

1 **BEFORE THE PUBLIC UTILITY COMMISSION**

2 **OF OREGON**

3 UM 1810

4 In the Matter of

5 PACIFICORP, dba PACIFIC POWER,

6 Application for Transportation
7 Electrification Programs.

8 STAFF'S OPENING BRIEF

9 **I. INTRODUCTION**

10 This past summer, seven of the eight parties to this docket reached a collaborative
11 settlement agreement (Stipulation) that is a measured and important first step for PacifiCorp in
12 transportation electrification. Such broad consensus was possible despite the parties' disparate
13 interests because the Stipulation is modest in scope and cost, yet pilots three different
14 transportation electrification approaches that include deployment of utility owned public DC Fast
15 Chargers (DCFC), targeted outreach and education services, and grant funding to support
16 innovative electric vehicle service equipment (EVSE) projects that include workplace charging
17 and fleet vehicle electrification. Additionally, the Stipulation requires PacifiCorp to develop
18 attribution and cost-effectiveness methodologies essential to the design and evaluation of more
19 robust future programs, imposes regular reporting and pilot evaluation deadlines, and limits
20 program costs to ratepayers through cost caps and offsetting Clean Fuels Program credits. For
21 these reasons and more to be discussed in this brief, Staff of the Public Utility Commission of
22 Oregon (Staff), PacifiCorp, Oregon Citizens' Utility Board (CUB), Industrial Consumers of
23 Northwest Utilities (ICNU), Oregon Department of Energy (ODOE), Forth, and Greenlots (the
24 Stipulating Parties) respectfully request that the Commission adopt the multi-party Stipulation
25 filed in this inaugural docket.

1 **II. BACKGROUND**

2 In March of 2016, the Oregon legislature passed SB 1547, directing electric companies to
3 accelerate transportation electrification in their service territories and allowing electric company
4 ownership of electric vehicle (EV) charging and related infrastructure.¹ PacifiCorp filed an
5 application seeking approval of three transportation electrification programs on December 27,
6 2016, and later supplemented its initial application (Supplemental Application) and submitted
7 opening testimony. On May 24, 2017, the other seven parties filed reply testimony.

8 Staff's position in this docket has evolved over time, especially given the novelty of the
9 subject matter and lack of Oregon-specific data available.² For example, Staff explained that we
10 are simply not as far along as we would like to be in terms of access to reliable data and
11 methodologies like attribution³ and cost-effectiveness⁴ that are necessary to thoroughly evaluate
12 large transportation electrification investments. Nonetheless, Staff endeavored to work
13 collaboratively with the numerous parties that expressed interest and offered their individual
14 expertise in this docket, with the goal of recommending a first set of programs that drive
15 transportation electrification forward consistent with the legislature's directive.

16 On May 31, 2017, the parties met for a settlement conference. After much deliberation
17 and exchange of policy positions, seven of the eight parties were able to reach a reasonable
18 compromise settling all issues in the docket. The Stipulation was filed on August 11, 2017,
19 supported by the joint testimony of Mr. Morris, Mr. Klotz, Mr. Mullins, Mr. Jenks, Mr. Allen,
20 Mr. Ashley, and Mr. Avery.

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23 ¹ Oregon Laws 2016, Chapter 28, Section 20(3) ("A program proposed by an electric company may include prudent
24 investments in . . . electric vehicle charging and related infrastructure.") and Section 20(5)(a) ("Tariff schedules and
25 rates allowed pursuant to subsection (3) of this section: (A) May allow a return of and a return on an investment
26 made by an electric company . . .").

² Staff/100, Klotz/7, lines 3-6.

³ Staff/100, Klotz/15, lines 7-9 (explaining that "attribution is a way to measure how or if action by Pacific Power,
through specific programs, actually was the cause that accelerated transportation electrification in its service
territory.").

⁴ Staff/100, Klotz/19, lines 5-8 and fn 7.

1 The Stipulation includes the following primary components:

2 ✓ **Three pilot programs that test different methods to accelerate transportation
3 electrification over a three-year pilot period:**

- 4 a. Public Charging Pilot, with costs capped at \$1.85 million. PacifiCorp may
5 construct and own up to seven charging sites, with each site featuring
6 multiple adjacent dual-standard DC fast chargers (DCFC), at least one
7 Level 2 port, and visible signage.⁵
- 8 b. Outreach and Education Pilot, with costs capped at \$1.105 million less
9 50% of the proposed budget for Customer Communications and 50% of
10 the proposed budget for Community Events.⁶ PacifiCorp will test a
11 portfolio of outreach and education strategies, including customer
12 communications, self-service resources, community ride-and-drive events,
13 and onsite technical assistance for non-residential EVSE projects.⁷
- 14 c. Demonstration and Development Pilot, with costs capped at \$1.685
15 million. PacifiCorp will test a different EVSE development model here
16 than in the Public Charging Pilot; PacifiCorp will invite its non-residential
17 customers to bring transportation electrification projects forward for
18 consideration, where the grant recipient will own and operate the EVSE.⁸
19 One compromise is that 25% of the funds in each grant cycle (grant
20 funding is available on a quarterly basis) will now be earmarked for
21 workplace charging and fleet vehicle electrification.⁹

15 ✓ **A requirement that PacifiCorp develop new methodologies and a system
16 impact study:**

- 17 a. Development of an attribution model and cost-effectiveness framework.
- 18 b. Development of a pilot study of potential system impacts of residential
19 electric vehicle adoption in PacifiCorp's Oregon service territory.

19 ✓ **Data Collection and Learnings. The *Public Charging Pilot* requires:**

- 20 a. A Stipulating Party workshop within 30 days of Commission approval of
21 the pilot to refine (i) the site evaluation criteria¹⁰ in the Supplemental
Application, including objectives for rural versus urban siting, long

22 ⁵ Supplemental Application at 36 (filed April 12, 2017); Staff/100, Klotz/21.

23 ⁶ Please see Supplemental Application at 79 for Demonstration and Development Pilot confidential figures (The
24 total cost of each pilot program is non-confidential, however, the individual cost components of the pilots are
25 confidential. This is the reason for the Stipulating Parties' seemingly cryptic 50% reduction language. The total
cost cap for the Outreach and Education Pilot can be calculated by reducing the cost of Customer Communication
by half and also reducing the cost of Community Events by half.). See Staff/100, Klotz/25-26 for more information
about this program.

⁷ Supplemental Application at 60.

26 ⁸ Supplemental Application at 84; Staff/100, Klotz/27-28.

⁹ Stipulation at para. 13(b).

¹⁰ Stipulation para. 4 and fn 2.

1 distance driving versus urban commuting, and metrics for high-value sites,
2 and (ii) the monitoring criteria,¹¹ including the specific learnings to be
3 gained from the pilot.

4 b. PacifiCorp must also share its list of high-value sites for its new chargers
5 prior to selecting the first site.

6 **✓ Reporting and Pilot Evaluation:**

7 a. All pilot program costs are subject to annual reporting and prudence
8 review.

9 b. A progress report on all pilot programs must be submitted to the
10 Commission by March 31, 2019.

11 c. A follow up report and evaluation of all pilots must be submitted to the
12 Commission on June 20, 2020.

13 Shortly after the Stipulation was filed, one party objected. ChargePoint objects to a
14 single component of the Stipulation only—the Public Charging Pilot¹²—but expressly supports
15 the other two pilots in the Stipulation (Demonstration and Development, and Outreach and
16 Education) as modified by the Stipulation.¹³ To be clear, in the Demonstration and Development
17 program, non-residential customers may receive grant funding to support the site-host ownership
18 model for public charging infrastructure, just as ChargePoint advocates. Nonetheless,
19 ChargePoint requested a new schedule with additional rounds of testimony on its pre-filed
20 objections and a Commissioner hearing. As a result, all parties have now submitted additional
21 testimony into the record, including ChargePoint, who later withdrew its request for a hearing.¹⁴

22 **III. DISCUSSION**

23 **1. There are no legal concerns with adopting the Stipulation.**

24 The decision before the Commission is whether or not to adopt a Stipulation that tests
25 three modest approaches to transportation electrification, is supported by a wide range of experts,
and complies with the law. There are no legal issues prohibiting adoption of the Stipulation in
this case. Staff explained in testimony that the Stipulation can be approved pursuant to the six

¹¹ Stipulation para. 4 and fn 3.

¹² Staff/200, Klotz/4 (citing ChargePoint/200, Packard/3, lines 20-22).

¹³ ChargePoint/200, Packard/5, lines 1-2.

¹⁴ Cross Examination Statement of ChargePoint, Inc. (filed Nov. 6, 2017).

1 considerations outlined in SB 1547, Section 20(4), or under the Commission’s authority to
2 approve pilot programs.¹⁵

3 **A. The law requires Commission “consideration” of the six factors, meaning**
4 **that an individual program does not need to “meet” each of the six**
5 **factors to be approved.**

6 Subsection (4) of the transportation electrification law governs program approval, and
7 delineates six factors for the Commission to think about when deciding whether to approve a
8 utility-proposed transportation electrification program. The relevant text is as follows:

9 When considering a transportation electrification program and
10 determining cost recovery for investments and other expenditures
11 related to a program proposed by an electric company under
12 subsection (3) of this section, *the commission shall consider*
13 whether the investments and other expenditures:

- 14 (a) Are within the service territory of the electric company;
- 15 (b) Are prudent as determined by the commission;
- 16 (c) Are reasonably expected to be used and useful as determined
17 by the commission;
- 18 (d) Are reasonably expected to enable the electric company to
19 support the electric company’s electrical system;
- 20 (e) Are reasonably expected to improve the electric company’s
21 electrical system efficiency and operational flexibility, including
22 the ability of the electric company to integrate variable generating
23 resources; and
- 24 (f) Are reasonably expected to stimulate innovation, competition
25 and customer choice in electric vehicle charging and related
26 infrastructure and services.¹⁶

27 The law requires the Commission to “consider” the above six factors when deciding to
28 approve a program. It does *not* require the Commission to deny a program if it does not “meet” a
29 specific factor, or “meet” every factor. Any confusion as to the law’s requirements can be
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31 ¹⁵ Staff/200, Klotz/16, lines 4-11 (noting that ChargePoint’s interpretation that a transportation electrification
32 program must “meet” each individual SB 1547 factor is overly restrictive.).

33 ¹⁶ Oregon Laws 2016, Chapter 28, Section 20(4) (emphasis added).

1 swiftly resolved by understanding what the legislature intended the term “consider” to mean at
2 the time it enacted the statute.¹⁷

3 Attorneys¹⁸ use the Oregon Supreme Court’s statutory construction methodology to
4 determine legislative intent by examining the text and context of the statute, along with the
5 statute’s legislative history where it appears useful to the analysis.¹⁹ If the legislature’s intent
6 still remains unclear after examining the text, context, and legislative history, then general
7 maxims of statutory construction are applied to resolve the ambiguity.²⁰

8 The best evidence of the legislature’s intent is the text of the statute itself.²¹ When
9 examining the text of a statute, courts presume that the legislature intended words of common
10 usage to have their plain, natural, and ordinary meaning.²² “Consider” is a word of common
11 usage and means “to think about carefully”; “to think of especially with regard to taking some
12 action”; and “to take into account.”²³ Therefore, the legislature intended that the Commission
13 *take into account* and *think carefully about* the six factors (a)-(f) in their decision-making
14 process, but left the final decision as to whether a particular program should be approved to
15 Commission discretion. In other words, a program does not need to “meet” or “satisfy” every
16 individual factor to be approved.

17 Next, the Oregon Supreme Court requires that the text (“consider”) be read in context,
18 which can include its immediate context, the context of other provisions of the same statute, and
19 the broader context of related statutes involving the same subject matter that existed at the time
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22 ¹⁷ See ORS 174.020(1)(a); *Portland Gen. Elec. Co. v. Bureau of Labor & Indus.*, 317 Or 606, 610 (1993)
(hereinafter “PGE”).

23 ¹⁸ ChargePoint’s two witnesses discuss the legislative intent behind SB 1547 and the legal meaning of specific terms
at great length in testimony, but neither Mr. Packard nor Ms. Smart are attorneys. Staff/201, Klotz/13-14. Their
24 testimony should be weighted accordingly.

¹⁹ *State v. Gaines*, 346 Or 160, 171-72 (2009) (hereinafter “Gaines”).

25 ²⁰ *Id.* at 172.

²¹ *PGE*, 317 Or at 610.

26 ²² *Id.* at 611; *State v. Ziska*, 355 Or 799, 804-05 (2014) (the plain meaning of the text at issue can be found in its
dictionary definition).

²³ Webster’s Third New International Dictionary, Unabridged, “Consider” (2016).

1 of the statute's enactment.²⁴ When "consider" is read in its immediate context, it is clear that the
2 Commission *must consider* the six (a)-(f) factors because of the inclusion of the word "shall"
3 immediately preceding "consider."²⁵ Additionally, the use of the conjunctive word "and"
4 between factor (e) and the final factor (f), indicates that the Commission is required to *consider*
5 each of the six factors, when they are applicable to a specific program.²⁶ Nevertheless, these
6 observations do not alter the plain meaning of the exact term "consider." Further, when read in
7 the broader context of other subsections of the same statute, it is clear that the Commission was
8 delegated discretion in its decision-making and that each factor need not be met to approve a
9 program.

10 First, the six factors themselves indicate that the legislature intended the Commission to
11 have discretion in its decision-making: five of the six factors say "*as determined by the*
12 *commission,*" and "are reasonably *expected.*"

13 Second, the legislature delegated to the Commission the *authority to prescribe* the form
14 and manner of applications for programs²⁷ and the responsibility to review EV adoption data and
15 *make a determination* about the effect of market barriers on utilization of charging
16 infrastructure.²⁸

17 Third, ChargePoint's claim that all factors must be "met" or even that all factors "apply"
18 to every type of possible program contradicts standard ratemaking principles.²⁹ In viewing the
19 (a)-(f) factors together and in context with the immediately preceding subsection (3),³⁰ which
20 allows utilities to propose customer rebate programs, how could a customer rebate for EV

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22 ²⁴ *Oregonian Publ'g Co. v. Portland Pub. Sch. Dist. No. 1J*, 329 Or 393, 400 (1999); see *State v. Stamper*, 197 Or
App 413, 418 (2005); see ORS 174.010.

23 ²⁵ *Friends of the Columbia Gorge, Inc. v. Columbia River Gorge Comm'n*, 346 Or 415, 426-27 (2009) ("shall"
creates a mandatory duty).

24 ²⁶ See *gen., Martin v. City of Albany (In re Martin)*, 320 Or 175, 181 (1994) (courts apply rules of grammar to text in
question to discern legislative intent); see *gen., SAIF Corp. v. Donahue-Birran*, 195 Or App 173, 180 (2004).

25 ²⁷ Oregon Laws 2016, Chapter 28, Section 20(3).

26 ²⁸ *Id.* at Section 20(7).

27 ²⁹ ChargePoint/200, Packard/20, lines 9-11.

28 ³⁰ Oregon Laws 2016, Chapter 28, Section 20(3) of the statute expressly includes: "*A program* proposed by an
electric company *may include* prudent investments in or *customer rebates* for electric vehicle charging and related
infrastructure." (emphasis added).

1 charging “meet” factor (c): “reasonably expected to be *used and useful* as determined by the
2 commission”?³¹ “Used and useful” is a term of art in utility regulation and ratemaking that
3 comes up in the context of capital investments made by the utility that provide service to the
4 customer, namely, that the utility cannot collect the costs of construction, building, installation,
5 or property not presently used to provide utility service to the customer in customer rates.
6 Therefore, factor (c) would *not* be applicable to a “customer rebate” program, or for example, the
7 Outreach and Education Pilot in the Stipulation. Likewise, factor (b) “prudent as determined by
8 the commission” would generally not be decided when first approving a program because the
9 Commission’s prudence review of costs occurs *after* the project has been completed and when
10 the utility seeks cost recovery in customer rates. These contradictions to established ratemaking
11 principles support the conclusion that all six factors may not apply to every proposed program.³²

12 Fourth, there is nothing in the text or context to indicate that the legislature intended for
13 “consider” to mean anything other than its plain meaning. The legislature could have easily said:
14 “the Commission may not approve programs unless they meet the following factors,” but it
15 chose not to do so. Consistent with the canons of statutory construction, we must assume that
16 the legislature purposefully choose the word “consider.”³³ As there is no ambiguity in the text,
17 the statutory construction analysis ends here.³⁴

18 In sum, the law requires the Commission to think carefully about the six factors, (a)-(f),
19 when deciding program approval, but leaves the ultimate decision of how much weight to
20 attribute to each factor, or which factors apply to a given program, to Commission discretion.

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22 ³¹ Staff/100, Klotz/15, lines 19-21.

23 ³² *City of Salem v. Salisbury*, 168 Or App 14, 25 (2000), *rev den*, 331 Or 633 (2001) (courts also consider the
24 *regulatory context* of the statute being interpreted: “we consider in the first level of analysis . . . as context for the
existing statutes . . . the preexisting common law and statutory frameworks within which the laws were enacted in
our effort to discern the legislature’s intent.”).

25 ³³ See ORS 174.010 (general rule for construction of statutes is that the office of the judge is simply to ascertain and
declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has
been inserted.).

26 ³⁴ The prevailing *Gaines* methodology allows for consideration of legislative history where it appears useful, *see*
Gaines, 346 Or at 171-72, but here the legislative history is silent as to the decision-making required by the
Commission with regard to the meaning of “consider.”

1 This means that the Commission can approve the Public Charging Pilot after taking into account
2 factors (a)-(f), however, the Public Charging Pilot need not satisfy every individual factor to
3 legally be approved. Further, the amount of discretion provided to the Commission allows for
4 the current status of the EV market in PacifiCorp's service territory, which is predominantly
5 rural and underserved by private charging companies,³⁵ as well as the void of Oregon-applicable
6 data and methodologies, to inform the decision-making in this inaugural docket.

7 **B. The Commission has discretion to approve pilot programs.**

8 Although the three pilot programs in the Stipulation could be approved pursuant to
9 consideration of the law's six factors, Staff testified that the programs could also be approved
10 pursuant to the Commission's authority to approve pilot programs—SB 1547 did not remove that
11 authority from the Commission.³⁶

12 Early on in testimony, Staff explained that it was uncomfortable with the limited amount
13 of data and analysis to support a large roll out of *any* program at this time, simply due to the
14 newness of the market and utility participation in it. Nonetheless, Staff saw value for customers,
15 the Commission, and stakeholders in pursuing PacifiCorp's proposed programs.³⁷ Therefore, it
16 made practical sense to Staff to treat this first set of transportation electrification programs as
17 pilots—meaning that they will be used to test the market and develop the data necessary to
18 evaluate future programs, and also should include clear time and cost limitations to protect
19 ratepayers.

20 The Commission has not expressed a specific approval standard for pilot programs.
21 However, past pilot programs proposed by utilities are generally filed as a new tariff application
22 (describing the proposed pilot) and accompanied by a deferral application for costs related to the
23 pilot program. In reviewing the proposal, Staff has historically evaluated the benefits of the
24 proposed pilot to customers, as well as the reasonableness of the proposed expenditures and the
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26 ³⁵ PAC/300, Morris/3, lines 1-4.

³⁶ Klotz/200, Staff/16, lines 4-7.

³⁷ Klotz/200, Staff/16, lines 2-4.

1 sharing of costs.³⁸ Additionally, pilot programs tend to be time-limited, cost-limited (through
2 either the need to have a 12-month deferral reauthorized or a limited expenditure identified up
3 front), and are used to gather data, learnings, or gauge customer interest.³⁹

4 Therefore, Staff noted that PacifiCorp’s transportation electrification proposals could also
5 be approved outside of the SB 1547 framework because they will produce data and learnings,⁴⁰
6 have regular reporting and evaluation requirements, are cost-limited at reasonable caps, are
7 limited in time and scope, and as a result, produce just and reasonable rates.

8 **2. The concerns ChargePoint raises in its objections are easily dispelled.**

9 **A. The Public Charging Pilot comports with the law.**

10 ChargePoint first argues that the legislature, in enacting SB 1547, did not envision that
11 PacifiCorp would own public fast chargers, and proceeds to deplore utility ownership of public
12 charging infrastructure.⁴¹ However, the legislative history clearly illustrates that ChargePoint is
13 mistaken—the legislature did in fact expect that investor-owned utilities would own and operate
14 EV charging infrastructure to help stimulate the market:

15 The bill “sets up a transportation electrification program, which
16 allows electric companies to apply to the PUC for installing and
17 ownership of electric vehicle charging stations . . . in addition, this
18 also allows utilities to construct and operate these charging
19 stations, they must take market competition into account”⁴²

19 – *Representative Vega Pederson, summarizing the
20 transportation electrification section of SB 1547
21 for her colleagues in the House.*

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22 ³⁸ See e.g., UM 1327, Order No. 07-383, Appendix A-Staff Report (Commission approval of NW Natural’s Smart
23 Energy Program Tariff Pilot based on Staff’s recommendation that there was a sufficient showing of utility related
24 benefit and appropriate sharing of necessary costs); UM 1427, Order No. 09-395, Appendix A-Staff Report
25 (Commission approval of a pilot to enable PGE, regulators, and other interested parties to better understand how
26 residential customers with certain appliances and load control capabilities respond to critical peak pricing).

³⁹ *Id.*; Staff/100, Klotz/19, lines 3-5 (“Traditionally, pilot programs have not needed to pass cost effectiveness tests
and generally do not run for an extended period of time.”).

⁴⁰ The specific learnings are to be established at a Stipulating Party workshop held within 30 days post Commission
adoption of the Public Charging Pilot. Stipulation at para. 3.

⁴¹ ChargePoint/300, Smart/7, lines 15-17. Staff also notes that the testimony offered on legislative intent is provided
by a non-attorney witness and should be weighted accordingly.

⁴² House Chamber, 2016 Leg., 78th Sess. (Or. Mar. 1, 2016) (comments by Rep. Vega Pederson at 01:05:00).

1 Second, ChargePoint accuses the Stipulating Parties of inviting the Commission to
2 disregard SB 1547's requirements⁴³ and claims that the Stipulating Parties "admit" that the
3 Public Charging Pilot does not meet the six factors. Both claims are false. ChargePoint bases its
4 claims on one sentence in the Stipulation, which states that Commission approval of the
5 Stipulation does not imply that the pilots meet the six statutory factors.⁴⁴ This sentence was
6 meant to indicate that not all Stipulating Parties agreed with each other as to the amount of
7 weight to attribute to a particular factor or what factors applied. Moreover, as explained above,
8 the law does not require that every individual factor be "met" to gain Commission approval.

9 Third, as discussed below, the Stipulating Parties *did* consider how the Public Charging
10 Pilot is "reasonably expected to stimulate innovation, competition and customer choice in
11 electric vehicle charging and related infrastructure"⁴⁵ and determined that PacifiCorp's modest
12 investment will not harm the market, but instead is reasonably expected to stimulate innovation,
13 completion, and customer choice.

14 **B. ChargePoint's claim that the Public Charging Pilot fails to stimulate**
15 **competition and will distort the market is false.**

16 ChargePoint claims that the Public Charging Pilot will "allow a monopoly to take over
17 the entire market"⁴⁶ causing "massive market distortion."⁴⁷ However, when asked for data,
18 analysis, reports, or any other evidence to substantiate its claims, ChargePoint could offer
19 nothing more than the statement that Mr. Packard's conclusions are based on 19 years of
20 experience.⁴⁸ By contrast, the evidence in the record indicates that the Public Charging Pilot is
21 reasonably expected to stimulate competition over time and will not harm private competitors
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⁴³ ChargePoint's Objections at 6 (filed Aug. 25, 2017).

⁴⁴ Staff/201, Klotz/1 (Stipulation at para. 18).

⁴⁵ This is the sixth factor expressed at Oregon Laws 2016, Chapter 28, Section 20(4)(f).

⁴⁶ ChargePoint's Objections at 15.

⁴⁷ ChargePoint's Objections at 12; *see also* ChargePoint/200, Packard/22.

⁴⁸ Staff/201, Klotz/2, 3, 4; PAC/302, Morris/1.

1 due to its modest scale—*according to private market competitors*.⁴⁹ Siemens, a market
2 competitor that offers hardware and software for charging light, medium, and heavy duty
3 vehicles and make-ready equipment, testified that the Stipulation is a “modest program” that will
4 “accelerate rather than ‘hamper’ transportation electrification” and “would actually ‘stimulate
5 innovation, competition and customer choice . . . by stimulating the overall growth of the electric
6 (EV) market by reducing barriers to ownership and operation for EV owners.”⁵⁰

7 Likewise, Forth, a non-profit trade association promoting greater adoption of EVs, and
8 *eight of its members* who compete in the same market as ChargePoint—Eluminocity, EV
9 Connect, ABB Inc., OpConnect, SemaConnect, Control Module Inc., Efacec USA, Inc.,
10 Shorepower Technologies, and Greenlots—all voiced strong support for PacifiCorp’s Public
11 Charging Pilot, stating that from their perspective “PacifiCorp is proposing an open and
12 competitive RFP process that will ensure innovation, competition, and customer choice.”⁵¹

13 Finally, the scale of the Public Charging Pilot is modest, adding a footprint of up to seven
14 charging locations throughout PacifiCorp’s service territory. By contrast, ChargePoint offers the
15 largest charging network in North America (roughly 15 percent of the U.S. market),⁵² with 537
16 public and private Level 2 chargers and 20 public and private DCFC in Oregon alone.⁵³ Again,
17 when pressed for the evidence on which Mr. Packard based his conclusion that “[a]dding Pacific
18 Power to the market will do much more to dampen competition than to stimulate it,” Mr. Packard
19 could not produce any facts, data, analysis, or reports to support his claim.⁵⁴

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24 ⁴⁹ Siemens/100, King/4, lines 8-31, and King/7, lines 10-17. *See also* Drive Oregon/100, Allen/4 (“PacifiCorp has
25 proposed a modest portfolio of pilot projects. Even a smaller utility like Avista is planning for more charging
26 stations.”).

⁵⁰ Siemens/100, King/4 and 6.

⁵¹ Forth/102, Allen/1-3.

⁵² Staff/200, Klotz/10.

⁵³ Staff/201, Klotz/17.

⁵⁴ Staff/201, Klotz/2.

1 **C. ChargePoint’s claim that the Public Charging Pilot does not stimulate**
2 **innovation or offer customer choice is also false.**

3 The Public Charging Pilot is designed to stimulate innovation and customer choice. In its
4 Supplemental Application, PacifiCorp presents the non-cost factors it will consider in the RFP
5 process to stimulate innovation, including pod design, deployment plan, equipment
6 specifications, maintenance plan, visibility, data, and future proofing (i.e. adapting to changing
7 charging technology).⁵⁵ Siemens, an EVSE market competitor, agrees, explaining that in its
8 experience, the RFP process stimulates competition and innovation: “[i]n the RFP process,
9 vendors compete both on price and features, with utilities typically selecting a winner based on a
10 combination that keeps costs low and factors in the higher value of enhanced features when
11 appropriate.”⁵⁶

12 Additionally, the Public Charging Pilot will provide customers with increased EV
13 charging options.⁵⁷ Investment in publically available DCFC by private companies has been
14 slow to develop in PacifiCorp’s rural service territory, particularly outside highway corridors and
15 Portland.⁵⁸ The Public Charging Pilot will offer up to seven charging pods (locations)
16 throughout PacifiCorp’s service territory that will feature multiple dual-standard DCFC, at least
17 one level 2 port, and visible signage.⁵⁹ The innovative design of the Pilot (with co-located, DC
18 fast chargers) will help reduce range anxiety in PacifiCorp’s service territory and generate
19 valuable charging and utilization data that can inform system planning, while providing
20 customers with more charging choices.⁶⁰ Siemens agrees, nothing that when the new pods are
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23 ⁵⁵ PAC/300, Morris/7-8, lines19-22 and 1-2.

24 ⁵⁶ Siemens/100, King/8.

25 ⁵⁷ PAC/300, Morris/3, lines15-20.

26 ⁵⁸ Supplemental Application at 36; PAC/300, Morris/3, lines15-20 (“the proposed Public Charging Pilot program develops new publically available charging locations, including in areas of the state that have not attracted private investment to date. Importantly, the Public Charging Pilot does not preclude other parties from entering the market, a fact that ChargePoint does not dispute.”).

⁵⁹ Supplemental Application at 36.

⁶⁰ Supplemental Application at 37.

1 installed, they will increase the charging choices available to EV drivers, especially in more
2 remote areas where access to charging infrastructure remains extremely limited.⁶¹

3 **D. The Stipulation offers the opportunity to pilot ChargePoint’s preferred**
4 **model for EV charging infrastructure.**

5 One could argue that a policy question has been raised as to what is the best structure for
6 utility offerings of EV charging infrastructure—(a) owning and operating, or (b) giving ratepayer
7 money to a private “site host” like Fred Meyer, so that Fred Meyer’s cost of installing charging
8 equipment would be reduced, and then EVSE sellers like ChargePoint would be better positioned
9 to enjoy increased sales because there are a greater number of site-hosts interested in purchasing
10 EVSE. CUB pointed out the rationale behind ChargePoint’s (b) model, explaining that
11 “PacifiCorp’s customers’ subsidies would fund a profitable business model for the site-host.”⁶²
12 CUB also flagged the Stipulating Party concern that under the site-host ownership model,
13 PacifiCorp and the Commission would have no oversight over the rate payer-subsidized charging
14 stations, including the impact to PacifiCorp’s system, the pricing used, and the data collected,
15 except for what is gained contractually from the site-host.⁶³

16 Nonetheless, Staff’s position on the matter is that there is simply not enough data to
17 determine whether option (a), or (b), or a combination of the two is superior at this time. As a
18 result, the Stipulation provides the opportunity to test *both* options for stimulating the
19 development of charging infrastructure in parallel: the Public Charging Pilot tests utility
20 ownership of public chargers, while the Demonstration and Development Pilot allows non-
21 residential customers to submit grant proposals for ownership of EVSE projects. In other words,
22 ChargePoint gets exactly what it advocates for under the current Stipulation.

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26 ⁶¹ See Siemens/100, King/8.

⁶² CUB/200, Jenks/9.

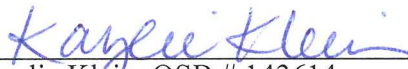
⁶³ CUB/200, Jenks/10.

1 to making meaningful progress toward electrifying Oregon's transportation sector. Therefore,
2 Staff, PacifiCorp, CUB, ICNU, ODOE, Forth, and Greenlots respectfully request that the
3 Commission approve the Stipulation as filed in this inaugural docket.

4 DATED this 14th day of December 2017.

5 Respectfully submitted,

6 ELLEN F. ROSENBLUM
7 Attorney General

8 
9 Kaylie Klein, OSB # 143614
10 Assistant Attorney General
11 Of Attorney for Staff of the Public Utility
12 Commission of Oregon
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