DTE VANTAGE

February 20, 2024

The Honorable Liane Randolph
Chair, California Air Resources Board
Low Carbon Fuel Standard Program
1001 I Street
Sacramento, CA 95814

RE: December 19, 2023, Proposed Amendments to California's Low Carbon Fuel Standard

Dear Chair Randolph and Members of the California Air Resources Board,

DTE Vantage (DTE) appreciates the opportunity to provide written feedback on the proposed amendments to California's Low Carbon Fuel Standard (LCFS) program. DTE is a developer, owner, and operator of biomass, co-generation, and landfill gas electricity facilities in California and nationally, supplies renewable natural gas (RNG) to the state, and participates in the LCFS program.

Our company has invested millions of dollars in California's decarbonization goals, in part due to the strong market signal provided by the LCFS program. By spurring investment and innovation, the LCFS has been and can continue to be a critical tool for achieving the state's objectives to reduce the carbon intensity of the transportation sector, while continuing to set a leading example for other states and jurisdictions to follow to drive performance-based emission reductions in the transportation space.

We appreciate the California Air Resources Board's (CARB) efforts to engage stakeholders as it considers changes to the program and respectfully submit the following comments for your consideration.

Further Increasing the Stringency of the Program Will Accelerate California's Transportation Decarbonization Goals

CARB has an opportunity in this amendment process to enhance the market signal to low carbon fuels and drive further greenhouse gas (GHG) emissions reductions by increasing the program's stringency. DTE strongly supports CARB's efforts to strengthen the LCFS program in this proposal. We are encouraged by the Agency's proposal to increase the 2030 carbon intensity (CI) targets from 20% to 30% by 2030, with a one-time 5% reduction in 2025. However, we urge the Agency to consider even more stringent reduction goals to support California's ambitious climate targets and address the current LCFS market imbalance.

DTE Vantage's internal modeling suggests that the currently proposed changes to the LCFS program are not sufficient to address the growing credit bank. In fact, we predict that the credit bank could increase to over 80MM credits by 2030 absent additional changes to the latest proposed rules. Failing to curb the growing credit bank could undermine necessary investments in low carbon fuels and unwind the clean fuels market needed for California to meet its goals. If the credit bank swells to 2x - 4x its current size, credit pricing may decrease to the point that further decarbonization investments are no longer incentivized and existing projects may be forced to shut down for economic reasons. Our recommended actions will establish a more robust LCFS program that will continue to drive innovation and accelerate GHG emissions reductions.

To CARB's credit, the LCFS program has overperformed in recent years, creating greater reductions than required, and leading to a significant oversupply of credits. The cumulative LCFS credit bank now stands at ~20.6 million surplus credits, while LCFS prices continue to decline, hovering around $65 per ton in January 2024. We encourage CARB to target at least a 40% CI reduction by 2030 to correct its course and address the credit surplus.

Additionally, due to the size of the current credit bank and the ongoing credit surplus, we believe that CARB's proposed 5% step-down in 2025, while helpful, is unlikely to impact the market at the scale needed. DTE encourages the Agency to consider increasing the step-down provision's size to 10% to appropriately address the current state of credit and deficit creation. A decisive step-change reduction in 2025 would provide a signal of strong intent by the Agency to support both short- and long-term investment to meet California's climate goals.

Finally, we applaud CARB's proposal to integrate an auto-acceleration mechanism to increase the stringency of the annual CI targets of the program when triggered by clear criteria. However, like our recommendations above regarding the CI reduction target and the step-down mechanism, we encourage CARB to be more ambitious in its proposal to ensure the greatest progress in achieving the goals of the LCFS. We recommend the agency adopt the auto-acceleration mechanism earlier, as soon as 2025, to allow triggering as early as 2026 and ensure the current surplus is addressed promptly and efficiently. There is no rationale for delaying the implementation of the acceleration mechanism given its triggering criteria, however substantial risk exists if the mechanism is delayed resulting in further growth of the credit bank.

CARB's Proposed Remedy of a 4x Penalty for CI Exceedance is Excessive and will Disproportionately Impact Agriculture Facilities

DTE Vantage incorporates by reference the comments submitted by the RNG Coalition dated February 20, 2024, which reflect our stance on CARB's proposed penalty for CI exceedance.

"We continue to support a full true up to verified actual CI performance for all pathways (temporary, provisional, and fully certified). Dairy Manure Digesters (and other biological systems) experience substantial increases and decreases in gas production due to weather, livestock herd changes, and other uncontrollable factors that are not present in other fuel pathways. Because the carbon intensity of the gas from these systems is calculated against a quantity of avoided methane emissions, these variations in biogas production necessarily result in outsized changes in the digester pathways' carbon intensity (CI) scores every year. Under the current structure of the LCFS (prior to the changes proposed in this rulemaking), all dairy digesters pathways experience the following negative impacts:

1. Substantial underestimation of greenhouse gas benefit (and associated lost revenue) during the project startup (temporary pathway) period.
2. Substantial risk of underestimation of greenhouse gas benefit (and lost revenue) each year during annual verification.
3. Substantial risk of LCFS enforcement, resulting in fines or potential pathway cancellation, due to no fault of the pathway holder.

These consequences are an unavoidable outcome of CARB's overly conservative approach to dairy digester pathways (and some other pathways with biological feedstocks) under the current LCFS structure. As we will describe below, no amount of careful management, conservative pathway assumptions, or other actions can fully protect a digester under the Current Rule—and the Proposed Rule's changes alleviate some, but not all, of these concerns."[1]

DTE Vantage understands CARB's focus on program integrity and the importance of recouping excess credits created by CI scores, adjusted during reviews. However, imposing a 4x penalty for adjustments not resulting from misconduct is unwarranted and unfair. DTE agrees with a party refunding excess credits received (despite the fact that CARB does not award additional credits when a review finds that a lower CI score was warranted) but opposes the 4x penalty. This punitive provision is not justified by any history of problems with the program, and the existing documentation and 3rd party review requirements already provide adequate protection for the program. DTE strongly encourages CARB to eliminate this multiplier penalty. Conversely, providing a true up mechanism whereby excess credits are refunded back to CARB and additional credits are awarded following a review showing that a lower CI score was warranted would be an acceptable solution to the inherent variability in dairy manure digester pathways. DTE Vantage is in agreement with the system proposed by the Coalition for Renewable Natural Gas' comment letter dated 2/20/2024.

Reconsider Proposed Concepts Related to Phasing Out Avoided Methane Crediting and Aligning Deliverability Requirements of Biomethane as a Transportation Fuel with RPS and CPUC 1440 Program

DTE Vantage remains highly concerned with CARB's proposed changes to phase out avoided methane crediting and remove book-and-claim accounting for out-of-state biomethane.

We strongly urge CARB to reconsider its proposed changes to eliminate RNG pathways that rely on book-and-claim delivery mechanisms for pathways associated with projects that break ground on or after January 1, 2030. As identified in previous comment letters in response to the CARB

[1] RNG Coalition's Comments on Low Carbon Fuel Standard Initial Statement of Reasons dated 2/20/2024

LCFS workshops on 2/22/23 and 5/23/2023, DTE's primary areas of concern with this proposal are as follows:

- At present time, there are insufficient outlets available in other markets and end uses to absorb RNG that would otherwise supply the LCFS transportation market.
- Because CARB is proposing to remove the option of a fuel that competes well in the market to continue to enter the fuel mix, credits that otherwise would be generated from out-of-state RNG will presumably be replaced by more expensive alternatives. Thus, the agency's proposal will make compliance more expensive for Californians.

We also urge the agency to continue its avoided methane crediting methodology to preserve and promote meaningful GHG emission reductions for pathways associated with projects that break ground on or after January 1, 2030. Clean fuel providers made significant investments in dairy RNG projects based on the avoided methane crediting construct, which are mitigating fugitive methane emissions on farms. California's SB 1383 targets a 40% reduction in total methane emissions and a 40% reduction in dairy and livestock emissions. To meet these goals, we recommend that CARB reconsider eliminating avoided methane crediting of the LCFS program.

Conclusion

In summary, DTE Vantage appreciates the opportunity to provide the agency with these comments and commends CARB for its efforts and dedication to this program and amendment process. As the Agency looks to finalize this rulemaking, we strongly encourage CARB to implement the following changes:

- At least a 40% CI reduction target in 2030,
- Increase the step-down provision to 10% in 2025,
- Effectuate the auto-acceleration mechanism in 2025,
- Implement symmetrical CI true up mechanism for pathways known to have inherent variability,
- Continue to allow RNG pathways that rely on book-and-claim delivery mechanisms and avoided methane crediting methodology to promote meaningful GHG emissions reductions.

We would welcome the opportunity to meet with the agency should there be any questions regarding our recommendations. Thank you for your consideration of our comments.

Sincerely,

Philip O'Niel

Vice President – DTE Vantage