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**PUC DOCKET NO. 55338**  
**SOAH DOCKET NO. 473-24-07154**

<b>PROCEEDING TO RESOLVE ISSUES</b>	<b>§</b>	<b>PUBLIC UTILITY COMMISSION</b>
<b>IN DOCKET NO. 53719 RELATED TO</b>	<b>§</b>	
<b>TRANSPORTATION</b>	<b>§</b>	<b>OF TEXAS</b>
<b>ELECTRIFICATION AND CHARGING</b>	<b>§</b>	
<b>INFRASTRUCTURE</b>	<b>§</b>	

**ORDER**

This Order addresses Entergy Texas, Inc.’s request for approval of a new Transportation Electrification and Charging Infrastructure (TECI) rider and Transportation Electrification and Charging Demand Adjustment (TECDA) rider severed from its application requesting to change its rates in Docket No. 53719.<sup>1</sup> On June 21, 2024 the State Office of Administrative Hearings (SOAH) administrative law judge (ALJ) filed a proposal for decision addressing the severed issues and recommending that the Commission approve the TECI-1 and TECDA-1 riders.

The Commission adopts the proposal for decision in part and modifies in part, including findings of fact and conclusions of law, to the extent provided in this Order. The Commission approves the TECI-1 and TECDA-1 tariffs, to the extent provided in this Order.

**I. Discussion**

The Commission agrees with the ALJ’s recommendation that Entergy Texas’s proposed TECI and TECDA riders should be approved. However, the Commission determines that the TECI rider complies with PURA only to the extent the program is offered to customers who intend to deploy public electrical vehicle charging stations, as that term is defined in chapter 42.

Chapter 42 concerns the deployment of public electric vehicle charging stations in Texas. The Legislature stated its intent to “continue the [state’s] 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.”<sup>2</sup>

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<sup>1</sup> *Application of Entergy Texas, Inc. for Authority to Change Rates*, Docket No. 53719 (July 1, 2022.)

<sup>2</sup> PURA § 42.0101(a).

A *public electric vehicle charging station* is defined as “any level two charging station or direct-current fast charging station that delivers electricity from a source outside an electric vehicle into an electric vehicle, is separate and distinct from make-ready infrastructure, and is accessible for commercial use by the public.”<sup>3</sup> Also included is “similar vehicle charging equipment capable of delivering electricity into an electric vehicle faster than a level two charging station.”<sup>4</sup> Not included is “vehicle charging equipment that is used used by an electric utility, a transmission and distribution utility, or an affiliate to charge an electric vehicle owned by the utility or affiliate” or equipment used by utility employees as an incident of employment.<sup>5</sup> Also excluded is vehicle charging equipment that is “located on the premises of a customer of an electric utility, a transmission and distribution utility, or an affiliate” that is “used by the customer or the customer’s tenants, affiliates, or guests” and “not used commercially for electric vehicle charging service.”<sup>6</sup> *Electrical vehicle charging service* is defined as “sales made from a public electric vehicle charging station to the public.”<sup>7</sup>

An electric utility “may not provide electric vehicle charging service directly to a customer except as provided by [PURA § 42.0103].”<sup>8</sup> However, this section “does not prohibit a person who is not an electric utility or an affiliate of an electric utility from entering into an agreement with an electric utility for the utility to own or operate a public electric vehicle charging station on the person’s property” under certain conditions.<sup>9</sup> First, the utility must not “provide electric vehicle charging service using the public electric vehicle charging station” or “brand or market the public electric vehicle charging station as owned or operated by the utility.”<sup>10</sup> Second, the person must solely determine “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

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<sup>3</sup> PURA § 42.0102(7).

<sup>4</sup> PURA § 42.0102(7).

<sup>5</sup> PURA § 42.0102(7)(A).

<sup>6</sup> PURA § 42.0102(7)(B).

<sup>7</sup> PURA § 42.0102(4).

<sup>8</sup> PURA § 42.0103(b)(1).

<sup>9</sup> PURA § 42.0103(o).

<sup>10</sup> PURA § 42.0103(o)(1).

electric vehicle charging station” as well as “prices for the electric vehicle charging service.”<sup>11</sup> Third, 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 public electric vehicle charging station from that customer, including incremental revenues paid by the customer to the utility.<sup>12</sup>

An electric utility that seeks to offer this service to customers must do so under the terms of a Commission-approved tariff to other persons seeking agreements in the utility’s service area on a nondiscriminatory basis.<sup>13</sup> The Commission must ensure that revenue collected by an electric utility under the agreement allows 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.<sup>14</sup>

Entergy Texas’s TECI rider will allow the utility to partner with interested non-residential customers to plan, construct, own, operate, and maintain infrastructure and equipment related to transportation electrification on customer-owned property. As proposed in the application, the TECI rider would be available to eligible non-residential customers of all types, including: residential property developers, fleet managers, tax-exempt organizations, including governmental agencies and schools, shore power ports, and business owners.

The ALJ found the type of agreement described in the TECI rider is expressly contemplated by PURA § 42.0103. The TECI rider allows a participating customer to enter into an agreement with Entergy Texas for the ownership, construction, financing, operation, and maintenance of an electric vehicle charging station. Additionally, the TECI rider provides for the recovery of costs from Entergy Texas from the participating customer. On that basis, the Commission agrees that the TECI rider should be approved.

Nevertheless, PURA § 42.0103(o) only authorizes an electric utility to enter an agreement with a person who is not an electric utility for the utility to own or operate a *public* electric vehicle charging station on the person’s property. PURA § 42.0103(o) does not contemplate an agreement

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<sup>11</sup> PURA § 42.0103(o)(2).

<sup>12</sup> PURA § 42.0103(o)(3).

<sup>13</sup> PURA § 42.0103(p)(1).

<sup>14</sup> PURA § 42.0103(p)(2).

between a person who is not an electric utility to own or operate a non-public electric vehicle charging station on the person's property. Thus, the Commission finds that the TECI rider only complies with PURA § 42.0103(o) to the extent the rider is used to construct, finance, own, operate, or maintain public electric vehicle charging stations.

Electric vehicle charging stations that are not accessible for commercial use by the public should not be eligible for the TECI rider because they are not public electric vehicle charging stations. Charging stations on customers' property that are only used by the customers and not used commercially for electric vehicle charging service are not public electric vehicle charging stations. This does mean that some customers, like fleet managers, governmental agencies, and schools will not be able to participate in the TECI rider to the extent their charging stations will not be publicly accessible for commercial use. But in order to comply with PURA, Entergy Texas is required to exclude those customers from participating in the TECI rider if they intend to install non-public electrical vehicle charging stations.

In addition, because the statute requires that Entergy Texas can only recover the costs of a public electric vehicle charging station from the participating customer and not the utility's other customers,<sup>15</sup> the Commission concludes 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 discussion, the Commission makes the following modifications to the proposal for decision. New findings of fact 33A and 36A are added to support the Commission's decision regarding the requirements of PURA § 42.103(o). Conclusion of law 2 is amended for accuracy and completeness. Conclusions of law 10A–10C are added to reflect the Commission's decisions applying PURA § 42.103(o) and (p).

The Commission also makes non-substantive changes for such matters as capitalization, spelling, grammar, punctuation, style, correction of numbering, readability, and conformity with the Commission's order-writing format.

## **II. Findings of Fact**

The Commission adopts the following findings of fact.

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<sup>15</sup> PURA § 42.0103(o) and (p).

**Applicant**

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

**Application in Docket No. 53719<sup>16</sup>**

4. On July 1, 2022, in Docket No. 53719, Entergy Texas filed an application with the Commission requesting authority to change its Texas retail rates based on a historical test year of January 1, 2021, through December 31, 2021, adjusted for known and measurable changes. The application included a request for approval of new Transportation Electrification and Charging Infrastructure (TECI) and Transportation Electrification and Charging Demand Adjustment (TECDA) riders.

**Interventions in Docket No. 53719**

5. The following entities intervened Docket No. 53719 and were admitted as parties: the cities of Anahuac, Beaumont, Bridge City, Cleveland, Dayton, Groves, Houston, Huntsville, Liberty, Montgomery, Navasota, Nederland, Oak Ridge North, Orange, Pine Forest, Pinehurst, Port Arthur, Port Neches, Roman Forest, Rose City, Shenandoah, Silsbee, Sour Lake, Splendora, Vidor, West Orange, and Willis (the Cities); Texas Industrial Energy Consumers (TIEC); ChargePoint, Inc.; FlashParking, Inc.; Walmart Inc.; the Kroger Co.; Sierra Club; Southwestern Public Service Company (SPS); Sempra Infrastructure Partners, LP; Americans for Affordable Clean Energy; El Paso Electric Company; Federal Executive Agencies; and the Office of Public Utility Counsel (OPUC). Commission Staff also participated as a party.

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<sup>16</sup> *Application of Entergy Texas, Inc. for Authority to Change Rates*, Docket No. 53719, Order (Aug. 24, 2024).

**Referral to SOAH and Evidentiary Record in Docket No. 53719**

6. On July 6, 2022, the Commission referred Entergy Texas's case to the State Office of Administrative Hearings (SOAH).
7. On August 4, 2022, the Commission filed a Preliminary Order.
8. In SOAH Order No. 14 filed on December 28, 2022, the SOAH administrative law judges (ALJs) admitted the documents listed in exhibit A to the joint motion to admit evidence.
9. On May 10, 2023, Entergy Texas filed an unopposed stipulation and settlement agreement (agreement) on behalf of itself, Commission Staff, OPUC, TIEC, Sierra Club, Kroger, Federal Executive Agencies, and Walmart. The Cities, Americans for Affordable Clean Energy, ChargePoint, SPS, El Paso Electric, Sempra, and FlashParking were not signatories to the agreement but did not oppose it.
10. On May 10, 2023, Entergy Texas filed a second joint motion to admit evidence on behalf of itself, Commission Staff, OPUC, Cities, TIEC, Sierra Club, Kroger, Federal Executive Agencies, Walmart, FlashParking, SPS, ChargePoint, Sempra, Americans for Affordable Clean Energy, and El Paso Electric.
11. In SOAH Order No. 20 filed on May 18, 2023, the SOAH ALJ admitted the documents listed in exhibit A to the second Joint Motion to Admit Evidence and granted a partial remand to the Commission of the settled contested issues, excluding contested Preliminary Issue Nos. 68 and 69 related to transportation electrification and charging infrastructure.

**Initial Proposal for Decision in Docket No. 53719**

12. On June 19, 2023, SOAH filed the the initial Proposal for Decision.
13. On July 25, 2023, SOAH submitted a letter regarding the exceptions filed, not recommending any changes to the initial Proposal for Decision.

**Severance and Referral to SOAH**

14. On August 16, 2023, the Commission severed Preliminary Order Issue Nos. 68 and 69 from Docket No. 53719 into a new Docket No. 55338, *Proceeding to Resolve Issues in Docket No. 53719 Related to Transportation Electrification and Charging Infrastructure*.
15. Intervenors in Docket No. 53719 were transferred to the instant docket.

16. On December 13, 2023, the Commission referred this case to SOAH.
17. On December 14, 2023, the Commission filed a supplemental preliminary order.
18. The SOAH ALJ granted ChargePoint's motion to withdraw.
19. The hearing on the merits convened by videoconference on April 5, 2024.
20. On April 15, 2024, Walmart, Americans for Affordable Clean Energy, Entergy Texas, TIEC, OPUC, and Commission Staff filed initial post-hearing briefs.
21. On April 25, 2024, Americans for Affordable Clean Energy, Entergy Texas, TIEC, OPUC, and Commission Staff, filed reply briefs and proposed findings of fact, conclusions of law, and ordering paragraphs.

**Testimonies and Statements of Position in Severed Case**

22. On September 20, 2023, Entergy Texas filed supplemental direct testimony.
23. On February 27, 2024, Walmart filed direct testimony.
24. On March 5, 2024, Commission Staff filed supplemental direct testimony.
25. Sierra Club, Americans for Affordable Clean Energy, TIEC, and OPUC filed statements of position on March 27 and 28 and April 2 and 3, respectively.

**TECI Rider**

26. There are approximately 80,000 electric vehicles (EVs) registered in Texas, and that number is expected to reach 1,000,000 vehicles by the year 2028.
27. Current charging infrastructure investment is insufficient in many areas of Texas to support existing and expected future EVs.
28. Rural areas lack adequate access to EV charging facilities.
29. Expanding access to and facilitating the market for EV charging facilities is consistent with state policy and PURA<sup>17</sup> chapter 42.
30. Electric utilities in the vertically integrated areas are well positioned to help further the state's policy of expanding access to and facilitating the market for EV charging facilities.

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<sup>17</sup> Public Utility Regulatory Act, Tex. Util. Code §§ 11.001–66.016.



31. It is appropriate for an electric utility in a vertically integrated area to own EV charging facilities and other transportation electrification and charging infrastructure.
32. Under Entergy Texas's TECI rider, any Entergy Texas customer in good standing and taking service under a metered non-residential, non-lighting rate schedule would be eligible to enter an agreement with Entergy Texas to own or operate an EV charging station on the person's property on a nondiscriminatory basis.
33. Under the TECI rider and related agreement, only the customer, if it so chooses, will be providing EV charging service to the public, and Entergy Texas will not provide EV charging service to the public.
- 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.
34. Entergy Texas will not brand or market any public EV charging station developed under the TECI rider as owned or operated by Entergy Texas, including by presenting Entergy Texas's name, logo, or any other distinguishing mark to indicate that Entergy Texas owns or operates the EV charging station.
35. The TECI customer will solely determine the physical access to and use of the public EV charging station necessary to carry out the responsibilities associated with ownership and operation of the public electric vehicle charging station, and prices for the EV charging service.
36. The TECI rider and related agreement provide for the recovery of all electric utility-related costs, including the costs of owning, constructing, financing, operating, and maintaining the public EV charging station from the TECI customer.
- 36A. Entergy Texas may not collect outstanding fees incurred by customers under the TECI rider from Entergy Texas's non-participating customers.
37. The TECI rider is voluntary, in that a customer desiring to install one or more chargers on its property may choose to avail themselves of the rider, or they can make the investment themselves where the Entergy Texas's role is limited to providing electric service.

38. Customers that choose to participate in the TECI rider would decide whether Entergy Texas only owns the distribution infrastructure, also owns the make-ready infrastructure, and would decide whether Entergy Texas or the customer owns and maintains the EV charger(s) itself.
39. Entergy Texas plans to contract with licensed, local third-party transportation electrification installers to install any chargers.
40. Entergy Texas will work with EV supply equipment original equipment manufacturers to provide and maintain the charging station equipment and cloud software.
41. Customers that choose to participate in the TECI rider would be able to choose the charging equipment and the network service provider from a list of prequalified vendors.
42. The costs incurred by Entergy Texas for the equipment, installation, and ongoing operations and maintenance expenses would be added to each participating TECI rider customer's monthly electric bill as a fixed payment over the customer-selected recovery term of between one and ten years.
43. Entergy Texas's cost recovery from participating TECI rider customers is reasonable, fair, and appropriate.

**TECDA Rider**

44. Entergy Texas's TECDA rider is designed to provide demand charge relief and to reduce electric bill uncertainty for new rate schedule general service customers installing separately metered charging equipment that elect to participate in the TECDA rider.
45. The TECDA rider would limit the amount of demand billed under rate schedule general service to a TECDA rider customer during any billing period in which the actual calculated load factor is less than 15%.
46. Under the rate schedule general service with the TECDA rider applied, the amount of billing demand billed to EV charging stations would be the lesser of: (a) measured demand (kilowatts (kW)), as conventionally determined and subject to the general service terms; or (b) adjusted demand (kW), as calculated based on actual usage and a minimum 15% monthly load factor.

47. The TECDA rider would be self-correcting and would phase out over time. As charging station utilization improves with the increased adoption of EVs above the 15% monthly load factor floor, the participating customers' bills would automatically adjust to the standard rates under rate schedule general service.
48. The TECDA rider would be limited to customers with electric load less than or equal to 1,500 kW for a term of five years and would be available for only the first 30,000 kW of electric load that enrolls and becomes operational after the TECDA rider is approved.
49. The ratepayer impact measure test shows that the TECDA rider is expected to result in net benefits through lower rates to Entergy Texas customers over a ten-year period.
50. The terms and conditions contained in the TECDA rider are reasonable and appropriate.
51. There are no estimated costs for the TECDA rider, and Entergy Texas is not seeking recovery of any costs in this case.
52. Entergy Texas's TECDA rider is reasonable and should be approved.

### **III. Conclusions of Law**

The Commission adopts the following conclusions of law.

1. Entergy Texas is a public utility as that term is defined in PURA § 11.004(1) and an electric utility as that term is defined in PURA § 31.002(6).
2. The Commission exercises regulatory authority over Entergy Texas and the subject matter of its application for authority to change rates under PURA §§ 14.001, 32.001, 36.001-.112, .211, 39.452(k), and 42.0103.
3. SOAH exercised jurisdiction over this proceeding under PURA § 14.053 and Texas Government Code § 2003.049.
4. This docket was processed in accordance with the requirements of PURA, the Texas Administrative Procedure Act,<sup>18</sup> and Commission rules.

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<sup>18</sup> Administrative Procedure Act, Tex. Gov't Code §§ 2001.001–.903.

5. Entergy Texas provided adequate notice of its application in compliance with PURA § 36.103 and 16 TAC § 22.51(a) and filed affidavits attesting to the completion of notice in compliance with 16 TAC § 22.51(d).
6. It is appropriate for a vertically integrated electric utility to own vehicle-charging facilities or other transportation electrification and charging infrastructure in accordance with chapter 42 of PURA, as enacted by the recent passage of Senate Bill 1002.<sup>19</sup>
7. The Commission determines it is appropriate for Entergy Texas to own transportation electrification and charging infrastructure, including public EV charging stations under Entergy Texas's proposed TECI rider and related agreement.
8. Entergy Texas's proposed rate, with the TECDA rider's billing demand adjustment, is not a discounted rate under PURA § 36.007.
9. The TECI rider and TECDA rider approved in this Order are just and reasonable; are not unreasonably discriminatory, preferential, or prejudicial; are sufficient, equitable, and consistent in application to each class of customer; and meet the requirements of PURA § 36.003.
10. The riders approved in this Order meet the requirements of PURA § 36.603 and 16 TAC § 25.234.
- 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.

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<sup>19</sup> Act of May 8, 2023, 88th Leg., R.S., 2023 Tex. Sess. Law Serv. Ch. 53 (S.B. 1002) (codified as Tex. Util. Code ch. 42).

#### IV. Ordering Paragraphs

In accordance with these findings of fact and conclusions of law, the Commission issues the following orders:

1. It is appropriate for Entergy Texas to own transportation electrification and charging infrastructure, including charging stations.
2. Entergy Texas's TECI and TECDA riders are approved.
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.
5. Within 20 days of the date of this Order, Entergy Texas must file a clean record copy of the tariffs approved in this Order, with the approved effective dates, with Central Records to be marked *Approved* and filed in the Commission's tariff books.
6. Entergy Texas's clean record copy of the TECI rider must include the following language under the application section: "The agreed-upon fixed amount to cover operations and maintenance (O&M) expenses shall be no less than the amount charged to ETI by the O&M vendor. ETI shall ensure that the entirety of any O&M expenses are covered by the Customer."
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.
8. The Commission denies all other motions and any other requests for general or specific relief, if not expressly granted.

Signed at Austin, Texas the 2nd day of October 2024.

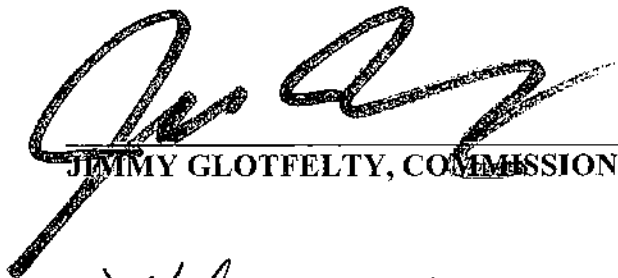
**PUBLIC UTILITY COMMISSION OF TEXAS**

*[Recused from docket]*

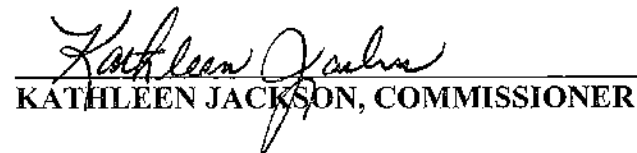
**THOMAS J. GLEESON, CHAIRMAN**

*[Not in attendance at meeting]*

**LORI COBOS, COMMISSIONER**



**JIMMY GLOTFELTY, COMMISSIONER**



**KATHLEEN JACKSON, COMMISSIONER**

*[Recused from docket]*

**COURTNEY K. HJALTMAN, COMMISSIONER**