BEFORE THE CALIFORNIA AIR RESOURCES BOARD

In the Matter of:	***Proposed Regulation Order***
Low Carbon Fuel Standard Program	***Amendments to the Low Carbon Fuel Standard Regulation***

COMMENTS OF THE JOINT POUS ON PROPOSED AMENDMENTS TO THE LOW CARBON FUEL STANDARD REGULATION

The Northern California Power Agency, Southern California Public Power Authority, and California Municipal Utilities Association (Joint POUs) respectfully submit 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 March 6, 2018.

The Joint POUs support the Low Carbon Fuel Standard ("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 in furtherance of the state's climate change goals. With regards to the draft proposed regulation order, the Joint POUs support continuing to allow electric distribution utilities ("EDUs") to earn LCFS credits for residential charging estimated by CARB staff (estimated base residential credits) and updating the EDU carbon intensity values. However, the Joint POUs oppose proposals that would allow automakers to generate either incremental residential credits or non-residential credits.

At the most fundamental level, the LCFS is a fuels regulation and as such credits should be generated by the primary fuel provider. In the case of electricity as a transportation fuel, the

EDU is the primary fuel provider, investing significant resources in not only increasingly lower-carbon generation resources, but also the transmission and distribution system necessary to deliver the fuel to EVs. As a basic principle, LCFS credits generated from electricity should be provided to the EDUs on behalf of their customers, who are responsible for funding the grid infrastructure necessary to support transportation electrification.

Publicly-owned utilities ("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 source for many of the POU transportation electrification incentive programs. By providing EDUs, and POUs in particular, with LCFS credits generated from electricity as a transportation fuel, CARB ensures that the customers that incur the costs to develop and maintain the electric infrastructure necessary to safely and reliably charge EVs also receive the benefits.

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 last couple of years to develop the proposed amendments.

I. RESIDENTIAL EV CHARGING

The revised § 95843 of the proposed regulation order updates the provisions for electricity used as a transportation fuel. Residential EV charging is bifurcated into two credit categories: base credits and incremental credits. The Joint POUs support the proposed regulation order provision that electric distribution utilities ("EDUs") as the only entity eligible

to generate base credits.[1] Additionally, the Joint POUs supports the methodology for calculating base credits for non-metered residential EV credits outlined in § 95486.1(c)(1).

The Joint POUs oppose the proposed regulation order provision that any entity is eligible to generate incremental credits for residential EV charging.[2] As an alternative, the Joint POUs urge CARB to limit eligibility to load serving entities.

With regards to the requirement for non-metered residential EV charging that an EDU must provide rate options that encourage off-peak charging and minimize adverse impacts to the electrical grid,[3] the Joint POUs recommend amending this provision to include "to the extent permissible by Article XIII C of the California Constitution." Proposition 26, approved by California voters in 2010, requires POUs, as local government entities, to charge rates for electric service that do not exceed the reasonable costs to the POU of providing the service.[4] While we believe that Prop 26 compliant rates can be designed that also provide the proposed encouragement for off-peak and adverse-impact minimizing, the requirement would be clearer if it recognized the existence of the Prop 26 provision in Article XIII C.

For either residential or non-residential EV charging, the Joint POUs oppose proposals that would allow automakers to generate LCFS credits from EV charging. EDUs are required to "use all credit proceeds to benefit current or future EV customers." With automakers there is no such guarantee that LCFS credit revenue would be reinvested to the benefit of the local communities in which the credits were generated and this revenue may in fact leave the state entirely. Investments in grid infrastructure—including upgrades to support EV charging—is particularly critical to ensuring the continued growth of EV adoption. Unlike an automaker,

[1] § 95843(c)(1)(A)
[2] § 95843(c)(1)(B)
[3] § 95491(d)(3)(A)(4)
[4] Cal. Const., art. XIII C, § 1, subd. (e), par. (2).

which targets specific customer segments likely to purchase their particular vehicles, POUs focus on brand-neutral investments that benefit the full range of EV customers, including traditionally underserved markets, such as low-income households, multifamily dwelling residents, and small business owners.

As local government agencies that share many of the same public service responsibilities as the State, POUs are uniquely positioned to satisfy the broader policy objective of ensuring our State's transportation electrification programs deliver equitable benefits to all Californians. The Joint POUs strongly encourage CARB to reject proposals that do not provide the same level of equity to the diverse community of current and prospective EV customers.

II. NON-RESIDENTIAL EV CHARGING

Similar to our concerns about incremental credits for residential EV charging, the Joint POUs oppose allowing any entity to generate LCFS credits for electricity supplied for EV charging for on-road applications through non-residential charging equipment.[5] For non-residential EV charging—including but not limited to public access, workplace, fleet charging—site hosts, in addition to the EDU, may incur significant costs to install electric fuel supply equipment ("FSE"). The Joint POUs urge CARB to limit eligibility for non-residential EV credits to those entities bearing the costs to install, operate, and maintain the FSE, as well as grid infrastructure to deliver electricity to the FSE: site hosts and EDUs.

If eligibility is limited to site owners and EDUs, then the Joint POUs support the provision in the proposed regulation order that non-residential EV credits will only be provided if no other entity is generating credits for the electricity dispensed through the same FSE. This

[5] § 95843(c)(2)

will allow for constructive discussions between site hosts and EDUs regarding LCFS credit generation rights.

If eligibility is not limited to site owners and EDUs, then any entity generating LCFS credits for electricity supplied for EV charging for on-road applications through non-residential charging equipment should be required to reinvest revenue from sale of those credits into the EDU service territory in which the credits were generated to ensure that the customers incurring the costs to operate and maintain the grid infrastructure needed to deliver the electricity to the FSE also receive the benefits of the LCFS credits.

III. CA AVERAGE GRID ELECTRICITY LOOKUP TABLE PATHWAY

The current Low Carbon Fuel Standard ("LCFS") program derives the carbon intensity ("CI") of grid electricity from the ninth edition of the U.S. EPA's Emissions and Generation Resource Integrated Database ("eGRID"), which is incorporated into the California-modified Greenhouse gases, Regulated Emissions, and Energy use in Transportation ("CA-GREET") model. As such, the CI for California electricity is based on the 2010 average California generation resource mix.

The California generation resource mix has changed significantly since 2010. According to electricity data from the California Energy Commission's Quarterly Fuel and Energy Report ("QFER"), renewable energy resources represented 25.5% of the Total System Electric Generation in 2016, nearly double the proportion of renewable energy in 2010 (13.9%). Similarly, coal represented 7.7% of the state's generation in 2010 compared to 4.1% in 2016. The increased reliance on renewable energy and decline of coal generation have reduced the carbon intensity of the state's generation resource mix since 2010.

The Joint POUs support maintaining the CI of average grid electricity in a lookup table, and the proposed 93.42 gCO2e/MJ for 2019.[6] Furthermore, the Joint POUs appreciate and support the proposal to annually update the Lookup Table pathway for California average grid electricity used to calculate credits for EV charging. In so doing, the LCFS program will more accurately account for the GHG emissions reductions associated with EV charging from grid electricity that is increasingly generated from renewable energy resources.

IV. ELECTRICITY FOR TRANSPORTATION FUEL—NEW CATEGORIES

The Joint POUs support the proposed regulation order inclusion of new categories of transportation electrification: mobile freight and goods movement equipment,[7] electric truck refrigeration units,[8] and on-road electric motorcycles.[9] In addition to these specific categories, the Joint POUs support allowing any technology that replaces gasoline or diesel with electricity to generate LCFS credits, and encourage CARB to conduct at least one public workshop to explore a broader technology expansion.

V. CONCLUSION

The Joint POUs appreciate your consideration of these comments, and 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,

[6] Table 7-1 in § 95488.5(e).
[7] § 95843(c)(4)
[8] § 95843(c)(5)
[9] Table 5 in § 95486.1(a).

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