April 25, 2022

Ms. Rachel Assink
Department of Ecology
Air Quality Program
P.O. Box 47600
Olympia, WA 98504-7600

Re: Public Comment, Chapter 173-424 WAC, Clean Fuels Program Rule

Dear Ms. Assink,

Electrify America appreciates the opportunity to comment on the draft Clean Fuels Program rule text. Electrify America operates the nation's largest open network of ultra-fast chargers for electric vehicles, with more than 3,200 chargers across over 750 sites nationwide, including 195 chargers at 49 locations open to the public in Washington. Furthermore, Electrify America is the undisputed leader in providing ultra-fast, 150+ kilowatt (kW) charging in Washington State, which is critical to long-distance corridor travel and supporting high-mileage applications such as electric ride-share and ride-hail vehicles. According to the U.S. Department of Energy, Electrify America has built all 31 charging stations in Washington compliant with the National Electric Vehicle Infrastructure (NEVI) program design standards for corridor charging, and no stations compliant with these minimum design standards have been installed by any other provider in the state.[1] We support Washington's adoption of the Clean Fuels Program, but urge the state to reconsider eligibility restrictions of the FCI crediting pathway that would substantially reduce Washington State's ability to attract additional Electrify America investment. Electrify America respectfully requests that the draft program rules be modified to ensure that all EV charging providers are encouraged to invest in Washington.

Electrify America strongly supports Washington's efforts to adopt a Clean Fuels Program, which is one of the most impactful policies that states can pursue to incentivize additional installation of EV charging infrastructure and drive electric vehicle adoption. In fact, the National Association of State Energy Officials (NASEO) and the Cadmus Group found in a joint analysis that transportation sector carbon pricing, and particularly low carbon fuel standard (LCFS) programs, have strong demonstrated impact in the academic literature for increasing transportation electricity sales and boosting the zero emission vehicle (ZEV) market.[2]

The legislation creating the Clean Fuels Program required the creation of capacity credits for EV charging. By requiring capacity credits, which are designed specifically to facilitate the economically sustainable operation of ultra-fast, high-powered, high-capacity public charging stations, the Legislature ensured that the Clean Fuels Program would draw new investment in ultra-fast charging stations to Washington. However, while the policy

[1] U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy. "Station Data for Alternative Fuel Corridors." Available at: https://afdc.energy.gov/corridors
[2] NASEO and Cadmus Group, 2021. "Supporting Material: Plug-In Electric Vehicle Policy Impact Rubric," p. 10. Available at: https://naseo.org/data/sites/1/documents/publications/Supporting Material_PEV Policy Impact Rubric_FINAL.pdf

on the whole is strongly supportive of ZEV market growth, Electrify America wishes to urge caution around an element of the proposed rule which would single out Electrify America as ineligible for capacity credits offered to all other charging providers. Specifically, section WAC 173-424-GCCZFI (2)(a)(iv)(b) on FCI pathway eligibility specifies that "any FSE receiving or spending funds pursuant to any settlement related to any Washington or Federal regulation enforcement" would be ineligible for FCI credits, also known as capacity credits, under the program.

Electrify America's commissioned ultra-fast charging stations in Washington are private sector investments made by Electrify America consistent with the ZEV Investment Commitment in Appendix C of the 2.0L Partial Consent Decree ("Consent Decree") between Volkswagen AG, U.S. EPA, and the California Air Resources Board, in which our parent company, Volkswagen, committed to invest $2 billion in an economically-sustainable network of charging stations. As EPA Assistant Administrator Cynthia Giles explained in testimony to the United States Congress, "this is not a penalty...it's an investment that VW is making in ZEV infrastructure."[3] Electrify America will continue investing in economically sustainable charging stations in the United States consistent with this commitment through 2026.

If Washington were to adopt this FCI crediting provision, which would exclude only stations built by Electrify America and no other company, it would act as a strong disincentive for Electrify America to make additional investments in ultra-fast charging stations in Washington State, as they would be uniquely disadvantaged in terms of economic operation as compared to stations installed by any other provider.[4]

The ZEV Investment Commitment does not commit Electrify America to invest specifically in Washington State as opposed to the other states, and indeed the company allocates its investments based in large part on supportive policies that help to build the ZEV market. Historically, strong ZEV policies in markets like Washington, Oregon, Colorado, and many states in the Northeast, have led to disproportionate investment in charging when compared to states without supportive policies. Electrify America's investment in Washington State is by a wide margin our single largest investment outside of California. If this FCI crediting eligibility restriction is adopted and disqualifies Electrify America from receiving an incentive available to all other charging providers, Washington's policies regarding our investments will turn from supportive to punitive, and we will be forced to reconsider whether additional investments in Washington are economically sustainable and justifiable.

[3] Cynthia Giles, Assistant Administrator, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency. Oral Testimony before the Subcommittee on Oversight and Investigations Committee on Energy and Commerce. U.S. House of Representatives, December 6, 2016.

[4] This eligibility restriction would have a different effect if adopted in Washington compared to California. Under the ZEV Investment Commitment, Electrify America committed to investment $800M in California specifically and to invest $1.2B in the other 49 states and the District of Columbia. Electrify America's investment in California is fixed, but Electrify America chooses where to invest the $1.2B across the United States. Electrify America may choose to invest more or less in Washington.

Electrify America investment in Washington State is providing EV drivers with the state's only network of NEVI-compliant chargers built to date. Eligibility restrictions in the Clean Fuels Program that uniquely disadvantage Electrify America and prevent us from competing on equal terms with other providers would be likely to discourage additional investment in the state. A reduction in ultra-fast charging station investment in Washington State would be contrary to the goals of the Clean Fuels Program generally and the capacity credit mandate in particular, and so we respectfully urge that the restrictions be revised. Specifically, we urge the Washington Department of Ecology to eliminate this eligibility provision on the FCI pathway, and allow Electrify America the same access to FCI credits that will be afforded to all other charging networks in the state.

We appreciate your consideration and the opportunity to provide comment.

Sincerely,

Matthew B. Nelson
Director of Government Affairs