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September 24, 2018

California Air Resources Board Members
1001 I Street, Suite
Sacramento, CA 95814

RE: Response to the Initial Statement of Reasons for the Proposed Innovative Clean Transit Regulation

Chair Nichols and Members of the California Air Resources Board (ARB):

On behalf of the Central Contra Costa Transit Authority (County Connection), I submit the following comments in response to the Initial Statement of Reasons for the Proposed Innovative Clean Transit (ICT) Regulation. County Connection provides service to the 10 cities as well unincorporated areas of the central and southern parts of Contra Costa County – the areas adjacent to the I-680 and SR24 corridors. Our service area population is just over 500,000 and we operate a fleet of 121 fixed route buses (30 and 40 ft) and a fleet of 63 paratransit vehicles (small cutaways, mini vans, etc) that serve primarily seniors and folks with disabilities that cannot use the fixed route service.

As of the end of 2018, eight of our 121 buses will be battery electric buses (BEB). In fact, these will be the very first BEBs that the bus manufacture, GILLIG has ever built. We are very proud of that fact. We have successfully introduced inductive charging on route to assist in extending battery life and operational range. While it is not yet official board policy at County Connection, we are intending to continue purchasing inductively charged BEBs as our bus procurement opportunities arise. I will speak more to our experiences later in this letter.

As currently drafted, the proposed regulation improves on the Draft Regulatory Concept for the Proposed Innovative Clean Transit Regulation, released December 2017. Improvements to the proposed regulation reflect ongoing discussions between California Air Resources Board staff and the leadership of the California Transit Association (CTA). As a member of that CTA group that has met regularly with the staff of ARB, I greatly appreciate the progress we have made on making the proposed regulation much more workable in the real world where public transit is delivered and used. It is my opinion that the ARB staff have worked extremely hard to develop a draft regulation that meets the many needs and interests of the affected parties.

While the progress made on the proposed regulation is substantial, a few concerns remain that I would urge ARB to further address. To identify my first concern, I reiterate the CTA stated concern that the imposition of the zero-emission bus (ZEB) purchase requirement is not tied to benchmarks for ZEB cost and performance, infrastructure buildout costs, and funding availability. There are significant risks in assuming, that data gathered from limited, short-term ZEB deployments will accurately reflect the realities of ZEB deployments at-scale. County Connection strongly believes that, despite the claims of some interest groups, ZEB cost and performance, infrastructure buildout, and the cost of electricity as fuel, are still issues.

As I noted above, we will have eight BEBs in service by the end of the year. We put the first four BEBs into service in late 2016. At this point we have learned a number of things about our project that serve as things all of us need to be very mindful of moving forward. Our project has been documented and studied by the National Renewable Energy Laboratory (NREL). In June of 2018, NREL provided us with a draft of the Preliminary Project Results. A final Preliminary Project

Results document has yet to be released. Without going into a review of this draft document, two things stand out as long term concerns.

The first is that our BEBs have been available for service 71.6% of the time in comparison to 88.5% of the time for a comparable diesel powered bus. If we cannot significantly decrease the availability difference over time, we will need to have more BEBs than diesel buses to cover the same level of service to the public. That in turn becomes a significant capital cost when applied over a larger number of buses in service.

The second significant concern that NREL's work documents relative to our BEB project is related to how much it is costing us to charge our BEBs with electricity.

County Connection purchases electricity for its BEBs from PG&E. Currently, PG&E does not offer us a "transit rate" for purchasing electricity for our BEBs. Moreover, to date they have indicated a plan to do so as they implement SB350. Therefore, we are currently paying standard rate payer rates. This – according to NREL – is resulting in County Connection paying – on average - $8.75 per diesel/gallon/equivalent (dge) for the electricity from PG&E that we sue to charge our eight BEBs! During the same period of time, NREL documented that County Connection paid $1.86 per gallon for diesel fuel. It should be noted that County Connection has been using renewable diesel for its diesel powered buses since mid 2017.

While overall, we are pleased with the operation of our BEBs, if these two concerns cannot be overcome over time, we will not be able to sustain an operation that increases the reliance on BEBs without cuts to service and/or undue increases in passenger fares. This is particularly acute when it comes to the costs of electricity. If the cost electricity does not come down substantially from $8.75.dge, there is no way can sustain our present levels of service – let alone improve services that would reduce Greenhouse gases – and transition further to BEBs.

In short, while we at County Connection desire to put more BEBs into service in the future, we cannot do so if the price of electricity remains at a cost where we have to cut service to pay for the price differential between electricity and renewable diesel.

As you move to consider adopting an update to the ICT, County Connection strongly believes you should be guided by this question posed by CTA: ***"What will happen to transit service, if the assertions made by ARB staff and interest groups are wrong, and the cost and difficulty of the transition to fully electrified bus fleets more closely align with the warnings of California's public transit agencies?"*** To help ensure that this question is addressed in manner that minimizes the risk to transit service and the transit using public, County Connection offers you a few recommendations designed to manage the risks associated with this ambitious transition and minimize adverse impacts to transit service. These are very consistent with those you are seeing from CTA, the California Association for Coordinated Transportation (CalACT), as well as many other public transit providers and users.

Benchmarking and Regulatory Assessment

This provision would require the California Air Resources Board to conduct a regulatory assessment – *before* a ZEB purchase requirement goes into effect – that evaluates real-world ZEB cost and performance with benchmarks for ZEB cost and performance established at the time of rule adoption. This regulatory assessment should allow the Board to issue an across-the-board suspension of the ZEB purchase requirement, much like the original Transit Fleet Rule did, if real-world ZEB cost and performance is not yet at parity with the cost and performance of conventionally-fueled transit buses. This provision would have no impact on the ZEB purchase requirement, if benchmarks for ZEB cost and performance are being met, as anticipated by ARB staff and interest groups.

Incentive Funding

The staff report supporting the proposed regulation emphasizes the importance of incentive funding to minimizing adverse impacts to transit service (see Initial Statement of Reasons, pages ES-8, III-8, VIII-26). However, this proposed regulation is aimed at public transit operators who by definition are local or regional government services supported by California state tax payers. As such, most of them use federal transportation funds to purchase buses and paratransit vehicles. Thus, they are beholden to strict federal rules and regulations regarding how buses are procured and how long they must remain in service before they can be retired.

The various individual transit operators are all on different bus replacement cycles based on when they receive the necessary federal funding to pay for replacement buses. Some of these federally defined bus replacement schedules will not allow an operator(s) to purchase "early" in terms of meeting the proposed regulation when they are replacing existing non-zero emission buses. In those cases, present policies on the use of incentive funding won't allow those transit operators to use the incentive funds. Thus, some operators are going to be financially penalized for simply adhering to federal transit vehicle procurement rules.

Given the stated importance of this funding and our shared goal of protecting vital transit service, and at the same time move forward together towards full ZEB implementation within public transit by 2040, ARB should revise its current policy disallowing the use of incentive funding to meet regulatory compliance to explicitly allow transit agencies to use incentive funding whenever they are prepared to purchase a ZEB at least through 2029.

Cutaway Vehicles

These vehicles are either used to transport the most vulnerable of our fellow constituents – frail senior and folks with disabilities (many who rely on wheelchairs or other similar type mobility devices), or used in small urban or rural areas of the state – often for lifeline services to the transit dependent. Furthermore, these vehicles have been used in each of the last four years to evacuate vulnerable populations from wildfires in Lake, Mendocino, and Shasta counties.

Currently, there are no viable electric or fuel cell powered cutaway vehicles available. Thus, it this time it would not be prudent to include cutaways in the initial timeframe of proposed regulation. Therefore, County Connection strongly supports the ARB staff recommendation to defer the regulation on to cutaway vehicles until 2026. Similarly, we support the ARB staff definition of a cutaway as put forward on page 37 of Article 4.3 in Appendix B-2 of the proposed regulation.

Thus, County Connection urges ARB to retain these two staff recommendations despite some reservations expressed by a number of advocates in the environmental community.

Applying the Regulation Small Transit Operators and Defining Small Operators

Larger and more urban transit operators tend to have access to better and more diverse funds sources than smaller transit operators. This is especially true with respect to federal transit funds. Because of that, the federal government, through the Federal Transit Administration (FTA) defines large and small operators based on both the number of vehicles and operator has in service in their peak periods of service as well if they serve a large urban area, a small urban area, or a rural area. Among the three areas, the operators that serve the large urban areas as federally define, have much great access to federal funds.

Furthermore, larger systems have greater depths of staff in terms of number and knowledge and generally have an easier time implementing new technologies. Operators from small urban areas or rural areas tend to watch and learn from the larger urban systems when new technologies – like ZEBs enter the transportation market place.

In order to increase the chances that transit operators in small urban areas or rural areas have at succeeding without major service disruptions in transitioning to ZEBs, County Connection believes that ARB staff are right to delay much of the proposed regulation applying to small operator until 2023. We urge the ARB to keep this in the final regulation.

Just as important is the definition of a small operators within the proposed regulation. County Connection urges ARB to use a definition that is used consistently throughout transit regulation and funding. That definition is the current federal definition that specifies that small operator is one that has less than 100 buses in peak service. Under the proposed regulation, ARB staff have used a different definition of a small operator that is unique and not used anywhere else for transit regulation or funding. If this unique definition is used, there will be California transit operators that are defined as small operators by the federal government and Caltrans, but defined as a large operator by ARB.

This potential conflict in small vs large definition will be confusing at best and likely counter-productive. It should be noted that even if ARB uses a traditional definition of a small operator which is what we ask, all California transit operators are getting to full ZEB fleets by 2040 under the proposed regulation.

County Connection respectfully submits these comments. We appreciate your consideration of them. Please know that County Connection shares your goal of reducing deadly emissions form all mobile sources include public transit vehicles. We only ask that you consider our concerns about how we get to fully ZEB transit fleets by 2040. Our concerns are only driven by our desire to make sure we can provide public transit service to our shared constituents as we continue to work together on our common goals.

I close by saying thank you to the ARB staff for working very hard with our industry through CTA on getting to this point. With just little more work and attention, I think we can a good update to the ICT that we can all live with and will move forward the goals of the State of California.

If you have any questions or comments, please feel free to contact me at 925-680-2050.

Sincerely,

Rick Ramacier

General Manager

cc: Richard Corey, Executive Officer, California Air Resources Board
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