



Control Number: 55338



Item Number: 105

RECEIVED

23 OCT 23 PM 4:12

RECEIVED

# **OPEN MEETING COVER SHEET COMMISSIONER MEMORANDUM**

**MEETING DATE:** October 24, 2024

**DATE DELIVERED:** October 23, 2024

**AGENDA ITEM NO.:** 18

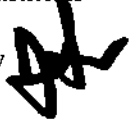
**CAPTION:** Docket No. 55338; SOAH Docket No. 473-24-07154 – Proceeding to Resolve Issues in Docket No. 53719 Related to Transportation and Electrification and Charging Infrastructure

**DESCRIPTION:** Commissioner Jimmy Glotfelty Memorandum

# *Public Utility Commission of Texas*

## **Commissioner Memorandum**

**TO:** Chairman Thomas J. Gleeson  
Commissioner Lori Cobos  
Commissioner Kathleen Jackson  
Commissioner Courtney K. Hjaltman

**FROM:** Commissioner Jimmy Glotfelty 

**DATE:** October 23, 2024

**RE:** October 24, 2024 Open Meeting – Item No. 18  
Docket No. 55338; SOAH Docket No. 473-24-07154 – *Proceeding to Resolve Issues in Docket No. 53719 Related to Transportation and Electrification and Charging Infrastructure*

---

Before the Commission is a SOAH proposal for decision addressing two issues regarding electric vehicle (EV) charging equipment that were severed from Entergy Texas's base rate proceeding. The proposal for decision recommends approval of Entergy Texas's Transportation Electrification and Charging Infrastructure (TECI) and Transportation Electrification and Charging Demand Adjustment (TECDA) riders. I recommend that the Commission adopt the proposal for decision and approve both riders. But I would modify the proposal for decision to add some restrictions to the TECI rider.

As discussed in the proposal for decision, chapter 42 of PURA authorizes the type of agreement Entergy Texas proposes in the TECI rider.<sup>1</sup> The statute allows an electric utility outside ERCOT to enter into an agreement with a customer to own or operate a public EV charging station on the customer's property so long as the utility is not providing EV charging service and other conditions are met.<sup>2</sup> Crucially, if a customer wants utility assistance to deploy an EV charging station, the customer must pay for all electric-utility-related costs under a tariff approved by the Commission that provides for full recovery of the costs of the EV charging station from that customer, including incremental revenues paid by the customer to the utility.<sup>3</sup> The revenue collected by the utility under these agreements must allow the utility to recover the costs of owning, constructing, financing, operating, and maintaining the public EV charging station from the participating customer only and not the utility's other customers.<sup>4</sup> The ALJ found that Entergy Texas's TECI rider complies with these conditions.

However, what is not discussed in the proposal for decision is that chapter 42 only authorizes electric utilities to enter into customer agreements for the deployment of *public EV charging stations*.<sup>5</sup> The definition of *public EV charging station* in the statute requires that the EV

---

<sup>1</sup> PURA § 42.0103.

<sup>2</sup> PURA § 42.0103(o).

<sup>3</sup> PURA § 42.0103(o)(3).

<sup>4</sup> PURA § 42.0103(p)(2).

<sup>5</sup> PURA § 42.0103(o).

charging station be accessible for commercial use by the public.<sup>6</sup> If an EV charging station is on a customer's property and is just used by the customer and not used commercially for electric vehicle charging service, it is not a public EV charging station.<sup>7</sup> To provide electric vehicle charging service, sales must be made from a public EV charging station *to the public*.<sup>8</sup>

There is no statutory basis for the Commission to authorize electric utilities to get into the business of helping customers deploy non-public EV charging stations. Further, the Legislature stated its intent in chapter 42 was to implement competitively neutral policies to encourage *competitive private sector investment* in public EV charging station deployment.<sup>9</sup> Absent a statutory provision indicating otherwise, the Commission's default position must be to preserve competition. Consequently, the Commission should not authorize Entergy Texas to provide a competitive service not expressly provided for in the statute.

Thus, I recommend that the Commission find that the TECI rider complies with PURA only to the extent the rider is offered to customers who intend to deploy public EV charging stations, as that term is defined in chapter 42. Entergy Texas's TECI rider should be restricted to customers who intend to deploy public EV charging stations and I recommend that the Commission order Entergy Texas to amend the TECI tariff to indicate this.

In addition, because the statute requires that Entergy Texas can only recover costs of a public EV charging station from the participating customer and not the utility's other customers,<sup>10</sup> I recommend that the Commission order that that Entergy Texas may not collect outstanding fees incurred by customers under the TECI rider from Entergy Texas's non-participating customers.

Consistent with the above, I recommend that the Commission make the following modifications to the order in this proceeding.

A new finding of fact should be added after finding of fact 33 for completeness.

33A. It is not appropriate for Entergy Texas to enter into an agreement with a person who is not an electric utility or an affiliate to own or operate a non-public EV charging station on the person's property under the TECI rider.

A new finding of fact should be added after finding of fact 36.

36A. Entergy Texas may not collect outstanding fees incurred by customers under the TECI rider from Entergy Texas's non-participating customers.

---

<sup>6</sup> PURA § 42.0102(7).

<sup>7</sup> PURA § 42.0102(7)(B).

<sup>8</sup> PURA § 42.0102(4).

<sup>9</sup> PURA § 42.0101(d)(1).

<sup>10</sup> PURA § 42.0103(p).

Conclusion of law 2 should be amended for accuracy and completeness.

2. The Commission exercises regulatory authority over Entergy Texas and the subject matter of its application for authority to change rates under PURA §§ 14.001, 32.001, 36.001-.112, .211, ~~and 39.452(k), and 42.0103 16 Texas Administrative Code (TAC) §§ 25.130 and 25.231.~~

Three new conclusions of law should be added after conclusion of law 10.

- 10A. PURA § 42.0103(o) does not contemplate an agreement between a person who is not an electric utility or an affiliate and an electric utility to own or operate a non-public EV charging station on the person's property.
- 10B. Under PURA § 42.0103(o), Entergy Texas is not authorized to enter into an agreement with a person who is not an electric utility or an affiliate to own or operate a non-public EV charging station on the person's property under the TECI rider.
- 10C. The TECI rider complies with PURA § 42.0103(o) and (p) only to the extent the rider is offered to persons who intend to deploy public EV charging stations.

The Commission should also add new ordering paragraphs 3 and 4 to be consistent with the Commission's order.

3. Entergy Texas may not collect outstanding fees incurred by customers under the TECI rider from Entergy Texas's non-participating customers.
4. Entergy Texas may not enter into agreements with customers to construct, own, or operate non-public EV charging stations under the TECI rider.

The Commission should also add new ordering paragraph 7 to require Entergy Texas to update the TECI tariff to be consistent with the Commission's order.

7. Entergy Texas's clean record copy of the tariff shall be updated, consistent with this Order, to clarify that the TECI rider is restricted to public EV charging stations.

Finally, the Commission should delegate to the Office of Policy and Docket Management staff the authority to modify the order to conform to the *Citation and Style Guide for the Public Utility Commission of Texas* and to make other non-substantive changes to the order for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, and readability.

I look forward to discussing this matter with you at the open meeting.