



July 5, 2018

Clerk of the Board
California Air Resources Board
1001 I Street, Sacramento, CA 95814

Re: Proposed 15-Day Amendments to the Low Carbon Fuel Standard Regulation

Dear Air Resources Board Members and Staff,

DTE Biomass Energy Inc. (DTEBE) appreciates the opportunity to provide written feedback on the 15-Day Proposed Amendment Package to the Low Carbon Fuel Standard (LCFS) Regulation posted June 20, 2018. As part of DTE Energy, a utility holding company based in Southeast Michigan, DTEBE is a developer, owner, and operator of 21 renewable energy projects throughout the United States. Our portfolio includes five Renewable Natural Gas (RNG) projects, which participate in the LCFS market. Together, these five projects will deliver almost two and a half million MMBtus of RNG to California in 2019.

DTEBE appreciates the work done by CARB in addressing many of our organization's comments made on the 45-day amendment package. CARB has been diligent in assessing some of the key concerns voiced by DTEBE and other RNG producers, and we thank CARB for their work in ensuring a functional and robust LCFS program. We believe there are some areas of concern in the revised language that should be addressed as CARB works towards finalizing amendments to the LCFS program.

Dairy Biomethane Crediting Guidelines

In 95488.9(f), CARB appears to be putting much of the information from the "Draft Dairy Crediting Guidance" from December 2017 into LCFS regulation. DTEBE appreciates that CARB is being transparent with the guidance, and is in the process of solidifying this guidance into the LCFS amendments. As DTEBE reviews the new rules, we recommend the following refinements in order to provide market participants with full clarity around crediting for dairy biomethane projects:

1. *Reporting Period Alignment:* The Compliance Offset Protocol for Livestock Projects released by CARB in November 2014 says that a crediting period is made up of ten reporting periods, beginning with the first submitted offset project data report.¹ The protocol allows for the first reporting period to be anywhere from six to twenty four months in length, with each subsequent reporting period required to be twelve months in length.² Language in 95488.9(f)(3)(A) of the LCFS amendments stipulates that dairy

¹ See 3.6(a) of the Compliance Offset Protocol for Livestock Projects adopted November 2014

² See 5(c) of the Compliance Offset Protocol for Livestock Projects adopted November 2014

biomethane projects are eligible for three consecutive 10 year crediting periods. A number of dairy biomethane projects have participated in CARB offset programs in the past and have begun their carbon crediting period under offset protocol guidelines. These projects have first reporting periods that vary widely in length, and the initial reporting period length results in crediting periods that are shorter or longer than the ten year crediting period outlined in the LCFS program. DTEBE would like clarification to ensure that projects that have already begun a crediting period under a CARB Compliance Offset program will be able to finish this current crediting period at their current schedule, rather than having the length of their current crediting period altered by the new LCFS rulemaking. Projects that have begun their crediting period should be bound by this timeline regardless of whether it is longer or shorter than the ten-year crediting period for the LCFS program. CARB may mandate that subsequent crediting periods should align with the ten year LCFS crediting period outlined in this current rulemaking.

2. *Regulatory Compliance Exemption:* One of the key questions project developers had in assessing the possibility of moving existing dairy biomethane projects from the Carbon Offset program to the LCFS program was whether these projects would continue to face the same regulatory compliance requirements in Chapter 3.7 of the Compliance Offset Protocol for Livestock Projects. The “Draft Dairy Crediting Guidance” released by CARB in December 2017 noted that Chapter 3.7 requirements were not applicable to projects that participate in the LCFS program. DTEBE asks that CARB explore a way to put this regulatory compliance exclusion into the LCFS rules to provide long-term clarity for dairy biomethane producers. Doing so would give producers confidence that similar problems faced by projects in the Cap-and-Trade program will not be replicated in the LCFS program.
3. *Simultaneous Participation in LCFS and Compliance Offset Credit Programs:* Based on current program guidelines, projects are barred from participating in both the Compliance Offset Credit program and the LCFS program in the same carbon reporting year. Many dairy biomethane projects are operating under long-term electric contracts that generate compliance offsets. Some of these projects are generating additional biomethane that cannot be used in their current engine systems – biomethane which could be utilized for other purposes such as transportation. DTEBE asks that CARB provide amended language to allow for a single project to generate both Compliance Offset Credits and LCFS Credits in a single carbon reporting year. Allowing participation in both the LCFS and Compliance Offset programs would allow producers to direct excess biomethane to the vehicle fuel market - ensuring all available methane is directed to beneficial uses and projects achieve the maximum amount of carbon reduction possible. This will encourage further development of dairy biomethane projects and encourage the use of more negative carbon fuel in California.

RNG Book-and-Claim Timeline Extension

DTEBE thanks CARB for the amended language in 95488.8(h)(i)(2)(A) that allows RNG injected into the pipeline system three calendar quarters from injection to be used as vehicle fuel in California. DTEBE believes this is a reasonable amount of time to generate environmental attributes during normal operations. However, this system still forces producers to bear the risk of any unexpected delays that a new project may have in registering a provisional CI score. DTEBE suggests that for newly registered projects, the three calendar quarter clock for

environmental attribute generation begins once a provisional CI is approved by CARB. Allowing new projects to have three calendar quarters after a provisional CI score is approved will allow producers to receive the full value for their project CI, even if there are unexpected delays in registering for the LCFS program.

Modifications to Conflict of Interest Requirements

DTEBE appreciates the extended phase-in of these conflict of interest rules, and we encourage CARB to monitor the development of the LCFS verification market to ensure there are enough qualified verification providers for large producers to access without harming participation in the LCFS program. DTEBE noted in its previous comment letter that language around expert services in 95503(b)(2)(U) would cause problems for large companies like ourselves that receive numerous types of expert services unrelated to our biofuels activity. We still have concerns that this conflict of interest language is too narrow and will decrease the number of available verifiers for us to utilize. DTEBE would like to see language amending the conflict of interest conditions. We have provided amended language for this section on expert services below:

“Expert services to the entity required to contract for verification services solely with respect to a specific project or a legal representative for the purpose of advocating the entity required to contract for verification services interests in litigation or in a regulatory or administrative proceeding or investigation.”

Tier 1 Pathway for Dairy Biomethane

The development of a Tier 1 Simplified Calculator for dairy biomethane projects will be extremely helpful for producers developing these projects for the California market. DTEBE thanks CARB for developing this calculator to help facilitate the participation of dairy biomethane projects in the LCFS program. After reviewing the Tier 1 calculator, DTEBE suggests that the calculator be modified to account for the transportation of processed RNG by CNG trailer. The Tier 1 calculator currently accounts for the transportation of feedstock manure by truck, but many RNG projects on small farms will transport RNG by CNG trailer after it has been processed. Adding this functionality in the Tier 1 calculator will allow projects that utilize CNG trucking to use this simplified calculator to register as a Tier 1 pathway.

Utilizing RNG for Crude Oil Production

In 95489(c)(1)(A)(6), CARB has provided amended language allowing RNG or biogas energy used for the production or transport of crude oil to generate LCFS credits. DTEBE thanks CARB for explicitly allowing the use of RNG in this fashion. However, the requirement that RNG be physically supplied to the crude oil production facility may be unrealistic and is unlikely to generate credits in the LCFS program. RNG is delivered throughout the industry using Book-and-Claim accounting, which is explicitly allowed when using RNG as a vehicle fuel in the LCFS program. DTEBE asks that CARB amend these provisions to allow RNG delivered to crude oil production sites using Book-and-Claim methods be allowed to generate LCFS credits. Allowing for indirect delivery still results in carbon emission reductions and results in additional carbon reduction for these projects, as it provides a new offtake opportunity for RNG outside of vehicle fuel. Using RNG for this purpose will undoubtedly spur new project development, especially for RNG processed from higher CI feedstock such as organic waste. This is an exciting potential pathway for RNG, and providing amended language that allows for RNG

delivery will help bolster the use of RNG in the LCFS program and the development of new RNG projects in California.

Conclusion

DTEBE would like to applaud Air Resources Board Members and Staff for their work in continuing to develop thoughtful amendments for the LCFS program. We look forward to working with the California Air Resources Board to continue realizing GHG reductions in California through the continued use of RNG. Please do not hesitate to reach out to me or my colleagues with any questions or concerns you may have about these comments.

Sincerely,



Mark Cousino
President
DTE Biomass Energy
425 South Main Street, Suite 201
Ann Arbor, MI 48104
Mark.Cousino@dteenergy.com