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**VIA EMAIL ONLY:** [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov)

Assistant Attorney General  
U.S. Department of Justice – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611

Re: Proposed Partial Consent Decree Under the Clean Air Act  
RE: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products  
Liability Litigation, Case No: MDL No. 2672 CRB (JSC)  
D.J. Ref. No. 90-5-2-1-11386

Dear Assistant Attorney General:

Please find enclosed comments and recommendations from EVgo Services LLC (“EVgo”) regarding Appendix C and C-1 of the proposed Partial Consent Decree in the Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Litigation. As part of the Partial Consent Decree, Volkswagen has agreed to “invest \$2.0 billion over 10 years in zero emissions vehicle (ZEV) infrastructure, access and awareness initiatives,” including \$1.2 billion nationally and \$800 million in California. Our comments are limited to these sections of the Partial Consent Decree.

EVgo owns and operates the largest public high-speed charging network in metropolitan areas across the United States, with over 750 DC fast-charging stations. EVgo believes that providing a network of high-speed charging is the best way to increase range confidence and provide access to the benefits of electric vehicles to the most diverse set of consumers. As an owner operator, EVgo is committed to ensuring that drivers have reliable access to well-maintained and financially sustainable infrastructure. EVgo’s offerings include partnerships with automakers to provide promotional programs for their drivers, monthly subscription plans offered directly to drivers, as well as credit-card/walk-up payment methods to serve all members of the public. In addition, EVgo aims to support all plug-in ZEVs in the marketplace regardless of connector type. In the context of the Partial Consent Decree, EVgo offers the following comments:

1. The growing electric vehicle charging services industry includes many companies with multiple types of business models that have made significant investments in infrastructure (estimated at more than \$500 million to date) to serve current and future drivers. It is important that the settlement consider the competitive impacts on the existing service provider industry and include competitive opportunities for private sector partners to provide services, equipment and even ownership and operation of the infrastructure built in the program, as well as pricing and program options to drivers.



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2. Infrastructure built in the program should facilitate the greatest amount of petroleum offset. By focusing on public fast-charging infrastructure at 100kW levels and above, compared to typical outlets at less than 10kW, the infrastructure will serve 12 times as many drivers per dollar invested and three times the kWh<sup>i</sup>. It will also begin to simulate the existing fueling infrastructure, which limits the cost of efforts toward behavior change for drivers and the futility of such behavior change. Utilities and building owners are already investing in lower-speed outlets and building codes now require them in many states across the country. Thus public high-speed charging would not duplicate existing investment, but would instead leverage the industry's development and increase access for residents of multi-unit dwellings across income levels, especially renters and those without dedicated on-site parking.
3. Infrastructure investments should be dedicated to electrical charging, not hydrogen refueling. The marketplace has made a clear decision that battery electric vehicles are the preferred technology. Dozens of automakers are already selling or have announced near term plans to build battery electric vehicles. Only one (Toyota) is actively marketing hydrogen. Providing hydrogen refueling would unfairly advantage that company. Furthermore, the production and delivery of hydrogen refueling stations is not inherently low pollution. Extensive conditions would need to be placed on the development of the infrastructure and ongoing enforcement of its fuel source would be required.
4. Educational/promotional spending should be highly limited, instead favoring durable investments for drivers and the broader public. Indeed, the pollution generated from driving the faulty vehicles is durable; so too should be the benefit from the decree. Further, it is very difficult to measure the impacts of promotional investments or to assure that they reach the appropriate audience with the appropriate message to benefit drivers. Leaving all these considerations to a review by oversight agencies over a ten year period simply asks too much for an engaged public and public sector. Durable infrastructure has clear and definable outcomes.
5. The demand charge component of operating costs - and demand mitigation measures such as energy storage - should be considered eligible expenditures. Currently, electricity costs are excluded (Section 2.2 of [Appendix C-1](#)); such restriction should be clarified to only apply to the variable charges for each kilowatt-hour delivered. A major portion of the operating costs for charging stations – especially high-powered stations - is the fixed “demand charge” that is included on the utility bill in most service areas. This demand charge makes it very expensive to operate charging equipment serving low volumes of electric vehicles, which will necessarily be the case for the next few years as production and EV adoption grow.
6. Reconsider/clarify the exclusion from “Creditable Costs” regarding joint efforts with other auto OEMs to create ZEV infrastructure ([Appendix C](#) paragraphs 1.4, 2.5.8 and 3.3.2.7). Certainly any expenditures should be incremental to and non-duplicative with other efforts, but it may be desirable to take advantage of economies of scale obtained from working with other partners on planning, coordination, and standardization. Where such efforts may reduce overall costs, there may be a benefit to permitting some allocation of such expenditures as Creditable Costs.



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A well-structured consent decree has the potential to be a durable legacy that future generations will point to as one of our generation’s most thoughtful actions on the path to a sustainable future. We hope you are able to receive these comments in the spirit of producing the best outcome for our state, country and our world.

Sincerely,

EVgo Services LLC

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<u>Assumptions</u>	Typical Level 2	High Speed Site w/ 4 Chargers	Notes
Capital cost	\$7,000	\$400,000	
Expected sessions per day	1	200	Assumes utilization @ 50% for high speed
<i>sessions per week</i>	7	1400	(25/day on 50kW & 75/day on 150kW)
kWh per session	15	15	Assumes L2 fully charges battery every day
Total kWh per day	15	3000	
<i>per week</i>	105	21000	
Required DC sessions per resident per week		2	
<u>Conclusions</u>			
Total drivers served per install	1	700	
Capital cost per driver served	\$7,000	\$571	Investments in high speed serve over 12 times the number of drivers
Weekly kWh per dollar of capital	0.015	0.0525	Investments in high speed provide 3 times the total kWh
<i>* Actual size/configuration/cost of high speed charging sites will vary, but this represents a reasonable typical expectation. The proposed amendment would provide flexibility to address the specific needs of sites and communities.</i>			