DTE VANTAGE

August 27, 2024

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

RE: Low Carbon Fuel Standard 15-Day Amendments

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

DTE Vantage (DTE) appreciates the opportunity to provide the following comments on the August 12, 2024 Notice of Public Availability of Modified Text and Availability of Additional Documents and/or Information for the Proposed Low Carbon Fuel Standard (LCFS) Amendments (15-Day Package). 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.

The LCFS program has encouraged our company to invest millions of dollars in support of California's decarbonization goals by virtue of its historically strong market signal. We are thankful that the California Air Resources Board (CARB) incorporated stakeholder input and took steps in this package to increase the ambition of the program's targets, which we believe are necessary for achieving the state's objectives for reduced emissions in the transportation sector and attracting further investment and innovation.

We also support CARB's inclusion in the proposal of a full credit "true up" after annual verification and believe this modification more accurately accounts for the climate benefits of low carbon fuels.

We are concerned with newly proposed steps to reduce the number of crediting periods for avoided methane emissions from three to two, which will undercut the economics for a number of existing projects. This change unfairly penalizes projects and developers that were early movers in the LCFS program and which invested in decarbonization projects with the understanding that there would be three crediting periods. The continued inclusion of a 4x penalty for instances where a verified CI score is higher than the certified score is also troubling and imposes an outsized penalty on dairy digester projects that have inherent CI variability from year to year. We are also concerned that changes to impose deliverability restrictions into the program via a gas system map are problematic will serve as a barrier to existing low carbon fuels.

We remain grateful for CARB's extensive efforts to solicit feedback from stakeholders who are deeply invested in the LCFS's success, and we respectfully provide additional comments for its consideration.

Increasing Program Stringency Will Accelerate California's Transportation Decarbonization Goals and Enable the Growth of Low Carbon Fuels

Throughout the LCFS amendment process, DTE and other stakeholders have emphasized the need for CARB to clarify the market signal to low carbon fuel producers by tightening the program's targets. We are encouraged by the 9% stepdown that has been included in the 15-Day package, however, based on our own modeling and the independent analysis done by ICF, we continue to believe that CARB should consider even more stringent reduction goals to address the current LCFS market imbalance.

Reversing the tides of the growing credit bank is necessary to stabilize the investment signal needed to bring additional projects online that will fulfill California's economy-wide goals for greenhouse gas (GHG) reductions and meet the state's SB 1383 goals for methane reduction. We remain concerned that if the credit bank continues to swell beyond its current size, credit pricing will remain below the point needed to incentivize new investments or support the continued operations of existing projects.

DTE's internal modeling suggests that the currently proposed changes to the LCFS program are not sufficient to address the growing credit bank. We anticipate the rate of credit generation will continue to grow in the short- and medium-term as a result of renewable diesel refinery conversions and an increasing adoption of electric light-duty vehicles. The cumulative LCFS credit bank now stands at ~26 million surplus credits, and though credit prices have stabilized, are still hovering around all-time lows. Based on the updated targets included in the 15-Day package, we estimate that the credit bank could increase to over 70MM credits by 2030 absent additional changes. Therefore, we encourage CARB to target at least a 40% CI reduction by 2030 to address the credit surplus.

Additionally, we reiterate our support for an auto-acceleration mechanism (AAM) to increase CI target stringency if warranted, as was previously proposed by CARB. Unfortunately, the proposed timeline in the 15-Day Package would delay implementation until at least 2028, effectively limiting this important tool from addressing oversupply. We would recommend CARB adopt the AAM as soon as 2025 to ensure that efficient and prompt actions are taken to balance the market.

Avoided Methane Crediting Remains a Key Policy for Enabling RNG Projects and Maximizing GHG Capture

For projects breaking ground before January 1, 2030, the 15-Day Package institutes limits on the crediting period for avoided methane emissions projects to two consecutive 10-year crediting periods instead of three. Avoided methane crediting is a necessary tool for covering the operating expenses for many existing agricultural and organic waste diversion projects, where profitability is intricately linked with CI scores driven by the avoided methane calculation. Reducing the number of available crediting periods will necessarily decrease the available timeframe for recovering capital costs and justifying investments, and we do not believe CARB has demonstrated a rationale for changing this fundamental policy for driving methane capture projects.

For DTE, this proposed change is particularly problematic for our existing projects that utilized a large portion of their initial crediting period under previous beneficiaries within CARB's Cap and Trade program. Our window to recover costs for these projects would be drastically reduced if CARB proceeds with eliminating the third crediting period. Until an alternative market exists to support continued methane abatement at agricultural operations, DTE Vantage asks that CARB reverse its proposal to phase-out the third avoided methane crediting period.

The "True up" Concept Improvements to Reflect Actual CI Performance are Important for Accurately Capturing the Climate Benefits of Low Carbon Fuels but are Incomplete

The inclusion of a full credit "true up" to include temporary pathways and reflect actual CI performance for all pathways is an important update included in the 15-Day Package, as it recognizes the complete climate benefits of low carbon fuels projects and will reduce the financial impacts project developers currently experience while waiting for provisional pathway applications to be approved.

DTE's hope is that this true up mechanism can be extended into a pathway's provisional period and beyond, however. As pathway CI scores fluctuate within normal ranges of variation from year to year, the most logical true up mechanism would allow pathway holders to true up, both positively and negatively, each year at the conclusion of their annual fuel pathway report period.

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

DTE supports CARB's continued diligence to ensure the integrity of the LCFS program, and we support reasonable measures to recoup any excess credits that may be created as a result of updated CI scores through the aforementioned true up concept. However, we remain concerned with the continued inclusion of a 4x penalty for adjustments in instances when the verified CI is greater than the certified CI for a pathway. Digester-sourced biogas projects have an inherent amount of CI variability that is difficult for a pathway holder to manage and predict. The incorporation of avoided methane emissions as part of the CI calculation of these fuels means that factors outside of the pathway holders' control (e.g. livestock population, manure collection, weather) may result in variations in biogas production, and lead to notable changes in the digester pathways' annual CI scores.

Imposing a 4x penalty for adjustments not resulting from misconduct is unwarranted and unfair. DTE would support a mechanism where the party refunding excess credits received but continues to oppose the 4x penalty, which is unnecessarily punitive and has not been justified by any history of problems within the program. DTE strongly encourages CARB to eliminate this multiplier penalty. Conversely, as previously mentioned, providing a full 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.

Proposed Changes to Demonstrate Deliverability into the California Market Impose Unnecessary Barriers

The provision included in the 15-Day Package directing the Executive Officer to establish a gas system map identifying pipelines that flow into California a minimum of 50% of the time is difficult to understand, appears to misunderstand the interconnected and dynamic nature of the North American gas pipeline system (e.g. what if the pipeline changes to being 51% away from California the next year?), and will only serve as an additional barrier to future RNG project investment. California's energy markets will continue to rely on imports and exports to properly function and we would ask that CARB refrain from implementing additional unwarranted deliverability restrictions on RNG projects.

Conclusion

DTE Vantage appreciates the opportunity to provide additional comments on the 15-Day package. We commend CARB for its efforts to engage the public throughout the amendment process, and we hope it considers another 15-Day Package to the Proposed Rule to further strengthen the LCFS program. As the Agency implements final changes to the rulemaking, we strongly encourage CARB to implement the following modifications:

- Strengthen the CI reduction target to at least 40% by 2030,
- Effectuate the auto-acceleration mechanism in 2025,
- Reverse the elimination of the third avoided methane crediting period,
- Maintain the full credit "true up" provisions while removing the onerous 4x penalty for CI exceedance, and
- Avoid unnecessary deliverability requirements into the California market.

Thank you for your consideration of our comments.

Sincerely,

Philip O'Niel

Vice President – DTE Vantage