

# SMART EV CHARGING GROUP

August 30, 2018

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

*Submitted Electronically*

Re: *Smart EV Charging Group Comments on the August 13 and 15, 2018 Proposed Amendments to the Low-Carbon Fuel Standard Regulation*

Sonoma Clean Power Authority, Lancaster Choice Energy, Peninsula Clean Energy, East Bay Community Energy Authority, Monterey Bay Community Power, Clean Power Alliance, Silicon Valley Clean Energy, San Jose Clean Energy, Direct Energy, the Center for Climate Protection, eMotorWerks, ChargePoint, EVBox, Volta, and CBL Markets, collectively known as the “Smart EV Charging Group”, provide the following comments on the August 13 and 15, 2018 Proposed Amendments to the Low Carbon Fuel Standard (“LCFS”) Regulation (“Proposed Amendments”).

The Smart EV Charging Group continues to support the California Air Resources Board (“ARB”) staff’s initiative and foresight in developing proposed LCFS amendment language that would encourage the expanded use of low carbon resources in electrifying the state’s transportation networks. These comments request that the ARB make the following changes and clarifications before adopting the final rulemaking package:

- (1) Allow all Load Serving Entities (“LSEs”) to claim base credits under Section 95483(c).
- (2) The ARB should confirm that under the proposed amendments to 95483(c)(1)(B)(3), an Electric Distribution Utility (“EDU”) cannot claim incremental credits for residential customers in a Community Choice Aggregator (“CCA”) service territory because the CCA is the entity “supplying low-CI electricity”, not the EDU.
- (3) The ARB should revise the regulation regarding Incremental Credits for residential electric vehicle (“EV”) Charging to equalize the hierarchy of credit generation by reporting entity type and remove the requirement for Vehicle Identification Number (“VIN”).
- (4) Multi-family housing should be treated as any other public charging installation where both LSEs and EV service providers can claim credits based on customer agreement and metered charging sessions.
- (5) The ARB should not preempt final SB 454 guidelines regarding payment methods for the DC Fast Charging Infrastructure (“FCI”) Pathways.

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- (6) All LSEs should be allowed to fairly compete with California's large investor owned utilities ("IOUs") in claiming incremental credits and offering a Zero-CI Green tariff to their customers.

### **DISCUSSION**

#### **I. Remove the Arbitrary Distinction Between EDUs and Other LSEs.**

Under the proposed amendments to the LCFS, only EDUs can generate "base credits" for residential EV charging sessions. In the "pre-rulemaking" public stakeholder process and at the April 2018 Board Hearing to consider "45 Day" amendments, stakeholders raised concerns about the use of the term "Electricity Distribution Utility" ("EDU"). The "base credits" will likely represent the majority of credit value for residential EV charging sessions. Consequently, EDUs (in particular, IOUs) will have a considerable amount of credit value as compared to CCAs.

A growing number of California residents receive their electricity generation services from a CCA and the transmission and distribution services from IOUs (i.e., a residential customer is both a CCA and IOU customer). CCAs and IOUs compete with one another both for retail customers and in the wholesale electricity markets. We acknowledge the ARB's efforts to rectify the situation by allowing "Incremental Credits" to be generated by CCAs, service providers and EDUs when the carbon intensity of the supplied electricity is less than the "state-wide grid average." However, the possible grant of incremental credits does not change that the delineation favoring IOUs in the base credit structure is arbitrary and capricious.

There is no rational basis for distinguishing between CCAs and EDUs, nor does the record support this delineation between generation providers. The only rationale provided was that the EDU distinction was that to avoid "substantially restructuring the program, eligibility for base credits remains with the electricity distribution utilities (EDU)."<sup>1</sup> However, in the August 13 and 15, 2018 Amendments to the LCFS, the ARB did just that - it "substantially restructur[ed] the program", in particular, the IOU's LCFS revenue usage. The August 13 and 15, 2018 Amendments substantially restructured the program by directing EDUs to revise their rebate programs and contribute specified percentages of credit value to a state-wide rebate fund. This change is substantial in that it materially changes existing programs and will require follow-on rulemaking activities at the CPUC.

There is evidence in the record that confirms that base credits should be awarded to the CCAs.<sup>2</sup> As detailed in prior written and oral comments at the April 2018 Board Hearing, CCAs provide generation services to their customers. IOUs transmit the electricity the CCAs have either purchased or generated to the end use customer over IOU-owned transmission and distribution facilities. As the supplier of electricity and the entity responsible for choosing which power plants to source from, the CCA controls the carbon content of the electricity provided to the customer. In other words, CCAs control the carbon content of the charging sessions supporting the base credit awards. CCAs are the local power suppliers that more closely engage

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<sup>1</sup> See March 6, 2018 ISOR at p. III-38.

<sup>2</sup> See for example, Smart EV Charging Group Comments on 45 Day LCFS language (April 23, 2018).

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with customers and are therefore in the best position to further the fundamental policy objectives of the LCFS, which include reducing carbon emissions in the transportation sector.

Section 95483(c) of the Regulation should be revised to make CCAs eligible to generate base credits. The ARB should replace the term Electric Distribution Utility with “Load Serving Entity.” Under this proposal, the CCAs would contribute allowances to the statewide rebate program or use their allowance value as publicly owned utilities would be allowed to under the August 13 and 15, 2018 Amendments (i.e., as set forth in the proposed amendments to the table in Section 95483(c)).

### **II. The ARB Should Confirm that EDUs Cannot Generate Incremental Credits for a Residential Customer That Is Supplied Electricity by a CCA.**

In the Final Statement of Reasons, the ARB should provide greater clarity about incremental credit generation. In the Final Statement of Reasons (“FSOR”), the ARB should clarify how it will interpret Section 95483(c)(1)(B)(3) and the term “supplying low-CI electricity.” That subsection provides that:

For non-metered residential EV charging, the EDU is eligible to generate incremental credits for supplying low-CI electricity to the EVs in its service territory.

As explained above in Section I, in the case of a CCA service territory that overlaps with an IOU’s transmission and distribution service territory, the IOU will not be the entity “supplying low-CI electricity.” By definition (Cal. Pub. Util. Code Sec. 331.1), the CCA is the entity that has aggregated loads within certain municipal boundaries, and therefore within these boundaries, the CCA will be the entity “supplying low-CI electricity.” The ARB should clarify that in the case of CCAs, the IOU does not supply electricity to serve the aggregated load in the service territory and therefore cannot generate incremental credits for residential charging by CCA customers under Section 95843(c)(1)(B)(3). Alternatively, consistent with the noticing requirements set forth in Cal. Govt. Code Sec. 11346.8(c), the ARB could make a non-substantial change of the term “EDU” to “LSE providing generation services” to clarify its intent in this subsection.

### **III. The ARB Should Amend the Incremental Credit provisions for residential EV charging related to the credit generation hierarchy and VIN reporting requirement.**

In Section 95483(c)(1)(B)(2), when the LSE is not generating Incremental Credits, there is no basis for prioritizing one metering source over another. A major rationale for granting LSE prioritization is the direct relationship with electricity supply. All other entities would be similarly situated in this respect. The currently proposed hierarchy severely handicaps entities that are already LCFS participants, poised to deliver on the promise of credit generation and Low CI charging.

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Regarding Section 95483.2 (b)(8)(B)(4), The Smart EV Charging Group does not support reliance on Vehicle Identification Number (“VIN”) as the unique identifier element for FSE registration. Residential EV charging is tied to a residence where the owner receives electricity supply, i.e., its fuel. The unique identifier which is most closely associated with fuel supply equipment providing residential EV charging is utility Service Account ID (“SAID”). An EV may legitimately charge at multiple locations, and a vehicle may change ownership and migrate to a new location. As more and more two EV households exist, the ARB will increasingly be challenged to use VIN for all fuel reporting entities when a single EV charging station may be charging and metering consumption by two vehicles, one participating in LCFS via telemetric metering and one proposing to participate via EV charging station metering, and both vehicles use the same charging station.

In addition, VIN is not easily available to all potentially claiming parties, particularly non-EDU LSEs, which are highly likely to claim Incremental Credits through the use of metering from EV supply equipment. In comparison, SAID is equally available to any non-LSE third party, either via hard copy bills or electronic data transfer.<sup>3</sup>

The Smart EV Charging Group notes that two EV manufacturers opposed use of VIN for LCFS reporting purposes in the manner that the ARB proposes. The ARB staff should amend Section 95483.2 (b)(8)(B)(4) to remove the explicit VIN requirement for FSE Registration, except for the case when vehicle telemetry is used as the metering source. Rather, the ARB could still use VIN for its own purposes of identifying duplicate reporting by maintaining the master list of VINs, but allow fuel reporting entities to associate with a VIN by other unique means, as noted above.

#### **IV. The Smart EV Charging Group Does Not Support the Reversal of the Multi-Family Charging Credit Provisions and Fears this Change May Slow Adoption of EVs within Certain Socio-economic Groups, Particularly those Relying on Low Income Housing.**

The Smart EV Charging Group recommends EV Charging at Multifamily Residences should be recognized as a separate category from single-family charging. Multifamily residences are extremely underserved when it comes to EV charging infrastructure. In fact, the ARB recently published a gap analysis and found that “[a] gap of between 66,000 and 79,500 charging stations are still needed to meet the demand for charging stations in multifamily housing by 2025.”<sup>1</sup> If EV Charging at Multi-family Residences is its own category, credits could go directly to the multi-family residences, reducing the payback period for their investment, and creating funds to purchase more chargers and cover installation costs. Structurally, multi-family residences are very different from single-family residences. Multi-family charging can often be located in the “visitor”, “mixed-use”, or “common” areas of a multi-family residence, which are closer to “non-residential” in the usage. In most cases, it is not the “consumer” or “EV driver” that is making decisions about the charging infrastructure at the property, as they would in a single-family home. It is more often the property owner, manager, and/or HOA that is making the decisions on deploying infrastructure at a level with much more complexity than a single-

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<sup>3</sup> Available for PG&E, SCE, SDG&E, LADWP and SMUD via utility-provided, free “Green Button” services or inexpensive third party services.

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family home. This leads to this market segment functioning much more similarly to the non-residential/commercial market, and therefore they should be categorized accordingly in the program. Lastly, allowing multi-family residences to be able to collect credits will promote equity, breaking the cycle of predominantly lower-income Californians from being locked out of clean technology due to energy poverty.

### **V. CARB Should Not Preempt SB 454 Guideline Development for the DC Fast Charging Infrastructure (FCI) Pathway**

The Smart EV Charging Group strongly recommends against establishing language regarding payment methods that preempts the final SB 454 guidelines, which we anticipate will be adopted next year. If the LCFS program preempts or creates a different set of requirements, it could cause confusion, lack of participation in the program, or worse, violations because there are potentially two different sets of language/requirements around payment methods for public stations. Cross-referencing the current rulemaking will make it more streamlined and easier for EVSE manufacturers and site hosts to meet the requirements.

### **VI. All LSEs Should Be Allowed to Fairly Compete with California's Large IOUs in Offering a Zero-CI Green Tariff to Their Customers.**

Under state law, California's largest IOUs and all of California's publicly owned utilities ("POUs") are allowed to exclude their green tariff sales from their otherwise applicable RPS compliance obligations.<sup>4</sup> This option is not available to all other LSEs, including community choice aggregators ("CCAs"), energy service providers ("ESPs") and California's smaller IOUs. The creation of a green tariff program by a CCA or small IOU does not absolve the seller from still meeting the applicable RPS standards, which apply to all of its retail sales. Thus, a CCA or small-IOU offering a 100% renewable energy zero-CI green tariff to its LCFS customers must still retire sufficient Renewable Energy Credits ("RECs") to meet its RPS obligation. Assuming for example, a 30% RPS standard, a LSE that sells 100 MWh of green tariff energy must still retire 30 MWh of RECs to meet the RPS standard. What distinguishes a green tariff is the additional sales (70% in this case) that are voluntarily being greened up by the LSE and purchased by the LCFS customer.

Such an approach does not result in any double-counting of RECs. The current default (California grid) emissions value for electricity, for example, already reflects that the California electric system is becoming increasingly GHG-free by meeting the required RPS-standards. Essentially, the current CI-intensity for the California electric system already reflects load-serving entities achieving the applicable RPS standards (30% assumed in this case). The difference in CI intensity between the default California grid emission value and the green tariff value of zero, represents the difference between meeting versus exceeding the applicable RPS standard (i.e. the additional 70% of renewable energy) and providing 100% RPS-eligible zero-CI power.

Accordingly, the proposed regulations should be clarified to allow a LSE to claim for purposes of RPS compliance, if needed, the proportion of the LSE's green tariff portfolio that

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<sup>4</sup> Public Utilities Code Sections 2831-2833 and 390.30(c)(4).

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corresponds to the green tariff's applicable RPS obligation, without affecting the LSE's eligibility to receive full credit under the LCFS program for providing a zero or low-CI product.

This approach is necessary to allow smaller IOUs to receive full credit for offering a green tariff based EV charging option. This approach would also allow CCAs and ESPs to fairly compete with the larger IOUs in offering zero-CI green tariff options (as allowed for incremental crediting), as well as for all non-EV uses of electric energy for transportation.

### **CONCLUSION**

Notwithstanding the recommended changes discussed herein, the Smart EV Charging Group supports the ARB's efforts to facilitate and incentivize greater EV usage and charging through the LCFS program. The Smart EV Charging Group looks forward to working with the ARB towards the successful rollout of the new EV policies in the LCFS program.

Respectfully submitted,

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/s/

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On behalf of the Smart EV Charging Coalition

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<sup>i</sup> Electric Vehicle (EV) Charging Infrastructure: Multifamily Building Standards – CARB Technical and Cost Analysis: 2019 Code Cycle: <https://arb.ca.gov/cc/greenbuildings/pdf/tcac2018.pdf>.