August 8, 2022

Ms. Cheryl Laskowski, Branch Chief
Transportation Fuels Branch
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Post-workshop Comments of the Joint CCAs on Potential Changes to the LCFS Program

Dear Ms. Laskowski,

In accordance with the California Air Resources Board's ("ARB") request for feedback regarding the Potential Future Changes to the Low Carbon Fuel Standard ("LCFS") Program public workshop ("Workshop") held on July 7, 2022, East Bay Community Energy ("EBCE"), Marin Clean Energy ("MCE"), Peninsula Clean Energy Authority ("PCE"), Redwood Coast Energy Authority ("RCEA"), San Jose Clean Energy ("SJCE"), Silicon Valley Clean Energy Authority ("SVCE"), and Sonoma Clean Power Authority ("SCP") (collectively, the "Joint CCAs") submit the following comments and recommendations.

The Joint CCAs appreciate the efforts of ARB staff to evaluate how the LCFS may be modified to continue to serve its mission to decrease the carbon intensity of California's transportation and goods movement sectors and encourage the adoption of a range of zero- and low-carbon alternatives, thereby reducing petroleum dependency and improving air quality for Californians. As California has steadily adopted more aggressive clean transportation goals in response to the climate crisis, the Joint CCAs support a reassessment of LCFS program rules to further align with the state's greenhouse gas ("GHG") emission reduction targets and maximize the benefits a clean transportation system can provide to all Californians.

As the default Load Serving Entities ("LSE") in our respective service areas and local public agencies, the Joint CCAs have been tasked with reducing GHG emissions associated with

the electricity used by our communities. CCAs are structured as not-for-profit public agencies (e.g. Joint Powers Authorities, or as a department of a city government) created by the cities, counties and towns where the CCA serves as the default LSE. Each CCA is governed by a board composed of local elected officials including Mayors and City Council members. Since the LCFS rules were originally created, cities and counties have rapidly launched locally-governed CCA programs in order to provide local oversight and control over the electricity provided to residents and businesses. As the default LSE for more than 200 towns, cities, and counties across California, today CCAs provide nearly 10,000 MW of clean power and serve 11 million customers.[1]

The Joint CCAs continue to develop new clean utility-scale energy projects to supply low carbon-intensity transportation fuels. A recent California Public Utilities Commission ("CPUC") analysis of LSE Integrated Resource Plans ("IRPs") highlighted that CCAs' energy procurement planning includes more diverse resources and higher amounts of GHG-free resources, including renewables, than California's Electric Distribution Utilities ("EDUs").[2]

The Joint CCAs' mandate to advance climate action also lends itself to a shared transportation electrification ("TE") philosophy that centers around broad access to TE solutions, especially for those facing significant barriers to adoption, while minimizing the cost to adopt TE technologies.

In its January comments, the Joint CCAs recommended the following changes to the LCFS program in response to the ARB's December 7, 2021 public workshop:[3]

1. The ARB's rules governing residential incremental charging credits should be applied consistently across all LSEs, to empower customers to generate credits for using clean electricity as a transportation fuel;
2. The Base Credits provision should be revised to identify the LSE serving generation to residential load - which may be an Electrical Distribution Utility or a CCA - rather than solely the EDU, as the base credit generator;

[1] California Community Choice Association, *CCA Impact*, https://cal-cca.org/cca-impact/.

[2] R.20-05-003, ACR dated August 17, 2021, p7-8, https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M399/K450/399450008.PDF.

[3] *See* Comments of the Joint CCAs on Potential Future Changes to the LCFS Program, January 7, 2022.

3. LCFS rules should be changed to ensure that electric vehicle ("EV") charging at multi-unit dwellings ("MUDs") can be captured through the LCFS program to support broader access to clean transportation for these customer segments, which may be harder to reach; and
4. The creation of an Energy Economy Ratio ("EEO") application process.

While the Joint CCAs still recommend that ARB implement the proposed changes to the LCFS program highlighted in their January 2022 comments, the focus of these instant comments is to respond to the specific questions raised by ARB Staff during the July 7, 2022, Workshop. Here, the Joint CCAs focus on three areas:

1. Equity considerations including:
    a. Changing the Classification of EV charging at Multi-Unit Dwellings;
    b. Equitable Credit Generation for All LSEs; and
2. Support for Medium- and Heavy-Duty ZEV Refueling Infrastructure;
3. Phasing Mature Technologies out of the LCFS.

The Joint CCAs look forward to continue to collaborate with ARB to increase the effectiveness and equity of the LCFS program to help facilitate the transition to a zero-emission transportation system.

1. Equity Considerations

a. Changing the classification of EV charging at multi-unit dwellings would better enable the collection of LCFS credits that will create broader access to clean transportation for Multi-Unit Dwelling residents

At its July Workshop, ARB asked stakeholders for feedback regarding equity in the LCFS program. Specifically, Staff noted that they are evaluating a holistic approach to equity, and how to leverage programs and policies to support the successful long-term transition to zero emission vehicles and are seeking feedback on what additional support is needed for achieving this holistic goal. The Joint CCA's commend and support ARB's efforts to take a holistic approach to equity in the LCFS program. We unfortunately know that existing TE infrastructure

is distributed unevenly and inequitably across California. The historic deployment of TE infrastructure in areas with higher rates of EV adoption creates a feedback loop that exacerbates the gap between areas with TE infrastructure access and underserved communities and use cases.[4] This dynamic has concentrated public charging access in areas with higher household income and left underserved communities behind.[5] What's more, roughly eighty-three percent of California EV drivers reside in single-family homes ("SFH") and charge primarily at their residence.[6]

However, MUD residents face significant hurdles to accessing charging. There are currently fewer than 80,000 public and shared private chargers that theoretically could be available to renters.[7] And while there is a clear preference among EV drivers to charge at their residences, there are many barriers to at-home charging for MUD residents which effectively mean it remains largely out of reach. This is because installing electric vehicle supply infrastructure ("EVSE") where an individual lives is far simpler for those who own their SFH. Yet providing charging access at MUDs is a critical element to achieving California's ZEV goals. The CEC forecasted that California will need 330,000 chargers at MUDs in order to support the 8 million light-duty zero-emission vehicles ("ZEVs") anticipated under Executive Order N-79.20.[8] The LCFS could be a powerful financial tool to support programs for EVSE deployment at MUDs and ensure there are equitable opportunities to adopt EVs among for these residents. However, the current design of the program limits that potential.

As the CCAs have proposed in prior post-workshop comments, there is currently a structural barrier that effectively prevents EVSE installed at MUDs from participating in the LCFS

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[4] Hsu, Chih-Wei and Fingerman, Kevin, "Public Electric Vehicle Charger Access Disparities Across Race and Income in California" Transport Policy, Vol. 100 at 59-67 (Jan. 2021), available at: https://www.sciencedirect.com/science/article/pii/S0967070X20309021.

[5] *Id.* at 65.

[6] Nicholas et al. (2019). Quantifying the Electric Vehicle Charging Infrastructure Gap Across U.S. Markets. The International Council on Clean Transportation. https://theicct.org/sites/default/files/publications/US_charging_Gap_20190124.pdf.

[7] CEC, "Electric Vehicle Chargers in California" (webpage), available at https://www.energy.ca.gov/data-reports/energy-insights/zero-emission-vehicle-and-infrastructure-statistics/electric-vehicle.

[8] California Energy Commission, *AB 2127 Assessment*, at 3, https://www.energy.ca.gov/programs-and-topics/programs/electric-vehicle-charging-infrastructure-assessment-ab-2127.

program.[9] ARB staff have advised that charging that occurs at an MUD is to be treated as residential charging, making it subject to the same data collection requirements as other residential charging use cases, namely single-family homes. For CCAs who want to capture incremental residential credits that could be used to further fund TE investment in our communities, existing rules and guidance require the CCA to collect and provide metered charging data from each charging session. Therefore, a CCA would have to collect hundreds of individual charging sessions each year for each residential EV driver in its service area. Aside from the administrative burden of collecting this data for each MUD resident, it is in fact typically infeasible to do so due to the unique nature of charging at MUDs as explained below. As a result, many MUD credits that could otherwise be available instead go unclaimed thereby reducing the impact of the LCFS program to promote clean transportation among California's MUD and renter communities.

A simple fix to this issue would be to change the classification of MUD charging from "residential" to "non-residential" when the charging occurs on a meter that is not tied to an individual resident's account. It would also better reflect the real-world charging configurations at MUDs and create more efficient pathways for the Joint CCAs and other LCFS participants to claim the credits from their renter-focused TE programs. The Joint CCAs could then reinvest the revenue to scale these programs and expand EV charging access for the renters we serve. It would also align the LCFS rules with how multifamily properties are understood generally since they are commercial properties, operating as commercial businesses, are owned by a company or LLC, and earn revenue through providing housing to their residents.

As explained above, EV charging has achieved very little penetration among MUDs which has effectively excluded many residents from charging access where they live and made EV adoption more difficult for these Californians. A primary reason is the additional cost and complications associated with installing EV charging at MUDs when compared to single-family homes ("SFH"). MUDs suffer from split incentives between residents who would benefit from EV charging access where they live and the MUD property owners responsible for the capital

[9] *See* Comments of the Joint CCAs on Potential Future Changes to the LCFS Program, January 7, 2022.

upgrades necessary to provide that access. Additionally, many renters are low- or middle-income. Unfortunately, these and other barriers reinforce the unfortunate reality that driving electric is in large part only available to single family homeowners. In recognition of the sizable renter populations in many of our service territories,[10] the Joint CCAs' TE programs prioritize charging access for renters to ensure these customers have the option to participate in and benefit from the state's transition to a zero-emission transportation system.[11]

However, typical MUD charging is more akin to non-residential charging than residential charging at SFHs. While SFH residential charging is associated with a residential meter that is tied to an individual customer and a limited number of EVs, MUD charging often occurs in parking lots and garages available to all the MUD tenants. The associated electricity usage is charged to the MUD owner or operator and not to individual residents, is captured on commercial meters, and billed using commercial rates. To claim these MUD credits per current LCFS rules, the Joint CCAs would need to gather vehicle identification numbers ("VINs") for each individual EV using the charging infrastructure. And as MUD EVSE is often installed on common meters not associated with individual resident accounts, it is almost impossible to tie individual charging sessions to specific EVs, especially given that the charging equipment cannot collect VINs on its own. Collection of the data is made even more difficult, or even impossible, due to how common it is for MUD residents to move in or out of a property, requiring regular, manual clean-up of any data to ensure accuracy before submission to claim credits. This is very different from SFH charging where CCAs have standard touch points with a customer associated with an individual SFH meter, like when starting or terminating service.

The Joint CCAs propose that EV charging at MUDs instead be classified as "non-residential" when not tied to and billed using an individual resident's meter. This would allow charging station owners or their designees to efficiently collect and utilize the credits associated with charging, adding further incentive for LCFS participants to invest in MUD charging. These

[10] For example, renters make up 47% of the residents in EBCE's service territory, 36% of residents in MCE's service territory, and 42% of residents in RCEA's service territory.

[11] R.18-12-006, *Opening Comments of the Joint Community Aggregators on Section 10 of the Energy Division Staff Proposal for a Transportation Electrification Framework*, Attachment 1 – CCA Transportation Electrification Initiatives: Examples of Existing Programs, September 11, 2020, https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M346/K827/346827200.PDF.

credits would otherwise be lost because of the metering arrangement at the MUD and the inherent nature of EV charging at MUDs. Capturing these credits would create opportunities for the CCAs to reinvest those claimed credits into MUD charging programs, allowing the LCFS to provide greater charging access to all renters, and especially those who are low and moderate income.

b. Changes to Allow Equitable Credit Generation Among LSEs

As noted in the Joint CCA's prior comments, despite current limitations with the LCFS program, CCAs have demonstrated a cost-effective and community-based approach to the design of our programs to provide local impacts and promote community equity and resilience among our customers. However, the Joint CCAs recommend that the ARB adopt the following modifications to the LCFS program rules to allow for equitable credit generation for all LSE's:

- The ARB's rules governing residential incremental charging credits should be applied consistently across all LSE to empower customers to generate credits for using clean electricity as a transportation fuel;
- The Base Credits provision be revised to identify the LSE serving generation to residential load - which may be an Electrical Distribution Utility ("EDU") or a CCA - rather than solely the EDU, as the base credit generator;

These recommendations, if adopted, would further increase the equity of the LCFS program and better support state goals for LCFS funds by utilizing the CCA's capacity to increase the adoption of light, medium, and heavy-duty ZEVs and necessary refueling infrastructure. Generally, the Joint CCAs support efforts by ARB to enable equitable participation for CCAs, which would allow CCAs to further fund ZEV investment in their communities. Additionally, the Joint CCAs support any efforts to enable customers to directly share the benefits of LCFS credit revenue.

For example, MCE has launched a pilot program to administer and share the benefits of LCFS credit sales value with commercial, municipal, and multi-family customers who operate EV

chargers and/or electric forklifts, and are enrolled in Deep Green electricity service.[12] Through this program, MCE aims to help customers in its local communities, who otherwise may have difficulty claiming LCFS credit value themselves due to reporting responsibilities and credit minimums, unlock a revenue stream that can directly support their transportation electrification efforts. Further, MCE plans to reinvest its share of credit sales directly into its transportation electrification program portfolio.

Sonoma Clean Power uses 100% of the funds from customer-generated LCFS credit sales to further invest in transportation electrification in Sonoma and Mendocino Counties. Proceeds from sales have provided direct incentives to cover 90% of the cost of residential level 2 chargers, electric bikes for income-qualified customers, and point-of-sale credits to reduce the sticker price of new or used electric vehicles.

Adopting these proposed changes would remove barriers currently faced by CCAs that limit our ability to leverage LCFS revenue to support the ZEV charging infrastructure initiatives that we provide for our communities and would in turn ensure the broader success of the LCFS program.

2. Support for Medium- and Heavy-Duty ZEV Refueling Infrastructure

ARB staff also asked stakeholders for input on providing medium- and heavy-duty ("MHD") ZEV refueling infrastructure support. The Joint CCAs support the concept of opening a new credit generation pathway for refueling infrastructure ("RI") based on the public light-duty ("LD") model. There are clear signals, such as Executive Order N-79-20,[13] that California must provide greater support for the MHD ZEV transition, and the LCFS program is well positioned to be a tool to achieve that goal. ARB estimates that reaching this goal will require 180,000 zero-emission M/HD vehicles by 2030. As reported in its recent AB 2127 Assessment, the California

[12] MCE, "How to Add Quarterly Revenue to Your Electric Vehicle Charging Stations" (webpage), available at https://www.mcecleanenergy.org/lcfs-ev-charging/#:~:text=MCE%20has%20launched%20a%20pilot,chargers%20and%2For%20electric%20forklifts.

[13] Executive Order N-79-20 set a 2045 target of 100 percent zero-emission M/HD vehicle operations (inclusive of hydrogen FCEVs, PHEVs, and BEVs) in the State.

Energy Commission ("CEC") projects that to hit the 2030 targets, California will need nearly 157,000 chargers to support 180,000 zero-emission MHD vehicles. The Joint CCAs therefore encourage the ARB to include RI credits to open up a new revenue source to support the MDH sector.

Staff asked stakeholders whether MHD infrastructure crediting should support dedicated fleet refueling and public refueling. The Joint CCAs would recommend that the RI pathway be eligible for dedicated fleet refueling as well as public refueling. As commercial and municipal fleet managers across California are exploring opportunities to transition to ZEV fleets, they are often faced with significant technical and financial barriers to adoption, related to both the ZEVs and the charging infrastructure that their lots will need to support the new fleets. CCAs are providing both financial and technical support for fleets in their service areas and in many cases the simplest means for a fleet manager to ensure that their ZEVs will have access to sufficient charging is to install that infrastructure on their own lots. And many MHD fleets are domiciled in lots that are not open to the public or are not located in areas where the public may park. If dedicated fleet refueling RI is not eligible under the new MHD RI pathway it would be a missed opportunity to spur these local and commercial fleets to electrify. Credit pathways to support both use cases would ensure that MHD ZEVs would be able to utilize infrastructure participating in the LCFS program regardless of whether they are consistently domiciled in the same lot or not and provide the broadest support for California's MHD ZEV goals.

3. Support Phasing Mature Technologies out of the LCFS

Finally, Staff at the Workshop also asked for stakeholder comments on whether to phase out electric forklifts from the program. Staff noted that the current cost of ownership of these zero-emission ("ZE") technologies are currently lower than other participating technologies even without the LCFS benefit, which would suggest that LCFS support might not be necessary for the market to continue to adopt electric forklifts. Staff also highlighted that

forklift fleets are currently 50% electric and that 27% of electricity credits issued in 2021 came from electric forklifts.

As a general matter, the Joint CCAs want to ensure that the LCFS program and the credit market remains healthy to ensure that it continues to be a successful tool for reducing California's transportation emissions. The Joint CCAs also agree that the data provided by ARB staff would suggest that electric forklift technology has reached a level of maturity in the market that suggests it no longer needs support from the LCFS program. In addition, the Joint CCAs share the concerns of many LCFS participants around the recent decrease in the value of LCFS credits. We are sensitive to the concerns raised by certain commenters during the Workshop that removing LCFS support could slow the continued transition to electrify California's remaining forklift fleet. However, there are other transportation sectors where zero ZE technologies still lag far behind, suggesting that LCFS should prioritize those sectors where more substantial gains still need to be made to achieve California's ZEV goals.[14]

Conclusion

As noted above, the Joint CCAs fully support the goals and objectives of the LCFS program to reduce the carbon content of the transportation fuels in California. The Joint CCA request to reclassify MUD charging as "non-residential" will ensure more equitable deployment of EVSE supported by the LCFS program as charging attributed to EV drivers who live at MUDs by eliminating unworkable data collection to collect credits for the associated charging. The Joint CCAs are also encouraged to hear that staff are considering expanding ZEV capacity credits for MHD use cases. The Joint CCAs thank the ARB for taking the time to consider its recommendations and look forward to continuing to work to advance ZEV adoption among Californians.

[14] CEC, "New ZEV Sales in California" (webpage), available at https://www.energy.ca.gov/data-reports/energy-almanac/zero-emission-vehicle-and-infrastructure-statistics/new-zev-sales.

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