DATE: December 16, 2016
TO: California Air Resources Board
FROM: Ryan Schuchard, Policy Director
RE: VW Settlement – Appendix C



Thank you for this opportunity to provide comments on Appendix C of the VW Settlement, which will reinvest $800 million to support and increase the use of Zero Emissions Vehicle (ZEVs) in California.

CALSTART commends the Air Resources Board (ARB) staff for hosting a workshop on December 2, 2016 which led to a comprehensive summary of proposals for reinvestment of Appendix C funds that could add significant value to the State of California and the growth of the ZEV industry at large. We also applaud the ARB for holding an opportunity for l further public deliberation at its Board meeting on December 8.

Recognizing that ARB has gone to great lengths to provide principles and guidance for the use of Appendix C funds, CALSTART respectfully offers a few comments on areas that require further attention. We make these comments with reverence to ARB Board Member Alexander Sherriff's remark on December 8 that ARB's role in the oversight of Appendix C funds is not to punish or reward VW, but instead, to make sure that the funds serve the public good.

**1. Funds Should Utilize Existing and Proven EV Market Development Programs**

Appendix C funds should make use of California's many well-organized existing public programs that support ZEV market growth and which are in need of additional funding. Existing programs include the Clean Vehicle Rebate Program (CVRP), Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP), and SB 1275 program.[1] These are brand-neutral programs that add to and increase overall market support, and which have the clear effect of accelerating EV sales. There is a particular and timely need for investments in these programs given the recent decrease in funding from Cap-and-Trade auctions.

Additionally, two new brand-neutral EV market development initiatives are underway. The California Energy Commission (CEC) has proposed the development of an on-line rebate system for incentivizing the expansion of EV infrastructure. In addition, the Plug-in Electric Vehicle Collaborative is evolving into a new entity called Veloz. The new effort would focus on creating greater awareness and interest in EVs. Both of these programs are in need of financial support. Investment of VW Appendix C funds in these two areas would clearly meet the criteria of being "complementary and additional."

**2. Investments Should Include Zero Emission Transit**

The Air Resources Board has been working to design and establish a regulation that will require transit properties to purchase zero emission buses (ZEBs). Presently, the purchase cost of ZEBs is higher than those powered by fossil fuels. An annual investment of at least $40 million in ZEB purchases thru 2020 from the VW settlement would have

[1] For full disclosure, CALSTART is currently under contract with the ARB and serving as the administrator of HVIP.

significant benefits. That amount, when combined with federal funds, would allow transit properties to meet the targets outlined by the regulation without having to reduce service or cut the number of buses in the fleet. If that level of investment was sustained through 2020, we project that California would have more than 500 ZEBs in operation, and the market would be on its way toward self-sufficiency.

ZEB investments could be targeted so that 80 percent or more would be deployed in Disadvantaged Communities (DACs). Such investments in the ZEB market have spin-off benefits for the truck market, as many of the systems and components used in electric buses could also be used in electric trucks. If VW agreed to such investment, it should receive proper credit and public recognition.

**3. Funds Must Add to and Increase Overall Market Support**

The Appendix C funds must be spent in a way that enhances and supports current market activity. At the workshop, ARB staff noted many ways in which the funds could be spent in a brand-neutral and productive manner, such as by providing additional financial support for the EV element of the Enhanced Fleet Modernization Program (EFMP), which is designed to help people with low incomes gain access to EVs; by investing in hydrogen stations; and by leading a Workplace Charging Challenge.

At the recent ARB meeting, it was noted that the Appendix C funds, relative to California, are very significant when compared to public investments made in the EV sector to date. The California portion of Appendix C funds can help Cal accelerate ZEV deployment. There is also a risk that introducing such a large sum over a relatively short period of time could destabilize existing programs and businesses which have been working for years to grow the EV market place.

We are concerned about a scenario where settlement funds would allow a new Electric Vehicle Service Provider (EVSP), owned and operated by VW, to unfairly compete in the marketplace. VW has a requirement to spend the settlement funds, but there are no requirements that the funds be spent in a fair and competitive manner. It is possible that the settlement funds could allow a new EVSP to undercut and unfairly compete with existing firms in the space. Using these funds to give one provider an unfair advantage over other competitors in the sector may have a deleterious impact on the market.

It is worth noting that as a result of previous negative actions taken against the State of California and its residents, NRG was allowed to use settlement funds to create an EV charging business. It has been nearly five years since that settlement was announced. A significant portion of the $121 million still has not been spent. NRG elected to spin off its EV charging business. We encourage ARB and VW to carefully consider what this says about the benefit of allowing a firm to use settlement funds to create a new EV charging business in California.

Any firm, from VW to General Motors to Amazon or Google, could elect to enter the EV charging business today. The question is, should a firm be encouraged, or even permitted, to use settlement funds to do so? If VW were to get into the EV charging business, unless all of its chargers are available for free use, it would need a system to allow users to access the system. Undoubtedly, that system would require the user to provide personal information. Assuming the firm is more efficient than was NRG in the roll-out of its network, it would not take long before VW collected personal information on a large percentage of the EV drivers in California. For future marketing purposes, that would appear to be an advantage for the firm.

We commend ARB staff in their workshop presentation for recommending that the settlement funds be “complimentary and additional” and that funds “add to and increase all market support to accelerate EV sales growth.” We therefore raise our concerns in the spirit of assisting VW and ARB to most effectively consider some of the specific unintended consequences that need to be avoided. The most assured way of avoiding such consequences would be to use the settlement funds to support the existing and planned state-managed, brand-neutral, EV market investment programs outlined in our first recommendation.

**Conclusion**

The ZEV sector will take off if there is a level playing field and firms are allowed to compete in a fair and equitable way. Towards this, VW has many options for directing Appendix C funds to support California state goals and the good of the California people, so long as such funds make use of the many good public programs that have already been established, and avoid activities that undercut current players and programs. VW could play a particularly strong and value role by supporting such programs at this current time, given the recent dip in Cap & Trade auction revenues. If VW is willing to use its funds to support these programs, then it should also receive an appropriate level of public recognition and sponsorship.

CALSTART continues to be ready and willing to engage with ARB and VW to identify productive, pro-market uses of Appendix C funds and to advance California’s important climate and energy goals.