

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

AR 609

In the Matter of

Rulemaking Regarding Transportation
Electrification Plans.

ORDER

DISPOSITION NEW RULE ADOPTED

I. SUMMARY

In this order, we adopt a new rule for the development of Transportation Electrification Plans. This rule will serve to help electric companies and interested stakeholders survey the breadth of an individual company's programs, the relevance of the programs to larger market and regulatory trends and the overall progress towards legislative goals. Below, we explain the process that led to the development and adoption of this rule, discuss rule provisions that attracted significant comment or discussion from stakeholders, and provide our resolution of issues.

Through SB 1547 (2016), the legislature supported electric company investment and participation in the electric vehicle (EV) marketplace through programs that accelerate transportation electrification and create access to electric vehicles for customers. The law requires electric companies to file proposals with this Commission for programs to expand transportation electrification. We adopted rules for the filing of programs, and through this rulemaking adopt a rule for the creation of transportation electrification plans (TE Plans).

II. BACKGROUND

On September 20, 2018, Staff requested that we open this rulemaking and begin the informal process. We approved Staff's request; Staff subsequently held several stakeholder workshops to review a draft rule and rule concepts, and receive informal comments. Following this informal process, Staff requested to open a formal rulemaking on December 13, 2018. Through Order No. 18-472 issued on December 18, 2018, we opened the formal rulemaking. On December 21, 2018, we filed a Notice of Proposed Rulemaking Hearing and Statement of Need and Fiscal Impact for this rulemaking with the Secretary of State, and we provided notice to all interested

persons on the service lists established under OAR 860-001-0030(1)(b) and to legislators specified in ORS 183.335(1)(d). Notice of the rulemaking was published in the January 2019 *Oregon Bulletin*, establishing a hearing date of February 5, 2019, and a comment due date of February 12, 2019.

Staff's proposed rule encompasses four sections. The first section describes the purpose of the rule. The second section describes the procedure for proposing a TE Plan, and the review process for the Commission and stakeholders. The third section of the rule outlines the required elements of the plan. The fourth section allows the Commission to require that the TE Plan be incorporated into other electric planning documents.

We held a hearing to receive public comment on February 5, 2019. The comment period closed on February 12, 2019. Written comments were received by Portland General Electric Company (PGE); The City of Milwaukie; PacifiCorp, dba Pacific Power; and Siemens. PGE filed comments expressing support for Staff's proposed rule. The City of Milwaukee filed comments that supported PGE's individual program proposals.

PacifiCorp provided comment on the TE Plan elements concerning distribution system impacts, examples of data and analysis to be required as part of an approved plan, and the discussion of the competitive electric vehicle supply equipment market. We consider the elements PacifiCorp proposed to eliminate in Staff's proposed rule to be important components of the rule, and we do not eliminate them. PacifiCorp also made recommendations on the nature of the Commission review of plans, which we discuss below.

Siemens provided comments suggesting inclusion of additional elements in a plan, including information on communication equipment and networked or sub-metered chargers. We consider the data Siemens recommends including in a plan too detailed for the rule; however, we find that they represent examples of the kinds of data that might be relevant in a TE Plan, depending on the nature of a given electric company's existing or planned programs.

III. DISCUSSION

Below, we address significant issues we considered in adopting this rule. We provide our decision and, where appropriate, issue clarification on some of the implications of the adopted rule.

A. OAR 860-087-0020(1)(b): Discussion of Statutory Objectives

Staff's rule focuses on the acceleration of transportation electrification as a purpose of the rule. Though we agree that a central purpose of transportation electrification programming is the acceleration of electrification, the legislature articulated much broader findings in support of

transportation electrification, and we adopt rule language that directly references this legislation in the planning context and requires electric companies to explain how actions are reasonably expected to achieve legislative objectives. Specifically, the legislature determined that:

- Transportation electrification is necessary to reduce petroleum use, achieve energy efficiency and carbon reduction, meet federal and state air quality standards, achieve greenhouse gas reduction policies, and improve public health and safety.
- Electric companies need to increase access to the use of electricity as a transportation fuel;
- Low and moderate income communities need to be a focus of this effort;
- Innovation, competition, options, and private investment in the field should be encouraged;
- Electric vehicle adoption should support management of the electric grid and support the integration of renewable and variable generating resources;
- A net benefit to customers from electric companies investing in transportation electrification programing is possible and attainable; and
- Electric vehicle charging programing could support grid management and provide savings to customers.¹

The legislature’s vision for transportation electrification is expansive. We expect the planning efforts of the electric companies to take this vision into account. Programing should be developed that seeks to achieve these legislative goals, and the planning process should provide an opportunity for the electric company to demonstrate progress towards the goals across the breadth of programs.

B. OAR 860-087-0020(2)(a) and (b): Acceptance vs. Approval or Acknowledgement of a TE Plan

Staff’s proposed rule states that a company must file for Commission “approval” of a TE Plan. During the informal process that preceded the formal process, PacifiCorp argued that the term “acceptance” should be adopted, rather than “approval.” Staff addressed PacifiCorp’s concerns by explicitly defining the meaning of approval in the rule. Staff’s proposed rule outlines that “lack of approval” means that a TE Plan does not meet the criteria or requirements of the rule. We determine that “acceptance” is a more appropriate term for this rulemaking, and adopt rule language to this effect. “Approval,” when used as a term of art in our processes and decisions generally refers to items requiring authorization to be effective; such as recovery of costs or rate changes. We find that “acceptance” better reflects the substantive determination requirement of

¹ ORS 757.357 (2).

the rule, which we do not change – which requires us to find that a TE Plan does or does not comply with the rule.

We emphasize that our adoption of the term “acceptance” over “approval” does not diminish the importance of faithful electric utility compliance with this rule, or indicate that we expect our review and scrutiny of future planning efforts to be pro-forma. We expect Staff and stakeholders to provide thorough review and comment, and we expect to provide rigorous review of future TE plans.

C. OAR 860-087-0020 3(a)(B): Review of Market Barriers

Staff’s proposal requires a TE Plan to discuss market barriers, “which may include charging station development and electric vehicle adoption.” Rather than identify specific market barriers, we expand this part of the rule to focus electric companies on two different types of market barriers. First, electric companies should discuss in their TE Plans market barriers that their TE programs can address. Second, where electric companies encounter a broader market barrier that has been identified but that the electric company cannot feasibly address, such a market barrier should be described in the TE Plan. We note that this requirement is not intended to create an obligation on behalf of the electric company to proactively identify market barriers; but instead to address those that are known and encountered in the program development or planning process. As this field is changing quickly and programs operate at the frontier in many cases, what electric companies learn about emerging and evolving market barriers is important information for stakeholders utilizing the TE Plans.

D. OAR 860-087-0020(3)(g): Review of Carbon Reduction Goals

Staff’s proposal for this subsection of the rule required TE Plans to include a discussion of how programs relate to “the carbon reduction goals of the Clean Fuels Program and other state programs, including expected greenhouse gas emission reductions based on publicly available metrics.” The Administrative Hearings Division (AHD) proposed revisions to Staff’s proposed rule that would eliminate references to specific programs, and instead reference carbon “requirements over which the Commission has regulatory authority.” We find AHD’s revision to be too narrow, possibly resulting in TE plans that overlook discussion of how TE programs interact with carbon reduction policies and programs that are important to state policy, but not subject to our specific regulatory authority. Accordingly, we accept the spirit of AHD’s revision but adopt more general language. We trust that, as part of the planning process, electric companies, Commission staff, and other stakeholders will identify the relevant carbon and transportation policies and programs with which the electric companies’ TE programs must interact effectively.

IV. ORDER

IT IS ORDERED that:

1. New OAR 860-087-0020 is adopted as set forth in Appendix A to this order.
2. The new rule becomes effective upon filing with the Secretary of State.

Made, entered, and effective Apr 16 2019.

Megan W. Decker

Megan W. Decker
Chair

Stephen M. Bloom abd

Stephen M. Bloom
Commissioner



Letha Tawney

Letha Tawney
Commissioner

A person may petition the Public Utility Commission of Oregon for the amendment or repeal of a rule under ORS 183.390. A person may petition the Oregon Court of Appeals to determine the validity of a rule under ORS 183.400.

860-087-0020**Transportation Electrification Plan**

(1) This rule prescribes the required elements of an electric company's Transportation Electrification Plan (TE Plan), which contains the electric company's long-term strategy to accelerate transportation electrification in its Oregon service territory. The objective of the TE Plan is to:

(a) Integrate all of the electric company's transportation electrification actions into one document. This includes, but is not limited to, analyzing the electric company's portfolio of near-term and long-term transportation electrification actions, including approved program(s), future transportation electrification actions, and other transportation electrification actions such as Clean Fuels programs.

(b) Identify a portfolio of actions, which may include investments and infrastructure for electric vehicles of various sizes, rate design, programs, and services, reasonably expected to achieve the objectives of ORS 757.357. The TE Plan should seek to address areas most affected by market barriers in the electric company's service territory and to provide benefits for traditionally underserved communities.

(2) An electric company must file for Commission acceptance of a TE Plan.

(a) As used in this rule, "acceptance" means the Commission finds that the TE Plan meets the criteria and requirements of this rule and does not constitute a determination on the prudence of the individual actions discussed in the TE Plan. Non-acceptance means that the TE Plan does not meet the criteria or requirements of the rule.

(b) An electric company must file for Commission acceptance of its TE Plan within two years of its previous TE Plan acceptance order or as otherwise directed by the Commission.

(c) The Commission staff will work with parties to propose a schedule for review of the TE Plan after it is filed. The schedule will be adopted by an administrative law judge and will provide an opportunity for written comments by Commission staff and stakeholders, and reply comments by the electric company.

(d) The electric company must present its TE Plan to the Commission at a public meeting prior to the deadline for written public comment.

(e) Commission staff will present its recommendation on the electric Company's TE plan at a public meeting. The Commission will also consider comments and recommendations on an electric company's TE Plan at the public meeting before issuing an order of acceptance. The Commission may provide direction to an electric company regarding any additional analyses or actions that the electric company should undertake in its next TE Plan.

(f) An electric company is not prohibited from proposing transportation electrification programs at any time.

(3) The TE Plan must include:

(a) Current condition of the transportation electrification market in the electric company's Oregon service territory, including, but not limited to:

(A) A discussion of existing state policies and programs;

(B) Market barriers that the electric company can address and other barriers that are beyond the electric company's control, including any identified emerging challenges to transportation electrification;

(C) Existing data on the availability and usage patterns of charging stations;

(D) Number of electric vehicles of various sizes in the utility service territory and projected number of vehicles in the next five years;

(E) Other transportation electrification infrastructure, if applicable;

(F) Charging and vehicle technology updates; and

(G) Distribution system impacts and opportunities for efficient grid management;

(b) A summary of the electric company's transportation electrification program(s) and future transportation electrification concepts and actions in its Oregon service territory. The TE Plan must incorporate project learnings and any other relevant information gathered from other transportation electrification infrastructure investments, programs, and actions to ensure that lessons learned are carried forward;

(c) A discussion of how the electric company's investments, programs, and actions are expected to accelerate transportation electrification, address barriers to adoption, and extend access to traditionally underserved communities;

(d) Supporting data and analysis used to develop the TE Plan, which may be derived from elements such as review of costs and benefits; rate design, energy use and consumption, overlap with other electric company programs, and customer and electric vehicle user engagement;

(e) A discussion of the electric company's potential impact on the competitive electric vehicle supply equipment market, including consideration of alternative infrastructure ownership and business models, and identification of a sustainable role for the electric company in the transportation electrification market;

(f) A discussion of current and anticipated electric company system impacts resulting from increased transportation electrification and the electric company's portfolio of actions, how transportation electrification can support the efficient integration of renewable energy, and how the TE Plan is designed to address these system impacts; and

(g) A discussion of how programs and concepts in the TE Plan relate to carbon reduction goals, requirements and other state programs, including expected greenhouse gas emission reductions based on publicly available metrics.

(4) The Commission may direct an electric company to incorporate the TE Plan into other electric company planning documents.

STATUTORY/OTHER AUTHORITY: 756.040, 756.060, 757.357

STATUTES/OTHER IMPLEMENTED: 757.357