

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

RULEMAKING TO CONSIDER POLICY
ISSUES RELATED TO IMPLEMENTATION
OF RCW 80.28.360, ELECTRIC VEHICLE
SUPPLY EQUIPMENT.

DOCKET NO. UE-160799

SECOND COMMENTS OF PUBLIC COUNSEL

November 23, 2016

I. INTRODUCTION

1. Pursuant to the Commission's August 16, 2016, Notice of Opportunity to File Written Comments, the Public Counsel Unit of the Washington State Attorney General's Office (Public Counsel) submitted comments in advance of the Commission's September 13, 2016, Recessed Open Meeting. These comments addressed the policy and implementation questions on electric utility investment in electric vehicle supply equipment (EVSE), while also remaining in compliance with RCW 80.28.360 and other statutes. Public Counsel's primary recommendation was the establishment of comprehensive and regular reporting of EVSE metrics to proactively review issues related to EVSE infrastructure deployment, monitoring whether any revisions are required, as well as determining ratepayer benefits.¹
2. Additionally, on October 31, 2016, the Commission filed with the Office of the Code Reviser a Preproposal Statement of Inquiry (CR-101) for supplemental inquiries into the need for a policy statement or adoption of a rule for the implementation of RCW 80.28.360. The CR-101 requests comment on: (1) whether a rule or policy statement is necessary to implement RCW 80.28.360, (2) how the Commission should decipher whether an EVSE investment is

¹ Docket UE-160799, Comments of Public Counsel ¶ 13 (Aug. 16, 2016).

eligible for an incentive rate of return, (3) the role of other Commission rules, statutes, and standards in relation to investments in EVSE, and (4) additional policies improving access to EVSE and promoting fair competition of EVSE in the market.

3. Public Counsel supports the adoption of a rule or a policy statement for the implementation of RCW 80.28.360, but does not have a propensity toward which should be applied at this time. Public Counsel also continues to reaffirm the use of thoughtful and timely reporting on EVSE associated metrics for the preemptive review of potential issues in the deployment of EVSE infrastructure. Finally, Public Counsel is interested in ensuring that all customers, not only those directly utilizing EVSE, shall benefit from further utility investments in EV infrastructure.

II. WHETHER A RULE OR POLICY STATEMENT IS NECESSARY TO IMPLEMENT RCW 80.28.360

4. While a policy statement offers more flexibility in instances of uncertainty, the adoption of rules may be required at a later date where more data collection and results are available on the effects of EVSE on: (1) participant behavior, (2) reliability of the grid and infrastructure, and (3) costs associated with EVSE. At this point in time Public Counsel does not have a preference in whether a policy statement or the adoption of a rule is necessary for implementation of RCW 80.28.360. We recognize that at this time, given the dynamic landscape surrounding EVSE infrastructure, a policy statement may provide the Commission with greater flexibility to develop guidelines and criteria to implement RCW 80.28.360.

III. HOW THE COMMISSION WILL CONSIDER WHETHER AN INVESTMENT IS ELIGIBLE FOR THE INCENTIVE RATE OF RETURN

5. RCW 80.28.360 states that the Commission “may allow an incentive rate of return on investments on capital expenditures for electric vehicle supply equipment that is deployed for the

benefit of ratepayers.”² Public Counsel does not recommend specific criteria for demonstrating and quantifying real and tangible benefits to ratepayers, nevertheless, we do support three conditions that may be required for the Commission’s consideration of an investment’s eligibility for an incentive rate of return. First, the utility bears the burden of proving that an incentive rate of return should be approved by the Commission. The statute does not guarantee an incentive rate of return for all EVSE investments, only that the Commission ‘may allow’ an incentive rate of return.

6. Second, Public Counsel believes that real and tangible benefits should be qualified and quantified in order for prudent recovery of the capital investments for EVSE. Public Counsel is open to discussions and further dialogue with stakeholders as to which benefits qualify, such as economic and environmental benefits, and their quantifications.

7. Finally, EVSE benefits should flow to all ratepayers, not only those directly utilizing EVSE, as all ratepayers will bear the capital and implementation costs of EVSE deployment. Public Counsel’s previous recommendation of tracking and recording EVSE metrics is one method, which can be employed to ensure the equity of benefits to all ratepayers.³ Certainly, many customers are unable to afford the cost of an electric vehicle. Utility proposals should address this issue specifically, explaining how any proposed EVSE investments will benefit all ratepayers.

IV. HOW OTHER RELEVANT STATUTES AND COMMISSION RULES AND STANDARDS APPLY TO UTILITY INVESTMENT IN EVSE

8. As an economic regulator, the Commission's standard review of capital investments would include application and review of the investments according to the Commission's

² RCW 80.28.360(1).

³ Docket UE-160799, Comments of Public Counsel ¶ 6-8 (Aug. 16, 2016).

prudence standards as set forth in statutes, rules, and precedent. Energy efficiency investments are reviewed and evaluated using the Commission's cost-effectiveness standards. We do not have further specific comments on this topic at this time, but raise these areas for the Commission's consideration, and for further stakeholder discussion in considering how best to evaluate potential proposals filed pursuant to RCW 80.28.360.

V. WHETHER THE COMMISSION SHOULD CONSIDER OR ADOPT OTHER POLICIES TO IMPROVE ACCESS TO ELECTRIC VEHICLE SUPPLY EQUIPMENT AND ALLOW A COMPETITIVE MARKET FOR CHARGING STATIONS TO DEVELOP

9. Public Counsel supports the thoughtful and timely reporting of EVSE associated metrics, which can be utilized to document the trends associated with the increased implementation of EVSE, and may also demonstrate compliance with RCW 80.28.360 and help determine ratepayer benefits. The Commission may choose to utilize reporting metrics, such as the reporting metrics approved for Avista Corporation's (Avista) EVSE pilot,⁴ for monitoring and amending policies related to newly discovered trends and impacts of EVSE investments.
10. Additionally, it will be important to ensure that any utility investments in EVSE promote fair competition and consumer choice, as specified in RCW 80.28.360(1). Public Counsel looks forward to discussions with stakeholders regarding the best means of achieving compliance with this requirement.

VI. CONCLUSION

11. Public Counsel appreciates the opportunity to submit these comments. We look forward to reviewing comments of other stakeholders and further discussions on the utility's role in EVSE investments. We appreciate that the Commission's recent Notice specifically stated that stakeholders would have future opportunities for comment.

⁴ Docket UE-160082, *Wash. Utils. & Transp. Comm'n v. Avista Corp.*, Open Meeting Memo at 3 (Apr. 28, 2016)