

March 15, 2023

## **FUELCELL ENERGY INC. COMMENTS ON PRELIMINARY DISCUSSION DRAFT OF POTENTIAL REGULATORY AMENDMENTS TO THE LOW CARBON FUEL STANDARD AND POTENTIAL AMENDMENT CONCEPTS**

FuelCell Energy, Inc. (FCE) appreciates this opportunity to comment on the Preliminary Discussion Draft of Potential Regulatory Amendments to the Low Carbon Fuel Standard and Potential Amendment Concepts

### **Introduction**

FCE is a global leader in the stationary fuel cell market, providing affordable and clean onsite energy, 24/7 at sites including wastewater treatment plants, hospitals, universities, industrial facilities and serving utilities including at substations. FCE has been a participant for many years in California's clean energy programs, and has made meaningful contributions to assist in meeting California's goals with respect to emissions reductions, microgrids, and biofuels. FCE fuel cells are a clean, reliable energy platform that produce power and can deliver solutions with additional features such as biogas clean-up, heat recovery for combined heat and power and vehicle quality hydrogen for zero-emissions fuel. FCE fuel cell platforms are currently deployed throughout the state of California, including at sites located within disadvantaged communities.

FCE generally supports the rulemaking objectives of using the LCFS to increase low-carbon fuel supply, provide long-term price signals, increase regulatory clarity to provide incentives for deeper transportation sector decarbonization, and reduce risks of backsliding on GHG benefits. We also support the process for rulemaking development. By initially identifying regulatory concepts, taking comments, and carefully examining GHG/air quality, public health, and economic impacts before formally issuing proposed rules, CARB can help avoid unintended consequences and leverage the knowledge and experience of stakeholders.

### **Zero Emission Vehicle Refueling**

In the process of considering amendments to the existing structure of LCFS incentives and credits for Zero Emission Vehicle (ZEV) refueling, FCE strongly urges CARB to focus on the fundamental goal of decarbonization. Non-combustion technologies are superior to combustion in general as resources that supply clean power for EVs or grid power or any purpose. The LCFS should encourage and reward use of ZEV fuel that comes from non-combustion sources, and structure LCFS incentives to discourage the use of GHG-emitting combustion technology as fuel sources.

As a general principle, using electricity generated from a combustion source to charge a ZEV is counterproductive and any regulatory mechanism that rewards use of combustion technologies to fuel

ZEVs represents a step backward given the policy objective of reducing emissions of GHGs and other pollutants that affect air quality and human safety. Environmental policies and monetary incentive programs, including the LCFS, need to take a strong stance on reducing particulate emissions and SO<sub>x</sub> and NO<sub>x</sub>. Given that research shows that a large portion of vehicular emissions come from tires and brake dust, the LCFS should have an obligation to consider emissions beyond carbon in the transportation fuels as a way to truly ensure air emissions reductions. Prioritizing non-combustion electricity generation for ZEV charging, including biogas (which also prevents the flaring or venting of methane) would signal that the CARB and the LCFS take particulate emission reduction seriously.

FCE conceptually supports updating Tier 1 calculators for biomethane and addition of a simplified calculator for Hydrogen. (Discussion Draft at 27) As CARB Staff work through these and other proposed concepts, FCE encourages direction of thought and policy development aimed at supporting expanded use of biomethane for production of hydrogen. This use case, which can be a key to optimally decarbonizing medium and heavy-duty vehicles should be a priority for future discussion and policy development.

#### **Deliverability Requirements for Pipeline Biomethane**

The Discussion Draft includes a placeholder for new “deliverability requirements” for pipeline biomethane, and indicates that CARB staff is considering aligning the deliverability requirements for biomethane with “similar provisions in the RPS and CPUC 1440 program” with an exception for biomethane used to produce hydrogen. (Discussion Draft at 28) FCE supports the exception for biomethane used to produce hydrogen, but opposes this conceptual proposal generally because it would extend an already flawed and problematic RPS requirement to the LCFS. FCE strongly encourages CARB Staff to investigate how the current RPS deliverability requirements are affecting (and obstructing) delivery of otherwise eligible California-produced pipeline biomethane from source to end users, and discouraging the expansion of biomethane production. If this use of the RPS deliverability requirements is considered, CARB should adopt the hydrogen exception and coordinate its investigation of the issue with the upcoming RPS guidebook review process anticipated for 2023 in Docket 21-RPS-02 at the California Energy Commission.

Respectfully submitted,

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/s/

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