

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



**FILED**

8-07-17  
04:59 PM

Application of Liberty Utilities (CalPeco Electric) LLC (U 933 E) for Approval of its 2017 Transportation Electrification Proposals.

Application 17-06-033  
(Filed June 30, 2017)

**PROTEST OF  
THE OFFICE OF RATEPAYER ADVOCATES TO THE APPLICATION OF  
LIBERTY UTILITIES (CALPECO ELECTRIC) LLC (U 933 E) FOR APPROVAL  
OF ITS 2017 TRANSPORTATION ELECTRIFICATION PROPOSALS**

**TOVAH TRIMMING**  
Attorney

Office of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-3309  
Email: [Tovah.Trimming@cpuc.ca.gov](mailto:Tovah.Trimming@cpuc.ca.gov)

**MATTHEW YUNGE, PE**  
Utilities Engineer

Office of Ratepayer Advocates  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Phone: (415) 703-1667  
Email: [Matthew.Yunge@cpuc.ca.gov](mailto:Matthew.Yunge@cpuc.ca.gov)

August 7, 2017

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Application of Liberty Utilities (CalPeco Electric) LLC (U 933 E) for Approval of its 2017 Transportation Electrification Proposals.

Application 17-06-033  
(Filed June 30, 2017)

**PROTEST OF  
THE OFFICE OF RATEPAYER ADVOCATES TO THE APPLICATION OF  
LIBERTY UTILITIES (CALPECO ELECTRIC) LLC (U 933 E) FOR APPROVAL  
OF ITS 2017 TRANSPORTATION ELECTRIFICATION PROPOSALS**

**I. INTRODUCTION**

Pursuant to Rule 2.6 of the California Public Utilities Commission’s Rules of Practice and Procedure, the Office of Ratepayer Advocates (“ORA”) protests Liberty Utilities’ (“Liberty”) Application (“A.”) 17-01-020, which seeks Commission authorization to establish and implement four “priority review” projects to accelerate transportation electrification (“TE”) and one “standard review”<sup>1</sup> TE program to own, install, build, and operate charging stations at a Tahoe Transportation District (“TTD”) site to enable overnight charging for electric vehicle (“EV”) buses. Liberty seeks approximately \$6 million in capital expenditure and \$0.2 million in operations and maintenance expense for all proposals.

Liberty’s Application was filed on June 30, 2017 and it appeared on the Commission’s Daily Calendar on July 7, 2017. This protest is timely filed pursuant to Rule 2.6.

**II. BACKGROUND**

On September 14, 2016, the Assigned Commissioner’s Ruling Regarding the Filing of the Transportation Electrification Applications Pursuant to Senate Bill 350 (“ACR”) required each of the three smaller electrical corporations, Liberty, Bear Valley Electric, and PacifiCorp, to

---

<sup>1</sup> The September 14, 2016 Assigned Commission’s Ruling in Rulemaking (“R.”)13-11-007 set forth guidelines for priority review projects, including that the projects be non-controversial in nature, limited to no more than \$4 million, and be less than one year in duration. ACR, pp. 31-32. All other proposed projects that do not meet these criteria will be reviewed using the normal timelines for application review and are standard review projects. *Id.* at 32.

file their first TE applications by June 30, 2017.<sup>2</sup> Each utility timely submitted its TE application to the California Public Utilities Commission (“CPUC” or “Commission”).

The ACR outlined the minimum statutory requirements for the applications, including the TE provisions of Senate Bill (“SB”) 350<sup>3</sup> and sections of the California Public Utilities Code defining ratepayer interest.<sup>4</sup> The ACR also listed regulatory requirements such as addressing the multiple goals of widespread TE, seeking to leverage non-utility funding, and providing anonymous and aggregated data for evaluation, among others.<sup>5</sup> Additionally, the ACR provided guidelines for priority review projects.<sup>6</sup> ORA evaluated Liberty’s Application within this framework and, more broadly, for the reasonableness of Liberty’s requests.

In its Application, Liberty requests to implement the following programs:

Priority Review Programs

1. Direct Current Fast Charger (“DCFC”) Project
2. Residential Charger Installation Rebate Program
3. Small Business Charger Installation Rebate Program
4. Customer Online Resource Project

Standard Review Program

1. EV Bus Infrastructure Program

### III. SUMMARY OF ORA’S PROTEST

ORA identified the following issues regarding Liberty’s TE proposals:

- Since Liberty has no guarantee that the TTD will procure two EV buses in 3 to 4 years, approval of the EV Bus Infrastructure Program in this proceeding may be premature;
- Liberty’s proposal to own and operate charging stations for its DCFC Project and EV Bus Infrastructure Program requires further evaluation to determine whether utility ownership of charging stations is acceptable based on a case-specific analysis;
- Liberty’s proposed rebate for the Residential Charger Installation Rebate Program of \$1000 to offset the costs of hardware, permitting and installation may be unnecessarily high;

---

<sup>2</sup> ACR, p. 2.

<sup>3</sup> Senate Bill 350 (De León, 2015) Chapter 547, Statutes of 2015.

<sup>4</sup> Pub. Util. Code § 740.3 and § 740.8.

<sup>5</sup> ACR, pp. 15-16.

<sup>6</sup> ACR, pp. 31-33.

- Liberty’s proposed rebate for the Small Business Charger Installation Rebate Program of \$2500 to offset the costs of hardware, permitting and installation may be unnecessarily high;
- Liberty should evaluate whether disadvantaged communities as defined by CalEnviroScreen should be targeted for its proposed programs;
- The Residential Charger Installation Rebate Program may encourage free ridership because there is no requirement that participants demonstrate they recently purchased an electric vehicle;
- Liberty should clarify whether it is seeking a one-way or two-way balancing account, and should only be authorized to establish a one-way balancing account;
- Liberty’s request to treat rebates as regulatory assets, included in rate base, may not be appropriate in light of Liberty’s TE portfolio request.

#### IV. DISCUSSION

##### A. **Liberty’s request for approval of a TE program for EV buses may be premature since it may not be implemented for 3 to 4 years from now.**

Liberty requests one standard review program in its application, which is an EV Bus Infrastructure Program. For this long-term program, Liberty proposes to install, build, own, and operate charging stations at a TTD site to enable overnight charging for EV buses.<sup>7</sup> However, Liberty explains that TTD does not intend to purchase EV buses for 3 to 4 years and, therefore, this project “is not expected to be undertaken for at least 3 to 4 years in the future.”<sup>8</sup>

ORA agrees that public transit buses are a prudent and viable segment to target due to the “sector’s maturity in terms of commercial availability of vehicles, external funding sources for vehicle purchases and charging infrastructure, and EV adoption”.<sup>9</sup> However, ORA is concerned that there is no firm commitment from TTD to purchase EV buses and that the project may not be implemented for 3 to 4 years. The costs of charging stations and potential nonutility funding sources for charging stations may change in the next 3 to 4 years. Thus, cost estimates and the need for ratepayer funding for this program also may change. Furthermore, litigating this program now may unnecessarily require the parties’ and the Commission’s resources since the scope, funding sources, and costs may change over time. In addition, the viability of the program will change if TDD does not acquire the EV buses as expected.

---

<sup>7</sup> Liberty Application, p. 4.

<sup>8</sup> Liberty Testimony, pp. 14-15, 16.

<sup>9</sup> See PG&E Testimony, p. 2-3 (A.17-01-022; filed Jan. 20, 2017).

**B. Liberty’s request to own the charging stations for its DCFC Project and EV Bus Infrastructure Program needs to be further evaluated to ensure it does not have anticompetitive impacts.**

Liberty proposes to own the charging stations for both its DCFC Project and its EV Bus Infrastructure Program.<sup>10</sup> Although the Commission suspended the prohibition on utility ownership of EV charging infrastructure in Decision (“D.”)14-12-079, the Commission must still evaluate whether the proposal satisfies the balancing test set forth in D.14-12-079, which adopts a case-specific approach.<sup>11</sup> Liberty’s Application and Testimony do not provide this analysis. Thus, it will be necessary to “weigh[] the benefits of utility ownership of the EV charging infrastructure against the competitive limitation that may result from that ownership” in this proceeding before approving Liberty’s proposed ownership of charging stations.<sup>12</sup>

**C. Liberty’s proposed rebates for the Residential Charger Installation Rebate Program and Small Business Charger Installation Rebate Program may be too high.**

Liberty proposes to provide rebates of \$1000 and \$2500 to participating customers to offset the costs of hardware, permitting, and installation for its Residential Charger Installation Rebate Program and Small Business Charger Installation Rebate Program, respectively.<sup>13</sup> For the Residential Charger Installation Rebate Program, Liberty also proposes to reserve 100 of the 1,000 potential rebates for CARE customers.<sup>14</sup>

Parties should have the opportunity to conduct discovery to assess the reasonableness of Liberty’s cost assumptions used to select the rebate amounts. Furthermore, it is unclear why CARE and non-CARE customers would receive the same \$1000 rebate under the Residential Charger Installation Rebate Program since these customers may have significantly different abilities to pay for the items covered by the rebate. In other words, the rebate may be too high for non-CARE customers or too low for CARE customers. In addition, Liberty should provide further details about the scope of what is meant by “hardware” and the type of charger(s) (Level

---

<sup>10</sup> Liberty Testimony, pp. 8, 15.

<sup>11</sup> D.14-12-079, pp. 8-9.

<sup>12</sup> See D.16-01-045, pp. 103-104.

<sup>13</sup> Liberty Testimony, pp. 9, 11.

<sup>14</sup> Liberty Testimony, p. 9.

1 (“L1”), Level 2 (“L2”), or DCFC charging stations) that would be eligible under the program. These program details should be clarified and evaluated prior to approval of these rebate programs.

**D. Liberty should evaluate whether disadvantaged communities as defined by CalEnviroScreen should be targeted for its proposed programs.**

Liberty’s proposed programs do not discuss or target disadvantaged communities (“DACs”) as defined by the California Environmental Protection Agency’s CalEnviroScreen. Although Liberty’s Residential Charger Installation Rebate Program proposes to reserve 100 of the 1,000 potential rebates for low income customers who participate in the California Alternative Rates for Energy (“CARE”) program, DACs are not targeted for Liberty’s rebate program and/or other proposed TE programs.<sup>15</sup> The Commission should evaluate whether there should be funds set aside for DACs and if so, direct Liberty to present proposal(s) and invite stakeholders to provide input on the kinds of programs that should be developed.

**E. The eligibility requirements to receive rebates under the Residential Charger Installation Rebate Program should be modified to limit free riders.**

The eligibility requirements for the Residential Charger Installation Rebate Program require a customer to provide proof of purchase of a plug-in EV.<sup>16</sup> However, there is no time period identified for when the eligible EV must be purchased.

If the program does not require a recent EV purchase, it may be inconsistent with the goals of Senate Bill (“SB”) 350 and encourage free ridership. SB 350 requires the Commission, in consultation with California Air Resources Board (“CARB”), and the California Energy Commission (“CEC”), to “direct electric corporations to file applications for programs and investments to accelerate widespread transportation electrification. . . .”<sup>17</sup> To this end, proposed TE programs should be designed to encourage EV adoption, not merely subsidize EVSEs for existing EV owners. In the context of a rebate for charging stations and the associated installation costs, the rebate should promote adoption of EVs by customers who would not

---

<sup>15</sup> Liberty Testimony, p. 9.

<sup>16</sup> Liberty Testimony, p. 9.

<sup>17</sup> Cal. Pub. Util. Code § 740.12(b) (emphasis added).

otherwise purchase an EV. Thus, to encourage new EV adoption, the rebate should be available only to customers who recently purchased EVs. Parties should have the opportunity to evaluate the program design and help determine program eligibility to limit free ridership.

**F. Implementation issues concerning the terms of the rebates should be addressed.**

Liberty proposes that the terms for the residential and small business rebate programs require that the customer agree to participate in the project for 10 years.<sup>18</sup> ORA notes that it is unclear what action would be taken if participating residential customers were to sell their home or if a small business were to fail or relocate during that 10 year period. These important program implementation details should be considered before Commission approval of Liberty's proposed TE programs.

**G. Liberty should clarify the type of cost recovery mechanism it seeks for its TE projects.**

Liberty seeks a Transportation Electrification Balancing Account ("TEBA") to record cost incurred in 2018 and 2017.<sup>19</sup> Beyond 2018, Liberty proposes to recover costs in its 2019 General Rate Case ("GRC").<sup>20</sup> Liberty does not state whether the TEBA would be one-way or two-way balancing account or how the costs would be treated in its GRC. Liberty should provide more detailed information on its proposed cost recovery mechanism. A one-way balancing account with a cap may be appropriate to ensure prudent investment of ratepayer funds on the proposed TE projects.

**H. Liberty's request to treat rebates as regulatory assets may not be appropriate in light of Liberty's TE portfolio request.**

Liberty requests to treat the rebates for its Residential and Small Business Charger Installation Rebate Programs as regulatory assets and receive a rate of return amortized over the 10-year expected life of the charging station.<sup>21</sup>

ORA is concerned with Liberty's proposal to treat rebates as regulatory assets. Although the ACR encourages the utilities to "propose in their TE applications creative solutions to how

---

<sup>18</sup> Liberty Testimony, pp. 9, 12.

<sup>19</sup> Liberty Testimony, p. 16.

<sup>20</sup> Liberty Testimony, p. 16.

<sup>21</sup> Liberty Testimony, p. 17.

the utility can be incentivized for undertaking TE projects and investments”,<sup>22</sup> rate-basing rebates may not be appropriate where the utility’s TE application also includes significant capital investment.

In addition, the Decision cited by Liberty to support its request is easily distinguished based on the facts in that matter. Liberty cites a Decision where the Commission concluded that costs for nonutility infrastructure at mobile home parks could be treated as a regulatory asset.<sup>23</sup> However, unlike the TE programs in this application, in that Decision, the Commission was responding to a customer class that lacked direct energy service from the utility.<sup>24</sup> Liberty’s proposed treatment of rebates has no relation to either construction costs nor is the deployment of electric vehicle supply equipment (“EVSE”) tied to a lack of direct electric service. Additionally, Liberty is proposing to own 5 to 9 dual-port DCFC charging clusters and charging stations at TTD sites. Thus, Liberty already will be able to rate base certain capital investments if these projects are approved.

Further, there are other ways that a utility can be incentivized to administer a rebate program other than treating rebates as regulatory assets. ORA recommends that the Commission thoroughly evaluate alternatives to rate basing rebates that properly incentive the utility while minimizing costs to ratepayers before approving or rejecting Liberty’s request.

## **V. PROCEDURAL ISSUES**

### **A. Category**

ORA agrees with Liberty that this proceeding should be categorized as rate setting.

### **B. Need For Hearings**

ORA does not anticipate hearings will be needed for the priority or standard review projects. However, ORA recommends reserving dates for hearings in the event that material issues of facts are raised in testimony.

ORA also recommends that this proceeding be consolidated with the TE applications of PacifiCorp (A. 17-06-031) and Bear Valley (A.17-06-034). ORA’s proposed deadlines for prepared and rebuttal testimony, and opening and reply briefs for each application are slightly staggered in consideration that some parties may have only one attorney and analyst assigned to

---

<sup>22</sup> ACR, p. 31.

<sup>23</sup> D. 14-03-021, p. 3.

<sup>24</sup> D. 14-03-021, p. 2.



the applications. Also, in consideration for those organizations that are parties to all three proceedings and may have to travel to participate in hearings, ORA proposes that the same time period, the week of January 8<sup>th</sup> and/or the week of January 15<sup>th</sup>, be reserved for evidentiary hearings for all three applications.

**C. ORA’s Proposed Schedule**

Liberty provided a proposed schedule in its Application, with significant dates including a Proposed Decision as early as third quarter of 2018. Due to the small scope and costs associated with both the priority review and standard review projects, ORA recommends addressing all of Liberty’s proposals in applicable filings instead of addressing priority review projects in a Phase 1 and the standard review project in a Phase 2 as was done in A.17-01-020 et al. (consolidated TE applications of San Diego Gas & Electric, Pacific Gas and Electric Company, and Southern California Edison). ORA therefore proposes the below schedule.

**Table 1 – ORA’s Proposed Schedule**

<b>Event</b>	<b>Date</b>
Application Filed	June 30, 2017
Protests	August 7, 2017
Applicant Reply to Protests	August 17, 2017
PHC	September 7, 2017
Scoping Memo and Ruling	September 21, 2017
Prepared Testimony	October 27, 2017
Rebuttal Testimony	November 17, 2017
Evidentiary Hearings if Necessary	January 8 to 19, 2018 as needed
Opening Briefs	February 19, 2018
Reply Briefs	March 12, 2018
Proposed Decision; Opening and Reply Comments on Proposed Decision; Final Decision	3rd Quarter 2018

**VI. CONCLUSION**

ORA respectfully requests that:

1. The scope of this proceeding includes, but not be limited to, the issues identified in this protest;

2. The Commission establish a reasonable schedule similar to ORA's recommended schedule; and
3. This proceeding should be categorized as ratesetting.

Respectfully submitted,

/s/ TOVAH TRIMMING

TOVAH TRIMMING  
Attorney  
Office of Ratepayer Advocates

California Public Utilities Commission  
505 Van Ness Avenue  
Tel: (415) 703-3309  
E-mail: vah.Trimming@cpuc.ca.gov

August 7, 2017