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APPLICATION OF EL PASO	§	STATE OFFICE
ELECTRIC COMPANY FOR	§	
APPROVAL OF TEXAS ELECTRIC	§	OF
VEHICLE-READY PILOT	§	
PROGRAMS	§	ADMINISTRATIVE HEARINGS

INITIAL BRIEF OF EL PASO ELECTRIC COMPANY

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I. INTRODUCTION

A. Description of Application

Customers and communities across Texas and in the service area of El Paso Electric Company (EPE or the Company) are purchasing electric vehicles (EVs) in increasing numbers.¹ EPE projects that it will be serving approximately five megawatts (MW) of light-duty EV load by the end of 2025 and that the EV load will increase by approximately six-fold between 2025 and 2030 and by approximately 12-fold between 2025 and 2035.² Taking a proactive role in preparing for transportation electrification now - while EV adoption remains relatively low - is important for EPE to ensure that EV adoption is integrated efficiently with the grid. The urgency of preparing for widespread transportation electrification, including planning to accommodate the growth of EV charging on the grid, has been identified by the Board of Directors of the National Association of Regulatory Commissions.³

As a means of taking a proactive role, EPE filed its application in this proceeding on January 31, 2023. In its application, the Company proposed its Texas EV-Ready Pilot Programs, which are a suite of four separate pilot programs to develop information and operational experience with the growing amount of EV load and growing number of EV-owning customers in its service territory. The pilots were designed to address customer input received as a result of Company's market research and customer surveys.⁴ EPE proposed reasonable limitations for its pilot programs to protect customers and itself: most of the pilots were proposed to last for only two years and were limited in scope by the proposed budget and/or a proposed maximum number of participating customers.⁵

In its 2023 regular session, the Texas Legislature adopted Senate Bill (SB) 1002, which became effective September 1, 2023, and provided further guidance as to Legislative goals and specific programs regarding public EV charging in Texas. As detailed in the Company's

¹ Direct Testimony of George Novela, EPE Ex. 3, at 4:15-16 (using page numbers at bottom middle of page for all EPE testimony exhibits).

² *Id.* at 10:13-15 and 13:5-15. Mr. Novela explained at the hearing that the Company would typically start including a new customer in its long-term projections at the one-megawatt level. Tr. at 24:2-8 (Apr. 2, 2024).

³ Direct Testimony of Angelina Rodriguez, EPE Ex. 4, at Exhibit AR-3.

⁴ For a detailed description of the market research and customer input, see EPE Ex. 4, at 10:1-13:23.

⁵ Statement of Intent and Application of El Paso Electric Company for Approval of Texas Electric Vehicle-Ready Pilot Programs and Tariffs, EPE Ex. 1, at 5.

Application Amendment filed on September 22, 2023, the Company's proposed pilot programs support the State of Texas's public policy goals as reflected in SB 1002 and in two instances (the Take Charge TX Pilot and PowerConnect Pilot) are expressly allowed by the legislation.

As shown in the evidentiary record and detailed below, the Company's proposed Texas EV-Ready Pilot Programs and Tariffs will help EPE acquire vital information and experience with EV load and customer behavior, are compliant with legal requirements for just and reasonable rates, and should be approved.

B. Procedural History

On January 31, 2023, EPE filed an application for approval of its Texas EV-Ready Pilot Programs and Tariffs.⁶ Along with the application, EPE filed the direct testimonies of George Novela, EPE Director of Economic and Rate Research; Angelina Rodriguez, EPE Supervisor of Electrification; and Manuel Carrasco, EPE Manager of Rate Research.⁷

On March 3, 2023, the Commission Administrative Law Judge (ALJ) issued Order No. 2 finding the application and proposed notice sufficient and suspending the operation of the tariff beyond the proposed effective date for no more than another 150 days, to August 4, 2023.

Motions to intervene were filed by and granted for the City of El Paso, ChargePoint Inc., the Office of Public Utility Counsel (OPUC) and ev.energy Corp. ChargePoint later filed a motion to withdraw its intervention, and the motion was granted on September 12, 2023 in Order No. 5.

On August 24, 2023, the Commission issued its Order Requesting Update and directed that, in light of SB 1002, EPE must file a statement by September 23, 2023, on whether it intends to amend its application; withdraw or refile its application; or proceed with its application as filed. On September 22, 2023, EPE filed its application amendment.⁸ Along with the application amendment, EPE filed supplemental direct testimonies of Ms. Rodriguez and Mr. Carrasco.⁹

On November 2, 2023, the Commission referred this docket to the State Office of Administrative Hearings (SOAH) and filed a preliminary order specifying issues to be addressed

⁶ EPE Ex. 1.

⁷ See EPE Ex. 3, EPE Ex. 4, and Direct Testimony of Manuel Carrasco, EPE Ex. 5.

⁸ Application Amendment and Response of El Paso Electric Company to Order Requesting Update, EPE Ex. 2.

⁹ Supplemental Direct Testimony of Angelina Rodriguez, EPE Ex. 6, and Supplemental Direct Testimony of Manuel Carrasco, EPE Ex. 7.

in this proceeding. In SOAH Order No. 4, filed on January 12, 2024, the SOAH ALJ provided notice of a hearing on the merits set for 9:00 a.m. on April 2, 2024 via Zoom videoconference.

On February 20, 2024, ev.energy filed the direct testimony of Jared Ballew,¹⁰ and OPUC filed the direct testimony of Evan D. Evans.¹¹

On February 27, 2024, Commission Staff filed the direct testimony of Adrian Narvaez.¹²

On March 12, 2024, EPE filed the rebuttal testimonies of Mr. Novela, Ms. Rodriguez, and Mr. Carrasco.¹³

On March 12, 2024, ev.energy filed the cross-rebuttal testimony of Mr. Ballew.¹⁴

The hearing on the merits convened and concluded on April 2, 2024. At the hearing on the merits, the parties introduced their pre-filed testimony and other materials into evidence and conducted cross-examination of certain witnesses. On April 18, 2024, parties will file initial briefs, and on May 2, 2024, parties will file reply briefs.

II. JURISDICTION AND NOTICE

A. Original Jurisdiction

In its application, EPE stated that the Commission has jurisdiction over this matter under PURA¹⁵ §§ 14.001 (general powers), 32.001 (original jurisdiction over rates, operations, and services), and 36.101 through 36.111 (procedures for utility-proposed rate changes).¹⁶ With the passage of SB 1002, the Commission has further jurisdiction over this application consistent with PURA §§ 42.0101, 42.0103(d) and 42.0103(o) and (p).

B. Appellate Jurisdiction

On January 31, 2023, EPE provided a copy of the application to each incorporated municipality in its Texas service area that retains original jurisdiction over its rates and services.¹⁷ On April 13, 2023, EPE appealed the actions of the Village of Vinton to the Commission. In Order

¹⁰ Direct Testimony of Jared Ballew, ev.energy Ex. 1

¹¹ Direct Testimony of Evan D. Evans, OPUC Ex. 1.

¹² Direct Testimony of Adrian Narvaez, Staff Ex. 2.

¹³ Rebuttal Testimony of George Novela, EPE Ex. 8; Rebuttal Testimony of Angelina Rodriguez, EPE Ex. 9; and Rebuttal Testimony of Manuel Carrasco, EPE Ex. 10.

¹⁴ Cross-Rebuttal Testimony of Jared Ballew, ev.energy Ex. 2.

¹⁵ Public Utility Regulatory Act, Tex. Util. Code §§ 11.001-66.016.

¹⁶ EPE Ex. 1 at 3.

¹⁷ Proof of Notice, EPE Ex. 11, at 2.

No. 4 filed on June 8, 2023, the ALJ consolidated the appeal of the actions of the Village of Vinton with this proceeding.

C. Notice

In its application, EPE proposed to provide notice of this filing under 16 TAC § 22.55, “Notice in Other Proceedings” and in particular proposed to provide notice by a one-time publication in newspapers of general circulation in the Company’s service area. EPE’s proposed form of notice was attached to the application as Attachment B.

On March 2, 2023, Commission Staff recommended that, in addition to the proposed newspaper publication, EPE should provide notice to the parties to Docket No. 52195 (EPE’s most recent base rate case) and to the parties that participated on the EV-related issues in Docket No. 53719 (a then-pending Entergy Texas, Inc. base rate case).¹⁸

In Order No. 2 filed on March 3, 2023, the ALJ found the proposed notice of the application sufficient.

On March 17, 2023, EPE filed the affidavit Curtis Hutcheson, Manager of Regulatory Case Management for EPE’s Regulatory Affairs Department. Mr. Hutcheson attested to the provision of the application to each municipal regulatory authority with original jurisdiction over EPE’s retail rates, and he attested to the provision of notice to all parties to Docket Nos. 52195 as well as parties that participated on the EV-related issues in Docket No. 53719.¹⁹

On March 17, 2023, EPE filed affidavits attesting to the publication of notice of the application as follows: EPE published notice of the application once each in the following newspapers having general circulation in EPE’s service territory (El Paso, Hudspeth, and Culberson counties): the El Paso Times on March 7, 2023; the Hudspeth Herald on March 10, 2023; and the Van Horn Advocate on March 9, 2023. Notice of the filing was also published once, on March 8, 2023, in El Diario, a Spanish-language newspaper having general circulation in El Paso County.²⁰

In light of the preceding, the notice provided in this proceeding was sufficient.

¹⁸ The EV-rated issues in Docket No. 53719 were eventually severed into a separate proceeding, Docket No. 55338, which is still pending.

¹⁹ EPE Ex. 11 at 2.

²⁰ *Id.* at 3-13.

III. DISCUSSION

As further detailed below, EPE proposes four pilot projects related to EV growth in its Texas service area. Participation in each program is voluntary. At a very high level, the four pilot project programs can be summarized as follows:

- The EV Smart Rewards Pilot Program is a managed EV-charging program for residential customers.
- The Whole House EV Pilot Incentive Credit Rider encourages overnight, midnight to 8 am, EV charging by providing residential EV owners with an incentive credit on their bill for overnight electricity use.
- The PowerConnect Pilot Program is a credit rebate program for commercial customers that supports utility-side-of-the-meter infrastructure related to EV charging.
- The Take Charge TX Pilot Program is a charging-as-a-service-agreement-based program for commercial customers that supports, among other things, customer-side-of-the-meter infrastructure for EV charging.

Among other things,²¹ the pilot programs will help EPE learn more about the effective management of EV load and enable the Company to support public EV charging stations consistent with PURA Chapter 42.

Company witness Carrasco explained how effective management of EV incremental load can result in downward pressure on electricity rates because incremental loads occurring during those times when there is available capacity in EPE's system, between late evening and early morning hours, has the potential to improve EPE's system load factor.²² That is, if the incremental load occurs in the off-peak hours, it will reduce the need for EPE to invest in and seek cost recovery of the additional generation resources that would be needed to address the additional load caused by EV charging if it was to occur at the time period that its system peaks.²³ By using the existing generation resources' capacity that is available during the off-peak period, then cost recovery of those resources is spread amongst the increased levels of consumption, thus resulting in downward pressure on electricity rates.²⁴ While, as detailed below, EPE's existing rates encourage off-peak

²¹ For additional pilot program benefits, see EPE Ex. 3 at 4:26-5:12.

²² EPE Ex. 5 at 7:30-8:2.

²³ *Id.* at 8:2-5.

²⁴ *Id.* at 8:5-8.

EV charging to some extent, the Smart Rewards Pilot and the WHEV Pilot will in particular provide further incentives to encourage off-peak EV charging.²⁵

Additionally, SB 1002 identified Legislative findings for public EV charging and codified them in PURA § 42.0101, as follows:

Sec. 42.0101. LEGISLATIVE FINDINGS. (a) The legislature finds that it is in the best interests of this state to continue the long-standing policy of supporting private sector investment in infrastructure by establishing a framework designed to encourage competitive private sector investment in the deployment of public electric vehicle charging stations.

(b) **The legislature finds that encouraging investment in the deployment of public electric vehicle charging stations is essential** to foster the rapid installation and widespread use of public electric vehicle charging stations on property whose owners or tenants desire to install public electric vehicle charging stations.

(c) **The legislature finds that electric utilities, transmission and distribution utilities, competitive entities, and the commission have important roles to fill in supporting the installation and use of infrastructure for electric vehicle charging.**

(d) The legislature finds that it is necessary to:

(1) implement competitively neutral policies to encourage competitive private sector investment in public electric vehicle charging station deployment;

(2) develop and implement competitively neutral electricity tariffs that are optimized for public electric vehicle charging stations and based on cost causation principles while ensuring transparency in pricing and recognizing changing market needs; and

(3) encourage competitive private investment, ownership, and operation of public electric vehicle charging stations, including equipment that allows for fast charging.

As emphasized above, the Legislature found that encouraging investment in the deployment of public electric vehicle charging stations is essential and that utilities like EPE have important roles to fill in supporting EV charging. EPE's proposed PowerConnect Pilot and the Take Charge TX Pilot would in particular help enable EPE to fulfill that important role in support of the installation and use of EV charging infrastructure.

²⁵ *Id.* at 8:8-12.

Staff witness Narvaez testified broadly that none of EPE's proposals in this proceeding are necessary for adequate and reasonable electric service.²⁶ The Company strongly disagrees. Doing nothing in response to the growing penetration of EV load on the system that EPE is experiencing is not a reasonable response.²⁷ Utilities are responsible for the operation of the electric grid.²⁸ Early planning is required to ensure the electric grid will be able to accommodate and support the increased demand caused as customers shift towards electric vehicles.²⁹ EPE needs to conduct early planning and data collection to ensure the electric grid and system generation will be able to accommodate increased demand due to customers' EV adoption.³⁰ The pilots are also designed to provide EPE with necessary information (and operational experience) to evaluate the need for infrastructure upgrades from increased saturation of electric vehicles on its distribution system.³¹

Utilities across the nation have implemented similar programs, and EPE has obtained approval of similar programs for its New Mexico service area.³² The Company's application included a detailed and descriptive letter from the Edison Electric Institute (EEI) supporting the application and describing the benefits of each of the proposed pilots.³³ The Company's direct testimony also included letters of support from local school districts for the application and for the Company's PowerConnect Pilot in particular.³⁴

The Company would support any reasonable modifications to the pilots that the Commission finds necessary to ensure legal compliance and protect customers, but EPE also believes inaction is not a reasonable option and that the proposed programs represent reasonable means to help EPE prepare for the impact of growing transportation electrification.

²⁶ Staff Ex. 2 at 8:12-19.

²⁷ EPE Ex. 8 at 2:23-24. See EPE Ex. 3 at 6-15 in which Mr. Novela describes the existing and forecasted EV data for EPE's Texas service territory and describes EV loads' potential impact on resource planning efforts.

²⁸ EPE Ex. 8 at 3:3.

²⁹ *Id.* at 3:3-5.

³⁰ *Id.* at 3:5-7.

³¹ *Id.* at 3:7-4:2.

³² EPE Ex. 4 at 4:15-18 (identifying EPE's New Mexico programs); 14:31-15:7 (identifying 40 other utilities' managed charging programs); 18:10-15 (identifying other utilities' infrastructure rebate programs); and EPE Ex. 9 at Exhibit ARR-R-3 (describing over 70 utility make-ready infrastructure programs including programs in Georgia, Florida, North Carolina, and New Mexico). See also Direct Testimony of Manuel Carrasco, EPE Ex. 5 at 11:2-28 (identifying other approved programs offering reduced rates to encourage off-peak EV-charging).

³³ EPE Ex. 1 at Attachment A.

³⁴ EPE Ex. 4 at Exhibit AR-1.

A. EV Smart Rewards Pilot Program

1. Introduction/Program description

The proposed Schedule No. EVSR – EV Smart Rewards Pilot Program, included as Exhibit AR-4 to the direct testimony of Ms. Rodriguez,³⁵ is reasonable and should be approved.

The Smart Rewards Pilot is a managed EV-charging program that targets efficient adoption of EVs by incentivizing residential customers to participate in active managed EV charging and charge during off-peak hours.³⁶ Under the proposed pilot, EPE would provide incentives to residential customers for enrolling and participating in the program³⁷ to allow EPE to schedule at least 80% of their monthly charging each month during off-peak periods.³⁸ The pilot is voluntary,³⁹ is limited to 880 participants,⁴⁰ and would terminate after two years unless extended by the Commission.⁴¹

For eligible customers, the pilot will offer a one-time enrollment incentive of \$125, with an additional annual incentive of \$50 for customers.⁴² All participating customers will have an opportunity to earn additional rewards for participating in low carbon or other demand response events, with an incentive of \$1/event with a maximum cap at \$5/month.⁴³

Company witness Rodriguez provided detailed testimony regarding the need for and benefits of managed EV-charging programs. She explained that the objective of the proposed program is to evaluate customers' acceptance and efficacy of utility-managed EV charging with minimal to no impact to customer's driving behavior, to reduce adverse grid impacts related to unmanaged charging in order to optimize the use of existing infrastructure and minimize required investment in additional infrastructure.⁴⁴ She also identified several specific managed charging

³⁵ EPE Ex. 4.

³⁶ EPE Ex. 1, Attachment A at page 3 of 4 (using upper-right-hand numbers).

³⁷ EPE Ex. 3 at 3:24-26.

³⁸ EPE Ex. 4 at 14:22-23.

³⁹ *Id.* at 13:27.

⁴⁰ *Id.* at 15:21.

⁴¹ *Id.* at 15:23.

⁴² *Id.* at 14:21-23.

⁴³ *Id.* at 14:23-26.

⁴⁴ *Id.* at 14:2-5.

strategies that the pilot would help EPE to evaluate.⁴⁵

Ev.energy witness Ballew provided further detailed testimony in support of the benefits of EV managed charging programs and EPE's proposed pilot.⁴⁶ And as indicated in the EEI letter of support for this program, the additional electricity demand from EVs added to the grid in a way that more fully utilizes existing infrastructure puts downward pressure on rates for all customers.⁴⁷ EPE's proposal would encourage efficient charging behavior from customers and allow for EPE to evaluate the acceptance and effectiveness of managed charging incentives.⁴⁸ Based on the data collected from the Smart Rewards Pilot, EPE would be able to tailor future offerings to reduce adverse grid impacts related to unmanaged charging and, potentially, the need for additional investments.⁴⁹

In her rebuttal, Ms. Rodriguez further detailed why it is important to implement this pilot early, before the anticipated snowballing of EV adoption, to enable the Company to obtain information and experience to help mitigate potential negative grid impacts that may tend to occur if EV load is unmanaged.⁵⁰ As more EVs are adopted, the costs of failing to manage these loads may result in increasingly extreme, pricey peaks and cause reliability challenges and issues.⁵¹ Charging EVs can use between 3.3 kW to 20 kW of electricity, which can exceed the total peak demand of a home without EVs.⁵² If unmanaged, the increase in peak load can also significantly strain the local distribution system, particularly when several EVs are clustered on a single transformer, which will lead to costs necessary to relieve the strain that all customers would have to pay for.⁵³ If several EVs are to be plugged in at the same time, in the same neighborhood, there

⁴⁵ *Id.* at 14:6-11.

⁴⁶ ev.energy Ex. 1 at 6:7-7:15; 9:4-10:14; and 13:15-14:7. See also ev.energy Ex. 2 generally and at 5:11-16 in particular (explaining that Staff witness Narvaez does not acknowledge that one of the primary purposes of any pilot program is for the utility to study the potential benefits and effectiveness of a smaller pilot before developing a larger program, and that it unreasonable for Staff to expect EPE to demonstrate that the Smart Rewards Pilot is more effective than unspecified rate design changes available to all customers for the simple reason that EPE does not currently have any experience with the Smart Rewards Pilot).

⁴⁷ EPE Ex. 1, Attachment A at page 3 of 4 (using upper-right-hand numbers).

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ EPE Ex. 9 at 4:24-26.

⁵¹ *Id.* at 5:6-7.

⁵² *Id.* at 5:7-9.

⁵³ *Id.* at 5:17-19.

may not be enough capacity on the residential transformer, which may result in transformer failure, the typical cost of which replacement exceeds \$3,000.⁵⁴ In response to such concerns, EPE believes it should be proactive and develop information and operational capabilities to enable it to strategically manage EV charging load instead of reacting to increased demand only after problems have occurred.

In sum, when EVs are added to the grid efficiently, it can provide economic and reliability benefits to all customers.⁵⁵ EPE's proposed Smart Rewards Pilot will help EPE learn how to better target efficient integration of EVs into the grid, allowing EPE to schedule EV charging during off-peak hours or other hours when the grid has lower-cost energy and available capacity, improving economics and avoiding potential transformer overloading, thus helping to ensure continued service reliability.⁵⁶

2. Compliance of the proposed program with PURA/PUCT Rules

With regard to compliance with PURA and the Commission's rules, the preliminary order in this docket asks whether the proposed rates for the Smart Rewards Pilot comply with the requirements of PURA § 36.003, which, among other things, requires that rate must be just and reasonable; and that a rate may not be unreasonably preferential, prejudicial, or discriminatory but must be sufficient, equitable, and consistent in application to each class of consumer.

In his direct testimony, Company witness Carrasco, EPE's Manager of Rate Research, affirmed that the rates in all four pilot programs, including the Smart Rewards Pilot, are reasonable, adding that "the rates are cost-based as applicable or else set to incentivize the intended customer behaviors consistent with the programs of other utilities."⁵⁷

Mr. Carrasco confirmed that the proposed pilots are not unreasonably preferential, prejudicial, or discriminatory, stating that "[t]he pilot programs target customers who are not similarly situated to other customers because they are either EV owners or are seeking to install equipment to serve EV customers. This difference provides a reasonable basis for these targeted

⁵⁴ *Id.* at 5:19-22.

⁵⁵ *Id.* at 6:22-23.

⁵⁶ *Id.* at 6:23-27.

⁵⁷ EPE Ex. 5 at 16:15-18.

pilot programs in light of Company and customer interests in supporting, gathering information regarding, and managing EV charging activities.”⁵⁸

Mr. Carrasco also affirmed that the proposed pilots are sufficient, equitable, and consistent in application to each class of consumer and explained that “[t]he programs are designed to provide appropriate and adequate rates or incentives to achieve the program goals, and the programs will treat eligible customers in a consistent and equitable manner according to the program requirements and parameters.”⁵⁹

Company witness Rodriguez’s direct and rebuttal testimonies provides further support for the reasonableness of the proposed program, detailing how the tariff and program incentives were developed.⁶⁰

Staff witness Narvaez states that the Smart Rewards Pilot is unreasonably preferential and discriminatory, is inequitable, and should be rejected as it is not just and reasonable.⁶¹ He testifies that the pilot’s incentive payments represent special treatment for those who choose to enroll in this program as they would receive what amounts to subsidies for electric consumption in order to encourage utility-managed EV charging.⁶²

However, in alleging that the incentive payments are subsidies for electric consumption, Mr. Narvaez ignores that participating customers may incur additional costs to participate in the program for networked charging equipment (which can cost from \$500 to \$700) or to enable a vehicle telematics subscription (which can cost up to \$149 per year).⁶³ Moreover, under Mr. Narvaez’s approach, all load management programs that offer incentives for participation would be impermissible as improper subsidies. To the contrary, however, Texas law supports load management programs like the Smart Rewards Pilot.⁶⁴ In particular, incentives for load management programs are addressed in PURA § 36.204, which states: “In establishing rates for an electric utility, the commission may: (1) allow timely recovery of the reasonable costs of

⁵⁸ *Id.* at 16:20-26.

⁵⁹ *Id.* at 16:28-17:2.

⁶⁰ EPE Ex. 4 at 14:29-15:10 and EPE Ex. 9 at 2:1-3:25.

⁶¹ Staff Ex. 2 at 6:24-25.

⁶² *Id.* at 10:8-10.

⁶³ EPE Ex. 9 at 2:15-3:2.

⁶⁴ *Id.* at 3:27-4:15.

conservation, load management, and purchased power, notwithstanding Section 36.201; and (2) authorize additional incentives for conservation, load management, purchased power, and renewable resources.” (Emphasis added.) In addition, Section 8, Ch. 1095 of HB 2129 as adopted by the Texas Legislature in its 79th Regular Session (2005) (uncodified) encourages the adoption of digital and communications equipment and technologies that have the potential to, among other things, encourage demand response and make better use of transmission and generation assets.⁶⁵

Accordingly, Texas law not only allows load management programs, it expressly encourages such programs like the Smart Rewards Pilot. Staff’s testimony does not acknowledge this aspect of Texas law.

OPUC witness Evan D. Evans indicates that the program is not compliant with PURA because the proposed incentives are not cost-based.⁶⁶ EPE will first note that the purpose of the incentive payments is to encourage participation in the program and that, as detailed in the section below, the total projected cost of the program is reasonable in comparison to the potential cost savings. Moreover, the Company has proposed reasonable incentives for this pilot. In particular, as detailed in Ms. Rodriguez’s testimonies, the proposed incentive levels were based on the median levels identified in a survey of forty managed charging programs in other states across the country,⁶⁷ and the proposed incentives are also consistent with the uncontested incentives levels initially offered by EPE in its smart thermostat program, that is \$125 for the initial enrollment and \$50 for each additional annual enrollment.⁶⁸ Further, as indicated above, participating customers may incur additional costs to participate in the program for networked charging equipment or to enable a vehicle telematics subscription.⁶⁹

The essential purpose of the incentives is to encourage participation, and it is appropriate to set the incentives at levels the utility can reasonably expect to elicit the desired behaviors. One of the very purposes of a pilot program with incentives is to develop further information on the appropriate level of the incentives.⁷⁰ Both Staff witness Narvaez and OPUC witness Evans fail to

⁶⁵ *Id.*

⁶⁶ OPUC Ex. 1 at 11:1-12:2.

⁶⁷ EPE Ex. 4 at 14:30-15:7 and EPE Ex. 9 at 2:1-14.

⁶⁸ EPE Ex. 9 at 3:12-19.

⁶⁹ *Id.* at 2:15-3:2.

⁷⁰ See EPE’s Response to RFI OPUC 2-6, OPUC Ex. 8.

recognize any value to the program for being a pilot and that it is not just a routine tariff offering for providing cost-based service. As a pilot program, it has the potential for providing load management benefits that will in the long run save all customers money. As Mr. Rodriguez explained at the hearing, EPE will evaluate and reduce the incentive levels if appropriate.⁷¹

3. Costs and Cost Recovery

The estimated cost of the two-year Smart Rewards Pilot is \$804,947,⁷² or about \$402,500 per year. These amounts include both the incentives paid to participating customers and the fees of the third-party vendor, ev.energy, that will help implement the program.⁷³ No party challenged the specific level of this budget, and the record supports its reasonableness. EPE projects that it will incur five light-duty MW of EV load by the end of 2025, and the number of EVs and their load is projected to increase by more than 6-fold between 2025 and 2030.⁷⁴ EPE's incremental capacity cost is \$107.90/kW/per year⁷⁵ and, accordingly, its incremental capacity cost for five MW of load would be \$539,500 per year. A 6-fold increase in those amounts would be \$3,237,000 per year. In light of the annual incremental capacity cost that would be associated with the projected EV load at the end of 2025 and beyond, the proposed budget for this pilot is reasonable. Moreover, at the hearing, Company witness Rodriguez made clear that an essential purpose of the pilot relates to developing data so EPE can analyze the actual shifting of EV charging load and its value.⁷⁶

Further, the reasonableness of any costs actually incurred under the pilot would be reviewed if presented for recovery in a future proceeding. EPE may seek recovery of its actual costs in a future rate proceeding; however, any such request for cost recovery, and the appropriate allocation of such costs, would be subject to applicable ratemaking laws and rules. In light of the potential value of shifting EV load from on-peak to off-peak, the average level of managed charging incentives in other utilities' programs and in EPE's smart thermostat program, and the nature of this program as a pilot intended to develop more EPE-specific data for possible future programs, the proposed budget for this pilot is reasonable.

⁷¹ Tr. at 66:19-23.

⁷² EPE Ex. 3 at 16:4-5 and EPE Ex. 4 at 15:27.

⁷³ EPE Response to Staff 1-1, Staff Ex. 1.

⁷⁴ EPE Ex. 3 at 10:13-15; 13:5-15 (Figure 3); and EPE Ex. 8 at 4:1-2 (Figure 1).

⁷⁵ EPE Ex. 5 at 9:12-13.

⁷⁶ Tr. at 64:24-65:4.

OPUC witness Evans asserts that there must be protections against non-participating customers bearing costs associated with this program.⁷⁷ However, as Mr. Novela explained in rebuttal testimony, EPE understands that tracking and accounting for the pilot program costs is an important issue to ensure appropriate allocation of costs to customers.⁷⁸ EPE will maintain records for all costs incurred under the pilot programs using program-specific workorder numbers and project codes to enable identification and proper accounting for the costs actually incurred in connection with the pilot programs.⁷⁹ Indirect and overhead costs associated with the pilot programs will be addressed consistent with standard ratemaking treatment and allocations for such costs.⁸⁰ Tracking and allocating costs in this manner is an important but ordinary course of business process for a regulated utility like EPE and is, for example, consistent with how EPE tracked and allocated costs associated with its Community Solar Pilot Program, approved initially by the Commission in Docket No. 44800, to ensure that only participating customers were charged for the costs of that program.⁸¹ EPE accordingly has experience in tracking and accounting for program costs to ensure proper ratemaking treatment and will do so for the pilots here as well.⁸²

4. Discussion of any other preliminary order issues

Preliminary Order Issues 6 and 7 ask what impacts there will be on customers who do or do not subscribe to the pilot program if approved. With regard to customers who participate in the program, they will receive incentive payments as described above in exchange for allowing EPE to control the timing of their EV charging. With regard to customers who are not program participants, approval of the pilot in this docket will not immediately impact them or their rates, but all customers will benefit from EPE learning how and whether managed EV-charging may assist in avoiding or delaying construction of additional infrastructure due to the impact of EV charging load on the system.

Regarding Preliminary Order Issue 8, which asks what, if any, conditions should be placed on approval to ensure that Texas customers who have not subscribed to the pilot program are not

⁷⁷ OPUC Ex. 1 at 12:3-15.

⁷⁸ EPE Ex. 8 at 6:16-17.

⁷⁹ *Id.* at 6:17-20.

⁸⁰ *Id.* at 6:20-22.

⁸¹ *Id.* at 6:22-27.

⁸² *Id.* at 6:27-28.

unreasonably affected by approval of EPE's application: EPE believes that its proposed limitations on the pilot, including its two-year duration, limitation to 880 customers, the proposed budget, and the tracking and accounting for the pilot costs described above and in the rebuttal testimony of Mr. Novela are appropriate and sufficient conditions to ensure that Texas customers who have not subscribed to the pilot program are not unreasonably affected by approval of EPE's application.

B. Whole House EV Pilot Incentive Credit Rider

1. Introduction/Program description

The proposed Schedule No. Schedule No. WHEV – Whole House Electric Vehicle Pilot Incentive Credit (the WHEV Pilot), included as Exhibit MC-3 to the direct testimony of Mr. Carrasco,⁸³ is reasonable and should be approved.

The WHEV Pilot would provide a credit on the bills of residential EV-owner customers for their electricity use during the overnight/early morning hours of midnight to 8:00 am.⁸⁴ The purpose of the credit is to encourage EV charging during hours of typically lower demand on the system. The proposed incentive benefits EPE's other customers by helping diminish the impact of EV charging on system peak demand.⁸⁵ To better understand the purpose and benefits of the WHEV Pilot, it is helpful to consider the Company's existing rates that may be applicable to EV charging for residential customers.

Background Regarding Existing Rates Applicable to EV Charging

EPE's current Schedule No. 01 – Residential Service is applicable to single-family residences or individually metered apartments for primarily domestic or home use.⁸⁶ The rate includes three monthly rate options: Standard Service, Alternative Time of Day (TOD), and Demand Charge TOD.⁸⁷

The Standard Service Rate option is selected by most customers and consists of a monthly customer charge and a seasonal, inclining two-block energy charge.⁸⁸

The Alternative TOD Rate is an optional rate that consists of a monthly customer charge

⁸³ EPE Ex. 5.

⁸⁴ EPE Ex. 3 at 4:10-12; EPE Ex. 5 at 8:16-18.

⁸⁵ EPE Ex. 5 at 8:25-27.

⁸⁶ *Id.* at 3:19-20.

⁸⁷ *Id.* at 3:20-22.

⁸⁸ *Id.* at 3:23-24.

and energy charges that apply based on the day and time that usage occurs.⁸⁹ The on-peak energy charge applies from 12:00 P.M. to 6:00 P.M. weekdays during the summer season, and the off-peak energy charge applies during all other hours of the year.⁹⁰ The on-peak energy charge is more than three times the off-peak energy charge.⁹¹

The Demand Charge TOD Rate is another optional rate that consists of a monthly customer charge, a demand charge, and energy charges that apply based on the day and time that usage occurs.⁹² The on-peak energy charge is almost four times the off-peak energy charge.⁹³

A networked level 2 charging station's power requirements range between 3.3 to 19.2 kilowatts (kW) when charging, and the typical charge time is two to four hours to fully charge the battery.⁹⁴ A recent analysis prepared by EPE's Load Research and Data Analytics Department shows an estimated annual energy usage for three different light-duty EV models averaging at 3,825 kWh.⁹⁵ Based on this information, a residential EV-owner customer could expect to see an average increase in their monthly usage of 319 kWh because of EV charging.⁹⁶ By comparison, based on recent data, a typical residential customer consumed a year-round monthly average of 681 kWh.⁹⁷

Under the Standard Service Rate option of Schedule No. 01, the incremental 319 kWh for EV charging will add \$46.11 to the average residential monthly bill.⁹⁸ Under the Alternative TOD Monthly Rate option, and if all charging is done during the off-peak hours, the incremental cost is \$36.66; a savings of \$9.45 from the Standard Service Rate.⁹⁹ Those savings diminish rapidly, however, if any charging is done during on-peak hours.¹⁰⁰

⁸⁹ *Id.* at 3:30-31.

⁹⁰ *Id.* at 3:31-4:3.

⁹¹ *Id.* at 4:3-4.

⁹² *Id.* at 4:5-7.

⁹³ *Id.* at 4:10-11.

⁹⁴ *Id.* at 4:15-17.

⁹⁵ *Id.* at 4:17-19.

⁹⁶ *Id.* at 4:19-21.

⁹⁷ *Id.* at 4:23-26.

⁹⁸ *Id.* at 5:3-4.

⁹⁹ *Id.* at 5:4-6.

¹⁰⁰ *Id.* at 5:6-9.

EPE's Schedule No. EVC (Electric Vehicle Charging) is designed for EV charging and was initially approved in Docket No. 44941 and was approved again in EPE's most recent base rate case, Docket No. 52195.¹⁰¹ The rate schedule is available, on a voluntary basis, to residential and commercial customers that have a separately metered facility dedicated solely for the charging of electric vehicles.¹⁰² The schedule's rates and rate structure provide customers with price incentives to encourage the charging of electric vehicles during off-peak periods and dissuade customers from charging during summer peak periods, when EPE's generation system experiences its peak loads.¹⁰³ However, contracting for the in-home wiring needed to support the second meter required under Schedule EVC can cost up to \$5,000, which can be a barrier to residential customers.¹⁰⁴

The typical incremental load of EV charging under Schedule No. EVC for a residential EV-owner customer costs \$21.01 per month.¹⁰⁵ That monthly cost is about \$25 and \$16 less than the additional cost for the same incremental load billed under the Schedule No. 01 Standard and Alternative TOD rate options, respectively.¹⁰⁶

EPE encourages EV-owner customers to consider selecting Schedule No. EVC, but, if Schedule No. EVC is not a practical option for the customer due to the cost of in-home wiring needed to support the required additional meter, then EV-owner customers are encouraged to sign up for service under a TOD rate option because it allows customers to charge their EVs overnight, when EPE's system has more capacity available to serve that additional electrification load, and when savings on monthly electric bills can be maximized by the customer.¹⁰⁷

However, EPE understands that personal or business circumstances may not allow some customers to take service under a TOD rate option.¹⁰⁸ For example, although a customer can charge their EV during overnight hours, the customer may not be able to shift non-EV charging

¹⁰¹ *Id.* at 6:7-8.

¹⁰² *Id.* at 6:8-11.

¹⁰³ *Id.* at 6:11-14.

¹⁰⁴ *Id.* at 9:4-5. Please note that, as indicated in this portion of testimony, it is the in-house wiring and not the meter itself that may cost up to \$5,000.

¹⁰⁵ *Id.* at 7:1-2.

¹⁰⁶ *Id.* at 7:2-5.

¹⁰⁷ *Id.* at 7:9-15.

¹⁰⁸ *Id.* at 7:16-17.

consumption (such as air conditioning) to off-peak hours.¹⁰⁹ A TOD rate option could potentially result in a significant increase in monthly electricity costs due to the electricity consumption during on-peak hours which the customer was unable to reduce or shift to the off-peak hours.¹¹⁰ EPE is accordingly proposing the WHEV Pilot to offer an incentive to charge EVs during overnight/early morning hours to residential EV-owner customers that cannot fully benefit from Schedule No. EVC or Schedule No. 01's TOD rate option.¹¹¹ Under the proposed WHEV Pilot, the customer (1) avoids the cost of the in-home wiring for a second meter that is required to take service under Schedule No. EVC and (2) saves on their monthly electric bill if they charge their EVs during the overnight hours.¹¹²

The WHEV Pilot credit works with any rate option under the Schedule No. 01 – Residential Service tariff schedule that an EV-owner customer has chosen for service.¹¹³ The customer's monthly bill will include all consumption, including the energy used in charging the electric vehicle, as measured by a single meter.¹¹⁴ All energy consumed will be charged at the normal, applicable rate.¹¹⁵ To encourage overnight EV charging, the energy used between the hours of 12:00 A.M. and 8:00 A.M., which admittedly will include both EV charging and other overnight usage, will receive the tariffed credit of \$0.02586 per kWh and be reflected in the customer's monthly bill.¹¹⁶ For example, the average residential customer using an estimated 319 kWh each month during the Incentive Credit Period to charge the EV will see a \$8.25 (319 kWh x \$0.02586 per kWh) incentive credit on their monthly electric bill.¹¹⁷

2. Compliance of the proposed program with PURA/PUCT Rules

The WHEV Pilot credit was calculated as a cost-based credit consistent with PURA and Commission rules. In particular, as detailed in Mr. Carrasco's direct testimony, based on EPE's incremental capacity cost of \$107.90 per kW-year and on the load data of the residential rate class,

¹⁰⁹ *Id.* at 7:17-19.

¹¹⁰ *Id.* at 7:19-22.

¹¹¹ *Id.* at 7:22-25.

¹¹² *Id.* at 8:21-24.

¹¹³ *Id.* at 10:4-7.

¹¹⁴ *Id.* at 10:7-8.

¹¹⁵ *Id.* at 10:8-9.

¹¹⁶ *Id.* at 10:9-12.

¹¹⁷ *Id.* at 10:12-15.

the incremental generation cost on a kilowatt-hour basis was determined to be \$0.02586 per kWh.¹¹⁸ Based on the assumption that 100% of that capacity cost could be avoided during off-peak period energy usage, the proposed WHEV Pilot credit is set at \$0.02586 per kWh.¹¹⁹

Mr. Carrasco also addresses compliance with PURA § 36.003, explaining in his direct testimony how the WHEV Pilot and all of the other pilots are just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer.¹²⁰

Staff witness Narvaez states that he believes the WHEV Pilot is unreasonably preferential and discriminatory, is inequitable, and should be rejected as it is not just and reasonable.¹²¹ He testifies that the pilot's incentive payments amounts to preferential treatment for customers enrolled in this program as they will be the only residential customers avoiding the costs associated with EV meters.¹²²

However, to the contrary, Mr. Carrasco explained in his testimonies that there is a reasoned basis for treating the customers to whom this tariff would apply in a different manner, namely that the customers who own EVs use large amounts of electricity when they are charging.¹²³ Incentivizing these customers to charge their cars in the overnight/early morning hours is beneficial to all customers on EPE's system because it can increase system utilization rate during the times when EPE's system has available capacity, which in turn can create a downward pressure on the electricity rates.¹²⁴ Accordingly, there is a reasonable basis for the different treatment that results through the WHEV Pilot.¹²⁵

¹¹⁸ *Id.* at 9:12-15.

¹¹⁹ *Id.* at 9:15-17.

¹²⁰ *Id.* at 16:15-17:2.

¹²¹ Staff Ex. 2 at 6:20-23.

¹²² *Id.* at 9:4-6.

¹²³ EPE Ex. 10 at 1:29-31. See also EPE Ex. 5 at 16:22-26, in which Mr. Carrasco explains that the pilot projects target customers who are not similarly situated to other customers because they are EV owners or are seeking to install EV charging equipment.

¹²⁴ EPE Ex. 10 at 1:31-2:3.

¹²⁵ *Id.* at 2:3-5.

Staff witness Narvaez also describes the WHEV as “completely unnecessary” in light of EPE’s existing TOD rate options.¹²⁶ As detailed above and in Mr. Carrasco’s testimony, however, circumstances may not allow some customers to take service under a TOD rate option.¹²⁷ A TOD rate option could potentially result in a significant increase in monthly electricity costs due to the electricity consumption during on-peak hours that the customer was unable to reduce or shift to off-peak hours (such as air conditioning).¹²⁸

3. Costs and Cost Recovery

OPUC witness Evans stated that his primary concern with this program is that there must be adequate protections to ensure costs associated with this program do not impact the cost borne by customers who do not take service under this rider.¹²⁹ For the WHEV Pilot, EPE does not expect to incur any material amount of costs for the pilot.¹³⁰ This rider is simply an incentive credit on the applicable customer’s monthly electric bill.¹³¹ While EPE will publicize the availability of the program, the Company does not expect that those efforts will involve the expenditure of any material amount of incremental costs.¹³²

4. Discussion of any other preliminary order issues

Preliminary Order Issues 13 and 14 ask what impacts there will be on customers who do or do not subscribe to the pilot program if approved. With regard to customers who participate in the program, they will receive a credit on their bills as described above to encourage them to shift their EV charging to overnight hours. With regard to customers who are not program participants, approval of the WHEV Pilot in this docket will not impact them or their rates, and EPE believes that the Company and its customers will benefit from EPE learning how and whether credit programs such as this pilot may assist in avoiding or delaying construction of additional infrastructure due to the impact of EV charging load on the system.¹³³

¹²⁶ Staff Ex. 2 at 9:14-16.

¹²⁷ EPE Ex. 10 at 2:16-17.

¹²⁸ *Id.* at 2:17-20. See also EPE Ex. 5 at 7:16-22.

¹²⁹ OPUC Ex. 1 at 14:3-5.

¹³⁰ EPE Ex. 3 at 16:11-12; EPE Ex. 8 at 6:5-6.

¹³¹ *Id.* at 6:6-7.

¹³² *Id.* at 6:7-9.

¹³³ *Id.* at 2:24-3:7.

Regarding Preliminary Order Issue 15 which asks what, if any, conditions should be placed on approval to ensure that Texas customers who have not subscribed to the pilot program are not unreasonably affected by approval of EPE's application, EPE believes that the expected immaterial costs of the WHEV Pilot in conjunction with EPE's proposed limitations on the program, including that qualifying accounts must provide proof of EV registration annually to EPE,¹³⁴ and EPE's proposal to reevaluate the credit rate and participation in EPE's next general rate case filing¹³⁵ are appropriate and sufficient conditions to ensure that Texas customers who have not subscribed to the pilot are not unreasonably affected by approval of EPE's application.

The Commission's preliminary order in this docket also asks whether the proposed credits are discounted rates under PURA § 36.007 (See PO Issue 10). Mr. Carrasco testified that the WHEV Pilot credit is not a discount rate, explaining that the incentive credit was calculated to reflect the actual lower cost of producing electricity during the hours when EPE's existing system has the most available capacity to serve additional load.¹³⁶ Further, Mr. Carrasco affirmed that that, while the combination of the Schedule No. 01 energy charge and the proposed WHEV Pilot credit will result in a lower, net energy charge for each kWh consumed during the Super Off-Peak Period, that net energy charge will not be less than marginal cost, that is, not less than the residential rate class's variable operation and maintenance unit cost.¹³⁷ No party filed testimony challenging this portion of Mr. Carrasco's direct testimony.

C. PowerConnect Pilot Program

1. Introduction/Program description

The proposed Schedule No. PC – PowerConnect Pilot Program, included as Exhibit AR-2S to the supplemental direct testimony of Ms. Rodriguez,¹³⁸ is reasonable and should be approved.

The PowerConnect Pilot supports utility-side make-ready infrastructure by offering a rebate credit to help reduce or offset the utility-side infrastructure costs for EPE commercial

¹³⁴ See EPE Ex. 5 at Exhibit MC-3 (Schedule No. WHEV, under the Applicability heading).

¹³⁵ EPE Ex. 5 at 10:31.

¹³⁶ *Id.* at 9:23-25.

¹³⁷ *Id.* at 9:25-29.

¹³⁸ EPE Ex. 6.

customers who are installing EV charging equipment.¹³⁹ PURA § 42.0103(d), which was enacted as a part of SB 1002, allows programs like EPE's PowerConnect Pilot that subsidize "the costs of make-ready infrastructure through rates or charges for services provided by the electric utility's regulated services."

Program enrollments will be processed on the first-come, first-serve basis, and the program will terminate after two years unless extended in a future proceeding.¹⁴⁰ The maximum available rebate credit amounts per site were determined using EPE's infrastructure upgrade cost estimates from similar EV charging infrastructure project requested by EPE customers and are consistent with incentives seen in other utilities' programs.¹⁴¹

The goal of this program is to be complementary to other available federal programs created through the Infrastructure Investment and Jobs Act, such as the National EV Infrastructure Formula Program for installation of charging stations by Texas Department of Transportation and the Clean School Bus program administered by United State Environmental Protection Agency.¹⁴² The program is also consistent with the Legislative goals adopted in SB 1002 and reflected in PURA § 42.0101(b) and (c) as quoted at the beginning of Section III of this brief.

Make-ready programs also help ensure that the utility is involved in the planning for the EV charging stations and help to ensure adequate local distribution infrastructure.¹⁴³ Make-ready programs lower the costs of the infrastructure investments and can help avoid any future upgrades (and rework).¹⁴⁴ By being engaged with the customer through the proposed PowerConnect Pilot, EPE can help to ensure that customer is considering appropriately sized charging infrastructure and is aware of EPE's approved Schedule No. EVC rate to encourage that charging occurs during off-peak hours.¹⁴⁵

In addition to Ms. Rodriguez's testimony, the EEI letter of support explained as follows:

Nationally, the current lack of EV charging infrastructure is one of the primary barriers to widespread EV adoption. EPE's proposed PowerConnect Pilot and Take

¹³⁹ EPE Ex. 4 at 16:9-12.

¹⁴⁰ *Id.* at 17:23-24.

¹⁴¹ *Id.* at 18:5-15.

¹⁴² *Id.* at 16:18-21.

¹⁴³ EPE Ex. 9 at 8:7-8.

¹⁴⁴ *Id.* at 8:8-10.

¹⁴⁵ *Id.* at 10:18-21.

Charge TX Pilot Programs aim at reducing obstacles to installing EV charging infrastructure for commercial customers. As designed, the proposed enhancements are an example of how electric company investment in EV charging infrastructure can guide outcomes that protect all customer interests and maximize customer value, both directly and indirectly. The new EV programs would directly benefit customers by further reducing the barrier to entry for EV adoption in many ways, including making direct investments in the deployment of much-needed charging infrastructure and offering a simple, turn-key charging solution for all non-residential customers¹⁴⁶

EEI further explained that investment in EV infrastructure like that proposed by EPE in this proceeding will improve charging access to all customers – including, for example, those who may lack dedicated parking.¹⁴⁷

2. Compliance of the proposed program with PURA/PUCT Rules

PURA Chapter 42 Compliance Issues

With regard to the requirements of PURA and the PUCT rules, the Commission's preliminary order in this docket focuses on compliance with PURA § 42.0103(d) and asks:

- PO Issue 16: Is El Paso Electric proposing to subsidize the costs of make-ready infrastructure through rates or charges for services provided by the electric utility's regulated services as permitted under PURA § 42.0103(d)?
- PO Issue 17: Do the distribution system upgrades or improvements referenced in the PowerConnect Pilot Program tariff qualify as make-ready infrastructure as defined in PURA § 42.0102(6)?
- PO Issue 18: Will El Paso Electric provide electric vehicle charging service to the public as defined in PURA § 42.0102(4)?
- PO Issue 19: Under the pilot program, will El Paso Electric own or operate any public electric vehicle charging stations as defined in PURA § 42.0102(7)?
- PO Issue 20: Will customers participating in the pilot program own the electric vehicle charging stations or other equipment on the customer side of the meter?

No other party filed testimony addressing the issues above or challenging this program's compliance with PURA Chapter 42. EPE believes that the proposed pilot complies with the scope of PURA § 42.0103(d) as detailed below.

PO Issue 16: With regard to whether EPE is proposing to subsidize the costs of make-ready infrastructure through rates or charges for services provided by the electric utility's regulated

¹⁴⁶ EPE Ex. 1 at Attachment A, page 2 of 4.

¹⁴⁷ EPE Ex. 1 at Attachment A, pages 2 and 3 of 4.

services as permitted under PURA § 42.0103(d), the PowerConnect Pilot would potentially subsidize the costs of make-ready infrastructure, but EPE does not, in this proceeding, seek recovery of the program costs through rates or charges provided by the electric utility's regulated services.¹⁴⁸ The Company expects to address recovery of the program costs in a future proceeding.

PO Issue 17: With regard to whether the distribution system upgrades or improvements referenced in the PowerConnect Pilot tariff qualify as make-ready infrastructure as defined in PURA § 42.0102(6), the program is compliant with this provision. In particular, PURA § 42.0102(6) states that:

“Make-ready infrastructure” means the electrical infrastructure required to service a public electric vehicle charging station's electrical load on the electric utility's or transmission and distribution utility's side of the point of delivery. The term:

(A) includes all site-specific electrical infrastructure required to accommodate engineering, physical, operational, or other constraints for the public electric vehicle charging station, regardless of whether the infrastructure is on the utility's or customer's side of the point of delivery; and

(B) does not include the public electric vehicle charging station or any utility infrastructure on the customer's side of the point of delivery, up to and including the meter.

The PowerConnect Pilot tariff states that the program offers rebate credits for “distribution system upgrades or improvements necessary to provide electric vehicle charging capabilities” and that “[t]he Program does not cover the cost of EV charging equipment or Customer-side of the meter infrastructure upgrades or equipment installation.”¹⁴⁹ Accordingly, the PowerConnect Pilot tariff includes the allowed facilities and excludes the disallowed facilities as prescribed under subsections (A) and (B) of PURA § 42.0102(6).¹⁵⁰

PO Issue 18: With regard to whether EPE will provide electric vehicle charging service to the public as defined in PURA § 42.0102(4), the answer is no. The PowerConnect Pilot tariff supports the construction of utility-side make-ready infrastructure, but it does not involve EPE providing electric vehicle charging service to the public as defined in PURA § 42.0102(4).¹⁵¹

¹⁴⁸ EPE Ex. 3 at 17:16-18.

¹⁴⁹ EPE Ex. 6 at Exhibit AR-2S (Schedule No. PC, page 1 of 3, Type of Service section).

¹⁵⁰ *Id.* at Exhibit AR-2S (Schedule No. PC, page 1 of 3, Type of Service section, and page 3 of 3, Item 7).

¹⁵¹ *Id.*

PO Issue 19: With regard to whether, under the pilot, EPE will own or operate any public electric vehicle charging stations as defined in PURA § 42.0102(7), the answer is no. Under the pilot, EPE will only own utility-side-of-the-meter equipment, not charging stations.¹⁵²

PO Issue 20: With regard to whether customers participating in the pilot own the electric vehicle charging stations or other equipment on the customer side of the meter, the answer is yes. The applicability section on page one of the proposed tariff states: “The PowerConnect (“Program”) is available, on a voluntary basis, to Eligible Customers installing qualified Level 2 charging station/s, or DC Fast Charging (“DCFC”) station/s, or both, on their premises . . .”¹⁵³

Other Compliance Issues

The Commission’s preliminary order also asks whether the proposed rates comply with the requirements of PURA § 36.003 (Issue 21).

With regard to whether the proposed rates comply with the requirements of PURA § 36.003, the evidence supports that they do. The basis for developing the proposed rebate credits under this program are explained in Company witness Rodriguez’s direct testimony: the maximum available rebate credit amounts per site were determined using EPE’s infrastructure upgrade cost estimates from similar EV charging infrastructure projects requested by EPE customers and are consistent with incentives seen in other utilities’ programs.¹⁵⁴

In his direct testimony, Company witness Carrasco further explained how, as required under PURA § 36.003, the PowerConnect Pilot and other proposed pilots are just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer.¹⁵⁵

Staff witness Narvaez testified that the PowerConnect Pilot violates Commission rules because the program offers subsidies that violate the cost-based requirements in Commission rules and PURA.¹⁵⁶ However, as explained in the rebuttal testimony of Company witness Rodriguez, this pilot was designed to cover no more than the actual costs not covered by EPE’s line extension policy and, even then, only up to the maximum rebate credit amount shown in her direct

¹⁵² *Id.*

¹⁵³ *Id.* (Schedule No. PC, under the Applicability section).

¹⁵⁴ EPE Ex. 4 at 18: 5-8.

¹⁵⁵ EPE Ex. 5 at 16:15-17:2.

¹⁵⁶ Staff Ex. 2 at 10:11-16.

testimony.¹⁵⁷ Moreover, it is clear that PURA § 42.0103(d) now allows for subsidies to the extent they are used for supporting make-ready infrastructure as EPE proposes.

3. Costs and Cost Recovery

The budget for the pilot program is \$3,095,950.¹⁵⁸ While no party filed testimony challenging the specific level of the proposed budget, OPUC witness Evans raised concerns regarding whether non-participating customers would bear costs due to this program.¹⁵⁹ As noted above in Section III.A.3, EPE understands the importance of, and has ongoing experience in, tracking and accounting for program costs to ensure proper ratemaking treatment and will do so for this pilot as well.¹⁶⁰

Further, while EPE is not seeking recovery of program costs at this time, it may seek recovery of actual program costs in a future rate proceeding.¹⁶¹ EPE does believe that cost recovery from all customers is consistent with newly enacted PURA § 42.0103(d) and that all customers may benefit from infrastructure investments found essential by the legislature in PURA § 42.0101(b) and (2). As indicated by Mr. Novela at the hearing, it is his expectation that “in the future we would seek that recovery because as described these types of programs can benefit all of EPE’s customers.”¹⁶²

4. Discussion of any other preliminary order issues

The Commission’s preliminary order also asks whether the proposed rebates are discounted rates under PURA § 36.007 (Issue 24). The answer is no because customers will pay the same amount for electricity from EPE with or without the PowerConnect Pilot. Additionally, to the extent the pilot provides a credit to cover, in whole or part, a cash advance that would otherwise be required under EPE’s line extension policy, whether the credit is ultimately a discount depends at least in part on whether the cash advance would have eventually been refunded to the customer

¹⁵⁷ EPE Ex. 9 at 7:22-25 and 8:1-4. See EPE Ex. 4 at 17:31-18:2 for the maximum rebate credit amounts.

¹⁵⁸ EPE Ex. 3 at 16:6 and EPE Ex. 4 at 18:18. The Company believes that its proposed budget is modest in comparison to EPE’s ongoing level of investments in distribution plant. For example, in EPE’s pending distribution cost recovery proceeding, Docket No. 56425, the Company identified \$172,779,368 in distribution plant investments over the three-year period ending December 31, 2023. See *Application of El Paso Electric Company for Approval of a Distribution Cost Recovery Factor*, Docket No. 56425, Application at 4 (Mar. 28, 2024).

¹⁵⁹ OPUC Ex. 1 at 16:12-18.

¹⁶⁰ EPE Ex. 8 at 6:16-28.

¹⁶¹ EPE Ex. 3 at 17:16-18.

¹⁶² Tr. at 28:21-24.

under the Company's line extension policy anyway due to the level of the customer's electricity consumption, and accordingly the question may require a case-by-case consideration.¹⁶³

Regarding Preliminary Order Issue 27, which asks what, if any, conditions should be placed on approval to ensure that Texas customers who have not subscribed to the pilot program are not unreasonably affected by approval of EPE's application, EPE's proposed limitations on the pilot, including its two-year duration, the proposed budget, and the tracking and accounting for the pilot costs are appropriate and sufficient conditions to ensure that Texas customers who have not subscribed to the pilot program are not unreasonably affected by approval of the application.

D. Take Charge TX Pilot Program

1. Introduction/Program description

The proposed Schedule No. TCTX – Take Charge TX Pilot Program, included as Exhibit MC-1S to the supplemental direct testimony of Mr. Carrasco,¹⁶⁴ is reasonable and should be approved.

The Take Charge TX Pilot would allow EPE to enter an agreement with a commercial customer to provide equipment and services to support EV charging stations on the customer side of the meter.¹⁶⁵ In particular, under the proposed program, the customer can choose the desired EV infrastructure and equipment that could be purchased, installed and operated by EPE, in whole or part, including a fully turnkey solution, to mitigate the challenge of managing EV charging stations installation and maintenance for the customer.¹⁶⁶

Consistent with PURA § 42.0103(o), this pilot would allow an eligible commercial customer to enter an agreement with EPE under which EPE may, among other things, own or operate a public electric vehicle charging station on the person's property.¹⁶⁷

This program will be open to customers who take service under certain non-residential rate schedules including general service, small general service, large power, city and county service.¹⁶⁸

¹⁶³ EPE's line extension policy is included in Section 3 of its tariff approved in the Company's last base rate proceeding, Docket No. 52195.

¹⁶⁴ EPE Ex. 7.

¹⁶⁵ EPE Ex. 4 at 18:26-19:6.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ EPE Ex. 7 at Exhibit MC-1S (Schedule No. TCTX, page 1 of 20, Applicability section); EPE Ex. 5 at 12:9-16.

The program would be open to new customers for two years only.¹⁶⁹ Contracts entered within that two-year window would be in place for a ten-year term.¹⁷⁰

Participating customers will be responsible for the full cost of the equipment and services provided during the term of the pilot program agreement.¹⁷¹ Participants will pay a monthly fixed fee to EPE for the recovery of the infrastructure and equipment costs over a customer-selected repayment term (between 1 year and 10 years) as well as an operations and maintenance fee over the 10-year customer agreement term.¹⁷²

During the term of the agreement, EPE will be responsible for equipment maintenance and operations to ensure EV equipment continues to be operable.¹⁷³ EPE is proposing a 10-year expected life of the EV charging equipment for depreciation purposes.¹⁷⁴ At the end of that expected life, the Company will choose to either remove or abandon in place such equipment.¹⁷⁵ Mr. Carrasco's direct testimony explained the depreciation rates and other accounting assumptions to be used under the tariff for the calculation of the monthly fees.¹⁷⁶

EPE will have a list of prequalified suppliers for both EV charging manufacturers and third-party installers.¹⁷⁷ Customers will have a flexibility to choose the equipment and vendor that meets their needs.¹⁷⁸ However, under the proposed tariff, EPE will have the right to reject projects based on reliability concerns or unreasonable costs.¹⁷⁹

Under the pilot, participating customers will be solely responsible for setting a pricing policy for the EV charging station on their premises.¹⁸⁰

¹⁶⁹ EPE Ex. 1 at 5.

¹⁷⁰ EPE Ex. 5 at 12:31-13:2.

¹⁷¹ EPE Ex. 4 at 19:4-6.

¹⁷² *Id.* at 12:21-24. Further details on contract term and repayment term are provided in EPE Ex. 5 at 13:10-14.

¹⁷³ EPE Ex. 4 at 22:2-4.

¹⁷⁴ *Id.* at 19:22-23.

¹⁷⁵ *Id.* at 19:23-24.

¹⁷⁶ EPE Ex. 5 at 16:7-12 and 15:16-16:3.

¹⁷⁷ EPE Ex. 4 at 20:9-10.

¹⁷⁸ *Id.* at 20:10-14.

¹⁷⁹ *Id.* at 20:14-16.

¹⁸⁰ *Id.* at 21:14-20.

As indicated and quoted in Section III.C.1 of this brief above, the EEI also provided support for this program, indicating that, as designed, the proposed PowerConnect and Take Charge Pilots are examples of how electric company investment in EV charging infrastructure can guide outcomes that protect all customer interests and maximize customer value, both directly and indirectly, and that the programs would directly benefit customers by further reducing the barrier to entry for EV adoption in many ways, including making direct investments in the deployment of much-needed charging infrastructure and offering a simple, turn-key charging solution for all non-residential customers.¹⁸¹

Moreover, encouraging investment in the deployment of public EV charging stations, as this pilot would do, is also consistent with the legislative goals stated in PURA § 42.0101(b).

2. Compliance of the proposed program with PURA/PUCT Rules

Compliance with Chapter 42

With regard to the requirements of PURA and the PUCT rules, the Commission's preliminary order in this docket focuses on PURA Chapter 42 and asks:

- PO Issue 28: Does the Take Charge TX Pilot Program comply with the requirements of PURA § 42.0103(o) regarding site hosting agreements?
- PO Issue 29: Will El Paso Electric offer service under the terms of the tariff to other persons seeking agreements in the El Paso Electric's service area on a nondiscriminatory basis under PURA § 42.0103(p)(1)?
- PO Issue 30: Will the revenue collected by El Paso Electric under each agreement with a participating person allow the utility to recover the costs of owning, constructing, financing, operating, and maintaining the public electric vehicle charging station from the person and not the utility's other customers under PURA § 42.0103(p)(2)?

No other party offered testimony addressing or challenging this program's compliance with PURA Chapter 42. As detailed below, the record shows that EPE's proposed pilot complies with the scope of PURA §§ 42.0103(o) and (p).

PO Issue 28: With regard to whether the Take Charge TX Pilot complies with each of the subpart requirements of PURA § 42.0103(o) regarding site hosting agreements, the answer is yes.

As indicated in subpart (a) of PO Issue 28, compliance with PURA § 42.0103(o) first asks whether a person who is not an electric utility or an affiliate is able to enter an agreement with EPE

¹⁸¹ EPE Ex. 1 at Attachment A, page 2 of 4.

to own or operate a public electric vehicle charging station on the person's property? The answer is yes. EPE will contract with eligible customers under the program tariff but will not contract with itself or an affiliate under this program because doing so would not be consistent with PURA § 42.0103(o). If deemed appropriate, EPE would support the express addition of this limitation to the program tariff.

Further, subsection (o) requires that, with regard to site host agreements:

- (1) the utility does not:
 - (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.

Consistent with the above provisions of subsection (o) (and as queried in subparts (b) though (e) of PO Issue 28):

- (1)(A) EPE will not provide electric vehicle charging service using the public electric vehicle charging station; the purpose of the pilot project is to support other entities who plan to install EV charging stations.¹⁸²
- (1)(B) EPE will not 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; this clarification was made in the Company's supplemental direct testimony.¹⁸³
- (2) Only the program participant (and not EPE) will determine: (A) physical access to and use of the public electric vehicle charging station necessary to carry out

¹⁸² EPE Ex. 7 at Exhibit MC-1S (Schedule No. TCTX, page 1 of 20, Type of Service section).

¹⁸³ EPE Ex. 7 at 1:24-3:1.

responsibilities associated with ownership and operation of the public electric vehicle charging station and (B) prices for the electric vehicle charging service.¹⁸⁴

- (3) The program participant will pay 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.¹⁸⁵

Accordingly, the Take Charge TX Pilot complies with each of the subpart requirements of PURA § 42.0103(o) regarding site hosting agreements.

PO Issue 29: With regard to whether EPE will offer service under the terms of the tariff to other persons seeking agreements in the EPE's service area on a nondiscriminatory basis under PURA § 42.0103(p)(1), the answer is yes. EPE will offer the program in a nondiscriminatory manner to all eligible customers under the terms of the tariff.

PO Issue 30: With regard to whether the revenue collected by EPE under each agreement with a participating person will allow the utility to recover the costs of owning, constructing, financing, operating, and maintaining the public electric vehicle charging station from the person and not the utility's other customers under PURA § 42.0103(p)(2), the answer is yes. Moreover, EPE believes its approach to this program, by including a template agreement in the tariff that involves a participant-specific calculation of costs within the framework on the tariff¹⁸⁶ is important and necessary to ensure compliance with this provision of PURA § 42.0103(p)(2).

In contrast, Staff witness Narvaez states that the pilot should be rejected because of its non-standardized pricing, which he indicates would be "incredibly difficult" to review, and he recommended that the pilot follow the more standardized-pricing approach that is used in the Company's Street and Outdoor lighting service tariff under which specific rates are set for each allowed type of lighting equipment.¹⁸⁷ However, that more-standardized approach would not

¹⁸⁴ EPE Ex. 4 at 21:8-20.

¹⁸⁵ *Id.* at 22:2-4.

¹⁸⁶ For example, page 6 of 20 of the Schedule No. TCTX that is provided as Exhibit MC-1S to EPE Ex. 7 includes blanks for the Infrastructure charge and the O&M charge that will be calculated on a participant-specific basis consistent with the remaining provisions of the schedule. Under Staff's approach, the schedule would apparently include a standardized Infrastructure charge and the O&M charge applicable to all participants regardless of particular circumstances (or possibly a series of standard charges reflecting a series of limited set of permissible participant choices in facilities and services).

¹⁸⁷ Staff Ex. 2 at 11:20-12:17 and 14:10-15:14.

account for variations in costs among program participants whose circumstances might, for example, require a great deal of new on-site wiring or no new on-site wiring, or a great deal of on-site trenching for facilities or no on-site trenching for facilities (with installation costs varying greatly based on the proposed location). Standardized charges set at this time would also not account for inflation in charging station prices over the next two years of the program and ongoing changes in EV charging equipment technology. As Mr. Carrasco explained in his rebuttal testimony, non-standardized pricing (as proposed by the Company) helps to ensure that customers pay only for the costs associated with the services they request, while a more standardized approach (as recommended by Staff) would risk frustrating cost-causation principles.¹⁸⁸ Staff's approach would be inconsistent with the full-cost-recovery requirements of PURA § 42.0103(p)(2).

Other Compliance Issues

The Commission's preliminary order also asks whether the proposed rates comply with the requirements of PURA § 36.003 (Issue 31). The answer is yes. As detailed below, the rates charged under this program will be based on the actual costs of the equipment and services requested by the customer and as calculated under the terms of the tariff. Basing the charges on actual costs and under the accounting assumptions described in Mr. Carrasco's direct testimony helps to ensure compliance with PURA § 36.003.¹⁸⁹ Mr. Carrasco's direct testimony further supports compliance of this pilot with PURA § 36.003 by explaining how the proposed pilots are just and reasonable, not unreasonably preferential, prejudicial, or discriminatory, and are sufficient, equitable, and consistent in application to each class of consumer.¹⁹⁰

3. Costs and Cost Recovery

The budget for this pilot program is \$7,382,650.¹⁹¹ No party filed testimony challenging the Company's specific proposed budget or method of calculating charges under the tariff but rather challenged the program in broader terms. OPUC witness Evans in particular raised concerns that non-participating customers will be forced to bear a considerable amount of costs incurred to

¹⁸⁸ EPE Ex. 10 at 4:1-3.

¹⁸⁹ See also EPE Ex. 5 at 14:1-16:12, discussing how the proposed Schedule No. TCTX was developed and priced, how the monthly level of payment and fixed O&M charges will be calculated, and certain accounting assumptions.

¹⁹⁰ EPE Ex. 5 at 16:15-17:2.

¹⁹¹ EPE Ex. 3 at 16:7-8 and EPE Ex. 4 at 21:30.

operate this program.¹⁹² However, as Mr. Carrasco explained in this direct testimony, costs associated with Schedule No. TCTX will only be charged to those customers that voluntarily elect to enroll in the Take Charge TX Pilot.¹⁹³ To ensure this, EPE will maintain separate accounting of all infrastructure and equipment costs associated with Schedule No. TCTX through the implementation of subaccounts to track and remove direct and allocation of indirect costs from its determination of ratepayer revenue requirements in general rate cases.¹⁹⁴ Participating customers will be charged a monthly fixed fee on their electric bill for this service to recover the full cost of the equipment and services provided to the customer and avoid financial impact to EPE's non-participating customers.¹⁹⁵

Moreover, as indicated in Section III.A.3 above, EPE understands that tracking and accounting for the pilot program costs is an important issue to ensure appropriate allocation of costs to customers;¹⁹⁶ EPE will maintain records for all costs incurred under the pilot programs using program-specific workorder numbers and project codes to enable identification and proper accounting for the costs actually incurred in connection with the pilot programs;¹⁹⁷ and EPE has experience in tracking and accounting for program costs to ensure proper ratemaking treatment and will do so for this pilot program as well.¹⁹⁸

4. Discussion of any other preliminary order issues

No additional issues identified.

E. Appropriate treatment of Rate Case Expenses

Under PURA § 33.023(b), EPE is required to reimburse the municipal regulatory authorities that participate in rate proceedings for their reasonable and necessary rate-case expenses. The City of El Paso's Exhibit No. 1 is the City's Declaration of Rate Case Expenses in support of the City's expenses for this proceeding through the date of the declaration. The expenses appear to be reasonable, and EPE has no objection to their approval for recovery.

¹⁹² OPUC Ex. 1 at 19:9-10.

¹⁹³ EPE Ex. 5 at 13:19-20.

¹⁹⁴ *Id.* at 13:20-24.

¹⁹⁵ EPE Ex. 8 at 5:29-6:2.

¹⁹⁶ *Id.* at 6:16-17.

¹⁹⁷ *Id.* at 6:17-20.

¹⁹⁸ *Id.* at 6:20-28.

As explained at the hearing,¹⁹⁹ EPE proposes that its own rate case expenses would be reviewed in a future rate proceeding. The review of expenses at that time may also include any subsequent expenses for the City for this proceeding.

IV. CONCLUSION

For the reasons detailed above, EPE requests that the ALJ issue a proposal for decision recommending approval of the Company's four proposed pilot programs and grant such further relief to which the Company may be entitled.

Respectfully submitted,



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**ATTORNEYS FOR EL PASO ELECTRIC
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¹⁹⁹ Tr. at 93:23-94:3.

CERTIFICATE OF SERVICE

I certify that on April 18, 2024 a true and correct copy of this document was served on all parties of record by electronic service consistent with the Commission's Second Order Suspending Rules filed on July 16, 2020 in Project No. 50664.

A handwritten signature in black ink, appearing to read 'CWA-Britt', written over a horizontal line.

Everett Britt