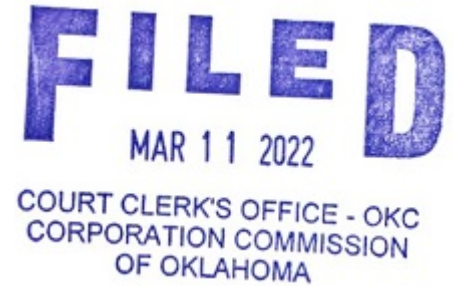


From: [State Online Filing System](#)
To: [Mary Sanders](#)
Subject: [EXTERNAL] Your Filing has been submitted successfully (Corporation Commission, Oklahoma - OCC - Filing ID: 8274)
Date: Friday, March 11, 2022 9:26:14 AM
Attachments: [RM 202100005 - OAC 165-14 Agency Rule Report \(final\).pdf](#)

If you are encountering issues opening the attached files, please login to the filing system to view the documents: <https://www.ok.gov/state/filings/logout.php>
Filing ID: 8274

Submission Date: 03/11/2022 09:22:28 am

Agency Name: Corporation Commission, Oklahoma - OCC
Mailing Address 1: 2101 N. Lincoln Blvd
Mailing Address 2: Jim Thorpe Bldg
City: Oklahoma City
State: OK
Zip: 73105



Type of Filing: Administrative Rules

Rule Type: Permanent

Adoption Date: 03/03/2022

Title Number: 165

Chapter Number: 14

Sub Chapters: 1, 3, 5, 7, 9

Public Comment: Comments were made and discussions held regarding proposed rules. Written comments filed with the Commission's Court Clerk are summarized in the Rule Report under Section 9. All comments were addressed and taken into account in the adopted rules.

Rule Impact: The adopted rules are necessary due to implementation of the DRIVE Act. Persons affected by the proposed rules are public charging station operators in Oklahoma, the Commission's PUD, and members of the general public who use the services provided at public charging stations. Compliance costs are anticipated for public charging station operators due to these rules. The PUD anticipates a significant increase in its costs to administer the requirements of 68 O.S. Section 6509.

Reason for Rule: The adopted rules are necessary due to implementation of the DRIVE Act, of 68 O.S. Section 6509. Additionally, the adopted rules are necessary to protect members of the general public who use the services provided at public charging stations by ensuring the accuracy of the amount of electricity transferred during the charging process and ensuring that public charging stations are properly calibrated and safely maintained.

Statutory Authority to promulgate the rules: 68 O.S. Section 6509

Fee Increase? No

**AGENCY RULE REPORT
OKLAHOMA CORPORATION COMMISSION
PERMANENT RULEMAKING
OAC 165:14. ELECTRIC VEHICLE CHARGING STATIONS
CAUSE NO. RM 202100005**

Pursuant to the Oklahoma Administrative Procedures Act requirements in 75 O.S. §§ 303.1(A) and 308(A), the Oklahoma Corporation Commission ("Commission") hereby respectfully submits this Agency Rule Report to the Honorable J. Kevin Stitt, Governor of the State of Oklahoma, the Honorable Greg Treat, President Pro Tempore of the State Senate, the Honorable Charles McCall, Speaker of the House of Representatives, the Honorable Tom Gann, Co-Chair, Joint Committee on Administrative Rules, and the Honorable Julie Daniels, Co-Chair, Joint Committee on Administrative Rules.

1. DATE OF THE PUBLICATION OF NOTICE OF PROPOSED RULEMAKING:

A. The Commission's Notice of Proposed Rulemaking was published in The Journal Record of Oklahoma City, Oklahoma on November 22, 2022.

B. 75 O.S. § 250.4 exempts the Commission from the requirements of 75 O.S. §§ 255, 303(A), and 303(B) respectively, to publish a Notice of Intended Rulemaking in The Oklahoma Register.

2. NAME AND ADDRESS OF THE AGENCY:

Oklahoma Corporation Commission
P.O. Box 52000
Oklahoma City, Oklahoma 73152-2000

3. TITLE AND NUMBER OF THE RULES:

Chapter 14. Electric Vehicle Charging Stations [NEW]
Subchapter 1. General Provisions [NEW]
165:14-1-1. Purpose, title, and authority [NEW]
165:14-1-3. Application of rule [NEW]
165:14-1-5. Definitions [NEW]
165:14-1-7. Interpretation of rules [NEW]
165:14-1-9. Relief from rules [NEW]
165:14-1-11. Resale of electricity and amount charged to consumer [NEW]
165:14-1-13. Public charging station is not a public utility [NEW]
Subchapter 3. Records and Reporting [NEW]
165:14-3-1. Record keeping [NEW]
165:14-3-3. Registration and contact information [NEW]
165:14-3-5. Annual reporting requirements [NEW]

165:14-3-7. Reporting of openings and closings [NEW]
Subchapter 5. Equipment Standards, Testing, Calibration, and Inspection Reports [NEW]
165:14-5-1. Inspections and tests [NEW]
165:14-5-3. Charging station equipment and applicable standards [NEW]
165:14-5-5. Equipment testing [NEW]
Subchapter 7. Consumer Complaints [NEW]
165:14-7-1. Consumer services informal review [NEW]
165:14-7-3. Records of service complaints; investigations [NEW]
Subchapter 9. Costs and Fines [NEW]
165:14-9-1. Determining assessment of costs [NEW]
165:14-9-3. Fines [NEW]

4. STATUTORY AUTHORITY FOR THE RULES:

Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021 ("DRIVE Act"), specifically 68 O.S. § 6509.

5. FEDERAL OR STATE LAW, COURT RULING, OR OTHER AUTHORITY REQUIRING THE RULES:

Please see response to item number 4.

6. STATEMENT OF THE GIST OF THE RULES AND BRIEF SUMMARY OF THE CONTENT OF THE ADOPTED RULES:

The adopted rules standardize record keeping requirements, require submission of contact information, an annual report, and regular reporting requirements, determine that public charging stations are not public utilities, establish requirements for charging station equipment and testing standards, establish consumer protection measures, require charging station operators to retain records of service complaints and investigations, and clarify that the Commission may assess costs and fines after notice and a hearing in certain situations.

7. STATEMENT EXPLAINING THE NEED FOR THE ADOPTED RULES:

The adopted rules are necessary to establish a new chapter, OAC 165:14, due to implementation of the DRIVE Act, House Bill 2234, effective November 1, 2021, specifically 68 O.S. § 6509. Additionally, the adopted rules are necessary to protect members of the general public who use the services provided at public charging stations by ensuring the accuracy of the amount of electricity transferred during the charging process and ensuring that public charging stations are properly calibrated and safely maintained.

8. DATE AND LOCATION OF THE HEARING AT WHICH THE RULES WERE ADOPTED:

On March 3, 2022, the rules were adopted in a public hearing held in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 N. Lincoln Blvd., Oklahoma City, Oklahoma 73105, before the Commission.

9. SUMMARY OF COMMENTS AND EXPLANATION OF CHANGES OR LACK OF ANY CHANGES MADE IN THE ADOPTED RULES AS A RESULT OF TESTIMONY RECEIVED AT THE PUBLIC HEARINGS OR MEETINGS HELD OR SPONSORED BY THE AGENCY FOR THE PURPOSE OF PROVIDING THE PUBLIC AN OPPORTUNITY TO COMMENT ON THE RULES OR OF ANY COMMENTS RECEIVED PRIOR TO ADOPTION OF THE RULES:

Comments submitted in writing by persons or organizations may be viewed on the Commission's website at <https://imaging.occ.ok.gov/imaging/OAP.aspx>, by searching Cause No. RM 202100005.

Summary of Written Comments:

Written comments were provided by the Alliance for Transportation Electrification ("The Alliance") on December 6, 2021. The Alliance recommended that the rulemaking process should be extended further beyond the dates included in the Notice of Proposed Rulemaking. The Alliance provided redline suggested changes to Oklahoma Administrative Code ("OAC") 165:14-1-3 concerning the application of the rules, 165:14-1-11 concerning the concept that non-utility electric vehicle ("EV") charging stations or service providers should not be subject to traditional rate regulation that applies to regulated electric utilities by the Commission, 165:14-3-5 concerning submission of GPS coordinates with the annual report if a physical address is unavailable, and 165:14-5-3 concerning charging station equipment and the applicable standards to follow. In response to the filed comments, PUD incorporated The Alliance's redlined suggestions into the next draft proposal. However, PUD did not support The Alliance's request to extend the rulemaking timeline because the process already exceeded the time required by the Oklahoma Administrative Procedures Act ("APA").

Written comments were provided, jointly, by the Association of Central Oklahoma Governments ("ACOG") and Indian Nations Council of Governments ("INCOG"), filed on December 13, 2021. ACOG/INCOG recommended that the Commission limit application of the rules to EV charging stations with a charging capacity greater than 50 kilowatts, and add definitions for "connector" and "meter." ACOG/INCOG further described potential issues if the Commission adopted the National Institute of Standards and Technology ("NIST") Handbook 44, Section 3.40. In response to the filed comments, PUD incorporated into the next draft proposal the 50 kilowatts limit application, a similar definition for "connector" but not for "meter," and changed the requirement to follow the NIST Handbook 44, Section 3.40 from a mandatory requirement to an encouraged policy.

Written comments were provided by ABB, Alliance for Automotive Innovation, Electrify America, EVBox, EVConnect, EVgo, Francis Energy, FreeWire Technologies, Greenlots, Siemens, Rivian, Tesla and Tritium (collectively, "the Joint EV Parties"), filed on December 13, 2021. The Joint EV Parties recommended that the rulemaking process should be extended further beyond the dates included in the Notice of Proposed Rulemaking. The Joint EV Parties further expressed concerns with the implementation process and timeline for requiring compliance with NIST Handbook 44, Section 3.40. Finally, the Joint EV Parties described problems with PUD's proposal for on-demand testing of EV equipment and recommended a change to the applicability of the rules. In response to the filed comments, PUD incorporated the Joint Parties' redlined proposals into the next draft proposal. PUD did not support the Joint Parties' request to extend the rulemaking process because the process already exceeded the time required by the Oklahoma APA.

Written comments were provided by ChargePoint, Inc. ("ChargePoint"), filed on December 14, 2021. In its comments, ChargePoint described concerns with the availability of testing equipment and qualified service agents in Oklahoma and requested an extended implementation timeline. ChargePoint recommended that the Commission adopt NIST Handbook 44, Section 3.40, instead of using the phrase "industry standards." ChargePoint described the costly and time-consuming administrative burden to comply with testing requirements proposed in OAC 165:14-7-5. Finally, ChargePoint supported the draft proposal in OAC 165:14-1-11. In response to the filed comments, PUD modified the implementation timeline, clarified the requirements to follow the NIST Handbook 44, and modified the concept for meter testing on request of consumer.

Written comments were provided by ChargePoint, filed on January 7, 2022. In its comments, ChargePoint encouraged the Commission to require adoption of NIST Handbook 44, Section 3.40. Additionally, ChargePoint requested to clarify proposed language in OAC 165:14-1-11, lengthen the timeline for compliance, and clarify certain information to be provided upon registration. Further, ChargePoint questioned the need to exclude charging stations with a charging capacity of less than 50 kilowatts. Finally, ChargePoint requested to modify the proposed language concerning the requirement that charging stations must be legibly and permanently marked with certain information. In response to the filed comments, PUD did not modify the items identified by ChargePoint. Due to industry concerns about compliance with NIST Handbook 44, Section 3.40, and the understanding that it is a tentative code, PUD agreed that following the code should be encouraged. Further, PUD retained the 50 kilowatts exception to align it with the Oklahoma Tax Commission exception in the statute.

Written comments were provided by the Joint EV Parties, filed on January 10, 2022. In its comments, the Joint EV Parties provided cost and economic impacts of the draft rules. The Joint EV Parties noted that many of the cost impacts may no longer be applicable due to positive changes in the most recent draft rules. The Joint EV Parties recommended additional clarifying language relating to the requirement to follow NIST Handbook 130. In response to the comments, PUD included the Joint EV Parties' proposal concerning NIST Handbook 130.

Written comments were provided by Commissioner Bob Anthony on March 1, 2022. In his comments, Commissioner Anthony requested that the following language be included, "Any new electric vehicle charging station fees which may be established in OAC 165:5, Rules of

Practice, shall not be assessed prior to January 1, 2025.” In response to the comment, PUD did not include it in its proposal because it would be improper to include in this chapter; instead, the language could be included in OAC 165:5 with the other Commission fees.

Public Meeting Comments:

The first technical conference was held on December 8, 2021, at 1:30 p.m. via Zoom, and in-person at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, to afford the public an opportunity to appear and comment on, and suggest additions and/or revisions to, the proposed rules. Commissioner Dana L. Murphy attended the technical conference.

During the first technical conference, oral comments were provided by several interested persons. Francesca Wahl, on behalf of Tesla, commented that the rules should clarify whether a charging station located at a workplace is regulated. Eric Pollard, on behalf of ACOG, commented that a list of all EV Stations in the State of Oklahoma exists and would be provided to PUD. Mr. Pollard also expressed interest in sharing the information collected by PUD. Michael Krauthamer, on behalf of The Alliance, requested that GPS location should be allowed for submissions due to certain charging stations not having accurate physical addresses. Renee Sampson, on behalf of FreeWire, commented that testing for fast chargers is currently unavailable. Justin Ackley, on behalf of ChargePoint, commented that the draft rules should retain the NIST Handbook 44 standards.

The second technical conference was held on January 12, 2022, at 10:00 a.m. via Zoom, and in-person at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, to afford the public an opportunity to appear and comment on, and suggest additions and/or revisions to, the proposed rules. Commissioner Dana L. Murphy attended the technical conference.

During the second technical conference, oral comments were provided by several interested persons. Justin Ackley, on behalf of ChargePoint, requested an additional change to limit the applicability of the rules to EV stations that are greater than 50 kilowatts. Mr. Ackley also raised the issue about testing standards needing to be uniform, perhaps NIST Handbook standards, instead of using the term 'industry standards.' Eric Pollard, on behalf of ACOG, commented that the Commission should include additional definitions for 'connectors' and clarify the definition for 'EVSE port.' Mr. Pollard also asked how the PUD and the company would determine whether the equipment is nonfunctional. Keith Bradley, on behalf of Electrify America, described the different types of connectors at a charging station and how the rules could take these differences into account. Mr. Bradley also recommended that the rules permit testing to be compliant with the manufacturer's standards. Michael Krauthamer, on behalf of The Alliance, thanked the PUD for making changes that were requested in The Alliance's written comments. Francesca Wahl, on behalf of Tesla, commented that her client agreed with the newer rules draft and described newer comments filed with cost details. Frank Reid commented about the applicability of the rules to charging stations that only charge a monthly fee.

The third technical conference was held on February 2, 2022, at 9:30 a.m. via Zoom, and in-person at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, to afford the public an opportunity to appear and comment on, and suggest additions and/or revisions to, the proposed rules. Commissioner Dana L. Murphy attended the technical conference.

During the third technical conference, oral comments were provided by several interested persons. Keith Bradley, on behalf of Electrify America, questioned the intention of a recent change relating to testing, and whether the rule would be retroactive. Justin Ackley, on behalf of ChargePoint, questioned whether PUD field inspectors may partner with other Commission divisions when conducting inspections. PUD responded that it may happen in the future but not for the first few years. Michael Krauthamer, on behalf of The Alliance, questioned why the January 1, 2023 date was inserted instead of requiring registration within 30 days of registering with the Oklahoma Tax Commission. PUD responded that this date was necessary because the Oklahoma Tax Commission may not be requesting registration information for a while, and PUD needs the registration information to perform its own obligations under the statute. Eric Pollard, with ACOG, asked whether the registration information will be made publicly available. In response, PUD stated that it should be made available, and the Division can coordinate how it can be made available. Francesca Wahl, with Tesla, thanked PUD for updating the proposal to be less burdensome.

A public hearing to consider adoption of the proposed rules was scheduled to occur on February 23, 2022, at 9:30 a.m.; however, due to inclement weather causing the Commission to be closed, the hearing was continued until March 3, 2022, at 9:30 a.m. Commissioners Dana L. Murphy and Bob Anthony, along with Jeff Kline, on behalf of the PUD, appeared to announce to announce the continuance. Additionally, notice of the new hearing date was distributed by GovDelivery.

The continued public hearing took place before the Commission on March 3, 2022, at 9:30 a.m. via Zoom, and in-person at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma, to afford the public an opportunity to make oral comments concerning the draft rules filed on February 14, 2022. Commissioners Dana L. Murphy, J. Todd Hiatt, and Bob Anthony attended the public hearing.

During the public hearing, Commissioner Bob Anthony presented his additional proposal, filed on March 1, 2022. After hearing from Commissioner Anthony, it was decided that the fee proposal would not be included in this Chapter, and would be considered in the pending rulemaking in Cause No. RM 202200001, amending OAC 165:5.

During the public hearing, oral comments were provided by Francesca Wahl, with Tesla. Ms. Wahl stated that she supported the rules and expressed thanks to the PUD for working with industry on the rules.

The Commission considered the draft rules filed on February 14, 2022. After acknowledging all written and oral comments, the Commission voted to approve the February 14, 2022 version of the rules, without further modification.

10. LIST OF PERSONS OR ORGANIZATIONS WHO APPEARED OR REGISTERED FOR OR AGAINST THE ADOPTED RULES AT PUBLIC HEARING HELD BY THE COMMISSION OR THOSE WHO COMMENTED IN WRITING BEFORE OR AFTER SAID HEARINGS:

Appendix "A" is a list of persons or organizations that appeared either in-person or virtually by Zoom at the first technical conference held on December 8, 2021, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Appendix "B" is a list of persons or organizations that appeared either in-person or virtually by Zoom at the second technical conference held on January 12, 2022, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Appendix "C" is a list of persons or organizations that appeared either in-person or virtually by Zoom at the third technical conference held on February 2, 2022, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Appendix "D" is a list of persons or organizations who appeared either in-person or virtually by Zoom at the continued public hearing before the Commission, which took place on March 3, 2022, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Appendix "E" is a list of persons or organizations who submitted written comments for or against the adopted rules.

11. RULE IMPACT STATEMENT:

Appendix "F" is a copy of the Rule Impact Statement, filed with the Commission on December 1, 2021.

12. RULES INCORPORATED FROM A BODY OUTSIDE THE STATE:

The following rules include a document that was incorporated by reference:

- OAC 165:14-5-3(d). National Fire Protection Association's (NFPA) 70.
- OAC 165:14-5-3(d). National Electrical Code.
- OAC 165:14-5-3(h). National Institute of Standards and Technology Handbook 130, Uniform Regulation for the Method of Sale of Commodities.

13. RECORDED VOTE OF EACH COMMISSIONER REGARDING ADOPTION OF THE RULES:

On March 3, 2022, Commissioners Dana L. Murphy, Bob Anthony, and J. Todd Hiatt voted 3-0 to adopt the rules on a permanent basis and submit such rules to the Governor and the Legislature for their approval, pursuant to the Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*

14. PROPOSED EFFECTIVE DATE OF ADOPTED RULES:

The rules adopted by the Commission on March 3, 2022, are attached as **Appendix "G"**. The proposed effective date is July 1, 2022.

ATTENDANCE SIGN-IN

OKLAHOMA CORPORATION COMMISSION

Technical Conference #1

December 8, 2021, at @ 1:30 PM

FILED
DEC 08 2021COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

Cause No. RM 202100005

OAC 165:14

<u>NAME</u>	<u>EMAIL</u>	<u>PHONE #</u>	<u>ENTITY / GROUP REPRESENTING</u>
Terri Roberts	terri.roberts@oeservices.net	405-605-1120	OES/EFO/OFMCA
Lindsey Pever	lindsey@anewenergylaw.com	405-206-9575	A New Energy
ERIC POLLARD	epollard@acogok.org	405-982-2087	ACOG
Renee Samson	rsamson@freewiretech.com	415-297-4360	Freewire
Scheleese Goudy Keith Bradley	scheleese.goudy@squirepb.com	303-894-6120	
Michelle Merchant	mmerchant@incog.org	918-579-4474	INCOG
Michael Kradhamer			Alliance for Transportation Electrification
Francesca Wahl			Tesla
Justin Ackley			Charge Point

ATTENDANCE SIGN-IN

OKLAHOMA CORPORATION COMMISSION

Technical Conference #2

January 12, 2022

FILED
JAN 12 2022COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

Cause No. RM 202100005

OAC 165:14

<u>NAME</u>	<u>EMAIL</u>	<u>PHONE #</u>	<u>ENTITY / GROUP REPRESENTING</u>
Eric Davis	cedavis@phillipsmurrah.com		A New Energy
Michael Krauthamer	michael@EVadvisors.com	301-404-9498	Alliance for Transportation Electrification
ScheLeese Goudy	scheleese.goudy@squirepb.com	303-894-6120	Squire Patton Boggs
Keith Bradley	keith.bradley@squirepb.com		Squire Patton Boggs
Michelle Merchant	mmerchant@incog.org	918-579-9474	INCOG
Fairo Mitchell	eamitchell@aep.com		AEP/PSO
Tiffini Jackson	tsjackson@aep.com		AEP/PSO
Jim Evers	jaevers@aep.com		AEP/PSO
Stephanie Johnson	sdjohnson@aep.com		AEP/PSO
Derek Lewellen	dslewellen@aep.com		AEP/PSO
Joann S Worthington	jstevenson@aep.com		AEP/PSO
Matthew Horeled	mahoreled@aep.com		AEP/PSO
Jack Fite	jfite@wcgflaw.com		AEP/PSO
Mary Williamson	mewilliamson@aep.com		AEP/PSO
Francesca Wahl			Tesla
Justin Ackley			ChargePoint
Eric Pollard			ACOG

APPENDIX B

ATTENDANCE SIGN-IN

OKLAHOMA CORPORATION COMMISSION

Technical Conference #3

February 2, 2022

Cause No. RM 202100005

OAC 165:14

<u>NAME</u>	<u>EMAIL</u>	<u>PHONE #</u>	<u>ENTITY / GROUP REPRESENTING</u>
Michelle Merchant	Mmerchant@incog.org		INCOG
Lindsey Pever	Lindsey@anewenergyllc.com		A New Energy LLC
Michael Krauthamer	michael@evadvisors.com		Alliance for Transportation Electrification
ScheLeese Goudy	Scheleese.goudy@squirepb.com		Electrify America
Keith Bradley	keith.bradley@squirepb.com		Electrify America
Jackson Longo	jlongo@francisenergy.com		Francis Energy
Eric Pollard	epollard@acogok.org		ACOG
Justin Ackley	justin.ackley@chargepoint.com		ChargePoint
Francesca Wahl	fwahl@tesla.com		Tesla
			

ATTENDANCE SIGN-IN

OKLAHOMA CORPORATION COMMISSION

Public Hearing

March 3, 2022 at 9:30 AM

Cause No. RM 202100005

OAC 165:14

<u>NAME</u>	<u>EMAIL</u>	<u>PHONE #</u>	<u>ENTITY / GROUP REPRESENTING</u>
Bud Groun			The Petroleum Alliance
Michelle Merchant	mmerchant@incog.org		INC OG
Candace McGinnis	candace@opmca4you.com		OPMCA
Justin Ackley	Justin.Ackley@ chargepoint.com		Charge Point
Francesca Wahl			Tesla
FILED MAR 03 2022 COURT CLERK'S OFFICE - OKC CORPORATION COMMISSION OF OKLAHOMA			

APPENDIX E

List of persons or organizations who submitted written comments for or against the adopted rules.

- December 6, 2021, Alliance for Transportation Electrification
- December 13, 2021, Association of Central Oklahoma Governments and Indian Nations Council of Governments
- December 13, 2021, ABB, Alliance for Automotive Innovation, Electrify America, EVBox, EVConnect, EVgo, Francis Energy, FreeWire Technologies, Greenlots, Siemens, Rivian, Tesla and Tritium (collectively, “the Joint EV Parties”)
- December 14, 2021, ChargePoint, Inc.
- January 7, 2022, ChargePoint, Inc.
- January 10, 2022, Joint EV Parties
- March 1, 2022, Commissioner Bob Anthony

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT
RULEMAKING OF THE OKLAHOMA
CORPORATION COMMISSION ADOPTING
**OAC 165:14, ELECTRIC VEHICLE
CHARGING STATIONS**

CAUSE NO. RM 202100005

FILED
DEC 01 2021

RULE IMPACT STATEMENT

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

Pursuant to 75 O.S. § 303(D) of the Oklahoma Administrative Procedures Act, the Public Utility Division ("PUD") of the Oklahoma Corporation Commission ("Commission") submits the following Rule Impact Statement for its proposed rules regarding Title 165, Chapter 14 of the Oklahoma Administrative Code ("OAC").

I. Brief description of the purpose of the proposed rules:

The purpose of the proposed rules is to establish a new chapter, OAC 165:14, due to implementation of House Bill 2234, effective November 1, 2021, of 68 O.S. § 6509 of the Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021. The proposed rules will standardize record keeping requirements, require submission of contact information, an annual report, and regular reporting requirements, determine that public charging stations are not public utilities, establish requirements for charging station equipment and testing standards, establish consumer protection measures including a mediation process and requiring charging station operators to retain records of service complaints and investigations, and clarify that the Commission may assess costs and fines after notice and a hearing in certain situations.

II. Description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:

The persons most likely to be affected by the proposed rules are public charging station operators in Oklahoma, the Commission's PUD, and members of the general public who use the services provided at public charging stations. Compliance costs are anticipated for public charging station operators due to these rules, but no detailed cost impact information has been provided at this time from any private or public entity. The PUD anticipates a significant increase in its costs to administer the requirements of 68 O.S. § 6509 and is considering requesting a new fee in the Commission's Chapter 5 rules in a separate future rulemaking. No new or increased fees are proposed in these rules.

III. Classes of persons who will benefit from the proposed rules:

The persons benefiting from the proposed rules are members of the general public who use the services provided at public charging stations.

IV. Description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

While the proposed rules implementing 68 O.S. § 6509, will economically impact public charging station operators, no detailed information regarding economic impact has been provided to PUD at this time. It is anticipated that the public charging station operators will incur costs to test the equipment, submit annual and regular reporting requirements, and ensure that the equipment meets the safety requirements in the proposed rules. The proposed rules are proposed as the least restrictive means to achieve compliance with the requirements of 68 O.S. § 6509. The Commission will incur increased costs due to the requirements of 68 O.S. § 6509 and these rules. The proposed rules do not propose any fee changes and will not affect other political subdivisions.

V. Probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The PUD expects increased costs to administer the requirements of 68 O.S. § 6509. The PUD is considering a request to the Commission for a new fee in the Commission's Chapter 5 rules in a separate future proceeding; however, no fee is being proposed in this rulemaking. There is no anticipated effect on state revenue.

VI. Determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

It is not anticipated that implementation and enforcement of the proposed rules will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

VII. Determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

The proposed rules are not anticipated to have an adverse economic effect on small businesses, as defined in the Oklahoma Small Business Regulatory Flexibility Act.

VIII. Explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

Pursuant to 68 O.S. § 6509, public charging station operators are required to comply with certain testing and calibration requirements. The rules, implement, clarify, and provide a more descriptive process of the requirements. The PUD has attempted to minimize compliance costs by

permitting self-testing with random inspection performed by the PUD, with provision for initial certifications from the manufacturer allowed for compliance for the first three (3) years. Requirements to submit information were set forth to be as least burdensome as possible. Non-regulatory methods or less intrusive methods are not currently available for implementing the purpose of 68 O.S. § 6509 through these proposed rules.

IX. Determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rules are designed to ensure the accuracy of the amount of electricity transferred during the charging process and protect members of the public by ensuring that public charging stations are properly calibrated and safely maintained. The proposed rules require frequent testing and standardize safety measures for all public charging stations.

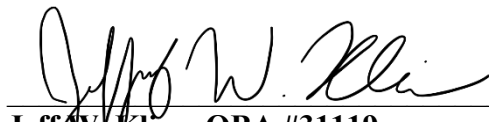
X. Determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

If the proposed rules are not implemented, potential detrimental effects to the public safety could result, as described above. The proposed rules ensure that public charging stations are calibrated correctly and are safely installed. It is not anticipated that there will be a detrimental effect on the public health or environment if these proposed rules are not implemented.

XI. Date of preparation of Rule Impact Statement:

This Rule Impact Statement was prepared on the 1st day of December, 2021.

Prepared by:



Jeff W. Kline, OBA #31119

Deputy General Counsel

Judicial and Legal Services Division

OKLAHOMA CORPORATION COMMISSION

P.O. Box 52000

Oklahoma City, Oklahoma 73152-2000

Telephone: (405) 521-2308

Email: Jeff.Kline@occ.ok.gov

Attorney for the Public Utility Division

APPENDIX G

TITLE 165. CORPORATION COMMISSION
CHAPTER 14. ELECTRIC VEHICLE CHARGING STATIONS

SUBCHAPTER 1. GENERAL PROVISIONS

165:14-1-1. Purpose, title, and authority

(a) The purpose of this Chapter is to establish rules to implement and enforce requirements pertaining to electric vehicle charging stations, pursuant to Section 6509 of the Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021 (hereinafter referred to as the "DRIVE Act"), 68 O.S. §§ 6501 et seq.

(b) The Oklahoma Corporation Commission has authority to promulgate and enforce these rules pursuant to 68 O.S. § 6509.

165:14-1-3. Application of rules

(a) This Chapter shall be read in context with any applicable:

- (1) Federal law and/or regulation;
- (2) State law and/or regulation; and,
- (3) Commission order and/or rule.

(b) This Chapter shall be applicable to all public charging stations operating in the State of Oklahoma.

(c) This Chapter is not applicable to charging stations:

- (1) That are not available for use by the public (e.g., at a personal residence, including multifamily dwellings, workplaces, or other non-public locations).
- (2) That dispense electrical energy at no cost to the consumer.
- (3) Used solely for dispensing electrical energy in connection with operations in which the amount dispensed does not affect customer charges or compensation (e.g., a store provides a free charging station on its property, a paid parking lot provides a charging station for which there is no charge based on the amount of energy delivered, a car manufacturer provides free charging services for its owners, or an organization charges a monthly fee for unlimited use of its network of charging stations).
- (4) With a charging capacity of less than fifty (50) kilowatts.

165:14-1-5. Definitions

In addition to the terms defined in 68 O.S. § 6502, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Commission" or "OCC" means the Oklahoma Corporation Commission.

"Consumer" or "Customer" means any person charging an electric vehicle at a public charging station.

"CSD" means the Oklahoma Corporation Commission's Consumer Services Division.

"EVSE port" or "electric vehicle supply equipment port" means the part of charging station equipment that has the power to charge only one electric vehicle at a time even though it may have multiple connectors/plugs.

"Install," "installing" or "installation" means the major activities and actions required to

connect, in accordance with applicable building and electrical codes, the conductors, connectors and all associated fittings, devices, power outlets or apparatuses mounted at the premises that are directly involved in delivering energy from the premises' electrical wiring to the public charging station.

"Maintain," "maintaining" or "maintenance" means the major activities and actions required to keep in an appropriate, safe condition and operation the conductors, connectors and all associated fittings, devices, power outlets or apparatuses mounted at the premises that are directly involved in delivering energy from the premises' electrical wiring to the public charging station.

"NIST" means the National Institute of Standards and Technology.

"Person" means an individual, partnership, corporation, association, trust, and every other type of legal entity, including an officer or employee of the Commission.

"PUD" means the Public Utility Division of the Oklahoma Corporation Commission.

"Repair" or "repairing" means the major activities and actions required to restore to a safe, sound condition and operation the conductors, connectors and all associated fittings, devices, power outlets or apparatuses mounted at the premises that are directly involved in delivering energy from the premises' electrical wiring to the public charging station.

165:14-1-7. Interpretation of rules

The words contained in this Chapter shall be given their ordinary and customary meanings, with technical terms and words being construed as generally understood within the electric and electric vehicle industries, except where otherwise expressly provided.

165:14-1-9. Relief from rules

Whenever compliance with any requirement of this Chapter would result in unreasonable hardship upon or excessive expense to a party or parties subject to the rules of this Chapter, the Commission may, upon application and for good cause shown, issue an order waiving or modifying the requirements of this Chapter. The Commission may grant temporary relief pending hearing.

165:14-1-11. Resale of electricity and amount charged to consumer

(a) The Commission does not consider the charging of electric vehicles at a public charging station owned or operated by a person not otherwise considered to be a rate regulated public utility to be the resale of electricity subject to the rate setting authority of the Commission.

(b) A rate regulated public utility shall not, through its filed tariff, prohibit electric vehicle charging or restrict the method of sale of electric vehicle charging at a public charging station.

165:14-1-13. Public charging station is not a public utility

A public charging station is not a public utility under 17 O.S. §§ 151 et seq.; however, public charging stations that are owned by a public utility shall comply with the requirements of this Chapter.

SUBCHAPTER 3. RECORDS AND REPORTING

165:14-3-1. Record keeping

- (a) Each charging station operator operating a public charging station shall:
- (1) Maintain third-party testing and inspection reports for three (3) years. Each testing and inspection report shall contain:
 - (A) Sufficient information to identify the meter;
 - (B) The date of the test;
 - (C) Reading of the meter;
 - (D) Results of the test; and
 - (E) The reason for conducting the test.
 - (2) Retain documentation regarding the installation of a charging station for three (3) years.
 - (3) Retain calibration records for the life of the meter. These records shall include the date when the meter was last calibrated and adjusted.
- (b) All records shall be kept and sorted by location.
- (c) All records included in this Section shall be provided to or made available for inspection by the PUD upon reasonable request.

165:14-3-3. Registration and contact information

- (a) On or before January 1, 2023, or within thirty (30) days of opening a new public charging station, each charging station operator operating a public charging station shall provide the following information to PUD for each public charging station:
- (1) The station name, complete physical address, type of facility where the station is located, and if necessary, directions from the nearest intersection;
 - (2) Global positioning system ("GPS") coordinates;
 - (3) Date the station opened;
 - (4) Access days and times;
 - (5) The number of each type of EVSE port located at the charging station (e.g. Level 1, Level 2, DC fast charger);
 - (6) Electric vehicle connector types usable;
 - (7) Electric vehicle charging network, if applicable; and
 - (8) How the customer is charged.
- (b) Each charging station operator shall include the name(s), mailing address(es), electronic mail address(es) and telephone number(s) of the individual(s) primarily responsible for:
- (1) Providing customer service;
 - (2) Repair and maintenance;
 - (3) Answering complaints;
 - (4) Authorizing and/or furnishing refunds to customers;
 - (5) Regulatory matters;
 - (6) Serving as primary emergency contact;
 - (7) Serving as contact for after-hours emergency(ies);
 - (8) Providing legal representation for regulatory matters;
 - (9) Reporting requirements;
 - (10) Serving as community liaison; and
 - (11) Engineering operations, meter tests, and repairs.
- (c) If the information listed in (a) or (b) is unavailable, the charging station operator may seek a

waiver from the PUD Director by making the request in writing.

(d) Any changes to the information in (a) or (b) shall be provided to PUD within thirty (30) calendar days of the change.

(e) The contact person under (b) may be the same for one or more of the listed items and shall be furnished applicable to each specific public charging station, if different, so that the PUD will be able to reach the responsible person at any time.

(f) Each charging station operator operating a public charging station shall promptly furnish such other information as the PUD may request.

165:14-3-5. Annual reporting requirements

(a) On or before March 1 of each year, each charging station operator operating a public charging station shall electronically submit information required by the PUD, which includes but is not limited to the following:

(1) Certification that the information provided under OAC 165:14-3-3(a) and (b) is accurate.

(2) The number of EVSE ports located at each public charging station, sorted by physical address.

(3) The name, telephone number, and electronic mail address of at least one person designated by the charging station operator to address questions pertaining to the report.

(4) A certification stating that all testing has been completed pursuant to the requirements in this Chapter.

(b) One report may be submitted for multiple public charging stations if the information, other than the physical address and the number of EVSE ports, is the same.

(c) No confidential information should be included in the report.

165:14-3-7. Reporting of openings and closings

(a) The charging station operator operating a public charging station shall inform the Commission in writing within thirty (30) calendar days of opening and/or permanently closing a public charging station.

(b) The Commission shall be notified in writing if a public charging station is closed due to maintenance and/or repairs for greater than fifteen (15) business days.

SUBCHAPTER 5. EQUIPMENT STANDARDS, TESTING, CALIBRATION, AND INSPECTION REPORTS

165:14-5-1. Inspections and tests

The Commission, or its authorized representative, shall be permitted to inspect and test the facilities located at any public charging station. Inspections and tests must be performed in compliance with all applicable state and federal regulations.

165:14-5-3. Charging station equipment and applicable standards

(a) Public charging stations must be maintained in all respects, including the functioning of the equipment.

(b) The charging station must be legibly and permanently marked to show the name, phone

number, and electronic mail address of the person to contact for emergencies, malfunctioning equipment, customer service, and for other concerns.

(c) No meter shall be installed which is known to be defective, or to have incorrect constants or which has not been tested and adjusted, if necessary, in accordance with the manufacturer's requirements or industry standards.

(d) All electrical equipment must meet the requirements of the most recent version of the National Fire Protection Association's NFPA 70, the National Electrical Code, and any updates thereto as it applies to wet, damp and hazardous conditions. All electrical wiring and equipment must be suitable for the locations in which it is installed; and, required emergency switches must be installed and appropriately placed.

(e) Public charging station facilities must be resistant to damage from the impact of a motor vehicle or be protected by suitable collision barriers.

(f) All required markings, instructions, graduations, indications, or recorded representations and their defining figures, words, and symbols must be easily readable and of such character that they will not easily become illegible.

(g) The Commission encourages all public charging stations to follow the standards in Section 3.40 of the NIST Handbook 44, and its future amendments, unless there exists a conflict with the statute or a provision of this Chapter.

(h) The Commission adopts, and all public charging stations are required to follow the Uniform Regulation for the Method of Sale of Commodities, as it pertains to retail sales of electricity sold as vehicle fuel in NIST Handbook 130, and its future amendments, unless there exists a conflict with the statute or a provision of this Chapter.

(i) The requirements of this Section will be enforced as follows:

(1) Beginning on January 31, 2024, for all public charging stations that began operations on or after January 31, 2024.

(2) Beginning on November 1, 2041, for all public charging stations that began operations prior to November 1, 2021.

(3) Beginning on January 31, 2028, for all public charging stations that began operations on or after November 1, 2021, and prior to January 31, 2024.

165:14-5-5. Equipment testing

(a) Each charging station operator operating a public charging station shall provide and install at its own expense and shall continue to own, maintain, and operate proper and sufficient equipment for the accurate measurement of electricity delivered by each public charging station.

(b) Each charging station operator operating a public charging station shall follow test procedures necessary for testing its meters in compliance with the manufacturer's requirements or industry standards. The equipment facilities and procedures shall be available for inspection by the Commission or its authorized representative. A charging station operator operating a public charging station may contract for testing of its meters by a third party.

(c) To ensure accuracy, meters shall be tested in accordance with a testing schedule established by the charging station operator, but in no instance shall it be greater than three (3) years between tests. Initial certifications from the manufacturer may count toward the three (3) year certification requirement. Charging stations that began operations prior to January 1, 2023, must complete testing no later than January 1, 2026.

(d) If charging station equipment is determined by the charging station operator or the PUD to be nonfunctional or having incorrect or inaccurate meter measurements, the equipment shall be taken

out-of-service immediately, unless waived in writing by the PUD Director for good cause shown. Once repairs are completed, the equipment shall be tested to confirm metered measurements and readings are within the original manufacturer's calibrations and/or specifications. Repaired equipment may be put back into service after the test results have been reported to the PUD.

SUBCHAPTER 7. CONSUMER COMPLAINTS

165:14-7-1. Consumer services informal review

(a) Whenever there is a dispute between the charging station operator operating a public charging station and the consumer as to the accuracy of the charging station meter, the matter may be brought by either party to the Commission's CSD. A consumer may be represented by a third party, if the consumer is available for verification.

(b) CSD will review the matter and issue an informal review decision in writing. If the dispute can be resolved by telephone with the party seeking review, the review decision need not be in writing unless requested by either party.

(c) During CSD's informal review, CSD may direct the charging station operator to test the accuracy of the equipment. The test shall be performed within a reasonable time and may be performed by a third party.

(1) Prior to conducting the test, the charging station operator shall provide the cost to conduct the test and provide the consumer notice that if the meter is found to test within the accuracy prescribed by the manufacturer of the equipment, the consumer will be required to pay the cost of the test. The consumer may withdraw the written request at any time prior to the test being conducted.

(2) If requested in writing by the consumer, the charging station operator shall conduct the test in the presence of the consumer, the consumer's representative, and/or an expert.

(3) The charging station operator shall prepare a written report stating the name of the consumer requesting the test, the date of the request, the location of meter, the type, make, size, and serial number of the meter, the date tested, and the result of the test. This report shall be provided to the consumer and CSD within ten (10) business days after the completion of the test.

(4) If the meter is found to test outside of the limits of accuracy prescribed by the manufacturer of the equipment or industry standards, the charging station operator shall refund any overcharge to the consumer.

(d) If the CSD is unable to resolve the dispute to the mutual satisfaction of the consumer or charging station operator, either may file a Consumer Services Complaint with the Commission.

165:14-7-3. Records of service complaints; investigations

Each charging station operator operating a public charging station shall make a full and prompt investigation of every formal complaint made to it by its consumers, either directly, or through the Commission after the consumer or other interested party has contacted the charging station operator. Each charging station operator operating a public charging station shall keep a record of all formal complaints received, which record shall show the name and address of the complainant, the date, the nature of the complaint, and the adjustment, or disposal made thereof, which record shall be retained for examination by the Commission. For purposes of this Section, a formal complaint is a written communication by a consumer or other interested party to the charging

station operator operating a public charging station that prompts an investigation by the charging station operator. All records of formal complaints shall be retained for a period of at least two (2) years from the date of final disposition.

SUBCHAPTER 9. COSTS AND FINES

165:14-9-1. Determining assessment of costs

(a) If a Commission proceeding is filed to enforce testing, calibration, and inspection report requirements, costs of the proceeding may be assessed upon the filing of a motion.

(b) Pursuant to Subsection (a), the Commission will determine the estimated costs of the case. These costs will be the basis of the amount assessed to the charging station operator subject to this Chapter.

(c) After notice and hearing, the Commission shall issue an order which shall include the following:

- (1) Whether or not the charging station operator will be assessed a cost;
- (2) The amount to be assessed; and
- (3) The date that the payment(s) shall be made.

165:14-9-3. Fines

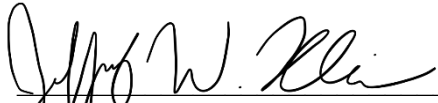
(a) If a charging station operator operating a public charging station fails to meet the requirements of this Chapter or any provision of the DRIVE Act within the Commission's jurisdiction, the Commission shall, following notice and a hearing, assess a fine not to exceed Five Hundred Dollars (\$500.00) per day, per violation. Each day on which a violation occurs will be deemed a separate and distinct offense.

(b) All costs, fees, fines, or assessments collected shall be deposited into the Commission Revolving Fund.

ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of new OAC 165:14, Electric Vehicle Charging Stations, which were adopted by the Oklahoma Corporation Commission on March 3, 2022, under permanent rulemaking provisions of the Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*

I, the undersigned do hereby attest that such rules were finally adopted in substantial compliance with the Administrative Procedures Act.

A handwritten signature in black ink, appearing to read "Jeff W. Kline", is written over a horizontal line.

Jeff W. Kline

Rules Liaison

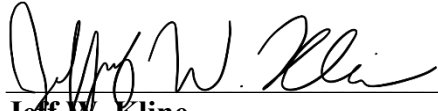
OKLAHOMA CORPORATION COMMISSION

March 11, 2022

Name of Agency: Corporation Commission
Type of Document: Agency Rule Report

LIAISON VERIFICATION:

I verify that I have reviewed the attached document and that it substantially conforms to filing and format requirements of the Administrative Procedures Act and the rules of the Secretary of State. Additional information may be obtained by contacting me at (405) 521-2308.

A handwritten signature in black ink, appearing to read "Jeff W. Kline", is written over a horizontal line.

Jeff W. Kline

Rules Liaison

OKLAHOMA CORPORATION COMMISSION

March 11, 2022