John Cruden
Assistant Attorney General
United States Department of Justice
Environment and Natural Resources Division
P.O. Box 7611
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Re: Comments on Proposed Partial Consent Decree Under the Clean Air Act; In Re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, Case No: MDL No. 2672 CRB (JSC)

Dear Mr. Cruden:

We, the undersigned, write to provide our comments and recommendations regarding Appendix C of the proposed Partial Consent Decree in the Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Litigation. Appendix C outlines a zero emissions vehicle (ZEV) investment program to be implemented nationwide, separately from the funding allocated to vehicle buy-back and state-level NOx remediation.

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. This is a welcome investment that is a potential game changer and could help accelerate the adoption of electric vehicles (EVs), EV charging networks, and other alternative fuel technologies in California and across the country. We offer these comments in a constructive way to help the Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) structure the program in an effective, workable manner.

This agreement is of particular importance since it comes on the heels of a landmark White House announcement that will also boost electric vehicles and EV charging stations across the country. Electric vehicles and EV charging are at a tipping point, and it's important that new investments in this area complement all other existing commitments and programs.

We believe that it is critical that the settlement funds be administered independently and transparently, distributed in a way that encourages the continued development of a robust and competitive charging and other alternative fuel marketplace, allows drivers significant choice, and provides for meaningful administrative oversight.

As currently drafted, Appendix C leaves open serious questions about how the $2 billion will be administered and what its impact will be on innovation and the continued operation of a competitive marketplace for EV charging equipment and other alternative fuel technologies and services.

Therefore, we wanted to take this opportunity to share our thoughts on this matter and urge the EPA and CARB to ensure that this Partial Consent Decree does not have harmful unintended consequences for the marketplace.

Specifically, we believe that the ZEV investment program should:

Support a Competitive Marketplace – The agreement shouldn't pick winners and losers, especially given that this emerging market transition will in no small part define 21st century transportation. The agreement should ensure that these funds are administered by regulators or an independent, third party organization to support the development of a robust, competitive electric vehicle charging marketplace. An independent administrator is key to ensuring that the program treats all industry participants, regardless of business model and technology, fairly. The fund shouldn't benefit one particular company or market sector, but should support competition within the entire industry. It's important to get this right, since the decisions we make today will define the marketplace for many years to come.

One way to accomplish this is to earmark some portion of the funds for a rebate program to support employers, apartment owners, workplaces, and other facility managers who want to install EV charging and other alternative fuel technologies at their place of business or multi-unit dwelling. This approach has been proven successful in enabling customer choice, and has the added benefit of being simple in design, consumer-friendly and administratively cost effective.

Extend the Benefits to all Communities – The fund should have significant provisions to ensure that the benefits of electric vehicles, electric vehicle charging, and other alternative fuel technologies extend to low-income and underserved areas.

Protect Driver Choice – Drivers should have the right to select service providers of their choice based on a range of options including price, location, technology, and networked capabilities.

Preserve Customer Choice – Site hosts should continue to have the ability to make technology choices and to determine the price for services at their facilities. This is an important feature of a well-functioning program, which ensures that site hosts have a stake in maximizing EV charging and alternative fuel station use and enables them to tailor the installation to the needs of the site.

Encourage Innovation – The ZEV industry is still at an early stage in its development. New companies are emerging with new technology offerings and innovative consumer demand-driven services, and different approaches to communications protocols. Different business models, technologies, and services should be allowed to compete. Both new companies and existing market players should be able to participate in the program and bring a range of products and services to consumers.

Plans should also emphasize infrastructure projects that support the EVs of the future. As more models come to market with bigger batteries, consumers will need the longer range enablement that fast charging corridors bring to ZEV adoption. The fund should enable infrastructure solutions that offer future-proof technologies and range in an ever changing market.

Promote EV Awareness & Outreach – With more than four Americans out of five still very unaware about the availability of ZEVs and PEVs, the attractiveness of the technology in terms of impact on air quality and climate change, drivability, and lower costs of operations, an effective program with respect to accelerating ZEV adoption must ensure wide promotion and outreach across all parts of the population.

Benefit all Drivers Around the Country – The program should be structured to benefit drivers in California and across the nation, not enable the settling defendants to enter or influence the markets for ZEV charging and fueling equipment and services.

Provide for Process Transparency – All major stakeholders should understand the process, have visibility into it, and have the ability to provide timely comments on program administration.

If structured appropriately, the ZEV investment program can accelerate adoption of zero emission vehicles and the deployment of EV charging and alternative fuel stations across the nation. But without appropriate safeguards, the program could undermine the competitive marketplace that exists today and conflict with existing state and national initiatives and programs.

We hope that you will embrace these principles as you move to final review and approval of the Partial Consent Decree.

Sincerely,

Acadia Center
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Ben Kortlang, Senior Partner, Green Growth Fund at KPCB
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Clinton Electric Co.
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Electric Vehicle Charging Association
Envision Solar

EV Connect
Hannah Solar
Michigan Energy Innovation Business Council
My Fleet Dept EV Charge Solutions
National Asian American Coalition
National Car Charging
National Energy Technologies LLC
NEMA
New York League of Conservation Voters
North Carolina Sustainable Energy Association
Ohio EV Solutions
Pace Energy and Climate Center
REJ Electric Inc.
SeaWave Batteries
Southern Alliance for Clean Energy
Volta