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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Amending and Adopting Rules in WAC 480-100 Rulemaking to consider policy issues related to the implementation of RCW 80.28.360, electric vehicle supply equipment.	DOCKET UE-160799 POLICY AND INTERPRETIVE STATEMENT CONCERNING COMMISSION REGULATION OF ELECTRIC VEHICLE CHARGING SERVICES

The Commission issues this policy and interpretive statement to clarify its jurisdiction and regulation of electric vehicle charging services offered by electrical companies. The Commission adopts policies supporting transformation of the electric vehicle (EV) market through utility provision of electric vehicle charging services, and a framework for regulating these services. Utilities may offer a portfolio of electric vehicle charging services on a regulated basis, consistent with Commission interests and policies promoting load management and system benefits, consumer protection, service quality, direct benefits to low-income customers, interoperability, stakeholder engagement, regular reporting, and education and outreach. The portfolio approach is also meant to support consumer choice, and allow a competitive market for these services to continue to develop. Finally, the Commission recognizes that utilities have access to information that will help align transportation electrification goals with electric system grid needs. The Commission stands ready to work with statewide and regional planning organizations to facilitate efficient electrification of the transportation system to meet state policy goals.

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I. Introduction

1. Washington state aims to put 50,000 plug-in EVs on the road by 2020.[1] The state has enacted a number of significant policies to support electric vehicle adoption, including tax exemptions and credits for alternative fuel vehicles,[2] plug-in electric vehicle charging signage and parking regulations,[3] and policies to support the use of electric vehicles for state business.[4] The state has also enacted policies to promote EV infrastructure development, with roles for the Washington State Department of Transportation (WSDOT);[5] regional transportation planning organizations, the Department of Ecology, the Department of Commerce, and the Office of Regulatory Innovation and Assistance;[6] and local governments.[7]

2. The Department of Commerce identified electric vehicle deployment and charging infrastructure as priorities for the state to achieve the goals of 2012 State Energy Strategy.[8] WSDOT, through its innovative partnerships program, is directed to continue to build out the electric vehicle charging network along state highways and at key destinations in partnership with other public and private entities.[9] WSDOT is also authorized to develop a pilot program to identify transportation corridors for charging infrastructure, and support the deployment of electric vehicle charging infrastructure supported by private financing.[10]

3. WSDOT, in partnership with a number of public and private entities, has recommended policies to encourage utility participation in the EV charging market. Washington's

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[1] Washington State Electric Fleets Initiative http://www.governor.wa.gov/sites/default/files/documents/ElectricFleetsInitiative12_07_2015.pdf (December 2015). Results Washington – Goal 3.1.1.c. http://results.wa.gov/what-we-do/measure-results/sustainable-energy-clean-environment/goal-map (January 2017).
[2] RCW 82.08. 809, RCW 82.12.809, RCW 82.16.0496, and RCW 82.04.4496.
[3] RCW 46.08.185.
[4] RCW 43.01.250, 43.19.648, 47.38.075.
[5] Executive Order 14-04, 2014, and RCW 47.38.070.
[6] RCW 47.80.090.
[7] RCW 35.63.126, 35.63.127, 35A63.107, 36.70.695, 36.70A.695, and 43.31.970.
[8] 2012 Washington State Energy Strategy, www.commerce.wa.gov/wp-content/uploads/2016/06/energy-state-strategy-2012.pdf (December 2011).
[9] Executive Order 14-04 (April 29, 2014), and RCW 47.38.070.
[10] RCW 47.04.350.

Electric Vehicle Action Plan[11] identifies actions to engage utilities in broader transportation electrification efforts, including:

- Identify barriers and incentives for electric utilities to promote the use and increased use of electricity for transportation;
- Encourage utilities to provide public education about EVs;
- Encourage all utilities to support electric vehicle supply equipment (EVSE) installation and rebates;
- Require utilities to establish an electric transportation department;
- Encourage utilities to maximize grid benefits of electric vehicles; and
- Encourage utilities to purchase and redeploy used EV batteries for a secondary use.

4. On June 24, 2015, the Legislature enacted ESHB 1853, which allows the Washington Utilities and Transportation Commission (Commission) to authorize an incentive rate of return on investment in capital expenditures for certain electric vehicle supply equipment (EVSE) that is deployed for the benefit of ratepayers.[12] The law, RCW 80.28.360, also requires the Commission to consider, and allows it to adopt, other policies to improve access to and promote fair competition in the provision of EVSE. The Commission is required to submit a report to the appropriate committees of the Legislature by December 31, 2017, with regard to the use of any incentives, the quantifiable impacts of the incentives on actual EV deployment, and any recommendations to the Legislature about utility participation in the EV market.

II. Background

5. The Commission has allowed two investor-owned utilities to proceed with limited EV pilot programs designed to gather information about customer charging behavior and demand for EV charging services. Puget Sound Energy's (PSE) Electric Vehicle Charger Incentive went into effect on May 1, 2014.[13] This program, which is funded through PSE's Schedule 120 Conservation Service Rider tariff, offers a $500 rebate for customers who purchase their own Level 2 electric vehicle charger. PSE is required to study charging usage in its service territory for a period of up to 32 months, ending December

[11] Washington State Electric Vehicle Action Plan, at 32-33. http://www.wsdot.wa.gov/NR/rdonlyres/28559EF4-CD9D-4CFA-9886-105A30FD58C4/0/WAEVActionPlan2014.pdf (February 2015).
[12] RCW 80.28.360.
[13] Docket UE-131585.

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31, 2016. The program was extended through April 30, 2017.[14] During the study period, PSE was required to coordinate with its advisory group, and consider programs that will manage EV load in a cost-effective manner, including but not limited to time-of-use rates, demand response, and direct load control.[15]

6. Avista Corporation d/b/a Avista Utilities' (Avista) EVSE Pilot Program, which went into effect on August 1, 2016, allows the company to offer to own and operate as part of its regulated services up to 265 Level 2 EV chargers and seven DC Fast Chargers throughout its service territory.[16] Avista is required to report quarterly to the Commission the participation levels, expenditures, and revenues for each service offered under its EVSE Pilot Program, as well as the locations and utilization of DC Fast Charging stations and the amount of overall fixed and variable costs recovered through user payments.[17] The two-year pilot program will conclude on August 1, 2018.

7. In its order approving Avista's pilot program, the Commission stated:

> We acknowledge that RCW 80.28.360 raises many policy and implementation questions that remain unresolved. . . . In the coming months, we will initiate a proceeding to discuss these and other issues, which will inform future regulatory treatment of utility-owned EVSE.[18]

8. On June 24, 2016, the Commission opened a Staff Investigation in this docket regarding policy issues related to the implementation of RCW 80.28.360, and issued a Notice of Opportunity to File Written Comments.[19] The Notice posed eight questions regarding the implementation of RCW 80.28.360 and policy issues associated with electric utility investments in EVSE. On September 13, 2016, the Commission held a Recessed Open Meeting to discuss with stakeholders the issues raised in comments and whether

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[14] Docket UE-161156.
[15] Docket UE-140626, Order 01 ¶ 7. The Commission directed PSE to implement this program in collaboration with its existing advisory group. PSE has maintained this advisory group since 2001. It is further described under WAC 480-109-110, and is composed of Commission Staff members, Public Counsel, the Northwest Energy Coalition, The Energy Project, the Industrial Customers of Northwest Utilities, and other stakeholders.
[16] Docket UE-160082, Order 01. The Commission approved Avista's request to initiate a pilot program, but deferred a decision on recovery of the costs of the program and whether an incentive rate of return should be applied.
[17] *Id*.
[18] *Id*. ¶ 25.
[19] Docket UE-160799.

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additional guidance from the Commission was needed in the form of a rule or policy statement.

9. On November 2, 2016, the Commission filed with the Office of the Code Reviser a Preproposal Statement of Inquiry (CR-101) to examine further the issues raised in the Staff Investigation and to consider the adoption of a rule or policy statement to implement RCW 80.28.360. To facilitate this inquiry, the Commission incorporated the questions and comments filed in this docket in response to the Notice issued on June 24, 2016, and issued a Notice of Opportunity to Comment on the scope and content of a rulemaking or policy statement on utility investment in EVSE.

10. On November 23, 2016, the Commission received written comments from 15 parties in response to the following issues:[20]

- Whether a rule or policy statement is necessary to implement RCW 80.28.360;
- How the Commission will consider whether an investment is eligible for the incentive rate of return;
- How other relevant statutes and Commission rules and standards apply to utility investment in EVSE; and
- Whether the Commission should consider or adopt other policies to improve access to electric vehicle supply equipment and allow a competitive market for charging services to develop.

On January 13, 2017, the Commission issued a Notice of Opportunity to File Written Comments on the Draft Policy Statement entered in this docket. On March 31, 2017, the Commission received written comments from 16 parties in this docket in response to the following issues:[21]

- What is the definition of "Electric Vehicle Supply Equipment"?

[20] The Commission received comments from Avista, PSE, Pacific Power, Public Counsel, The Energy Project, Northwest Energy Coalition, Climate Solutions, Natural Resources Defense Council, Washington Environmental Council, EVgo, ChargePoint, Proterra, Greenlots, Puget Sound Solar, and the Alliance of Automobile Manufacturers and General Motors.
[21] The Commission received comments from Avista, Northwest Energy Coalition, Public Counsel, Industrial Customers of Northwest Utilities, Pacific Power, the Energy Project, the Alliance of Automobile Manufacturers and General Motors, Puget Sound Solar, Drive Oregon, Brian Gunkemeyer, Climate Solutions, Greenlots, ChargePoint, and Puget Sound Energy.

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- How should the Commission consider ownership of EVSE as a factor to determine whether a utility serves as a "provider," or a "manager" of EV charging service?
- What criteria should the Commission use to determine whether a portfolio is "balanced"?
- What specific policies should the Commission adopt regarding interoperability of utility-owned charging infrastructure?
    - How should the Commission ensure that EV owners are not locked in to a certain type of technology as the market develops?
    - What role should the Commission have in assuring some type of backend interoperability between the EVSE at the hosting site and the operator of the overall EVSE systems?
- What policy mechanisms or standards are available to promote system-wide interoperability for drivers, such that EV drivers can charge any EV model and pay for the charge without joining a multitude of charging networks?
- Does the Commission have a role in overseeing the development of these standards or protocols, or should it provide guidance on the characteristics of an open EVSE system or a more common interoperable platform?
- The Commission requested feedback on its proposed policy allowing for a single joint stakeholder group to participate in review of utility EV charging service program design and review.

11. Most commenters supported the issuance of a policy statement in this Docket. Many commented that it would be beneficial for the Commission to clearly identify the parameters under which utilities may provide EV charging services to their customers. In order to maintain flexibility, commenters supported a policy statement rather than a rule. The Commission also prefers to issue a policy statement at this time, finding that as the EV market and state policies evolve, it is premature to adopt binding rules. A policy statement allows us to provide nonbinding guidance to stakeholders, leaving the question of rules to a later time.

12. Utility participation in electrification of the transportation sector is a new and evolving area of policy interest. As utilities venture beyond their traditional role as providers of electricity as a commodity product and begin to offer more diverse and customer-focused services, it is necessary for the Commission to clearly articulate its role in regulating those services. The Commission is authorized to provide policy guidance in the form of a rule or policy statement. To clarify the Commission's policies relating to electric vehicle charging services, the Commission issues this policy statement pursuant to RCW

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34.05.230 and WAC 480-07-920.[22] This document conveys the Commission's current view of EV charging as a regulated service. A policy statement adopted under the Administrative Procedure Act is not binding as a formally adopted rule.[23]

13. This policy statement is organized in the following manner:

> **Part 1 – Electric Vehicle Charging as a Regulated Service:** Part I defines the framework under which regulated electrical companies may offer electric vehicle charging as a regulated service. It then discusses the Commission's interpretation of what it means to offer this service "on a fully regulated basis" in the context of the public service laws applicable to electrical companies. Finally, Part I addresses the criteria for utility investments eligible for the incentive rate of return allowed under RCW 80.28.360.
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> **Part 2 – Policies to Improve Access to and Promote Fair Competition in the Provision of Electric Vehicle Charging Services:** Part II addresses additional policy considerations to ensure that utility participation in the electric vehicle charging market is consistent with the public interest. This section discusses program design elements necessary to ensure that utility programs benefit customers and promote market transformation while still allowing a competitive market to develop. Finally, Part II addresses how utilities should engage stakeholders to ensure that utility participation in the competitive market supports state policy goals.

Part 1 - Electric Vehicle Charging as a Regulated Service

14. The Commission is authorized to "[r]egulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation."[24] The statute does not define "utility service or commodity" but gives the Commission broad discretion to determine whether it regulates particular

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[22] RCW 34.05.230 states, in part, "An agency is encouraged to advise the public of its current opinions, approaches, and likely courses of action by means of interpretive or policy statements. Current interpretive and policy statements are advisory only."
[23] RCW 34.05.230.
[24] RCW 80.01.040(3).

operations.[25] Two statutes specifically apply to the Commission's regulation of electric vehicle charging services: RCW 80.28.320 and RCW 80.28.360.

15. RCW 80.28.320, enacted in 2011, clarified the Commission's jurisdiction over battery charging services, such as EV charging services, by exempting these services from Commission regulation, except under certain circumstances. RCW 80.28.320 allows electrical companies subject to Commission jurisdiction to offer battery charging services, such as EV charging services, as both an unregulated and regulated service. Commission approval and regulation of rates, services, facilities, and practices is required for electrical companies offering EV charging as a regulated service:

> The Commission shall not regulate the rates, services, facilities, and practices of an entity that offers battery charging facilities to the public for hire; if: (1) That entity is not otherwise subject to commission jurisdiction as an electrical company; or (2) that entity is otherwise subject to commission jurisdiction as an electrical company, but its battery charging facilities and services are not subsidized by any regulated service. An electrical company may offer battery charging facilities as a regulated service, subject to commission approval.[26]

16. RCW 80.28.360, enacted in 2015, allows the Commission "[i]n establishing rates for each electrical company…" to authorize an incentive rate of return on electrical company investments in EVSE that meets certain criteria. An increment of up to two percent may be applied to the rate of return on investments in the course of a general rate case or in another proceeding to investments that meet the following criteria in RCW 80.28.360:

- Installed after July 1, 2015;
- Offered on a fully regulated basis; and,
- Reasonably expected, at the time they are placed in the rate base, to result in real and tangible benefits for ratepayers by being installed and located where electric vehicles are most likely to be parked for intervals longer than two hours.[27]

17. In Part I of this Policy and Statement, we examine these statutes in the context of the public service laws, which govern the Commission's regulation of public service companies, and clarify the requirements for providing electric vehicle charging as a

[25] RCW 80.04.015.
[26] RCW 80.28.320.
[27] RCW 80.28.360.

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regulated service subject to Commission approval under RCW 80.28.320. We then discuss our interpretation of the criteria for the incentive rate of return authorized in RCW 80.28.360.

a. Electrical companies may offer electric vehicle charging as a regulated service, subject to Commission approval and regulation.

18. The jurisdictional threshold for Commission regulation of public services is well-established by Commission and Washington Supreme Court precedent. When analyzing the public service requirements, Washington courts look at a variety of factors to determine whether facilities are dedicated to public use.[28]

19. This Policy Statement is concerned only with the provision of EV charging services that are both (1) subject to Commission jurisdiction, and (2) subsidized in part by revenues from non-electric vehicle customers. The general powers and duties of the Commission require that these services remain subject to all public service laws applicable to electrical companies under Title 80.[29] Given the novelty of electric vehicle charging as a regulated service offering, we find it necessary to clarify the application of some of these laws to the Commission's review of proposals for electric vehicle charging services.

i. Used and useful for service in Washington

20. Whether the Commission will allow into rates the costs associated with a resource acquisition requires utilities to demonstrate that the acquisition is "used and useful" in the

[28] *Inland Empire*, 199 Wash. at 537, 92 P.2d at 262 ("A corporation becomes a public service corporation, subject to regulation by the department of public service, only when, and to the extent that, its business is dedicated or devoted to a public use."); *United and Informed Citizen Advocates Network v. Util. and Trans. Comm'n*, 106 Wash. App. 605, 24 P.3d 471, (2001); *Clark v. Olson*, 177 Wash. 237, 31 P.2d 534; *State ex rel. Stimson v. Kuykendall*, 137 Wash. 602, 243 P. 834 (1926). It is not necessary or possible for the Commission to determine in this Policy Statement whether it has jurisdiction over every conceivable type of electric vehicle charging service which may be offered by regulated utilities. Rather, the guidance provided in this Policy Statement is meant to support a finding of public use, and describe how the Commission will regulate such services, assuming it finds they are subject to its jurisdiction. The Commission has provided prior interpretive guidance on this issue in Docket UE-112133, Interpretive Statement Concerning Commission Jurisdiction and Regulation of Third-Party Owners of Net Metering Facilities ¶ 59-71 (July 30, 2014).

[29] The Commission recognizes that electrical companies subject to its jurisdiction retain the ability to offer electric vehicle charging services on an unregulated or competitive basis. Provided that those services are not subsidized by any regulated service, they are not subject to regulation by the Commission. RCW 80.28.320.

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service of providing electricity to customers.[30] The Commission has articulated the view that whether an asset is "used and useful" can be determined by whether it provides a benefit to ratepayers in Washington, either directly or indirectly.[31] In a 2006 Order, we reiterated the flexible approach to construction of the statute, stating:

> Both common sense and hornbook utility law support our conclusion that RCW 80.04.250 requires a resource to be "employed in accomplishing something … beneficial" for Washington ratepayers ("in this state"), before they can be required to pay for it. Our Order allows these benefits to be direct or indirect, tangible or intangible, as long as they are reasonably quantifiable and commensurate with their costs.[32]

Likewise, the courts have not taken an overly strict interpretation of this statutory term. As stated by the state Supreme Court in the *POWER* case: "used" is defined as "employed in accomplishing something"; "useful" is defined as "capable of being put to use; having utility; advantageous: producing or having the power to produce good; serviceable for a beneficial end or object."[33]

21. Relevant to this discussion, in 2011 the Commission issued an interpretive and policy statement regarding the application of the used and useful standard to the acquisition of eligible renewable energy required by the Energy Independence Act (Chapter 19.285 RCW).[34] The Commission recognized that state statutes mandate compliance with the Act and that a strict or rigid application of the used and useful standard could create a disincentive for utilities to make an early purchase of a renewable energy facility from an

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[30] RCW 80.04.250.

[31] See, e.g., *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company, In the Matter of the Petition of PacifiCorp for an Order Approving Deferral of Costs Related to Declining Hydro Generation*, Order 04, Docket UE-050684, Order 03, Docket UE-050412 at 11 (April 27, 2006). The Commission stated: We interpret the phrase "used and useful for service in this state" to mean benefits to ratepayers in Washington, either directly (e.g., flow of power from a resource to customers) and/or indirectly (e.g., reduction of cost to Washington customers through exchange contracts or other tangible or intangible benefits).

[32] *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company, In the Matter of the Petition of PacifiCorp for an Order Approving Deferral of Costs Related to Declining Hydro Generation*, Order 06, Docket UE-050684, Order 05, Docket UE-050412, Order 02, Docket UE-060669, ¶ 27 (July 14, 2006).

[33] *People's Organization for Washington Energy Resources v Washington Utilities & Transp. Comm'n*, 101 Wash 2d 425, 430, 649 P2d 425 (1984) [*POWER*], *citing Webster's Third New International Dictionary* 2524 (1976).

[34] Docket UE-100849, *Report and Policy Statement Concerning Acquisition of Renewable Resources by Investor-Owned Utilities*, (Jan. 3, 2011).

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independent power producer, or even to self-build a resource. The Commission acknowledged that such investments may need to be made in advance of a traditional demonstration of need in the integrated planning process. Instead, the Commission allowed a flexible interpretation of the used and useful standard, stating:

> [I]n conclusion, the Commission has shown much flexibility in interpreting state law, rules, and policy . . . While a demonstration of need is still a component of the utility's analysis, we have relied less upon this evidence in making recent resource decisions. . . Simply said, a resource acquired to comply with [Chapter 19.285 RCW] can be acquired in advance of need but must still be prudently acquired.[35]

22. Similarly, the Legislature has provided the Commission with clear direction to encourage and direct regulated utilities to offer programs to promote EVSE on a regulated basis, in order to accelerate EV adoption to serve multiple public policy purposes, such as greenhouse gas and hazardous air pollutant reductions in the transportation sector. As we discuss later in this policy statement, the EVSE market is still in an early stage of commercial development in which a variety of approaches – both regulated and non-regulated – are being tested and implemented in state and regional markets today.

23. Accordingly, we find it appropriate to retain this flexibility in applying the used and useful standard to infrastructure used to supply EV charging services on a regulated basis, instead of developing a one-size-fits-all approach. To determine whether investments made to provide EV charging services are used and useful, we will rely on a business case evaluation demonstrating quantifiable benefits to customers commensurate with the costs of providing those services. The quantification of benefits is an issue that has garnered significant comment in this docket, and is one that we believe requires technology-specific consideration. We discuss these issues in greater detail in Part II of this Policy Statement.

ii. Prudence

24. The Commission has articulated the standard it would apply in determining prudence in a 1992 case involving PSE's predecessor company, Puget Sound Power & Light Company:

> The company must establish that it adequately studied the question of whether to purchase these resources and made a reasonable decision, using the data and

[35] *Id*. ¶ 39-40.

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> methods that a reasonable management would have used at the time the decisions were made.

The Commission continued:

> The prudence standard adopted in prior Commission orders is easily applied to any resource decision, whether it is to build or to purchase. The utility must first determine whether new resources are necessary. Once a need has been identified, the utility must determine how to fill that need in a cost effective manner. When a utility is considering purchase of a resource, it must evaluate that resource against the standards of what other purchases are available, and against the standard of what it would cost to build the resource itself.

25. Electrical company resource decisions undergo rigorous review by staff and stakeholders throughout the integrated resource planning cycle, and a full prudence evaluation by staff and interveners in a general rate case. While distribution infrastructure investments rarely receive the same treatment due to their comparatively lower cost, the same standard applies. A utility must first determine that a need for the infrastructure investment exists, and then evaluate reasonable and cost-effective means of meeting that need, all the while updating its evaluation with new information. Any request to recover in rates the costs for infrastructure investments to provide electric vehicle charging services should be accompanied by sufficient data and analysis to make a prudence determination. When considering a request for cost recovery, the Commission will rely on its existing standard of review with regard to the policy considerations discussed in Part II of this policy and interpretive statement.

iii. Just, fair, reasonable and sufficient rates

26. RCW 80.28.010 requires that all charges made, demanded, or received by any electrical company for any service rendered or to be rendered in connection with the provision of electricity, shall be just, fair, reasonable, and sufficient. The Commission has recently addressed this obligation in an order rejecting Puget Sound Energy's proposal to lease water heating and heating, ventilation, and air conditioning equipment to its customers:

> In determining fair, just, and reasonable rates, the Commission has the authority, and indeed, the obligation to set cost-based rates in the proposed tariff and to ensure that the record evidence, as well as the service terms and conditions, support such rates. While the commission may depart from cost-based ratemaking for certain pilot projects with new technologies or services, the Commission has

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> traditionally set rates based on the cost to service customers. There are many reasons for such a standard and obligation, including protecting residential customers from cross-subsidies, preventing undue discrimination, and ensuring that, if regulated, the service is offered on a reasonable basis to all potential customers in that class.[36]

27. In the case of EV charging services, the Commission has allowed limited pilot programs to proceed without changes to rates.[37] In the future, retail residential or commercial rates may not prove to be fair, just, reasonable, and sufficient for the cost of EV charging services. Absent changes to rates, non-participating customers could end up unduly subsidizing EV charging services, or EV owners may not be fairly compensated for the benefits they provide to the grid.

28. The Commission has previously expressed similar concerns in an order approving PSE's provision of compressed natural gas:

> The most obvious barrier to development of CNG refueling stations is the investment needed to construct the necessary facilities and infrastructure. PSE proposes to overcome this barrier by relying on the Company's existing gas delivery system and constructing the additional compression facilities at the customers' location. PSE also will develop rates on an individual case basis to calculate PSE's service costs and to provide the flexibility to recover those costs in a manner that is acceptable to both the Company and the customer. We find this proposal to be a reasonable means of expanding development of CNG refueling stations.
>
> We nevertheless share the concerns expressed by Staff, Public Counsel, and NWIGU that deploying CNG service as a tariffed service poses potential risks to other ratepayers if the service fails to generate sufficient revenues to cover the Company's investment. We also do not want to stifle other providers' efforts to offer competing service by enabling PSE to cross-subsidize CNG service with revenues from the Company's other regulated operations. Indeed, the legislature

[36] Dockets UE-151871/UG-151872, Order 06, ¶ 26.
[37] For example, in its approval of Avista's Electric Vehicle Supply Equipment (EVSE) Pilot Program, the Commission allowed the project to go forward because cost-based rates could not be calculated when equipment utilization rates are unknown. Avista proposed to charge "market-based" rates for electric vehicle charging services from its DC fast charging facilities.

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> cautioned that promoting development of CNG refueling stations is not intended to "allow the subsidization of one ratepayer class by another".[38]

In that case, the Commission required PSE to satisfy certain requirements when developing its CNG service rates to minimize the likelihood of cross-subsidization and risk to other ratepayers. Likewise, the Commission will expect rates for EV charging services to protect non-participating ratepayers from undue risk, fairly compensate EV drivers for the benefits they provide, and meet the standard in RCW 80.28.010.

29. The purpose of the currently authorized EV pilot programs is to obtain data to inform future program and rate design. As part of the evaluation at the conclusion of the current pilot programs, utilities should provide data on equipment utilization, demand, load shapes, and the amount of overall fixed and variable costs recovered through user payments. Requests to recover the costs of pilot program investments must be accompanied with sufficient data and analysis to design a separate and specific rate for electric vehicle charging services.[39]

iv. Banded Rates:

30. RCW 80.28.075 allows the Commission, upon request by a natural gas company or an electrical company, to approve a tariff that includes banded rates for any nonresidential natural gas or electric service that is subject to effective competition from energy suppliers not regulated by the Commission. "Banded rate" means a rate that has a minimum and maximum rate. Rates may be changed within the rate band upon such notice as the Commission may order.

31. By rule, the Commission has further clarified the requirements for the approval of banded rates. WAC 480-80-112(2) requires that gas or electric company filings for a banded rate tariff include the following:

- A statement supporting the use of a banded rate tariff rather than a tariff with fixed rates;

[38] UG-140721, Order 01 ¶ 8.
[39] The Commission will consider requests to extend current pilot programs for good cause.

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- A verifiable cost-of-service study supporting the contention that the minimum rate in the banded rate tariff covers all costs resulting from providing the service and provides a contribution to fixed costs; and

- Information detailing the potential effect on revenue of the proposed banded rate tariff range, as well as the effect on revenue of the current or proposed rate.

32. By enacting RCW 80.28.075, the Legislature clearly created a path for utilities to benefit from a more flexible pricing structure for nonresidential services like EV charging services for commercial or industrial customers. However, the competitive market for EV charging services is still developing, and may not yet be subject to effective competition. In situations where EV charging services are demonstrated to be competitive, the Commission will generally support the adoption of a more flexible pricing structure for those services than may be possible under standard tariff requirements.[40]

v. Rate discrimination and unreasonable preference prohibited.

33. State law prohibits electrical companies from engaging in rate discrimination and unreasonable preference. RCW 80.28.100 provides that:

> No … electrical company … may, directly or indirectly, or by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for … electricity … or for any service rendered or to be rendered, or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like or contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

34. RCW 80.28.090 states:

> No gas company, electrical company, wastewater company, or water company may make or grant any undue or unreasonable preference or advantage to any person, corporation, or locality, or to any particular description of service in any

[40] In Part II of this Policy Statement, the Commission addresses the utility role in market transformation. The Commission will consider requests for banded rates on a case-by-case basis, but will be reluctant to adopt a flexible rate structure during the market transformation phase.

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> respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

35. EV charging services remain subject to these laws as long as they are offered as a regulated service. We recognize that it may be appropriate for a utility to differentiate between different types of EV charging services. However, except for a special accommodation for low-income customers (discussed in Part II), EV charging services must be offered to all similarly-situated customers under the same rates, terms, and conditions.

vi. Sale, transfer, and disposal of property:

36. RCW 80.28.360 allows a utility to "gift" EVSE to the owner of the property on which it is located at the end of the equipment's depreciable life. Several other statutes govern the sale, merger, lease, assignment, or disposal of utility property. Here, we consider the "gifting" provision in RCW 80.28.360 in the context of these other statutes.

37. First, we take into account the "gifting" of equipment in light of applicable Commission precedent concerning the "sale" of equipment. State law prohibits a public service company from engaging in the sale of merchandise, appliances, or equipment as a regulated service, and insulates utility customers from risk should a utility choose to engage in such activities on an unregulated basis:

> Merchandise accounts to be kept separate (RCW 80.04.270): Any public service company engaging in the sale of merchandise or appliances or equipment shall keep separate accounts, as prescribed by the commission, of its capital employed in such business and of its revenues therefrom and operating expenses thereof. The capital employed in such business shall not constitute a part of the fair value of said company's property for rate making purposes, nor shall the revenues from or operating expenses of such business constitute a part of the operating revenues and expenses of said company as a public service company.

38. The Commission recently addressed this law when finding that Puget Sound Energy's proposed leasing program did not constitute a "sale" and that the law did not prohibit the Commission from authorizing such a program as a tariffed utility service.[41] With RCW 80.28.360, the Legislature has provided a clear directive to the Commission that EVSE

[41] UE-151871/UG-151872, Order 06 ¶ 61.

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can be offered on a "fully regulated basis," and *may* be "gifted" at the end of its depreciable life. We understand these provisions, when taken together, to create a narrow exemption from RCW 80.04.270 for EVSE.

39. Second, we consider the Commission's authority to approve the sale, lease, transfer, or disposal of utility facilities. Two statutes establish this authority:

> Order required to sell, merge, etc. (RCW 80.12.020): No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties to the public, and no public service company shall, by any means whatsoever, directly or indirectly, merge or consolidate any of its franchises, properties or facilities with any other public service company, without having secured from the commission an order authorizing it to do so.
>
> Disposal without authorization void—Approval or denial within eleven months, extension permitted (RCW 80.12.030): (1) Any such sale, lease, assignment, or other disposition, merger or consolidation made without authority of the commission shall be void.

40. While RCW 80.28.360 creates a narrow exemption from RCW 80.04.270 for EVSE, we do not believe that a similar exemption from the Commission's authority exists concerning the disposal of utility property in RCW 80.12.020 or RCW 80.12.030. The statute conveys the Legislature's intent that, once the EVSE is fully depreciated, it *may* be gifted. However, the law does not compel the utility to gift the EVSE to the customer, or the Commission to approve such a gift. It merely distinguishes the treatment of EVSE from other distribution infrastructure or equipment, which may not be transferred to customers in a manner that could be deemed a "sale."[42]

41. The Commission's analysis will be based on the terms and conditions of the specific EV charging service. Electrical companies should ensure that such terms and conditions are "fair, just, and reasonable" and in compliance with statutes and rules governing the sale, transfer, and disposal of utility property. The Commission retains authority in RCW

[42] For example, traditional distribution equipment such as a customer electric meter is typically replaced at the end of its depreciable life with new equipment at the same location, not gifted to the customer and left in place.

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80.12.020 to oversee any sale or disposal of utility property, and any such sale, assignment, or other disposition is void without Commission approval.

42. However, the Commission currently exempts utility property with low market value from this requirement by rule. For transfers of property that have a market value that is less than the greater of 0.1 percent of the public service company's rate base (for the applicable utility service) last established by Commission order, or $20,000, electrical companies are required to file annually with the Commission a detailed list of all items transferred without Commission approval during the previous calendar year.[43] The list should not include:

> items whose fair market value is less than the greater of .01% of the public service company's last rate base (for the applicable utility service) established by commission order or two thousand dollars. The public service company must attach an affidavit by a responsible officer qualified to state that none of the items was necessary or useful to perform the public service company's public duties and that the public service company received fair market value for each item.[44]

43. If the EVSE meets the requirements of WAC 480-143-180 for transfer without Commission approval, the Commission will accept its inclusion in the annual filing submitted pursuant to WAC 480-143-190, accompanied by an affidavit from a responsible officer qualified to state that the EVSE: is fully depreciated; is not necessary or useful to perform the electrical company's public duties; and, was transferred as a "gift" pursuant to RCW 80.28.360. If the EVSE, due to its fair market value, is exempted from WAC 480-143-190, the electrical company may "gift" the equipment without notification to the Commission, but only as provided in the terms and conditions of its customer agreement. Table 1 outlines the Commission's treatment of EVSE at the end of its depreciable life.

[43] WAC 480-143-180. In the case of electric vehicle charging services, the rate base of the "applicable utility service" is the utility's electric service rate base.
[44] WAC 480-143-190.

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Table 1: Treatment of EVSE to be "gifted" at the end of its depreciable life:

Fair Market Value of "gifted" EVSE	Commission Approval	Utility Action Required
> 0.1% of electric rate base or $20,000, whichever is greater	Yes	Utility must obtain a Commission order authorizing the gift pursuant to RCW 80.12.020.
< 0.1% of electric rate base or $20,000, whichever is greater	No	Utility should include property in annual report to the Commission filed under WAC 480-143-190, with an affidavit.
< 0.01% of electric rate base or $2,000, whichever is greater	No	None. Utility may "gift" to a willing customer without notification to the Commission, as provided in the terms and conditions of customer agreement.

44. Further, the Commission is cautious about the treatment of "gifting" of EVSE in customer agreements. The Commission will consider, at a minimum, the following factors regarding the treatment of EVSE at the end of its useful life:

45. *Consumer Protection:* We note the possibility that not all customers may want to take possession of EVSE as a "gift" once it is fully depreciated. We expect some customers will not want to assume the burden of disposal or replacement of equipment owned by the utility, nor do we feel it is appropriate to impose this burden on utility customers. We therefore adopt a policy for utilities to make these three options available at the end of a charging station's depreciable life, allowing the customer to choose whether to assume the equipment as a gift: (a) the utility may "gift" a fully depreciated electric vehicle charging station to a willing customer, (b) the utility may replace the electric vehicle charging station with a new charging station, or (c) the utility may remove the electric vehicle charging station, per its policies and procedures for removing depreciated distribution facilities. Because technology, programs, and incentives may change over time, it is reasonable for the customer to wait until the end of the equipment's depreciable life before deciding among these three options. The Commission addresses further consumer protection considerations in Part II.

46. *Sale vs. lease or rental:* If the Commission finds that the terms and conditions of the service are fair, just, and reasonable, the service is likely to be exempt from the equipment sale prohibition in RCW 80.04.270. A utility should structure its EV charging

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service agreement in a manner that clearly distinguishes the service from an equipment sale.

47. *Depreciable life of equipment:* RCW 80.28.360 allows the Commission to approve the "gifting" of EVSE at the end of its depreciable life. In order for the Commission to approve the "gifting" of the equipment, it must first determine that the equipment is fully depreciated. Electrical companies should file reasonable depreciation schedules for EVSE, based on the best information available to the company from the equipment manufacturer. As discussed above, the applicability of Commission rules pertaining to notification of the transfer of property without Commission approval will depend on the fair market value of the equipment at the end of its useful life.

vii. Safe, adequate and efficient service and facilities and integrated resource planning

48. RCW 80.28.010 requires that all electrical companies "furnish and supply such service, instrumentalities, and facilities as shall be safe, adequate and efficient, and in all respects just and reasonable." In addition, RCW 19.280.010 requires utilities to submit biennial integrated resource plans, which must include, among other things, a range of forecasts of projected customer demand that takes into account econometric data and customer usage and an assessment of commercially available conservation and efficiency resources.[45] Today, both generation and conservation resources are subject to robust and transparent planning requirements. A similar planning process for making capital investments on the customer side of the meter does not currently exist.

49. Utilities continue to bear the responsibility to deploy capital efficiently to the extent that the electrical system design, engineering, and equipment is under their control. As utilities move beyond the pilot program phase for EV charging services, it is important that they take a proactive approach to planning for EV charging load, while ensuring that infrastructure remains "adequate and efficient."

50. However, utilities should not bear this planning responsibility on their own. The Commission is currently engaged in a broad rulemaking in Docket U-161024 regarding the process and rules for integrated resource planning (IRPs). We have requested comments in that docket regarding the consideration of transmission and distribution (T&D) investments in the planning requirements, and considerations for planning for EV

[45] RCW 19.280.030(1).

load in load forecast projections.[46] While that rulemaking is ongoing, we anticipate requiring utilities to more explicitly include scenarios for transportation electrification in distribution load forecasting. In Part II of this policy statement, we also discuss the potential for utilities to provide information that will help state and local planning agencies and market participants identify transportation electrification opportunities in concert with utility system planning needs.

b. Eligibility for the incentive rate of return (RCW 80.28.360)

51. In establishing rates for an electrical company, the Commission may authorize an incentive rate of return on utility investments in EVSE. Assuming that an electrical company's EV charging services are "offered on a fully regulated basis," as discussed above, a company's investment may be eligible for an incentive rate of return if it also meets the other requirements of RCW 80.28.360, and the services are "reasonably expected, at the time they are placed in the rate base, to result in real and tangible benefits for ratepayers by being installed and located where electric vehicles are most likely to be parked for intervals longer than two hours."

52. Upon request by an electrical company, the Commission may determine whether electrical company investments are eligible for the incentive rate of return, relying on information provided by the company and subject to staff and Commission review under standard utility ratemaking procedures. We assume that this review will take place in the context of a general rate case or other rate proceeding.

53. If the Commission determines that the information provided supports a reasonable expectation that the charging stations are installed and located where electric vehicles are most likely to be parked for intervals longer than two hours, it may authorize the application of an incentive rate of return of up to 2 percent on EVSE investments, provided that the capital expenditures do not increase costs to ratepayers in excess of 0.25 percent.[47]

54. The Commission requested comments on the application of the rate impact cap to the incentive rate of return. Northwest Energy Coalition (NWEC) commented that the Commission should apply the rate impact cap on a "net basis," taking into account the impact of any offsetting revenue associated with the increased kWh sales.[48] We believe

[46] Docket U-161024.
[47] RCW 80.28.360(1).
[48] NWEC Comments at 2 (November 23, 2016).

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this treatment is consistent with the law, which applies the cap to the overall rate impact as a result of EVSE investments. Utilities should determine the cap on the "net" impact to all ratepayers based on the annual revenue requirement in the most recent completed general rate case. For example, if the annual revenue requirement was $100 million, then the annual "net" impact allowed based on the capital expenditures, minus the offsetting benefits, would be $250,000 (0.25 percent of $100,000,000). This interpretation may require utilities to adopt special accounting treatment for eligible investments, and we would consider proposals to simplify the administration of the rate impact cap using reasonable assumptions and accounting for market growth and improvements in technology.

55. ChargePoint comments that the two-hour criterion in RCW 80.28.360 appears to limit the application of the incentive rate of return to Level 2 charging stations installed at certain types of locations.[49] We agree with the presumption that customers are not likely to park for two hours when using a DC Fast Charger, which provides a rapid charge. Moreover, to do this would be an inefficient use of DC Fast Chargers. Level 2 EVSE owned and operated at residences, workplaces, airports, hotels, and park and ride lots are more likely to meet the two-hour parking requirement, while Level 2 EVSE owned and operated at athletic centers, banks, restaurants, other commercial facilities may require further evaluation. We decline to adopt a bright line rule in this Policy Statement, but we will take this criterion seriously when considering a utility's request for an incentive rate of return. When requesting an incentive rate of return, utilities should incorporate data on customer parking patterns into their cost-benefit analysis. As always, the utility will bear the burden of demonstrating that its investments meet the statutory criteria.

Part II – Policies to Improve Access to and Promote Fair Competition in the Provision of Electric Vehicle Charging Services

56. Part II of this Policy Statement addresses additional policy considerations to ensure that utility participation in the electric vehicle charging market is consistent with the public interest and subject to Commission regulation under RCW 80.28.320. This section identifies the types of services that utilities should provide as part of an electric vehicle charging service program, and discusses how the Commission will regulate EV charging services. It also describes the program design elements necessary to ensure that utility programs provide benefits to customers and promote market transformation while still allowing a competitive market to develop. Finally, Part II addresses how utilities should

[49] ChargePoint Comments at 5 (November 23, 2016).

engage in broader transportation planning efforts to ensure that utility participation in the competitive market supports state policy goals.

57. As utilities enter this new market, the Commission's role remains unchanged. Among other things, the Commission must ensure that utilities have an opportunity to earn a fair rate of return on their investment, that consumers are protected from unfair treatment and undue risk, and that competitive providers are not adversely impacted by utilities' entry into competitive markets. These are generally the issues that public interest economic regulation is designed to address.

58. In a recent Order, the Commission articulated its preferred approach to regulating utility participation in competitive markets and new service offerings:

> We do not adopt Staff's proposal to draw a demarcation line at the customer's meter for determining the regulatory nature of a proposed service. There is no support in the statute or Commission precedent to support imposing such a jurisdictional bright line at the customer meter. Nor do we think such a standard would reflect appropriate public policy. Rather, in light of the rapid technological change in the utility environment, the preferable approach is to consider each proposed service individually to determine whether it serves a public purpose that Commission regulation is designed to foster.[50]

59. In the case of EV charging services, the public purpose is apparent. In enacting RCW 80.28.360, the Legislature made a clear finding supporting utility participation in the electrification of the transportation system:

> (1) The legislature finds that the transportation sector is Washington's largest contributor to greenhouse emissions and hazardous air pollutants as defined by federal national ambient air quality standards and mobile source air toxics rules. The sector's portion is considerably higher than the national average because our state relies heavily on hydropower for electricity generation, unlike other states that rely on fossil fuels such as coal, petroleum, and natural gas to generate electricity.
>
> (2) The legislature also finds that federal clean air act regulations and complementary Washington policies supporting renewable energy generation, energy efficiency, and energy conservation are likely to result in further reduction

[50] UE-151871 & UG-151872, Order 06, ¶ 64 (Nov. 16, 2016).

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> of emissions in the electricity and in the combined residential, commercial, and industrial sectors. The legislature finds that state policy can achieve the greatest return on investment in reducing greenhouse gas emissions and improving air quality by expediting the transition to alternative fuel vehicles, including electric vehicles.
>
> (3) The legislature finds that utilities, who [that] are traditionally responsible for understanding and engineering the electrical grid for safety and reliability, must be fully empowered and incentivized to be engaged in electrification of our transportation system. The legislature further finds that it has given utilities other policy directives to promote energy conservation which do not make the benefits of building out electric vehicle infrastructure, as well as any subsequent increase in energy consumption, readily apparent. Therefore the legislature intends to provide a clear policy directive and financial incentive to utilities for electric vehicle infrastructure build-out.[51]

60. These findings, among the other state policies discussed above, establish a public purpose for investor-owned utilities to pursue electrification of the transportation system. The general powers and duties of the Commission direct it to decide how those services should be regulated.[52] We do so here, by adopting a policy supporting transformation of the EV market through utility provision of a portfolio of regulated EV charging services that maximize the benefits of EVs to the electric system and allow a competitive market for EV charging services to continue to develop.

a. Defining electric vehicle charging services

61. The public service laws do not offer a definition of either "electric vehicle supply equipment" or "battery charging facilities." However, useful guidance is found elsewhere. Commenters recommended that the Commission adopt a broad definition of EVSE that includes more than just the charging station hardware, allows the utility flexibility to design programs, and allows the definition of EVSE to change over time. Because the term is not defined in statute, it is reasonable for the Commission to refer to the industry code. Article 625 of the National Fire Protection Association's National Electric Code (NEC) concerns Electric Vehicle Charging Systems, and includes a

[51] Finding – 2015 c 220 § 1.
[52] RCW 80.01.040.

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definition of "electric vehicle supply equipment."[53] The Commission already adopts the National Electric Code by reference annually in WAC 480-100-999, and we see no need to deviate from industry practice here. We note that this has the effect of allowing the "make-ready" components of an EVSE installation to be eligible for the incentive rate of return, but excludes the customer's premises wiring.

b. Utility role in market transformation and transportation electrification

62. In considering the role of electric utilities in transportation electrification, we can draw from the experiences of a few other states, especially California and Oregon:

> *California:* California has the highest concentration of EVs in the country. The state aims to put 1.5 million EVs on the road by 2025.[54] In 2015, the California state legislature passed SB 350, which among other policies, required utilities to plan for transportation electrification in their integrated resource plans (IRPs) and required the California Public Utilities Commission (CPUC) to approve utility EV programs and investments that accelerate widespread transportation electrification.[55] SB 350 specifically identifies EVs as being important for grid management, integration of renewables, and reduction of fuel costs for drivers who charge in a manner consistent with grid conditions. It also limits the public investment in EVs to integration and deployment activities that are in the interest of all ratepayers. [56] These interests are defined as short- or long-term direct benefits that are specific to ratepayers, consistent with safer, more reliable, or less costly electrical service due to either improved use of the electric system or improved integration of renewable energy generation.[57]

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[53] Article 625.2 of the National Fire Protection Association's National Electric Code (NEC) defines "Electric Vehicle Supply Equipment" as, " the conductors, including the ungrounded, grounded, and equipment grounding conductors and the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of delivering energy from the premises wiring to the electric vehicle."
[54] Governor's Interagency Working Group on Zero-emission Vehicles, "ZEV Action Plan: A roadmap toward 1.5 million zero-emission vehicles on California roadways by 2035," (February 2013).
[55] California Public Utilities Code 740.12.
[56] California Public Utilities Code 740.12(a)(1)(G).
[57] CPUC Energy Division Crisostomo, N. & Mesrobian, A., "Transportation Electrification: Market Assessment, Policy Overview, and Utility Guidance Pursuant to Senate Bill 350," April 29, 2016.

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The CPUC has considered utility EV programs on a case-by-case basis, and approved pilot programs for Southern California Edison and San Diego Gas & Electric in early 2016,[58] and a third program for Pacific Gas & Electric in December 2016.[59] The three California pilot programs have very different design elements, and use several different business models to meet transportation electrification goals. All three pilot programs include a time-of-use rate to the driver or host, and one company offers a specific vehicle-grid integration rate for electric vehicles. To ensure fair competition, the CPUC has adopted a "balancing test" which requires the ratepayer benefits of utility ownership of EV charging infrastructure to be balanced against the competitive limitations that may result from that ownership.[60] The balancing test establishes that proposals that include utility ownership of EV charging infrastructure must include an analysis of the impact of such ownership on competition.

In addition to authorized pilot programs, the CPUC is currently collaborating with the California Air Resources Board and the California Energy Commission to implement programs to "support widespread transportation electrification," as directed under SB 350.[61] The three larger investor-owned utilities, SDG&E, SCE, and PG&E have requested approval of approximately $1 billion in funding to implement transportation electrification proposals over a five-year period. The CPUC has outlined a procedural schedule to adopt decisions addressing priority projects by October 2017, and remaining issues in the Spring of 2018.[62]

Oregon: Oregon's state Legislature recently enacted SB 1547.[63] Similar to California's SB 350, the law directs the state's public utility commission to require the electric utilities in the state to file applications for transportation

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[58] CPUC Decision 16-01-045 – Decision Regarding Underlying Vehicle Grid Integration Application and Motion to Adopt Settlement Agreement (January 28, 2016) (San Diego Gas & Electric). CPUC Decision 16-01-023 – Decision Regarding Southern California Edison Company's Application for Charge Ready and Market Education Programs (January 14, 2016) (Southern California Edison).
[59] CPUC Decision 16-12-065 –Decision Directing Pacific Gas and Electric Company to Establish an Electric Vehicle Infrastructure and Education Program (December 15, 2016) (Pacific Gas and Electric Company).
[60] California Public Utilities Commission Docket 14-12-079, Conclusion of Law 3.
[61] California Public Utilities Code 740.12.
[62] CPUC Dockets A. 17-01-020, et al. Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judges (April 3, 2017).
[63] Oregon Laws of 206, chapter 028, section 20(3).

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electrification programs. These programs may include utility investments in or customer rebates for EV charging and related infrastructure. The Oregon Public Utilities Commission (OPUC) recently adopted rules governing the application requirements for transportation electrification programs and reporting and evaluation requirements.[64] SB 1547 required utilities to file applications for one or more transportation electrification programs by December 31, 2016. As of the issuance of this policy statement, two of the three utility filings are currently contested, and are scheduled for hearings in the Fall of 2017.[65] The OPUC has not yet adopted rules regarding long-term transportation electrification plans, but will consider initiating a separate rulemaking process to address transportation electrification plans in 2017.[66]

63. Similar to California and Oregon, the Washington Legislature provided clear intent that utilities be "fully empowered and incentivized to be engaged in electrification of our transportation system." We therefore find it necessary to adopt guiding policies and requirements for utility proposals to offer electric vehicle charging services, in order to clarify the public interest standard for these services, and assist in the timely review of proposals. However, unlike the Legislatures in California and Oregon, the Washington Legislature did not require utilities to develop long-term transportation electrification plans, nor identify a clear role for utilities or the Commission in transportation electrification. We find it necessary to clarify our current interpretation of these roles in this Policy and Interpretive Statement. We do so by considering the role of utilities and the Commission in market transformation.

64. The American Council for an Energy-Efficient Economy defines market transformation for energy efficiency as "the strategic process of intervening in a market to create lasting change in market behavior by removing identified barriers or exploiting opportunities to accelerate the adoption of all cost-effective energy efficiency as a matter of standard practice."[67] The theory of market transformation was first described by Geoffrey A. Moore in his groundbreaking book, *Crossing the Chasm*.[68] Moore describes a market broken into five parts: innovators, early adopters, early majority, late majority, and laggards. If there is a perfect distribution, Moore writes, about 7 percent of the market

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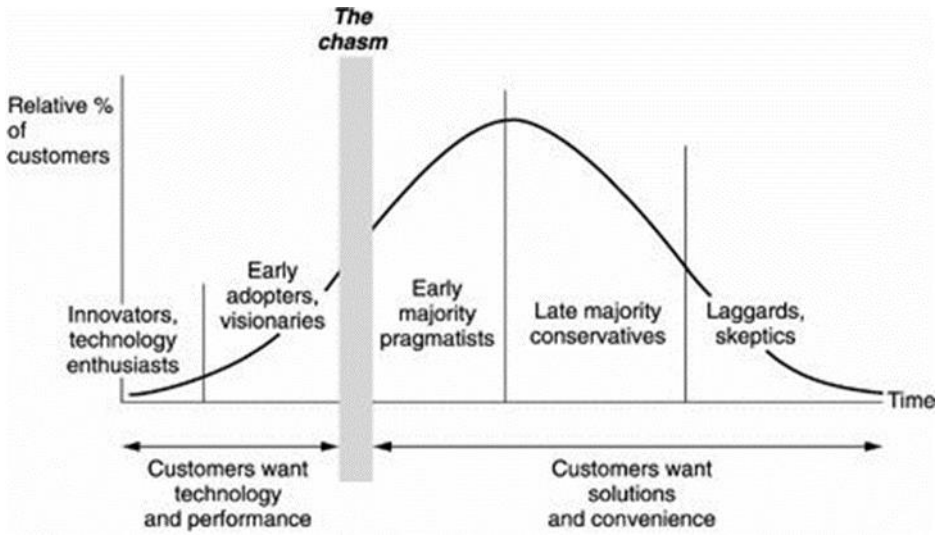
[64] Oregon Administrative Rules Division 860-087.
[65] See OPUC Dockets UM 1810 (PacifiCorp) and UM 1811 (Portland Gas and Electric).
[66] Oregon Public Utilities Commission, Docket AR 599, Order 01 (Nov. 23, 2016).
[67] http://aceee.org/portal/market-transformation
[68] Moore, Geoffrey (1991). *Crossing the Chasm.* Harper Business Essentials.

represents innovators, and another 8 percent represents early adopters. The chasm occurs at around 10 percent penetration, which is the main point of failure for new products. Many products never make it across the chasm, in large part because innovators and early adopters are willing to accept inconvenience to try out a new product, while the majority of consumers are not.

Figure 1: Energy Efficient Technologies Commercialization Process



65. The left-hand side of Moore's curve represents the "emerging technologies." A small number of people may purchase these products, but the audience remains small. This is where market transformation efforts can have an impact on technology adoption. Market transformation is the process of getting these new products to a wider audience, removing market barriers, and exploiting opportunities to make the new market mainstream. For energy efficiency technologies, this is done through programs promoting the product and voluntary efficiency standards. The ultimate goal of market transformation is for the product to become accepted by the general public and adopted into codes and standards.

66. The challenge facing the expansion of EVs is similar to the challenge facing energy efficiency technologies before market transformation. Commenters argued that there are three main barriers to additional adoption of EVs: price, range and charging availability, and low consumer awareness.[69] Charging availability and consumer awareness, in

[69] Baumhefner, Max; Roland Hwang and Pierre Bull. *Driving out Pollution: How Utilities can Accelerate the Market for Electric Vehicles*. Natural Resources Defense Council (June 2016).

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particular, are barriers that electric utilities are naturally positioned to address. However, successful market transformation efforts require careful intervention. Utilities will need the guidance of market transformation experts such as the Northwest Energy Efficiency Alliance to focus their efforts in solving these problems.[70]

67. For example, as utilities prepare to address these barriers, they will need to research the EV market in Washington and assess its position on the market adoption curve. If the market is represented by a perfect bell curve, EVs would conceivably need to account for 8 percent of market sales before utilities can relax their market transformation efforts. Currently, according to the National Automobile Dealers Association, electric vehicles account for only 0.4 percent of the national market.[71] Of course, the market in Washington and the Pacific Northwest may be different than the national market.

68. Reducing barriers associated with charging availability will also continue to require planning and prioritization of transportation system investments, including the siting of DC Fast Chargers along state and federal transportation corridors, as well as in high-volume urban transportation areas. To the extent the state has a role in planning and prioritizing these investments during the market transformation phase, those activities are and should remain the purview of WSDOT.[72] Utilities have access to information that can help align the priorities of building charging infrastructure along state transportation corridors with grid infrastructure needs. However, appropriate prioritization of these investments will require analysis of data such as traffic flow and trip characteristics, data generally beyond the type of econometric data typically available for utilities to use in integrated resource planning. To ensure efficient deployment of transportation electrification infrastructure, it is necessary to integrate utility information into the transportation planning and prioritization process. Ideally, such a process would be transparent and competitive, to allow all utilities and competitive providers to be engaged in electrification of the transportation system. We stand ready to support and collaborate with WSDOT and the industry in these efforts.

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[70] The Northwest Energy Efficiency Alliance is currently considering market transformation opportunities to improve efficiencies of EVSE. (Memorandum from Jeff Harris, Chief Transformation Officer to NEEA Executive Committee, Nov. 17, 2016).
[71] National Automobile Dealers Association www.nada.org/workarea/DownloadAsset.aspx?id=21474839738 (April 2015).
[72] Chapter 468-602 WAC, implementing RCW 47.04.350, WSDOT's Electric Vehicle Charging Pilot Program, specifically identify utilities as owners and operators of charging equipment.

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69. We expect utilities offering DC Fast Charging as a regulated service to consult with WSDOT to ensure that proposed DC Fast Charging services are consistent with state transportation planning priorities. Utility proposals should indicate whether proposed DC Fast Charging stations will be deployed in priority corridors, as determined by WSDOT. Utility proposals should also clearly support the department's preferences for siting projects at a minimum of 40-mile intervals, and that add capacity or redundancy in congested, high-volume areas for a more robust, dependable charging network. Utilities should explain how their project will lead to the eventual build-out of the corridor, and planned future charging infrastructure along the corridor.

c. Commission regulation of utility electric vehicle charging services.

70. Proterra recommended that the Commission adopt a distinct regulatory framework to promote environmentally beneficial electrification.[73] We do not find it necessary to adopt a distinct regulatory framework in order to implement RCW 80.28.360 in a manner consistent with other state policies at this time. While the state provides policy support for EVs, it also continues to support a strong preference for electric conservation.[74] The Commission therefore must consider the impact of increased EV load on utility conservation efforts. The Commission previously addressed this dichotomy in its approval of PSE's pilot program by allowing the company to recover the cost of its program through its conservation service rider based on the incremental efficiency benefits associated with Level 2 chargers over Level 1 chargers, and the potential avoidance of new generation resources:

> We view the Company's proposal as a pilot program to evaluate projections of future load growth due to PSE's customers buying and driving EVs. The Company may be able to avoid increased future peak demand if it can learn more about how and when customers charge their EVs and educate them on the overall system benefits of non-peak charging. We wish to minimize the need for additional peaking resources in the future, if possible, and believe that this pilot program will contribute both to our knowledge of peak reduction techniques and assist in educating consumers of the need to plan carefully when recharging their EV batteries. Like our colleague Commissioner Goltz, we recognize that the financial incentive provided to qualifying customers who purchase a Level 2

[73] Proterra Comments at 2 (November 23, 2016).
[74] RCW 19.285.020, RCW 80.28.024, RCW 80.28.025, RCW 80.28.065 and Legislative findings – Intent – 1993 c 245 sec. 1.

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> charger will result in a small cost imposed on all customers across PSE's electric system. However, we see the study data and the incremental conservation savings, as well as the potential avoidance of acquiring new generation resources, as benefits justifying such costs.[75]

71. We expect that EV charging services can deliver significant benefits to the overall utility transmission and distribution network if they are properly deployed.[76] We are concerned, however, that without a price signal to the customer, drivers will generally plug in and charge immediately upon arriving home after work, exacerbating evening peak demand.[77] Maximizing the benefits of EVs to both utility shareholders and consumers will require mechanisms to influence charging so that it happens during off-peak times, thereby increasing the utilization of grid assets, limiting the need for distribution upgrades, and avoiding investments in additional peak generation capacity. A number of mechanisms are available to accomplish this end, and the Commission will consider a variety of utility proposals to manage EV load through demand response, direct load control, or dynamic pricing.[78]

72. Considering the long-term potential benefits associated with managed EV charging, we believe that EV charging services can be offered under a framework similar to utility conservation programs at a cost commensurate with their benefits. The Commission reviews and approves conservation portfolios under a regulatory framework that emphasizes cost-effective system benefits, requires stakeholder engagement, targets services to low-income customers, provides education and outreach, and facilitates

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[75] Docket UE-140626, Order 01 ¶ 11.

[76] Rocky Mountain Institute (RMI), *Electric Vehicles as Distributed Energy Resources*. at 52. Referencing Load Research Report Compliance Filing pursuant to California Public Utilities Commission (CPUC) Decision 13-06-014, (Dec. 24, 2015); Energy and Environmental Economics (E3) and ICF Intl., "*California Transportation Electrification Assessment, Phase 2: Grid Impact.*" (Oct. 23, 2014); Electric Power Research Institute (EPRI), "*The Value of Transportation Electrification: Three Preliminary Case Studies of Impacts on Utility Stakeholders*," (May 2016).

[77] NRDC Comments at 16 (November 23, 2016).

[78] Prior attempts to implement dynamic pricing in the Pacific Northwest had limited success due to the high costs of implementation and/or faulty program design. (Dynamic Pricing Evaluation for Washington, U.S. Department of Energy DE-OE0000123, January 2011) EV charging services may improve the feasibility of dynamic pricing, but ensuring proper program design is critical. While the willingness of automakers to allow vehicles' batteries to be used for vehicle-to-grid applications (i.e., sending electricity stored in electric vehicles back to grid) is questionable, we see the potential for advanced grid services associated with electric vehicle charging services in the future. The Commission is currently considering the valuation of ancillary services provided by energy storage systems in Docket U-161024.

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regular planning and reporting.[79] We adopt a similar framework here, with additional consideration for consumer protection, interoperability, and service quality performance in a competitive market.

i. Portfolio approach to EV charging services

73. In enacting RCW 80.28.360, the Legislature supported broad utility participation in electrification of the transportation system. Comments in this docket point to an array of potential program designs, and the need for the Commission to be flexible in allowing utilities to pursue different business models and services.[80] We agree it is appropriate to allow utilities to offer a range of EV charging services on a regulated basis, eligible for a standard authorized rate of return, provided that the infrastructure investments meet our traditional rate-making requirements as discussed earlier (e.g., used and useful, prudence, and just and reasonable rates). In addition, we balance those requirements of a regulated service with the imperative to accelerate market transformation while allowing a competitive market to develop at the same time. In fact, the portfolio approach may be necessary in order for the Commission to find that the facilities are generally available to the public and dedicated to public use.[81]

74. Accordingly, we adopt a policy supporting a "portfolio approach" to electric vehicle charging services, similar to the approach used in utility conservation programs. Rather than a single "measure" or program offering, utilities should provide customers with multiple options for EV charging services, designed to serve a range of customer types, target multiple market segments, and evolve as technology changes. A program portfolio of EV charging service offerings will promote customer choice by allowing customers to

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[79] WAC 480-109-100 through -120.

[80] Climate Solutions Comments at 3-4; Joint Automakers Comments at 2; Washington Environmental Council Comments at 1; Greenlots Comments at 1; Avista Comments at 3 (November 23, 2016); For example, Climate Solutions emphasized "the importance of exploring a variety of business models and ownership structures . . . in order to determine what models are best suited for preserving competition and customer choice. In order to prevent unnecessary barriers to deployment at this time, the Commission should maintain a high level of flexibility to allow for distinct frameworks to be analyzed, with an emphasis on customer engagement and maintaining customer choice throughout the procurement process."

[81] In order for the service to be subject to Commission jurisdiction, the Commission must determine whether the facilities in question are dedicated to public use. The Commission has provided prior interpretive guidance on this issue in Docket UE-112133, Interpretive Statement Concerning Commission Jurisdiction and Regulation of Third-Party Owners of Net Metering Facilities ¶ 59-71 (July 30, 2014).

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choose among a portfolio of services meeting the criteria as outlined in this policy statement.

75. Table 2 below provides an example of an EV charging services portfolio. Because the technologies and customer needs are evolving quickly, the Commission will refrain from adopting specific criteria to determine the balance of a portfolio at this time. The Commission will accept a variety of portfolio designs based on a utility's service area needs, as long as each utility's portfolio is designed to serve an array of vehicle and customer types, promote market transformation across all customer segments, and meet the Commission's public interest standard.

Table 2: Example of EV Charging Service Portfolio:

Service	**Ancillary Service / Benefits**
DC Fast Charging	N/A / kWh sales
Level 2 Workplace / Fleet Charging	N/A / kWh sales
Residential EVSE Lease	Direct Load Control
Multi-unit dwelling EVSE "make-ready" installation	Time of Use Rate + Load Data Collection
Service upgrade for Level 2 Fleet Charging (customer-owned EVSE)	Demand Response
Grid Integration / Time-of-use rate	Avoided cost of managing EV charging peak
EV dealer or rideshare incentives	Participant data collection and education / outreach

76. The "portfolio approach" requires utilities to develop comprehensive EV charging service programs that offer attractive services under different business models to promote innovation and customer choice. To the extent that any infrastructure installed to provide the service is owned by the utility, the utility may earn a return on investment, subject to a prudence review. To the extent the service meets the criteria for an incentive rate of

return under RCW 80.28.360, the utility may request it, subject to the rate impact cap. However, the purpose of the portfolio approach is to promote market transformation by providing a range of charging applications and ensuring fair competition in the provision of EVSE, while prioritizing the realization of system benefits over rate base additions. The portfolio approach will also avoid rigid adherence to a single program design, allowing for a more holistic assessment of the costs and benefits of EV charging services.

77. While the Commission will allow for flexibility in the specific services offered, the Commission will expect utility programs to offer a balanced portfolio, with attractive offers available under different types of service, to ensure fair access to services and competition in the provision of EVSE. When considering utility proposals, the Commission will rely on staff and stakeholder input to identify "imbalances" in proposed portfolios. The Commission also expects utilities to examine programs offered in other states, and draw on industry best practices and lessons learned by peer utilities. Utilities also should engage in adaptive management of the portfolio, monitor participation rates and propose changes when needed, and tailor outreach and education efforts to achieve broad participation across the portfolio.

ii. Load management

78. In all cases, when determining whether the rates, terms, and conditions of the program are fair, just, and reasonable, the Commission will consider whether utility programs prioritize load management benefits. Load management is essential to ensure that electric vehicle charging services provide benefits to non-participating customers, and do not undermine utility conservation efforts. There are a number of mechanisms available to accomplish this, and the Commission will consider a variety of utility proposals to manage EV load through demand response, direct load control, or dynamic pricing.[82]

79. Absent a load management component, EV charging services can increase peak demand and drive the need for new peak capacity resources. It would therefore be difficult for a program without demand response or direct load management capabilities to meet the fair, just, and reasonable standard. In order to deliver benefits to customers, utilities must

[82] Prior attempts to implement dynamic pricing in the Pacific Northwest had limited success due to the high costs of implementation and/or faulty program design. (Dynamic Pricing Evaluation for Washington, U.S. Department of Energy DE-OE0000123, January 2011) Electric vehicle services may improve the feasibility of dynamic pricing.

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be able to manage EV charging load in a way that increases system utilization, avoids peak capacity costs, and ultimately results in savings to non-participating customers.

iii. Consumer protection

80. RCW 80.28.010 requires that "all rules and regulations issued by any . . . electric company . . . affecting or pertaining to the sale or distribution of its product or service, must be just and reasonable." The Commission's consumer protection rules prescribe companies' service responsibilities, requirements for billing, service applications, deposits, disconnection and reconnection of service, meter testing, and payment arrangements.[44] The rules also identify specific information that companies must disclose to customers, and provide customers with protection against disclosure of certain private information.[45] Further, these rules describe companies' responsibilities for responding to customer complaints and disputes, and prohibit companies from disconnecting service while a customer is pursuing a remedy or appeal with the utility or the Commission.[46]

81. Companies operating in Washington *not* under Commission jurisdiction are subject to the Consumer Protection Act, RCW 19.86. The act declares that unfair methods of competition and unfair or deceptive business practices are unlawful, and subject to enforcement action by the Attorney General.[49] The Attorney General's Consumer Protection Division has the authority to conduct non-binding arbitration of consumer complaints and bring civil actions for a violation of the act. Actions and transactions regulated by the Commission are specifically excluded from the Attorney General's purview, with the exception of actions by competitive telecommunications companies, over which the Commission and Attorney General retain concurrent jurisdiction.

82. Notably, Commission rules focus on protecting customers from public service companies exercising monopoly power, not from the practices of such companies operating in a competitive market. It is therefore essential that the terms and conditions of EV charging services be just and reasonable. In this policy statement, we adopt a policy for utilities, as providers of EV charging services, to offer customers three options at the end of the equipment's useful life.[83] PSE also comments that WAC 480-100-178 regarding billing requirements may impact how utilities may display pricing at utility-owned charging stations.[84]

[83] See discussion of "gifting" at 17.
[84] PSE comments at 3 (November 23, 2016).

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83. It is not possible at this time for the Commission to address every instance in which consumer protection issues may arise as a result of utilities providing EV charging services. However, as the Commission and utilities become more experienced in the provision of EV charging, the Commission will consider adopting other conditions to address any gaps in its consumer protection rules, and may consider initiating a rulemaking. Until the need for rulemaking arises, we remind utilities that the Commission's consumer protection rules apply to electric vehicle charging services, and that they must share all proposed terms and conditions for EV charging services with stakeholders, and file all customer agreement forms with the Commission for review and approval.

iv. Service quality

84. Electrical companies currently publish service quality standards and provide customer guarantees for electric service reliability and performance. Greenlots commented that utility efforts to provide reliable service will have a positive impact on the market as a whole.[85] We recognize that a utility's ability to control service quality for EV charging services may depend on the type of programs in its portfolio. In all cases where a utility owns the EVSE, the utility should adopt service quality standards that ensure a baseline level of service for the equipment. This could include, for example, customer guarantees for equipment service and repair time. In cases where the service is offered behind a customer's meter, utilities should also clearly define the responsibilities of the customer.

v. Low-income

85. Utility portfolios must include a carve-out that provides direct services to low-income customers. Several parties commented that the Commission should adopt a policy to promote benefits to low-income customers.[86] In comments submitted for the September 2016 workshop, NWEC and the Energy Project (TEP) made several recommendations concerning the impact of EV charging services on low-income customers. TEP stated that access to EV equipment and infrastructure through ownership of a personal EV is unrealistic for low-income households, and encouraged the Commission to consider ways for utilities to provide direct benefits to low-income households through transportation-based services such as Head Start, Medicaid Transportation, and other services.[87] NWEC recommended that the Commission direct utilities to reach low-income customers with

[85] Greenlots Comments at 4 (November 23, 2016).
[86] Climate Solutions Comments at 6; WEC Comments at 3 (November 23, 2016).
[87] Comments of Shawn Collins at 1 (August 16, 2016).

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charging services, including consideration of public electric car sharing partnerships with medical transport services or public housing authority fleets, rideshare, county transit agency vanpools, and port and industrial equipment electrification.[88]

86. The Commission is authorized to approve discounted or preferential services to low-income and low-income senior customers:

> Upon request by an electrical or gas company, or other party to a general rate case hearing, the commission may approve rates, charges, services, and/or physical facilities at a discount for low-income senior customers and low-income customers. Expenses and lost revenues as a result of these discounts shall be included in the company's cost of service and recovered in rates to other customers.[89]

The Commission accepts commenters' conclusions that low-income customers are less likely to have access to an EV, and are therefore not likely to benefit directly from access to EVSE during the market transformation phase. While we are mindful that the transition from gasoline and diesel-powered vehicles to EVs in low-income areas can reduce noise, air pollution, unpleasant exhaust fumes, and associated health problems, the Commission is not well positioned to quantify those benefits. We therefore will require utilities to provide direct services to low-income customers as part of the public interest and fairness determination for EV charging service programs. Utilities should discuss potential program offerings with Commission staff, their low-income advisory groups, and community action agencies to develop creative approaches to maximize the benefits of EV charging services to low-income customers. Such proposals should not compete with existing resources for low-income conservation or rate assistance.

vi. Interoperability analysis

87. Greenlots commented on the importance of ensuring interoperability between charging stations, both for drivers using charging stations and for back end systems (hardware and software networks).[90] Greenlots states, "[t]he Commission need not define a protocol or standard for backend operability, but could define the characteristics that an implemented protocol or standard should include."[91] We recognize that manufacturers and vendors

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[88] NWEC Comments at 5 (November 23, 2016).
[89] RCW 80.28.068.
[90] Greenlots Comments at 2-3 (November 23, 2016).
[91] Greenlots Comments at 2 (November 23, 2016).

have established networks based on technologies that are proprietary in nature. Absent sufficient planning and oversight, it is possible that the EV charging system could evolve into bifurcated networks using proprietary information technology systems and hardware that is not interoperable.

88. In general, it appears that the public interest would be served by greater interoperability that allows customers to move seamlessly between networks, and allows network data to be made available to utilities and state and local governments for system planning purposes. It appears that more open platforms with backend interoperability would achieve that purpose. ChargePoint recommended that the Commission require an open standard for both communication between charging stations and their management system and for inter-charging network roaming.[92] Other stakeholders recommended that the Commission require utility-supported charging stations that are publically accessible to offer a universal payment method such as a credit or debit card.[93]

89. We believe it is premature for the Commission to adopt specific requirements for interoperability. We also do not believe it is necessary to adopt a specific form of payment requirement for this service that would differ from the requirements for other energy services. But, we recognize that interoperability is an important issue, and there are many engineering and technical issues that are not resolved in this policy statement. We encourage utilities to participate in efforts to address these issues in other venues, such as appropriate standards development organizations. We also support the convening of a regional or statewide effort to ensure broad interoperability of electric transportation networks.

90. As an interim measure, we require regulated utilities to include an interoperability analysis in their proposals for EV charging services. This analysis should include a discussion of interoperability of (1) hardware systems, (2) software systems, and (3) customer experience. In the future, interoperability will be a key component of the Commission's analysis of the public interest determination, calculation of ratepayer benefit, and consideration of unreasonable preference.[94]

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[92] ChargePoint Comments at 11-12 (March 31, 2017).
[93] Drive Oregon, Northwest Energy Coalition, Climate Solutions, Brian Grunkemeyer, and Avista Comments (March 31, 2017).
[94] RCW 80.28.090.

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vii. Stakeholder engagement

91. Several commenters recommended that the Commission require utilities to convene stakeholder groups to review proposed utility programs and make recommendations to inform the programs.[95] Because there are clear issues of statewide concern in planning for EVSE, the Commission supports the convening of a single joint stakeholder group among the three electrical companies. This stakeholder group must include at a minimum, representatives from Commission Staff, Public Counsel, WSDOT, and the Department of Commerce. An invitation must also be extended to all parties who commented on this rulemaking. Utilities should share, at a minimum, the following with the stakeholder group 60 days prior to filing their proposed programs: electric vehicle charging service program portfolios, including capital investment plans, plans for meeting the low-income carve-out requirement, interoperability analysis, rebate offerings, equipment rental/lease proposals, and on-bill repayment; rate design proposals; and drafts of any outreach and education plans, customer agreements, and requests for proposals or information that will accompany the filing.

viii. Reporting requirements

92. Utility EV charging service programs must include a comprehensive plan for regular reporting to the Commission on the costs and benefits of the program. At a minimum, these reports must include: participation levels, expenditures, revenues for each service offered, locations of publicly accessible charging stations (utility-owned and customer-owned/utility managed), utilization of charging services, and the amount of overall fixed and variable costs recovered through user payments. We encourage utilities to discuss reporting requirements with stakeholders to ensure transparency in the design of electric vehicle charging service programs.

ix. Calculation of benefits

93. The costs and benefits of transportation electrification are currently a subject of substantial inquiry among technical research and industry organizations. The Commission will base a decision regarding cost recovery for investments in EV charging services on a standard business case and prudence review, in a general rate case or other rate proceeding. Requests for recovery of costs associated with investments for which the utility is seeking an incentive rate of return may require separate accounting treatment.

[95] Energy Project Comments at 14; PSE Comments at 8 (November 23, 2016).

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94. Utilities should design program portfolios to maximize the following quantifiable benefits at a cost that is commensurate with the expected benefits. These benefits should be included in a business case for a prudence determination, and will be considered on a portfolio basis:

- Increased revenue from kWh sales to electric vehicles, using a reasonable range of projections of electric vehicle adoption;
- Grid management benefits as a result of influencing charging behavior; and,
- Any other benefits in the form of environmental attributes − such as emissions reduction units − that are monetized and claimed by the utility.

95. For program design purposes, utilities should also include the calculation of benefits in their analyses and reporting to the stakeholder group and the Commission. The results of a Societal Cost Test may be used to inform program design, and can be used in education and outreach materials. This test may include fuel cost savings and environmental benefits that are quantifiable, but have not been monetized.

x. Education and Outreach

96. Utility electric vehicle charging service programs must include an education and outreach component targeted to potential EV drivers in a utility's service territory. Education and outreach is necessary to drive market transformation, and we find that the costs of these efforts can be included in the cost of service, provided that they are not "promotional advertising."

97. WAC 480-100-223 addresses utility recovery of expenses for promotional advertising.[96] In comments, several parties expressed a need for the Commission to revise its rule concerning advertising to accommodate education and outreach for EV charging services.[97] We do not think it is necessary to revise the rule at this time, but we adopt a policy clarifying that the use of fuel cost savings and environmental benefits in education and outreach materials for EV charging services will not be considered "promotional advertising" for the purposes of WAC 480-100-223.

[96] WAC 480-100-223.
[97] Greenlots Comments at 2 (November 23, 2016).

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III. Conclusion

98. Utilities have a role to play in transforming the market for electric vehicles. The state has enacted policies to support electric vehicle deployment and utility participation in the electric vehicle charging market. These policies establish a public purpose for investor-owned utilities to pursue electrification of the transportation system, subject to Commission jurisdiction and regulation. The general powers and duties of the Commission guide how we regulate those services.[98] The Commission adopts this policy statement supporting transformation of the electric vehicle market through utility provision of regulated EV charging services.

99. There is no consensus on the "right" model to accomplish market transformation, and flexibility is essential at this early stage. The Commission adopts a portfolio approach to designing and evaluating utility EV charging service programs. This approach prioritizes load management and grid benefits over rate base additions. The Commission also adopts policies supporting consumer protection, direct benefits to low-income customers, service quality standards, regular and comprehensive reporting, interoperability, and education and outreach.

100. For DC Fast Charging, utilities should coordinate with statewide and local planning organizations to integrate information about utility grid capacity and needs into transportation planning efforts. The Commission stands ready to support and coordinate with WSDOT and other agencies to develop a methodology for prioritizing transportation electrification investments, and a comprehensive plan for transportation electrification.

DATED at Olympia, Washington, June 14, 2017.

DAVID W. DANNER, Chairman

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner

[98] RCW 80.01.040.