

# **Comments on: In The Matter Of Medium And Heavy Duty Electric Vehicle Charging Ecosystem, New Jersey Electric Vehicles Infrastructure Ecosystem 2021 – Medium And heavy Duty Straw Proposal**

**Docket No. QO21060946**

**Submitted by the New Jersey Environmental Justice Alliance to the New Jersey Board of Public Utilities**

October 5, 2021

## **Introduction**

One of the most important policy recommendations that has been supported by a significant segment of the environmental justice (EJ) advocacy community is that climate change mitigation policy, in addition to fighting climate change, should be used to reduce the disproportionate amount of pollution often found in EJ communities.<sup>1</sup> In the power generation sector the EJ advocacy community has indicated this means, at least partly, that electricity generating plants located in EJ residential communities should be required to reduce emissions, no matter what type of climate change mitigation program applies to the plants.<sup>2</sup> This policy would guarantee that climate change mitigation policy would deliver critical reductions in locally harmful greenhouse gas co-pollutants to vulnerable and overburdened EJ communities. These reductions would improve the health of residents living in communities affected by plant emissions. The New Jersey EJ Alliance (NJEJA), has called this policy “mandatory emissions reductions for EJ communities through climate change mitigation policy”.<sup>3</sup>

NJEJA<sup>4</sup> is a statewide organization that focuses solely on EJ issues and advocates for policies that will improve the quality of life of low-income communities and communities Of Color, i.e.

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<sup>1</sup> The New Jersey Board of Public Utilities uses the term predominantly “overburdened communities” and adopts the definition of these communities contained in N.J.S.A. 13:1D-158 (*Notice, In The Matter Of Medium And heavy Duty Electric Vehicle Charging Ecosystem, New Jersey Electric Vehicles Infrastructure Ecosystem 2021 – Medium And heavy Duty Straw Proposal*, NEW JERSEY BOARD OF PUBLIC UTILITIES, Docket Number QO21060946 (August 12, 2021), at footnote #2, pg. 2). While the New Jersey Environmental Justice Alliance supports the definition for “overburdened” communities contained in that legislation it prefers the term environmental justice communities because the legislative definition does not include any environmental indicators.

For details of the climate change mitigation policy developed by the EJ community *See* Nicky Sheats, *Achieving Emissions Reductions For Environmental Justice Communities Through Climate Change Mitigation Policy*, 41(2) WILLIAM AND MARY ENVIRONMENTAL LAW AND POLICY REVIEW 377 (winter 2017); *New Jersey Environmental Justice Climate Change and Energy Policy Platform*, NEW JERSEY ENVIRONMENTAL JUSTICE ALLIANCE (2017), at 1-2.

<sup>2</sup> *See* Nicky Sheats and New Jersey Environmental Justice Alliance, *supra* note 1.

<sup>3</sup> *Id.*

<sup>4</sup> The NJEJA mission statement reads as follows: “The New Jersey Environmental Justice Alliance is an alliance of New Jersey-based organizations and individuals working together to identify, prevent, and reduce and/or eliminate environmental injustices that exist in communities of color and low-income communities. NJEJA will support community efforts to remediate and rebuild impacted neighborhoods, using the community’s vision of improvement,

EJ communities, in New Jersey and across the nation. It is important to note that NJEJA has strongly advocated for the adoption of the mandatory emissions reductions for EJ communities through climate change mitigation policy and opposed New Jersey's entrance into the Regional Greenhouse Gas Initiative<sup>5</sup> and Transportation and Climate Initiative<sup>6</sup>, in part because they do not guarantee such reductions.

A comparable type of mandatory emissions reductions policy that directly and unequivocally improves the health of EJ communities is needed for the transportation sector. The New Jersey Board of Public Utilities' (NJBPU) Notice, In The Matter Of Medium And Heavy Duty Electric Vehicle Charging Ecosystem, New Jersey Electric Vehicles Infrastructure Ecosystem 2021 – Medium And heavy Duty Straw Proposal (hereinafter referred to as Straw Proposal), provides New Jersey with an opportunity to discuss and make progress on this type of important policy. NJEJA is submitting the following comments in an effort to further that discussion.

### **EJ, Electrification of Trucks and Buses, and Charging Infrastructure**

An important component of a comparable mandatory emissions reductions policy in EJ communities for the transportation sector would be ensuring that only zero emission trucks and buses would be used in EJ communities. The use of diesel-powered trucks and buses in these communities would not be allowed. This type of restriction would be mandated by rule or law but absent that mandate, which is the current situation, charging infrastructure and incentives should be provided that allow and encourage the achievement of this type of policy.

Charging infrastructure must be established in New Jersey EJ communities that support zero emission buses and trucks of all kinds that are currently operating in these communities. All buses operating in these communities should be zero emission vehicles and the conversion process from diesel-powered vehicles should begin with school buses and New Jersey Transit buses that service these communities. Subsequently, the conversion of privately owned buses that transport passengers in these communities could be mandated, preferably, or incentivized.

The same process could be used to ensure that all trucks which operate in these communities are zero emission vehicles. The conversion could begin with publicly owned trucks and move rapidly to private fleets via a mandate or by incentives.

The cost of charging infrastructure in New Jersey EJ communities could be funded with revenue from the societal benefit charge (SBC), if the private sector does not produce a sufficient amount of charging infrastructure in these communities. The costs for incentives, if any are used, to ensure that only zero emission buses and trucks are used in EJ communities could be paid for by SBC funds as well. Ideally, all funds from the SBC should be devoted to renewable energy

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through education, advocacy, the review and promulgation of public policies, training, and through organizing and technical assistance”.

<sup>5</sup> See *Comments on the CO<sub>2</sub> Budget Trading Program, Proposed Amendments: N.J.A.C. 7:27-22.1 and 22.16 and 7:27A-3.2, 3.5 and 3.10, Proposed New Rules: N.J.A.C. 7:27-2.28 and 7:27C*, submitted by the NEW JERSEY ENVIRONMENTAL JUSTICE ALLIANCE, prepared by Nicky Sheats (February 15, 2019).

<sup>6</sup> See Melissa Miles and Maria Nunez-Lopez, *Environmental Justice Communities Call on New Jersey to Reject the Transportation and Climate Initiative*, Ironbound Community Corporation and New Jersey Environmental Justice Alliance (September 18, 2020).

projects and activities, energy efficiency projects and activities, and pollution reduction projects and activities in EJ communities. If this level of dedicated SBC funds to EJ communities is not currently achievable then at a minimum half of these funds should be devoted to EJ communities.

As the overall conversion from diesel powered medium and heavy-duty vehicles to zero emission vehicles is performed, care must be taken to ensure that electrification does not become a goal in and of itself, and that policy choices are made which actually maximize emissions reductions in EJ communities. Under some circumstances, greater emissions reductions of fine particulate matter (PM) could be achieved by replacing older cars and buses with newer conventional vehicles, than through electrification. This is true because the emission rate of fine PM for a newer conventional car or bus could be lower than the emission rate of fine PM for a local power plant. Therefore, if the cars and buses that were electrified would be powered exclusively by local power plants, it could be that switching to newer conventional vehicles might achieve greater emissions reductions.<sup>7</sup> This scenario demonstrates that when local EJ communities are involved, differing emissions reductions policies cannot be viewed in isolation and careful thought must be given to an overall policy. At the very least, strong consideration should be given to pairing electrification of vehicles with mandated reductions in emissions of local power plants. Emissions modeling at the community level would yield valuable information that could be used to partially guide emissions reduction policy development at the very granular scale needed for EJ communities. For that reason, this type of modeling should be part of emissions reductions policy development.

### **The Straw Proposal**

Using the policy context provided above, these comments will now turn to addressing specific aspects of the Straw Proposal.

Number three of the “...framework for a comprehensive MHD EV ecosystem...”<sup>8</sup> states in part that the framework will include “A commitment that all communities within the state of New Jersey will have equitable access to the EV Ecosystem, ...”<sup>9</sup> While NJEJA certainly agrees with this commitment the framework should go further and at the very least also state that the goal for EJ communities in New Jersey is to have only zero emission buses and trucks used in these areas.

Number five of the framework for a comprehensive MHD EV ecosystem indicates that funding will be provided for technical and planning support that is required for efforts to electrify medium and heavy-duty fleets used by governmental agencies and “public serving institutions”.<sup>10</sup> This funding should also be extended to technical and planning support to electrify fleets that operate primarily, or at least significantly, in EJ communities.

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<sup>7</sup> PAUL ALLEN, ET AL. (M.J. BRADLEY and Associates), *Newark Community Impacts of Mobile Source Emissions – A Community Participatory Research Analysis*, at 14-16 (2020).

<sup>8</sup> New Jersey Board of Public Utilities, *supra* note 1, at 2.

<sup>9</sup> *Id.* at 3.

<sup>10</sup> *Id.*

The Straw Proposal also acknowledges “...the need to move expeditiously toward a low-carbon future...”<sup>11</sup> but it should also recognize the need to address disproportionate pollution loads in many EJ communities by ensuring emissions reductions in these areas while moving to a low-carbon future.

In addition, the Straw Proposal “... seeks to encourage uniform treatment and standard footprint solutions in all EDC territories...”<sup>12</sup> However, added attention should be given to many New Jersey EJ communities due to the elevated pollution levels and lack of resources that often exist in these areas. Treating these communities in the same way that other New Jersey communities are treated would not be sufficient to resolve their persistent problems.

“Areas of Last Resort” are discussed in the straw proposal.<sup>13</sup> These are locations where the market does not provide adequate charging infrastructure. NJBPU should anticipate the need for public intervention to ensure a sufficient number of charging stations in EJ communities and begin planning now for the installation of stations in these neighborhoods by state government. The market does not take into account equity considerations and therefore the chances of having an inequitable geographic distribution of charging infrastructure is significant, if the state relies solely on the market to establish such infrastructure. NJBPU should therefore be ready to step in and ensure that adequate charging infrastructure is developed in EJ communities in a timely manner.

## **Conclusion**

Through the Straw Proposal NJBPU “Staff specifically requests comment on (1) how to identify and address unique transit opportunities in Overburdened Communities, (2) how local fleet investment would improve environmental and health factors, and (3) how to best utilize EV technology for expanded transportation options.”<sup>14</sup>

These comments at least partially address several of the above three questions and NJEJA and its allies would like to have an ongoing conversation with NJBPU concerning the questions and any ideas contained in these comments.

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<sup>11</sup> *Id.* at 4.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 14.

<sup>14</sup> *Id.* at 15.