<u>COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY TO THE CALIFORNIA AIR RESOURCES BOARD ON THE LCFS DRAFT REGULATION LANGUAGE AND THE FIRST LOW CARBON FUEL STANDARD REGULATORY AMENDMENTS WORKSHOP</u>

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I.

INTRODUCTION

Southern California Edison Company ("SCE") respectfully submits its comments to the California Air Resources Board ("CARB") on the draft regulatory language for the Low Carbon Fuel Standard ("LCFS") released by CARB staff in July 2011. SCE appreciates the opportunity to participate in the First Low Carbon Fuel Standard ("LCFS") Regulatory Amendments Workshop, held by CARB staff on July 22, 2011 ("July 22 Workshop"). SCE also thanks CARB staff for participating in the August 1, 2011 workshop in Rulemaking ("R.") 11-03-012 at the California Public Utilities Commission ("CPUC"). SCE appreciates the strong effort by CARB staff to have an open dialogue on improving and revising the LCFS regulation.

The LCFS was first created in 2007 when then-Governor Arnold Schwarzenegger issued an Executive Order setting a greenhouse gas ("GHG") standard for transportation fuels.[1] CARB adopted the LCFS as a discrete Early Action Measure pursuant to Assembly Bill ("AB") 32 and as part of California's ambitious program to reduce GHG emissions. CARB passed Resolution 09-31 in April of 2009 directing staff to work with stakeholders and return to the Board with further amendments.[2] CARB staff released the July 2011 Draft Amendments and held a workshop to discuss this language on July 22, 2011.

At the workshops, CARB staff identified several policy principles for designing the regulation. SCE supports the principles of simplicity, preventing unclaimed credits, rewarding investments in developing the plug-in electric vehicle ("PEV") market, and providing value back to customers. SCE also suggests two additional principles for consideration: stability in the LCFS market design and fairness among parties. Finally, SCE requests that CARB hold further dialogue with stakeholders on revising the Energy Efficiency Ratio ("EER").

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1 Governor's Executive Order S-01-07, issued January 18, 2007.
2 State of California Air Resources Board, Resolution 09-31, April 23, 2009.

II.

SCE SUPPORTS THE PRINCIPLES OUTLINED BY CARB STAFF FOR DESIGNATING THE REGULATED PARTY FOR ELECTRICITY

SCE supports the four principles that CARB staff outlined at the July 22 Workshop and looks forward to assisting CARB in drafting regulation language that comports with these principles.

First, SCE agrees with the statements by CARB staff that the LCFS credit rules for electricity should be as simple as possible, given the complex nature of the electric vehicle market.[3] Trying to regulate possibly hundreds of thousands of credit generators (such as property owners or electricians) that must meter the kWh consumed, generate quarterly reports for LCFS credits, sell the credits, and meet other minimum thresholds could overwhelm the efficient and effective administration of the program. Simplicity in program design will assist CARB staff by reducing their administrative burden, minimizing the potential for fraud, and maximizing the ease of verification and accounting.

The Utility Distribution Companies ("UDCs") have had extensive experience with regulatory reporting and participating in trading markets of this type and magnitude. Because UDCs are regulated entities, CARB will have to provide less oversight than for unregulated third parties. Additionally, there are very few UDCs in the state, which helps minimize the implementation burden on CARB. Moreover, they are long-standing entities which CARB can rely on to support the long-term development of the PEV market.

Second, SCE supports the principle that LCFS credits should not be left unclaimed in order to maximize credits available to regulated parties.[4] SCE has identified four charging station market segments that should be covered by the regulation to increase the overall success

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[3] CARB staff expressed this goal in a presentation on August 1, 2011, to the CPUC workshop on LCFS issues as "Keep it simple." The presentation further noted that keeping it simple would "work[] for many business models," and "keep[] individuals and most businesses out of LCFS requirements." GHG Auction Review Workshop presentation by PUC and CARB staff, slide 20.

[4] GHG Auction Review Workshop presentation by PUC and CARB staff, slide 20.

of the LCFS: residential, fleets, workplace (employee), and public access. In addition, should the first credit generator choose to avoid the long-term burden of quarterly metering, reporting, and credit selling, SCE agrees that there should be a designated default credit generator to cover that market segment. Designating a default credit generator for each market segment is both simpler than the current rule and should, if designed well, reduce the risk of two parties claiming the same credit.

Because UDCs are particularly close to the residential segment, they can most easily prevent LCFS credits from going unclaimed in that segment (and in other segments). There may be situations in the future where LCFS credits go unclaimed due to evolution in the source of the charging equipment. For example, PEV customers may eventually buy Electric Vehicle Service Equipment ("EVSE") from a big-box store and either self-install or use an installer such as an electrician whose business model does not depend on operating a home charging station long-term. In this situation, the LCFS credits will likely go unclaimed, resulting in a smaller number of available credits and increasing the compliance burden for regulated parties. However, the UDC will still be involved as the provider of the electric service and is in the best position to aggregate the potential LCFS value for the benefit of the LCFS market and the customer. UDCs will be able to identify those customers who come to them for rate information, through notification programs, or through future load research efforts.

Third, SCE concurs with statements by CARB staff in various LCFS workshops that LCFS credits should be given to reward those who invest in, innovate in, and transform the market for electricity as a transportation fuel. Automakers, charging station operators and state policy reports[5] have expressed the need for the utilities to play a major role in helping business, government and residential consumers understand the benefits and options when PEVs connect

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[5] *See* Reply Comments of General Motors to Phase 2 Decision Establishing Policies to Overcome Barriers to Electric Vehicle Deployment and Complying with Public Utilities Code Section 740.2, April 11, 2011, at 6, filed in R.09-08-009. *See also* Decision ("D.").11-07-029, Phase 2 Decision Establishing Policies to Overcome Barriers to Electric Vehicle Deployment and Complying with Public Utilities Code Section 740.2, July 14, 2011, at 63-64.

to the grid. These include understanding the benefits of home fueling, broader rate choices, cost implications, charging best practices, charging options, trade-offs (such as charging time versus cost) environmental benefits. Utilities have extensive experience in transforming emerging markets (such as the 30-year-old energy efficiency and demand response programs).

Utilities are leaders with regard to innovation and investments in the PEV market. They continue to invest in electric infrastructure on the utility side of the meter, developing and implementing new metering hardware and back-office system solutions, and improving load management equipment and services. In addition, they face compliance costs associated with increased PEV load, providing additional generation capacity that cannot be transferred to off-peak, expanding customer information and outreach efforts, expanding customer technical assistance, and integrating PEV energy management measures. Utilities also continue to be leaders in research and development and innovation. For example, utilities lead a submetering working group, work on developing solutions for advance notification for distribution system upgrades, and conduct load research and cost studies for innovative PEV rates.[6]

Some of the most significant investments from the utilities will be on the distribution system. The cost impact of the distribution system upgrades will vary dramatically not only with time-of-use charging, but will also depend on whether charging is done at 1 kW, 3 kW or 7 kW per PEV. Because utilities, their regulators, and their customers all are extremely concerned about rising rates and costs, utilities are working to minimize the cost impacts on the distribution system.

Fourth, SCE concurs with the principle of providing value back to the customer because customers have and will continue to make investments in the PEV market. Utilities are close to the customers in all market segments. Not only do they provide a number of services and benefits as described above, but provide customers with reliable information from a trusted neutral source. Moreover, the CPUC or other regulators are in a position to ensure that benefits

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[6] *See* D.11-07-029, July 14, 2011, at 83-87.

of the LCFS credits flow to the customers and not to shareholders.[7] Other entities that might receive LCFS credits are subject to no oversight or regulation and there is no assurance that LCFS value will find its way to customers. The rigorous, cost-based, public, comprehensive and transparent oversight from the CPUC will be an advantage to CARB in its implementation of the program. Customers that can potentially generate value include PEV owners, third-party EVSPs, and parking lot host sites, among others. These entities, who are also UDC "customers," will also receive the benefit of the LCFS credits through the utility programs.

III.

SCE RECOMMENDS TWO ADDITIONAL PRINCIPLES FOR CARB STAFF TO CONSIDER

SCE offers two additional principles for CARB staff to consider when developing LCFS regulation language for the use of electricity as a transportation fuel. First, SCE recommends that CARB seriously consider the principle of the need for stability once it finalizes its definition of "regulated party," which determines credit ownership in each market segment. Regulated parties need certainty in planning for the generation and reporting of credits, and to set up and implement systems with the CPUC for the return of LCFS credit value to customers. However, SCE recognizes that CARB will need to occasionally revisit the regulation language. Accordingly, SCE requests that CARB provide some assurance that the question of credit ownership will remain in place and will not be substantively revisited for a period of time, such as five years.

Second, SCE also recommends fairness as a principle in regards to the treatment of the different types of credit generators (electricity as well as other low-carbon fuels). For example, there should not be different expectations, thresholds, or policy principles for UDCs, third-party EVSPs or fleet owners in their roles as credit generators.

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[7] SCE plans to recommend that the credit value does not go to shareholders in its filings in R.11-03-012.

CONSISTENT WITH ITS EARLIER POSITIONS, SCE MAINTAINS THAT ALLOWING UTILITY DISTRIBUTION COMPANIES TO GENERATE LCFS CREDITS IN ALL MARKET SEGMENTS WILL BEST SERVE CARB'S GOALS

Designating UDCs as the regulated party in all sectors would best meet the principles articulated by CARB staff. In LCFS Electricity Workgroup meetings in 2010, CARB staff discussed the possibility of LCFS credits only being provided to third-party infrastructure providers, only in a public service station model, and only if they provided long-term contracts with PEV customers, similar to cellular phone subscription services. SCE supports that proposal and refers CARB staff to its August 11, 2010 comments on the topic. Should CARB disagree, SCE requests that CARB review the additional principles suggested by SCE and modify the July 2011 Draft Amendments as suggested below.

IV.

CARB SHOULD ENSURE THAT ANY AMENDMENTS TO THE LCFS REGULATION FOLLOW CARB'S PRINCIPLES

The July 2011 Draft Amendments revise the designation of the regulated party for electricity used as a transportation fuel, which determines which party will receive LCFS credits.

A. Residential Charging

For single-family and multi-family PEV charging, the regulated party is the UDC, provided that it offers a special PEV time-of-use pricing schedule, and provides a user-friendly web tool to allow PEV customers to compare rate structure options.[8] SCE supports this provision, as it is consistent with the principle of simplicity of implementation. Rather than transacting with thousands of residential customers, each generating credits, CARB can simply

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[8] July 2011 Draft Amendments, at 30.

deal with UDCs who are already equipped to accurately meter the electricity, calculate the LCFS credits, and administer the program. Further, UDCs are best positioned to ensure that the benefits of LCFS credits are returned to customers rather than to shareholders. Finally, as CARB staff recognized, providing the credits to the UDCs will reward their investment in PEV readiness, given that utilities are expected to upgrade their distribution systems in the future due to increasing loads, including the PEV load.[9]

In the July 2011 Draft Amendments, CARB proposes allowing only 240 V residential charging stations to earn LCFS credits, and clarified at the workshop that this prohibition would apply after 2015.[10] This wording is premature. There is no rational justification for the distinction. SCE estimates that half of the total possible LCFS credits from electricity in 2020 will be generated via 120 V residential charging, mostly from plug-in hybrid electric vehicles. Not accounting for this charging will leave many credits unclaimed, counter to the stated CARB goal. Moreover, this prohibition is unnecessary, as possible solutions include long-term estimation of the 120 V load or the emerging smart 120 V outlet technology.

B. Public Access Electric Vehicle ("EV") Charging

For public access EV charging, the regulated party is designated as either the non-utility EVSP or the UDC that has installed the charging equipment, provided that it has a contract to maintain or service the charging equipment, or a contract with the EV owners.[11] As noted above, SCE maintains its earlier position that UDCs providing the electricity should be able to generate the credit in all cases to be consistent with the principle that credits should go to those who have invested in actions to transform the market. However, there are some third-party EVSPs that intend to engage in the long-term operation of charging stations. It may be reasonable for these

[9] California Air Resources Board, "Low Carbon Fuel Standard Proposed Amendments," presented at the July 22 Workshop, July 22, 2011, slide 80.

[10] July 2011 Draft Amendments, at 30.

[11] *Id.*

parties to become inherent generators of LCFS credits the public-access charging station market segment.

However, the current definition of ESVP, combined with the draft language, would allow thousands and eventually hundreds of thousands of host sites to be the long-term operators of charging stations[12]. This would clearly run counter to the core principle of simplicity and ease of administration and implementation. Accordingly, SCE recommends that CARB refine its definition of third-party ESVP and looks forward to working with CARB staff to do so in the coming months.

As with other market segments, the public-access charging station segment should be assigned a default credit generator. SCE recommends that the rule be amended to include the UDCs as the default credit generator, similar to fleet charging.[13] By designating the UDC as the default generator, CARB staff can maintain the principle that LCFS credits should be prevented from going unclaimed, as well as the principle of simplicity and ease of administration. In addition, UDCs are uniquely positioned to ensure that credit benefits are returned to customers.

C. Fleet Charging

The July 2011 Draft Amendments designate fleet operators (for a fleet of three or more EVs) as the regulated party for electricity, provided that they opt in to the regulation.[14] Otherwise, the UDC may become the regulated party by contracting with the fleet operator.[15] For the same reasons as above, SCE agrees with CARB staff that UDCs should also be the default generator for fleets. However, it is unclear whether the credits will go unclaimed for business customers that have only one or two PEVs or if the fleet operator decides not to participate in the LCFS program. SCE recommends that CARB staff clarify this provision.

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[12] The CPUC in D.10-07-044 and D.11-07-029 allows host sites (property owners and property lessees) to be an EVSP in addition to third-party EVSPs who neither own nor lease the host site property.

[13] SCE's understanding is the both the designated and default credit generator would be participating on an opt-in basis in the program, rather than a mandatory basis.

[14] *Id.*

[15] *Id.*

D. Workplace (Employee) Charging

The July 2011 Draft Amendments currently do not address the regulated party for workplace (employee) charging. To maintain consistency with the principles articulated by CARB staff, SCE recommends that the draft language be amended to provide that the UDC be the regulated party for transportation fuel supplied at the workplace. As already noted, UDCs provide many benefits, including established relationships with workplace customers, ease of generating and claiming the credits, ability to return value to the customers, and providing the investment and experience in transforming the market.

V.

SCE REQUESTS ADDITIONAL DIALOGUE TO IMPROVE THE ENERGY EFFICIENCY RATIO UPDATE PROCESS OVER THE NEXT DECADE

CARB staff proposes to lower the EER from 3.0 to 2.6 which has the effect of lowering the amount of carbon a PEV would reduce by more than 10 percent.[16] The EER is a dimensionless comparison of a PEV running on electricity with a conventional vehicle running on gasoline or diesel. Although CARB staff provided some additional detail at the July 22 Workshop on their reasons for lowering the EER,[17] this issue requires additional discussions or workshops. SCE requests a dialogue with CARB staff regarding the proposed changes to the EER. As a U.S. Department of Energy-recognized field testing site for PEVs, SCE has almost twenty years of experience in side-by-side testing of electric vehicles and their gasoline counterparts, and understands this complexity.

In earlier discussions with CARB on this topic, SCE agreed that there was a need for a scientific process to update the EER for PEVs as more data become available. SCE requests that the details of this process be specified as part of this rulemaking so as to include fair

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[16] July 2011 Draft Amendments, at 48.

[17] California Air Resources Board, "Low Carbon Fuel Standard Proposed Amendments," presented at the July 22 Workshop, July 22, 2011, slide 50.

comparisons between electric vehicles and other types of vehicles, as well as a relatively frequent updating of the PEV data such that parties can clearly understand these comparisons.

VI.

CONCLUSION

SCE appreciates the opportunity to provides these comments on the July 2011 Workshop and the July 2011 Draft Amendments. SCE looks forward to working with CARB staff in the upcoming months to revise and improve the LCFS Regulation.

Respectfully submitted,

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