December 6, 2021

Tim Elliott
Motor Fuel Quality and Enforcement Manager
Washington State Department of Agriculture
PO Box 42560
Olympia, WA 98504-2460

RE: Comments of Greenlots on WSDA Electric Vehicle Draft Rule Language

Dear Mr. Elliott,

Greenlots submits these comments to the Washington State Department of Agriculture (“WSDA” or “the Department”) in response to its November 19, 2021 email notice requesting input on draft rule language related to electric vehicle supply equipment (EVSE) that was added to chapter 19.94 RCW by SB 5192.

Greenlots is a leading provider of electric vehicle (“EV”) charging software and services and a member of the Shell Renewables and Energy Solutions group. The Greenlots network supports a significant percentage of the DC fast charging infrastructure in North America. Greenlots’ smart charging solutions are built around an open standards-based focus on future flexibility while helping site hosts, fleets, utilities, and grid operators manage dynamic electric vehicle charging loads and respond to local and system conditions.

As a longstanding market participant in Washington actively involved in the legislative process around SB 5192, Greenlots commends WSDA for its swift engagement and stakeholder outreach during this informal pre-rulemaking process. Below we highlight certain specific areas of the draft rule which Greenlots sees as problematic and recommends revision. Silence on other sections of the draft rule at this point does not necessarily mean Greenlots is in full concurrence, however, we encourage a focus on the sections highlighted below. Greenlots looks forward to reviewing other stakeholders’ comments, the opportunity for further discussion at subsequent workshops, and to provide additional comments and feedback at a later date.

**WAC 16-662-200**
**Electric Vehicle Supply Equipment Compliance Dates**
(1) Any electric vehicle supply equipment that is eligible for a delayed compliance date based on installation date must be clearly marked with the installation date in a place and manner easily seen by an inspector and the public. If no label is found by the inspector, current requirements may be enforced as if the electric vehicle supply equipment was installed after the installation date associated with delayed compliance.
Greenlots has significant concern with the potential cost associated with meeting this potential requirement, which in many cases amounts to ordering a truck roll to retroactively label each and every charger installed in the field with its date of installation. Depending on the location and type of a given charger, the cost of this specific requirement could be $500 or more per charger and outweigh the current value of certain Level 2 chargers deployed in the field, including eroding the ability or extending the timeline of a Level 2 charger to become profitable for its owner. Although understanding the impetus and appreciating the vision of this proposed requirement, we note that for example, when developing its weights and measures related rules, California did not institute such a requirement and instead leaned on other, less costly means of determining a charger’s date of installation. This could include public records such as the registration records of the charger with applicable state agencies or even local permitting authorities. Greenlots encourages WSDA to identify alternative approaches to accomplishing this end.

**WAC 16-662-215**

**Interoperability requirements related to electric vehicle supply equipment**

(1) All publicly available electric vehicle supply equipment subject to RCW 19.94.570 must be in compliance with the following interoperability requirements:

(a) To facilitate payments across networks, the electric vehicle service provider shall, at a minimum, maintain Open Charge Point Interface (OCPI) version 2.1.1 or 2.2 standards on every networked electric vehicle supply equipment for Level 2 and direct current fast chargers.

(b) To protect Washington state businesses investing in electric vehicle infrastructure, all networked electric vehicle service equipment sold or supplied in the state shall be capable of using Open Charge Point Protocol (OCPP) version 1.6 or 2.0.1 standards.

Firstly, Greenlots applauds WSDA for drafting rules to fulfill the intent of the Legislature and the letter of the statute, by going beyond simply facilitating *network-to-network interoperability* through roaming capabilities, and also drafting rules establishing requirements to facilitate critically important *EVSE-to-network interoperability*.

This said, unfortunately the OCPP provision that is drafted, intended “[t]o protect Washington state businesses investing in electric vehicle infrastructure” is inadequate to accomplish that goal, and is outdated given the status of today’s market, and will be particularly so two years from now when these requirements would take effect as drafted. Essentially any provider today can say that their products are “capable of using Open Charge Point Protocol (OCPP)” if the standard for doing so or saying so is self-certification, self-attestation, or any other first-person, “take our word for it” requirement. Moreover, vendor-to-vendor difference in the interpretation and application of the OCPP specification can constrain its value in promoting interoperability, customer switching ability, and the ability to protect stranded assets. As an EV charging service provider working firsthand with a variety of different hardware providers, Greenlots has significant experience with this dynamic.
There is, however, a clear solution: third party OCPP certification, and the requirement of such as part of this rule. The Open Charge Alliance (OCA) – the open and transparent organization that oversees the protocol – has implemented a third-party certification program, and a third-party test lab in the U.S. has been providing independent certification for several years, along with several other labs around the world. Greenlots recommends pulling forward the interoperability requirement provisions of this rule, and Greenlots sees no reason why this OCPP requirement should not be firmed up in this manner, which would provide a clear yardstick against which to measure compliance.

Additionally, Greenlots is concerned that this provision of the rule as drafted does not address the practice of contractually limiting consumer switching of software and network. In some instances, hardware-software interoperability has been limited by vendors contractually, even when the underlying hardware may be OCPP certified/compliant, much like a cell phone that is locked to a certain network, requiring permission from that network operator to be unlocked. To actually “provide safeguards to consumers” as Section 6(1) of SB 5192 specifies, Greenlots encourages WSDA to address this practice.

To address the issues outlined above, Greenlots proposes these specific language revisions:

(b) To protect Washington state businesses investing in electric vehicle infrastructure, all networked electric vehicle service equipment sold or supplied in the state shall be capable of using third-party certified to Open Charge Point Protocol (OCPP) version 1.6 or 2.0.1 standards and must not be contractually or functionally locked to the network services of a vendor.

This two-pronged approach addresses the two underlying constraints which confine EVSE-network interoperability, namely chargers not being able to communicate with another network because they don’t speak a common language and/or chargers being contractually locked to a certain network.

As mentioned earlier, Greenlots also encourages WSDA to significantly pull forward the effective date for the WAC 16-662-215 “Interoperability requirements related to electric vehicle supply equipment” of this rule. Greenlots suggests that this go into effect no later than six months after the date the rule is adopted, or otherwise by January 1, 2023. These are provisions the industry largely can already accommodate, yet consumers, the market, and the public interest would benefit significantly from clearer and more precise requirements related to these interoperability goals, as suggested above.

Greenlots appreciates WSDA’s consideration of these comments, and we look forward to continued engagement and discussion in this rulemaking process.

Respectfully submitted,
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