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Earthjustice et al comments on 2024 Update to the National Electric Vehicle

Additional submitted attachment is included below.



March 29, 2024

via electronic mail

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California Energy Commission (CEC)
715 P Street
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Tony Tavares, Director
California Department of Transportation (Caltrans)
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Re: 2024 Update to California's Deployment Plan for the National Electric Vehicle Infrastructure Program

Dear Chair Hochschild and Mr. Tavares:

The undersigned groups respectfully request that the upcoming California Deployment Plan for the National Electric Vehicle Infrastructure Program (Plan) direct a portion of its formula funds to medium- and heavy-duty charging infrastructure in the second funding window. We appreciate the CEC's recognition to include medium- and heavy-duty infrastructure in the second or third NEVI funding rounds.¹ However, the next 12 months are essential for California to be ready to have

¹ CEC, 2023-2024 Investment Plan Update for the Clean Transportation Program, January 2024, p, 31, available at <https://www.energy.ca.gov/programs-and-topics/programs/clean-transportation-program/clean-transportation-program-investment-8>.

sufficient charging capacity to support many of California’s zero-emission regulations; thus, we recommend pursuing funding in the second window. To date, there have been no specific commitments from CEC and Caltrans to spend these funds to support medium- and heavy-duty charging infrastructure. California did not receive support from its CFI grant, and it is time to pivot and immediately invest in charging beyond light-duty. Given the immense public health and environmental justice benefits, CEC and Caltrans must listen to environmental and community stakeholders. The following sections provide the rationale for taking up this priority immediately.

I. Using NEVI formula funds for medium- and heavy-duty is good policy.

Caltrans and the CEC have emphasized prioritizing NEVI funding for “corridor charging that delivers direct and intentional benefits to disadvantaged and low-income communities (LICs), including California tribes and rural communities.” Investing in medium- and heavy-duty charging infrastructure is amongst the single most important ways to provide benefits to disadvantaged LICs because medium- and heavy-duty diesel trucks disproportionately impact these communities. It is also an excellent way for California to meet the federal requirement to ensure that at least 40 percent of NEVI benefits go to disadvantaged and LICs. Heavy-duty vehicles contribute more to nitrogen oxide emissions than light-duty vehicles in the State, particularly the South Coast Air Basin, which does not meet the national ambient air quality standards (NAAQS) for ozone and fine particulate matter (PM2.5). As of early February 2024, the Environmental Protection Agency (EPA) strengthened the Clean Air Act standard by lowering the annual air standard for PM2.5 pollution from 12 micrograms per cubic meter to 9 micrograms per cubic meter.² EPA’s recent changes to the nation’s ambient air quality standards reinforce the need to invest in medium- and heavy-duty infrastructure more intentionally. Scientists from UCLA, Princeton University, and the California Institute of Technology estimate an annual cost of \$339 billion related to California health losses from exposure to PM2.5 and ozone.³ Given that medium- and heavy-duty trucks contribute significantly to these immense health impacts, we must swiftly use these resources to help overcome barriers to utilizing zero-emission technology. CEC and Caltrans can provide a boost to public health by investing now in addressing the harms of freight trucking.

II. CEC and CALTRANS can achieve light-duty charging and medium- and heavy-duty charging goals concurrently.

We acknowledge that the priority for last year’s Plan was light-duty vehicle infrastructure, with potential future consideration for medium- and heavy-duty vehicle infrastructure. The need to

² EPA, “EPA finalizes stronger standards for harmful soot pollution, significantly increasing health and clean air protections for families, workers, and communities,” February 7, 2024, available at <https://www.epa.gov/newsreleases/epa-finalizes-stronger-standards-harmful-soot-pollution-significantly-increasing#:~:text=By%20strengthening%20the%20annual%20health,to%204%2C500%20premature%20deaths%20and>.

³ Wang et al., Mortality burdens in California due to air pollution attributable to local and nonlocal emissions, Environment International, Volume 133, Part B, 2019, 105232, ISSN 0160-4120, <https://www.sciencedirect.com/science/article/pii/S016041201932447X>.

secure funds for medium- and heavy-duty vehicles is ever more critical given the unfortunate negative outcome of the West Coast Truck Charging and Fueling Corridor Project. Last year, the California State Transportation Agency (CalSTA) and Caltrans staff’s recommendation to first focus on light-duty vehicle charging was based upon the “substantial funding” available or soon-to-be available for heavy-duty public vehicle charging infrastructure. Unfortunately, California did not win this award, so this rationale no longer makes sense. Also, many of the funding programs referenced are often overly subscribed, such as the Port Infrastructure Development Program (PIDP), which includes an incredible swath of eligible project types and has limitations on eligible applicants. Furthermore, public charging infrastructure will be primarily built out by private companies that are not eligible applicants under programs like PIDP. The NEVI Formula Program is unique in allowing private entities to apply. Furthermore, public charging infrastructure to support zero-emission medium- and heavy-duty vehicles will require different planning than light-duty vehicles. The footprint must be much larger to allow adequate space for container trucks. Given the heavy use of these trucks, higher-powered chargers for opportunity charging will also be needed in the long term to minimize downtime. The siting of the infrastructure will also significantly differ given heavy-duty trucks’ impacts on roadways and noise in local communities.

It is also our understanding that the current light-duty vehicle scope proposed in the 2023 Plan will not exhaust all of California’s NEVI funds. With more than \$100 million available, we recommend that more funding be directed toward medium- and heavy-duty charging infrastructure to ensure California meets the Advanced Clean Fleets Rule requirements. The Advanced Clean Cars II Rule set zero-emission vehicle (ZEV) sales standards for passenger vehicles to 100 percent for model year 2035. Meanwhile, the Advanced Clean Fleets Rule requires a similar 100 percent ZEV sales standard for medium- and heavy-duty vehicles, starting only one year later with model year 2036. Thus, our investment in medium- and heavy-duty infrastructure should receive similar consideration as light-duty vehicles. Communities and the trucking industry continuously agree that the charging infrastructure is lagging behind in supporting the new zero-emission vehicles and continue to encourage Caltrans and the CEC to use NEVI funds for medium- and heavy-duty vehicle infrastructure projects.⁴ There are a few issues where there is agreement amongst industry and environmental and community groups, so this is a place where CEC and Caltrans can appease all relevant stakeholders. California ZEV sales have already exceeded expectations. The state surpassed the 1.5 million ZEV sales goal two years before schedule.⁵ California’s ambition demonstrates the need to invest significantly in infrastructure for all vehicle types, not just light-duty vehicles.

III. NEVI formula funds can help elevate strong workforce standards.

⁴ Caltrans and California Energy Commission, California’s Deployment Plan for the National Electric Vehicle Infrastructure (NEVI) Program Annual Update, p. 13, available at <https://dot.ca.gov/-/media/dot-media/programs/esta/documents/nevi/2023-ca-nevi-plan-update-final-11y.pdf>.

⁵ Office of Governor Newsom. (2023, April 21). California Surpasses 1.5 Million ZEVs Goal Two Years Ahead of Schedule. <https://www.gov.ca.gov/2023/04/21/california-surpasses-1-5-million-zevs-goal-two-years-ahead-of-schedule/>.

We support strong workforce standards for installing, operating, and maintaining medium- and heavy-duty charging infrastructure. Funding should use multi-trade workforce agreements, require prevailing wage, and support and utilize state-certified apprenticeship programs, including the utilization of local apprentices and graduates of pre-apprenticeship programs. Moreover, we support targeted hiring for residents who are in disadvantaged communities, are system-impacted, and are underrepresented (e.g., women, non-binary).

Caltrans and the CEC can do more to ensure more non-energy benefits by requiring and prioritizing funding for projects that detail job and workforce commitments, including the number and type of jobs created, wages, and benefits for the jobs that result from this funding and further investments in workforce training or partnerships with community and labor organizations through formalized agreements. Such requirements are not uncommon for public agencies to utilize. Tools like the US Employment Plan or community benefits agreements as conditions for funding help ensure that communities and workers are not left in the dust as vehicles and infrastructure electrify.^{6 7}

IV. Conclusion

It is in California's best interest to include medium- and heavy-duty charging in the upcoming Plan to 1) help incentivize further electrification of these heavily polluting vehicles, 2) expedite deployment of desperately needed infrastructure, and 3) improve health conditions for communities breathing some of the worst air in the country. It is a missed opportunity not to utilize all available federal funding and programs for electric vehicle implementation across California when the biggest challenge for zero-emission medium- and heavy-duty vehicles remains the availability of reliable charging infrastructure. We suggest you consider this vital step to prevent a lack of charging infrastructure from impeding the success of California's zero-emission goals.

We appreciate your consideration of these recommendations and look forward to leveraging the available NEVI funds.

Respectfully,

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Coalition

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⁶ Jobs to Move America, U.S. Employment Plan, April 2020, available at <https://jobstomoveamerica.org/resource/u-s-employment-plan-2/>.

⁷ US Department of Energy Office of Energy Justice and Equity, Community Benefit Agreement (CBA) Toolkit, <https://www.energy.gov/justice/community-benefit-agreement-cba-toolkit>.

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