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June 16, 2023

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

RE: UM 2056 – ChargePoint Comments on Staff’s Report

PacifiCorp’s Draft Transportation Electrification Plan (TE Plan) and TE Program Applications

ChargePoint appreciates the opportunity to file these comments on Staff’s Report for the Commission’s consideration at its July 11, 2023 Public Meeting. ChargePoint also appreciates Staff’s work to summarize and analyze PacifiCorp’s Transportation Electrification Plan (TE Plan), PacifiCorp’s TE Program Applications, and stakeholders’ comments.

PacifiCorp’s Public Utility-Owned Infrastructure Pilot proposal is a program application governed by the criteria listed in ORS § 757.357(6), which the Commission must consider before approving it.

ORS § 757.357(6) lists six criteria that the Commission “shall consider” when it considers a transportation electrification program. Of particular concern to ChargePoint, the statute requires the Commission to consider whether PacifiCorp’s transportation electrification programs “Are reasonably expected to stimulate innovation, competition and customer choice in electric vehicle charging and related infrastructure and services.”¹

Though Staff’s Report provides some discussion of competition issues (discussed below), Staff’s Report fails to cite any of the statutory criteria listed at ORS § 757.357(6) that the Commission must consider before approving a new transportation electrification program such as the Public Utility-Owned Infrastructure Pilot. Instead, Staff cites only to the Commission’s rule on the filing requirements that apply to PacifiCorp’s TE Plan, OAR 860-087-0020. But this rule specifies only the information that a utility must provide with its TE Plan. OAR 860-087-0020 does not impose any substantive criteria for the Commission’s evaluation of the utility’s TE program applications

¹ ORS § 757.357(6)(f).



that accompany a TE Plan filing. Critically, OAR 860-087-0020 applies to the TE Plan and does not govern the Commission's evaluation of TE programs such as the Public Utility-Owned Infrastructure Pilot.

Staff's position seems to be that the Commission can and should accept PacifiCorp's TE Plan simply because it provides all of the information required by OAR 860-087-0020. However, if the only action a utility is required to undertake before spending millions of ratepayer dollars on transportation electrification is to provide narrative responses to each item listed in OAR 860-087-0020(3), then there is no purpose in the General Assembly passing a statute that establishes criteria for evaluating the utility's transportation electrification programs.

It is also worth noting, as discussed in ChargePoint's Supplemental Comments filed on May 24, 2023, that PacifiCorp's proposed Public Utility-Owned Infrastructure Pilot is a program proposal, not a proposal for infrastructure measures. This conclusion is supported by the fact that PacifiCorp refers to the proposal as a program and the relevant application as a "Program Application," that the word "program" appears over 100 times in the relevant application, that the program would involve more activities than simply deploying infrastructure, and that PacifiCorp represents the program as building upon its original Public Charging Pilot, which is a program governed by the criteria that now appear in ORS § 757.357(6).

For these reasons, ChargePoint recommends that the Commission find that it must consider whether PacifiCorp's Public Utility-Owned Infrastructure Pilot is reasonably anticipated to meet the six criteria listed at ORS § 757.357(6) before approving it. Because Staff's Report does not mention or meaningfully engage with these criteria, the Commission will not be complying with its statutory directives if it approves the program based on Staff's Report alone.

The Public Utility-Owned Infrastructure Pilot will hamper and not simulate innovation, competition, and customer choice.

As ChargePoint explained throughout our Initial Comments, the Public Utility-Owned Infrastructure Pilot will hamper competition and discourage EV charger deployment by the competitive market and will therefore fail to meet the requirement at ORS § 757.357(6)(f) that the program be reasonably anticipated to "stimulate innovation, competition and customer choice in electric vehicle charging and related infrastructure and services."²

Though it does not mention the statutory criteria, Staff's Report finds that PacifiCorp "has not provided convincing evidence" that its Public Utility-Owned Infrastructure Pilot will not negatively impact the competitive market.³ Staff's Report goes on to find that ChargePoint "has made valid assertions of a stifling impact from charging investments from a utility" but faults

² ORS § 757.357(6).

³ Staff's Report at 19.



ChargePoint for not providing evidence that this conclusion applies to “the level and scope” of PacifiCorp’s proposed investment.

ChargePoint appreciates that Staff’s Report finds our assertions regarding the negative competitive impacts of PacifiCorp’s proposal to be valid. However, it is ChargePoint’s understanding that the burden of proof in this proceeding is on PacifiCorp to show that its proposals satisfy the applicable statutory criteria. ORS § 757.357(6) requires the Commission to consider whether PacifiCorp’s proposed program is reasonably anticipated to meet the six listed criteria. It is not ChargePoint’s burden to show that PacifiCorp has failed to meet the statutory criteria, but we agree with Staff’s Report that PacifiCorp has not provided any convincing evidence on this issue.

The extensive evidence that ChargePoint provided in our Initial Comments on the negative impacts of utility participation in the competitive EV charging market applies at all levels of utility investment in public utility-owned chargers. In other words, the harms to the competitive market that ChargePoint described will occur regardless of whether a utility invests \$1 million or \$100 million for the simple reason that the utility exercises its unfair competitive advantages over competitive market players regardless of how much it actually spends. For example, if a convenience store owner is planning to install public DCFCs but then learns PacifiCorp plans to install utility-owned DCFCs down the street and charge prices to EV drivers that are well below what the convenience store would need to charge, PacifiCorp’s program will displace a private investment that would have occurred in the absence of the utility program. This displacement would occur regardless of how many other DCFC sites the utility is planning to deploy through the program. Larger utility investments in public chargers will displace more investment by competitive players than smaller utility investments, but such displacement can be expected to occur regardless of the size of the utility investment.

Moreover, contrary to Staff’s assertion, ChargePoint provided substantial evidence and arguments in our Initial Comments that the Public Utility-Owned Infrastructure Pilot will harm the competitive market at the level and scope of investment PacifiCorp has proposed.⁴ Specifically, ChargePoint pointed out that, if approved, PacifiCorp would capture a market share of over 30 percent (higher if Tesla chargers are excluded from the analysis).⁵ It is inaccurate to characterize a program with a \$19.2 million budget that will result in such a high market share as a “pilot.”⁶

At the very least, the record supports a finding that PacifiCorp has failed to demonstrate that its proposals will stimulate innovation, competition, and customer choice, as Staff’s Report finds. The entirety of PacifiCorp’s evidence on competitive issues consists of one quote from Greenlots,

⁴ ChargePoint Initial Comments at 11-13.

⁵ ChargePoint Initial Comments at 12.

⁶ *Id.*

a charging provider whose business model focused on selling charger software to utilities,⁷ and another quote from a professor that was hired by Rocky Mountain Power⁸ (another PacifiCorp operating company) in a Utah Public Service Commission proceeding that involved a different proposal from Rocky Mountain Power. This paucity of evidence fails to demonstrate that PacifiCorp's Public Utility-Owned Infrastructure Pilot can be reasonably expected to stimulate innovation, competition, and customer choice, as required by ORS § 757.357(6)(f). Staff's Report concurs, finding that PacifiCorp "has not provided convincing evidence" on this issue.⁹ By contrast, ChargePoint provided 21 pages of analyses and examples, plus four appendices, demonstrating the ways in which the proposal would hamper competition but that a public make-ready incentive program would stimulate competition and support the competitive market.¹⁰ ChargePoint's Supplemental Comments also included a new report from Grid Strategies and EA Consulting concluding "allowing monopoly utilities to own public EV charging stations will provide less efficient, lower-quality service and choice to EV owners, resulting in unfair cost shifting to other electricity consumers. Utility ownership of EV charging stations is generally not in the public interest."¹¹ In sum, Staff's Report is simply not accurate in stating that ChargePoint has not provided convincing evidence on this issue.¹²

For these reasons and the reasons stated in ChargePoint's Initial Comments, the Commission should find that the Public Utility-Owned Infrastructure Pilot will hamper and not stimulate innovation, competition, and customer choice. The Commission should reject the Public Utility-Owned Infrastructure Pilot and direct PacifiCorp to develop a make-ready incentive program for public chargers.

Oregon statute requires PacifiCorp to allow customers to choose the type of EV charger installed on their property pursuant to ORS § 757.357(7).

The discussion above demonstrates that the Public Utility-Owned Infrastructure Pilot is a transportation electrification program proposal that the Commission must evaluate consistent with the six criteria listed at ORS § 757.357(6). However, even if the Commission disagrees and approves the Public Utility-Owned Infrastructure Pilot, the Commission must direct PacifiCorp to

⁷ Greenlots was later renamed Shell Recharge Solutions, which recently withdrew from a Minnesota PUC docket in which it was a party, stating that it "has recently experienced corporate reorganization." (available at: <https://www.edockets.state.mn.us/edockets/searchDocuments.do?method=showPoup&documentId={706A4A88-0000-C517-9FAA-CEA59239779C}&documentTitle=20235-196074-01>)

⁸ TE Plan at 57, FN 65. The footnote in the TE Plan refers to the incorrect witness. The quoted citation is from the Rebuttal Testimony of Regan Zane on behalf of Rocky Mountain Power in Utah PSC Docket 20-035-34, not Utah Clean Energy's witness Thomas Kessinger as indicated by the footnote.

⁹ Staff's Report at 19.

¹⁰ ChargePoint Initial Comments at 6-21 and Appendices A, B, C, and D.

¹¹ ChargePoint Supplemental Comments, Appendix F at 2-3.

¹² Staff's Report at 19.



ensure that customers may choose the type of EV charging station installed on their property, as required by ORS § 757.357(7). Specifically, ORS § 757.357(7) provides:

In undertaking infrastructure measures that involve the installation of one or more electric vehicle charging stations, an electric company must allow for customer choice in the selection of the type of electric vehicle charging station to be installed, subject to equipment eligibility as determined by the electric company. An electric company may prequalify multiple types of eligible electric vehicle charging stations based on criteria determined by the electric company.¹³

PacifiCorp's Final TEP filed on May 22, 2023 does not allow customers to choose their preferred charging station and therefore does not comply with this clear statutory requirement.

Accordingly, if the Commission does not reject the Public Utility-Owned Infrastructure Pilot as ChargePoint recommends, it should at the very least require PacifiCorp to ensure that site hosts may choose the type of EV charging station installed on their property, as required by ORS § 757.357(7).

Summary of Recommendations

Pursuant to ORS § 757.357, ChargePoint respectfully recommends that the Commission take the following actions with respect to PacifiCorp's Public Utility-Owned Infrastructure Pilot:

- Find that the Commission is statutorily required to consider whether PacifiCorp's Public Utility-Owned Infrastructure Pilot is reasonably anticipated to meet the six criteria listed at ORS § 757.357(6) before approving it;
- Find that the evidence provided in this proceeding demonstrates that the Public Utility-Owned Infrastructure Pilot will hamper competition and fail to stimulate innovation, competition, and customer choice, to the detriment of PacifiCorp's customers and EV adoption;
- Reject the Public Utility-Owned Infrastructure Pilot and direct PacifiCorp to develop a make-ready incentive program for public chargers;
 - If the Commission does not reject the Public Utility-Owned Infrastructure Pilot, the Commission should, as required by ORS § 757.357(7), require PacifiCorp to ensure that site hosts may choose the type of EV charging station installed on their property as a condition of approving the program.

ChargePoint thanks the Commission for considering these comments.

¹³ Emphasis added.



Respectfully submitted,

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