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February 2, 2021

Testimony in Support of House Bill 2145

Members of the House Committee on Energy, Utilities, and Telecommunications:

Thank you for the opportunity to speak today about a narrow, but important, update to Kansas statutes to allow for an expansion of electric vehicle charging stations in Kansas.

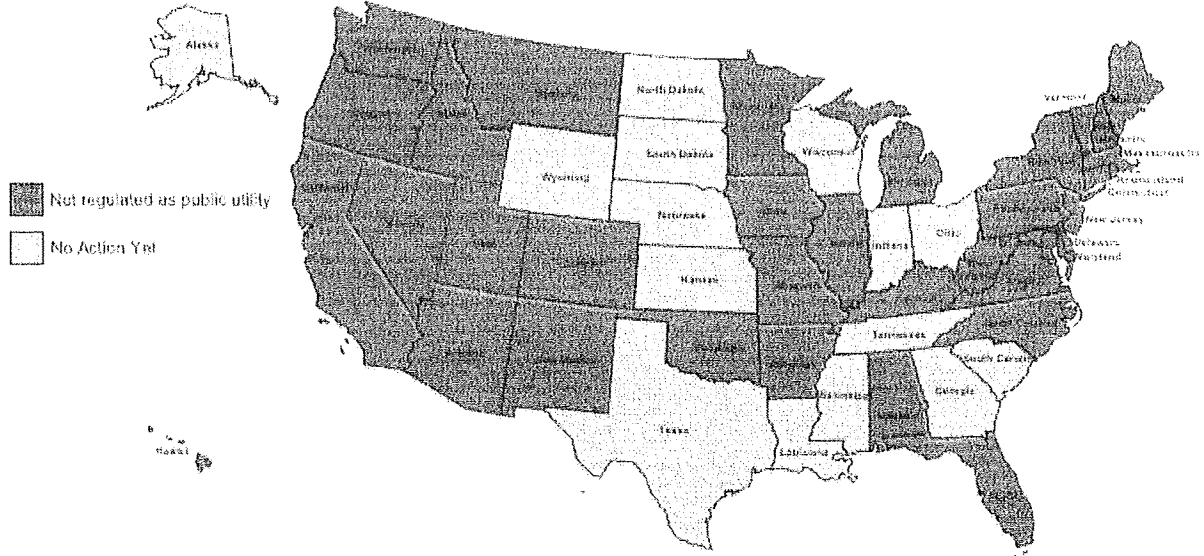
My name is Justin Wilson and I am a Director of Public Policy at ChargePoint, the largest electric vehicle charging network in the U.S. Since 2007, ChargePoint has been a leader in the development of electric vehicle charging equipment and network services, allowing our customers to charge their vehicles at home, work, around town, and on the go. With more than 127,000 independently owned charging spots, ChargePoint drivers have completed more than 87 million charging sessions and driven more than 2.6 billion electric miles. Through our partnership with Evergy and other customers, ChargePoint has more than 750 stations in Kansas, including publicly available stations on Kansas Avenue in Topeka and along the Kansas Turnpike.

It is my pleasure to be here today to request your support for House Bill 2145. HB 2145 seeks to clarify that the term “public utility” does not apply to electric vehicle charging stations. As more and more Kansans and Americans choose to drive electric vehicles, it is important that Kansas take steps to enable businesses such as traditional fueling stations, workplaces, retail stores, and others, to offer electric vehicle charging services in a manner that fosters competition and innovation. Kansas links the East and West coast of the US via Interstate 70, as well as our northern and southern borders via the Interstate 35 system. Kansas’s traditional fueling stations will benefit from the changes in this bill by having regulatory certainty to expand their services and provide electric vehicle charging services.

As we have seen the growth of electric vehicles across the country, a question that has arisen in other states is “are electric vehicle charging stations delivering power and therefore a public utility?” Kansas is not unique in needing to update state statutes to provide specific guidance on how electric vehicle charging stations should be treated by utility regulators. 35 states and the District of Columbia have looked at this issue and come to the same conclusion, that electric vehicle charging stations are providing a service, not power, and therefore should not be considered a public utility. This as a critical step in setting up a robust, competitive marketplace for electric vehicle charging services.

**House Energy, Utilities,  
Telecommunications**  
Date: Feb 2, 2021  
Attachment # 2

## Charging Stations are not regulated as public utilities in 35 States and DC



As you can see from HB 2145 (page 1, line 10), K.S.A. 66-104 defines public utility in this way: *“as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the... the production, transmission, delivery or furnishing of heat, light, water or power.”*

This is not the first time that Kansas has modified the definition of “public utility” to meet the needs of new transportation technologies. In previous sessions, the legislature exempted the fueling equipment used for compressed natural gas (CNG) vehicles. As you can also see in the text of HB 2145 (page 2, line 20) K.S.A. 66-104 (d) states *“The term “public utility” shall not include any activity of an otherwise jurisdictional corporation, company, individual, association of persons, their trustees, lessees or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel.”* **Today, we are asking you to add electric vehicle charging services to this exemption.**

By passing HB 2145, the legislature will enable any business who would like to install a charging station the ability to do so with the regulatory certainty necessary and to price those services in the manner they see fit, creating a competitive market for charging services that will spur innovation and expand the access to charging equipment.

Importantly, HB 2145 is crafted to be very narrow and will not further impact EV charging stations owned and operated by non-utility businesses, this will give them regulatory certainty

that they will not be treated as a public utility simply for offering EV charging services. This legislation will allow them to price their services in a competitive manner and in the way that makes most sense for their business (ex. By the minute, by the charging session, by the kWh, or a combination of two or more factors). For EV charging services operated by public utilities, it makes no changes to their regulatory status at the Kansas Corporation Commission.

HB 2145, is a narrow, but necessary update to Kansas statutes. We are excited about the new opportunities the passage of HB 2145 will bring to Kansas by allowing traditional fueling stations, workplaces, retailers, and businesses of all shapes and sizes to install electric vehicle charging stations to serve Kansas residences and interstate travelers.

Thank you for your time and attention to this important issue. I am available via the contact information below to answer any question you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "J Wilson". The signature is fluid and cursive, with the first letter "J" being particularly large and stylized.

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# HB 2145 Establishes a Competitive Market for Electric Vehicle Charging Services in Kansas

## Why do we need to change the definition of public utility?

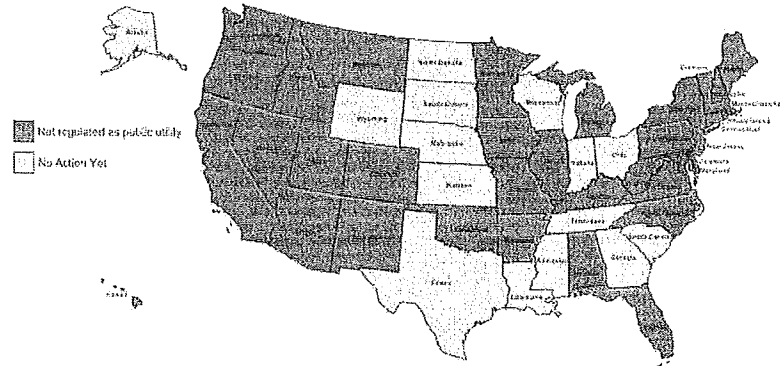
66-104 defines public utility in this way: *“as used in this act, shall be construed to mean every corporation, company, individual, association of persons, their trustees, lessees or receivers, that now or hereafter may own, control, operate or manage, except for private use, any equipment, plant or generating machinery, or any part thereof, for the... the production, transmission, delivery or furnishing of heat, light, water or power.”*

A question that has arisen in other states is “are electric vehicle charging stations delivering power and therefore a public utility?” Many other states have looked at this issue and come to the same conclusion, that electric vehicle charging stations are providing a service, not power, and therefore should not be considered a public utility.

## How have other states addressed this issue?

To date, every state that has considered this issue has determined either through legislation or a regulatory process that electric vehicle charging stations are not public utilities. It is critical that Kansas make a similar determination to allow non-utility businesses the ability to install charging stations and bill customers for the charging services.

Charging Stations are not regulated as public utilities in 35 States and DC



## Are there other examples of exempting services from the definition of a public utility?

Yes, in a very similar fashion to HB 2145, has already modified the definition of public utility to specifically exclude those entities involved with the marketing and sale of compressed natural gas for end use as a motor fuel. 66-104 (d) states *“The term “public utility” shall not include any activity of an otherwise jurisdictional corporation, company, individual, association of persons, their trustees, lessees or receivers as to the marketing or sale of compressed natural gas for end use as motor vehicle fuel.”*

## How will this impact the EV charging stations already installed in Kansas?

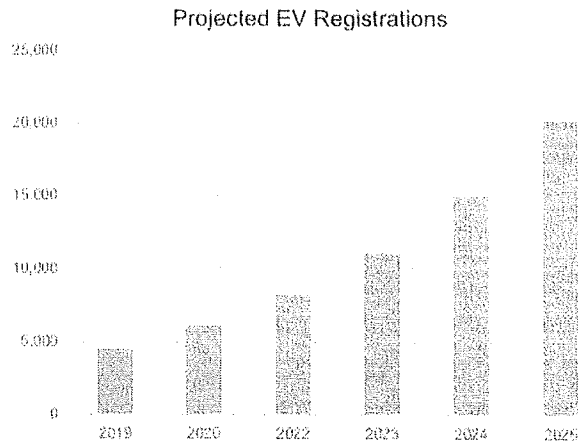
For EV charging stations owned and operated by non-utility businesses, this will give them regulatory certainty that they will not be treated as a public utility simply for offering EV charging services. This legislation will allow them to price their services in a competitive manner and in the way that makes most sense for their business (ex. By the minute, by the charging session, by the kWh, or a combination of two or more factors).

For EV charging services operated by public utilities, it makes no changes to their regulatory status at the Kansas Corporation Commission.

## HB 2145 Establishes a Competitive Market for Electric Vehicle Charging Services in Kansas

**Electric vehicles (EV) are a small, but growing number of passenger vehicles on the road in Kansas today.**

At the end of 2019, there were approximately 4,500 passenger EVs registered in Kansas and by 2025, that number is expected to grow to approximately 20,000. In the coming decade, more and more Kansans and Americans will choose to drive electric vehicles across the state. It is imperative that Kansas create a regulatory framework that will allow a variety of businesses to offer EV charging services in a competitive manner including traditional fueling stations, workplaces, commercial businesses, and utilities.



**As more Kansans and Americans adopt electric vehicles, the development of the EV charging infrastructure must grow and mature to offer EV drivers a robust and competitive way to charge their vehicles.**

An initial step necessary to create a robust network of charging stations is to provide regulatory certainty to operators of these charging stations. Currently, Kansas statutes do not provide specific guidance on how electric vehicle charging stations should be treated by the Kansas Corporation Commission (KCC). This is not a problem specific to electric vehicle charging or Kansas. The issue stems from the definition of “public utility” in Kansas Statutes.<sup>1</sup> This definition, which dates back to the early 1900s did not conceive of the broad adoption of electric vehicles or the infrastructure necessary to charge those vehicles. Over the years, public utility definitions across the country, including in Kansas, have been modified as new technologies have entered the marketplace.<sup>2</sup>

**HB 2145 seek to modify the definition of public utility to allow for a robust and competitive electric vehicle charging market to develop in Kansas.** This legislation is supported by utilities, traditional fueling stations, and EV charging companies. These supporters have aligned for the purpose of this legislation with the goal of creating a robust and competitive market for EV charging services that will ensure EV drivers have confidence to charge their vehicles on interstates and highways, around town, or anywhere they may go throughout the state.

<sup>1</sup> K.S.A 66-104 (a)

<sup>2</sup> See exemption for natural gas for end use as a motor fuel, K.S.A 66-104 (d)