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Industry Comments on Proposed EV Charging Infrastructure Reliability Regulation

Additional submitted attachment is included below.

October 25, 2023

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

RE: 22-EVI-04 and Electric Vehicle Charging Infrastructure Reliability - Comments In Response to Draft Staff Report Tracking California's Electric Vehicle Chargers

Dear California Energy Commissioners and Staff,

On behalf of the undersigned organizations, we appreciate the opportunity to respond to the California Energy Commission's (CEC) draft staff report on electric vehicle charging infrastructure. We support the CEC's efforts to advance electric vehicle (EV) charging infrastructure within the state and share a vision of providing access to highly reliable and dependable charging stations, while bolstering consumer confidence. As stakeholders dedicated to enhancing the EV charging experience, we acknowledge the importance of implementing reliability-focused regulations pursuant to Assembly Bill (AB) 2061.[1]

The EV charging industry contends that the CEC's draft regulation must advance the agency's understanding of the root causes of charging experience issues while simultaneously protecting confidential business information and customer privacy, reducing administrative compliance burden, and acknowledging the ongoing efforts industry stakeholders are making to improve the EV charging experience as infrastructure deployment scales. To this end, we have identified specific comments for

[1] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB2061

the Commission's consideration in developing a final regulation in accordance with AB 2061.

We offer the following recommendations to the CEC:

1. **Collection and disclosure of utilization data.**

We recommend that the CEC refrain from collecting incremental utilization data, which is outside the scope of this proceeding. First, while we appreciate the CEC's interest in collecting utilization data, we assert that the Order Instituting Rulemaking for this docket is primarily focused on the implementation of AB 2061 requirements and does not include the collection of granular utilization data as proposed in the draft regulation. If the CEC is interested in pursuing the collection of this data, we recommend the CEC address this issue in a separate docket. Moreover, the CEC already collects detailed utilization data from Level 2 and direct current fast chargers that receive CEC incentive funding. If the CEC is interested in using utilization data to assess state EV charging infrastructure needs, the CEC can leverage the charger utilization data it currently collects to analyze future needs. Relatedly, many industry stakeholders supported CEC's draft AB 2127 report in docket 19-AB-2127 and maintain that the CEC has already developed a reasonable analysis of the state's expected EV charging needs in alignment with its zero-emission vehicle goals without granular utilization data.[2] The CEC can continue to support state policy objectives at this stage of market development by continuing to oversee a portfolio of charging technologies that meet communities' and fleets' needs.

Finally, we strongly oppose any public disclosure of utilization data as proposed in Section 2507 (f)(1)(D) of the draft regulation: doing so would unnecessarily expose confidential business information and sensitive residential and commercial customer activity data and undermine competition in the EV charging market. If the CEC does decide to mandate the collection of this data as well as reliability data, it should only be applicable to publicly funded and publicly available charging stations. The CEC should keep with existing practice for grants it administers and preclude any utilization data from public disclosure.

2. **Collection of inventory data for public and private chargers.**

Publicly Available Charger Inventory

[2] https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=19-AB-2127

The inventory data requested from electric vehicle service providers (EVSPs) is already collected by the California Air Resources Board (CARB) and at the federal level by the Department of Energy's (DOE) Alternative Fuels Data Center (AFDC) in accordance with CARB's Electric Vehicle Supply Equipment (EVSE) Standard for many publicly available chargers in California[3]. To prevent redundant data collection efforts, we recommend that the CEC engage in data-sharing agreements with both CARB and DOE's AFDC to access the data CEC seeks to collect on public charging infrastructure. This approach would efficiently leverage existing resources, prevent unnecessary duplication of data reporting to California agencies, and allow CEC to collect inventory data on chargers not currently covered by CARB's EVSE Standard.

Longer term, we request that the CEC work with CARB to gradually phase out CARB's reporting requirements to allow the CEC to assume responsibility for collecting this data in accordance with SB 123. This transition would promote efficiency and cooperation in data management.

Private Use Charger Inventory

We understand the CEC's interest in strengthening its understanding of the state's non-publicly available charging infrastructure. The vast majority of charging activity occurs in private settings, and the state funds multiple programs designed to support consumer and commercial installation of charging infrastructure at homes and businesses. We also understand the CEC's need to conduct analysis pursuant to SB 1000 to evaluate the equitable distribution of chargers in the state.

Unfortunately, reporting detailed inventory data associated with private chargers at the granularity proposed in the CEC's draft regulations poses serious risks to customer privacy. Unlike public chargers, which are used by a wide variety of individuals, private chargers are routinely used by the same individuals and businesses. If compromised, this private charger data could easily be re-identified and associated with specific customers.

To protect customer privacy, we strongly recommend that CEC eliminate or make optional inventory reporting requirements for private use chargers, or at a minimum reduce the granularity of any mandatory reporting requirements. By allowing entities the option to report private use charger data pre-aggregated to a census tract level, the CEC could still conduct SB 1000 analysis without compromising the private information of residents and businesses.

3. **Public disclosure of reliability and inventory data.**

[3] https://ww2.arb.ca.gov/sites/default/files/2020-06/evse_fro_ac.pdf

Section 2505(a)(5)(b)(10) does not currently designate per-port uptime percentage data or successful charge percentage data as confidential in the draft regulation. We strongly recommend that CEC automatically categorize these data fields as confidential information on a per-port basis and recommend that any public disclosure of uptime or charge success data be aggregated at a statewide level. The draft regulation provides no policy rationale or justification for public disclosure of such granular information. Disclosing per-port data provides no immediate benefit to customers that may be unable to initiate a charge and may increase EV charger reliability concerns if data is misused or misinterpreted. Improving the charging experience is a statewide issue and CEC can support public tracking of charging experience improvements by reporting information at the state level.

Additionally, the CEC proposes to collect and publicly disclose commercially sensitive inventory data in the draft regulation, including for private, behind-the-fence chargers. These data fields include charger address, geographic coordinates, EVSE model, serial number, charger ID, and port ID. The draft regulation does not provide a policy rationale for the public disclosure of this data, and we assert that the EV charging industry already provides all EV drivers and fleets with ample, freely available information on multiple platforms to support drivers' use of publicly available charging infrastructure - including but not limited to information on charger location, number of connectors, and charging capacity. To avoid public disclosure of information that may perversely increase cybersecurity risks and EV charger reliability issues, we recommend the CEC reconsider the collection of granular inventory data for private use chargers as suggested above. At a minimum, we recommend that the final regulation allow reporting entities the option to report inventory data aggregated to the census tract level, and automatically designate charger address, geographic coordinates, EVSE model, serial number, charger ID, and port ID data fields as confidential for all chargers subject to the regulation, including private chargers. CARB does not publicly disclose these data fields collected pursuant to the EVSE Standards and adopting this recommendation would align CEC practice with CARB practice.

Finally, Section 2507 (f)(1)(D) proposes to provide CEC with the discretion to publicly disclose any confidential data collected through the draft regulation provided it is aggregated on a County or census tract level. We strongly recommend that CEC remove this language in the final regulation. The CEC does not provide any policy rationale for the disclosure of confidential information, which magnifies business risks and is not expressly prescribed by AB 2061. Moreover, in many cases, Counties and census tracts are not sufficient levels of aggregation to protect individual EVSP and customer information. Finally, the CEC provides no indication as to under what

circumstances these confidential data fields could be disclosed, creating further uncertainty for the EV charging industry. Ultimately, we strongly urge any information designated as confidential by the CEC under this regulation to remain confidential.

4. **Timelines.**

We ask that the CEC provide EVSPs with an opportunity to review the draft API and provide feedback on the method of data collection. We further request the CEC to provide 6 months to EVSPs after the finalization of the regulation to allow the minimum time needed for them to comply with the regulatory requirements. This will allow proper time for impacted stakeholders to understand the new requirements, update their processes, and ensure full compliance. EVSPs will require time to collect the data and build the internal reporting systems to be able to share with the CEC. This will allow for a balance between the need for regulatory compliance with the practicalities of real-world adjustments.

5. **Uptime requirements.**

Chargers installed using public funds, including ratepayer funds, should be reliable and demonstrate exemplary uptime performance and reporting. To achieve this, we agree with the CEC assessment that additional data is needed in order to gain a better understanding of the underlying issues prior to establishing an exact numerical standard for uptime. This reliability threshold should be established through collaboration between the funding entity and the charging industry on a path to a 97 percent uptime goal. With this comprehensive data, the CEC can confidently establish a standard that garners agreement from all stakeholders and enables progress.

6. **Downtime exclusions.**

We commend the CEC's general alignment with the National Electric Vehicle Infrastructure (NEVI) program funding requirements regarding the uptime formula. However, we do have some concerns with some excludable downtime provisions, further explained below:

- *Outage for Preventative Maintenance or Upgrade:* As an industry, we believe that preventative maintenance and upgrades aim to enhance the customer experience and ensure improved charger reliability. We discourage exclusions that may deter these necessary activities. Therefore, we recommend that the CEC consider increasing the maximum allowable downtime exclusion to at least 72 hours. Additionally, we are concerned with the requirement for companies to

provide a notification to the CEC two weeks ahead of such maintenance. We ask the CEC to remove the requirement to notify the CEC prior to preventative maintenance or upgrades to reduce the administrative burden of the requirement. Providing a two-week notification for preventative maintenance adds additional administrative burden for compliance considering that only a limited number of hours dedicated to routine maintenance can be counted as excluded downtime on an annual basis.

- *Vandalism:* We appreciate the CEC's proposal to include vandalism as an exclusion when calculating uptime. However, we recommend that the CEC removes the 5-day maximum for days claimed as an exclusion, allowing a complete exclusion of vandalism within the uptime calculation. This adjustment accounts for situations involving chronic vandalism and allows adequate time for EVSPs to receive notifications of vandalism from users and respond to the issue. Often, notifications may not reach EVSPs until several days after the vandalism occurs. If companies are penalized for repeated instances of vandalism, companies will be disincentivized to place chargers in areas prone to vandalism. At a minimum, we recommend that the CEC collect additional data to gain a better understanding of underlying issues associated with vandalism before setting a specified number of maximum excluded days. Finally, we are concerned about the third-party documentation requirement for instances of vandalism. Rather than a police report, we request that the CEC accept other forms of documentation such as a timestamped photo. In many instances, vandalism is not the result of criminal activity but rather the result of user behavior. These behaviors, despite industry education on proper charger handling, include repeated dropping and running over cables and connectors in a manner that renders chargers temporarily unusable. We look forward to coordinating with the CEC on solutions to address these challenges.

- *Communication Network Outages:* Requiring chargers to default to free charging during communication outages could potentially be exploited by individuals, leading to system manipulation. Therefore, we oppose the provision to require free charging in the case of communication network outages.

Thank you for the opportunity to respond to the CEC’s draft staff report on tracking California EV chargers. We look forward to continued engagement with the California Energy Commission and other stakeholders to refine and improve the regulations, ensuring they align with the evolving needs of the EV charging industry and the state's broader ZEV goals.

Sincerely,

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