

LOUISIANA PUBLIC SERVICE COMMISSION

GENERAL ORDER NUMBER 03-19-2025 (R-36131)

LOUISIANA PUBLIC SERVICE COMMISSION, EX PARTE.

Docket No. R-36131, In re: Determination of Commission Jurisdiction Over the Various Methods of Providing Electricity to Electric Vehicles, and the Infrastructure Associated Therewith.

(Decided at the February 19, 2025 Business and Executive Session.)

ORDER

Background

The Louisiana Public Service Commission (“LPSC” or “Commission”) Staff filed a Notice of Proceeding to open this rulemaking pursuant to an unopposed directive issued at the Commission’s July 14, 2021 Business and Executive Session, which directed Staff to:

... open a rulemaking proceeding to determine the Commission’s jurisdiction over electric vehicle charging stations or any other method of providing electricity to electric vehicles and whether a non-jurisdictional entity that owns and/or operates a charging station is subject to the Commission’s jurisdiction.

Notice of this docket was published in the Commission’s Official Bulletin #1252 dated August 20, 2021. Interventions, timely or otherwise, were received from the following: the Alliance for Affordable Energy (the “Alliance”), the Alliance for Transportation Electrification (“ATE”), Americans for Affordable Clean Energy (“AACE”), the Association of Louisiana Electric Cooperatives, Inc. (“ALEC”), ChargePoint, Inc. (“ChargePoint”), Cleco Power LLC (“Cleco Power”), Entergy Louisiana, LLC (“ELL”), the Gulf States Renewable Energy Industries Association (“GSREIA”), the Louisiana Energy Users Group (“LEUG”), Lafayette Utilities System (“LUS”), Pointe Coupee Electric Membership Corporation (“PC Electric”), Southwestern Electric Power Company (“SWEPCO”), Tesla, Inc. (“Tesla”), the Louisiana Automobile Dealers Association (“LADA”), and Walmart Inc. (“Walmart”). Interested Party status was requested by Brandea Averett, an Attorney with the Policy Service Division of the Louisiana Department of Revenue.

At its April 26, 2023 Business and Executive Session, the Commission adopted the Staff’s Phase I Final Recommendation, with certain modifications. Staff’s Phase I Final Recommendation recommended that the Commission adopt the definition of Electric Vehicle (“EV”) Charging Station as defined therein, and decline, at the present time, to exert jurisdiction over EV Charging Stations based upon the Commission’s adopted definition. The Final Recommendation also

initiated a Phase II review of other issues surrounding EV Charging Stations. Subsequently, General Order dated May 24, 2023 was issued memorializing the Commission’s adoption of the Staff’s Phase I Final Recommendation.

On July 26, 2024, Staff issued its Final Phase II Recommendation, which was accepted by the Commission at its August 14, 2024 B&E, and was memorialized in General Order dated September 10, 2024 (CORRECTED) (the “EV General Order”). On September 20, 2024, ELL, Cleco Power, and SWEPCO (collectively, the “IOUs”) filed a Joint Motion for Clarification or Reconsideration of General Order R-36131 (CORRECTED). The IOUs’ Joint Motion for Clarification or Reconsideration of General Order R-36131 (CORRECTED) was granted at the Commission’s October 16, 2024 Business and Executive Session.

On December 27, 2024, Staff filed the Proposed Recommendation on Remand and Request for Comment. Responsive comments were received from the following parties: ATE; AACE; and ELL, Cleco Power, and SWEPCO filing jointly. After considering the comments filed in response to the Proposed Recommendation on Remand and Request for Comment, Staff filed the Final Recommendation on Remand on February 7, 2025. On February 17, 2025, AACE filed its Correspondence Requesting Amendment to Language. This matter was considered at the Commission’s February 19, 2025 Business and Executive Session.

Jurisdiction

The Commission exercises jurisdiction in this proceeding pursuant to Article IV, Section 21 of the Louisiana Constitution and La. R.S. 45:1163(A)(1).

Article IV, Section 21 of the Louisiana Constitution provides in pertinent part:

The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.

La. R.S. 45:1163 provides in pertinent part:

A.(1) The Commission shall exercise all necessary power and authority over any street railway, gas electric light, heat, power waterworks, or other local public utility for the purpose of fixing and regulating the rates charged or to be charged by and service furnished by such public utilities.

Discussion

Staff's Final Recommendation filed on February 7, 2025 recommended that the Commission adopt several technical amendments, as well as the following substantive amendments: an amendment to remove a superfluous provision from the definition of EV Charging Station in Section 101 of the ordering provisions; a clarification to Section 601 regarding the circumstances under which an LPSC-regulated electric public utility can request an exemption from the prohibition on owning, leasing, operating, or controlling EV Charging Stations; and, a clarification to Section 801 of the ordering provisions regarding the application of the General Order dated 09-19-2019 (R-33929) Corrected (the "Net Metering Rules") to EV Charging Stations, and the circumstances under which such EV Charging Stations may seek to pursue on-site generation to furnish electricity to the public for compensation to charge electric vehicles.

In its Correspondence Requesting Amendment to Language filed on February 17, 2025, AACE recommended removing the phrase "the Net Metering Rules" from the second sentence of Section 801 of the ordering provisions.

Commission Action

This matter was considered at the Commission's February 19, 2025 Business and Executive Session. Chairman Francis made the following motion:

I move we approve the Staff recommendation with the following amendment; to delete from the second sentence of the proposed new Section 801 the words – "the Net Metering Rules."

On motion of Chairman Francis, seconded by Commissioner Lewis, and unanimously adopted, the Commission voted to adopt the Final Recommendation on Remand filed into the record on February 7, 2025, subject to Chairman Francis' amendment.

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IT IS THEREFORE ORDERED THAT:

- 1) Staff's Final Recommendation on Remand filed into the record on February 7, 2025 is adopted, with the following amendment: the words "the Net Metering Rules" are deleted from the second sentence of the proposed new Section 801; and,
- 2) This order is effective immediately.

BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA
March 19, 2025



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BRANDON M. FREY
SECRETARY

A handwritten signature in blue ink, appearing to read "Mike Francis".

DISTRICT IV
CHAIRMAN MIKE FRANCISA handwritten signature in blue ink, appearing to read "Eric F. Skrmetta".

DISTRICT I
VICE CHAIRMAN ERIC F. SKRMETTAA handwritten signature in black ink, appearing to read "Foster L. Campbell".

DISTRICT V
COMMISSIONER FOSTER L. CAMPBELLA handwritten signature in blue ink, appearing to read "Davante Lewis".

DISTRICT III
COMMISSIONER DAVANTE LEWISA handwritten signature in blue ink, appearing to read "Jean-Paul P. Coussan".

DISTRICT II
COMMISSIONER JEAN-PAUL P. COUSSAN

ATTACHMENT A

RULES REGARDING ELECTRIC VEHICLE CHARGING STATIONS

LOUISIANA PUBLIC SERVICE COMMISSION RULES REGARDING ELECTRIC VEHICLE CHARGING STATIONS

PURPOSE

The Louisiana Public Service Commission (“Commission” or “LPSC”) hereby promulgates the following rules (the “Rules”) regarding its jurisdiction over electric vehicle charging stations, as defined herein. Further, these Rules also provide the regulatory requirements for ancillary issues arising from the interaction of regulated electric public utilities and electric vehicle charging stations or electric vehicle charging equipment.

AUTHORITY

Article IV, Section 21 of the Louisiana Constitution of 1974 provides the Commission with the following authority:

B. **Powers and Duties.** The Commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by Law. It shall adopt and enforce reasonable rules, regulations and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by Law.

Consistent with the above authority, the Commission has adopted rules and regulations that apply to utilities in general, and in some instances electric public utilities specifically. These rules and regulations are contained in individual Commission Orders memorializing the rules and regulations. The blanket authority to regulate public utilities granted above, however, is not absolute, as it is subject to the following limitations regarding utilities owned, operated or regulated by a political subdivision:

C. **Limitation.** The Commission shall have no power to regulate any common carrier or public utility owned, operated, or regulated on the effective date of this constitution by the governing authority of one or more political subdivisions, except by the approval of a majority of the electors voting in an election held for that purpose; however, a political subdivision may reinvest itself with such regulatory power in the manner in which it was surrendered. This paragraph shall not apply to safety regulations pertaining to the operation of such utilities.

SECTION 101. Definition

Electric Vehicle (“EV”) Charging Station- A person or entity that:

- (i) Purchases electricity from its electric public utility or municipal electric utility; and,
- (ii) Furnishes that electricity to the public for compensation exclusively to charge battery electric vehicles and plug-in hybrid electric vehicles.

SECTION 201. Commission Jurisdiction Over EV Charging Stations

Based on the unique business model of EV Charging Stations, most notably that they furnish a sale for resale of electricity, and are not primarily engaged in the generation, transmission, distribution, and/or sale of electricity, the Commission declines to exert, at this time, jurisdiction over EV Charging Stations based upon that definition.¹ This finding in no way modifies the Commission's regulation over any other form of furnishing electric services.

SECTION 301. Electric Public Utility Rate Schedule Filing Requirement

All jurisdictional electric public utilities are required to submit a proposed rate schedule pursuant to Section 501 of General Order dated July 1, 2019 for Commission consideration. Such filing shall be analyzed in a manner consistent with the aforementioned General Order.

SECTION 401. Customer metering for EV charging equipment

Customers of an electric public utility installing EV charging equipment at their homes, workplaces, or other properties may decide whether such EV charging equipment will separately metered, submetered, or incorporated into the existing meter.

SECTION 501. Incentives to customers to install EV charging equipment

- A. Electric public utilities may make incentives available to customers to install EV charging equipment. Should a utility offer an incentive, such incentives shall be clearly stated, including any terms and conditions, and shall be included within the utility's tariff on file with the Commission. Further, Staff recommends that each electric public utility provide a rate schedule that provides customers an option to pay EV charging equipment installation costs over a period of time.
- B. Incentive programs that would include the installation of an EV charging device by an electric public utility are prohibited.
- C. Incentives made available by an electric public utility for the installation of EV charging equipment must comply with, or not be in violation of, the Commission's General Order dated April 7, 2004 (Promotional Practices Rules).

¹ Act No. 293 of the 2023 Regular Session of the Louisiana Legislature placed the volumetric measuring devices at the point of sale under the jurisdiction of the Louisiana Department of Agriculture & Forestry, Division of Weights and Measures. Accordingly, such pricing determinations shall be determined by the Louisiana Department of Agriculture & Forestry.

SECTION 601. Electric public utility's ability to participate in providing EV Charging Stations to retail customers

- A. LPSC-jurisdictional electric public utilities shall not be allowed to own, lease, operate, or control EV Charging Stations, as defined herein. Nevertheless, this prohibition does not limit an electric public utility's unregulated affiliate or subsidiary from owning, leasing, operating, or controlling an EV Charging Station within Louisiana, provided that the electric public utility's affiliate or subsidiary is subject to the same rules as any other entity installing an EV Charging Station. An affiliate or subsidiary of an LPSC-jurisdictional electric public utility may own, lease, operate, or control an EV Charging Station provided that none of the costs of those operations are included in regulated retail rates.
- B. Should an LPSC-jurisdictional electric public utility decide to have an affiliate or subsidiary own, lease, operate, or control an EV Charging Station, such electric public utility shall file an annual report showing all allocations of costs and expenses associated with or otherwise subsidizing the affiliate or subsidiary's owning, leasing, operating, or controlling of the EV Charging Station to ensure that jurisdictional retail customers are not being allocated any costs associated with the affiliate or subsidiary's owning, leasing, operating, or controlling of the EV Charging Station(s).
- C. Should an LPSC-jurisdictional electric public utility wish to own, lease, operate, or control EV Charging Stations, it shall apply to the Commission for an exemption from this General Order. Any request for an exemption from the requirements in this General Order shall include the justification for such exemption, including, but not limited to, and explanation as to why such an exemption is in the public interest.

SECTION 701. Cybersecurity reporting requirements

Should an LPSC-regulated electric public utility or its affiliate or subsidiary be the subject of a cyberattack relating to its EV charging technology, the electric public utility shall notify the Commission of such cyberattack within thirty days of being made aware of the event. Such notification may be made confidentially pursuant to Rule 12.1 of the Commission's Rules of Practice and Procedure. The Commission shall review such notices and determine what action, if any, the Commission may take under its jurisdiction to protect ratepayers and the electric public utility.

SECTION 801. On-site generating units for EV charging stations

For the purposes of regulation of on-site solar generating units for EV Charging Stations, the Commission's General Order dated 09-19-2019 (R-33929) Corrected (the "Net Metering Rules") shall apply to any person or entity that owns and/or operates EV Charging Stations to the same extent that it applies to all other customers of an LPSC jurisdictional utility. Consistent with Section 101(i) above, net metered solar generation shall be limited to supplying the customer's on-site electricity usage, exclusive of any electricity furnished to the public for compensation to charge battery electric vehicles and plug-in hybrid electric vehicles. Should an EV Charging Station wish to pursue on-site generation from an energy source other than an electric public utility, including solar generation, in order to furnish electricity to the public for compensation exclusively to charge battery electric vehicles and plug-in hybrid electric vehicles, such shall be decided on a case-by-case basis by the Commission.