
Application of Rocky Mountain Power for Approval of its Electric Vehicle Infrastructure Program	<u>DOCKET NO. 20-035-34</u> <u>ORDER APPROVING SETTLEMENT STIPULATION</u>
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ISSUED: December 20, 2021

SYNOPSIS

The Public Service Commission (PSC) approves a Settlement Stipulation that resolves this docket.

1. INTRODUCTION

On August 27, 2020, Rocky Mountain Power (RMP) filed a Notice of Intent to File a Proposed Charging Infrastructure Program with the PSC, stating it planned to submit its program for approval on approximately December 31, 2020. RMP further indicated that it would hold an audio stakeholder meeting September 24, 2020 to seek input for its electrical vehicle (EV) charging infrastructure program (“EVIP”), pursuant to section 54-4-41(3) of the Utah Code, and requested the PSC issue a public notice to allow any additional persons to participate. RMP held a second audio stakeholder meeting June 29, 2021 seeking additional input.

2. PROCEDURAL HISTORY

On August 23, 2021, RMP filed its application and supporting testimony and exhibits (“Application”) setting forth its proposed EVIP.

On the same day, RMP also filed a Motion for Protective Order (“MPO”). On September 7, 2021, ChargePoint, Inc. (“ChargePoint”), Utah Clean Energy (UCE), and Western Resource Advocates (WRA) filed responses to the MPO, and on September 10, 2021, RMP filed its

Consolidated Reply in Support of its Motion for Protective Order. On September 14, 2021, the PSC issued its Scheduling Order and Notice of Hearing. On September 27, 2021, the PSC granted the MPO.

On October 19, 2021, ChargePoint, the Division of Public Utilities (DPU), EVgo Services, LLC (“EVgo”), the Office of Consumer Services (OCS), UCE, WRA, and Zeco Systems, Inc. d/b/a Greenlots (“Greenlots”) filed direct testimony.

On November 4, 2021, ChargePoint, DPU, EVgo, Greenlots, OCS, RMP, UCE, and WRA filed rebuttal Testimony.

On November 17, 2021, ChargePoint, EVgo, Greenlots, and WRA filed surrebuttal testimony, and RMP filed a Settlement Stipulation signed by DPU, Greenlots, OCS, RMP, UCE, and WRA (the “Settling Parties”), resolving all of the issues raised in the docket by the Settling Parties (the “Settlement”). In the Settlement, the Settling Parties represented that ChargePoint, EVgo, and Utah Association of Energy Users (“UAE”) neither joined nor opposed the Settlement.

On November 22, 2021, the PSC held a hearing during which the Settling Parties provided testimony supporting the Settlement, and ChargePoint and EVgo provided testimony explaining the reasons they neither opposed nor joined the Settlement. UAE did not attend the hearing.

3. THE APPLICATION

In the Application, RMP requested authority to:

- A. Implement the EVIP described in the Transportation Plan, attached to the Application as Exhibit RMP ___ (JAC-1) (the “EVIP Plan”), pursuant to Utah Code section 54-4-41(2);

- B. Implement, beginning January 1, 2022, a new Electric Service Schedule No. 198 – Electric Vehicle Infrastructure Program Cost Adjustment (“Schedule 198”) through which RMP will collect \$5 million per year for ten years from its customers, with percentage increases applied to the Power Charge, Energy Charge, Facilities Charge, Back-Up Power Charge, Excess Power Charge, Daily Power Charge, and Voltage Discount (all terms as defined in proposed Schedule 198);
- C. Implement, beginning January 1, 2022, Electric Service Schedule No. 60 – Company Operated Electric Vehicle Charging Station Service (“Schedule 60”), which lists prices and details for the charging service;¹
- D. Establish a balancing account, under Schedule 198 for the revenues collected under Schedules 198 and 60, plus a carrying charge, which RMP will use to fund its investments in the RMP-owned Charging Stations (as defined in our Order below), the Make Ready Infrastructure (as defined in our Order below), and the operation of the EVIP (“EVIP balancing account”), consistent with Utah Code section 54-4-41(6);
- E. Extend Electric Service Schedule No. 2E – Residential Service – Electric Vehicle Time-of-Use Pilot Option – Temporary (“Schedule 2E”) from its current termination date of January 1, 2022 to June 30, 2022; and

¹ According to RMP’s proposed Schedule 60, RMP customers would pay \$0.15 per kWh for DC fast charging, \$0.08 per kWh for Level 2 charging, with an off-peak credit for both of -\$0.05 per kWh. Non-RMP customers would pay \$0.40 per kWh for DC fast charging, \$0.08 per kWh for Level 2 charging, with an off-peak credit for both of -\$0.05 per kWh. RMP proposed to gradually transition from these prices to cost of service in year six of the EVIP through year ten.

F. Extend Electric Service Schedule No. 120 – Plug-in Electric Vehicle Incentive Program (“Schedule 120”) from its current termination date of January 1, 2022 until the duration of the EVIP.

DPU, OCS, and the intervenors raised numerous concerns with the Application and RMP’s originally-proposed EVIP in their written testimony. Subsequently, the Settling Parties resolved their differences and filed the Settlement we describe below and which is unopposed.

4. THE SETTLEMENT

The Settlement states it resolves all of the Settling Parties’ issues in the docket including the allocation of the funding of the EVIP, the duration and operation of the relevant schedules, and the charges for EV charging service under Schedule 60 (RMP-owned EV charging service). The Settlement also provides for an annual report to the Legislature’s Public Utilities, Energy, and Technology Interim Committee and the PSC for the duration of the EVIP, and for a mid-year stakeholder meeting.² The Settlement includes as attachments the proposed tariffs that will implement the EVIP.

Key Settlement Provisions

(1) RMP-owned Charging Stations. RMP will issue a request for proposals to select and operate the charging stations. RMP has identified 20 communities as potential sites and final locations will be selected after completion of the RFP. RMP will require open standards and interoperability for the stations.

² November 22, 2021 Hr’g Tr., at 16.

- (2) Make Ready Infrastructure. RMP will provide funding for customers to invest in Make Ready Infrastructure, and will provide an application process and related deadlines for customers to seek Make Ready Infrastructure investments.
- (3) Innovative Projects/Partnerships. RMP will participate in studies and projects led by several state and federal agencies and academic institutions related to EV research and technology.
- (4) Incentives. RMP will continue, at current levels, the incentives that are offered through Schedule 120 for qualifying customers to cover a portion of the cost of charging equipment.

With respect to the proposed tariffs:

- (1) Schedule 2E. Schedule 2E (EV Time of Use tariff) will not terminate but will continue to be effective until the PSC replaces or discontinues it after further evaluation in a separate PSC docket. RMP agrees to initiate such docket immediately after the issuance of our Order in this docket. Once Schedule 2E is extended or permanently replaced, the Settling Parties agree to condition participation in Schedule 120 with participation in Schedule 2E.
- (2) Schedule 60. The rates to be charged under Schedule 60 (RMP-owned EV charging service tariff) for **RMP customers** will be: \$0.27 per kWh for DC fast charging, \$0.08 per kWh for Level 2 charging, with a -\$0.05 per kWh off-peak credit for both DC fast charging and Level 2 charging; and for **non-RMP customers**: \$0.45 per kWh for DC fast charging, \$0.08 per kWh for Level 2 charging, with a -\$0.05 per kWh off-peak credit for both DC and Level 2 charging. Both RMP and non-RMP customers will also pay a \$1.00

session fee. In addition, the Settling Parties agree to transition from these charges to cost of service beginning in year 3 of the EVIP, the timing of the transition to be determined after further review of the EVIP.

- (3) Schedule 198. RMP will collect \$5 million annually from RMP customers for ten years through Schedule 198. The costs will be spread to customer classes as an equal percentage of total base revenues.
- (4) Revenues collected from Schedule 60 will be allocated 33 percent to RMP customers through RMP's energy balancing account, and 67 percent to fund the EVIP balancing account under Schedule 198.
- (5) Revenues collected from Schedule 198 will be allocated, net of applicable carrying charges toward: (a) capital expenditures (approximately 45 percent for RMP-owned Charging Stations, approximately 45 percent for Make Ready Infrastructure investments, and approximately 10 percent for innovative projects and partnerships), and (b) EVIP expenses, including expenses related to the administration, operation and maintenance of the EVIP, and Schedule 120 incentives.³

Testimony at Hearing

RMP witness James Campbell testified that “the elements of the EVIP, as agreed to by the parties in the [Settlement], satisfy the statutory requirement[s] for being in the public interest.”⁴ Mr. Campbell then provided an overview of the EVIP as agreed to by the Settling

³ Settlement, at ¶ 33.

⁴ November 22, 2021 Hr'g Tr., at 12-13.

Parties.⁵ He testified that “[RMP] believes the program, as provided in the [Settlement], will increase EV adoption in th[e] state”⁶ He further testified that “[RMP] believes the program, as provided in the [Settlement], will increase EV adoption in th[e] state, which will ultimately lead to a reduction in transportation sector emissions.”⁷

Mr. Campbell provided additional details about the Make Ready Infrastructure investments testifying that “[a]pplications for [M]ake [R]eady [I]nvestments will be evaluated and approved by [RMP] on a quarterly basis.”⁸ On incentives, Mr. Campbell testified that “[RMP] will require Smartware network chargers for a residential customer to receive an incentive, and [...] will ensure that incentive recipients are informed about best charging practices.”⁹ He further testified that “the EVIP has an education outreach component which includes . . . updating [RMP’s] website to provide information about the impact of different charging behavior on the system and holding a meeting with stakeholders to seek input before finalizing its education plan.”¹⁰

Regarding RMP’s proposed Schedule 198, Mr. Campbell testified that “[t]he costs of Schedule 198 will be spread to customer classes as an equal percentage of total base revenue, and [RMP] will establish a balancing account, the EVIP balancing account . . . for revenue[s] and expenses along with a carrying charge.”¹¹ Mr. Campbell testified that “after the program has been in effect for three years and for every three years thereafter for the duration of the program,

⁵ *Id.*, at 13.

⁶ *Id.*, at 17.

⁷ *Id.*, at 17.

⁸ *Id.*, at 14.

⁹ *Id.*, at 15.

¹⁰ *Id.*

¹¹ *Id.*

[RMP] will file for a program review with the [PSC].”¹² Finally, he testified that “[d]uring the program review, there will be an opportunity to evaluate the prudence of the investments being made, recommend changes to tariffs associated with the program, and adjust the allocation of expenditures among the other issues brought before the [PSC].” He concluded recommending that the PSC approve the Settlement.¹³

DPU witness David Williams testified that “... the program ... represents a reasonable compromise on the contested issues ...”¹⁴ and that “[DPU] believes that overall ... as detailed in the [S]ettlement ..., [it] meets requirements of Section 54-4-41 [of the Utah Code], is just and reasonable in result, and ... in the public interest.”¹⁵ Mr. Williams then requested “that the [PSC] approve the [Settlement] as filed.”¹⁶

OCS witness Alex Ware testified that “[o]f particular importance to the OCS are the terms in the [Settlement] that create a process to establish annual reporting requirements for the program as well as in-depth program reviews every three years.”¹⁷ Mr. Ware also testified that he found it “reasonable to include current Schedule 120 incentives as part of the program since there will be a full review, including of Schedule 120 after the third year of the program.”¹⁸ Finally, Mr. Ware “recommend[ed] that the [PSC] approve the [Settlement] ... as being just and reasonable in result and in the public interest.”¹⁹

¹² *Id.*, at 16.

¹³ *Id.*

¹⁴ *Id.*, at 24.

¹⁵ *Id.*, at 22.

¹⁶ *Id.*, at 24.

¹⁷ *Id.*, at 27.

¹⁸ *Id.*

¹⁹ *Id.*

UCE witness Thomas Kessinger testified that “[UCE] supports the [EVIP] with the inclusion of the terms outlined in the [S]ettlement”²⁰ Mr. Kessinger further testified that “[t]he EVIP is a crucial first step towards the electrification of our transportation sector ... [that] will bring widespread benefits to the majority of Utahns”²¹ ... [including] reduced air and noise pollution and tremendous cost savings when compared to owning and operating an internal combustion engine.”²² He further testified that “... [t]he EVIP strikes a balance between enabling competition and offering access to low-cost charging. Utah is still in the early days of EV adoption, and the EV charging market is underdeveloped in many ways.”²³ Finally, Mr. Kessinger testified that “U[CE] supports the EVIP with the inclusion of the terms in the [S]ettlement”²⁴

WRA witness Deborah Kapiloff testified that she “... [found] the [Settlement] to be just and reasonable in result”²⁵ She highlighted that the “[Settlement] includes a provision [that] require[es] [EVIP] review every three years, ... [and] that [i]n a field as rapidly changing as transportation electrification, pairing flexibility with oversight is a recipe for ensuring a program that can adapt to changing conditions and meet its goals.”²⁶ Ms. Kapiloff concluded saying that she supports the Settlement.²⁷

²⁰ *Id.*, at 30.

²¹ *Id.*

²² *Id.*

²³ *Id.*, at 33.

²⁴ *Id.*

²⁵ *Id.*, at 36.

²⁶ *Id.*

²⁷ *Id.*, at 37.

Finally, Greenlots witness Thomas Ashley testified that “[Greenlots] look[s] forward to the advancement of the market that the EVIP, including the [Settlement], is likely to achieve. And [it] look[s] forward to future engagement with [the PSC].”²⁸

While the non-settling parties raised several issues in written testimony, they raised no opposition to the Settlement at hearing, testifying instead that they did not oppose it.²⁹

5. DISCUSSION, FINDINGS OF FACT, AND CONCLUSIONS OF LAW

a. Settlements of Matters Before the PSC

As set forth in Utah Code Ann. § 54-7-1, settlements of matters before the PSC are encouraged at any stage of a proceeding. The PSC may adopt a settlement after considering the interests of the public and other affected persons, if the PSC finds the settlement is in the public interest. We have considered the evidence presented in this matter in light of this standard.

b. Recovery of investment in utility-owned vehicle charging infrastructure.

Utah Code Title 54, Chapter 4, Part 41 (“EV Infrastructure/Charging Service law”) requires the PSC to authorize a large-scale electric utility program that (1) allows for funding from the utility’s customers for a maximum of \$50 million for all costs and expenses associated with the deployment of utility-owned EV charging infrastructure, and EV charging service from the electric utility, (2) creates a new customer class with an EV charging service rate structure the PSC determines is in the public interest, is transitional and expected to allow the recovery, through charges, of the electric utility’s full cost of service for utility-owned EV infrastructure

²⁸ *Id.*, at 40.

²⁹ *See e.g.*, ChargePoint witness hearing testimony, Thomas Ashley, stating that “... through settlement negotiations, ... there was some progress made from the original filing ... [.]” Hr’g Tr., at 42, and EVgo witness Sara Rafalson testifying that EVgo “did not oppose the [Settlement].” Hr’g Tr., at 48.

and EV charging service over a reasonable timeframe. The EV Infrastructure/Charging Service law allows the utility to charge different rates for electric utility customers to reflect contributions to investment. *Id.*, at § 54-4-41(2)(b)(iii). It also requires the program to include a transportation plan that promotes the deployment of utility-owned EV infrastructure, and the availability of utility EV charging service. *Id.*, at § 54-4-41(2)(c).

In addition, the EV Infrastructure/Charging Service law requires the utility to seek and consider input from DPU, OCS, the Division of Air Quality, the Utah Department of Transportation (UDOT), the Governor's Office of Economic Opportunity and the Office of Energy Development (OED), the board of the Utah Inland Port Authority, representatives of the Point of the Mountain State Land Development Authority, third-party EV battery charging service operators, and any other person who files a request for notice with the PSC. *Id.*, at § 54-4-41(3)(a)-(j).

Finally, in approving a program under the EV Infrastructure/Charging Service law, the PSC must find that it is in the public interest.³⁰

In specific consideration of the requirements of the EV Infrastructure/Charging Service law, the PSC finds that RMP met the initial requirement that the electric utility must consider input from a variety of different stakeholders in developing a program. Mr. Campbell testified at

³⁰ We must find that the program: (a) increases the availability of EV battery charging service in Utah; (b) enables significant deployment of infrastructure that supports EV battery charging service and utility-owned vehicle charging infrastructure in a manner reasonably expected to increase EV adoption; (c) includes an evaluation of investments in the areas of the authority jurisdictional land, as defined in Section 11-58-102 of the Utah Code, and the point of the mountain state land, as defined in Section 11-59-102 of the Utah Code; (d) enables competition, innovation, and customer choice in EV battery charging services, while promoting low-cost services for EV battery charging customers; and (e) provides for ongoing coordination with the Department of Transportation, created in Section 72-1-201 of the Utah Code. *Id.*, at § 54-4-41(4)(a)-(e).

hearing that RMP considered the named stakeholders for their input.³¹ The evidence also supports our finding that the EVIP includes the required elements of a program that the PSC must authorize under the EV Infrastructure/Charging Service law.³² In addition, in written testimony RMP provided supporting evidence for each of the public interest criteria required under the EV Infrastructure/Charging Service law.³³

Having reviewed the Application, the written testimony, the testimony provided at hearing, and in the absence of any opposition to the Settlement, the evidence supports our finding that the Settlement is just and reasonable, and in the public interest. Similarly, the evidence supports our finding that the EVIP, as modified by the Settlement, is just and reasonable and meets the public interest standard in the EV Infrastructure/Charging Service law.

³¹ Hr’g Tr., at 11-12. For example, Mr. Campbell testified that in developing the EVIP, RMP met with each of the representatives of the agencies named in Section 54-4-41(3) of the Utah Code.

³² See Direct testimony of James Campbell, RMP Exhibit JAC-1.

³³ For example, the EVIP meets the public interest criteria (a) since RMP plans to initially install chargers at between 20-25 locations. Direct Testimony of J. Campbell, lines 254-255. The EVIP will also enable the significant deployment of infrastructure, through RMP-owned chargers, Make Ready Infrastructure investments, and customer incentives, consistent with criteria (b). *Id.*, at lines 261-264. See also, RMP Exhibit JAC-5. In regard to criteria (c), RMP is evaluating potential investments at the Utah Inland Port (“UIP”) and Point of the Mountain (“the Point”) developments, consistent with Cooperation Agreements with both UIP Authority and the Point which requires all parties thereunder to coordinate and cooperate on developing EV infrastructure within certain areas. *Id.*, at lines 282-286. Regarding criteria (d), RMP is expanding the availability of charging stations throughout the state of Utah. The EVIP promotes low-cost services as reflected in the pricing for charging services, in particular for RMP customers, and enables expanded competition and customer choice because it allows non-RMP charging operators to be eligible for incentives and Make Ready Infrastructure investments. It also promotes innovation through the partnerships and engagement with EV technology experts like Utah State University, the University of Utah, the DOE, Utah Transportation Authority, OED, and others. *Id.*, at lines 292-306. Finally, with respect to criteria (e), RMP has continued to engage with UDOT to coordinate on the development of a statewide EV charging network plan. *Id.*, at lines 307-309.

6. ORDER

Based on the findings of fact and conclusions of law we reference above, we approve the Settlement, as filed. We direct RMP to file appropriate tariffs in compliance with the Settlement and this Order.

DATED at Salt Lake City, Utah, December 20, 2021.

/s/ Thad LeVar, Chair

/s/ David R. Clark, Commissioner

/s/ Ron Allen, Commissioner

Attest:

/s/ Gary L. Widerburg
PSC Secretary
DW#321570

Notice of Opportunity for Agency Review or Rehearing

Pursuant to Utah Code Ann. §§ 63G-4-301 and 54-7-15, a party may seek agency review or rehearing of this written order by filing a request for review or rehearing with the PSC within 30 days after the issuance of the order. Responses to a request for agency review or rehearing must be filed within 15 days of the filing of the request for review or rehearing. If the PSC fails to grant a request for review or rehearing within 30 days after the filing of a request for review or rehearing, it is deemed denied. Judicial review of the PSC's final agency action may be obtained by filing a Petition for Review with the Utah Supreme Court within 30 days after final agency action. Any Petition for Review must comply with the requirements of Utah Code Ann. §§ 63G-4-401, 63G-4-403, and the Utah Rules of Appellate Procedure.

CERTIFICATE OF SERVICE

I CERTIFY that on December 20, 2021, a true and correct copy of the foregoing was served upon the following as indicated below:

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DOCKET NO. 20-035-34

- 15 -

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