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Clean Energy

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California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Clean Energy's Comments on the Re-Adoption of the Low Carbon Fuel Standard (LCFS)

Dear Members of the California Air Resources Board,

Clean Energy would like to thank the California Air Resources Board (CARB) for drafting the *Low Carbon Fuel Standard (LCFS) Re-Adoption Concept Paper* and holding workshops to provide us with an update on how the Agency is planning to move forward with the regulation.

Clean Energy has been a longtime supporter of the Low Carbon Fuel Standard and continues to be supportive of CARB's re-adoption of this landmark regulation. We agree with the Agency that it is critical to provide a strong signal for investments in the production of low to ultra-low carbon fuels. To do so, it will be critical for CARB to take a number of steps outlined below.

Maintain the Compliance Pathway with a 2020 Compliance Date

Clean Energy believes that it will be critical for CARB to demonstrate to the investment community that it stands by its current schedule of a 2020 compliance date. Delays in carbon reduction targets slow capital investments that are necessary to grow a healthy low carbon fuel production market. Further, LCFS credit production to date is robust, despite the delays caused by litigation and other public efforts to question the efficacy of the program by those who want to see this program fail. In fact, if CARB allows for full retroactivity of unclaimed LCFS credits beyond the two quarters referenced within the concept paper, CARB's case to stay the course becomes that much stronger. Therefore, we recommend that CARB resumes the same compliance curve as soon as legally possible.

Disallow Credit Generation at Refineries beyond Current LCFS Regulation

It is crucial for CARB to disallow credit generation at refineries that goes beyond what the LCFS regulation already allows under the current pathways as it could further dilute credit values and could be perceived as double counting. Allowing refineries to gain credits for strategies that they may already be undergoing to reduce stationary obligations only helps to undermine the need to produce low carbon fuels. This would be counter to efforts that are needed to support a healthy low carbon production industry.

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Green Credit Reserve, "Price Floor" and "Price Collar" Concepts

A positive key theme that CARB should continue to embrace is supporting the creation of policies that further support strong investment in low carbon fuel production. A great way to accomplish this is through concepts like a Green Credit Reserve, which has been proposed by Assembly Member Muratsuchi under AB 2390. The creation of a Green Credit Reserve would help companies, like Clean Energy, finance the production facilities needed to support and exceed the goals established under the LCFS.

Specifically, AB 2390 would allow the State of California to enter into long-term contracts to purchase federal Renewable Fuel Standard RIN and LCFS credits from low carbon producers of eligible California projects. These long-term contracts would, in turn, provide the certainty required by most financial institutions to invest in production facilities capable of producing low carbon fuels for the transportation sector. Without a Green Credit Reserve, however, producers will continue to struggle to find financing opportunities for projects as the tradable credits under the federal Renewable Fuel Standard and the LCFS are not yet stable or reliable enough to secure necessary project funding.

Another strategy to strengthen the credit value is through what some deem as a "price collar" – a price floor and price ceiling. Clean Energy supports the implementation of a price floor as it guarantees alternative fuel investors with a minimum price for their credits. This in turn can help investors plan for project financing. Clean Energy supports a price ceiling if, and only if, it is paired with a price floor. While a price ceiling can be beneficial because it similarly gives obligated parties that are out of compliance a guaranteed maximum price they will have to pay per credit, the price floor is what will ultimately spur the growth of alternative fuels.

Credit Clearance Mechanism

Clean Energy supports the concept of a credit clearance mechanism if, and only if, CARB does not backslide on the current compliance targets. Again, Clean Energy sees no reason for a program that has over complied on its targets to date to backslide on its compliance path at this time. As long as the current timeline targets are kept in place, the credit clearance mechanism would offer companies that are out of compliance with an alternative method to comply over time. By carrying over their deficits to the next compliance period and purchasing their pro rata share of credits during the "credit clearance " period, obligated parties that are out of compliance can ensure that investments are still being made in alternative fuels without interruption.

Conclusion

The bottom line is that the LCFS is working as planned. Despite attempts by certain stakeholders to undermine the LCFS market (i.e., public fear campaigns, anti-LCFS industry studies, lawsuits, etc.), the LCFS continues to be a successful program. Clean Energy does not make this statement based solely on announcements to produce more low to ultra-low carbon fuels by our competitors, but on the actual delivery of fuels that companies, like Clean Energy, have delivered to date.

In fact, it is clear that both EPA and CARB underestimated the potential for biomethane. For example, our subsidiary, Clean Energy Renewable Fuels, is dedicated to producing, marketing and distributing biomethane vehicle fuel called "Redeem." CERF has sold over 20 million ethanol gallon equivalents of Redeem in 2013. To put this into perspective, CERF's actual volumes of Redeem delivered in 2013 exceeded EPA's national cellulosic biofuel projections for 2013 by more than three times.

It should be clear that all our biomethane sold in California was a direct result of the LCFS as the program is a prime driver for our biomethane vehicle fuel business and our ability to grow the amount of this ultra-low carbon fuel depends on regulatory stability.

Again, Clean Energy believes the program is working and urges staff to stay the course. Thank you for allowing us to provide input into the re-adoption of this landmark regulation.

Sincerely,

Todd Campbell
Vice President, Public Policy and Regulatory Affairs