State of California
Air Resources Board

Electrify America Cycle 4 Zero Emission Vehicle Investment Plan

Resolution 24-2

January 25, 2024

Agenda Item No.: 24-1-2

Whereas, sections 39600 and 39601 of the Health and Safety Code authorize the California Air Resources Board (CARB or Board) to adopt standards, rules and regulations and to do such acts as may be necessary for the proper execution of the powers and duties granted to and imposed upon the Board by law;

Whereas, on October 25, 2016, the United States District Court for the Northern District of California approved the 2.0-liter Partial Consent Decree between the United States Department of Justice, the United States Environmental Protection Agency, the California Air Resources Board and the Attorney General of the State of California, and Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Volkswagen Group of America Chattanooga Operations, LLC (collectively, Volkswagen or VW) for violations of federal and State laws and regulations by VW in regard to its 2.0-liter diesel engine vehicles;

Whereas, Appendix C of the 2.0-liter Partial Consent Decree (Appendix C) requires VW, or a subsidiary thereof, to spend $800 million over ten years in California on eligible zero-emission vehicle (ZEV) investments (ZEV Investment Commitment) through the implementation of four California ZEV investment plans, each covering a period of 30 months, approved by CARB, consistent with the goals and terms of Appendix C;

Whereas, Appendix C requires VW, or a subsidiary thereof, to submit a separate proposed ZEV investment plan for each of the four 30-month cycles to CARB for approval, in whole or in part, consistent with the terms and goals of Appendix C, including paragraphs 1.9, 1.10, 1.10.1, 1.10.4, 3.1, 3.3.1, 3.3.2, 3.3.2.1-3.3.2.11, and 3.3.3, and Appendix C-1;

Whereas, on June 27, 2017, the California Legislature added section 39614 to the Health and Safety Code, which provides legislative direction that CARB should strive to ensure in implementing Appendix C;

Whereas, Health and Safety Code section 39614, subdivision (b)(1), requires CARB to strive to ensure that the investment plan developed pursuant to Appendix C is aligned with the State's priorities before approval of the plan;

Whereas, Health and Safety Code section 39614, subdivision (b)(1), requires CARB to strive to ensure that investment plan provides for public transparency before approval of the plan;

Whereas, Health and Safety Code section 39614, subdivision (c)(1)(A), requires the Board, in approving each investment plan, to strive to ensure, to the maximum extent allowable under the 2.0-liter Partial Consent Decree, that at least 35% of the funds that will be invested under

each investment plan benefit low-income or disadvantaged communities disproportionately affected by air pollution;

Whereas, Health and Safety Code section 39614, subdivision (c)(1)(B), requires the Board, in approving each investment plan, to strive to ensure, to the maximum extent allowable under the 2.0-liter Partial Consent Decree, the periodic submission of progress reports to the Board on the implementation of the investment plan from VW or its subsidiary;

Whereas, Health and Safety Code section 39614, subdivision (c)(1)(B)(3), requires CARB to post each proposed investment plan for public comment;

Whereas, on July 27, 2017, via Board Resolution 17-23, the Board approved Electrify America's first ZEV investment plan (Cycle 1 Plan), including commitments from Electrify America that Electrify America will strive to ensure, to the maximum extent allowable under the Consent Decree, that (1) at least 35% of funds for the Cycle 1 Plan will benefit low-income or disadvantaged communities disproportionately affected by air pollution, and (2) Electrify America will provide written quarterly reports to CARB staff that can be made available to the public, and (3) Electrify America will discuss Cycle 1 Plan implementation with CARB at least monthly;

Whereas, on December 13, 2018, via Board Resolution 18-54, the Board approved Electrify America's second ZEV investment plan (Cycle 2 Plan), including commitments from Electrify America that Electrify America will strive to ensure, to the maximum extent allowable under the Consent Decree, that (1) at least 35% of funds for the Cycle 2 Plan will benefit low-income or disadvantaged communities disproportionately affected by air pollution, (2) Electrify America will provide written quarterly reports to CARB staff that can be made available to the public, and (3) Electrify America will discuss cycles 1 and 2 plans implementation with CARB at least monthly;

Whereas, on June 24, 2021, via Board Resolution 21-14, the Board approved Electrify America's third ZEV investment plan (Cycle 3 Plan), including commitments from Electrify America that Electrify America will strive to ensure, to the maximum extent allowable under the Consent Decree, that (1) at least 35% of funds for the Cycle 3 Plan will benefit low-income or disadvantaged communities disproportionately affected by air pollution, (2) Electrify America will provide written quarterly reports to CARB staff that can be made available to the public, and (3) Electrify America will discuss cycles 1, 2, and 3 plans implementation with CARB at least monthly;

Whereas, Board Resolutions 17-23, 18-54, and 21-14 also (1) called for brand-neutral awareness program materials to acknowledge hydrogen fuel cell electric vehicles, when appropriate, (2) required a minimum expenditure of $1 million for community electric vehicle charging in approved metropolitan areas, (3) encouraged Electrify America to provide hiring opportunities for qualified residents of disadvantaged communities, and (4) required a future investment in a second Green City comprised primarily of disadvantaged communities;

Whereas, Board Resolutions 17-23, 18-54, and 21-14 additionally directed CARB staff to consult with stakeholders, including environmental justice groups, labor organizations, auto manufacturers and other electric vehicle charging companies, to solicit comments to inform CARB staff's semi-annual reports to the Board regarding Electrify America's progress toward achieving the objectives of Appendix C;

Whereas, Electrify America, in implementing its Cycle 1 Plan, focused on establishing the foundational infrastructure necessary to support the launch of a major charging station

network, and establishing contracts with charging equipment manufacturers and installers, real estate partners, and education and awareness creative agency partners;

Whereas, Electrify America, in implementing its Cycle 2 Plan, expanded investments in infrastructure to a variety of new use cases, providing access to ZEV infrastructure to a broad spectrum of consumers; invested in brand-neutral campaigns to increase ZEV education, awareness, and outreach; invested in materials and activities to boost utilization of Electrify America stations; and supported Green City investments made in Cycle 1;

Whereas, Electrify America, in implementing its Cycle 3 Plan, continued investments in infrastructure in metropolitan areas, along highways, and along regional routes; continued investment in hardware development and network capacity building; leveraged insights from previous marketing campaigns to invest in brand-neutral campaigns to increase ZEV education, awareness, and outreach; continued to invest to boost utilization of Electrify America stations; and established a second Green City;

Whereas, Electrify America has demonstrated that greater than 35% of the investment is targeted for infrastructure investment under its Cycle 1, Cycle 2, and Cycle 3 plans are in low-income or disadvantaged communities, that job creation activities for minority-, woman-, and veteran-owned businesses have commenced, and that Electrify America has met the meeting and reporting requirements established by Appendix C and agreed to and memorialized in Board Resolutions 17-23, 18-54, and 21-14;

Whereas, CARB staff conducted a public meeting on August 16, 2023 to solicit comments from stakeholders regarding Electrify America's progress toward achieving the objectives of Appendix C, and those comments have informed CARB staff's report to the Board;

Whereas, on October 20, 2023, Electrify America submitted the fourth proposed ZEV Investment Plan (Cycle 4 Plan), CARB made available on its website this proposed Cycle 4 Plan for a public comment period of 14 calendar days;

Whereas, CARB staff reviewed all comments received on the proposed Cycle 4 Plan and provided a summary of the comments to the Board at the public January 25, 2024, Board hearing on the Cycle 4 Plan, as well as in its public staff analysis;

Whereas, CARB staff has reviewed the proposed Cycle 4 Plan for compliance with the terms and goals of Appendix C, including paragraphs 1.9, 1.10, 3.1, 3.3.2, 3.3.2.1-3.3.2.11, and 3.3.3, and with consideration to the maximum extent allowable under the 2.0-liter Partial Consent Decree, of Health and Safety Code section 39614, subdivisions (b)(1) and (c), and the Board's direction to staff in Board Resolutions 17-11,17-23,18-54, and 21-14, and CARB staff has determined that the proposed Cycle 4 Plan complies with all of the applicable terms and goals;

Whereas, staff has proposed approval of the Cycle 4 Plan**,** as set forth in the Staff Report released to the public on January 11, 2024;

Whereas, based on its review and determinations above, CARB staff recommends that the Board approve the proposed Cycle 4 Plan;

Whereas, the Board finds that:

Electrify America's proposed Cycle 4 Plan identifies how its proposed projects are anticipated to align with State priorities, and how it will provide for public transparency during the fourth 30-month cycle, and CARB has provided a public process before approval of the Cycle 4 Plan, all of which are consistent with Health and Safety Code section 39614, subdivision (b)(1);

Electrify America's proposed Cycle 4 Plan estimates that at least 35% of the funds it proposes to invest in the fourth 30-month cycle will be in low-income communities or disadvantaged communities disproportionately affected by air pollution, consistent with Health and Safety Code section 39614, subdivision (c)(1)(A);

Electrify America commits to providing CARB periodic updates as part of its proposed Cycle 4 Plan, consistent with Health and Safety Code section 39614, subdivision (c)(1)(B);

CARB has made available on its website the proposed Cycle 4 Plan for public comment for 14 calendar days before this January 25, 2024, Board Hearing, providing for public transparency consistent with Health and Safety Code section 39614, subdivisions (b)(1) and (c)(3);

A public hearing has been held to approve the Cycle 4 Plan according to the provisions of Health and Safety Code section 39614, subdivision (c)(2);

CARB staff has complied with the Board's direction in Board Resolutions 17-11, 17-23, 18-54, and 21-14;

The Cycle 4 Plan is consistent with CARB's environmental justice policies and does not disproportionately impact people of any race, culture, or income; and

The Cycle 4 Plan, as submitted on October 20, 2023, complies with the terms and goals of Appendix C, including paragraphs 1.9, 1.10, 3.1, 3.3.2, 3.3.2.1-3.3.2.11, and 3.3.3, as laid out in the Staff Analysis, particularly Table 1 of Section III of the Staff Analysis, "Assessment of the proposed Cycle 4 Plan," and the Board presentation, and is consistent with Health and Safety Code section 39614, subdivisions (b)(1) and (c)(1), and Board Resolutions 17-11,17-23, 18-54, and 21-14.

Now, therefore, be it resolved that the Board hereby approves the proposed Cycle 4 Plan, as submitted on October 20, 2023, as follows:

The Cycle 4 Plan forms a complete body of terms for creditable spending in the fourth 30-month cycle, in the amount of $200 million, and includes only the following types of projects and activities, with spending in the following estimated amounts, unless CARB agrees otherwise in writing;

- ZEV Infrastructure ($172 million):
    - $92 million for metropolitan areas in and surrounding Bakersfield, El Centro, Los Angeles-Long Beach-Anaheim, Merced, Modesto, Oxnard-Thousand Oaks-Ventura, Redding, Riverside-San Bernardino, Sacramento, San Diego-Carlsbad, San Francisco-Oakland-Hayward, San Jose-Sunnyvale-Santa Clara, Stockton-Lodi, Vallejo-Fairfield, and Yuba City; and

    - $80 million for station upgrades, operation and maintenances, and demand charges for existing sites.
- ZEV Education, Awareness, Access, and Outreach ($8 million):
    - $5 million directed to education and awareness to increase ZEV adoption;
        - As part of this investment, the ZEV Equitable Access Program (ZEAP) will provide support to community-based organizations in California and will focus on disadvantaged or low-income communities; and
    - $3 million directed to Electrify America-branded marketing to further station utilization;
- Allowable overhead (up to $20 million).

Electrify America, in implementing the Cycle 4 Plan, shall strive to ensure, to the maximum extent allowable under the Consent Decree, that at least 35% of Cycle 4 Plan funds benefit low-income communities or disadvantaged communities disproportionately affected by air pollution;

Awareness program materials will use a language other than English, when appropriate; and

Awareness program materials will be brand-neutral.

Be it further resolved that the Board expects VW, Electrify America, and any other entities implementing the ZEV Investment Commitment, as required under Appendix C and as outlined in Senate Bill 92, and Board Resolution 17-23, to continue to:

Strive to ensure that they spend at least 35% of the ZEV investments to benefit disadvantaged or low-income communities, in alignment with Electrify America's goals in its cycle 1, 2, 3, and 4 plans, and that they draw from the experience from the cycle 1, 2, and 3 plans, so that the Cycle 4 Investment Plan furthers the benefits to disadvantaged or low-income communities;

Strive to ensure that the investments realize anticipated benefits and services to funding recipients and users throughout the term of the 10-year investment commitment;

Implement and plan projects in a way that ensures fair competition in the zero-emission vehicle market, to ensure the market's long-term robustness;

Execute the programs in a manner that ensures that all the investments are self-sustaining by the end of the ten-year Investment Commitment period, ensuring existence of the programs beyond the 10-year Investment Commitment period;

Provide written quarterly reports to CARB staff that can be made available to the public on the Cycle 4 Plan, provide annual reports to CARB on the Cycle 4 Plan, as applicable and as required under the Consent Decree, and discuss the implementation status of the Cycle 4 Plan, as applicable, with CARB at least monthly;

Include in these quarterly and annual reports how much of the investment as a percentage of the total investment made under the cycle 1, 2, 3, and 4 plans to date has been in disadvantaged or low-income communities, and a description of the census tracts in which they occurred;

In coordination with CARB, prepare and update a map of charging station investments installed under the cycle 1, 2, 3, and 4 plans, including census tract specificity, as defined by CARB, and the location of other existing public charging stations, as compiled on the Department of Energy's Alternative Fueling Station Locator maintained by the National Renewable Energy Lab;

Provide hiring opportunities for qualified residents of low-income communities or disadvantaged communities;

Include, in Awareness Program materials under the Cycle 4 Plan, an acknowledgement of hydrogen fuel cell electric vehicles, when appropriate; and

Submit to CARB the final report and make available on a website no later than 120 days after 10 years from the effective date of the Consent Decree on the status of each ZEV investment included in the approved California ZEV Investment Plan as outlined in Appendix C, including paragraph 3.6.2.

Be it further resolved that the Board expects CARB staff to:

Report to the Board at least annually on progress toward achieving the objectives of Appendix C;

Ensure all implementation and crediting of expenditures under the Cycle 4 Plan will be done consistent with the terms and goals of Appendix C, as documented by the independent auditor;

Ensure any expenditures made on ZEV investment activities that are not approved by CARB and not consistent with the terms and goals of Appendix C are not credited toward Volkswagen's $800 million ZEV Investment Commitment;

Meet with Electrify America to discuss implementation progress at least monthly, and report back to the Board in the event there are any issues with Electrify America fully and effectively implementing the Cycle 4 Plan; and

Prepare and update a report on its web site of how many of the charging stations installed by Electrify America are in census tracts with existing charging stations, including maps of where Electrify America's charging stations have been installed and identification of where existing public stations are located.

Be it further resolved that the Board directs the Executive Officer to:

Work with Electrify America to build upon the maintenance requirements of Section 5.8 of the Cycle 4 Plan, as publicly released on October 20, 2023, to further address station reliability challenges. This work shall include the addition of reliability metrics including station uptime performance, repair response time to resolve issues, and expanded reporting to CARB staff on the additional reliability metrics in the quarterly and annual reports. Station uptime performance metrics for new stations specifically shall be consistent with the state of the industry, such as those defined by the port uptime performance threshold in the National Electric Vehicle Infrastructure (NEVI) Program. CARB staff shall work with Electrify America to include reliability metrics for existing stations, as appropriate.

Approve and publicly release the enhanced maintenance requirements of the Cycle 4 Plan.

Be it further resolved that the Board directs the Executive Officer to include information on CARB's website concerning the Electrify America charging stations located in low-income and disadvantaged communities as defined by the State of California. This information should provide specific details on the number of stations in these areas, accompanied by maps illustrating their locations.

I hereby certify that the above is a true and correct copy of Resolution 24-2 as adopted by the California Air Resources Board.

Lindsay Garcia Digitally signed by Lindsay Garcia
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Board Clerk