CALIFORNIA MUNICIPAL UTILITIES ASSOCIATION

915 L Street., Suite 1210
Sacramento, CA 95814
(916) 326-5800
CMUA.org

February 20, 2024 | Submitted electronically

Honorable Liane Randolph
Chair, California Air Resources Board
1001 I Street
Sacramento, California 95814

RE: Comments on the Proposed Amendments to the Low Carbon Fuel Standard Regulation

The California Municipal Utilities Association[1] appreciates the opportunity to provide comments on the Proposed Regulation Order: Proposed Amendments to the Low Carbon Fuel Standard (Proposed Amendments).

CMUA represents California's local publicly owned electric utilities (POUs), which are governed by a board of local officials that are accountable to the communities in which they serve. CMUA's member agencies are committed to maintaining reliable and affordable electric service in a manner that supports the state's climate goals.

CMUA supports the Low Carbon Fuel Standard (LCFS) program as key to reducing greenhouse gas (GHG) emissions from the transportation sector. California's POUs utilize LCFS credit value to develop programs to further promote transportation electrification consistent with the needs of the communities they serve. To best position the LCFS program to continue to promote clean mobility options, CMUA offers the following comments for consideration:

- The LCFS Should Not Require Specific Rate Structures in Order to Generate Base Credits
- The LCFS Equity Requirement for POUs Should Remain at 50%
- The Cap on Administrative Costs and Marketing, Education and Outreach (ME&O) for the Clean Fuel Rewards Program (CFR) Should Remain at 10%
- The Cap on Administrative Costs for Holdback Credit Equity Projects Should Remain at 10%
- CARB Should Clarify the Holdback and Equity Holdback Project Lists

[1] The California Municipal Utilities Association is a statewide organization of local public agencies in California that provide electricity and water service to California consumers. CMUA membership includes publicly owned electric utilities that operate electric distribution and transmission systems. In total, CMUA members provide approximately 25 percent of the electric load in California.

- Projects Supporting Medium- and Heavy-Duty (MHD) Electric Vehicles (EVs) Should Qualify as Equity Projects Irrespective of the Primary Location
- Targeted Education and Outreach Should Remain an Eligible Equity Holdback Project
- Low Volume Credit Generators Should be Exempt from Verification
- Site Visits Should Be Based on an Assessment of Risk

Comments

The LCFS Should Not Require Specific Rate Structures in Order to Generate Base Credits

Section 95483 (c)(1)(A)1. stipulates that to generate base credits, an electric distribution utility (EDU) "must provide rate options that encourage off-peak charging and minimize adverse impacts to the electrical grid". Currently most medium and large POUs offer rate options to encourage off-peak charging. However, due to the nature of the local communities they serve, some POUs do not face the need to impose such a rate structure. Further, some of California's smaller POUs do not have the infrastructure needed to implement such rates. Maintaining reliable, safe, and affordable electric service is paramount to California's POUs. The rate structure of each POU is developed in a public process, with full approval of each POU's Governing Board. As part of this, each POU considers alternative rate structures as needed. However, if the LCFS regulation continues to require a specific rate option in order to be eligible for base credits, some POUs may continue to not participate or opt-out of the LCFS. Such a result would be inconsistent with California's clean transportation goals.

The LCFS Equity Requirement Should Remain at 50%

The Proposed Amendments increase the equity spend requirement from 50% to 75%. California's POUs vary widely along a variety of parameters, including local community needs. Each POU develops programs in a public process, consistent with the needs of the local community. As developed, the LCFS has been successful in promoting cleaner transportation options for targeted communities. Additionally, California's POUs are promoting cleaner transportation options in various ways, including public charging options, clean public transit options, and modernizing their local distribution systems. In order to support continued investment in this full array of local solutions, the LCFS program equity requirement should remain at 50%.

The Cap on Administrative Costs and ME&O for the CFR Program Should Remain at 10%

The Proposed Amendments lower the combined cap on administrative and ME&O costs for the Clean Fuel Rewards (CFR) program from 10% to 5%. Such a change would reduce the ability to manage and promote the CFR program. Making the public aware of programs available to aid the transition to transportation electrification is key to the success of the CFR program and ME&O funding is key to informing consumers of the program.

The Cap on Administrative Costs for Holdback Credit Equity Projects Should Remain at 10%

The Proposed Amendments reduce the administrative cost cap for equity projects from 10% to 5%. While CMUA understands and agrees with the intent to direct as much funding as possible into project development, reducing the administrative cost cap to 5% of project expenditures could limit the ability of POUs to implement these important programs. The success of such programs can be directly attributed to the efforts to develop and administer the programs. CMUA remains concerned that it is not possible to effectively administer these programs if administrative costs are limited to just 5% of project spending. CMUA agrees with comments offered by the Northern California Power Agency (NCPA), that reducing the administrative cost cap will be particularly difficult for smaller utilities that have fewer resources to support the deployment of EV charging infrastructure. Cutting the administrative cost cap in half further limits the ability of smaller utilities to participate in the LCFS program.

CARB Should Clarify the Holdback and Equity Holdback Project Lists

CMUA appreciates CARB's proposed expansion of eligible equity holdback and other holdback project categories. However, the inclusion of two separate and non-overlapping project lists within the Proposed Amendments creates confusion. For example, the "Other Holdback Project" list (95483(c)(1)(A)5. b.) omits several project categories found on the equity holdback project list (95483(c)(1)(A)5. a.). Such omission calls into question whether equity projects omitted from the Other Holdback list, when implemented in non-equity communities, could utilize non-equity holdback credit proceeds – even though such projects clearly further transportation electrification efforts in California, consistent with section 95491(e)(5).

For simplicity, CMUA recommends that CARB combine the equity and other holdback project categories into a single list. Further, CARB should clarify that projects from the list benefiting equity communities shall be considered eligible equity expenses. Alternatively, CARB should expand the other holdback list to include all projects on the equity holdback list to provide certainty that these projects are still allowable expenditures.

In addition, CMUA recommends that CARB further clarify several project categories. CMUA supports the inclusion of the re-skilling and workforce development project category, with clarification that such a program can be developed pursuant to a workforce development strategy adopted by the POU's Board. This additional flexibility is needed, as coordination with specific agencies may slow development of these programs. Additionally, CMUA supports the inclusion of panel and service upgrades as allowable equity expenses for low-income individuals. While there is an existing project category, listing these expenses will provide greater certainty for directing funds toward these purposes. Finally, CMUA supports combining the two equity project categories covering electric mobility solutions into a single list and clarification that the list is not restricted to EV charging equipment and infrastructure.

Projects Supporting MHD EVs Should Qualify as Equity Projects Irrespective of the Primary Location

CMUA supports language in the Proposed Amendments that includes an equity project category for MHD infrastructure investments. However, the LCFS regulation should clarify that all MHD infrastructure projects, regardless of location, qualify as equity projects. Irrespective of the primary charging location, pollutants from MHD vehicles significantly impact low-income communities, particularly along transportation corridors and logistics centers. By identifying all MHD electrification projects as equity, the LCFS can further remove pollutants that disproportionately impact these targeted communities.

Targeted Education and Outreach Should Remain an Eligible Equity Holdback Project

The Proposed Amendments would remove multilingual ME&O as an eligible equity project category. CMUA disagrees with this proposed change. Tailored multilingual education and outreach efforts are crucial to identifying the questions and needs of each community that subsequently inform the effective design of programs and projects that respond to those needs. Such education and outreach efforts may not be tied to specific projects but are significantly different from general marketing and advertising campaigns.

CMUA strongly encourages CARB to maintain a narrower equity project category for direct multilingual education and outreach serving equity communities. CMUA also requests CARB clarify that that non-equity holdback funds may be used to support other ME&O expenses.

Low Volume Credit Generators Should be Exempt from Verification

Section 95500(b)(2) of the Proposed Amendments stipulates that entities generating fewer than 6,000 credits may defer verification for up to two years. CMUA agrees with NCPA's proposal that entities generating 2,000 or fewer credits per year should continue to be exempt. Such entities are often in remote areas that do not offer sufficient profit opportunities for charging companies to invest in electric vehicle charging infrastructure. This requirement makes it less likely for local public agencies that do not generate enough credits to cover the cost of verification to participate in the LCFS. For this reason, the LCFS should only require verification for entities generating credits above a determined threshold.

Site Visits Should Be Based on an Assessment of Risk

The regulatory requirements for site visits should be modified to stipulate that a verifier should only conduct a site visit if such a visit is warranted by a reasonable concern about data accuracy following a risk assessment. A broad mandate to require site visits to all covered chargers, including residential chargers, is not practical. Additionally, the regulation should be modified to differentiate between fuel pathways. For example, EV charging equipment is already subject to accuracy regulations. Requiring site visits, without a desk review of potential risk, would not provide value for the cost.

Conclusion

CMUA appreciates the opportunity to provide these comments on the LCFS Proposed Amendments. CMUA looks forward to collaborating with CARB and other stakeholders in the LCFS proceeding.

Respectfully submitted,

/s/

FRANK HARRIS, PhD
Manager of Energy Regulatory Policy
California Municipal Utilities Association
915 L Street, Suite 1210
Sacramento, CA 95814
(916) 890-6869
fharris@cmua.org