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ChargePoint Comments

Additional submitted attachment is included below.

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California Energy Commission
Docket Unit
Docket No. 22-EVI-04
715 P Street, MS-4
Sacramento, CA 95814

RE: Public Comments – Rulemaking to Establish Regulations for Improved Electric Vehicle Charger Recordkeeping and Reporting, Reliability, and Data Sharing, Docket No. 22-EVI-04

ChargePoint thanks the CEC for this opportunity to provide the included comments in response to the proposed rules for EV Charger recordkeeping and reporting, reliability, and data sharing. ChargePoint has been a consistent participant in this docket since its inception in August of 2022, nearly three years ago. These near final rules show important progress throughout the rulemaking process, where many stakeholders have provided comment and a variety of different proposals have been vetted. As these rules near finalization, ChargePoint encourages the Commission to seek efficiency by aligning certain elements of these rules with the NEVI program, to explore additional efficiencies, and provide additional specificity.

While these comments will propose specific technical changes, they also identify programmatic level issues that need resolution to ensure these regulations can be implemented successfully. Most importantly, the regulations do not yet address how charging networks, which are the default reporting agents for networked chargers will be notified that an EV charger has received public or ratepayer funding. To address this foundational issue, ChargePoint proposes that the CEC require all funding entities to follow the process used in CalEVIP 2.0 where EVSE IDs are provided to the charging networks to ensure that the networks acting as the record keeping and reporting agents are aware of the chargers subject to these regulations. Without the knowledge of which chargers are subject to these regulations directly from the funding entitles these regulations risk being mired in administrative quicksand as there is no clear process to identify the chargers that are subject to these regulations.

These and other recommendations are contained below, we welcome any questions the CEC may have and look forward to continued collaboration to ensure successful implementation of these regulations.

Sincerely,

Justin Wilson
Sr. Director Regulatory Policy and Programs
ChargePoint, Inc.

About ChargePoint

ChargePoint is a world leading electric vehicle (EV) charging network, providing scalable solutions for every charging scenario from home and multifamily to workplace, parking, hospitality, retail, and transport fleets of all types. ChargePoint's cloud subscription platform and software-defined charging hardware is designed to enable businesses to support drivers, add the latest software features and expand fleet needs with minimal disruption to overall business.

ChargePoint's hardware offerings include Level 2 (L2) and DC fast charging (DCFC) products, and ChargePoint provides a range of options across those charging levels for specific use cases including light duty, medium duty, and transit fleets, multi-unit dwellings, residential (multi-family and single family), destination, workplace, and more. ChargePoint's software and cloud services enable EV charging station site hosts to manage charging onsite with features like Waitlist, access control, charging analytics, and real-time availability. With modular design to help minimize downtime and make maintenance and repair more seamless, all products are also UL-listed and CE (EU) certified.

ChargePoint's primary business model consists of selling smart charging solutions directly to businesses and organizations while offering tools that empower station owners to deploy EV charging designed for their individual application and use case. ChargePoint provides charging network services and data-driven, cloud-enabled capabilities that enable site hosts to better manage their charging assets and optimize services. For example, with those network capabilities, site hosts can view data on charging station utilization, frequency and duration of charging sessions, set access controls to the stations, and set pricing for charging services. These features are designed to maximize utilization and align the EV driver experience with the specific use case associated with the specific site host. Additionally, ChargePoint has designed its network to allow other parties, such as electric utilities, the ability to access charging data and conduct load management to enable efficient EV load integration onto the electric grid.

Comments

Identification of Publicly and Ratepayer Funded Chargers

Several requirements identified in §3120 apply only to publicly or ratepayer funded chargers installed after January 1, 2024. The scope identified in §3120 flows through to §3122, §3123, §3125, §3130 and others. The identification of chargers subject to the regulations is a foundational element that is not adequately addressed in the proposal.

Without a proper identification of chargers subject to these regulations these regulations will fail. Practically, network operators do not necessarily have knowledge of chargers on their network that are publicly or ratepayer funded. Network operators that do not own/operate chargers and thus do not directly apply for and receive state funding, such as ChargePoint are a large portion of the charging network market. Incentive programs tend to operate close to the market, for example, delivering incentives directly to charger owners for make-ready infrastructure, grants, or rebates. As a result, the responsible reporting entities as defined in this regulation (i.e., charging networks) are highly unlikely to have records of which chargers were installed with a state grant or incentive.

The proposed regulations and staff report appear to attempt to address this issue in two different and competing ways that is both inadequate and confusing.

In §3122 (c) (1) the proposed regulations state:

> For any networked publicly or ratepayer funded charger installed from January 1, 2024, through 179 days from the effective date of this paragraph, except as provided in subdivisions (c)(1)(A) or (c)(1)(B), the site host, or the funding recipient if designated pursuant to subdivision (c)(4) of this section, shall designate a charging network provider to serve as the recordkeeping and reporting agent.

In the Staff Report, it is stated that:

> The charging network provider is by default the recordkeeping and reporting agent for networked charging ports under these regulations. Providers of automated load management software are not considered charging network providers for the purpose of these regulations.

The proposed regulations and staff report appear to be in conflict or at minimum confusing. Additionally, the workability of either of these is unlikely to achieve a high level of accurate compliance.

First, § 3122 (c) (1) does not adequately address how a site host or funding recipient is supposed to designate a charging network provider to serve as the recordkeeping and reporting agent. Many questions are left unresolved and should be addressed prior to these proposed regulations being finalized. Does the site host or funding recipient notify the funding entity, the CEC, or the charging network? How is this proposed to be documented? In particular for chargers installed before the effective date of these regulations, how will the site host or funding recipient be notified of these requirements? Network operators should not be held liable for failing to report on publicly or ratepayer funded chargers, if the site host or funding recipient does not properly designate them as their reporting agent.

Second, in the staff report, it appears to indicate that the charging networks are somehow a default recordkeeping and reporting agent. As discussed above, this is unworkable because charging networks are not aware if a charger has received state or rate-payer funding.

ChargePoint suggests that funding entities take a more active role in identifying what chargers have received state or ratepayer funding. A simple way to resolve the conflicts noted above and the challenge of how charging networks operate is to require funding entities to provide networks with a list of chargers that meet the criteria for reporting. We believe a list of EVSE IDs is a logical way for funding entities to identify for networks which chargers require reporting. Network operators should not be held liable for failing to report on publicly or ratepayer funded chargers, if such lists are not made available to them.

ChargePoint recommends the following language (or similar) be added the rules:

> All funding entities must, at least 30 days prior to each reporting deadline in §3123, prepare a list of publicly and ratepayer funded chargers subject to these regulations, to which the funding entity has dispensed public or ratepayer funds. This list should identify publicly and ratepayer funded chargers using charger ID and include no confidential or identifying information. The list should identify whether each charger was publicly funded, ratepayer funded, or both, to enable this information to be included in the Inventory Report as required by §3123(b)(2)(J). Funding entities must provide the list by email to the recordkeeping and reporting agent designated as responsible for reporting for the publicly or ratepayer funded chargers. Failure by a funding entity to identify any publicly or ratepayer funded chargers that require reporting shall absolve the recordkeeping and reporting agent of its obligation to report for those chargers.

The above or similar language is within the CEC's 25231.5 authority. Additionally, this is already done for the implementation of some CEC incentive programs for the purpose of data reporting. If the above or similar language is not adopted and there is no standardized way for the record keeping and reporting agent to know what chargers are publicly or ratepayer funded and must be reported, these regulations will fail to meet legislative intent of Assembly Bill 2061 (Ting, Chapter 345, Statutes of 2022) and AB 126 (Reyes, Chapter 319, Statutes of 2023) as incorporated into the Public Resources Code in Section 25231.5

In addition to the above, CEC should maintain a master list for each reporting period of the current programs (and historic) that are covered under this regulation. This information will be helpful to funding entities, owners and operators, charging networks, and public participants to understand the full scope of this regulation.

Public Reporting of Reliability Metrics

The Reliability Standards Regulation section of the Staff Report clearly and correctly notes that "[f]or these regulations the recipient of public or ratepayer funding is the entity responsible for maintaining the DCFC port." This is logical and correct, additionally, this statement holds true not just for the uptime requirements that are specific to DC chargers, but all sections of this regulation.

Although CEC has made the correct determination that the funding recipient is responsible for maintaining the ports, §3129 suggest that CEC may publicly link the charging network provider with reliability metrics that are the responsibility of the funding recipients. This is inappropriate and misleading. Knowling linking a charging network, just one part of the charging ecosystem, to requirements placed on another entity, could deceptively represent that the charging network is responsible for reliability metrics. To address this error, the CEC should modify §3129 (a) and §3129 (c) as suggested below:

§3129(a):

> Beginning 180 days after the effective date of this paragraph, CEC staff shall make reliability metrics available to funding entities so that they may be considered prior to approving any application for funding to install a publicly or ratepayer funded charger using funds from a California state agency or through a charge on Ratepayers. Such reliability metrics shall be presented as individual or aggregated charging ports by funding recipient or charging station operator.

§3129(c):

> The Executive Director may assess and publicly report, including on the CEC's website, the reliability metrics of individual and aggregated charging stations and charging ports associated with one or more funding recipient or, charging station operator~~, or charging network provider~~."

Limitations on the Recordkeeping and Reporting or Charging Network's Authority Over Chargers

These draft regulations appear to misunderstand the authority that Recordkeeping and Reporting Agents or charging networks have over the chargers on their respective networks. §3125 states:

> (a) For networked publicly or ratepayer funded chargers installed on or after 180 days after the effective date of this paragraph, the recordkeeping and reporting agent as designated pursuant to section 3122, shall ensure the charger meets the following requirements:

(1) The charger has Subset Certification in the Open Charge Alliance OCPP Certification Program for OCPP version 2.0.1, edition 3, published June 27, 2024, or a subsequent version of OCPP, for Core and Advanced Security functionalities.

This section is problematic as it appears to require the charging networks to either police the certification of the chargers on its network (requirements already established by the CEC and other funding entities) or limit the chargers that a network is allowed to support. Neither of these possible intentions is appropriate in the context of this rule making. Further, both the CEC and the CPUC have established this requirement for chargers that are publicly or rate ratepayer and maintain approved product listing to ensure compliance for chargers that are publicly or ratepayer funded. The utilities and the third party implementors of the programs have the appropriate safeguards in place to ensure compliance.[1, 2] §3125 (1) should be removed in its entirety or this requirement should be properly placed on the funding entity to ensure it approves the proper charging equipment.

Further alignment with NEVI and Charger Uptime Reporting Requirements

Further alignment with NEVI on the uptime calculation will be more beneficial to a variety of stakeholders. While much of the uptime calculation is similar to the NEVI requirements defined in 23 CFR 680, a key difference is the temporal aspect of reporting. CEC's proposed rules call for a static reporting period based on a calendar quarter, while the NEVI reporting is done on a 12-month rolling basis. Aligning with NEVI will allow for California to have a closer "apples to apples" comparison with chargers in other states, will reduce the development timeline for the reporting agents, and reduce confusion between the quarterly reporting periods and the annual performance standards in §3128.

Specifically, we suggest the following language for §3124(b):

(b) The uptime percentage rate for a charger port shall be calculated on a monthly basis for the previous twelve months, using the following formula:

(1) $$U = \frac{T-D+E}{T} * 100\%$$

(2) Where:

(A) U = Charging port uptime percentage rate for the reporting period.

(B) T = 525,600 minutes

~~1. Q1 reporting period = 129,600 minutes, except for a leap year, which is 131,040 minutes.~~

~~2. Q2 reporting period = 131,040 minutes.~~

~~3. Q3 and Q4 reporting periods = 132,480 minutes~~.

(C) D = Total charging port downtime during the reporting period, in minutes, calculated according to subdivision (c) of this section.

(D) E = Total charging port excluded downtime during the reporting period, in minutes, calculated according to subdivision (d) of this section.

Additionally, we suggest the following language for §3128(a):

The funding recipient shall ensure that, publicly or ratepayer funded chargers installed on or after January 1, 2024, shall maintain a minimum annual average uptime rate of 97 percent for each calendar year for the first six years after the charger is installed. The annual average

[1] California Energy Commission, CalEVIP Newsletter, June 21, 2023.

[2] California Public Utilities Commission, Decision 22-08-024, August 4, 2022, Page 29.

uptime rate shall be calculated using the calculation defined in section 3124(b)(1) using the parameters in (1) through (4) of this subdivision.
(1) U = The charging port annual uptime percentage.
(2) T = 525,600 minutes~~, except for a leap year, which is 527,040 minutes~~.
(3) D = Total charging port downtime, reported in minutes, during the calendar year according to section 3124(c).
(4) E = The total excluded downtime, reported in minutes, during the calendar year according to section 3124(d).

CEC should simplify, clarify responsibilities, and consider real world applications in the ability to claim exclusions. First, the reporting agents will not be the best and closest source of information regarding exclusions, especially for vandalism and natural disasters. Requiring reporting agents to construct systems to collect and retain exclusion documentation from EV charger operators or funding recipients is a burden that is not necessary. CEC could simplify the regulations and more closely align requirements with the appropriate responsible parties (funding recipients) by allowing reporting agents to report on the exclusions, but requiring the funding recipients to retain any documentation of vandalism or natural disasters, which CEC can request if needed.

Data Transfer

The data transfer process in §3125 should be simplified. §3125 (b) requires the transfer of data via an API for a variety of data records within 60 minutes of those data records being generated. This is a very large amount of data and a large burden on the charging networks. ChargePoint suggest that CEC modify this section to allow for monthly data submissions. Monthly data submission will:

- Lower Infrastructure and Computing Cost
- Reduce Operational Overhead
    - Fewer API pushes will result in less monitoring time and error investigation.
- Simplify Support and Audit Readiness
    - Monthly data submission will allow time to enrich data with excluded downtime events.
- Improve Data Quality
    - Batch processing of data can catch missing/malformed records before submission, reducing trouble shooting on both the CEC and the charging networks.

Batch processing will also reduce the risk of reporting incorrect uptime due to transient network blips. Additional clarity is also needed in the rules as it relates to the API that the CEC plans to develop. At minimum CEC should establish that charging networks will have at minimum 120 days between the publication of the technical specifications for the CEC's API portal and the first reporting deadline to appropriately staff development and implementation of the API connection. ChargePoint further suggest that the rules be more specific that the CEC will be developing or contracting for the development of the API and that the API will be a "push" model of transfer.

Data Sharing

The data sharing requirements in §3130 are unnecessary, distort currently in place business practices, and expose valuable and business sensitive information. CEC should remove the requirements in §3130 and assess other alternatives. EV charging networks are already working with the major mapping applications used in vehicles, such as Google Maps and Apple Maps. Charging networks have formed

these business relationships over many years and these proposed regulations would disrupt those business relationships, devalue the data, and institute a regulatory taking.

The Staff Report does not mention any alternatives considered, despite several viable alternatives. One alternative would be to adopt the approach that the California Air Resources Board currently has in regulations. In 13, C.C.R. §2360.4 (k), CARB requires publicly available EV chargers to report very similar information to the National Renewable Energy Laboratory's (NREL) Alternative Fuels Data Center (AFDC). While this information is static, the information reported here can serve as the primary foundation of data need for drivers to find EV chargers, allowing charging networks to build off that data as they see business opportunities. The information in the AFDC is in a standard format and downloadable for any third parties.

The proposed data sharing provisions are too intrusive and require charging networks to provide too much information for free, often to companies worth trillions of dollars. CEC should adopt the CARB regulations as they are in §2360.4 (k), which provides a base level of data and not require EV charging networks companies to give away additional data for free.

Technical Comments

§3122

- Should the CEC not adopted ChargePoint's recommendation to require funding agencies to send the record keeping and reporting agents (charging networks) a list of chargers that have received public or ratepayer funding, the CEC should be more explicit that it is the responsibility of each funding recipient to notify the charging network, in a format of the charging network's choice that an EV charger has received public or ratepayer funding.

§3123

- CEC should remove §3123 (b) (2) (H), which requires a statement on a replacement charger. Fundamentally a replacement charger is a new charger that has been installed. §3123 (b) (2) (H) is duplicative as §3123 (b) (2) (A) requires new chargers to list the date they are installed.
- §3123 (b)(2)(O) requires a statement for chargers that are uninstalled and the date the charger has been uninstalled. This information is not available to the networks, a customer uninstalling a charger has little incentive to contact the charging network and provide a stamen, generally chargers are powered off and / or network agreements expire. Charging networks do not know why either of those situations above may happen. ChargePoint suggest removing §3123(b)(2)(O).
  §3123 (b) (2) (S) and (T) appear to be duplicative. If not duplicative, CEC should provide definitions for these two very similar terms.

§3124

- CEC should modify its limited downtime exclusion for vandalism. Vandalism is a growing frustration for owners of EV chargers. Vandals may attack a variety of charger parts and components that will require significant time to repair including: diagnosing issues caused by vandalism, shipment of parts, coordination with local or regional electrical contractors, repair, and placing the device back into service. These steps can take a significant amount of time and charging owners should not be penalized or limited in the amount of time they need to repair

chargers that have been vandalized. CEC should at minimum allow 14 days to restore charging service after a vandalism event.

§3128

- CEC should provide clarity on how chargers that are installed for less than a year are treated for compliance. ChargePoint recommends the CEC follow the NEVI calculations where uptime is calculated, but not judged for compliance purposes until a charger has been installed for a full year, allowing for a full annual uptime calculation.

§3130

- Should CEC choose not to adopt ChargePoint recommendation above for §3130, CEC should incorporate the following changes:
    - CEC should adopt the same timeline limitations for data sharing as it does for reliability regulations, 6 years. Charging networks should not be required to share data with third parties longer than 6 years.
        - "(a) Except as provided in subdivision (b), each charging network provider shall, for every networked publicly or ratepayer funded charger installed on or after January 1, 2024 in California that is publicly available, ensure that the following data fields are made available, free of charge, to third-party software developers, via application programming interface for a period of six years after installation:"
    - CEC should remove in its entirety §3130 (a)11. While the other provisions align with the NEVI requirements, §3130(a)11 is not, which would require additional development for API purposes. This information is only provided today under strict data licenses. Roaming relationships can be complex and transmitting these complex business relationships to 3rd parties that could then be displayed to consumers could be more confusing to drivers. For example, a roaming partner may have different membership tiers that they manage internally, or roaming may be limited to a subset of EV drivers for a limited period of time, or roaming may be just for business fleets. These arrangements are managed bilaterally by the charging networks, broad statements about their applicability could lead to driver confusion and frustration. Charging network customer communications and websites are a better source for this information.