



Filing Receipt

Filing Date - 2024-08-19 10:13:49 AM

Control Number - 54614

Item Number - 91

**P.U.C. DOCKET NO. 54614
SOAH DOCKET NO. 473-24-04312**

APPLICATION OF EL	§	
PASO ELECTRIC COMPANY	§	STATE OFFICE OF
FOR APPROVAL OF ITS TEXAS	§	ADMINISTRATIVE HEARING
ELECTRIC VEHICLE -READY	§	
PILOT PROGRAMS AND TARIFFS	§	

EV.ENERGY CORP'S REPLY TO EXCEPTIONS

Pursuant to the Exceptions and Replies Memorandum filed the Public Utility Commission of Texas (Commission) Commission Counsel on August 1, 2024, EV.ENERGY CORP (ev.energy) respectfully files its Reply to Exceptions. As stated in ev.energy's Initial Brief and Reply Brief, ev.energy recommends and requests that the Commission approve El Paso Electric Company's (EPE) EV Smart Rewards Pilot Program.¹ Because ev.energy supports the June 28, 2024 Proposal for Decision's (PFD) well-reasoned approval of the EV Smart Rewards Pilot Program, ev.energy did not file exceptions but appreciates this opportunity to reply to the exceptions filed by other parties. The Commission should reject the exceptions filed by Commission Staff (Staff) and the Office of Public Utility Counsel (OPUC) and approve the PFD's approval of the EV Smart Rewards Pilot Program without modification.

I. Introduction

A. Texas EV-Ready Pilot Programs

B. Procedural History, Notice, and Jurisdiction

¹ While ev.energy supports all EPE's Texas Electric EV-Ready Pilot Programs at issue in this proceeding, ev.energy's interests are limited to the EV Smart Rewards Pilot.

II. Applicable Law

III. Discussion

A. EV Smart Rewards Pilot Program

1. Introduction

The PFD provides an accurate and comprehensive description of EPE's proposed EV Smart Rewards Pilot.² In anticipation of significant load growth from residential customers charging electric vehicles (EVs) at their homes, EPE proposes this modest pilot program to develop tools and capabilities to ensure that this flexible new load realizes its potential to provide benefits to all EPE customers. Through the EV Smart Rewards Pilot, EPE will manage participating customers' EV charging to test various active managed charging strategies and ensure that charging takes place when it is most beneficial based on real-time grid conditions. Rather than setting a static time-based price signal and hoping that customers respond in the desired way (or hoping that the price signal in the tariff reflects actual grid conditions on any given day), the only action required by participating customers is to complete the sign-up process for the Pilot. Through the proposed EV Smart Rewards Pilot, EPE will be able to delay, stagger, and/or throttle customers' charging to mitigate grid impacts while ensuring each customer's vehicle is charged when they need it.

The benefits of the EV Smart Rewards Pilot cannot be quantified in advance because the purpose of the Pilot, like any pilot, is to test and measure the Pilot's capabilities. However, other utilities' extensive experience with managed charging programs indicates that the potential benefits are both significant and scalable. Critically, the EV Smart Rewards Pilot is not a cross-subsidy from non-participating customers to participating customers. Rather, the Pilot would

² PFD at 5-8.

compensate participating customers for providing the valuable service of allowing EPE to control when their EV charging occurs, which they otherwise would have no obligation or reason to do. In this way, the EV Smart Rewards Pilot is analogous to demand response or load management programs, such as EPE's existing Energy Wise Savings Program, which compensates customers who help EPE reduce its peak demand by allowing EPE to control their thermostats on hot days.

EPE's customers will continue to adopt EVs. Left unmanaged, customers will charge their EVs when it is most convenient for them – rather than when is best for the grid – which can lead to increases in EPE's peak demand. When effectively managed, EV charging is a beneficial load that will put downward pressure on rates for all customers. The Commission should approve the EV Smart Rewards Pilot to ensure that EPE is prepared to manage the significant new load that EV adoption brings for the benefit of all customers.

2. Response to Staff's and OPUC's Exceptions.

The PFD correctly found that the EV Smart Rewards Pilot is consistent with the legislature's explicit encouragement of load management programs and incentives at PURA § 36.204 and represents a proactive first step in EPE learning how to integrate the significant amount of new EV charging load that it expects in its service territory.³ As the PFD states, PURA § 36.204 explicitly authorizes the Commission, when establishing rates for an electric utility, to “authorize additional incentives for conservation, load management, purchased power, and renewable resources.”⁴ Based on this clear legislative directive, the PFD rightly concluded that it is not reasonable to impose the costs of the EV Smart Rewards Pilot solely on participating customers

³ *Id.* at 10-11.

⁴ *Id.* at 11.

because “the goals of load management, conservation, etc., benefit not only the incentivized customers but all ratepayers.”⁵ As ev.energy pointed out in its Reply Brief, the EV Smart Rewards Pilot will compensate customers for doing something they otherwise would have no obligation or reason to do: namely, to allow EPE to actively control their EV charging so that their charging load occurs during beneficial periods (e.g., avoiding on-peak charging, reducing curtailment of renewable generation, participating in demand response events to help avoid grid constraints and blackouts, etc.).⁶ If EPE were unable to shift EV charging load in this manner, it would likely increase investment in new generation and grid upgrades, as well as miss out on the other benefits associated with managed charging, to the detriment of all customers. In this context, it simply would not make sense for participants in the EV Smart Rewards Pilot to pay for the entirety of the cost of a program that benefits all customers.

Staff's Exceptions argue that the incentives authorized by PURA § 36.204 refers to rewarding *utilities* for implementing load management programs (in the form of allowing utilities to recover more than the cost of implementing such programs) and not to incentives that a utility provides to *customers* in exchange for their participation in load management programs.⁷ Apparently overlooking that most energy efficiency and load management programs involve an incentive that is paid to participating customers, Staff's Exceptions mistakenly conclude: “if the Commission were to approve the EV Smart Rewards Pilot Program and allow EPE to recover costs

⁵ *Id.*

⁶ ev.energy Reply Brief at 5-6.

⁷ Staff Exceptions at 4 (“Staff recommends that the ‘additional incentives’ under PURA § 36.204 are more akin to authorizing an electric utility to recover additional costs that are not necessary to implement a load management program, but that are authorized to incentivize an electric utility to implement such a load management program.”)

from non-participating customers, such approval would not be authorizing additional incentives for load management under PURA § 36.204(2).”⁸

To the contrary, the EV Smart Rewards Pilot is analogous to EPE’s Energy Wise Savings Program, through which EPE provides customers with discounts on smart thermostats and participation incentives in exchange for the right to control the thermostats to shift cooling load away from peak hours. This incentive package is not an “unreasonably discriminatory or preferential” rate that is prohibited by PURA § 36.003. Customers that participate in the Energy Wise Savings Program are not simply enjoying a preferential rate; rather, participants are providing a valuable service to EPE – and all of EPE’s other customers – by reducing the amount that their cooling load contributes to peak demand *in exchange for* a participation incentive. PURA § 36.204(2) unambiguously authorizes such incentives for load management programs, as the PFD concluded.⁹ Likewise, the incentives included in the EV Smart Rewards Pilot are not unreasonably discriminatory or preferential rates as Staff asserts.¹⁰ Rather, the EV Smart Rewards Pilot provides incentives to customers for providing load management services through the program as authorized by PURA § 36.204(2).

For similar reasons, the Commission should disregard Staff’s and OPUC’s suggestion that the costs of the EV Smart Rewards Pilot should be recovered only from participants in the EV Smart Rewards Pilot.¹¹ Specifically, Staff argues that “the only eligible customers would specifically be EV owners, such that costs should not be shifted onto non-EV owners, who are the

⁸ *Id.* at 5.

⁹ PFD at 11.

¹⁰ Staff Exceptions at 6.

¹¹ *Id.*, OPUC Exceptions at 2.

non-eligible customers.”¹² Staff’s view that only EV owners are “eligible customers” and therefore the only customers from which EPE should collect the costs of the EV Smart Rewards Pilot takes an unreasonably narrow view of what it means to be an “eligible customer.” Staff’s position also displays a fundamental misunderstanding of how load management programs work. All or nearly all load management programs require participants to own or install a certain type of hardware or appliance in order to participate. Without the required hardware or appliance, the utility would be unable to conduct its load management activities. Returning to the example of EPE’s Energy Wise Savings Program, customers must install a qualifying smart thermostat in order to participate because the smart thermostat is how EPE manages customers’ air conditioning load. If a customer does not have the right equipment, the utility cannot implement the load management program for that customer. That practical reality does not mean that only customers with smart thermostats are “eligible customers” for rate recovery purposes and therefore the cost of the program should be recovered only from customers with smart thermostats. Rather, it is more accurate and reasonable to say that all residential customers are eligible to participate in the program; they simply must install a smart thermostat to do so.

With respect to the EV Smart Rewards Pilot, all residential customers are eligible to participate (subject to EPE’s proposed customer caps given that it is only a pilot program) but must purchase or lease an EV to do so. Accordingly, though cost recovery is not at issue in this proceeding, it would be unreasonable to require EPE to recover the costs of the EV Smart Rewards Pilot only from participants or only from EV drivers given that all residential customers are eligible so long as they have an EV. Simply put, recovering the costs of an incentive program exclusively

¹² Staff Exceptions at 6.

from participants in the incentive program is absurd – no customers would participate in such a program.

For similar reasons, the Commission should reject Staff's complaints that the EV Smart Rewards Pilot's "incentive payments represent special treatment for those enrolled in the program to the disadvantage of other customers that do not enroll, including eligible customers with similar EV usage but that are not enrolled."¹³ OPUC similarly argues that the incentives offered through the EV Smart Rewards Program are "unreasonably preferential, prejudicial, and discriminatory" (but does not explain how they can be both preferential and discriminatory).¹⁴ Again, PURA § 36.204 specifically authorizes EPE to provide customers with incentives for load management purposes. It would not make any sense for EPE to provide load management incentives to all customers with EVs regardless of whether or not they participated in the load management program. The benefits that program participants provide to EPE's system through their participation provides a reasonable basis for providing load management incentives only to program participants.

Finally, the Commission should reject Staff's and OPUC's argument that the PFD erred in finding that the incentives for the EV Smart Rewards Pilot do not need to be cost-based.¹⁵ As an initial matter, Staff and OPUC have never explained in this docket what it would mean for the pilot's incentives to be "cost-based" or why this alleged shortcoming should be fatal to a relatively small pilot program. Though Staff and OPUC do not acknowledge that the EV Smart Rewards Pilot can be expected to provide benefits to all customers, they failed to rebut any of the evidence

¹³ *Id.*

¹⁴ OPUC Exceptions at 2.

¹⁵ Staff Exceptions at 6-7, OPUC Exceptions at 2.

that EPE and ev.energy provided demonstrating that benefits can be expected to occur. If the incentives that EPE provided to EV drivers for enrolling in active managed charging were “cost-based” as Staff recommends, then the incentives would be equal to the value that participants provide through their participation in the Pilot. However, in that scenario, non-participating customers would not enjoy any of benefits from the program because the benefits would all be allocated to participants. Providing participants with an incentive that was “cost-based” would undermine the very purpose of the EV Smart Rewards Pilot. Accordingly, ev.energy concurs with the PFD’s conclusion that “[s]eeking to incentivize this particular customer segment [*i.e.*, customers with EVs] is reasonable ‘in light of Company and customer interests in supporting, gathering information regarding, and managing EV charging activities.’”¹⁶

It is crucial to remember that the EV Smart Rewards Pilot is a small pilot program that is limited in time (two years), participants (880), and cost (\$804,947). Because the EV Smart Rewards Pilot is a pilot program, it is impossible to know with any precision the level of cost savings the program will achieve. Again, the purpose of the program is to provide cost savings to *all* customers in the form of avoided investments in new generation and grid upgrades and downward pressure on rates. If the Pilot is a success, the benefits enjoyed by all customers should outweigh the total cost of the program. Additionally, utility programs are iterative and incentive levels can be refined in future iterations of EPE’s managed charging program offerings once data is collected through the pilot. The purpose of any pilot program is for the utility to develop and refine tools that will allow it to maximize the benefits of a successful pilot when it is rolled out to all customers as a full-fledged program. EPE has demonstrated that the value the EV Smart

¹⁶ PFD at 12 (quoting in part EPE Ex. 5 (Carrasco Dir.) at 16).

Rewards Pilot, in terms of both the benefits that will accrue to all customers and the valuable learnings and insight that EPE will gain, far outweighs its modest cost. For that reason, the PFD correctly concluded that “it is unreasonable to expect a direct correlation between savings and incentives.”¹⁷

3. Staff's recommendation for a separate EV rate class

Staff opens its exceptions with a recommendation “for EPE to establish a separate EV rate class to implement these pilot programs and tariffs where EV-specific policies are embedded into rates.”¹⁸ Though Staff continues to oppose EPE's proposed EV programs, if the Commission does approve them, Staff urges the Commission to require EPE “to establish a separate EV rate class in a future rate proceeding so that the costs for these programs are recovered only from an EV rate class.”¹⁹ Staff provided very little detail or explanation on how a separate EV rate class would work, but nonetheless the Commission should reject this problematic suggestion.

First, a separate EV rate class would presumably require all customers with EVs to have separate meters, which would be costly, unnecessary, and discriminatory against customers with EVs. Second, the charging profiles of residential EV charging, commercial low-voltage (Level 2) charging, and commercial high-voltage (DC fast) charging are all very different from one another. Different use cases within these categories also have very different charging profiles; for example, the charging profile of Level 2 chargers used for fleets is different from the charging profile of Level 2 chargers used at workplaces or residences. The fact that these vastly different load profiles all result in the charging of an EV is insufficient justification for a separate rate class for EVs.

¹⁷ *Id.* at 12.

¹⁸ Staff Exceptions at 2.

¹⁹ *Id.* at 3.

Additionally, Staff's suggestion generally does not align with normal ratemaking practice. Staff is seemingly pre-judging that EV charging load should be separated into a distinct rate class. However, a new rate class is normally developed once a utility has collected load data demonstrating that a distinct set of customers has a unique set of costs associated with them (*e.g.*, distinct load profiles). Once this is established it may be determined that a new rate class should be developed. However, Staff has not provided any data or evidence to this effect to support its proposal to develop separate EV rate classes, nor does Staff provide justification for bifurcating an individual customer's load into two separate rate classes (*i.e.*, placing a residential customer's EV charging load on a separate rate class from the rest of their household load). Further, Staff does not address the pitfalls of this approach, which would seemingly introduce additional barriers to EV adoption by requiring customers to pay for a second meter and would cause additional rate complexity, leading to customer confusion.

Finally, and perhaps most importantly, when managed effectively EVs have the potential to provide massive benefits to *all* customers in the form of downward pressure on rates by increasing the utility's energy sales without contributing to peak demand, among other benefits described in ev.energy's witness Mr. Ballew's initial testimony.²⁰ If EV chargers were in a separate rate class, under traditional cost-of-service principles only the separate EV rate class would enjoy these benefits. By treating EVs as just another load for *ratemaking* purposes, and by exploiting EVs as a uniquely flexible load for *load management* purposes, EPE and the Commission can ensure that all customers enjoy the benefits of EV adoption.

²⁰ Ballew Direct at 9-10, Ballew Cross-Rebuttal at 11-13.

For these reasons, the Commission should approve the PFD's recommendation not to require EPE to establish a separate EV rate class in any form.²¹

IV. Conclusion

ev.energy again thanks the Commission for the opportunity to participate in this proceeding. For the reasons discussed above, ev.energy respectfully recommends and requests that the Commission uphold the PFD and approve EPE's proposed EV Smart Rewards Pilot.

Respectfully submitted on August 19, 2024,

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²¹ PFD at 17 and 26.

Certificate of Service

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record on August 19, 2024.

/s/ Alicia Zaloga
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