



Chair Liane Randolph and Members of the Board  
California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

February 20, 2024  
LEG 2024-0023

**Re: Sacramento Municipal Utility District's Comments on the Proposed Amendments to the Low Carbon Fuel Standard**

The Sacramento Municipal Utility District (SMUD) appreciates the opportunity to provide comments on the California Air Resources Board's (CARB or Board) proposed amendments to the Low Carbon Fuel Standard (LCFS), issued on December 19, 2023 (Proposed Amendments). Transportation electrification is a key component in achieving the goals of SMUD's 2030 Zero Carbon Plan and the state's carbon neutrality goals, and the LCFS serves as a critical policy tool to complement and support SMUD and others in the effort to eliminate emissions from the transportation sector.

While SMUD is overall supportive of the Proposed Amendments, SMUD files these comments to recommend several areas where additional clarification or revision is needed. SMUD's comments on the Proposed Amendments cover the following:

1. The Proposed Amendments represent a significant improvement and address many needed revisions to the LCFS regulations.
2. CARB should clarify that the equity holdback requirements for local publicly owned utilities (POUs) will remain at 50% of total holdback credit proceeds.
3. The Proposed Amendments introduce several new and amended equity holdback project categories that, with minor clarifications, will allow investment in needed programs and projects.
4. CARB should clarify the intent for removing the equity holdback project category for multilingual marketing, education, and outreach (ME&O). SMUD supports retaining a more focused version of this category that would enable targeted outreach to underserved communities.
5. While some verification of transaction data and calculations may be necessary, CARB should remove the site visit requirement for all covered electrical chargers or, if retained, clarify the Less Intensive Verification option.

Beyond these comments, SMUD also supports comments submitted by the California Municipal Utilities Association (CMUA) and the California Electric Transportation Coalition (CaETC), both filed on February 20.

**1. The Proposed Amendments represent a significant improvement and address many needed revisions to the LCFS regulations.**

SMUD commends CARB staff for their collaborative approach to updating the LCFS regulation and believes that the Proposed Amendments represent a significant improvement and clarification of the LCFS. Increasing the stringency of the program to 18.75% in 2025 and to 30% by 2030, at minimum, is a necessary step to support a healthy market for LCFS credits. Likewise, the implementation of the auto-acceleration mechanism will help to ensure technology advancements that lower the carbon intensity of fuels do not result in an oversupply of LCFS credits. These necessary market improvements will help drive investments in electric mobility options, charging infrastructure and programs necessary to reach the state's decarbonization goals. SMUD supports CARB's efforts and supports consideration of further increases in stringency.

SMUD strongly supports the Proposed Amendments continuing the allocation of base credits to electric distribution utilities (EDUs) to develop and administer projects and programs that advance transportation electrification (TE). POU's are well positioned to design and implement programs that meet the needs of the communities they serve. SMUD also appreciates CARB's efforts to clarify and expand examples of holdback and equity holdback project categories, even where we recommend further clarification below.

SMUD further appreciates CARB's recognition that there is a growing need to support the market and infrastructure for medium- and heavy-duty (MHD) electric vehicles (EVs); refocusing the California Clean Fuel Rewards (CCFR) program is an appropriate change. Additionally, right-sizing EDU contributions to the CCFR program will both ensure that the statewide program is appropriately scaled to the smaller MHD market, as well as enable EDUs to devote more funding toward holdback programs focused on transportation electrification.

**2. CARB should clarify that the equity holdback requirements for local POU's will remain at 50% of total holdback credit proceeds.**

CARB should revise the Proposed Amendments to clarify that the equity holdback requirement for POU's remains at 50% of total holdback credit proceeds. The text of the Proposed Amendments changes the equity holdback credit requirements for all electric distribution utilities and does not distinguish between investor-owned utilities (IOUs) or POU's.<sup>1</sup> However, CARB's supporting documents indicate that these changes were necessary in order to align CARB's equity contribution requirements with similar requirements from the California Public Utilities Commission (CPUC);

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<sup>1</sup> 94583(c)(1)(A)5.a. (all references to regulatory sections are to the Proposed Amendments, unless otherwise noted).

such requirements apply only to IOUs.<sup>2</sup> Further, Appendix E specifically notes that the “holdback equity requirement for Publicly Owned Utilities would remain at 50%.”<sup>3</sup> Since this revision was merely intended to align CARB and CPUC requirements, the regulatory language in Section 94583 should be updated to reflect this intent.

In addition, for many POUs like SMUD, LCFS is the primary source of funding for transportation electrification programs. There remains a significant need for investment in transportation electrification programs and infrastructure in communities across our region. When coupled with the increase in holdback credits, maintaining the 50% spending requirement will allow SMUD to accelerate its investments in projects benefiting equity communities while continuing to offer our critically needed portfolio of transportation electrification programs.

Furthermore, POUs should have somewhat greater flexibility in how to spend holdback credit proceeds. First, POUs are not-for-profit entities that are ultimately responsible to their communities. This structure requires POUs to prioritize community needs and often means that POUs are best positioned to develop programs and direct investments to the areas of greatest need. Additionally, POUs come in different sizes but are generally much smaller than IOUs. As a result, there is significant variation between POUs regarding the demographics, income levels, and unique challenges facing their local community. If POUs had to devote a substantially higher percentage of their holdback proceeds to a limited set of projects, this would impair POUs’ ability to put proceeds toward their best use in each POU service area. SMUD appreciates that CARB staff recognized this need and requests that CARB update the regulatory text consistent with this understanding. SMUD supports CalETC’s proposed revisions to Section 95483(c)(1)(A)5.a.

### **3. The Proposed Amendments introduce several new and amended equity holdback project categories that, with minor clarifications, will allow investment in needed programs and projects.**

The Proposed Amendments provide a revised list of qualified equity holdback projects, which overall demonstrates a substantial improvement. Several new and important categories were included and will allow EDU investment in high-impact programs. However, there are project categories that require some clarification and revision in order to enable utilization. These categories include: investments in electric and clean mobility solutions, re-skilling and workforce development, investments in grid-side distribution infrastructure for MHD EV charging, and the explicit inclusion of panel upgrades for low-income residential customers.

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<sup>2</sup> See *Staff Report: Initial Statement of Reasons* (December 19, 2023) at 36, 67 (hereinafter “Staff Report”); *Appendix E: Purpose and Rationale of Proposed Amendments for the Low Carbon Fuel Standard Requirements* at 14, 15 (hereinafter “Appendix E”).

<sup>3</sup> Appendix E at 15.

*A. There are two categories addressing electric mobility that may be clarified by substituting with a single encompassing category.*

The Proposed Amendments include an existing equity project category focused on electric mobility solutions, and introduce a new, similar category focused on public transit and other clean mobility solutions:

iii. Investment in electric mobility solutions, such as EV sharing and ride hailing programs.

...

v. Promoting use and additional incentives for use of public transit and other clean mobility solutions, via charging equipment or infrastructure for the following categories:

I. EV sharing and ride hailing programs.

II. Electrification of public transit and school buses, including battery swap programs, and

III. Use or ownership of neighborhood electric vehicles, eBikes, eScooters, eMotorcycles, and other micromobility solutions.<sup>4</sup>

These are important categories to include in the equity holdback project list and SMUD appreciates their inclusion in the Proposed Amendments. SMUD's work with local community-based organizations (CBOs), local agencies, and residents has revealed that there is substantial need for a variety of electric mobility solutions within many equity communities.

SMUD coordinated with three other local agencies<sup>5</sup> in the development of the Sacramento Area Zero Emission Vehicle (ZEV) Deployment Strategy (Strategy).<sup>6</sup> The Strategy is a regional approach to improving air quality, reducing greenhouse gas emissions, and promoting efficient mobility. Equity is a key component of each of the four program areas, which include electrifying the public transit fleet, eMobility hubs, MHD charging plazas, and training a clean energy workforce. Each of the Strategy's program areas have a clear nexus with project categories included on CARB's proposed equity holdback project list.

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<sup>4</sup> 94583(c)(1)(A)5.a.

<sup>5</sup> Coordinating entities included Sacramento Regional Transit, the Sacramento Metropolitan Air Quality Management District, and the Sacramento Council of Governments.

<sup>6</sup> The Sacramento Area ZEV Deployment Strategy is accessible at:

<https://www.sacog.org/planning/transportation/transit-strategies/zero-emissions-vehicle-planning>.

Particularly relevant for this equity project category, the Strategy is planning for 600 transit buses with zero emission fuels and five strategically located charging facilities throughout the region. Additionally, the Strategy identifies the need for 27 eMobility hubs within Sacramento County and an additional 25 hubs throughout the region. These eMobility hubs will provide shared electric cars, battery storage, and microgrid capabilities. A necessary part of this effort is SMUD's Sustainable Communities program that leads engagement efforts in coordination with CBOs and residents to understand priorities for under resourced communities regarding electric mobility access and associated charging.

SMUD commends CARB's inclusion of the new eMobility project category, but requests clarification about how the existing and proposed categories should be understood. First, both categories include "EV sharing and ride hailing programs." This introduces confusion regarding whether these categories overlap or are aimed at different programs and projects. Second, Section 94583(c)(1)(A)5.a.v. could be read to limit investments to only charging equipment or infrastructure for subcategories I. through III. SMUD opposes this apparent limit, if intended, because it is unnecessarily restrictive. Investments in public transit and eMobility solutions involve many expenses, particularly in under resourced communities, beyond just charging and infrastructure. For example, eMobility hubs include the development and identification of suitable locations, community outreach, coordination with other local agencies and CBOs, designing tools to make the hubs useful to residents, staffing and technical assistance for users of the hubs, and often incentives towards the purchase of mobility solutions. Conversely, if it was not intended as a limit, it is unclear how to reconcile the language limiting spending to charging and infrastructure with language in the subcategories referring to ownership of micromobility solutions (e.g., "use or ownership of neighborhood electric vehicles..."). Since these current categories lead to confusion over scope and application, SMUD supports CalETC's proposed revision, which both combines and simplifies these project categories.

CalETC's proposed amendment is as follows:

- ~~iii. Investment in electric mobility solutions, such as EV sharing and ride hailing programs.~~
- v. Investing in, or promoting the Promoting use of, and additional incentives for use of public transit and other clean mobility solutions, via charging equipment or infrastructure for the following categories such as:
  - I. EV sharing and ride hailing programs.
  - II. Electrification of public transit and school buses, including battery swap programs, and
  - III. Use or ownership of neighborhood electric vehicles.

eBikes, eScooters, eMotorcycles, and other micromobility solutions.

IV. Charging equipment or infrastructure for any of the above.

*B. The addition of a re-skilling and workforce development equity holdback category is a significant improvement, with minor clarifications needed.*

Section 94583(c)(1)(A)5.a.vi. provides the following:

- vi. Re-skilling and workforce development for transportation electrification and electric vehicle infrastructure applications, developed in coordination with the California Workforce Development Board or local workforce development agencies.<sup>7</sup>

SMUD appreciates the inclusion of this proposed subsection, which promises more streamlined investment of equity holdback proceeds in re-skilling and workforce development programs. Under the existing regulations, SMUD received Executive Officer approval for a workforce development program, but the process took over a year. The inclusion of this category will remove this additional administrative hurdle and help to promote development of these programs.

CARB should broaden the scope of entities that EDUs are permitted to coordinate with in order to make these investments. The ZEV Deployment Strategy specifically acknowledges the need to partner with other key entities, including educational institutions, trade organizations, CBOs, and others.<sup>8</sup> Additionally, SMUD's EO approved program was developed in coordination with local CBOs but was not developed in coordination with state or local workforce development agencies. SMUD understands that this project is consistent with the intent of this new proposed equity project category.

SMUD continues developing plans and strategies for TE workforce development focused on its local community. SMUD is uniquely positioned to address these workforce needs given its coordination on the ZEV Deployment Strategy, ongoing experience with workforce development, and knowledge of EV charging needs and infrastructure within its service area. Requiring EDUs to specifically coordinate with state or local workforce development agencies, which may or may not be familiar with TE needs, is largely unnecessary and may slow development of these programs.

SMUD supports CalETC's proposal that provides more flexibility for coordinating entities:

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<sup>7</sup> 94583(c)(1)(A)5.a.vi.

<sup>8</sup> See ZEV Deployment Strategy at footnote 6.

- vi. Re-skilling and workforce development for transportation electrification and electric vehicle infrastructure applications, developed in coordination with the California Workforce Development Board, ~~or~~ local workforce development agencies, [a community-based organization, a California Community College, or a workforce strategy adopted by the Board of a POU.](#)
- C. SMUD supports the inclusion of MHD EV charging infrastructure investments, and requests that CARB clarify that these investments are not geographically restricted.*

SMUD appreciates the inclusion of the MHD EV charging infrastructure category in the equity holdback project list.<sup>9</sup> Inclusion of this category will enable investment in this needed and costly infrastructure and is complementary to the shift of the statewide CFR program to incentivize MHD EV purchases. In 2022, SMUD conducted a study on the impact of MHD charging on SMUD's distribution system. Based on this study and ongoing analysis, SMUD estimates that, through 2041, SMUD would need to invest between hundreds of millions to over a billion dollars in grid upgrades, depending on the role of managed charging, in order to support growth in light, medium, and heavy-duty EVs in our region. LCFS funding can play a critical role in readying the grid for widespread MHD vehicle charging while mitigating the impacts of these investments on ratepayers.

CARB should clarify that MHD EV charging infrastructure benefits equity communities regardless of the location of these projects. Many equity projects implicitly contain a locational requirement in that they must primarily benefit or serve equity communities.<sup>10</sup> Such a restriction for MHD EV infrastructure would significantly limit the number of locations where these investments could be made, and investments may be needed in areas that do not overlap with equity communities. Instead, CARB should clarify that MHD EV infrastructure investments will primarily benefit and serve equity communities regardless of location or proximity to such communities, since equity communities often bear a disproportionate share of pollution associated with major transportation corridors. Since MHD EV infrastructure projects will help to reduce emissions within these corridors, the location of these projects within or near equity communities should not be required.

- D. SMUD supports the explicit inclusion of residential panel and service upgrades in the equity holdback project list.*

Proposed Section 94583(c)(1)(A)5.a.iv. permits rebates and incentives for low-income individuals to obtain an EV and for installing EV charging infrastructure

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<sup>9</sup> 94583(c)(1)(A)5.a.vii.

<sup>10</sup> See 94583(c)(1)(A)5.a.

in residences. SMUD appreciates the retention of this equity holdback project category, but requests that CARB specifically list panel and service upgrades as permitted expenses. While this category allows “installing EV charging infrastructure in residences”, it could be read narrowly to only permit installation of EV chargers or more broadly to permit upgrades for all needed electrical improvements to enable EV charging. Specifically including panel and service upgrades in this category will provide more confidence that these types of investments are consistent with CARB’s intent.

**4. CARB should clarify the intent for removing the equity holdback project category for multilingual marketing, education, and outreach. SMUD supports retaining a more focused version of this category that would enable targeted outreach to underserved communities.**

SMUD is concerned by the elimination of the multilingual ME&O equity project category. The Proposed Amendments fully eliminate the multilingual ME&O category, but no justification was provided in the Staff Report. Appendix E does address the multilingual ME&O category but merely states that “[s]taff is also proposing the removal of holdback credit proceeds for Marketing, Education, & Outreach for electric vehicles.”<sup>11</sup>

First, CARB should clarify the statement in Appendix E. While the change in the proposed regulatory text appears limited to eliminating the multilingual ME&O category, Appendix E could be read to prevent investments in ME&O from non-equity holdback credit proceeds as well as project-specific ME&O for equity holdback projects. CARB should clarify that both non-equity holdback ME&O spending and project-specific ME&O associated with equity projects are still permitted.

Further, equity-focused education and outreach projects provide substantial value that should be recognized in the equity project list. SMUD regularly conducts direct community outreach events specifically targeted at underserved communities. These events are different from general marketing or broad-based advertising campaigns and allow customers to directly ask questions, experience EV operation, and understand EV benefits. SMUD has also used equity funding to support needs assessments, conducted in partnership with CBOs, and other pre-project work, like community listening sessions and neighborhood canvassing in under-resourced communities.<sup>12</sup> This targeted work must be done to facilitate programs and projects that fit the needs of specific communities because needs vary throughout SMUD’s service area. Eliminating such pre-project work risks less informed and under-utilized equity projects.

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<sup>11</sup> Appendix E at 15.

<sup>12</sup> See e.g., ZEV Deployment Strategy at footnote 6.



SMUD encourages CARB to clarify that EDUs are still permitted to spend equity proceeds on project-specific ME&O expenses and utilize non-equity holdback credit proceeds on ME&O more generally. Additionally, SMUD urges CARB to reconsider full elimination of the multilingual ME&O category and revise this category to preserve direct customer outreach and education to identify and tailor programs to successfully meet community needs.

SMUD supports CalETC's proposed revision to the multilingual ME&O category:

- v. Multilingual ~~marketing, education, and outreach~~ community education events located within communities listed in 95483(c)(1)(A) designed to increase awareness and adoption of EVs and clean mobility options, and outreach in coordination with community-based organizations, including but not limited to neighborhood canvassing, community listening sessions, and needs assessments, focused in communities listed in 95483(c)(1)(A) to inform the development of projects and programs tailored to community needs. ~~including information about: the environmental, economic, and health benefits of EV transportation; basic maintenance and charging of EVs; electric rates designed to encourage EV use; and local, state, and federal incentives available for purchase of EVs.~~ Education and outreach do not include general marketing or advertising campaigns.

**5. While some verification of transaction data and calculations may be necessary, CARB should remove the site visit requirement for all covered electrical chargers or, if retained, clarify the Less Intensive Verification option.**

Section 95500(c)(1)(E)1. introduces a new verification requirement applicable to metered residential and non-residential EV charging but exempting nonmetered residential EV charging.<sup>13</sup> SMUD agrees with CARB staff<sup>14</sup> that the growth in the number of LCFS credits generated by EV charging justifies additional assurance that data and calculations reported to CARB are accurate. However, electricity transactions are substantially different from other fuel pathway types, and due to this difference, CARB should consider a different level and scope of verification for these transactions.

As currently drafted, the Proposed Amendments would require site visits to all covered electric charger facilities, only excluding non-metered residential EV

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<sup>13</sup> See 95500(c)(1)(E)1. (specifically exempting EV charging under 95491(d)(3)(A), which includes "Non-Metered Residential EV Charging"; 95491(d)(3)(B) covers metered residential charging, and subsection (C) covers non-residential EV charging).

<sup>14</sup> Appendix E at 117-118 (explaining that the data assurance needs have increased due to the growth and projected growth of transportation electrification).

charging but still including all metered residential and non-residential EV charging.<sup>15</sup> While there may be benefit in performing desktop reviews of electricity transaction data and calculations, CARB should not require verification bodies to perform site visits for EV charging sites. First, site visits would likely only verify the existence of the equipment, which is already accomplished when chargers are submitted to CARB for fuel supply equipment (FSE) registrations. These site visits would at best only confirm the accuracy of the charging equipment and would not provide data regarding charger reliability, inventory, or utilization, which are beyond the current scope of the LCFS program. Since EV charging equipment is standardized and charging data can be collected without a site visit, it is unclear what benefit would be provided from conducting these site visits. Second, these sites vary in size, some include few chargers per site, and many are dispersed throughout broad service areas. The impracticality of annually visiting each covered charger facility throughout the state may be exacerbated if there is an insufficient number of third-party verifiers to conduct site visits. This potentially constrained supply of verifiers and the numerous (and growing) number of chargers is likely to lead to substantial costs. Additionally, accessing covered sites may be particularly difficult since the Proposed Amendments require site visits for any metered residential EV charging and many non-residential charging sites are located on private property.<sup>16</sup> Third, this increased cost may hinder the ability of utilities and others receiving EV charging credits to scale EV charging deployment and solutions. Recognizing the pace and scale of the need for EV charging, CARB should acknowledge that increased costs may disincentivize deployment. SMUD encourages CARB to remove site visit requirements for electricity transactions listed in Section 95500(c)(1)(E)1. since this requirement will not provide meaningful improvement for data accuracy for the LCFS program, may have several practical implementation challenges, and may substantially increase costs that will hinder deployment.

If CARB chooses not to remove the site visit requirements, CARB should clarify the “Less Intensive Verification” requirements.<sup>17</sup> The Proposed Amendments state that fuel reporting entities “only reporting electricity transactions” identified in 95500(c)(1)(E) are eligible for the Less Intensive Verification.<sup>18</sup> Section 95500(c)(1)(E)1. specifically exempts nonmetered residential EV charging from the definition. This would seemingly make all EDUs receiving credits associated with nonmetered residential EV charging (i.e., base credits) ineligible for Less Intensive Verification, since these entities would be reporting electricity transactions not covered by that section. Additionally, as written, fuel reporting entities receiving credits from sources other than EV charging, despite these other sources also being separately subject to verification, would be ineligible for Less Intensive Verification

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<sup>15</sup> See 95501 (stating that “services must meet the following requirements”), 95501(b) (stating “[v]erification services must include, but are not limited to, the following:”), 95501(b)(3) (requiring site visits).

<sup>16</sup> See footnote 13 (explaining that only non-metered residential EV charging is exempted under 95500(c)(1)(E)1.).

<sup>17</sup> 95501(h).

<sup>18</sup> *Id.*

for the portion of their data associated with verification of their electricity transactions. For example, a fuel reporting entity reporting hydrogen fuel cell vehicle fueling<sup>19</sup> that also reported covered electricity transactions would seemingly be completely ineligible for Less Intensive Verification, despite these hydrogen transactions requiring separate verification. Instead, CARB should clarify that fuel reporting entities are eligible for the Less Intensive Verification for any verification required by 95500(c)(1)(E) and this verification option is only available for electricity-based transactions, but reporting other transaction types does not revoke eligibility.

Finally, if CARB chooses not to remove site visit requirements entirely, CARB should consider providing clearer guidelines on when site visits may be required for electricity transactions. Currently, the Proposed Amendments give the verification body the discretion to conduct site visits where “deemed necessary” to achieve reasonable assurance.<sup>20</sup> Vesting this discretion with the verification body may create an incentive to conduct site visits where unnecessary or call into question the fairness and objectivity of verification results, given the Less Intensive Verification section does not provide any meaningful review or standards for making this determination.

## 6. Conclusion

Thank you for the opportunity to provide feedback on the Proposed Amendments. SMUD looks forward to working with CARB and stakeholders to develop proposed regulatory changes that strengthen the LCFS regulation and promote widespread transportation electrification.

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<sup>19</sup> See 95500(c)(1)(D) and (F).

<sup>20</sup> 95500(h)(5).

/s/

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cc: Corporate Files (LEG 2024-0023)