

SUBJECT: Regulating construction and operation of electric vehicle charging stations

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 8 ayes — Hunter, Hernandez, Anchía, Dean, Metcalf, Slawson, Smithee, Turner

5 absent — Geren, Guillen, Raymond, Spiller, S. Thompson

WITNESSES: For — Robert Baratta, Americans for Affordable Clean Energy; Tom Smitty Smith, Texas Electric Transportation Resources Alliance (*Registered, but did not testify*: Kathy Green, AARP Texas; Mark Bell, Association of Electric Companies of Texas; Jason Ryan, CenterPoint Energy; Lucinda Saxon, ChargePoint; Cyrus Reed, Lone Star Chapter Sierra Club; Annie Spilman, NFIB; Desiree Castro, Texas Food and Fuel Association Carolyn Albert Donovan)

Against — (*Registered, but did not testify*: Samantha McDaniel; Guadalupe Cuellar, City of El Paso; Valarie Gold; Carl Jacob; Veronica Maples; Rhonda Marquardt)

On — Michael Belsick (*Registered, but did not testify*: Thomas Gleeson, Public Utility Commission of Texas; Shawn Hall Lecuona, The Voice of Justice and of Consanguinity; Teresa Weirich)

BACKGROUND: As the use of electric vehicles continues to increase, the Texas Department of Transportation has adopted the Texas Electric Vehicle Infrastructure Plan to develop electric vehicle charging stations (EVCS) and support long-distance travel across the state. Some have suggested that a framework could help to further incentivize private sector development into such infrastructure.

DIGEST: CSHB 3508 would establish a framework for utilities to affiliate with private entities for the purpose of developing charging stations and providing charging services.

**Electric utilities outside of ERCOT.** CSHB 3508 would establish that an electric utility that operated solely outside of the Electric Reliability Council of Texas (ERCOT) could be affiliated with certain providers of public EVCS. The electric utility would be required to offer the same nondiscriminatory rates, terms, and conditions to other EVCS providers within the utility's service area as were offered to the utility's affiliate.

Under the bill, an affiliate of an electric utility that provided EVCS and was not subject to regulation by the commission would be subject to the same tariffs of the electric utility that applied to any other entity receiving a utility for EVCS.

An electric utility could provide EVCS directly to a customer only if the charging station used to provide EVCS was constructed in compliance with provisions established in the bill, and the rates charged by the utility for EVCS were set by the commission. Any electric utility attempting to provide these services directly to a customer would be required to file a proposal with the Public Utilities Commission (PUC) that included a general description of the proposed charging station and the desired location at which the utility sought to provide service. The electric utility also would be subject to various procedural and regulatory requirements administered by PUC.

An electric utility that filed an appropriate proposal could proceed with construction of the charging station and the provision of EVCS, unless PUC determined that:

- another proposed charging station would be adequate for the needs of the area; or
- the utility's proposed station would unreasonably duplicate either a charging service from another provider or a similar station already under construction.

An authorized utility would be required to notify PUC of its intent to proceed with construction. The utility could construct and operate the station 120 days after filing the notice of intent.

PUC would be responsible for setting reasonable rates at which a utility could charge for EVCS and ensuring competition would not be impaired. The commission would be authorized to set rates differently for different locations and times of the day and for different types of electric vehicles. The bill would require PUC to allow a utility to recover reasonable and necessary costs incurred by the construction, finance, operation, and maintenance of the EVCS station.

The bill would not prohibit an individual who was not a utility or utility affiliate from entering into an agreement with a utility for the operation of a public EVCS station on the individual's property, but the bill would specify certain conditions by which both parties would be required to abide.

PUC would be required to ensure that a utility that had been approved to use a tariff to recover costs associated with an EVCS station offered services under the terms of the tariff to other persons seeking agreements in the utility's service area on a nondiscriminatory basis. PUC also would have to ensure that the revenue collected by the utility under such an agreement allowed the utility to recover applicable costs from the person and not from the utility's other customers. This agreement would not be subject to the requirements that applied to EVCS provided directly to a customer.

The bill would allow a municipality to enter into an agreement with a utility under which:

- the utility owned and operated a public EVCS station on the municipality's property; and
- none of the costs associated with the station were recovered from the utility's other customers.

**Public charging of electric vehicles inside ERCOT.** Under the bill, a transmission and distribution utility could not directly own, operate, or provide EVCS from a public charging station and could not recover costs

associated with an EVCS station through rates approved by PUC. The utility could be affiliated with a competitive EVCS provider through certain separate entities or third parties, but would be required to offer the same nondiscriminatory rates, terms, and conditions to other EVCS providers in the utility's service area as were offered to the utility's affiliate.

Such an affiliate would be required to maintain documentation of the alternative fuels data center map for at least two years from the date on which the installation of the public EVCS station began. An affiliate that provided, owned, operated, or maintained public EVCS stations and was not subject to regulation by PUC could not be subsidized by any rate or charge for any regulated services provided by their affiliated utility.

A transmission and distribution utility would not be prohibited from constructing, owning, or operating required EVCS infrastructure that was funded by rates or charges for services provided under the utility's tariffs. The utility could own, operate, lease, install, or otherwise procure service from a charging station on the utility's premises for the sole purpose of servicing the utility's vehicles.

PUC would be required to allow the utility to recover reasonable and necessary costs associated with required EVCS infrastructure, based on the rate of return on investment established by PUC.

The provisions of the bill would apply only to EVCS that were provided on or after January 1, 2026, and to rates or charges imposed on or after January 1, 2024.

The bill would take effect September 1, 2023.

**NOTES:**

According to the Legislative Budget Board, CSHB 3508 would have an estimated negative impact of \$631,602 to general revenue related funds through fiscal 2025.