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SOAH DOCKET NO. 473-22-04394

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

DOCKET NO. 55338

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

ORDER SEVERING ISSUES

This Order addresses the application of Entergy Texas, Inc. for authority to change rates. The parties filed an unopposed agreement that addresses all issues in the preliminary order except for issues 68 and 69 related to transportation electrification and charging infrastructure. These issues were addressed in a proposal for decision (PFD) to which exceptions were filed by ChargePoint, Inc., Entergy Texas, Commission Staff, Americans for Affordable Clean Energy (AACE), and the Office of Public Utility Counsel (OPUC). For the reasons discussed in this Order, the Commission severs the PFD issues into a separate proceeding for further processing by Docket Management.

I. Background

On July 1, 2022, Entergy Texas filed an application requesting authority to change its Texas retail rates based on a historical test year of January 1, 2021 through December 31, 2021. The application included a request for approval of new Transportation Electrification and Charging Infrastructure (TECI) and Transportation Electrification and Charging Demand Adjustment (TECDA) riders. On July 6, 2022, the Commission referred this case to the State Office of Administrative Hearings (SOAH). On August 4, 2022, the Commission issued a preliminary order, which included issue numbers 68 and 69 related to transportation electrification and charging infrastructure. In SOAH Order No. 11 filed on December 1, 2022, the SOAH

administrative law judges (ALJs) adopted Entergy Texas's proposal to have preliminary order issue numbers 68 and 69 decided on written submission.

On December 16, 2022, Entergy Texas filed a joint motion to admit evidence on behalf of itself and the parties to this proceeding. Entergy Texas requested that the documents identified in exhibit A to its joint motion, which included exhibits sponsored by Entergy, Commission Staff, OPUC, ChargePoint, FlashParking, Inc., and Southwestern Public Service Company (SPS) related to preliminary order issue numbers 68 and 69, be admitted into evidence. In SOAH Order No. 14 filed on December 28, 2022, the SOAH ALJs admitted the documents listed in exhibit A to the joint motion.

On January 13, 2023, the following parties submitted initial briefs on preliminary order issue numbers 68 and 69: Entergy Texas, SPS, AACE, FlashParking, ChargePoint, OPUC, and Commission Staff. On January 27, 2023, Entergy Texas, SPS, El Paso Electric Company, AACE, ChargePoint, OPUC, and Commission Staff filed reply briefs. The parties' proposed findings of fact, conclusions of law, and ordering paragraphs regarding preliminary order issue numbers 68 and 69 were filed on January 31, 2023.

On May 10, 2023, Entergy Texas filed an unopposed stipulation and settlement agreement on behalf of itself, Commission Staff, OPUC, Texas Industrial Energy Consumers, Sierra Club, Kroger, Federal Executive Agencies, and Walmart. Cities, AACE, ChargePoint, SPS, El Paso Electric, Sempra Infrastructure Partners, LP, and FlashParking were not signatories to the agreement but did not oppose it. On May 10, 2023, Entergy Texas filed a second joint motion to admit evidence on behalf of itself, Commission Staff, OPUC, Cities, Texas Industrial Energy Consumers, Sierra Club, Kroger, Federal Executive Agencies, Walmart, FlashParking, SPS, ChargePoint, Sempra, AACE, and El Paso Electric.

In SOAH Order No. 20 issued on May 10, 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 numbers 68 and 69.

After the close of briefing, the governor signed Senate Bill 1002 (SB 1002),¹ which addresses the operation of public electric-vehicle charging stations.

On June 19, 2023, the SOAH ALJ filed a PFD. ChargePoint, Entergy Texas, Commission Staff, OPUC, and AACE timely filed exceptions to the PFD and replies to exceptions. Through its exceptions, AACE filed a motion to dismiss that remains pending. In its replies, Entergy Texas filed a response opposing AACE's motion.

II. Discussion

Through the passage of SB 1002, the Legislature established a new regulatory framework regarding utility involvement in the ownership and operation of public electric-vehicle charging stations inside and outside of the Electric Reliability Council of Texas region. The legislation will go into effect on September 1, 2023, and the Commission will be responsible for its implementation. At that time, Entergy Texas will be subject to the requirements of the act. Thus, the Commission must consider SB 1002 when making a decision regarding Entergy Texas's proposed electric-vehicle charging riders.

To enable the Commission to adjudicate Entergy Texas's proposed riders under the new legislation, further development of the record is required. Because the evidentiary record closed before passage of SB 1002, neither the parties' filed testimony nor their briefing addressed the act's requirements. The parties have raised these issues only in exceptions to the PFD and replies to exceptions. Entergy Texas has asserted in its exceptions that the riders will comply with SB 1002. But Entergy Texas has also proposed revisions to the tariff for the TECI-1 rider in its replies to exceptions.² None of these proposed tariff revisions have been admitted as evidence, and no party has had an opportunity to respond.

In light of these developments, the Commission finds that the parties should be required to conclude litigation of these contested issues. However, the Commission also finds that it is in the best interests of ratepayers that the comprehensive base-rate proceeding be resolved without further delay. Thus, the Commission concludes severance is warranted. To allow the parties to

¹ Act of May 8, 2023, 88th Leg., R.S., 2023 Tex. Sess. Law Serv. Ch. 53 (S.B. 1002) (to be codified at Tex. Util. Code ch. 42).

² Entergy Texas, Inc.'s Reply to Exceptions at 2, n.5 (Jul. 19, 2023).

continue litigating these issues, applicable portions of the record will be transferred to the new proceeding.

III. Orders

Accordingly, the Commission orders that issues 68 and 69 related to transportation electrification and charging infrastructure be severed into new Docket No. 55338, *Proceeding to Resolve Issues in Docket No. 53719 Related to Transportation Electrification and Charging Infrastructure*. In the new proceeding, Entergy Texas must file revised versions of both the TECI-1 and TECDA-1 tariffs. A procedural schedule should then be adopted that allows the parties to respond to Entergy Texas's filings.

Those exhibits admitted in SOAH Order No. 14 filed on December 28, 2022, will be deemed to be admitted in the new proceeding.

Central Records is ordered to transfer those portions of the record admitted in SOAH Order No. 14 and file them in Docket No. 55338. Specifically, Central Records is ordered to duplicate the following documents filed in Docket No. 53719 and file them in Docket No. 55338:

1. AIS item 3, which includes Energy Texas's statement of intent and application for authority to change rates; the direct testimony of Eliecer Viamontes; the direct testimony of Cystak K. Elbe; and the direct testimony, exhibits, and workpapers of Samantha F. Hill, all filed on July 1, 2022.
2. AIS item 33, which is the Commission's preliminary order in this proceeding.
3. AIS item 220, which includes the direct testimony and attachments of Jeremiah W. Cunningham filed on October 26, 2022.
4. AIS item 230, which includes the direct testimony and workpapers of Evan D. Evans, as well as attachments EDE-2, EDE-3, EDE-4, EDE-5, EDE-6, EDE-7, EDE-8, EDE-9, and EDE-10, all filed on October 26, 2022.
5. AIS item 239, which includes the direct testimony of Justin D. Wilson and attachments filed on October 26, 2022.
6. AIS item 247, which includes the workpapers to the direct testimony of Jeremiah W. Cunningham filed on October 27, 2022

7. AIS item 272, which includes the direct testimony of Matthew McCaffree filed on November 1, 2022.
8. AIS item 273, which includes the direct testimony of William Abbot filed on November 2, 2022.
9. AIS item 322, which includes the cross-rebuttal testimony of Jeremiah W. Cunningham filed on November 16, 2022.
10. AIS item 339, which includes the rebuttal testimony and exhibits of Samantha F. Hill filed on November 16, 2022.
11. AIS item 341, which includes the cross-rebuttal testimony of Evan D. Evans filed on November 16, 2022.
12. AIS item 367, which includes the highly sensitive workpapers to the rebuttal testimony and exhibits of Samantha F. Hill filed on November 17, 2022.
13. AIS item 520, which is the SOAH PFD.
14. AIS items 523 through 532, which include the parties' exceptions to the PFD and replies.

Signed at Austin, Texas the 16th day of August 2023.

PUBLIC UTILITY COMMISSION OF TEXAS



KATHLEEN JACKSON, INTERIM CHAIR



WILL MCADAMS, COMMISSIONER



LORI COBOS, COMMISSIONER



JIMMY GLOTFELTY, COMMISSIONER