December 6, 2021

Washington State Department of Agriculture
Re: Chapter 16-662 WAC
PO Box 42560
Olympia, WA 98504-2560

RE: Chapter 16-662 WAC Rulemaking Electric Vehicle Draft Rule Language

Dear Tim Elliot,

Tesla appreciates the opportunity to provide feedback on the proposed draft rule language submitted in rulemaking Chapter 16-662 WAC regarding rules for publicly accessible electric vehicle (EV) charging stations, as outlined in Second Substitute Senate Bill 5192 (SS SB 5192).

Tesla, Inc. is a U.S.-based electric vehicle (EV) and EV charging equipment manufacturer that operates charging stations for both Direct Current Fast Charging (DCFC) and Level 2. In Washington, Tesla has built 33 DCFC stations, known as Tesla Supercharger stations, with 335 DCFC ports, representing roughly 50% of the total number of DCFC ports currently in operation throughout the state.¹ Tesla has a Level 2 charging network, known as Destination Charging, with 303 Level 2 ports at 115 locations across Washington, typically provided at hotels and workplaces as a free amenity for guests and employees. Providing seamless, transparent, and accurate customer charging experience has been and continues to be one of Tesla’s key objectives in developing our charging networks. We strongly believe that a positive customer experience is a critical component to electrifying the transportation sector.

The regulations currently under discussion in Chapter 16-662 WAC may directly impact operations and costs at existing and future Tesla EV charging stations in the state of Washington.

I. WA 16-662-210 Electric Vehicle Supply Equipment - Multiple Payment Methods

Tesla agrees with the Washington State Department of Agriculture’s (“department”) proposed draft rules that interpret Section 5 SS SB 5192 requirement of “multiple payment methods” to be satisfied with a “minimum of three” of a list of payment methods. Tesla appreciates the flexibility in the requirement that, “at least one payment method must include payment by charge card (debit, credit, and pre-paid) by use of the card number or magnetic strip”.

In-Vehicle Payment Option
In addition to EV charging payments being initiated at the EV Supply Equipment (EVSE) or at a kiosk, a meaningful share of payment transactions occurs in-vehicle. For instance, Tesla drivers initiate a charging session via the in-vehicle user interface that is tied to a customer account and the associated payment method via credit or debit card. Use of the in-vehicle interface provides a seamless charging and payment experience which immediately displays the initiated charging session when the vehicle is plugged in. A Tesla account is required to order, purchase, and operate a Tesla vehicle. Tesla strongly recommends that “in-vehicle” be added as an option for where payment accommodations and transactions occur, as detailed in redlines in Appendix A.

¹ https://afdc.energy.gov/fuels/electricity_locations.html#/analyze?fuel=ELEC
Additionally, Tesla’s in-vehicle display already offers multiple language options which would comply with section 2(a). Allowing in-vehicle as a compliance option where payment accommodations and transactions occur can allow for a more seamless charging and payment experience from driving, to charging, to payment. While the in-vehicle option may be able to be covered under section (f), it should also be directly called out given its prevalence and ability to provide a streamlined experience.

**Single Manufacturer Account Provision**
Importantly, Tesla recommends that a provision be included in subsection 3 so the section does not apply to EVSE provided by a manufacturer of EVs for the exclusive use by vehicles it manufacturers, as detailed in redlines in Appendix A. Without this exemption, Tesla charging stations that currently only serve Tesla vehicles would be unable to comply since a Tesla account is required to order, purchase, and operate a Tesla vehicle. To not provide this exemption would result in unavoidable noncompliance, which was not the intent of SS SB 5192.

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Tesla appreciates the opportunity to provide comments on the proposed draft rule language submitted in rulemaking Chapter 16-662 WAC for publicly accessible electric vehicle stations, as outlined in SS SB 5192. Tesla looks forward to providing additional input throughout the rulemaking process.

Sincerely,

Noelani Derrickson
Business Development and Policy
Tesla
Appendix A

NEW SECTION

WAC 16-662-210
Electric vehicle supply equipment payment methods

(1) All publicly available electric vehicle supply equipment subject to RCW 19.94.565 must have accommodations on or in each unit or kiosk or in-vehicle located on site, used to service the electric vehicle supply equipment, for accepting a minimum of three of the following payment methods. At least one payment method must include payment by charge card (debit, credit, and pre-paid) by use of the card number or magnetic strip.

(a) Toll free number or built-in call button with the option to initiate a charging session at any time that electric vehicle supply equipment is operational and publicly available;

(b) Credit card reader device including either one or a combination of a magnetic strip, EMV chip, or contactless;

(c) A mobile payment option without the requirement to download an app or sign in;

(i) For the purpose of this section, “mobile payment” means an electric fund transfer initiated through a mobile phone or device.

(d) Acceptance of a range of mobile wallets directly at the electric vehicle supply equipment or kiosk or in-vehicle;

(e) RFID card or device that:

(i) Does not require a minimum balance;

(ii) Does not have fees on the balance; and

(iii) Is compatible with any applicable interoperability out-of-network agreements the electric vehicle service provider has.

(f) Other methods that are formally requested as an alternative payment method and approved by the Director prior to their use as a payment method under this section.

(i) Alternative payment method must be for the benefit of the public, convenient, and reasonably support access for current or future users;

(ii) Approved alternative methods will be posted on the department’s website and will be an allowed alternative to all electric vehicle service providers;

(2) The electric vehicle supply equipment payment accommodations must provide means for conducting a charging session in languages other than English.

(a) The electric vehicle service provider shall consider the demographics of the area in which the unit will be installed, and the languages most commonly spoken in that location, when determining the alternative languages to offer at the unit.

(3) Electric vehicle service providers may not require a subscription, membership or account or a minimum balance on an account in order to initiate a charging session at electric vehicle supply equipment units.

(a) The requirements of this section shall not apply to publicly available electric vehicle supply equipment provided by a manufacturer of electric vehicles for the exclusive use by vehicles it manufacturers.

NEW SECTION

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.

(c) The requirements of this section shall not apply to publicly available electric vehicle supply equipment provided by a manufacturer of electric vehicles for the exclusive use by vehicles it manufacturers.