

**ALBUQUERQUE/BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD**

**IN THE MATTER OF THE PETITION TO REPEAL
EXISTING RULE 20.11.104 NMAC, *EMISSION STANDARDS
FOR NEW MOTOR VEHICLES*, AND ADOPT PROPOSED
REPLACEMENT 20.11.104 NMAC, *NEW MOTOR VEHICLE
EMISSION STANDARDS***

AQCB PETITION NO. 2023-01

MOTION FOR STAY

Pursuant to NMSA 1978, Section 74-2-9.D(1) (1992), the New Mexico Automotive Dealers Association (NMADA) hereby requests that the Albuquerque/ Bernalillo County Air Quality Control Board’s (Air Board) Final Order adopting amendments to 20.11.104 NMAC be stayed during the pendency of the appeal filed by NMADA. The Notice of Appeal was filed on December 21, 2023 and has been accepted by the Court of Appeals as case number A-1-CA-41585. The Environmental Health Department (EHD) takes no position on this Motion. Coalition for Clean Affordable Energy opposes this Motion. Climate Advocates oppose this Motion. Nick Maxwell does not oppose this Motion. Automundo de Garcia Ltd, Co. does not oppose this Motion.

I. ARGUMENT

Section 74-2-9.D provides that “[a]fter a hearing and a showing of good cause by the appellant, a stay may be granted by the environmental improvement board...” In determining if a stay should be granted, the Air Board considers four factors:

- (1)[the] likelihood that applicant will prevail on the merits of the appeal;
- (2) a showing of irreparable harm to applicant unless the stay is granted;
- (3) evidence

that no substantial harm will result to other interested persons; and (4) a showing that no harm will ensue to the public interest.”

Tenneco Oil Co. v. New Mexico Water Quality Control Comm’n, 1986-NMCA-033, ¶10, 105 N.M. 708; *City of Las Cruces v. NM Public Regulation Comm’n*, 2020-NMSC-016, ¶23, 476 P.3d 880.

“[T]hree of these four factors concern the determination of harm, questions of fact rather than law.” *City of Las Cruces*, 2020-NMSC-016, ¶ 23. “[A]t a minimum a movant must show serious questions going to the merits and irreparable harm which decidedly out-weighs any potential harm to the defendant if a [stay] is issued.” *Ohio ex rel. Celebrezze v. NRC*, 812 F.2d 288, 290 (6th Cir. 1987) (quoting *In re: DeLorean Motor Co.*, 755 F.2d 1223, 1229 (6th Cir. 1985) (internal quotation marks omitted)). Here, NMADA faces immediate and irreparable harm, and there are serious questions regarding the merits of the ACCII regulations, which necessarily call for a stay.

A. Without a stay, the Advanced Clean Cars II regulations will cause irreparable harm.

The Air Board, along with the New Mexico Environmental Improvement Board (EIB), voted to enact sweeping regulatory changes that will impact every aspect of purchasing and driving automobiles and light duty trucks in New Mexico, including Bernalillo County. The regulations, known as Advanced Clean Cars II (ACCII), will dramatically and drastically change the face of transportation in New Mexico beginning as early as January, 2026. The regulations mandate that, for Model Year (MY) 2027, 43% of cars and light duty trucks delivered to New Mexico by automotive manufacturers be zero emission vehicles (ZEVs). The percentage increases each year until MY2032, by which time 82% of cars and light duty trucks delivered for

sale in New Mexico must be ZEVs, which includes battery electric vehicles, hydrogen fuel cell electric vehicles and plug-in hybrid vehicles.

The Air Board claims that ACCII will improve air quality in Bernalillo County and help address global climate change. However, the projected improvements in air quality are necessarily based on the success of the ZEV mandates, which is highly unlikely to occur within the timeframe set out in the regulations. The only way in which the Air Board can justify the adoption of ACCII is to ignore the reality on the ground in Bernalillo County as well as what is happening nationally in the car industry.

The following information is based on Exhibits 1 to 10, attached hereto. Exhibits 1 and 2 are comments submitted to the record by State Representative Wonda Johnson and State Senator Benny Shendo. Exhibits 5 to 10, which are the written testimony of Carlos Garcia, Matt Konker, Ken Ortiz and Teri Garcia and rebuttal testimony by Carlos Garcia and Matt Knonder, were submitted to the record in this matter. Currently, less than 5% of new cars and light trucks sold in New Mexico are ZEVs. The Air Board unrealistically expects that percentage to increase to 43% in less than 2 years even though there is no evidence of corresponding demand from Bernalillo County customers, there are no state or local incentives in place to support such an enormous increase in ZEV sales, and the infrastructure needed to support a dramatic increase in ZEVs is not in place and is unlikely to be in place by January 2026. There is a significant cost difference between ZEVs and traditional vehicles. The cost difference at the time of purchase is between \$5,000 and \$10,000 more for a ZEV. The cost of installing an at-home charging station is between \$2,500 and \$5,000, depending on whether upgrades to the home's electrical system are needed. The average range that a ZEV can travel without charging is between 250 and 300 miles or less.

ACCII is based on nothing more than speculation, unsupported presumptions, hollow promises, and unfounded hopes. Rather than helping Bernalillo County consumers, ACCII is discriminatory, unrealistic and will cause massive harm to New Mexico's transportation security. If the manufacturers comply with the ZEV mandates, the availability of affordable new cars and light duty trucks will be severely limited beginning as early as January 2026. The ZEV mandates are not based on consumer demand but on the Air Board's unsupported speculation that, if ZEVs are available, consumers will buy them.

If manufacturers comply with the ZEV mandates (which is questionable at this time), the New Mexico new car market, including in Bernalillo County, will be decimated in a very short period of time, with consumers unable to purchase the cars and trucks of their choice because such vehicles will not be available on the automobile dealer's lots. The ACCII regulation will limit the type of vehicles available for sale to consumers and will force auto dealers to offer consumers cars and light duty trucks that do not meet their needs, that are not affordable, that do not have the ability to travel long distances across the State, and for which there is not adequate infrastructure. The alternative will be for Bernalillo County consumers to drive used vehicles for longer or to purchase new vehicles that meet their needs outside New Mexico, which will cause economic harm to local auto dealers and the broader New Mexico economy. Because the New Mexico market is a small percentage of the larger national market, New Mexico will not be able to compete with states that have larger populations and more demand and the ACCII regulation is likely to decrease the availability of affordable automobiles.

The higher cost of ZEVs, along with the cost of in-home charging, puts such vehicles out of range for many New Mexico consumers, including in Bernalillo County. As stated by Senator Benny Shendo, New Mexicans living in rural areas "have to drive great distances for work,

school, food, medical care and the basic needs of every-day life.” (Exhibit 2, Shendo letter). The limited range of ZEVs, combined with the lack of infrastructure, means that ZEVs are simply not workable in large areas of the State. Many industries in New Mexico rely on vehicles being able to tow and haul materials, products and livestock as part of their businesses and ZEVs simply cannot perform what is required. In addition, there are many rural parts of the State, including in Bernalillo County, that lack basic infrastructure such as water, electricity, and internet services. (*Id.*; Exhibit 1). As stated by Representative Wonda Johnson, “the top priorities of everyday life [are] improving our infrastructure for water, electricity, internet service, paved roads and numerous essentials for survival and teaching our children.” (Exhibit 1). Implementing ACCII will require the expenditure of resources, time and money that are sorely needed to meet the basic requirements for life in rural parts of Bernalillo County and, more broadly, across New Mexico.

Lawmakers have also raised significant concerns regarding ACCII’s state-wide impacts. On January 9, 2024, State Representative James G. Townsend, Rod Montoya and Larry R. Scott sent a letter to Governor Lujan Grisham expressing their concerns about ACCII and requesting that the Legislature consider House Bill 76, which would repeal the regulations. (Exhibit 3, Representatives’ Letter to Governor). The Representatives state that a decision that “dictates the market and types of vehicles that consumers will be able to purchase in the future” should not be left up to “an unelected, governor-appointed board.” *Id.* “Rather, a decision of this magnitude, both in terms of financial and non-financial burdens placed on New Mexico’s families and businesses, should be fully debated and considered by the entire Legislature.” *Id.* Major decisions regarding important environmental and economic policies that impact every New

Mexican should be decided by the Legislature, not the Air Board and the EIB. The

Representatives also raised serious concerns about the impact of ACCII on rural New Mexicans:

[t]he new rule fails to consider the realities that rural New Mexico residents must travel long distances to go to work, secure healthcare, market products and services, and buy necessary goods. This lack of concern for rural New Mexico is evident by the refusal of the EIB to consider facts related to the limited range of electric vehicles (EVs), the lack of EV charging stations across the state, the inability of the electric grid in rural areas to permit home charging of EVs, and the much higher costs of EVs compared to fossil fuel powered motor vehicles. In short, this new rule will make it impossible for many New Mexico consumers to purchase a new vehicle in the future and/or they will be forced to go to a neighboring state to purchase a new vehicle that is more accessible and affordable.

Id. The Representatives further noted that “all of the major auto manufacturers are scaling back their investments into more EV production due to lagging consumer demand.” *Id.* The plans announced by the auto manufacturers, before, during and after the Air Board hearing on ACCII, raise serious questions about the feasibility of the mandates and “will very likely create a supply-chain crisis of available new EVs right at the time the EIB’s rule will be requiring more EVs into the New Mexico marketplace. The result will be even higher prices and fewer choices for New Mexicans.” *Id.* Senate Memorial 2, introduced by Senators Steven P. Neville and Greg Nibert, requests that the EIB repeal the electric vehicle mandate and raises the same type of concerns as did the Representatives. (Exhibit 4, Senate Memorial 2).

The spirit of the Representatives’ letter was similarly reflected in the testimony of the NMADA. During the hearing, NMADA and automobile dealer members offered unrebutted and unchallenged testimony regarding the lack of consumer demand for ZEVs, the lack of charging infrastructure, the likely unavailability of ZEVs in the numbers required to meet the mandates and the lack of incentives by state and local government for the purchase of ZEVs. (Exhibits 5-10, Automundo and NMADA Testimony). NMADA and the dealers also testified about the substantial negative impact of the mandates on the automobile industry and New Mexico

consumers, including impacts on lower income, minority, and rural New Mexicans due to decreased availability of affordable vehicles, the limited range of ZEVs and the cost of individual charging stations. The Board ignored this testimony, as well as public comments, both written and oral, that addressed the many negative impacts that will likely occur from the implementation of the ZEV mandates.

If a stay is not implemented, there will be irreparable harm because it will be necessary for the State, local authorities, manufacturers, and dealers to begin to take immediate steps to implement the regulations, steps that cannot be undone or compensated for if the rule is overturned.

The issues surrounding the implementation of ACCII, including logistics, economics and impacts on New Mexico consumers and the New Mexico automobile industry, make the ACCII regulations not only unfeasible but harmful to the NMADA and others in its position. The overwhelming impact on the citizens of New Mexico, as well as the very real concerns expressed by members of the Legislature, demonstrates the need for a stay pending resolution of the appeal in this matter.

As discussed below, a stay is also warranted because there is a reasonable likelihood of success on the merits, no substantial harm will result to other interested persons and there will be no harm to the public interest.

B. The NMADA has a reasonable likelihood of success on the merits.

There is a reasonable likelihood of demonstrating that the adoption of the ACCII amendments to 20.11.104 NMAC (Part 104) was arbitrary and capricious, not supported by substantial evidence in the record, and not in accordance with the law. “An agency’s action is arbitrary and capricious if it is ‘unreasonable or without a rational basis, when viewed in light of

the whole record.” *Earthworks’ Oil & Gas Accountability Project v. N.M. Oil Conservation Comm’n*, 2016-NMCA-055, ¶10, 374 P.3d 710 (quoting *Archuleta v. Santa Fe Police Dep’t ex rel. City of Santa Fe*, 2005-NMSC-006, ¶17, 137 N.M. 161). Substantial evidence “is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Attorney Gen. v. New Mexico Pub. Util. Comm’n*, 2000-NMSC-008, ¶ 6, 128 N.M. 747. “The question is not whether substantial evidence exists to support the opposite result, but rather whether such evidence supports the result reached.” *Id.* at ¶ 5.

Agency action based on the misinterpretation or misapplication of the law is arbitrary and capricious and not in accordance with the law. The adoption of the ACCII mandates by the Air Board is based on the legally false premise that the amendments are necessary to ensure compliance with Section 177 of the CAA. (Air Board SOR at ¶¶9-16). In the Statement of Reasons, attached to the Petition, the Albuquerque Environmental Health Department (EHD) claimed that the amendments to the existing Part 104 are necessary in order for New Mexico to be in compliance with Section 177 of the Clean Air Act. EHB and the Air Board both incorrectly assumed that the Clean Cars I regulation is invalidated because California has adopted ACCII and that, unless the Air Board and the EIB adopt ACCII, New Mexico will, by default, revert to the Federal CAA standards. However, EHD did not provide any legal analysis to support its position that changes to Part 104 were required because California has passed amendments to its Clean Cars I regulations. Notably, during the Clean Cars I hearing, counsel for NMED stated that New Mexico was not required to change its regulations simply because California has done so. In addition, the United States Environmental Protection Agency (EPA) has not yet approved California’s adoption of ACCII, as required by the CAA.

Section 177 of the CAA states that “[n]othing in this section or in title II of this Act shall be construed as authorizing any such state...to take any action of any kind to create, or have the effect of creating, a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards (a “third vehicle”) or otherwise create such a ‘third vehicle.’” 42 USCS §7507. Neither EHD, as the Petitioner, nor Air Board, explained how retaining Clean Cars I would “create, or have the effect of creating” a “third vehicle.” If Clean Cars I remains in effect, the manufacturers would not be required to create a vehicle or engine different than one certified by California but would instead simply be required to deliver a lower percentage of California compliant ZEVs to New Mexico. In other words, § 7507 is directed at the *manufacture* of motor vehicles and motor vehicle engines rather than at the *distribution* of those products in a given market. This makes sense because of the vastly different consumer markets throughout the country. The Air Board failed to offer any legally supportable basis for its conclusions that the ACCII amendments are necessary to ensure compliance with Part 177. Those conclusions suggest that once a state signs on to any phase of California’s Clean Cars initiatives, that state is bound to continue adopting every Clean Cars regulation California adopts from that point forward, regardless of the merits of each new regulation or its unique impact in that state. That is not a reasonable interpretation of Section 177. The Air Board should have considered the ACCII amendments separately and its failure to do so is arbitrary and capricious and not in accordance with the law.

The record also lacks substantial evidence to support the Air Board’s conclusions that the adoption of ACCII is in the public interest, technically practicable, economically reasonable and more protective of public health and the environment than current New Mexico emission standards for the vehicles it regulates. (Air Board SOR at ¶¶ 38-43). Automobile sales in New

Mexico are a small percentage of the total sales in the United States and of that small percentage, less than 5% are electric vehicles. There is no evidence in the record that the required number of ZEVs will be available, or that, even if available, the manufacturers will deliver the vehicles to New Mexico automobile dealers. Nor is there any evidence that consumer demand will rise quickly enough for dealers to actually sell the mandated number of ZEVs even if they are delivered. During the hearing, NMADA and automobile dealers offered unrebutted and unchallenged testimony regarding the lack of consumer demand for ZEVs, the lack of charging infrastructure, the likely unavailability of ZEVs in the amounts required to meet the mandates and the lack of incentives by state and local government for the purchase of ZEVs. NMADA and the dealers also testified about the substantial negative impact of the mandates on the automobile industry and New Mexico consumers, including impacts on lower income, minority, and rural New Mexicans due to decreased availability of affordable vehicles, the limited range of ZEVs and the cost of individual charging stations. The impacts are likely to be especially severe in poorer and rural parts of Bernalillo County, where many residents do not have the resources to install expensive charging stations.

There was no testimony by any witnesses who were familiar with or had expertise regarding the automobile industry in general or with the New Mexico automobile industry specifically. The New Mexico Environment Department (NMED), EHD and the Climate Advocates presented little to no evidence of New Mexico specific data or analysis, and the evidence they did introduce is based on the assumption that the ACCII mandates can be successfully implemented. That is a hugely consequential yet totally unsupported assumption; the testimony regarding the feasibility and practicality of the mandates, including consumer demand, availability of ZEVs and charging infrastructure, and affordability of ZEVs, was based

on pure speculation. The projected health and environmental benefits resulting from the adoption of ACCII are based on the successful implementation of the mandates. But because the expected success of the mandates is based on speculation, the projected benefits are also necessarily speculative.

The ACCII regulations also allow non-compliant, out-of-state vehicles to be titled and registered in New Mexico. This result undermines the purpose of the Part 104 regulations, which is to reduce air pollution by mandating the sales of a certain percentage of ZEVs. It also favors wealthier consumers who can afford to purchase vehicles from other states and disadvantages consumers who cannot afford to do so.

The adoption of ACCII represents sweeping, long-term change to the automobile industry and directly impacts automobile dealers and consumers, as well as the economy of New Mexico, including Bernalillo County. Because of the substantial and broad impacts of the ACCII regulations, there are serious legal questions as to whether the Air Board has the authority to enact the regulations or whether such major changes should require legislative action. There are also legal and policy questions as to whether the Air Board, as an unelected board, has the authority to commit Bernalillo County to the on-going adoption of regulations passed by the State of California or if such action violates the sovereignty of New Mexico. These are matters that that appellate courts should address before the regulation is implemented.

Based on the foregoing, there is a reasonable likelihood of success on the merits that supports the implementation of a stay.

C. No substantial harm will result to other interested persons and no harm will ensue to the public interest.

A stay of the ACCII requirements will not result in substantial harm to other interested persons and no harm will ensue to the public interest. EHD did not present any evidence, and the

Air Board did not find, that time is of the essence for implementing ACCII. In fact, ACCI was adopted just one year ago, and those standards would be in place if the ACCII requirements are stayed. Thus, a stay does not deprive Bernalillo County of motor vehicle emission standards but ensures that the most recent regulations are not enforced to the detriment of automotive dealers and consumers while the appellate courts review those regulations on appeal.

As discussed above, allowing ACCII to be implemented during the pendency of the appeal would cause irreparable harm to the auto dealers and the citizens of Bernalillo County. Because of the broad-reaching nature of the ACCII amendments to Part 104 and the important and substantial questions to be addressed on appeal, it is in the public interest to ensure that the Court has the opportunity to determine whether the Air Board had the authority to pass the mandates contained in the ACCII amendments and whether the amendments are arbitrary and capricious, not supported by substantial evidence or otherwise not in accordance with the law before substantial resources are invested in implementing the regulations and before irreversible impacts occur.

III. CONCLUSION

Based on the foregoing and for good cause shown, NMADA requests that the Air Board's Final Order adopting amendments to 20.11.104 NMAC be stayed during the pendency of the appeal filed by NMADA.

Respectfully submitted,

DOMENICI LAW FIRM, P.C.

/s/ Pete Domenici

Pete Domenici

Lorraine Hollingsworth

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I hereby certify that a true and correct copy of the foregoing was served on the following via email on the 7th day of February, 2024.

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State of New Mexico
House of Representatives
Santa Fe

D. WONDA JOHNSON
D – McKinley & San Juan
District 5

P.O. Box 168
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COMMITTEES:

Vice Chair: Government, Elections & Indian
Affairs
Commerce & Economic Development
Rules & Order of Business

November 13, 2023

New Mexico Environmental Improvement Board
Attn: Chair Phoebe Suina
P.O. Box 5469
Santa Fe, NM 87502

Dear Chair Suina and respective Board Members,

Thank you for the opportunity to submit comments on the proposed California Advanced Clean Car II rules that are under consideration. I am writing to you to express my concerns as a State Representative, representing my constituents from House District 5 within McKinley and San Juan counties. In our area top priorities for everyday life is improving our infrastructure for water, electricity, internet service, paved roads and numerous essentials for survival and teaching our children.

While I understand the intention of the rule, I feel that this rule will limit choices of vehicles that all New Mexicans need as most live in rural areas and have to travel great distances for work, food, school and medical services.

I feel New Mexicans should be able to choose the vehicle that is right for them based on their needs and budget. Have you taken into consideration about those who don't have electricity in their homes or people who don't own their home? Will they be forced to pay more for charging while waiting at least 30 minutes to charge their vehicle? In order for a smooth transition, we need a charging network that is easily accessible, convenient and safe.

EV costs more than traditional vehicles and many will also need a home charging stations, however there are no state incentives to help New Mexicans purchase an electric vehicle or plug-in hybrid like many other states across the country.

Although this approach may work in California, I feel that there are many differences such as income disparity, the number of miles we have to drive every day and access to public transportation. As the Chair of the Government, Elections and Indian Affairs, part of our responsibilities is to consider legislation that affects sovereign communities across the state. I feel the rules you have been presented with should have legislative input and consideration as this will affect all New Mexicans

EXHIBIT 1

including our sovereign neighbors. Have you considered the unique circumstances of sovereign tribal lands and involved tribal-leaders and other stakeholders in communities throughout New Mexico? Please do not rush into issuing a mandate as more time, consideration and communication is needed to have a successful transition.

Sincerely,

D. Wonda Johnson
State Representative - District 5



New Mexico State Senate
State Capitol
Santa Fe

COMMITTEES:

CHAIR:

- Tax, Business & Transportation

MEMBER:

- Committees' Committee
- Indian, Rural & Cultural Affairs

SENATOR BENNY SHENDO, JR.

D-Bernalillo, McKinley, Rio Arriba, San Juan &
Sandoval-22

P.O. Box 634
Jemez Pueblo, NM 87024

E-mail: benny.shendo@nmlegis.gov

November 15, 2023

New Mexico Environmental Improvement Board
Attn: Pamela Jones, Board Administrator
P.O. Box 5469
Santa Fe, NM 87502
Albuquerque/Bernalillo County Air Quality Control Board
P.O. Box 1293
Albuquerque, NM 87103

Dear Respective Board Members,

I am writing to you to express my concern on the proposed Advanced Clean Car II rules that are under consideration. As a State Senator, my district represents parts of Bernalillo, McKinley, Rio Arriba, San Juan and Sandoval counties. Most of my constituents live in rural areas and have to drive great distances for work, school, food, medical care and the basic needs of every-day life. In addition, some of my constituents lack the basic infrastructure that we take for granted every day such as water, electricity and internet services.

First of all, let me say that I am not opposed to electric vehicles and Clear Car rules, my concern is the pace at which we want to transition. Although, we should all be concerned with climate change, I feel the approach you are considering is not right for New Mexicans at this time. First and foremost, there is a significant cost disparity between a traditional vehicle and an EV. Most studies indicate that the cost difference is between \$5,000 - \$10,000 more for an EV than a traditional vehicle. In addition, very few have the means to install a home charging station, where the average cost to install a home charging station ranges from about \$2,500-\$5,000 depending on if they also need to upgrade their electrical panel in their home.

As an example, when the state passed incentives for home solar installations, I don't believe any of my native american constituents in the rural areas had any installed. The upfront costs, the capacity and the rural electric cooperatives rules never made this an ideal situation. The majority of the people that benefited from these laws are the one that could afford to invest in the upfront cost and those that live in the city and are served by the Investor owned utilities.

EXHIBIT 2

My concern is that this shift to the proposed Advanced Clean Car II rules will have the same result as our solar initiatives for the rural parts of New Mexico. The infrastructure needed to make this viable in the rural parts of this state will require a significant investment, we are a long way from there. I have constituents that don't even have running water and electricity, the last thing on their mind is owning an electric vehicle.

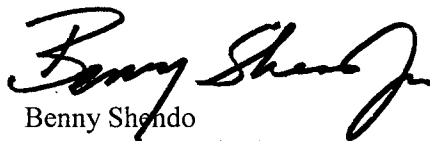
As the Chairman for the Senate Tax, Business and Transportation committee, I am concerned about the state road fund, where \$.17 of every gallon of fuel purchased goes to the state road fund to build and maintain our roads and bridges throughout New Mexico. As we transition to EVs, what will be the appropriate taxes, or fees associated with this use.

Moreover, I want to emphasize that implementing a mandate without considering the unique circumstances of sovereign tribal lands would pose adverse effects. Sovereign tribal lands has its own complexities and must be approached with careful consideration. It is essential to involve tribal-leaders stakeholders and communities throughout New Mexico in this decision making process as it will affect their people and territories.

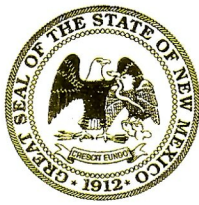
Instead of rushing into a mandate, I believe that more time and preparation are necessary to ensure a successful transition. This includes extensive infrastructure developments to support widespread adoption of electric vehicles. In addition, I feel we need time to prepare individuals and communities across the state for this transition. This involves raising awareness about the benefits of electric vehicles, addressing concerns about the charging infrastructure and developing programs to support disadvantaged New Mexicans in purchasing EV's and home EV charging stations. Education, outreach, subsidies and incentives should all play a role in facilitating a smoother transition.

As you can see, there are several concerns that I feel need to be addressed before the state puts in place a requirement that will not allow a New Mexican to purchase a vehicle based on their needs and budget. Therefore, I respectfully urge the board to consider delaying the proposed rules until these items have been addressed.

Sincerely,



Benny Shendo
State Senator, District 22



State of New Mexico
House of Representatives

State Capitol
Santa Fe

January 9, 2024

The Honorable Michelle Lujan Grisham
Governor, State of New Mexico
State Capitol, Room 400
480 Old Santa Fe Trail
Santa Fe, New Mexico 87501

Dear Governor:

We are writing to request a special message for the upcoming legislative session that would allow the Legislature to consider House Bill 76, which would repeal the recently adopted administrative rule by the Environmental Improvement Board (EIB) that imposes a mandate on motor vehicle manufacturers as to the percentage of new motor vehicles sold in New Mexico after model year 2027 that must be zero emission.

The introduction of HB 76 is necessitated due to our belief that an unelected, governor-appointed board should not be making any determination which dictates the market and the types of vehicles that consumers will be able to purchase in the future. Rather, a decision of this magnitude, both in terms of financial and non-financial burdens placed on New Mexico's families and businesses, should be fully debated and considered by the entire Legislature. Further, EIB's rule making process should never be utilized as a mechanism to legislate and side-step the authority of the legislative branch in setting important environmental and economic policies that impact every New Mexican.

Legislation to overturn this new EIB administrative rule should also be allowed to be considered by the Legislature to ensure that rural New Mexico residents have a needed voice in determining whether this new rule is in the best interest of our state. As adopted by the EIB on a very close vote of 3-2, the new rule fails to consider the realities that rural New Mexico residents must travel long distances to go to work, secure healthcare, market products and services, and buy necessary goods. This lack of concern for rural New Mexico is evident by the refusal of the EIB to consider facts related to the limited range of electric vehicles (EVs), the lack of EV charging stations across the state, the inability of the electricity grid in rural areas to permit home charging of EVs, and the much higher costs of EVs compared to fossil fuel powered motor vehicles. In short, this new rule will make it impossible for many New Mexico consumers to purchase a new vehicle in the future and/or they will be forced to go to a neighboring state to purchase a new vehicle that is more accessible and affordable.

Equally important, it must be noted that all of the major auto manufacturers are scaling back their investments into more EV production due to lagging consumer demand. For example, Ford Motor company has announced it will delay \$12 billion of its planned \$15 billion in EV-related investments, including pushing back the planned start-up of a second battery plant in Kentucky. General Motors Corporation has stated it will be delaying plans to expand electric pick-up truck production at a plant in suburban Detroit. In turn, these delayed investments will very likely create a supply-chain crisis of

available new EVs right at the time EIB's rule will be requiring more EVs into the New Mexico marketplace. The result will be even higher prices and fewer choices for New Mexicans.

Therefore, the consideration of HB 76 is an important issue to many rural residents, as well as urban residents, as it intrudes into the decision-making process of many New Mexico residents as to what type of motor vehicle best fits their budget and needs. Further, we believe public policy should continue to promote the free-market system and allow our citizens, not an unelected government entity, to determine whether they should purchase an EV or a fossil fuel powered vehicle. Therefore, we encourage you to provide a special message for HB xxx to permit a full and well-considered debate in the Legislature on EIB's recent administrative rule.

Thank you for your consideration of our request.

Sincerely,



James G. Townsend
State Representative District 54



Rod Montoya
State Representative District 1



Larry R. Scott
State Representative District 62

EXHIBIT 4

SENATE MEMORIAL 2

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

Steven P. Neville and Greg Nibert

A MEMORIAL

REQUESTING THE ENVIRONMENTAL IMPROVEMENT BOARD TO REPEAL THE ELECTRIC VEHICLE MANDATE.

WHEREAS, climate change is a credible concern and New Mexico should be part of the solution; and

WHEREAS, the environmental improvement board recently adopted an electric vehicle mandate that has created a serious concern for many New Mexico residents and businesses; and

WHEREAS, the new rule requires that beginning in 2026, forty-three percent of all vehicles delivered to New Mexico for sale must be zero-emission vehicles, with the percentage increasing each year until 2032, when eighty-two percent of all vehicles delivered for sale in New Mexico must be zero-emission vehicles; and

WHEREAS, the mandate was enacted without the support of a

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underscored material = new
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1 majority of the environmental improvement board; and

2 WHEREAS, the United States and western Europe have made
3 significant reductions in carbon dioxide emissions; and

4 WHEREAS, China and India have made significant increases
5 in carbon dioxide emissions; and

6 WHEREAS, New Mexico's contributions to carbon dioxide
7 levels are insignificant, and less than one percent of New
8 Mexico's emissions are attributed to personal transportation;
9 and

10 WHEREAS, as many as one-third of the homes on the Navajo
11 Nation do not have electricity available to charge an electric
12 vehicle and most have inadequate infrastructure to support the
13 charging of electric vehicles; and

14 WHEREAS, most rural communities in New Mexico cannot
15 provide adequate infrastructure to support residential electric
16 vehicle charging or public charging stations, and many areas
17 within metropolitan centers cannot support residential electric
18 vehicle charging on any reasonable scale; and

19 WHEREAS, it is inevitable that many potential purchasers
20 of new vehicles will choose to buy from out-of-state automobile
21 dealerships, resulting in a significant loss of jobs and income
22 and the likely closure for New Mexico automobile dealerships;

23 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE
24 OF NEW MEXICO that the environmental improvement board be
25 requested to immediately repeal the recently enacted electric

.227217.1

underscoring material = new
~~[bracketed material] = delete~~

1 vehicle mandate; and

2 BE IT FURTHER RESOLVED that the environmental improvement
3 board be requested to take no future actions concerning
4 electric vehicles without first conducting an extensive
5 analysis of the feasibility of electric vehicle use in New
6 Mexico and the potential damage to businesses and the economy;
7 and

8 BE IT FURTHER RESOLVED that a copy of this memorial be
9 transmitted to the environmental improvement board.

STATE OF NEW MEXICO

**BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD
AND THE ALBUQUERQUE BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD**

**IN THE MATTER OF PROPOSED AMENDMENTS TO
20.2.91 NMAC, NEW MOTOR VEHICLE EMISSION STANDARDS**

EIB NO. 23-56(R)

and

**IN THE MATTER OF PETITION TO AMEND EXISTING
RULE 20.11.104 NMAC, NEW MOTOR VEHICLE EMISSION STANDARDS**

AQCB PETITION NO. 2023-01

TESTIMONY OF CARLOS GARCIA

EXHIBIT 5

TESTIMONY OF CARLOS GARCIA

Q. What is your name and the name of your dealership(s)/auto group? How long has your dealership been in business?

Carlos Garcia from Garcia Infiniti which is part of Garcia Automotive Group in Albuquerque. Our family has been in the transportation business in New Mexico for over 80 years. Garcia Infiniti opened in 1995. I have spent almost my entire life in the retail automotive business including working for General Motors early in my career. I have worked extensively with almost every major automotive manufacturer over the years. I am in the dealerships every day and interact with our customers frequently. My family, along with our team, works hard every day to provide the most affordable, safest and reliable transportation options for our customers. Our goal is to offer New Mexicans what they want when it comes to choosing a new or pre-owned vehicle. I support the adoption of zero emission vehicles and know they are a big part of our future. My family has invested heavily in EV infrastructure and is currently spending more. We want to be part of the solution with a reasonable plan to create positive change for all new Mexicans, not just a select few.

Q. What brand of vehicles do you sell?

Infiniti is my main area of responsibility. We also represent 13 other vehicle lines. My parents were early pioneers in high fuel efficiency vehicles starting with their acquisition of a Toyota franchise in 1967.

Q. How many employees does your dealership(s) have?

258

Q. Can you briefly describe who your customers are? (live in rural/urban areas) (average income) (industry sector or how they use their vehicle and the number of miles they typically drive)

Our typical customer is a female living in Bernalillo County who makes around \$60,000 per year. Most are salaried employees who drive 12,000-15,000 miles per year. Almost all of our customers finance or lease their vehicles. The majority of our customers are Hispanic, and we do sell to clients from all over the state due to our diverse offerings.

Q. Can you describe what investments your dealership has made in preparing for selling/services EV's (infrastructure, tools, training, including costs)?

We have spent hundreds of thousands of dollars already and have committed to spend multiples of that amount in the near future. We offer paid training for our employees and pay for all major tools/equipment. I would also like to point out that we have spent hundreds of thousands of dollars over the years to purchase emissions testing machines and to certify emissions inspectors for the highly successful emissions control testing program we have in Albuquerque and Bernalillo County.

Q. What is your experience in selling/services Battery Electric & Plug-In Hybrids?

I personally began selling electric cars in 2009 when we represented the smart car franchise as a part of Mercedes-Benz. I believe I was one of (if not the first) dealer in New Mexico to install a charging station at my dealership in Albuquerque. As a company we have several franchises that currently offer electric vehicles. I am extremely knowledgeable regarding the EV models we sell and service.

EV customers in New Mexico are a very different buyer than our average consumer. Most of our EV customers average more than \$100,000 in annual income, live in Santa Fe or the high-income Albuquerque zip codes of 87109 and 87122. Our EV buyers tend to have more than one vehicle in their household. I was not surprised to read that the average Tesla customer is a white male homeowner that has a household income of over \$130,000.

Q. What is your understanding of what your manufacturers will have available for sale in the battery electric and plug-in hybrids now and in the next 2-3 years?

Infiniti has no plans for any electric vehicles or plug-in hybrids in the next two to three years. Honda will have one EV model starting in model year 2025. Mercedes-Benz has five models available right now and will be all-electric by 2030. Subaru, Cadillac and Volkswagen currently have one electric offering each right now with stated plans for more models over the next several years.

Q. Are you familiar with the proposed Advanced Clean Car Rules? Can you generally describe them?

I am very familiar with ACC II. Appointed environmental leaders are proposing that New Mexico follow California's "clean car" mandate starting in 2027. I understand the full regulation. I think it is a conflict of interest that our appointed environmental leaders, most of whom derive their income from environmental causes and programs are the decision makers in these hearings.

Q. How do you perceive the proposed rules will impact your dealership? Why?

I think that all auto manufacturers are tremendously behind where they need to be in order to meet ACC II in California, much less in New Mexico. The number of vehicles retailed in New Mexico is so small that the auto manufacturers will be forced to focus their production and delivery efforts to try and meet the California mandate. New Mexico will be left behind and it will spell a dim future for our dealerships, our team members, our valued customers and the community we so heavily support.

A brand like Infiniti has a much more uncertain future because of the lack of zero emissions vehicles on the horizon. There are multiple brands in the industry with little to no EV production

coming any time soon yet will be forced to comply with an unachievable standard. Honda, for example, projects to sell 1.2 million vehicles in 2024, the first year of AAC II in California. Their first year EV production is estimated at only 70,000 (or 5.8% of production). Our share of that 70,000 will only be about 3% of our sales, not anywhere close to 43%. In the administration and execution of AAC II if passed, there must be exceptions for manufacturers who don't have the resources or production capacity to meet the California requirements starting in 2027. I have not seen any projection from any of the manufacturers we represent that shows ZEV production anywhere near 43% by 2027. How will the brands that do not have EVs or are boutique manufacturers be handled? This simple look at the market was totally overlooked by the authors of AAC II. The administration and execution of the mandate is as important as the mandate itself in my opinion and too many key elements were overlooked. For example, traditional hybrids should be included in the credit accumulation process and sales targets. Plug-in hybrids should earn the same amount of credit as an EV in this system.

I read on the front page of the Wall Street Journal today (October 24, 2023) that EV demand continues to drop and General Motors is pumping the brakes on their plan. This is a common headline. When only 3.61% of new vehicle sales were ZEVs in New Mexico in 2022 and we are only at 4.29% this year and swimming in inventory; why are we considering AAC II? New Mexicans vote with the pocketbooks and the incredibly low ZEV sales in our state clearly tell us that the overwhelming majority of New Mexicans do not want a zero emissions vehicle. This is real data from the DMV that cannot be ignored.

Q. How do you perceive the proposed rules will impact your customers? Why?

I think the AAC II mandate will impact New Mexicans far more negatively than vehicle customers in a rich state such as California and is not in the public interest. There is a tremendous income disparity between the average New Mexican and average Californian of over \$30,000 per year. This simple fact alone puts our hardworking people at a disadvantage from the perspective of purchasing power and is particularly discriminating to our large Hispanic population who earn less money than average New Mexicans. Many New Mexicans also rent their homes and apartments and do not have access to home charging and landlords by and large will not be footing the bill to install charging stations. With the average American having less than \$800 in their checking account, very few have the means to front the \$4,000-\$5,000 bill to upfit their home for charging. In fact, the average person living in Bernalillo County won't earn enough in a year to qualify for the home charger tax credit. New Mexico is a poor and heavily taxed state as it is, telling people how to spend their hard-earned money when the cost of living is already so high is not economically reasonable for our residents.

In addition to the income disparity, California also has 37 million more people than New Mexico, huge ZEV incentives (New Mexico has none) and a multi-year head start in infrastructure and planning. New Mexico may have its problems but comparing us to California is not fair and I also feel it is insulting. I think it is tremendously unfortunate that the federal government has given us only two choices regarding ZEVs: Follow the California ACC II mandate or follow the current federal plan. I think New Mexico should be a leader in the future of ZEV transportation in

coming up with our own progressive plan that better fits the majority of New Mexicans and better reflects the true data regarding ZEV production, demand, incentives, air quality and charging infrastructure.

Albuquerque and Bernalillo County are national leaders in providing clean air to its residents and visitors. New Mexicans don't like being forced agendas they can see right through, especially when it comes across as a directive from highly educated experts that they don't identify with at all. We have clean air in Albuquerque and Bernalillo County and I don't think our customers will accept being told otherwise and decide to spend their money on a very expensive EV. New Mexico is the "Land of Enchantment" not the "Land of Make Believe."

We were just here for the passing of the Clean Car Rule (or ACC I) in May of 2022. Why are the EIB and Albuquerque Bernalillo County Air Quality Control Board already considering replacing this valid and reasonable plan after less than a year and a half? The Clean Car Rule is actually an achievable and valid starting point for the transition to ZEV vehicles. It would be a mistake to override the Clean Car Rule in favor of ACC II for no compelling reason and no data showing that the Clear Car rule isn't working or won't work.

Q. Based on knowledge and experience in the automotive industry, do you believe the proposed rules are technically practical? Why?

No. The proposed ACC II mandate is not technically practicable by any of the parties involved including the city of Albuquerque, Bernalillo County and the state of New Mexico as a whole. None of the manufacturers we represent have published EV or PHEV production numbers that will even come close to the 2027 zero-emissions mandate of 43% new vehicles retailed. Even if they could build the cars, demand for electric vehicles in New Mexico is nowhere near the California thresholds. In fact, as of this writing, the dealer day supply of EVs is 97 days which is more than double the day supply of internal combustion engine vehicles. As of October 19, 2023, Tesla has dropped its prices by over 22% year over year. This represents over a \$15,000 price drop. Tesla is not dropping their prices because they want to, they are dropping them because they have to and that is purely related to weak demand. Anyone who bought a Tesla a year ago should feel violated and robbed. Ford has lost over \$66,000 on every EV they have sold this year; this is not economically reasonable. Our roads are going to suffer from more EV traffic due to the massive weight of these vehicles over a standard internal combustion engine vehicle. We will not have the money to fix said roads with the evaporation of the gas tax. Road funding and ZEV incentives are going to come from taxpayer money and this hurts us all. Our parking garages will not be able to handle the added weight of EVs, the list goes on and on as to why AAC II is not technically practicable.

New Mexico's lack of charging infrastructure, especially in comparison to California, is staggering. The California Air Resources Board says that the required ratio of charging ports to electric vehicles of 1:7 is too low and feels it should be 1:10. Using their conversion chart, New Mexico would need 46,000 to 66,000 charging ports by 2035 to support 460,000 EVs on our roads. To put that in perspective, at the last NMED ACC II public meeting we were told there are only 600 public charging stations in New Mexico right now. New Mexico is not alone in the fight

for public charging capability. MarketWatch reported on October 23, 2023 that nearly 4,000 public charging stations with more than 7,000 ports were out of service as of early October. Nationwide, that means about 6% of public charging stations are down at any given time. New Mexicans need to be educated on the difference between level one, two and three chargers, how long these charges take and what they cost in real dollars. I feel that the data NMED ACC II deck presented to the public is vague and does not paint the whole picture of EV ownership.

Comparing New Mexico to California and trying to speculate what the future looks like is foolish. We lack basic charging infrastructure and New Mexico currently has no incentives for zero emissions cars while California offers thousands of dollars per unit in addition a multi-year head start in charging infrastructure. New Mexico is one of the largest pickup truck markets in the US and there is not one viable EV pickup truck replacement on the market today in price, range or towing capacity.

The administration and enforcement of the mandate is also of major concern. Who is going to ensure that the rules are being followed? Who will make sure that the department of motor vehicles will not be allowed to register any cars that were not delivered in an AAC II state? How can we be 100% sure that the promised incentives are going to pass the legislature and be doled out appropriately? How are we going to replace the millions and millions of dollars from the loss of gas tax revenue? How are we going to tax electricity, especially during peak hours the same way California currently does? The bottom line is we can't do any of these things. And all of these issues are going to add to the cost of ownership that proponents of this mandate will have you believe is next to nothing for an electric car. This undertaking is too much, too fast for New Mexico.

Q. Based on your knowledge and experience in the automotive industry, do you believe the proposed rules are justified?

I do not feel like the proposed mandate is justified for many reasons, the main one being that we do not have an air quality problem in Albuquerque/Bernalillo County. Per the EPA website's most current data, Albuquerque and Bernalillo County have been in 100% compliance with federal clean air standards since 1996. Despite what one of the experts told the attendees at the most recent public meeting regarding ACC II, we are in compliance in Albuquerque and Bernalillo County. I am not certain about the rest of the state. In Albuquerque and Bernalillo County we have our own emissions program that works and has had proven results for almost thirty years. Why try to fix something that isn't broken? The Clean Car Rule these same two bodies voted in to effect just last year is a good standard and a reasonable one. We should be proud of how hard we have worked as a community for our clean air in Albuquerque and Bernalillo County, not guilted into thinking we need to be California that had to create their own air quality standards because they could never meet the federal standard. Our prior experience in Albuquerque and Bernalillo County with the equipment and testing methods that are available to control the air contaminants involved has been excellent. We have achieved great results and as such should stick with the federal plan and not adopt these unattainable California standards that are not in the public interest.

I believe it is our duty to protect the transportation security of all New Mexicans and adopting the California ACC II mandate does the opposite of that. I believe we should vote down this mandate and remain with the Clean Car Rule already in place.

STATE OF NEW MEXICO

**BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD
AND THE ALBUQUERQUE BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD**

**IN THE MATTER OF PROPOSED AMENDMENTS TO
20.2.91 NMAC, NEW MOTOR VEHICLE EMISSION STANDARDS**

EIB NO. 23-56(R)

and

**IN THE MATTER OF PETITION TO AMEND EXISTING
RULE 20.11.104 NMAC, NEW MOTOR VEHICLE EMISSION STANDARDS**

AQCB PETITION NO. 2023-01

TESTIMONY OF MATT KONKER

EXHIBIT 6

MATT KONKER TESTIMONY

Q. Please provide your name and current job title.

A. Matt Konker, Chief Operating Officer (COO) for Garcia Automotive Group based in Albuquerque.

Q. Please describe your experience in the automobile industry, including how long you have been involved in the industry and the positions you have held and currently hold.

A. I have been in the industry since February of 2000 when I started in the business at a large dealership in Phoenix. I have held the positions of salesperson, finance manager, finance director, sales manager, General Manager, and COO. I am heavily involved with every aspect of our dealership business every day. I pride myself in being well versed in every facet of the business and my ability to work with our team members, customers and all the auto manufacturers we represent. Although not a native New Mexican, I married into a large Hispanic family from Questa, New Mexico and I work for a Hispanic and woman owned company. I now consider myself a very proud New Mexican.

Q. What brands of vehicles does the Garcia Automotive Group sell?

A. Volkswagen, Chrysler, Dodge, Jeep, Ram, Mercedes-Benz, Sprinter, Infiniti, Cadillac, Alfa Romeo, Subaru, Honda, and Land Rover.

Q. How many cars and trucks does the Garcia Automotive Group sell in a typical year? Of the cars and trucks sold, how many or what percentage are electric or other zero emission vehicles (ZEVs)? How many or what percentage are non-plug-in hybrids?

A. We retail approximately 5000 total new and used units in a typical year. As far as ZEV sales, I would estimate around one percent of our current new vehicle sales are ZEV units.

Q. What is the Garcia Automotive Group doing to prepare for the transition to ZEVs?

A. We understand that zero-emission vehicles are going to be a big part of our future and we want to be a part of the solution to this complex challenge in order to continue to serve our customers, team members and community. Depending on the manufacturer requirements, we have updated service lifts, purchased forklifts for the batteries, upgraded or replaced electrical infrastructure, purchased additional special tools and equipment for the service departments, purchased various levels of chargers, and sent technicians for specialized training by the manufacturers. We have already invested hundreds of thousands in this initiative and we will have to spend millions more to make all of our facilities EV ready per OEM standards.

Q. Are there changes to your service departments that will be required for ZEVs?

A. Many manufacturers are requiring higher capacity vehicle lifts due to the extreme weight of electric vehicles and the purchase of a forklift for battery movement. There are also additional equipment and specialized tools required by the manufacturer. There is also quite a bit of on- and off-site technician training that our company pays for. The biggest change is the installation of chargers to be placed in service bays and in other locations at each dealership as required by the manufacturer.

Q. What is your understanding of the type of vehicles that your manufacturers currently have available and will be providing over the next 5 years?

Each brand is different. Volkswagen currently has the ID4, which we have sold 23 of year to date, 5 of which have come from Q3 and Q4 combined. Cadillac has the Lyriq, which we have sold 5 of year to date. Subaru has the Soltera, which we have sold 5 of year to date. Mercedes-Benz has five EV options available currently that have totaled less than 12 new units sold year to date. Infiniti currently has nothing available in the EV market. Land Rover, Infiniti and Alfa Romeo currently have nothing available in the EV market, with no concrete future plans that I am aware of.

The example I like to use when explaining the reality of retailing ZEV cars is this: We have a Honda dealership and everyone would agree that Honda is a major automaker and is very recognizable. Honda's first electric vehicle will be launching in 2024 as a 2025 model. Honda projects to sell 1.2 million vehicles in 2025, yet they will only be building 70,000 EVs for the entire county, which is less than 6% of total anticipated sales. Our Honda dealership, which is one of the largest new car stores in the state, will only receive about 41 electric Hondas in the first year of production. We will sell about 138 new Hondas per month using the manufacturer's calculation and will earn about 3 to 4 EVs per month. As you can see, 3% is a far cry from 43% and there is little time to get there. Even an automotive leader like Honda, which has been an innovator since day one, has no chance to meet the AAC II targets for any state.

The Volkswagen ID4 started out well but is now not performing well in our market even with plenty of vehicles available and additional inventories being offered by the manufacturer. The demand for all-electric vehicles continues to drop, which was the lead story from the Wall Street Journal on October 24, 2023. The fact that Tesla has lowered the average price of its vehicles over \$20,000 this year and sales are still flat should give anyone a true picture of the current EV market. A reduction in the window sticker price by a major auto manufacturer was unheard of until Tesla started doing so. Their price drops have been drastic to say the least. As far as speculating over the next 5 years, that is difficult to do due to the fluidity in this sector. I can only assume the manufacturers are not sure what their production levels will be. It would be foolish for anyone to speculate as to ZEV production and demand because there is so much uncertainty in the ZEV market.

Q. How many employees does the Garcia Automotive Group have?

A. 258

Q. Are you familiar with the proposed Clean Cars II Rule?

A. I am very familiar with the ACC II mandate and its inner workings. I do not believe that several boards full of appointed members who derive almost all of their income from environmental causes should be allowed to tell New Mexicans what they have to spend their money on.

Q. Have you reviewed any reports or other documents related to the proposed Clean Cars II rule? Please identify the reports or documents that you have reviewed.

A. I have read the NRDC report, the ACC II guidelines that contain the basic structure of percentages of new vehicles to be sold starting in calendar year 2026 and beyond. I have read many articles from major news websites to learn as much as I can about the mandate and ACC II.

Q. Based on your understanding of the proposed Clean Cars II rule, what are your concerns regarding the requirements and potential impacts should it be adopted by the EIB and the Air Board?

A. We support the transition to cleaner vehicles, including non-plug-in hybrids and ZEVs. We recognize that the future is electric, hybrid, hydrogen or another alternative that is considered clean. Our company wants to be part of the solution. We are concerned that New Mexico is proposing to adopt a program that the State itself and the people of New Mexico are not ready for at this time. We would propose a delayed implementation of 3 years so that the State, manufacturers, dealerships, and other involved entities have the time to fully prepare for implementation. We firmly believe New Mexico should add non-plug-in hybrids to its administration of ACC II should it pass. It is illogical that plug-in hybrids do not earn the same amount of "credit" as a fully electric vehicle when their emissions are very close to fully electric cars. They also have smaller batteries that present fewer environmental challenges down the road.

On the dealership side, our job is to provide people with what they want, not what they are told to buy. We sell everything from a \$25,000 car all the way up to a \$250,000 car. We want to give our customers the selection, reliability, safety, and affordability they are looking for.

The car buying public in New Mexico (and California) has clearly spoken about how they feel about electric cars. Per the New Mexico Department of Motor Vehicles, ZEVs represented just 3.61% of total vehicle sales in New Mexico for 2022. That number has only increased to 4.29% year to date in 2023 with lots of inventory available and massive price cuts by Tesla, who clearly drives the market. California's percentage of EVs sold was under 19% for 2022 with hundreds

of millions of dollars in incentives and the best charging infrastructure available in the United States. The suggestion that New Mexico could achieve 43% ZEV sales starting on January 1, 2026 for the 2027 model year is an impossibility. The prospect of California having to more than double its current ZEV sales in the same time period, even with all their advantages, seems out of reach.

The lack of incentives for New Mexicans is perhaps the biggest hurdle in the adoption of ZEVs in our state. California recently announced even they are ending their huge ZEV incentives to high wage earners as soon as their current budget runs out. A rich state like California has nothing in common with one of the poorest states like New Mexico. We would need tremendous financial incentives at all income levels to try and move the needle on ZEV sales. New Mexico's subsidies would likely be funded by all taxpayers and would need to be wage based to be competitive due to our extremely low average income level.

The concerns I hear most from customers are ZEV costs, range and charge anxiety, no place to charge at their apartment buildings and the current ZEV technology becoming obsolete because developments are coming so fast.

Q. Based on your experience in and knowledge of the automobile industry in New Mexico, do you believe that the Clean Cars II rule is technically practicable at this time?

A. At this time, the answer is definitely no. The ACC II mandate is not technically practicable in its current form and New Mexico is not ready to try and implement it. Multiple things have to happen to help the ACC II mandate evolve into what everyone would like: Infrastructure must build, huge financial incentives must be in place, consumer confidence must increase, and ZEV prices must fall in line with New Mexican incomes. I personally believe that all New Mexicans should be able to spend their hard-earned money on whatever kind of vehicle they want to.

Q. Based on your experience in and knowledge of the automobile industry in New Mexico, do you believe that the Clean Cars II rule is economically feasible at this time?

A. I do not believe the ACC II mandate is economically reasonable currently. The mandated new vehicle sales percentages are unobtainable by any manufacturer or dealer and demand would have to skyrocket to even achieve 50% of the California target by 2027. The effects of this mandate would have massive unintended consequences, such as a tremendous loss of jobs related to the auto industry, people buying cars out of state, New Mexicans keeping older, high polluting cars longer and driving used car prices through the roof.

Speaking of economics, 87% of Tesla buyers nationwide are white males. Only 8% are Hispanic. The regular Tesla buyer also has an average household income of over \$130,000, almost twice the national average. An in-depth report by Hedges and Company also said about one third of all Tesla owners hold a masters or doctoral degree. None of these figures closely

resemble the New Mexican car buying public. We have much lower income levels, less education, and a large Hispanic population. The demographics simply do not work and are not economically reasonable.

Q. Based on your experience in and knowledge of the automobile industry in New Mexico, do you believe that the Clean Cars II rule is justified given the prior experience with ZEVs and the infrastructure needed to support the level of ZEV sales proposed in the Clean Cars II rule?

A. No. Albuquerque and Bernalillo County have been in 100% compliance with federal air quality standards since 1996, per the EPA website. Albuquerque and Bernalillo County do not have air quality issues despite what New Mexicans are being incorrectly told. We should be proud of our air quality in Albuquerque and Bernalillo County and what we have all accomplished together through our own emissions testing program that has worked and continues to work to this day. Our emissions testing program works, plain and simple. Given Albuquerque and Bernalillo County's prior experience with the testing methods available to control the air contaminants involved with tailpipe emissions, there is no reason to change what we are doing now.

In May of 2022, the EIB and Albuquerque Bernalillo County Air Quality Control Board passed the ACC I (or Clean Car Rule) in a hearing very similar to this one. The Clean Car Rule says that 7% of all new cars sold in New Mexico by 2026 must be zero emissions vehicles. The Clean Car Rule is still valid and should not be replaced at this time by ACC II. New Mexico has not given the Clean Car Rule a chance to work and yet here we are trying to replace it just eighteen months later, with no new compelling information as to why we would do so. The clean car rule is reasonable and could be actually achieved if the items I have previously mentioned fall into place quickly. If the Clean Car Rule would be allowed to play itself out, we would achieve lower greenhouse emissions just as we were told we would by the NMED last year. Moving on to something so extreme this quickly makes no sense.

I cannot say for certain the rest of the State is in federal compliance, but Albuquerque and Bernalillo County are and this mandate is clearly not in the public interest at this time. I ask that ACC II not be passed by the EIB nor the Albuquerque Bernalillo County Air Quality Control Board.

GARCIA REBUTTAL 1

Automundo de Garcia Ltd. Co. Rebuttal Testimony – Carlos Garcia

I have reviewed the Notices of Intent and written testimony filed in this matter and I am providing this rebuttal testimony on behalf of Automundo de Garcia Ltd. Co.

Per Ms. Borchert's submitted direct testimony (NMED Exhibit 1) and the City of Albuquerque Environmental Health Departments' statement of reasons (#10), the reason for implementing ACC II is because ACC I in New Mexico is no longer valid. Ms. Borchert and the City assert this because California adopted their new ACC II standard. This is not true. Please see attached testimony from NMED attorney Andrew Knight during the 2022 ACC I hearing on May 4, 2022 stating:

The short answer to your question is, if California changes their regulations, that will have no effect because we are - - we are adopting the current California regulation. And if they adopt ACC II or some other change to their regulations, this Clean Car Rule and the standards in it remain in effect.

Garcia Rebuttal Exhibit 2.

The stated grounds for the proposed regulation is that, supposedly, New Mexico ends up without any regulation if ACC II is not passed. However, in reality, the Clean Cars Rule (ACC I) that we currently have will remain in effect.

Please also see discussion from the 2022 ACC I hearing (transcript pages 339-414) where the Board members and counsel give assurances to NMADA that the Board will not impose any new standard beyond the 7-9% ZEV requirement at least through 2026. (Garcia Rebuttal Exhibit 2).

None of the testimony or exhibits submitted by the NMED or the City of Albuquerque contradict the fact that Albuquerque and Bernalillo County have been in 100% attainment of all federal air quality standards since 1996. In fact, the absence of any evidence to that effect simply proves this point.

NMED claims regarding EV cost of ownership to New Mexico consumers, including tribal members, are highly misleading. Please see Claudia Borchert email (NMED Exhibit 44-011), where she represented to all tribes in New Mexico that there can be a cost savings of \$3,000-\$4,000 annually and powering electric vehicles on average, costs the equivalent of 75 cents per gallon. Borchert's email contains no disclaimers, no qualifications, and no statement that this may not represent actual experience.

NMED's representations to such effect ignore the following factors: Eligibility for federal tax credit based on income, interest/finance cost of a vehicle, no discussion of heating/cooling EVs is done electrically at great expense and substantially reduces range, no mention of lack of availability of public charging stations, nor the mention of an approximate cost of \$4,000 for a home charger.

The assumptions and data made in the NMED and City of Albuquerque's testimony are too complex and unwieldy.

Ms. Borchert's email again states that without these updates in a move to ACCII, that "the vehicle emission standards adopted last year will no longer apply in New Mexico." This is not true.

NMED's entire testimony is based on cherry picking data that is too confusing, too complex, and internally inconsistent but most importantly, not relevant to New Mexico. It assumes cost of ownership values that are not valid, does not contain New Mexico specific examples such as rural vs urban, hot summers/cold winters, and other issues related to EVs. The climate advocacy funding literature contained in NMED's testimony is full of disclaimers and even internally acknowledges that it may not reflect actual experience. If that is true, it should not be the basis for this Board's decision on what is in the public interest of New Mexicans. Let New Mexico consumers decide for themselves.

There is insufficient data to show that EVs will be in short supply in New Mexico if we do not adopt this mandate like California has. My decades of experience as an automobile dealer tells me that auto manufacturers will deliver, in approximate quantities, EVs and ICE vehicles to meet consumer demand profitably in absence of a mandate. A ZEV mandate will distort the market, create artificial scarcity, and will raise prices to all New Mexicans. This would hurt working families most, to whom the upfront sale price of a vehicle is the single most important consideration when deciding what type of car to buy.

The NMED's evidentiary assertion is that EVs offer a lower total cost of ownership, and utility to the consumer which is at least equal to or even greater than ICE vehicles. I disagree with these assertions for all the reasons given in direct testimony against the rule. If the NMED's two central evidentiary assertions are to be believed (lower cost of ownership and equal or greater utility), this proves that the new mandate is unnecessary. New Mexico consumers will demand, and manufacturers will supply those very vehicles in the very proportion New Mexico consumers find optimum in New Mexico.

The other contention the NMED is left with is that manufacturers will starve New Mexico of EVs in 2026 and beyond and that is just rank speculation and guessing by people unqualified in any way to be speculating about such matters.

Automundo de Garcia Ltd. Co. Rebuttal Testimony – Matt Konker

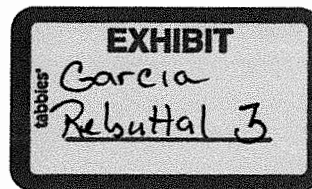
NMED's submitted testimony makes many claims about our grid capacity and future plans here in New Mexico. Grid modernization is perhaps the most relevant issue for the average New Mexican when considering an electric car. There are conflicting data points within their exhibits, most of which are outdated. There is also a lack of New Mexico based specific factual data or experiences. Vehicle performance testing done in mild climates is not relevant information for this Board or New Mexico consumers to consider.

Since the filing of testimony for this hearing, there have been dozens of relevant articles regarding the lack of demand for EVs in the US, the true environmental impact of EVs, the lack of grid capacity in this country, future EV production by OEMs and the true cost of EV ownership. I have submitted several exhibits with this rebuttal testimony to illustrate these key issues and will cite them. See Garcia Rebuttal Exhibits 4 to 10. Please note the NMED does not believe that articles from major news sources regarding EVs should be admitted into testimony even though they did not object to the Climate Advocates' submissions which use some of the same news sources we have referenced.

Tailpipe emissions and reducing carbon emissions is at the center of the NMED and City of Albuquerque's testimony. They fail to fully disclose the true environmental issues presented by EVs, even in the slightest. EV batteries are very hazardous to the planet, plain and simple. They have not been around long enough to see all of their negative effects, but there is enough information available to see the great harm that is being overlooked. In a Washington Post article titled "The Underbelly of Electric Vehicles," the author writes "While electric vehicles are essential to reducing carbon, emissions, their production can extract a significant human and environmental cost. To run, EVs require six times the mineral input, by weight, of conventional vehicles, excluding steel and aluminum. These minerals, including cobalt, nickel and lithium and manganese, are finite resources. And mining and processing them can be harmful workers, their communities the local environment." There is not a comprehensive plan to recycle EV batteries and there should be. We are so concerned with carbon emissions in America, but we are not concerned at all about what the environmental cost is to the countries that are producing these battery components and shipping them here on massive diesel tankers, why not?

The lack of demand for EVs has been all over the news in recent weeks, highlighted by the poor quarterly results for auto manufacturers related to their EV business. The simple rule of supply and demand has eluded proponents of EV mandates. Even our own President has not factored in what American consumers really want by "demanding a 931% increase in EV sales over the next seven years. That's a 133% annual hike through 2030. And he ordains 1,155.2% unit-sales growth in the next nine years" as reported in "Joe Biden's Electric Car Dream is a Lie" which was published in the "Daily Signal." We believe the market and consumer demand should dictate the change to ZEVs.

EXHIBIT 8



General Motors announced last week that they are ditching their 2024 EV production target and delaying their EV lineup. Ford is doing the same thing by postponing \$12 billion in planned EV investments including the construction of a new battery plant. Neither of these announcements came as any to surprise to anyone in the automotive industry when they were reported by “The Street” on October 27, 2023. In the same article, the former CEO of Ford Motor Company said “The best way forward for automakers right now involves the approach Ford and Toyota are taking: meet the consumers where they are with hybrid and plug-in hybrid vehicles.” Retail sales data is clear: EV demand is way down because the car buying public does not want to buy them.

On November 1, 2023, the United States Treasury issued a press release stating that car dealers will be able “receive direct tax credits payments to expand access to clean vehicles.” Now car dealers are going to be forced to deal with another mandate and act as an agent for the IRS? This program was conceived by someone who has never spent a moment in the auto industry. The NMED makes many references to “federal programs” such as this. Our small New Mexico dealers now get to advance huge sums of money for every EV in hopes of being reimbursed by the government in a timely fashion. Who will determine if the EV we are selling is “American enough” to be eligible for the rebate and each level of the program has a totally different group of EVs in it for dealers to administer. What if the buyer does not have any federal tax liability and can not qualify for the rebate when they visit our dealership? The dealer becomes the bad guy in presenting the facts of the program. The car business in New Mexico is demanding enough without an EV mandate and administering tax credits on behalf of the IRS.

The very comprehensive and current Texas Public-Policy Foundation (TPPF) report recently performed a sweeping analysis of the true costs of EVs and it has shed some much needed light on the subject. I have submitted the full report with my rebuttal testimony. The study concludes that EVs would cost tens of thousands of dollars more if not for generous taxpayer funded incentives. The TPPF reports that the average 2021 EV would cost approximately \$48,698 more to own over a ten-year period without the staggering \$22 billion in taxpayer funded handouts. This is a true cost of ownership factor whether the supporters of EV mandates want to recognize it or not. Taxpayers, especially poor ones in New Mexico, cannot continue subsidizing the cost to own EVs for the well-off citizens who chose to buy them.

Exhibits and data regarding grid modernization, objectives, and supposed data on monetized public health benefit from changes in future climate from EV mandates in the small state of New Mexico are entirely speculative and unfounded. They should not be a basis for any decision.

STATE OF NEW MEXICO

**BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD
AND THE ALBUQUERQUE BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD**

**IN THE MATTER OF PROPOSED AMENDMENTS TO
20.2.91 NMAC, NEW MOTOR VEHICLE EMISSION STANDARDS**

EIB NO. 23-56(R)

and

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AQCB PETITION NO. 2023-01

TESTIMONY OF KEN ORTIZ

EXHIBIT 9



October 23, 2023

New Mexico Improvement Board
Attn: Pamela Jones, Board Administrator
New Mexico Environment Department – Harold Runnels Building
P.O. Box 5469
Santa Fe, NM 87502

Albuquerque Bernalillo County Air Quality Control Board
P.O. Box 1293
Albuquerque, NM 87103

Dear Respective Board Members,

The New Mexico Automotive Dealers Association welcomes the opportunity to submit testimony to the proposed New Mexico Motor Vehicle Emissions Standards rules that are currently under consideration. We also want to acknowledge and thank the NM Environment Department along with City of Albuquerque Air Quality Bureau for their work and for including our association in the discussions.

The New Mexico Auto Dealers Association represents over 120 franchised new car dealers in this state, directly employing over 14,000 New Mexicans. New Mexico new car dealers have been a key part of the progress towards cleaner air. Due to the dramatic technical advances in emissions control systems, the vehicles we sell today are meeting or exceeding the current California emissions requirements for traditional vehicles. In fact, today's vehicles are 99% cleaner than those built before the Clean Air Act.

Over the past several years, our franchised new car dealers have been making great strides in investing in the infrastructure, tools, and training to sell and service zero emission vehicles (ZEVs). Electric vehicles have been available through the New Mexico franchised dealership network for more than 20 years with products like the Toyota Prius, Chevrolet Bolt & Volt, Nissan Leaf, Ford Mach-E and others. In addition, there are 97 ZEV models available today with 245 slated to be available by 2026 as our manufacturers are investing over five-hundred billion dollars in electrification by the end of the decade.

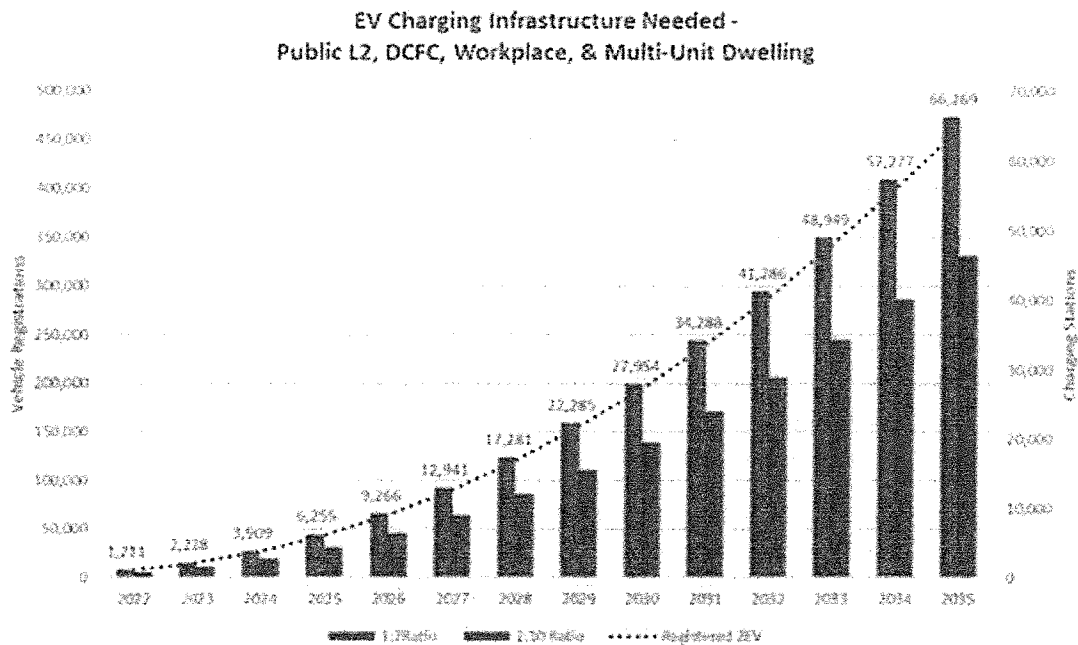
However, we object to imposing a mandate on New Mexico consumers that will limit the choices for New Mexicans to purchase the vehicle of their choice based on their needs and respective budgets. Moreover, adopting out-of-state regulations will link New Mexico to the California where our state's policies and our citizen's car buying decisions will be determined by unelected regulators in California.

The following are some observations, concerns and/or unintended consequences that should be considered before moving to adopt these rules as drafted.

Lack of Electric Charging Infrastructure in New Mexico

Lack of Infrastructure – NM currently has 615 publicly available charging stations based on US Department of Energy data. [Alternative Fuels Data Center: Electric Vehicle Charging Station Locations \(energy.gov\)](https://www.energy.gov/alternative-fuels-data-center/electric-vehicle-charging-station-locations)

The California Air Resources Board (CARB) is suggesting that the required ratio of charging ports to EVs is 1:7 and at the minimum 1:10. This equates to NM needing approximately 13,000 publicly available charging stations by 2027 and over 40,000 charging stations to support around 300,000 EV's on roads by 2032. See Graph Below.



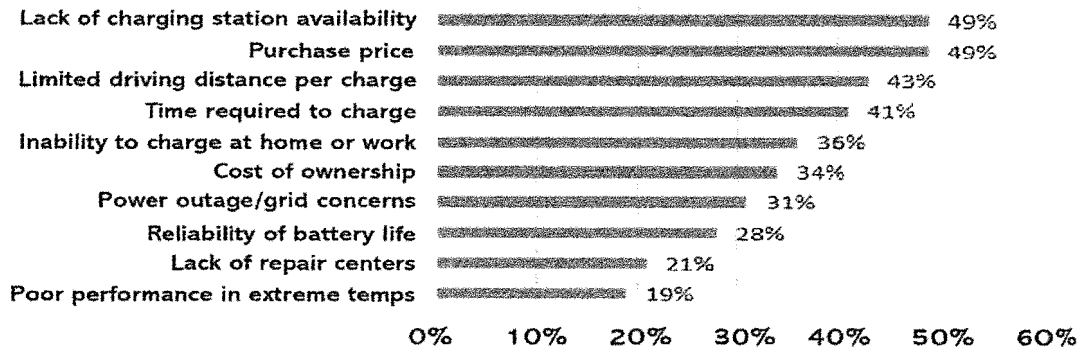
How about rural New Mexico? – NMADA has concerns for rural New Mexico and tribal communities, where the average citizen has to travel many miles to get to school, doctors and shopping without sufficient EV charging infrastructure to safely get them to and from their daily destinations.

How about New Mexicans living in multi-family dwellings? One of the biggest hurdles is how to make EVs attractive for those people that live in multi-family dwellings. It isn't fair to make them pay 2-3X more to charge publicly and spend hours away from home charging their vehicles. In order to achieve these ACC II mandates, New Mexico will have to get people that do not own their home, (where they can conveniently charge at night), a way to have the same type of low-cost access to charging.

According to JD Power, the lack of charging station availability is the biggest reason that consumers are not currently choosing to purchase an electric vehicle (please see chart below).

Top 10 Reasons For EV Purchase Rejection: March 2023

% cited among VERY UNLIKELY & SOMEWHAT UNLIKELY Shoppers



Vehicle affordability for New Mexicans

Battery Electric Vehicles (BEVs) cost over \$5,000 more than a traditional vehicle even after the continued price cuts from EV manufacturers because of declining sales. In addition, home EV charging stations are estimated to cost around \$1,500.

Income Disparity - The 2022 median household income in California was \$87,355 compared to NM's median household income of \$60,728. This equates to an average NM household making 31% less than a CA household yet will be forced to purchase a vehicle that costs 10 - 15% more.

The average age of a vehicle on the road is 12 years old. By comparison, the battery-life for an EV is 8 years with a projected replacement battery costing \$10,000-\$15,000.

Lack of Incentives in New Mexico – Rebates or “Cash on the Hood” incentives are needed to get people interested in EVs and to help lower the sticker shock of the purchase. Many other states have provided state tax incentives or rebates to help spur adoption of EV's.

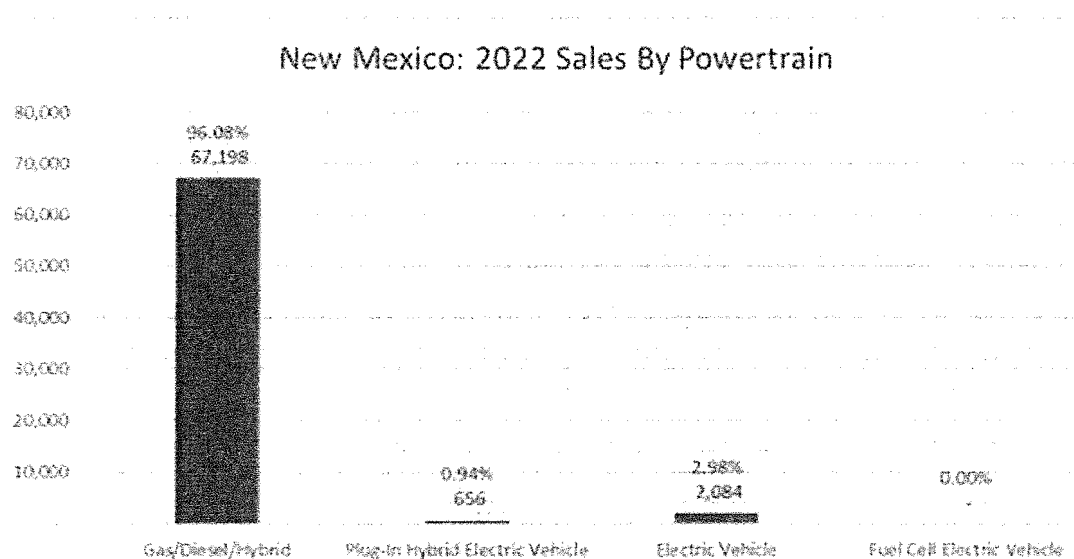
- California offers incentives for over \$15,000 for the purchase or lease of new EVs;
- Colorado provides up to \$10,000 in state tax credit to the purchase of a EV;
- Nevada provides a \$2,500 rebate for the purchase of a ZEV.
- Oregon provides a \$5,000 rebate for the purchase of a ZEV.
- New Mexico has zero incentives and is setting mandates to go from a market share in New Mexico of 3.5% (Battery Electric & Plug-In Hybrids) to 43% in three years.

Lack of Demand – New Mexico franchised dealerships will be severely impacted by these proposed rules as dealerships purchase vehicles from the manufacturer once the vehicle leaves the manufacturing facility. Dealerships then own a depreciating asset until it sells.

- Currently, the average time it is taking to sell an EV is over 100-days;
- By comparison it is taking about 50-days to sell a traditional vehicle;

- The Early Adopters fueled the initial spike in EV sales but the next wave of consumers – the more price-sensitive “early majority” is proving to be more elusive;
- The slowdown in market-share growth through 2023 suggests a cooling of EV demand as the EV market starts targeting the more mainstream consumer, which is challenging given the price points of the vehicles available and the lack of charging infrastructure.
 - Nationwide the EV’s share of the market reached 7.1% in January 2023 but has flatlined at 7.1% throughout 2023.
 - In NM, over the past 18 months the market share of BEVs and PHEVs have not increased and has averaged a consistent market share of 3.5%:
 - BEV’s averaged 2.6% market share;
 - PHEV’s averaged .9% market share;
 - Regular Hybrids averaged 5.9% market share and is the only segment that actually grew over the last 18-months. **Regular Hybrids will not be considered under the proposed rules.**

What we are seen in New Mexico, is the lack of interest and demand due to lack of infrastructure, affordability and demand. Here’s a look of new vehicles sold in NM in 2022 by powertrain.



Unintended Consequences

In other clean car states, companies like Stellantis (Chrysler, Dodge, Jeep, Ram) have stopped sending internal combustion engines to ZEV states unless they have customer orders. Regular vehicles are no longer stocked in dealership lots.

Are New Mexicans who want or need a traditional vehicle willing to wait several months for their vehicle to be ordered and delivered into New Mexico or will they simply drive across state lines to purchase their vehicle of choice?

We fear the unintended consequences of adopting the rules as drafted will force New Mexicans to purchase their vehicle of choice out-of-state which will result of lost tax revenue to the state and a potential loss of jobs throughout New Mexico.

Tax equity to build and maintain roads and bridges in New Mexico

New Mexico currently has a \$.17 per gallon gas tax that is appropriated to the New Mexico Department of Transportation to build and maintain the roads and bridges infrastructure in New Mexico. Currently ZEV vehicle owners are not paying for their fair share of taxes to help maintain our aging infrastructure.

What is New Mexico's plan to ensure roads and bridges are built and maintained adequately as EV's weigh on average 20% more than their counterparts.

Consumer Choice over Mandates

The vehicle fleet in New Mexico reflects the car buying decisions of New Mexicans based on their specific needs. New Mexicans should have a choice on the vehicles they purchase based on New Mexico's topography, climate and consumer needs. New Mexico's driving conditions include diverse weather conditions not always suitable for electric vehicles. New Mexicans often travel great distances in some communities for their basic necessities as most of New Mexico is considered a rural state.

For example, the number one, two and three best selling vehicles in New Mexico are a Ford Pickup Truck, a Dodge Pickup Truck and a Chevrolet Pickup Truck. In California the top three selling vehicles are the Honda Civic, Toyota RAV4 and a Tesla model 3. Clearly, we have different demographics.

NMADA Request

Over the last month, NMADA has met with the NM Environment Department and the Governor to express our concerns over the proposed rules and the potential impacts to New Mexicans. During these meetings, NMADA has expressed the following:

- We believe that the nation should follow one federal emissions standard where government and the industry are working together on the infrastructure needed along with targets and incentives to facilitate the adoption that will be required.
- Cash on the hood incentives where a customer can receive a rebate at the time of purchase rather than upon tax-filing. These incentives should be in place prior to the proposed rule.
- Incentives to assist business with the substantial investment of installing publicly available charging stations for all.
- Delayed implementation date to allow infrastructure, incentives and technology to advance.
- Regular Hybrids should be included in the percentages (Currently over a 7% market share).

Summary

In summary, we are opposed to the approach New Mexico is taking and believe that regulation of fuel economy and emissions should be done at the federal level for the entire country. One national standard creates regulatory certainty for the entire industry. The New Mexico franchised new car

dealers fully support continuous improvements in emissions control as well as fuel economy but feel that the approach should be focused on consumer choice and affordability. If we lose affordability, we lose vehicle sales. If we lose vehicle sales, we end up keeping older, less safe and less fuel-efficient vehicles on the road, shifting environmental goals in neutral or reverse.

We agree that the ozone issue is real but should not be addressed by mandates. Instead, New Mexico should put in place policies that are designed to enhance fleet emissions performance by maximizing fleet turnover and scrapping high emitters. Getting today's cleaner, greener and safer vehicles into customer hands is the key by letting the market work naturally, not by adopting arbitrary standards which will likely push ZEVs on consumers who may not be ready or cannot afford them. New Mexico should focus on infrastructure and cash-on-the-hood incentives. If these incentives work well as they have in other states (like CO, NV, UT, OR, and others have done), the air quality issues will improve without a ZEV mandate.

We urge the respective boards to consider not adopting a rule that will harm New Mexicans and business in New Mexico but rather work with the industry, both manufacturers and dealerships to make the successful transition to zero emission vehicles here in New Mexico. We all have to work together, from government to auto makers, dealerships, utility companies, hydrogen providers, EV charging companies to battery makers. We are all making progress and will get there when we are ready to ensure a smooth transition that will not disrupt the every-day lives of New Mexicans. We are ready to be at the table and assist the transition but oppose forcing New Mexicans to purchase a commodity out of state rather than letting New Mexico businesses supply customers with vehicles that meet their own specific needs and financial situation.

Respectfully,



Ken Ortiz
Executive Director

STATE OF NEW MEXICO

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TESTIMONY OF TERI GARCIA

EXHIBIT 10

TERI GARCIA TESTIMONY

Q. What is your name and the name of your dealership(s)/auto group? How long has your dealership been in business?

A. My name is Teri Garcia and our dealership is the Amigo Auto Group. We have been in business for 41 years and sell Chevrolet, Toyota, and Chrysler Dodge Jeep & Ram. We have 165 employees.

Q. Can you briefly describe who your customers are?

A. Our customers are extremely rural from the Navajo and Zuni Reservation. The average income around \$24,000 to \$30,000. The vehicles are household vehicles and our average customer drives 30,000 to 40,000 miles a year.

Q. Can you describe what investments your dealership has made in preparing for selling/services electric vehicles (EV's)?

A. We are in the process of making those preparations and are looking at around \$250,000 to get EV ready.

Q. What is your experience in selling/services Battery Electric & Plug-In Hybrids?

A. We currently have 2 Battery Electric vehicles on our Toyota lot and have had for 6 months and no one has looked at them. Hybrids we do very well with.

Q. What is your understanding of what your manufactures will have available for sale in the battery electric and plug-in hybrids now and in the next 2-3 years?

A. They will have a most models available in an EV.

Q. Are you familiar with the proposed Advanced Clean Car Rules? Can you generally describe them?

A. I know of them, but no cannot go into detail about them.

Q. How do you perceive the proposed rules will impact your dealership? Why?

A. It will reduce my business tremendously. Not all of our customers have electricity, which raises the question of how are they going to afford a EV, much less charge it. I believe that these proposed rules will push my customers to Arizona to buy vehicles.

Q. How do you perceive the proposed rules will impact you customers? Why?

A. Affordability is a major issue. It is also not clear how my very rural customers will be able to charge the vehicle when many of them do not have electricity.

Q. Based on your knowledge and experience in the automotive industry, do you believe the proposed rules are technically practical? Why?

A. NO, it does not reduce the number of ICE vehicles being registered in the state. All it is doing is limiting what we can sell.

Q. Based on your knowledge and experience in the automotive industry, do you believe the proposed rules are justified?

A. No, the proposed rules are not justified.