



ChargePoint, Inc.  
1692 Dell Avenue | Campbell, CA 95008 USA  
+1.408.841.4500 or US toll-free +1.877.370.3802

June 19, 2015

Mr. Michael S. Waugh, Chief  
Transportation Fuels Branch  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Re: Proposed 15-Day Regulation Order, Low Carbon Fuel Standard

Dear Mr. Waugh and LCFS Staff:

We appreciate this opportunity to provide the comments of ChargePoint, Inc. (ChargePoint) on proposed changes to the regulations governing California's Low Carbon Fuel Standard (LCFS) issued on June 4, 2015 pursuant to the Notice of Public Availability of Modified Text and Availability of Additional Documents and Information (Notice) relating to the Proposed Re-Adoption of the LCFS. We strongly support the goals of the LCFS program, and recognize the California Air Resources Board (ARB) as a national leader in implementing this important program as part of the state's larger effort to reduce the carbon intensity of transportation fuels and decrease greenhouse gas (GHG) emissions for the benefit of all Californians. For the reasons discussed below, ChargePoint urges you to modify the proposed changes in the regulations addressing requirements for Regulated Parties for Electricity.

## Introduction

Headquartered in Campbell, California, ChargePoint is the world's largest and most open EV charging network with more than 22,000 level 2 and DC fast charging spots. Every 6 seconds, a driver connects to a ChargePoint station and by initiating over 9.65 million charging sessions, ChargePoint drivers have driven over 210 million gas free miles.

Since 2009 ChargePoint has been actively participating in the development of the LCFS regulations before the ARB, and in proceedings at the California Public Utilities Commission to establish procedures for use of the revenues from sale of LCFS credits by the jurisdictional investor-owned utilities.

ChargePoint has not yet registered as a regulated party, but is preparing to do so. In fact, ChargePoint has been involved for some time in evaluating approaches to participation in the market for LCFS credits, and considering how it may effectively monetize the value of LCFS credits for the benefit of EV drivers and site hosts under the regulations applicable to public access, workplace and multi-unit dwelling locations. This process has taken time for two reasons: (1) As a business participating in an expanding and competitive market, ChargePoint has had to weigh the initial and ongoing costs of participation in the LCFS program as a regulated party against the benefits to the company and its customers, EV drivers and site hosts. (2) It was unclear in the very early period of LCFS credit market development how the market would function and what opportunities would be available to third parties. As market growth accelerates, third parties like ChargePoint are now in a position to begin participating in the LCFS program, using the network functions and embedded metering in networked charging stations to facilitate participation and deliver value to EV drivers and the site hosts that have invested in EV charging infrastructure and services.

The key to facilitating participation by third parties will be clear rules and a simple, straightforward process. If the procedures for opting in as a regulated party for electricity are burdensome or administratively complex, third parties cannot be expected to participate in the program, and the value of their participation will be lost. For this reason, ChargePoint opposes the proposal to alter the current default designations in Section 95483(e) of the LCFS Regulations.<sup>1</sup>

### **The default provisions for Regulated Parties for Electricity should not be changed.**

On June 4, 2015 ARB issued a Notice of Public Availability of Modified Text proposing modifications to the current LCFS regulations. These reflect modifications discussed in the February 19, 2015 public hearing process, and additional changes subsequently proposed by ARB staff.

Among the new proposed changes are modifications to Section 95483(e) of the LCFS Regulations that will impose additional obligations on non-utility providers of EV charging services at public charging, EV fleet and non-public workplace locations. Specifically, Sections 95483(e)(2), (3)(A) and (4) of the LCFS Regulations have each been revised to designate the Electrical Distribution Utility as the default regulated party rather than the Electric Vehicle Service Provider (EVSP) (in the case of public access EV charging), the fleet operator (in the case of fleet charging), and the site host (in the case of private access EV charging equipment at a business or workplace). These proposed revisions are not supported by factual explanation or statement of reasons, and could disadvantage third party providers of charging services. There is no need for "clarification" since the existing regulations clearly establish the utility's ability to generate LCFS credits at sites where the EVSP, fleet operator, or workplace site host chooses not to participate in the program.

### **Public Access EV Charging**

Under the existing regulations, an EVSP "that has installed the equipment, or had an agent install the equipment, and who has a contract with the property owner or lessee where the equipment is located to maintain or otherwise service the charging equipment" is eligible to generate LCFS credits if it complies with applicable registration and reporting requirements.<sup>2</sup> If the EVSP is not reporting or has not complied with the requirements to opt in as a regulated party, the Electric Distribution Utility is entitled to generate credits at the location, provided it requests and receives Executive Officer approval.

The proposed regulations reverse the current default provision, obliging the EVSP to request and obtain approval by the Executive Officer in order to opt in and generate credits at a public access EV charging location.<sup>3</sup> It is unclear whether an EVSP must go through this process on a location by location basis, or whether a single submittal may cover multiple locations. The ARB staff has previously observed that the non-utility EVSPs were designated as the default regulated parties for public access charging because "[t]he credit revenue that they will be eligible for will reward them for establishing the public charging network that is required to support a successful EV market."<sup>4</sup> This reasoning remains sound.

In order to effectuate the purpose of rewarding third party EVSPs for their investments and provide an incentive for further private sector investment in public EV charging, the regulations should remain unchanged. EVSPs already must comply with all applicable registration and reporting requirements in order to receive LCFS credits from public access EV charging stations. Imposing the additional step of requesting

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<sup>1</sup> 17 CCR §95483.

<sup>2</sup> LCFS Regulations § 95483(e)(2).

<sup>3</sup> Proposed LCFS Regulations p. 20.

<sup>4</sup> State of California, Air Resources Board, Staff Report: Initial Statement of Reasons for Proposed Rulemaking (October 26, 2011) p.45.

Executive Officer approval on the EVSP is unnecessary and could serve as a disincentive to participation. This proposed change has already raised questions among industry participants currently considering participation in the program. The utilities have ample resources to meet this requirement in the event that the EVSP serving a public access location chooses not to participate in the program, and so there is no reasonable justification for change. The regulations should retain the EVSP as the default party.

If the proposed change is adopted and EVSPs are obliged to submit a written request for Executive Officer approval in order to opt in and generate LCFS credits, the process should be simple and streamlined. For example, an EVSP should be permitted to seek and be granted approval for multiple locations in a single request.

### **EV Fleet Charging**

In a manner similar to the proposed change applicable to public access charging, the proposed regulations would shift the obligation to seek Executive Officer approval to generate credits associated with fuel supplied to a fleet of EVs onto the fleet operator rather than the Electric Distribution Utility.<sup>5</sup> For the reasons discussed above, this proposal should not be adopted.

If the proposed change is adopted and fleet operators (or their agents) are obliged to submit a written request for Executive Officer approval in order to opt in and generate LCFS credits, the process should be simple and streamlined. For example, a fleet operator with EVs at multiple locations, or an agent representing fleet operators at multiple locations should be permitted to seek and be granted approval for multiple locations in a single request.

### **Private Access EV Charging**

The proposed regulations also shift the obligation to seek Executive Officer approval from the utility to site hosts at a business or workplace offering EV charging services.<sup>6</sup> For the reasons discussed above, this change has not been justified. Again, in order to appropriately reward site hosts for their willingness to provide a location for on-site charging to employees and visitors, and to encourage such private investment, the process through which the site host can receive and monetize LCFS credits should be as simple and straightforward as possible.

If the proposed change is adopted and site hosts are obliged to submit a written request for Executive Officer approval in order to opt in and generate LCFS credits, the process should be streamlined and user-friendly. Businesses or workplace owners (or their agents) should be permitted to seek and be granted approval for multiple locations in a single request. It is not clear why the term "business owner" has been replaced with "site host." It will be important for ARB to recognize that site hosts' arrangements with providers of EV charging equipment and services vary, and the term "site host" should be interpreted inclusively.

### **Let the Market Grow**

As noted above, the Notice does not explain why the staff is proposing changes to section 95483(e) when the market for EVSE, EV charging services, and LCFS credits are just beginning to grow and flourish. This would seem the right time to take exactly the opposite approach, and avoid unnecessary regulatory changes that may send mixed signals to new market participants.

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<sup>5</sup> Proposed LCFS Regulations p. 21.

<sup>6</sup> Id. p.22.



If the proposed changes in default provisions in Section 95483(e) are due to a misperception that only utilities are interested in participating as regulated parties, or that third parties are unable or unwilling to consider participating in the LCFS program, ChargePoint encourages further discussion and fact finding. As discussed above, we are actively engaged in preparation to register as a regulated party, and are aware that other third party providers of EV charging services are as well. We urge ARB not to make assumptions based on an early and undeveloped market, but rather to make every effort to facilitate broader participation by providers of public and private access charging, fleet operators, and site hosts.

#### **Conclusion**

ChargePoint appreciates this opportunity to provide comments on the current proposed revisions of the LCFS Regulations.

Sincerely,

A handwritten signature in purple ink, which appears to read "Colleen Quinn".

Colleen Quinn  
Vice President, Government Relations and Public Policy  
ChargePoint