September 22, 2025

New Mexico Environment Department
PO Box 5469
Santa Fe, NM 87502-5469

EIB 25-23 (R) - In the Matter of Proposed Adoption of 20.2.92 NMAC Clean Transportation Fuel Program

New Mexico Environment Department and Staff,

Electrify America—owner-operators of over 1000 fast charging stations across North America—appreciates the opportunity to provide comments on New Mexico's proposed Clean Transportation Fuel Program (CTFP). We strongly support New Mexico's efforts to reduce transportation sector emissions and to accelerate adoption of clean fuels. The CTFP will play a vital role in reducing emissions from the transportation and growing the clean fuels sector of the state's economy by signaling to the market that New Mexico welcomes investment and innovation from providers of clean fuels.

With that said, I submit these comments to highlight two proposed provisions that risk undermining the very goals of the program: (20.2.92.304(C)(1))—limiting capacity credit generation to one, future, site per ZIP code per fuel type—and (20.2.92.304(E))—setting a lifetime maximum on FSE credit generation per site.

1. One-Per-ZIP Code Limit and "Not Open at Time of Application" Requirement

The proposed rule would restrict FSE capacity credit eligibility to one pathway per ZIP code, per duty type and fuel type, in each quarter. While intended to prevent oversubscription, this restriction creates a counter-incentive to build the deployment of Battery Energy Storage Systems (BESS) precisely where they would provide the greatest benefit.

BESS co-located with fast-charging stations are not only critical to managing station load and improving reliability for drivers, but they also deliver direct grid benefits:

smoothing demand spikes, mitigating interconnection challenges, and supporting renewable integration. By limiting capacity credit generation to only one applicant per ZIP code, the rule may divert investment away from the most strategic sites, leading developers to prioritize locations that qualify for credits rather than locations where storage and capacity are most urgently needed.

In addition, the requirement that FSE sites must not be open at the time of application further undermines the program's goals. This condition effectively punishes early adopters—operators who have already invested in infrastructure in good faith—and creates a perverse incentive to delay or pause projects that are otherwise ready to serve consumers simply to maintain eligibility for capacity credits. As with the ZIP-code restriction, this rule fosters unnecessary "gaming" of the program rather than rewarding timely investment in the fast, reliable, and ubiquitous charging network New Mexico needs today.

In effect, these restrictions risk pushing investment and BESS development away from the ZIP codes and timelines where they could best strengthen both the charging network and the local grid. This outcome runs counter to the program's broader policy objectives of ensuring charging is fast, reliable, and ubiquitous, while also supporting grid stability.

In turn, Electrify America recommends eliminating both the one-per-ZIP-code restriction and the "not open at time of application" requirement or excluding electricity as a fuel from these maximums. Doing so would allow for stations and BESS to be deployed when and where they provide the greatest combined benefit to consumers and the electric grid.

2. Lifetime Cap on Credit Revenue

The proposed rule further limits the lifetime value of FSE credits to 1.5 times (or 2.0 times in certain ZIPs) the capital expenditure, net of grants. While intended as a safeguard, this artificial ceiling limits the extent to which the credit market remains a self-sustaining economy that permits credit generation and credit reinvestment in existing infrastructure to ensure its performance matches future demand.

Fast-charging is a capital-intensive sector, and stations must be continuously upgraded as demand grows and technology advances; upgrades include the addition of higher-power charging hardware, increased capacity, and integration of Battery Energy Storage Systems (BESS). Arbitrary lifetime caps on credit revenue risk cutting off the flow of reinvestment dollars precisely when new investments—like additional storage capacity—would maximize benefits for both drivers and the grid.

In practice, the cap could disincentivize site operators from deploying BESS at existing stations once the credit cap is reached, even though storage provides critical services: demand management, peak shaving, renewable integration, and resiliency during outages. By eliminating the cap or excluding electricity as a fuel, the program would ensure that credit revenues scale with consumer demand and grid value, rather than halting once a predetermined threshold is met.

Importantly, other LCFS programs (California, Oregon, Washington, British Columbia) have not imposed lifetime credit limits, instead allowing performance-based crediting to guide reinvestment. This approach better aligns with the program's goals of accelerating clean fuels, strengthening grid reliability, and ensuring that charging infrastructure remains fast, reliable, and ubiquitous.

In turn, Electrify America recommends removing the lifetime cap on FSE credit revenue, or exempting electricity from the cap, so that operators can continue reinvesting in station upgrades and BESS to support both transportation electrification and the resilience of New Mexico's electric grid.

Conclusion

New Mexico has the opportunity to establish a clean fuel program that accelerates electrification and positions the state as a leader in the energy transition. To achieve this, the program must allow the market to respond to consumer needs with fast, reliable, and ubiquitous charging. Eliminating the one-per-ZIP-code restriction, the "not open at time of application" requirement, and the lifetime credit cap will better align the rule with best practices, encourage investment, and ensure that credit revenues flow into building and maintaining the resilient charging network New Mexico's drivers deserve.

Electrify America remains committed to partnering with NMED to advance New Mexico's clean transportation and climate priorities. The company is one of the nation's largest providers of Direct Current Fast Chargers (DCFC) for electric vehicles (EVs), with over 4,250 fast chargers across more than 950 locations in North America, including 10 stations in New Mexico with more under development. Electrify America is committed to building a future where EV charging is approachable, accessible, and powered by a network on which EV drivers can depend. We look forward to working with the state to implement this critical program and are happy to answer questions related to the recommendations included in these comments.

Respectfully submitted,

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