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April 27, 2023

Honorable Chair Liane Randolph
California Air Resources Board
1001 "I" Street #2828
Sacramento, CA 95814

Re: Comments on Proposed Advanced Clean Fleets Regulation

Dear Chair Liane Randolph:

I am submitting the following comments on behalf of Charter Communications, Inc. ("**Charter**"), a broadband connectivity company, telephone service provider, and cable operator serving more than 5.2 million California residential and business customers and employing more than 8,400 residents in the State of California. Charter appreciates this opportunity to comment in response to the California Air Resources Board's ("**CARB's**") proposed Advanced Clean Fleets ("**ACF**") regulation.

Charter recognizes the importance of resource efficiency and the mitigation of potential climate change-related impacts. Charter's strategy for becoming carbon neutral in its operations by 2035 focuses on energy efficiency, renewable energy, and fleet fuel efficiency. Charter is concerned, however, that the proposed ACF regulation, as currently drafted, does not provide a technologically feasible and cost-effective means to reduce greenhouse gas ("**GHG**") emissions from fleet vehicles.

I. Specific Concerns with the Proposed ACF Regulation

The proposed ACF regulation's High Priority Fleet Requirements present specific and significant concerns regarding Charter's ability to provide critical communications services across the state. Specifically, Charter believes that the proposed ACF regulation's emergency operations exemptions are too restrictive, conflict with Charter's existing obligations under state and federal law, and are inconsistent with the requirements of the authorizing statute.

A. Emergency Operations Definition

Charter is concerned that the proposed ACF regulation's emergency operations exemption is too restrictive. The proposed ACF regulation currently limits emergency operations to declared emergency events, which may negatively impact Charter's ability to provide and maintain connectivity services during emergency situations that do not rise to the level of declared emergency events. Such events may include localized storms, natural disasters, site-specific fire events in schools, hospitals, or data centers, or other events that may cause prolonged or widespread network outages.

California has recognized the need to maintain broadband connectivity to support emergency services during events that threaten life and property. Executive Order N-73-20 states, "effective emergency services require using broadband infrastructure to integrate data in real time from all available sources so decision makers at the local, regional, and statewide level have access to the information necessary for the protection of lives and property."

Charter agrees that public health and safety should not be jeopardized by subjecting private broadband providers, such as Charter, to regulations that limit the ability to operate and maintain critical services during emergency situations that do not qualify as declared emergency events. We believe that CARB should extend this rationale to the proposed ACF regulation.

B. Charter's Ability to Comply with Existing State and Federal Obligations

Charter is concerned that the proposed ACF regulation's emergency operations exemption restrictions, as currently drafted, may prevent Charter from complying with existing state and federal law.

As a broadband and cable provider, Charter is bound by Cal. Gov. Code § 53088.2(g), which states that "All video providers shall respond to a complete outage in a customer's service promptly. The response shall occur within 24 hours of the reporting of the outage to the provider, except in those situations beyond the reasonable control of the video provider. A video provider shall be deemed to respond to a complete outage when a company representative arrives at the outage location within 24 hours and begins to resolve the problem." Charter is also bound by state franchise contractual requirements that obligate it to comply with similar customer service response standards. (See Cal. Pub. Util. Code 5900(a) and 47 C.F.R. § 76.309). Similarly, as a telephony provider, Charter has specific time-limited emergency response requirements mandated by the California Public Utilities Commission, particularly related to emergency 911 services.

Without our requested modifications, Charter may be in the untenable position of having to choose which legal obligations to comply with in an emergency situation. This could result in endless litigation and a possible loss of Charter's franchise agreement with the California Public Utilities Commission. The solution is not to force Charter to incur expenditures on staff and equipment that may not be feasible in the current market. Instead, the requested solution is to expand the scope of the emergency operations exemption.

C. Consistency with the Authorizing Statute

Charter is concerned that the proposed ACF regulation would be inconsistent with CARB's requirement to adopt regulations that are "technologically feasible and cost-effective" (Health and Safety Code § 38560). Charter believes the ACF regulation, as proposed, is inconsistent with these statutorily mandated principles and may violate Gov. Code § 11342.2 and 11349, which require that adopted regulations not be in conflict with or contradictory to existing statutes, court decisions, or other provisions of law.

D. Proposed EPA Regulations

It is interesting to note that five days after April 7, 2023, the date the ACF public comment period closed, U.S. EPA proposed new rules mandating more stringent emissions standards for GHG and other criteria pollutants. The EPA mandates are proposed to be phased in from model year 2027 through 2032. The proposals require that, by 2032, 67% of all new light-duty passenger vehicles (from sedans to pickup trucks) and 46% of new medium-duty truck sales (such as delivery vans) meet the new emissions standards. EPA also proposed a companion rule governing heavy duty vehicles mandating that half of new buses and one quarter of heavy trucks sold, including tractors, meet the specified requirements by 2032. Manufacturers are concerned that internal combustion engine vehicles will not satisfy the proposed emissions standards, and that these vehicles must be all-electric or zero-emission vehicles to be compliant.

Charter is concerned that the EPA's proposals will further impact the availability of natural resources, stress supply chains, and exceed manufacturing capabilities, all of which will substantially increase the cost of vehicles that can satisfy the ACF requirements and further reduce the availability of such vehicles for deployment in California.

Because the EPA proposal came out after the last ACF comment period closed, neither Staff nor the public had an opportunity to review, evaluate, and/or comment on the significant economic and environmental effects that this EPA proposal will have on the ACF regulation. Therefore, it would be appropriate to provide Staff time to review the cumulative effects of the EPA proposals and to reopen the public comment period to consider the implications of this proposed national mandate on the ACF requirements.

II. Conclusion

Charter requests that CARB modify the proposed ACF regulation to expand the emergency operations definition to include emergent events that do not rise to the level of declared emergencies. Charter also requests that Staff and the public be given more time to assess the recent EPA proposals mandating nationwide electric vehicle sales and their potential effect on the ACF regulation.

Reliable and affordable broadband service impacts many aspects of life in California, including economic and workforce development, infrastructure, public safety, education, economy, and citizen engagement. (Executive Order N-73-20). Charter believes that CARB must expand the emergency operations exemption to ensure the operation, maintenance, and resiliency of California's modern next generation broadband networks during all qualifying emergency situations.



For additional information, Charter supports and adopts the comments submitted by the California Cable & Telecommunications Association (CCTA) on October 17, 2022, attached to this comment letter as Exhibit A.

Very truly yours,

A handwritten signature in cursive script that reads "John J. Lormon".

John J. Lormon

JJL

Exhibit A: CCTA Comment Letter dated October 17, 2022

Exhibit A



October 17, 2022

CARB Board Members
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Submitted Electronically

Subject: Proposed Advanced Clean Fleet (ACF) Regulation

Dear Chair Randolph, Vice Chair Berg, and CARB Board Members:

We appreciate the opportunity to comment on the proposed ACF that will appear before you on October 27th. Unfortunately, given current technology, we need your help to address a group of operational challenges and long-term barriers to moving toward a 100% EV fleet in the emergency context.

All of our companies offer consumers in California essential information services, including internet, telephone, video, and wireless phone connectivity. We are concerned that the proposal fails to take into consideration the very real possibility that we will be hindered in our ability to service our infrastructure and customers if any part of the power grid is impacted by natural disaster, terror attack, PSPS events, or other potentially prolonged or widespread outages. California experiences significant and regular wildfire incidents, earthquakes, and atmospheric rivers that can damage, or impair its power grid. Impacts could range from very serious health and safety issues to violation of contractual and regulatory obligations around service restoration and response times.

An additional concern relating to charging capacity is the fact that California's EV charging infrastructure (both the grid and charging locations) are unable to support today's volume of electric vehicles on the road in an emergency situation without years of infrastructure investment, development and deployment. California already requests citizens to not charge their electric vehicles during certain hours due to strains on the grid. Those restrictions could prevent or limit operation of fleet vehicles and the ability to support our customer connectivity and service level commitments. That situation will only be exacerbated under the proposal as drafted. To ensure reliability and resilience as an essential service this is more than just a dedicated charging station for each vehicle such as a 220V station where the vehicle parks overnight. We have to consider backup power generation and what happens if there is temporary power outage impacting that vehicle, such as if the power for that charging station goes out. Currently, on an everyday basis, our operations would require DC or Level 3 EV charging infrastructure within a few miles of each of the locations where fleet vehicles park overnight to ensure this resilience, and these infrastructure investments may take years to come online at that frequency throughout California. In fact, the US Department of Energy map shows "DC Fast" charging for J1772 concentrated in metro areas, and it may be infrequent, or non-existent, in other, more rural, parts of California.

The recently approved Inflation Reduction Act allows for significant investment in R&D for vehicle technologies, and, looking longer term, we believe there may be better ZEV vehicle technologies on the market in five or ten

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years to address the operational challenges associated with supporting emergency situations that cause prolonged or widespread outages. The proposed regulation does not allow the flexibility needed to deal with this long lead time, and, given the many uncertainties with given technologies to address these emergency situations, reasonable time should be allowed to see what the market can provide.

We would propose modifications to the proposed regulation to ensure we are able to join you in reaching the goal of carbon neutrality with the least impact on our customers and our companies:

1. For the reasons outlined above, we respectfully request that CARB include “telecommunication industry vehicles” in its proposed Section 2015(c) list of vehicles that are exempt from sections 2015 through 2015.6. Such an exemption would ensure that telecommunication industry vehicles are able to provide critical – and often emergency – services around the clock without interruption. Alternatively, we request that CARB at least include “telecommunication industry bucket trucks” in the Section 2015(c) exempt vehicle list because bucket trucks are not fungible and are especially critical when our companies must quickly restore essential telecommunication services. Charging ZEV bucket trucks may not be a viable option during emergency situations, especially when charging stations themselves are not functioning or where telecommunication repairs are needed in remote areas that lack ZEV recharging infrastructure. If you are unable to simply exempt our fleets, we would suggest other changes to the proposed regulation that would allow us to mitigate the significant and negative impacts.

2. We respectfully submit that CARB’s proposed “ZEV Unavailability Exemption” does not adequately account for commercial availability. The exemption would allow fleet owners to purchase a new internal combustion engine (ICE) vehicle and exclude it from the ZEV MY Schedule or ZEV Milestone requirements if there are no ZEVs “of the needed configuration commercially available.” CARB proposes to maintain a list of “commercially unavailable vehicles” although it fails to specify which criteria it will use to determine commercial unavailability. At minimum, CARB should propose for public comment how it intends to determine commercial availability. Instead of creating a “commercially *unavailable* vehicles” list, we recommend that CARB maintain a “commercially *available*” vehicle list based on market conditions and other factors such as whether ZEVs are available for purchase and in stock from multiple manufacturers,¹ economic viability, i.e., the ZEV’s retail price should be comparable to a similarly configured internal combustion engine vehicle, range and duty cycle considerations. We also note that currently there are no commercially available ZEV bucket trucks that would meet our companies’ specification requirements, including no existing certified aftermarket upfitter for the aerial application on any ZEV cab and chassis body types in that weight class.²

¹ Among other things, ensuring there are multiple manufacturers increases the likelihood that a vehicle will be able to be serviced relatively quickly.

² CARB’s Proposed Advanced Clean Fleets (ACF) Regulation Provisions Workgroup (July 26, 2022) claims Class 6 and Class 7 bucket trucks are “available,” i.e., “Configuration is available for order, has confirmation of an order, or has a confirmed delivery to a customer,” although Class 4, 5 and 8 bucket trucks are “To Be Determined,” i.e., “More information is needed to determine if configuration is available for order.” CARB does not provide support for its assertion – and bucket trucks are not listed in Appendix J: Commercial ZEV list 2022 – but even if it were true, our companies cannot reasonably deploy Class 6 or Class 7 bucket trucks to provide telecommunication services.

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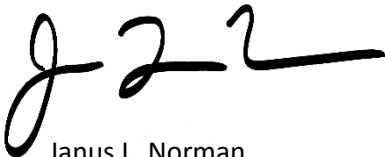
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3. Expand the Backup Vehicle Exemption and Emergency Event Exemption to cover companies that provide essential and emergency restoration services like ours. Our companies do not keep a separate fleet of vehicles for these emergencies. Rather, our entire fleet is available for use in these situations due to the uncertainty of where the event may occur and the circumstances around needed restoration activities. We do not wait for a government entity to declare an emergency – which is often after an event – before working to restore connectivity for our customers.

We would be happy to discuss our concerns with you. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'J L Norman', with a long horizontal stroke extending to the right.

Janus L. Norman

President