliminary Order Issue Nos. 68 and 69 at 13-14 (Jan. 13, 2023).

⁴⁰ PURA § 31.001(a).

⁴¹ PURA §§ 31.001, 31.002(6).

⁴² PURA § 31.002(6).

⁴³ PURA § 31.002(6)(J)(iv).

§ 31.002(6) does not support the position that vertically integrated electric utilities may own all aspects of EV charging related infrastructure and equipment” should be omitted from the Commission’s final order.⁴⁴

3. *ETI’s proposed TECI-1 Rider is consistent with SB 1002.*

As noted above, the PFD recommends that, if the Commission finds it is appropriate for vertically integrated utilities to own TE charging and related infrastructure, then the TECI-1 Rider should be approved. The TECI-1 Rider is ready for approval today and is fully consistent with the legislative design reflected in SB 1002. The TECI-1 Rider will offer non-residential customers the flexibility to choose TE infrastructure and equipment, up to and including the option of a “turn-key” TE solution.⁴⁵ Some customers may prefer to have ETI provide only the extension of electric service, and others may desire ETI to also own the make-ready infrastructure, such as a multi-unit housing complex property manager wanting to install a few simple Level-2 chargers on their property. On the other end of the spectrum, a short-staffed school district administration may not have the time, resources, or expertise available to oversee and manage sourcing the equipment vendors, installation, and maintenance required for EV chargers. Through this rider, ETI will construct, own, and maintain only the portions of the TE charging infrastructure and equipment that the customer elects.⁴⁶ Through the TECI-1 Rider, ETI will not itself provide EV charging service to the public at the customer’s location, nor will ETI brand or market the EV charging station with its name, logo, or other distinguishing mark.⁴⁷ The customer will have discretion

⁴⁴ PFD at Conclusion of Law No. 7.

⁴⁵ ETI Ex. 40 at 8, n.16 (“At the customer’s discretion, ETI proposes to organize and oversee every aspect of the installation from beginning to end. For each customer, ETI will work with qualified third parties to provide a site assessment and handle the permitting and inspections necessary for the installation. Also, ETI will provide recommendations for Electric Vehicle Supply Equipment (“EVSE”) or shore power connection equipment models, and will work with third parties to install, test, and energize the charging stations on the customer’s premise.”).

⁴⁶ *Id.* at 8-9.

⁴⁷ *See* SB 1002 (to be codified as PURA § 42.0103(o)(1)(A)-(B)).

regarding physical access and use of the charging station as well as any prices charged and/or terms and conditions for the service.⁴⁸

The costs incurred by ETI for the equipment, installation, and any ongoing O&M will be recovered from the host customer through the fixed payment included in the customer's monthly ETI electric bill.⁴⁹ This will ensure that the costs associated with ETI's investment will only be charged to the customer that voluntarily elects to enroll in the TECI-1 Rider, and will not be imposed on or subsidized by ETI's other customers.⁵⁰ The participating customer will be required to enter into a contract with ETI, in which the customer agrees to pay a net monthly TECI-1 Rider payment for the infrastructure and equipment costs ETI will own and maintain for a customer-selected term between one year and ten years, as well as an amount to cover associated O&M costs.⁵¹ The payments are structured so that ETI will fully recover the costs to install the infrastructure from the customer by the end of the recovery term.⁵² The net monthly payments collected under the rider will be treated as an offset against ETI's overall revenue requirement. This is precisely the process used in existing Commission-approved tariffs, such as ETI's AFC Rider and Schedule Area Lighting Service.⁵³

In light of the Legislature's answer to the question of utility ownership of TE charging and related equipment provided through SB 1002 and the TECI-1 Rider's consistency with the new law, the Commission should find that ETI is allowed to own TE infrastructure—including EV-charging facilities—in the manner it has proposed in its application.

B. The TECDA-1 Rider Will Remove Barriers to Entry and Should Be Approved.

The PFD recommends rejecting the TECDA-1 Rider solely under an ill-founded “concern” that the rider will somehow result in “cost shifting.”⁵⁴ However, a mere concern cannot support a

⁴⁸ ETI Ex. 40 at 25-26; ETI Ex. 53 at 26.

⁴⁹ ETI Ex. 40 at 9.

⁵⁰ ETI Ex. 40 at 16; ETI Ex. 53 at 16-17.

⁵¹ ETI Ex. 40 at 12.

⁵² ETI Ex. 40 at 12-13; ETI Ex. 53 at 16-17.

⁵³ ETI Ex. 53 at 14-15.

⁵⁴ PFD at 36-37.

finding that the TECDA-1 Rider is unreasonably preferential or discriminatory, nor is the concern supported by a preponderance of the evidence. The Commission should therefore approve this important rider, which will remove an existing barrier to entry for EV charging facilities, and modify the PFD's findings to the contrary.⁵⁵

The TECDA-1 Rider seeks to remove a significant barrier to the initial proliferation of EV charging stations, namely, the high effective per kWh cost that accompanies the initial low use period of implementation for stations that are separately metered. ETT's Rate Schedule GS is based on a modest fixed Customer Charge, a volumetric Energy Charge applied to the volume of energy (kWh) used, and a Demand Charge applied to the highest thirty-minute kW demand registered during the month on the meter subject to certain minimum bill language, as well as other applicable riders.⁵⁶ A customer's demand (sometimes referred to as "load") can be evaluated by the ratio of the utilization of electrical energy during a given period to the maximum energy that would have been utilized in that period based on the customer's demand ("load factor").⁵⁷ For example, a customer would have a 100 percent daily load factor if the customer has 10 kW of demand and consumes 240 kWh of energy over 24 hours.⁵⁸

For relatively high loads and low load factors, demand charges can represent a significant percentage of a GS customer's monthly electric bill.⁵⁹ This can lead to unpredictable electric bills for EV charger site hosts, where the costs incurred for electric service may exceed the revenues received from EV drivers, particularly during the early phase of EV adoption. The Rocky Mountain Institute ("RMI") released a study in 2017,⁶⁰ where an analysis revealed demand charges can initially make up over 90 percent of an EV charger's electricity costs during the early adoption period due to low initial utilization. RMI prepared and released subsequent studies focusing on various approaches to rate design to try to address challenges presented by demand charges during

⁵⁵ See 16 Tex. Admin. Code § 22.262(a)(1).

⁵⁶ ETT Ex. 40 at 32. Note that Rate Schedule GS uses the terms "Billing Load Charge" and "Billing Load"; for sake of clarity, the more commonly used terms "Demand Charge" and "Billing Demand" have been substituted in this document.

⁵⁷ *Id.* at 30.

⁵⁸ *Id.* at 30-31.

⁵⁹ *Id.* at 31.

⁶⁰ *Id.* at 40.

the early adoption phase, including the approach ETI is proposing in its application through the TECDA-1 Rider.⁶¹

While the proposed TECDA-1 Rider would temporarily reduce Billing Demand (kW) for lower utilized EV chargers, the bills for these customers would automatically adjust back to standard Rate Schedule GS rates when the charging station utilization increases above the specified 15 percent monthly load factor floor, or five years, whichever is first.⁶² Therefore, the TECDA-1 Rider is temporary and self-correcting over time and will “phase out” on its own as EV adoption increases and EV charging becomes more prevalent in the next few years.⁶³ It is important to note that the TECDA-1 Rider would only change the amount of Billing Demand (kW); all other rates and charges under the Rate Schedule GS will be billed the same way as normally occurs.⁶⁴

The PFD recommends rejection of the TECDA-1 Rider based on an erroneous finding that ETI “failed to show that its cost recovery from participating TECDA-1-1 Rider customers would not be unreasonably preferential, prejudicial, or discriminatory.”⁶⁵ However, the PFD misapplies this standard by presuming it has not been met unless ETI demonstrates otherwise. PURA prohibits “unreasonably preferential, prejudicial, or discriminatory rates,”⁶⁶ but does not presume that a proposed rate is unreasonably preferential, prejudicial, or discriminatory unless the utility proves otherwise. Regardless, ETI demonstrated that the TECDA-1 Rider is no different than ETI’s Commission-approved Riders that implement special billing provisions to address the unique nature or circumstances of certain customers. For instance, the Company’s Special Minimum Charge Rider (“Schedule SMC”) to Schedules Small General Service, GS, and Large General Service offers a potential reduction to an eligible customer’s Billing Load in calculating the monthly bill.⁶⁷ Schedule SMC also offers seasonally operating eligible customers, such as agricultural operations and municipal facilities, the ability to disconnect and reconnect in the same

⁶¹ *Id.*

⁶² ETI Ex. 40 at 34, 38.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ PFD at Proposed Finding of Fact No. 64.

⁶⁶ PURA § 36.003.

⁶⁷ ETI Ex. 53 at 27-28.

calendar year without paying additional fees.⁶⁸ ETI also offers the Rider for Institutions of Higher Learning, which reduces the customer's monthly bill by 20 percent, net of the fuel adjustment portion.⁶⁹ These examples demonstrate Commission approval of differing billing treatment for certain types of customers from other customers on the same rate schedules.

The TECDA-1 Rider is also similar to mechanisms that regulators have approved for use by ETI's Arkansas and New Orleans affiliates,⁷⁰ Florida Power and Light,⁷¹ and Xcel Energy Minnesota.⁷² In addition, there are numerous examples of alternative rates in other jurisdictions that address demand charges, including Evergy's Business EV Charging Service rate in Kansas, Eversource's Electric Vehicle Rate Rider in Connecticut, Xcel's Schedule S-EV in Colorado, and Dominion's Low Load Factor Rate in Virginia. The fact that similar mechanisms have been adopted throughout the country provides further support for the notion that the temporary relief provided by riders like TECDA-1 produce just and reasonable rates.

The PFD's reliance on purported cost-shifting concerns is neither reflective of how the TECDA-1 Rider will operate, nor of the uncontroverted evidence in this case. Upon the entry of tariffs consistent with the Commission's final order in this proceeding, GS customers will continue to pay the Commission-approved, tariffed rate based on their applicable customer profile and consumption characteristics, without regard to the addition of new EV charging customers taking service under GS and applying the TECDA-1 Rider. The addition of incremental, separately metered customers taking service under the TECDA-1 Rider will produce incremental revenues that will ultimately reduce rates for all customers.⁷³

ETI's un rebutted RIM test results demonstrate that the TECDA-1 Rider results in net benefits to ETI's customers. The RIM test is essentially a net benefits test—it considers the

⁶⁸ *Id.* at 28.

⁶⁹ *Id.*

⁷⁰ *In the Matter of the Application of Entergy Arkansas, LLC, for A Proposed Tariff Regarding of Demand Adjustment*, Docket No. 22-027-P, Order No. 2 (May 3, 2023); New Orleans, La., Resolution No. R-23-75 (Feb. 16, 2023), available at: https://cityofno.granicus.com/Viewer.php?view_id=42&clip_id=4424&meta_id=620606.

⁷¹ ETI Ex. 40 at 39.

⁷² *Id.*

⁷³ ETI Ex. 53 at 38-39.

incremental benefits of the utility's proposal and the costs associated with providing the service.⁷⁴ If the benefits exceed the costs, there is a positive contribution to the utility's overall revenue requirement, resulting in a lower revenue requirement from all other customers.⁷⁵ The RIM test is typically expressed as a ratio of benefits to costs over time with a positive RIM test having a value of 1.0 or greater.⁷⁶

The RIM test analysis of the TECDA-1 Rider considered three streams of benefits and four streams of costs.⁷⁷ The benefits included revenue from base rates, revenue from fuel rates, and revenues from other base rate-related riders.⁷⁸ The costs incorporated in the analysis included incremental capacity supply costs, incremental energy supply costs, embedded transmission-related costs, and embedded distribution-related costs.⁷⁹ As explained by ETI witness Ms. Hill, the RIM test resulted in positive net benefits across all scenarios analyzed.⁸⁰

Benefits	10-Yr RIM Results				
	NPV				Average
	600 KW 5% LF	600 KW 10% LF	1,500 KW 5% LF	1,500 KW 10% LF	
Base Rate	\$444,387	\$597,194	\$1,104,024	\$1,486,042	\$907,912
Fuel	\$89,724	\$140,087	\$224,309	\$350,217	\$201,084
DCRF, TCRF, AND GCRR	\$0	\$0	\$0	\$0	\$0
Total Benefits	\$534,111	\$737,281	\$1,328,334	\$1,836,259	\$1,108,996
Costs					
Energy Supply Costs	\$116,200	\$179,992	\$290,501	\$449,980	\$259,168
Capacity Supply Costs	\$153,664	\$153,664	\$384,157	\$384,157	\$268,910
Transmission Costs	\$31,677	\$31,677	\$79,193	\$79,193	\$55,435
Distribution Costs	\$164,569	\$164,569	\$411,422	\$411,422	\$287,996
Total Costs	\$466,110	\$529,902	\$1,165,273	\$1,324,752	\$871,509
RIM B/C Ratio	1.15	1.39	1.14	1.39	1.27

⁷⁴ *Id.* at 30.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ ETI Ex. 53 at 30-31.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ ETI Ex. 53 at 31-32. The table is from ETI Ex. 53 at 31, Table 1.

Again, this evidence was entirely un rebutted, contradicts the cost-shifting “concern” expressed in the PFD, and should have been given appropriate weight in demonstrating the reasonableness of the TECDA-1 Rider.

ChargePoint also submitted evidence demonstrating how increased deployment of TE charging and related infrastructure can reduce per-unit energy costs, resulting in lower electricity rates and net benefits to all customers.⁸¹ For instance, a state-wide cost-benefit analysis of EV adoption in Nevada found \$3.6 billion in net benefits to the state’s customers by 2050 through reduced electricity bills.⁸² Likewise, a similar analysis for Colorado found \$4 billion in net benefits by 2050 under a high EV adoption scenario and \$300 million in net benefits by the same time period under a moderate EV adoption scenario.⁸³

Adoption of the TECDA-1 Rider will benefit not just customers participating under the TECI-1 and TECDA-1 Riders, but any and all ETI customers, including entities seeking to take advantage of National Electric Vehicle Infrastructure Formula Program funding for public direct current fast chargers. As such, it is an important, albeit temporary and self-correcting, tool to help clear an existing regulatory barrier to the adoption of EV charging facilities in ETI’s service territory. The Commission should approve the proposed TECDA-1 Rider, modify the PFD’s conclusions to the contrary, and, in so doing, help advance the state’s policy of encouraging the development of the EV charging market through the use of appropriate regulatory tools.

IV. Conclusion

For the reasons discussed above, the Commission should answer Preliminary Order Issue Nos. 68 and 69 “yes”: vertically integrated utilities should be permitted to own TE infrastructure, ETI should be permitted to own TE infrastructure in the manner proposed in its application, and the TECI-1 and TECDA-1 Riders should be approved. Consistent with these conclusions, the Commission should modify the PFD’s contrary proposed findings of fact, conclusions of law, and

⁸¹ ChargePoint Ex. 4.0 at 4-7.

⁸² *Id.*

⁸³ *Id.*

ordering paragraphs in the manner described herein and specifically set forth in Exhibit A to this filing.⁸⁴

Respectfully submitted,



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⁸⁴ Exhibit A includes only ET1's proposed changes to the SOAH PFD, and as such does not include proposed findings of fact, conclusions or law, or ordering paragraphs related to the matters resolved among the parties in the Unopposed Stipulation.

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ATTORNEYS FOR ENTERGY TEXAS, INC.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Entergy Texas, Inc.'s Exceptions to the Proposal for Decision was served by electronic delivery on all parties of record in this proceeding on July 12, 2023.

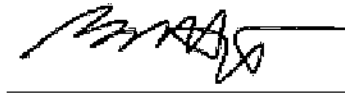


Exhibit A

VII. FINDINGS OF FACT

Applicant

1. Entergy Texas, Inc. (ETI) is a Texas corporation registered with the Texas secretary of state under filing number 800911623.
2. ETI owns and operates for compensation equipment and facilities to generate, transmit, distribute, and sell electricity in Texas.
3. ETI is required under certificate of convenience and necessity (CCN) number 30076 to provide service to the public and to provide retail electric utility service within its certificated service area.

Application

4. On July 1, 2022, ETI filed an application requesting authority to change its Texas retail rates based on a historical test year of January 1, 2021 through December 31, 2021, adjusted for known and measurable changes. The application included a request for approval of new Transportation Electrification and Charging Infrastructure (TECI) and Transportation Electrification and Charging Demand Adjustment (TECDA) Riders.
5. ETI's application included the direct testimony of 37 witnesses.
6. ETI filed errata to its application on September 16, 2022.
7. At the prehearing conference on July 22, 2022, the State Office of Administrative Hearings (SOAH) Administrative Law Judges (ALJs) found ~~ETI~~ETI's application sufficient and memorialized that finding in SOAH Order No. 1 on July 29, 2023.

Effective Date of Proposed Rates

8. ETI proposed an effective date of August 5, 2022.
9. ETI requested that, if the new rates were suspended for a period beyond 155 days after ETI filed its application, then final rates would relate back and be made effective for consumption on and after the 155th day after the rate filing package was filed.
10. In SOAH Order No. 1 issued on July 11, 2022, the SOAH ALJs suspended the effective date of the proposed rates until January 2, 2023.
11. ETI agreed to multiple extensions of the effective date, the final extension ending on July 20, 2023.

Exhibit A

Notice of the Application

12. On September 21, 2022, ETI filed the affidavit of Stuart Barrett, attesting that ETI had provided notice of the application via email to all municipalities within ETI's service area. Mr. Barrett also attested that ETI had provided notice of the application to the Office of Public Utility Counsel (OPUC).
13. On September 21, 2022, ETI filed the affidavit of Kendra James, attesting that ETI had mailed notice of the application to all affected customers in ETI's service territory. Further, Ms. James attested that ETI had published notice at least once a week for four consecutive weeks prior to the effective date of the proposed rate change in newspapers having general circulation in each county of ETI's service territory.
14. In SOAH Order No. 1 issued on July 11, 2022, the SOAH ALJs suspended the effective date of the proposed rates until January 2, 2023 ~~DELETED~~.
15. At the prehearing conference on July 22, 2022, the SOAH ALJs found ETI's notice sufficient and memorialized that finding in SOAH Order No. 1 on July 29, 2022.

Interventions

16. At the prehearing conference on July 22, 2022, the SOAH ALJs granted intervenor status to the following parties: OPUC, Texas Industrial Energy Consumers (TIEC), and the Cities of Anahuac, Beaumont, Bridge City, Cleveland, Dayton, Groves, Houston, Huntsville, Liberty, Montgomery, Navasota, Oak Ridge North, Orange, Pine Forest, Pinehurst, Port Arthur, Port Neches, Roman Forest, Rose City, Shenandoah, Silsbee, Sour Lake, Splendora, Vidor, West Orange, and Willis (collectively, Cities).
17. In SOAH Order No. 3 issued on August 19, 2022, the SOAH ALJs granted the interventions of: The Kroger Co. (Kroger); the United States Department of Energy, on behalf of itself and all other affected Federal Executive Agencies (FEA); Walmart Inc. (Walmart); FlashParking, Inc. (FlashParking); and Sierra Club.
18. In SOAH Order No. 4 issued on September 7, 2022, the SOAH ALJs denied Southwestern Public Service Company's (SPS) late motion to intervene.
19. SPS appealed SOAH Order No. 4, and the Commission granted the appeal. In the Commission's Order on Appeal of SOAH Order No. 4 issued on October 20, 2022, the Commission overturned the SOAH ALJs' denial and granted SPS's late motion to intervene.
20. In SOAH Order No. 5 issued on September 19, 2022, the SOAH ALJs granted ChargePoint, Inc.'s (ChargePoint) late motion to intervene.
21. In SOAH Order No. 6 issued on October 6, 2022, the SOAH ALJs granted Sempra

Exhibit A

Infrastructure Partners, L.P.'s (Sempra) late motion to intervene.

22. In SOAH Order No. 8 issued on October 25, 2022, the SOAH ALJs granted Americans for Affordable Clean Energy's (AACE) and El Paso Electric Company's (EPE) late motions to intervene.

Appeals of Municipal Ordinances

23. ETI timely filed with the Commission petitions for review of rate ordinances of the municipalities exercising original jurisdiction within its service territory.
24. In SOAH Order No. 3 issued on August 19, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Hearne, Patton Village, Daisetta, Madisonville, Bedias, Kosse, New Waverly, Somerville, Iola, Anderson, Todd Mission, Trinity, Franklin, Ames, Caldwell, Colmesneil, Bremond, Taylor Landing, Midway, Groveton, Woodbranch Village, Calvert, Woodloch, Nome, Riverside, Woodville, and Lumberton.
25. In SOAH Order No. 4 issued on September 7, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Kountze, Cleveland, Normangee, Plum Grover, Hardin, Devers, North Cleveland, Plantersville, and China.
26. In SOAH Order No. 5 issued on September 19, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Cut and Shoot, Corrigan, Bevil Oaks, and Chester.
27. In SOAH Order No. 8 issued on October 25, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Willis, Groves, and Nederland.
28. In SOAH Order No. 11 issued on December 1, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Dayton, Sour Lake, Port Neches, Navasota, Orange, Liberty, Pinehurst, Port Arthur, Anahuac, Bridge City, Rose City, Vidor, and Roman Forest.
29. In SOAH Order No. 13 issued on December 16, 2022, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Silsbee, Beaumont, and Pine Forest.
30. In SOAH Order No. 15 issued on January 24, 2023, the SOAH ALJs consolidated the review of the municipal ordinance adopted by the City of West Orange.
31. In SOAH Order No. 16 issued on February 16, 2023, the SOAH ALJs consolidated the review of the municipal ordinances adopted by the following cities/towns: Huntsville,

Exhibit A

Splendora, Montgomery, Conroe, Shenandoah, Panorama Village, and Rose Hill Acres.

32. In Order No. 1 issued on June 6, 2023, the Commission ALJ consolidated the review of the municipal ordinances adopted by the following cities/towns: Oak Ridge North and Shepherd.

Testimonies and Statements of Position

33. On October 26, 2022, the following intervenors filed direct testimony: Walmart, SPS, Sierra Club, Cities, OPUC, TIEC, ChargePoint, and FlashParking.
34. On October 26, 2022, the following intervenors filed statements of position: AACE and EPE.
35. On November 2, 2022, Staff filed direct testimony.
36. On November 9, 2022, Staff filed late direct testimony.
37. On November 16, 2022, ETI filed rebuttal testimony.
38. On November 16, the following parties filed cross-rebuttal testimony: ChargePoint, SPS, Cities, OPUC, and TIEC.
39. On November 30, 2022, the following intervenors filed statements of position: Sempra, AACE, and Sierra Club.

Referral to SOAH and Evidentiary Record

40. On July 6, 2022, the Commission referred this case to SOAH.
41. On August 4, 2022, the Commission issued a preliminary order.
42. In SOAH Order No. 11 issued on December 1, 2022, the SOAH ALJs adopted ETI's proposal to have Preliminary Order Issue Nos. 68 and 69 decided on written submission.
43. On December 16, 2022, ETI filed a Joint Motion to Admit Evidence on behalf of itself, Staff, OPUC, Cities, TIEC, Sierra Club, Kroger, FEA, Walmart, FlashParking, SPS, ChargePoint, Sempra, AACE, and EPE.
44. ETI requested that the documents identified in Exhibit A to its Joint Motion be admitted into evidence.
45. In SOAH Order No. 14 issued on December 28, 2022, the SOAH ALJs admitted the documents listed in Exhibit A to the Joint Motion.
46. On May 10, 2023, ETI filed an Unopposed Stipulation and Settlement Agreement

Exhibit A

(Stipulation) on behalf of itself, Staff, OPUC, TIEC, Sierra Club, Kroger, FEA, and Walmart. Cities, AACE, ChargePoint, ~~sps~~SPS, ~~epe~~EPE, Semptra, and FlashParking were not signatories to the Stipulation, but did not oppose it.

47. On May 10, 2023, ETI filed a second Joint Motion to Admit Evidence on behalf of itself, Staff, OPUC, Cities, TIEC, Sierra Club, Kroger, FEA, Walmart, FlashParking, SPS, ChargePoint, Semptra, AACE, and EPE.
48. In SOAH Order No. 20 issued on May 10~~18~~, 2023, the SOAH ALJ admitted the documents listed in Exhibit A to the second Joint Motion to Admit Evidence and granted a partial remand to the Commission of the settled contested issues, excluding contested Preliminary Issue Nos. 68 and 69.

Briefs Regarding Preliminary Order Issue Nos. 68 and 69

49. The following parties submitted initial briefs on Preliminary Order Issue Nos. 68 and 69 on January 13, 2023: ETI, SPS, AACE, FlashParking, ChargePoint, OPUC, and Staff.
50. The following parties submitted reply briefs on Preliminary Order Issue Nos. 68 and 69 on January 27, 2023: ETI, SPS, EPE, AACE, ChargePoint, OPUC, and Staff.
51. The parties' proposed findings of fact, conclusions of law, and ordering paragraphs regarding Preliminary Order Issue Nos. 68 and 69 were filed on January 31, 2023.

Preliminary Order Issue No. 68

52. Due to the recent passage of Senate Bill 1002 and the inherent policy and precedent-setting considerations, the SOAH ALJ deferred to the Commission regarding the appropriateness of vertically integrated electric utilities owning vehicle-charging facilities or other transportation electrification (TE) and charging infrastructure for purposes of this proceeding.
- 52A. There are approximately 80,000 EVs registered in Texas, and that number is expected to reach 1,000,000 vehicles by the year 2028.
- 52B. Current charging infrastructure investment is insufficient in many areas of Texas to support existing and expected future EVs.
- 52C. Rural areas lack adequate access to EV charging facilities.
- 52D. Expanding access to and facilitating the market for EV charging facilities is consistent with state policy and Senate Bill 1002.
- 52E. Electric utilities in the vertically integrated areas are well positioned to help further the state's policy of expanding access to and facilitating the market for EV charging facilities.

Exhibit A

- 52F. It is appropriate for an electric utility in a vertically integrated area to own EV charging facilities and other TE and charging infrastructure.

Preliminary Order Issue No. 69

A. TECI-1 Rider

53. ~~Under ETI's proposed TECI-1 Rider, Rate Schedule General Service (GS) customers would be able any ETI customer in good standing and taking service under a metered non-residential, non-lighting rate schedule would be eligible to contract with ETI to obtain TE infrastructure and equipment.~~
54. ~~ETI would partner with existing competitive TE providers to provide customers choices regarding infrastructure types, initial cost, operations and maintenance plans, and other features that will suit a specific customer's needs. The TECI-1 Rider is voluntary, in that a customer desiring to install one or more chargers on its property may choose to avail themselves of the rider, or they can make the investment themselves where the Company's role is limited to providing electric service.~~
- 54A. Customers that choose to participate in the TECI-1 Rider would decide whether ETI only owns the distribution infrastructure, also owns the make-ready infrastructure, and would decide whether ETI or the customer owns and maintains the EV charger(s) itself.
- 54B. ETI plans to contract with licensed, local third-party TE installers to install any chargers.
- 54C. ETI will work with EV Supply Equipment Original Equipment Manufacturers to provide and maintain the charging station equipment and cloud software.
55. Customers that choose to participate in the TECI-1 Rider would be able to choose the charging equipment and the network service provider from a list of prequalified vendors.
56. The costs incurred by ETI for the equipment, installation, and ongoing operations and maintenance expenses would be added to each participating TECI-1 Rider customer's monthly electric bill as a fixed payment over the customer-selected recovery term of between one and ten years.
57. ETI's cost recovery from participating TECI-1 Rider customers is reasonable, fair, and appropriate.

B. TECDA-1 Rider

58. ETI's TECDA-1 Rider is designed to provide demand charge relief and to reduce electric bill uncertainty for new Rate Schedule General Service (GS) customers installing separately metered charging equipment that elect to participate in the TECDA-1 Rider.

Exhibit A

59. The TECDA-1 Rider would limit the amount of demand billed under Rate Schedule GS to a ~~qualifying participating~~ TECDA-1 Rider customer during any billing period in which the actual calculated load factor is less than 15 percent.
60. ~~With~~Under the Rate Schedule GS with the TECDA-1 Rider applied, the amount of Billing Demand billed to ~~electric vehicle (EV)~~ charging stations would be the lesser of: (a) measured demand (kilowatts (kW)), as conventionally determined and subject to the GS terms; or (b) adjusted demand (kW), as calculated based on actual usage and a minimum 15 percent monthly load factor.
61. The TECDA-1 Rider would be self-correcting and would phase out over time. As charging station utilization improves with the increased adoption of EVs above the 15 percent monthly load factor floor, the participating customers' bills would automatically adjust to the standard rates under Rate Schedule GS.
62. The TECDA-1 Rider would be limited to customers with electric load less than or equal to 1,500 kW for a term of five years and would be available for only the first 30,000 kW of electric load that enrolls and becomes operational after the TECDA-1 Rider is approved.
63. ~~It is unknown whether the potential incremental revenues generated by the TECDA-1 Rider would cover the under-recovered revenues that ETI would have recovered from the same customers were the rider not implemented. The Ratepayer Impact Measure test shows that the~~ TECDA-1 Rider is expected to result in net benefits through lower rates to ETI customers over a ten-year period.
64. ~~It is unknown whether the potential incremental revenues generated by the TECDA-1 Rider would cover the under-recovered revenues that ETI would have recovered from the same customers were the rider not implemented. The terms and conditions contained in the~~ TECDA-1 Rider are reasonable and appropriate.
- 64A. ETI's TECDA-1 Rider is reasonable and should be approved.

VIII. CONCLUSIONS OF LAW

1. ETI is a public utility as that term is defined in PURA § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).
2. The Commission exercises regulatory authority over ETI and the subject matter of this application under PURA §§ 14.001, 32.001, 36.001- .112, and 36.211, 39.452(k), and 16 Texas Administrative Code (TAC) §§ 25.130 and 25.231.
3. The Commission has jurisdiction over an appeal from municipalities' rate proceedings under PURA § 33.051.
4. SOAH exercised jurisdiction over this proceeding under PURA § 14.053 and Texas

Exhibit A

Government Code § 2003.049.

5. This docket was processed in accordance with the requirements of PURA, the Texas Administrative Procedure Act, and Commission rules.
6. ETI provided adequate notice of its application in compliance with PURA § 36.103 and 16 TAC § 22.51(a) and filed affidavits attesting to the completion of notice in compliance with 16 TAC § 22.51(d).
7. ~~The recent amendment to PURA § 31.002(6) does not support the position that vertically integrated electric utilities may own all aspects of EV charging-related infrastructure and equipment. See Act of May 24, 2021, 87th Leg., R.S. Ch. 389 (S.B. 1202), Sec. 1, eff. September 1, 2021. DELETED.~~
8. ~~Beginning September 1, 2023, it~~It is appropriate for a vertically integrated electric utility to own vehicle-charging facilities or other TE and charging infrastructure in accordance with the soon-to-be codified chapter 42 of PURA, as enacted by the recent passage of ~~SB~~Senate Bill 1002. Act of May 8, 2023, 88th Leg., R.S., 2023 Tex. Sess. Law Serv. Ch. 53 (S.B. 1002) (to be codified as Tex. Util. Code ch. 42).
9. ~~If the~~The Commission determines it is appropriate for ETI to own TE and charging infrastructure, including charging stations:
 - a. ~~9A.~~ ETI's proposed TECI-1 Rider should be approved as it is not unreasonably preferential, prejudicial, or discriminatory. PURA § 36.603; 16 TAC § 25.234.
 - b. ~~9B.~~ ETI's proposed TECDA-1 Rider should be ~~denied~~approved as it is not unreasonably preferential, prejudicial, or discriminatory. PURA § 36.603; 16 TAC § 25.234.

IX. ORDERING PARAGRAPHS

1. ~~If the Commission determines it~~It is appropriate for ETI to own TE and charging infrastructure, including charging stations:
 - 1A. ~~ETI's proposed TECI-1 Rider is approved and its proposed and TECDA-1 Rider is denied~~Riders are approved.
2. Within 20 days of the date of this Order, ETI must file a clean record copy of the tariffs approved in this Order, with the approved effective dates, with Central Records to be marked *Approved* and filed in the Commission's tariff books.
3. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.