February 20, 2024

Honorable Chair Liane Randolph
California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

Re: Northern California Power Agency's Comments on Proposed Amendments to the Low Carbon Fuel Standard Regulation

The Northern California Power Agency ("NCPA") respectfully submits these comments to the California Air Resources Board ("CARB") regarding amendments to the Low Carbon Fuel Standard ("LCFS") regulation as drafted in the Proposed Regulation Order posted on December 19, 2023.

NCPA was established in 1968 to construct and operate renewable and low-emitting generating facilities and assist in meeting the wholesale energy needs of its 16 members: the Cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, Shasta Lake, and Ukiah, Plumas-Sierra Rural Electric Cooperative, Port of Oakland, San Francisco Bay Area Rapid Transit District, and Truckee Donner Public Utility District – collectively serving nearly 700,000 electric consumers in Central and Northern California.

NCPA supports the LCFS program as an essential and effective strategy for diversifying California's transportation fuels and significantly reducing greenhouse gas ("GHG") emissions from the transportation sector to further the state's climate change goals. POUs are uniquely positioned to complement the state's transportation electrification efforts by tailoring programs to the specific needs of the communities they serve. As POUs have no shareholders or profit motivations and are directly accountable to their customers through locally elected public officials, they serve as their customers' caretakers of LCFS credits. LCFS credit revenue is a critical funding source for transportation electrification incentive programs, and LCFS funds are directed back into the community.

With regards to the Proposed Regulation Order, NCPA supports an increase in the carbon intensity targets and the inclusion of the automatic acceleration mechanism to address current and future imbalances in the credit market. However, NCPA requests the following specific changes to the Proposed Order:

I. THIRD-PARTY VERIFICATION OF ELECTRICITY CREDITS

The proposed order expands the applicability of Verification of Quarterly Fuel Transactions Reports in section 95000(c) to include all types of electricity credits except for base credits. While some verification of electricity credits may be warranted, the Proposed Order does not adequately recognize fundamental differences between electricity and other fuel types. This change will disproportionately impact small fleets, non-profits, and small and rural cities.

A. Low-Volume Charging Should Be Exempt from Verification Requirements

The deferment of verification for entities generating fewer than 6,000 credits doesn't go far enough to protect entities from the high costs of verification, as even verification every three years may lead to costs that exceed the proceeds from credits generated during that period. Entities generating a low number of credits, perhaps under 2,000 credits per year, should continue to be exempt from the verification requirements to ensure that we aren't inadvertently causing barriers to entry for smaller entities. These barriers exist for entities generating a low volume of electricity credits as well as entities dispensing low volumes of low-carbon liquid fuels like compressed natural gas.

Many NCPA members own and operate a small number of EV chargers within their territories as a public service for their communities and to ensure charger availability. This service is especially critical in remote areas, underserved areas, and areas with lower EV adoption, as it may not yet be profitable for larger charger companies to invest in infrastructure in such locations. However, if Cities and Utilities are not generating enough LCFS credits to cover the cost of verification, they will be less likely to participate in the LCFS, expand charger availability, and invest credit proceeds into their communities.

Based on our experience, costs for annual verification services could easily exceed the proceeds generated NCPA, NCPA Members, and customers with small fleets. It's also unclear whether there are enough accredited verifiers available to support verification of every entity participating in the LCFS, which may cause costs to increase further. Expanding the existing verification requirements may cause the cost of LCFS to be far greater than the benefits provided to small entities looking to invest in lower-carbon fuels.

NCPA itself, as a public agency with a small fleet, has invested in charging infrastructure at its headquarters, and its participation in the LCFS allows the aggregation and sale of credits on behalf of NCPA Members. The proposed verification requirements would likely cause NCPA to drop out of the LCFS, making it more difficult for our small utility Members to participate as well.

B. Site Visits Should Be Based on an Assessment of Risk

The specific process for third-party verification is set forth in section 95501 and is essentially unchanged by the amendments, despite the expansion to various types of electricity credits.

The regulatory requirements for site visits are drafted inflexibly and do not differentiate between fuel pathways and quarterly fuel reports. For example, the regulations require the same verification steps for a hydrogen facility as a single EV charger reporting 1 MWh of charging per month. EV charging stations are largely standardized pieces of equipment with existing accuracy regulations. Requiring site visits will yield very little data of value and will instead be wasteful of time and resources.

The regulation should be amended so that site visits are not required for quarterly fuel reports for electricity credits; instead, desktop reviews should be relied on whenever possible. The language in 95501 (b)(3) *Site Visits* should be amended to recognize that the verifier should only conduct site visits if warranted after assessing risk. Residential charging, in particular, must be exempt from site visits, as a requirement to visit hundreds of thousands of homes would be disruptive and, frankly, alarming to residents. CARB should also consider additional methods for reducing the burden of verification, such as data sampling.

C. <u>The Less Intensive Verification Process Should Be Allowed for Entities with Deferred Verification</u>

While the regulation does incorporate a new process allowing for "less intensive verifications" for certain entities only reporting electricity transactions, the mechanism also appears to require annual verifications, thereby undoing any good achieved by the deferment for entities under 6,000 credits. The provisions in section 95501 should remove the word "annual."

II. REQUIREMENTS FOR UTILITY HOLDBACK CREDITS

The amended section 95483(c)(1)(A)(6) of the Proposed Regulation Order makes several changes to the use of proceeds from residential base credits issued to electrical distribution utilities ("EDUs"). NCPA supports the revisions to the percentage allocation of base credits to holdback credits as it will further transportation electrification programs tailored to community needs and invested in hard-to-reach communities, including disadvantaged and low-income communities.

However, the requirements for holdback credits must recognize that program needs will vary based on territory and population being served, and should not establish barriers to participation that keep out utilities with a need for funding to support transportation electrification programs.

A. <u>Caps for administrative costs for equity programs should remain at 10%</u>

The costs associated with the development and implementation of equity programs are vital to the success of such programs, and reducing the current cap from 10% to 5% is unrealistic and inconsistent with the needs for administering such programs. Smaller utilities, in particular, have higher administrative costs and fewer resources to administer programs that support the adoption of EV technology and deployment of EV infrastructure in equity communities.

Administrative costs contain a number of fixed costs that cannot be simply cut in half due to a change in the regulation, and those fixed costs may naturally require a higher percentage of program costs for smaller utilities. Furthermore, programs run by small utilities will never benefit from the economies of scale that a larger program like the Clean Fuel Reward will experience.

CARB should maintain the current cap of 10% for administrative costs and its current guidance detailing what costs are included. If CARB finds it necessary to amend its definition of administrative costs or its cap, it should include a distinction between large EDUs and small and medium EDUs.

B. <u>The definition of "Rural" should be updated to reflect a change in U.S. Census Data</u>

NCPA supports the continued inclusion of "rural areas" as eligible for equity project funding; rural communities face unique challenges that require additional assistance and support to ensure the adoption of zero-emission vehicle technologies. However, the definition of "rural" needs to be updated as the U.S. Census Bureau no longer reports rural percentages for census tract population.

The Census Bureau now defines rural as "all population, housing, and territory not included within an urban area." NCPA recommends amending the definition of "rural" within the LCFS to align with the U.S. Census Bureau's use of "non-urban" for rural census tracts:

"Rural Area" means a census tract ~~with at least 75 percent of its population~~ identified as ~~rural~~ <u>non-urban</u> by the latest US Census data.

C. <u>The Equity Requirement for POUs should Remain at 50%</u>

In alignment with the posted "Purpose and Rationale for Low Carbon Fuel Standards Amendments," the equity requirements for POUs should remain at 50%. POUs represent specific and limited territories within the State, with a wide variety of populations, EV densities, and community needs. Designing and implementing effective transportation electrification programs for low-income and/or disadvantaged communities can be challenging, and the uptake and timing of projects is difficult to predict. There will be natural fluctuations in program spending year-to-year, and an annual requirement of 50% allows for better planning to maximize the impact of equity spending.

The current regulatory structure successfully prioritizes transportation electrification support for equity communities, and the continuation of flexibility in annual program spend is needed to ensure the design of successful and meaningful programs in POU territories. In addition to the POUs' equity programs, POUs are investing in transportation electrification in a myriad of ways that benefit their communities as a whole, such as grid modernization and public charging infrastructure.

D. <u>The LCFS should not require specific rate structures as a barrier to accessing base credits</u>

The requirement in section 95483 (c) for EDUs to specifically provide rate options is inappropriate and will potentially have negative consequences for transportation electrification programs in areas with low EV adoption. Rates are adopted by POU Governing Boards through a public process and developed to balance system needs and system costs. The five largest utilities in the state already offer rate options to encourage off-peak charging, as do most medium-sized POUs. However, there are POUs that are either 1) unable to adopt such a rate option due to current limitations in metering infrastructure, or 2) do not yet have a need for such a rate option.

Adopting rate options to encourage off-peak charging is an ongoing consideration for all utilities as the deployment of transportation and building electrification increases. It can take years to develop and approve new rate structures. In the meantime, such POUs can encourage off-peak charging through non-rate mechanisms. Requiring a rate option as an eligibility requirement to access base credits could potentially cause POUs to drop out of the LCFS program and, therefore, cease funding for transportation electrification programs in those territories.

Therefore, NCPA recommends striking the following from 95483 (c)(1)(A):

~~(1) EDUs seeking eligibility to generate base credits must provide rate options that encourage off-peak charging and minimize adverse impacts to the electrical grid;~~

E. <u>Additional support is needed to jumpstart transportation electrification in Small POU territories</u>

Approximately 20 small electric distribution utilities (EDUs) in California have not yet opted into the LCFS, often due to limited staff resources and lower EV penetration. The LCFS allocates base credits based on the percentage of EVs in every utility territory, and allocates those credits directly to utilities participating in the LCFS so they can invest in programs that further transportation electrification adoption in their respective territories. Utilities that have not yet joined the LCFS program are unable to receive their allocated base credits, and without base credits they often do not have enough funding available to launch transportation electrification programs, further exacerbating inequities in the deployment of EV charging infrastructure and adoption.

Pursuant to section 95483(c)(1)(A), unallocated base credits are deposited into the joint Clean Fuel Reward (CFR) account but are tracked separately by the CFR program administrator. These accumulated credit proceeds could potentially be reallocated to the state's smallest utilities to help provide the additional funding needed for start-up costs involved in designing and launching transportation electrification programs.

NCPA recommends including regulatory language that allows the CFR Steering Committee to work with the Executive Officer to design one-time transfers to qualifying small EDUs:

Proceeds from non-opt-in EDU base credits that were allocated to the Large EDUs beginning with the deposit of Q2 2019 credits through the deposit of Q2 2024 credits and then transferred to the Clean Fuel Reward program pursuant to section 95483 (c)(1)(A) may be transferred by the Clean Fuel Reward Program Administrator to small EDUs opted in to the LCFS program by March 31, 2025. Any base credit proceeds reallocated in this manner must be spent by the recipient small EDU in accordance with section 95491 (e)(5). The Executive Officer must approve the Clean Fuel Reward Program Administrator's plan for distribution of previously unallocated base credit proceeds prior to any transfers.

F. <u>The list of Holdback Programs should be reorganized and clarified</u>

NCPA supports the California Electric Transportation Coalition's (CalETC) proposed revisions to the list of holdback programs in section 95483 as detailed in its comment letter, which includes the following improvements:

- There should be one pre-approved list of programs, rather than maintaining different program lists for equity and non-equity. Many program types may contain an equity and non-equity component, and the current reporting structure already requires documentation to account for the portion directly benefitting equity communities. Maintaining two separate lists causes confusion and delays in program design.
- NCPA supports including projects for medium- and heavy-duty (MHD) electrification as an "equity" project, but believes the regulations should clarify that any such project should qualify as equity without consideration to location. Pollutants from MHD vehicles disproportionately impact low-income and disadvantaged communities due to their traffic patterns, regardless of where they may be domiciled or refueled.
- The list of agencies that POUs may consult in the creation of workforce development projects should be expanded to include other pertinent entities, such as California Community Colleges, community-based organizations, and POU Governing Boards.
- Education and outreach projects pertaining to transportation electrification technologies and focused on equity communities are still important tools for increased adoption in equity communities, and should be included on the project list.
- Panel upgrades should be explicitly included in the project list, as they are an important component of the infrastructure needed for transportation electrification, particularly in older buildings.
- The project list should consolidate and clarify the eligibility of projects related to clean mobility solutions.

III. CLEAN FUEL REWARD PROGRAM

NCPA supports the revisions to the California Clean Fuel Reward program to prioritize electrification of MHD vehicles and to update the required transfer percentages for utilities. The regulatory language should be amended to clarify that both new and used MHD vehicles are eligible for funding, to provide flexibility for future funding needs for the MHD market. Additionally, the Proposed Order's 5% cap of CFR admin costs should be rejected, and the cap should instead revert to 10% on allowable combined administrative and ME&O costs for the Clean Fuel Reward program, as authorized in the current version of the LCFS Regulation and CPUC Resolutions.

IV. FIXED GUIDEWAY CREDITS

NCPA encourages CARB to revisit the credit mechanisms for fixed guideway systems to ensure that transit systems generate the credits warranted for their role in transitioning Californians to transportation electrification. It is unreasonable for pre-2011 fixed guideway systems to receive a fraction of the LCFS credits that post-2010 fixed guideway systems receive, considering there is no efficiency difference recorded in the actual operation of newer vs. older railway systems. Systems like the Bay Area Rapid Transit (BART) provide public transit services that are essential to California's climate goals, and the inequitable treatment of fixed guideway credits should be rectified in the current rulemaking to help ensure that transit agencies can continue to provide services.

V. CONCLUSION

We appreciate the Board's consideration of these comments, and would like to recognize CARB staff for the robust public process they have managed over the past months to develop the Proposed Regulation Order. We look forward to continuing our collaboration with CARB and other stakeholders to advance transportation electrification and reduce GHG emissions from California's transportation sector.

Respectfully submitted,

Emily Lemei

Emily Lemei
Customer Programs Manager
Northern California Power Agency
651 Commerce Drive
Roseville, CA 95678
emily.lemei@ncpa.com