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October 13, 2025

Environmental Improvement Board
Pamela Jones, Board Administrator
New Mexico Environment Department, Office of Public Facilitation
1190 St. Francis Drive
Santa Fe, NM 87505

Via email: pamela.jones@env.nm.gov

RE: Rulemaking EIB 25-23: In the Matter of Proposed Adoption of 20.2.92
NMAC – Clean Transportation Fuel Program

Dear Chair Suina and members of the Board:

SWTCH strongly supports New Mexico proceeding with implementing its Clean Transportation Fuel Standard (CTFS) and respectfully submits these comments to provide feedback on the proposed new rule (Proposed Rule) in the above-referenced docket.

About SWTCH

With more than 15,000 chargers deployed, SWTCH is a leading provider of electric vehicle (EV) charging and energy management solutions for multifamily, commercial, and workplace properties across North America. SWTCH's end-to-end solution optimizes EV charging usage and manages load to benefit drivers, property owners, and the grid. SWTCH's charging management system (CMS) is built on a foundation of open communication standards and interoperability to ensure future flexibility, scalability, and innovation.

Treatment of prior recommendations

SWTCH appreciates that the Proposed Rule reflects several recommendations that SWTCH made during the pre-rulemaking phase of this process. SWTCH provided oral comments on July 26, 2024, and submitted joint written comments with ChargePoint and Electrify America (Joint EV charging parties) on August 2, 2024.

- Default credit generator: The Proposed Rule does not make the EV charging network operator the default credit generator for EV charging, as SWTCH and the Joint EV charging parties had recommended. However, SWTCH supports that the Proposed Rule establishes the owner of the EV charger as the default credit generator for non-residential chargers.
- Assignment of credits: SWTCH supports that the Proposed Rule allows the default credit generator to assign credits to another party as SWTCH had recommended.
- Treatment of multifamily EV chargers: SWTCH appreciates that the Proposed Rule distinguishes between single-family and multifamily EV chargers, and provides in part that multifamily chargers shall be treated as non-residential. However, the CTFS will benefit from a more comprehensive treatment of multifamily chargers than the Proposed Rule provides. SWTCH addresses this further in these comments below.
- Automatic Acceleration Mechanism: The Proposed Rule does not establish an automatic acceleration mechanism to avoid market price volatility, as SWTCH had recommended. However, SWTCH appreciates that the Proposed Rule establishes other provisions such as cost-containment mechanisms and credit holding limits to help stabilize the market and ensure consumer affordability. SWTCH also appreciates that the Proposed Rule establishes a periodic review process to evaluate the program's performance and consider whether adjustments are warranted.
- Reporting and audit timelines: SWTCH appreciates the three month timeframe allotted for submitting the annual fuel pathway report. SWTCH also appreciates the additional time allotted for annually submitting a verification statement.

Recommendations on Proposed Rule

1. All EV chargers at multifamily properties should be treated as non-residential.

As noted above, SWTCH appreciates that the Proposed Rule categorizes shared multifamily chargers as non-residential for the purpose of CTFS

credits.¹ Enabling owners and developers of multifamily chargers to claim credits will establish new financing pathways that will improve the economics of deploying, owning, and operating chargers at these properties. This in turn will encourage and enable further deployment of more chargers at more multifamily properties. This is critical to help close the disparity in charger access for residents of multifamily properties compared to New Mexicans who live in single-family homes.

However, the Proposed Rule stops short of categorizing all multifamily chargers — both shared and reserved chargers — as non-residential. SWTCH respectfully urges the EIB to categorize not only shared chargers as non-residential, but also include chargers serving reserved or dedicated parking spaces. As SWTCH details below, when it comes to shared infrastructure, station ownership, and split decision-making authority, reserved multifamily chargers face similar barriers to deployment as shared multifamily chargers and will benefit from similar treatment in the CTFS. Indeed, when viewed through these lenses, a reserved multifamily charger has less in common with the type of charging one generally considers “residential,” i.e. a charger installed in a garage or driveway of a detached single-family house, and is much more akin to a shared multifamily charger.

- Shared infrastructure: Residents of multifamily housing commonly struggle to install their own reserved chargers due to the shared nature of electrical infrastructure. It is often infeasible for a single reserved space in a separated parking area to install a charger without significant construction and electrical work, which may include adding new electrical service, conduit, trenching, and upgrading a panel. This often raises costs beyond what a single resident may be willing to pay and provides a need for another entity — e.g. the property owner or third-party owner-operator charging network — to make the investment to own and operate stations on behalf of residents.
- Station ownership: Even when charging equipment serves reserved spaces, it is often purchased, installed, and maintained by the property owner or by a third-party owner-operator charging network, as a service for residents. Therefore, when the station owner and the station user

¹ Proposed Rule, 20.2.92.403 (E): ““multi-family housing” means a structure or facility established primarily to provide residential housing with four or more living units.”

are not the same entity, CTFS credits should be allowed to be claimed by the station owner-operator to defray the costs of managing and maintaining the investment.

- Split decision-making authority: Regardless of the parking arrangement, the shared nature of electric service upgrades for multifamily residences splits decision-making responsibilities across many stakeholders. Expanding CTFS eligibility to include reserved chargers will enable a more streamlined and holistic decision making process. This will more effectively encourage and incentivize investment in stations on behalf of residents, despite the more complex challenges associated with multifamily chargers.

2. Refine definition of shared multifamily charger.

The way that the Proposed Rule describes a shared multifamily charger is problematic and misaligned with how such chargers are used. The Proposed Rule states:

“The person claiming credits [for a shared multifamily charger] shall demonstrate to the department that access to the EV charger for EV charging is available at all times for use by more than one resident or person in the public.”²

SWTCH believes this language can and should be refined in a way that reflects similar intent, but is more well suited to how such chargers are used. In particular, the term “available at all times” is too broad and would make many shared multifamily chargers ineligible. This is because there can be a number of situations where a charger that is clearly intended for shared use is not available at all times.

One reason why shared chargers may not be “available at all times” stems from security concerns. Many multifamily properties limit access to visitors and/or guests to certain hours in the day, for example 7 a.m. to midnight. During these hours when a property allows public access, the shared chargers are clearly available for use by both residents and visitors. This is similar to other sub-categories of non-residential chargers in the Proposed Rule such as workplace, public, and fleet chargers.

² Ibid.

Instead of the “available at all times” language in the Proposed Rule, SWTCH recommends the using the following language from California’s Low Carbon Fuel Standard regulation:

“chargers at multi-family residences that are not limited to serving dedicated or reserved parking spaces.”³

SWTCH further notes that the need for this differentiation between shared and reserved multifamily chargers will be unnecessary if the CTFS treats all multifamily chargers as non-residential.

In Closing

SWTCH appreciates the thoughtful and transparent approach the New Mexico Environment Department and Environmental Improvement board are taking in promulgating the new CTFS rule. SWTCH’s recommendations in this letter are intended to help improve the outcomes of the CTFS, and ultimately help New Mexico achieve its goal to decarbonize the transportation sector in a manner that offers market predictability for New Mexico businesses and price stability for New Mexico drivers.

Please contact me at josh.cohen@swtchenergy.com if I can provide more information or if it would be helpful to have a deeper conversation about any of these comments.

Sincerely,



Josh Cohen
Head of Policy

³ California Air Resources Board. Low Carbon Fuel Standard. Unofficial electronic version of complete regulation effective July 1, 2025. §9548 (c)(2) *Non-Residential EV Charging*.