

Electric Vehicle Charging Association
INNOVATION FOR CLEAN MOBILITY

eMotorWerks
An Enel Group Company

December 19, 2018

Ms. Elise Keddie
Ms. Stephanie Palmer
Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: EV Charging Station Open Access Act Rulemaking - Comments on Draft Regulatory Language

Dear Ms. Keddie and Ms. Palmer,

We, the undersigned EV charging station manufacturers, providers, and operators (“the Parties”), would like to express our gratitude for your efforts to implement the Electric Vehicle Charging Station Open Access Act. We initially submitted comments to you for consideration in July of this year after your release of initial regulatory concepts, and now submit supplemental comments to you following the release of draft regulatory language.

I. Mandating Credit Card Readers is Inconsistent with Other Countries

As mentioned in the Parties’ July comment letter, a mandate for a credit card reader as a required payment option will hinder the ramp-up of a nascent industry that is already operating on thin margins. In fact, this mandate is the opposite of technology trends in other cities in both North America and Europe, which are fully embracing innovation by rapidly deploying inventive payment technologies. By way of example, nationwide and internationally, transit agencies, including in Chicago¹, London², Vancouver³, and New York⁴, with their vast populations of riders, are already or are planning to revamp their fare collection systems with *contactless* technology that allows commuters to pay for rides with contactless credit and debit cards. Furthermore, 77 percent of consumers believe contactless payment technologies would

¹ <https://www.ventranchicago.com/how-to/mobile-wallet-apps/>

² <https://tfl.gov.uk/fares/>

³ <https://www.translink.ca/Fares-and-Passes/Paying-Your-Fare.aspx>

⁴ [tps://thepointsguy.com/news/nyc-subway-contactless/](https://thepointsguy.com/news/nyc-subway-contactless/)

be very valuable if installed at gas stations, reflecting a broader interest in this payment methodology⁵.

Contactless cards are cost-effective to deploy and operate and result in quick and easy payment transactions for customers, making them a consumer-friendly payment option. This technology is widely used by many EVSPs, as well, along with other payment methodologies. These technology trends, as well as other payment technologies, are being increasingly embraced in the United States, by institutions such as JP Morgan Chase,⁶ as well as in other countries, including for charging stations^{7,8,9}. However, by saddling EVSPs with a credit card reader mandate, it increases operational and product costs, hampering their ability to allocate resources to research and deploy other innovative payment technologies.

Recommendation: The Parties respectfully request the Air Resources Board (ARB) adjust this requirement to allow other payment methodologies, alongside credit card readers, such as contactless cards, RFID tags and NFC chips, to comply with the payment requirements of the Electric Vehicle Charging Station Open Access Act in terms of payment requirements.

II. Legacy Infrastructure Requirement

Slide 20 states that all new publicly available DCFCs shall be compliant with the requirements of this section by January 1, 2020. All existing publicly available DCFCs shall have five years from the date of installation, or January 1, 2020, whichever is later, to comply.

Slide 21 of the proposed regulatory language states, “all existing publicly available Level 2 chargers shall have five years from the date of installation, or January 1, 2023, whichever is later, to comply with the requirements of this section.” Setting a five-year compliance deadline does not adequately account for the lifespan of existing Level 2 infrastructure investments. As a result, many site hosts may no longer allow the public to access the station for any period of time or may shut down the station entirely to avoid the costs of complying with this requirement. This is especially true for charging stations that are less than profitable for owners and operators, but are nonetheless important to have in the field for consumer access.

To increase consumer confidence in EVs generally, deploying more infrastructure will be critical. However, if the State and the private sector must replace existing infrastructure within the next several years to comply with this regulation, this needlessly increase costs and will hamper their ability to focus to deploy incremental charging infrastructure and meet the requirements of Executive Order B-48-18, which calls for deployment of 250,000 charging stations by 2025. This provides challenges to the electrification of the transportation sector, and California’s ability to achieve widespread GHG emission reductions.

Recommendation: The Parties respectfully request that the requirement for Level 2 infrastructure not be imposed on currently installed charging stations (i.e. they are grandfathered from this mandate), or to be extended to ten years, which is the normal lifespan of a charging station. Therefore, for the latter proposal, the language would read as follows: “All existing publicly available Level 2 chargers shall have **ten** years from the date of installation, or January 1, **2033**, whichever is later, to comply with the requirements of this section.”

⁵ Visa. A Week In the Life of the Connected Consumer. 2018

⁶ <https://www.marketwatch.com/story/contactless-cards-could-start-taking-off-in-the-us-as-chase-announces-rollout-2018-11-14>

⁷ <https://www.electrify.com/2018/08/21/contactless-payment-at-thousands-of-charging-stations/>

⁸ <https://www.electrify.com/2018/10/08/uk-allego-joins-shell-visa-enabling-contactless-payment/>

⁹ <https://cityev.net/news/contactless-payment-charge-point-cityline-100-cdc/>

Grandfathering existing infrastructure on a 10-year timeline guarantees that all charging stations will eventually come into compliance with the regulation while also not resulting in the undue withdrawal of stations from the public sphere merely to avoid upgrade and replacement costs.

The Parties also respectfully request that language for DCFC compliance read as follows: “All existing publicly available DCFCs shall have five years from the date of installation.” The “January 1, 2020, whichever is later, to comply” language should be struck given the low likelihood that January 2020 will be later than the 5-year requirement.

III. Proposed Definitions

A. “Publicly Available EVSE”

Slide 17 of the proposed regulatory language defines “publicly available EVSE” as “an EVSE and associated parking spaces that have been designated by a property owner or lessee to be available to, and accessible by, the public for any period of time.” This definition as written is extremely broad. Many stores and businesses install charging stations in customer-only parking spots as an amenity to attract customers to their location. By qualifying charging destinations limited to customers only as “publicly available EVSE” and thus subject to this regulation, businesses could opt to no longer make their charging stations available to customers. Such activities will deter infrastructure deployment efforts, undermining EV drivers’ range anxiety and confidence in robust, public charging infrastructure.

Recommendation: The Parties respectfully request the definition of “publicly available EVSE” be amended to read, “Publicly available EVSE means publicly available parking space designated for the primary purpose of EV charging”.

B. “Near Field Communication Reader”

Slide 13 of the proposed regulatory language defines “near field communication (NFC) reader” as “a device capable of accepting a mobile payment for a charging session”. This definition as currently written does not accurately reflect the fact that NFC technologies accept contactless card payments that are enabled through the underlying use of a credit card and does not include RFID tags.

NFC chips stocked inside credit cards enable contactless payment, which are commonly understood by the industry as a type of credit card payment method acceptable under “credit cards” and not “mobile payments.” Another use case for NFC is a smartphone, or even a smartwatch, as a way to digitize a credit card which should also be considered as an option under “credit cards” and not “mobile payments.” NFC is only a technology which enables contactless payment through an underlying credit card or RFID device - therefore NFCs linked to a credit card and NFC readers that accept credit card-enabled NFCs should qualify as a type of credit card payment.

Defining NFC technology to qualify as a type of credit card reader also helps to balance the costs of this regulation while ensuring access to consumers. We are already seeing this kind of payment technology being offered in many retail locations: Visa reports that 79% of quick-serve restaurants already are contactless enabled, as are 77% of drug stores and pharmacies and 61% of food and grocery stores. Also, 95% of new POS terminals being shipped are contactless-

capable¹⁰. Visa intends to update its public contactless data on a periodic basis. Contactless cards can provide credit card access to charging stations without the cost impact and technology obsolescence associated with chip readers and swipe machines.

Recommendation: The Parties respectfully request amending the proposed language as written to capture NFC readers that accept credit card-enabled NFCs or RFID tags to qualify as a type of credit card reader and not a form of mobile payment.

IV. Credit card Reader Operability Percentage

Slide 20 of the proposed regulatory language states, “the credit card reader shall be operable 99% of days in a given calendar year”. There is ambiguity as to how “day” could be interpreted and therefore measured. To ensure accurate measurement of operability to comply with the requirement, the Parties recommend measuring this by hour, as opposed to by day.

Recommendation: The Parties respectfully request the language to read as follows: “the credit card reader shall be operable 99% of **hours** in a given calendar year”. This will enable a more precise measurement of time that a credit card reader is or is not operating.

V. Reporting Requirements

A. 2019 Reporting Period

Slide 27 of the proposed regulatory language states, “Unless otherwise stated, the first reporting year is 2020, for data in the 2019 reporting period”. This reporting requirement, as written, is inconsistent with the proposed regulation for DCFCs, which do not have to comply with the regulation until January 1, 2020. If DCFCs do not have to comply until this requirement until 2020, data should not be collected for 2019, which is before compliance begins.

Recommendation: The Parties respectfully request that the first reporting year should be 2021, for data starting in the 2020 reporting period.

B. Annual EVSE usage information requirement

Slides 29 and 30 list several types of EVSE usage information that EVSPs must report annually. This requirement as written, particularly items four through nine, would imperil sensitive customer and business data and impose extreme administrative burdens and costs on EVSPs to collect and arrange their data to provide to ARB. There are millions of transactions happening annually at charging stations through various forms of payment. To create, sort, and organize new data fields, as well as store expanded data sets, in the form requested would require a significant increase in operating costs and staffing to process. Many EVSPs are small businesses in start-up phase and cannot afford the costs associated with complying with this data reporting requirement. Doing so would require passing costs on to customers, which would make it more expensive and difficult for EV drivers to charge their vehicles and slow down the industry’s deployment of charging stations.

Recommendation: The Parties respectfully request any reporting requirements be consistent with those identified in SB 454¹¹, with which the Parties already comply. This will avoid price

¹⁰ <https://www.pymnts.com/visa/2018/contactless-cards-payments-mobile-wallet-pos-emv-apple-pay>

¹¹ SB 454 Section 2, amending Ch. 8.7 Sec. 44268.2.(c)

impacts to drivers, ease the cost of compliance, and protect sensitive business and customer data.

C. NREL Data Sheet

1. Station Type

As part of the reporting requirements to NREL, the data sheet has a field dedicated to “station type” and the type of the customer it serves. The purpose of this field is not clear to the Parties. Public charging stations serve the public, which could be anyone. As written, this does not provide clear intent, which could lead to EVSPs submitting inconsistent or redundant information.

Recommendation: The Parties respectfully request the elimination of this field on NREL’s data sheet.

2. Pricing

The NREL data sheet also has a field dedicated to “pricing”. As written, this field is ambiguous and could lead to inconsistent, redundant, or inaccurate reporting by EVSPs because many EVSPs have variable pricing depending on the utility territory or region, as well as by customer type. For example, some EVSPs offer subscription-based prices while also alternatively offering “walk-up” pricing for customers who do not have a subscription. Clarification of this field is important to ensure consistent reporting.

Recommendation: The Parties respectfully request that “walk up” or pay per use (POS) pricing be the standard definition so that reporting can be conducted efficiently and in a consistent manner.

We sincerely appreciate ARB’s efforts to help electrify the transportation sector, as it is paramount to achieving California’s long-term climate goals. EV charging stations continue to be a critical piece to this overall vision. Please let us know if you have any questions about our comments; we would be happy to discuss our perspectives with you further to help inform this process.

Sincerely,

Jim Ross
Electric Vehicle Charging Association

Sara Rafalson
EVgo

Bob Stojanovic
ABB

Scott Jarus
EV Connect

Anne Smart
ChargePoint

Louis Trembly
Flo

Will Barrett
ClipperCreek

Francesca Wahl
Tesla

Marc Monbouquette
eMotorwerks

Megha Lakhchaura
EVBox

Abdellah Cherkaoui
Volta