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June 19, 2015

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**Re: Low Carbon Fuel Standard 2015 – Comment Period 15-1.
Marin Clean Energy's Comments on Proposed 15-Day Regulation
Order for the Re-Adoption of the Low Carbon Fuel Standard**

I. Introduction

Marin Clean Energy (“MCE”), a joint powers agency which administers California’s first operating Community Choice Aggregator (“CCA”) program began serving retail generation customers on May 7, 2010. Since that time, MCE has significantly expanded with current membership including: City of Belvedere, City of Benicia, Town of Corte Madera, City of El Cerrito, Town of Fairfax, City of Larkspur, City of Mill Valley, County of Marin, County of Napa, City of Novato, City of Richmond, Town of Ross, Town of San Anselmo, City of San Pablo, City of San Rafael, City of Sausalito, Town of Tiburon. MCE now serves approximately 170,000 customer accounts. MCE’s mission “is to address climate change by reducing energy related greenhouse gas emissions and securing energy supply, price stability, energy efficiency and local economic and workforce benefits.”¹

Electricity customers within these member communities are presently able to choose between four retail generation service options, including: 1) MCE Light Green service, which includes a minimum 50 percent renewable energy supply; 2) MCE Deep Green service, a voluntary service election which provides participating customers with 100 percent renewable energy supply; 3) MCE Local Sol, another voluntary service election which will provide participating customers with 100 percent locally produced photovoltaic solar electricity, beginning in late 2015; and 4) generation service provided by Pacific Gas & Electric Company (“PG&E”), the incumbent Investor-Owned Utility (“IOU”). The availability of these choices is fundamental to MCE’s business model, as well as the CCA service model generally, providing residential and business customers within MCE’s member communities with a variety of electric service options that are responsive to a broad range of customer preferences and priorities. Furthermore,

¹ See MCE’s website: <http://www.mcecleanenergy.org/about-us/>.

customers may readily choose to move from MCE to PG&E service, “opting-out” of the CCA program, subject to applicable terms and conditions.

II. Background

MCE approximates it serves somewhere between 2,000 and 6,050 Electric Vehicles (“EVs”) within its service territory based upon publically available county-level Clean Vehicle Rebate Program (“CVRP”) data.² MCE is also actively collaborating with the local municipal governments and transportation planning authorities within its service territory to site and install publically accessible Electric Vehicle Service Equipment (“EVSE”). For these reasons MCE is very interested in engaging in the LCFS to leverage LCFS credit revenues to accelerate the adoption and usage of electricity-fueled vehicles.

Additionally, two of MCE’s communities, the Cities of Richmond and Benicia, have operational refineries located within them. MCE is actively pursuing opportunities to work with these refineries to reduce their greenhouse gas emissions through facilitating consumption of renewable electricity. For example MCE is leasing a brownfield site located at Chevron’s Richmond facility and is in the process of building a 10.5 MW ground mounted solar photovoltaic array on this land.³ This installation will leverage local labor, provide hands-on experience for new green job trainees from RichmondBUILD, and provide the community with local renewable energy for the next decade, at least. For these reasons, MCE supports the Air Resource Board’s attempts to broaden the means through which oil refineries can reduce their greenhouse gas emissions through both innovative fuel production methods and refinery investment credits.

III. CCAs Should Be Permitted to Serve as Regulated Parties for Electricity Within the LCFS

MCE believes the Air Resources Board (“CARB”) should expand the eligibility requirements within the LCFS to allow CCAs to elect to serve as Regulated Parties for LCFS credit generation tied to electricity usage due to transportation within CCA service territories. Respectfully, it is MCE’s opinion that the present LCFS regulation errs by associating the LCFS electricity credit generation process with the delivery functionality of utilities, rather than the generation and retail service functionalities of Load Serving Entities, including CCAs and IOUs. After all, the LCFS credit generation due to electricity consumption as a transportation fuel, is inherently linked to how that electricity is generated, *not* how that electricity is delivered to the customers. Put another way, it is a Load Serving Entity’s retail electricity services – not the Electric Distribution Utility’s distribution services – that have influence over the Carbon Intensity of the electricity. CCAs enable communities to source cleaner electricity to serve their usage needs, and the LCFS should recognize and reward these communities not only for using electricity to fuel transportation, but also for seeking out the cleanest electricity possible to serve as transportation fuel. The most direct way to allow this would be to enable CCAs to elect to participate as Regulated Parties under the LCFS regulation.

Furthermore, because CCAs are local government entities governed by the same elected officials that serve on the boards for local government land use planning agencies, local and regional transit planning agencies, transportation planning agencies, and air quality management agencies, CCAs are inherently far more connected with the sphere of local government entities that are instrumental to effectively and efficiently promoting electric vehicle adoption and usage, as well as vendor agnostic charging infrastructure deployment, within their communities. Additionally, CCAs are already trusted and authorized by the legislature to administer ratepayer collected funds through Energy Efficiency programs.

² See <http://energycenter.org/clean-vehicle-rebate-project/rebate-statistics>.

³ See MCE Solar One at Richmond Brownfield: 10.5 MW: <http://www.mcecleanenergy.org/local-projects/>.

CCAs are the trusted local authority on electricity matters within their communities and are therefore better suited to effectively and efficiently administer the revenue from LCFS credit sales to directly return this value to the electric vehicle using populous. It is the intent of MCE to reinvest any LCFS revenue back into incentives for the deployment of electric vehicle charging infrastructure and electric vehicle adoption. Specific revisions to the draft regulation language that would enable CCAs to participate as Regulated Parties within the LCFS are provided in Attachment A.

IV. MCE Supports the Creation of Additional Incentives Within the LCFS to Encourage Oil Refineries and Producers to Reduce Their Fuel and Facility Greenhouse Gas Emissions

As described above, CCAs are able to provide both refiners and the communities in which refineries are located with access to clean, renewable electricity generation. Furthermore, through collaborations like MCE’s Solar One facility that is being built on degraded refinery land, CCAs are able to create new local green job and economic opportunities within historically disadvantaged communities through encouraging and facilitating the development of local renewable generation. As part of the Re-Adoption of the LCFS, the CARB has provided two new mechanisms through which oil refineries and producers can leverage on-site renewable generation to either reduce or meet their compliance obligations under the LCFS regulation: 1) § 95489(d) *Credits for Producing Crudes using Innovative Methods*; and 2) § 95489(f) *Refinery Investment Credit Pilot Program*. MCE is supportive of these new incentive mechanisms because MCE believes these incentives will result in further opportunities for collaborative efforts between CCAs and refineries within communities served by CCAs to significantly reduce greenhouse gas emissions and improve local economies.

With that said, MCE believes there is still need to provide additional clarity regarding how these incentive mechanisms would interact with other state policies that address renewable development and climate change. In particular MCE wishes to better understand how Renewable Energy Credits (“RECs”) would factor into on-site renewable generation used to by a refinery to participate in either of these two credit mechanisms under the LCFS. Based on its cursory review, it appears that the *Credits for Producing Crudes using Innovative Methods* would be sensitive to the renewable attributes associated with the on-site generation through the f_{renew} factor.⁴ CARB should clarify whether RECs associated with on-site generation under the *Credits for Producing Crudes using Innovative Methods*, would retain the California RPS PCC1 designation and count toward RPS compliance.

Alternatively, the *Refinery Investment Credit Pilot Program* appears to only be sensitive as to whether the electricity consumed by the refinery is imported or exported from the grid, as expressed in the *electricity* factor.⁵ On-site generation could reduce a refinery’s need to import electricity, while also presenting increased opportunities to export more electricity back onto the grid. Whether this on-site generation is coming from a greenhouse gas-emitting or greenhouse gas-free generation resource appears to not be considered within the calculations of this methodology. CARB should also clarify whether RECs associated with on-site generation under the *Refinery Investment Credit Pilot Program*, would retain the California RPS PCC1 designation and count toward RPS compliance.

⁴ See LCFS Regulation at 95489(d)(1)(F) beginning with “For crude oil produced using solar or wind based electricity.”

⁵ See LCFS Regulation at 95489(f)(2)(A).

V. Conclusions and Recommendations of MCE.

MCE appreciates the opportunity to provide its comments on the Proposed 15-Day Regulation Order for the Re-Adoption of the Low Carbon Fuel Standard and urges the Air Resources Board to recognize and empower CCAs to facilitate greenhouse gas reductions under the LCFS program.

Respectfully submitted,

/s/ Jeremy Waen

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June 19, 2015

Appendix A: Revisions to LCFS Regulation

All edits marked in **red text**.
Additions noted by underlined text. Omissions noted by ~~crossed through~~ text.

§ 95481. Definitions and Acronyms.

- (29) “Retail Electricity Provider Electrical Distribution Utility (REP)” means an entity that provides retail electricity services to ratepayers that owns or operates an electrical distribution system, including:
- (A) a public utility as defined in the Public Utilities Code section 216 (referred to as an Investor Owned Utility, or IOU); or
 - (B) a local publicly-owned electric utility (POU) as defined in Public Utilities Code section 224.3; or
 - (C) an Electrical Cooperative (COOP) as defined in Public Utilities Code section 2776-; or
 - (D) a Community Choice Aggregator (CCA) as defined in Public Utilities Code section 366.2.

* * * * *

§ 95483. Regulated Parties.

- (e) *Regulated Parties for Electricity.* For electricity used as transportation fuel, the party who is eligible to generate credits is determined as specified below:
- (1) For all instances where electricity is utilized as a transportation fuel with the shared service territory of both a Community Choice Aggregator and an Investor Owned Utility, the CCA has priority over the IOU to opt in and serve as the Regulated Party for the electricity used as transportation fuel within its service territory.
 - (A) Upon submittal to and approval by the Executive Officer of the CCA’s written acknowledgment that it will not opt in and generate credits as the Regulated Party for electricity used as transportation fuel within its service territory, the IOU may elect to serve as the Regulated Party for this load;
 - (B) If a CCA opts in to serve as the Regulated Party for electricity used as transportation fuel within its service territory, and the IOU has previously opted in to serve as the Regulated Party for this same electricity load, then at the start of the next annual reporting cycle the responsibility of reporting on this electricity load will shift to the CCA and the IOU will no longer serve as the Regulated Party on behalf of this load; and
 - (C) If a CCA that initially opted in to serve as the Regulated Party for electricity used as transportation fuel within its service territory, for whatever reasons, subsequently opts out of serving as the Regulated Party for this load by submitting to and being approved by the Executive Officer of the CCA’s written acknowledgment that it will not no longer opt

in and generate credits as the Regulated Party for electricity used as transportation fuel within its service territory, then the IOU may elect to serve as the Regulated Party for this load.

~~(2)~~(4) For on-road transportation fuel supplied through electric vehicle (EV) charging in a single- or multi-family residence, the Retail Electricity Provider Electrical Distribution Utility is eligible to generate credits in its service territory. To receive such credits, the Retail Electricity Provider Electrical Distribution Utility must:

- (A) Use all credit proceeds to benefit current or future EV customers;
- (B) Educate the public on the benefits of EV transportation (including environmental benefits and costs of EV charging, or total cost of ownership, as compared to gasoline
- (C) Provide rate options that encourage off-peak charging and minimize adverse impacts to the electrical grid; and
- (D) Include in annual compliance reporting the following supplemental information: an itemized summary of efforts to meet requirements (A) through (C) above and costs associated with meeting the requirements. For investor owned utilities, this requirement may be satisfied by supplying a copy of the annual implementation report required under Order 4 of Public Utilities Commission of California (PUC) Decision 14-12-083, or any successor PUC Decisions.

~~(3)~~(2) For on-road transportation fuel supplied through public access EV charging, the Retail Electricity Provider Electrical Distribution Utility is eligible to generate credits in its service territory. Upon submittal to and approval by the Executive Officer of its written request to opt in and generate the credits under this provision, the third-party non-utility Electric Vehicle Service Provider (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 the credits for the electricity. To receive credit for transportation fuel supplied through public access EV charging equipment, the EVSP or Retail Electricity Provider Electrical Distribution Utility must meet the requirements set forth in section 95483(e)(1)(B) through (D).

~~(4)~~(3) EV Fleets

- (A) For on-road transportation fuel supplied to a fleet of EVs, the Retail Electricity Provider Electrical Distribution Utility is eligible to generate credits in its service territory, and must meet the requirements set forth in section 95483(e)(1)(B) through (D). Upon submittal to and approval by the Executive Officer of the fleet operator's written request to opt in and generate credits associated with a specified fleet, the fleet operator is eligible to generate the credits for the electricity. To receive credit for transportation fuel supplied to an EV fleet, an accounting of the number of

EVs in the fleet must be included as supplemental information in annual compliance reporting.

- (B) For on-road transportation fuel supplied through the use of a battery switch station, the Retail Electricity Provider Electrical Distribution Utility is eligible to generate credits in its service territory, and must meet the requirements set forth in section 95483(e)(1)(B) through (D). Upon submittal to and approval by the Executive Officer of the station owner's written request to opt in and generate credits associated with a specific location or locations, the station owner is eligible to generate the credits for the electricity.

- ~~(5)~~(4) For on-road transportation fuel supplied through private access EV charging equipment at a business or workplace, the Retail Electricity Provider Electrical Distribution Utility is eligible to generate credits in its service territory, and must meet the requirements set forth in section 95483(e)(1)(B) through (D). Upon submittal to and approval by the Executive Officer of the site host's written request to opt in and generate credits associated with a specific location or locations, the site host is eligible to generate the credits for the electricity. To receive credit for transportation fuel supplied through private access EV charging equipment at a business or workplace, the following requirements apply to a site host that opts in:

- (A) Educate employees on the benefits of EV transportation (including environmental benefits and costs of EV charging, or total cost of ownership, as compared to gasoline) through outreach efforts directed to all employees, such as meetings, flyers, and preferred parking; and
- (B) Include in annual compliance reporting the following supplemental information: a summary of efforts to meet the requirement in 95483(e)(4)(A), above, and an accounting of the number of EVs known to be charging at the business.

- ~~(6)~~(5) In the event that there is measured on-road electricity as a transportation fuel that is not covered in subsections 95483(e)~~(2)~~(4) through ~~(5)~~(4) above, the Retail Electricity Provider Electrical Distribution Utility is eligible to generate credits for the electricity with Executive Officer approval, and must meet the requirements set forth in section 95483(e)~~(2)~~(4)(B) through (D).

- ~~(7)~~(6) For transportation fuel supplied to a fixed guideway system, the transit agency operating the system is eligible to generate credits for electricity used to propel the system. Upon submittal to and approval by the Executive Officer of the transit agency's written acknowledgment that it will not opt in and generate credits under this provision, the Retail Electricity Provider Electrical Distribution Utility is eligible to generate the credits for the electricity, and must meet the requirements set forth in section 95483(e)~~(2)~~(4)(B) through (D).

- ~~(8)~~(7) For transportation fuel supplied to electric forklifts, the Retail Electricity Provider Electrical Distribution Utility is eligible to generate credits for the electricity, and must meet the requirements set forth in section 95483(e)~~(2)~~(4)(B) through (D).

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Additional Universal Edits to LCFS Regulations

All additional references to “Electrical Distribution Utility” or “EDU” throughout the LCFS regulations should be replaced with reference to “Retail Electricity Provider” or “REP” as demonstrated above in sections 95483(e)(2) through (7).