

**BEFORE THE  
AIR RESOURCES BOARD  
OF THE  
STATE OF CALIFORNIA**

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY  
COMMENT ON  
ON-ROAD ELECTRIC VEHICLE ISSUES**

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PUBLIC POWER AUTHORITY**

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**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY  
COMMENT ON  
ON-ROAD ELECTRIC VEHICLE ISSUES**

The Southern California Public Power Authority (“SCPPA”)<sup>1</sup> appreciates this opportunity to comment on the on-road electric vehicle issues that were discussed at the Low Carbon Fuel Standard (“LCFS”) workshop conducted by the Air Resources Board (“ARB”) staff on August 5, 2009.

Regarding the issue about the point of regulation in the electric sector, for the reasons discussed below, regulated parties for electricity should be determined in the order specified in the March 5, 2009 Initial Statement of Reasons (“ISOR”). As a result, the regulated parties would be Load Servicing Entities (“LSEs”) unless the compliance obligation and associated benefits are transferred by contract to another party in the ISOR’s descending list of possible regulated parties.

Regarding the issue of direct metering for quantifying the LCFS credit for on-road electric vehicles prior to January, 2015, SCPPA members do not expect to need alternatives to direct metering during the years 2012-2014. They are aggressively pursuing Automated Meter Initiative (“AMI”) and associated “Smart Grid” technologies, obviating any need for alternatives. However, SCPPA does not oppose revising the regulations as proposed in the Modified Regulation Order that was discussed at the workshop so as to provide some flexibility to others.

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<sup>1</sup> SCPPA is a joint powers authority. The members are Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles Department of Water and Power, Imperial Irrigation District, Pasadena, Riverside, and Vernon. This comment is sponsored by Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Imperial Irrigation District, Pasadena, and Riverside.

**I. THE REGULATED PARTIES FOR ELECTRICITY SHOULD BE DETERMINED IN THE DESCENDING ORDER THAT IS PRESENTED IN SECTION 95484(a)(6) IN THE PROPOSED REGULATION ORDER.**

There is an issue about who should be the regulated parties for electricity under the LCFS regulation. Table ES-4 in the ISOR defined the “regulated party” for electricity as follows:

The regulated party will be either the load service entity supplying the electricity to the vehicle or another party that has a mechanism to provide electricity to vehicles and has assumed the KCFS compliance obligation.

ISOR at ES-10, Table ES-4. This definition left open the question about which party would be the regulated party if both an LSE and a third party were involved in the chain of supply of electricity to vehicles.

**A. The Ambiguity in the ISOR.**

In the ISOR, the staff recognized that “Load Servicing Entities will most often be the regulated parties for electricity provided under the [LCFS] regulation.” ISOR at V-13. The staff noted, however, that LSEs are not the only potential regulated parties: “There may be cases where a separate entity has contracted with a Load Servicing Entity to install charging stations for electric transport.” *Ibid.* The staff indicated that if a third party contracts with an LSE to install charging stations for electric transport, that third party rather than the LSE would become the regulated party for purposes of LCFS regulation: “In these cases, the entity supplying the electricity to the vehicle would become the regulated party, as specified in the proposal.” *Ibid.* As a result, the third party that has contracted with a Load Servicing Entity to install charging stations would automatically assume the rights and obligations of being a regulated party from the LSE even if those rights and obligations had not been contractually conveyed.

Elsewhere in the ISOR, however, the staff appears to indicate that LSEs would be the regulated party for LCFS regulatory purposes only if the LCFS compliance obligation as well as

the right to “install charging stations for electric transport” were conveyed by contract from an LSE to another party:

Staff proposes Load Servicing Entities (LSE) and other providers of electricity services serve as regulated parties for the LCFS regulation for electricity used for transportation purposes. The *compliance obligation* can be transferred by contract to another party that assumes the responsibility for meeting the requirements of LCFS regulation. Such downstream entities identified in the proposal include electricity services suppliers (those supplying bundled infrastructure and other related services); certain owners and operators of electric charging equipment; and homeowners that have their own electric charging equipment.

ISOR at V-14 (emphasis added).

**B. The Ambiguity in the Regulation as Proposed in the ISOR.**

The section of the proposed regulation that was attached as Appendix A to the ISOR does not directly conflict with the view that the LSE would be the regulated party for electricity unless the rights and obligations of being the regulated party were contractually transferred to a third party in addition to the right to “install charging stations for electric transport.” Section 95484(a)(6) provides that the regulated party would be “determined in the order specified” in the regulation, as follows:

(6) *Regulated Parties for Electricity.*

For electricity used as a transportation fuel, the regulated party is determined in the order specified below:

- (A) The load-serving entity or other provider of electricity services unless section 95484(a)(6)(B), (C), or (D) below applies. “Load-serving entity” has the same meaning specified in Public Utilities Code (PUC) section 380. “Provider of electricity services” means a local publicly-owned utility, retail seller (as defined in PUC section 399.12(g)), or any other person that supplies electricity to the vehicle charging equipment;
- (B) The electricity services supplier, where “electricity services supplier” means any person or entity that

provides bundled charging infrastructure and other electric transportation services and provides access to vehicle charging under contract with the vehicle owner or operator;

- (C) The owner and operator of the electric-charging equipment, provided there is a contract between the charging owner-operator and the provider of electricity services specifying that the charging equipment owner-operator is the regulated party;
- (D) The owner of a home with electric vehicle-charging equipment, provided there is a contract between the homeowner and provider of electricity services specifying that the homeowner may acquire credits.

ISOR, A-23 through A-24, §95484(a)(6).

However, section 95484(a)(6) is ambiguous. It is unclear from the section whether the LSE or the “entity that provides bundled charging infrastructure” would be the regulated party for electricity if both claimed to be the regulated party for purposes of receiving LCFS credits but the rights and obligations of being the regulated party had not been contractually transferred to a third party. It seems the third party as well as the LSE could still claim to have the rights and obligations of being the regulated party.

**C. The Ambiguity in Section 95484(a)(6) Should Be Resolved in Favor of LSE Customers.**

The ambiguity in section 95484(a)(6) should be resolved by revising the regulation so that it is clear that the LSE shall be the regulated party for electricity unless the LSE has contracted with a third party and has specifically assigned to third party the rights and obligations of being the regulated party for LCFS regulatory purposes.

LSEs are going to be required to assume additional costs that result from electrification of the transportation sectors. Currently, there is no mechanism in place that assures that existing LSE customers will not be burdened by the incremental costs of electrifying the transportation sector. The LCFS program is the only complementary measure that is mentioned in the ARB’s

AB 32 plan that has a potential for being a source of revenue that the electric sector would obtain from the transportation sector to defray to some degree the increased costs that LSEs will be incurring in the course of electrifying the transportation sector.

Thus, LSEs should be the default regulated party for electricity for LCFS regulatory purposes unless by contract the LSE specifically agrees to have a third party become the regulated party so as to assume associated rights and obligations. Accordingly, SCPPA suggests that section 95484(a)(6)(B) be modified as follows:

The electricity services supplier, where “electricity services supplier” means any person or entity that provides bundled charging infrastructure and other electric transportation services and provides access to vehicle charging under contract with the vehicle owner or operator, provided there is a contract between the load-serving entity or other provider of electricity services and the electricity services supplier specifying that the electricity services supplier is the regulated party;

**D. The Decision-Makers About Whether the Rights and Obligations of LSEs Should Be Passed to Third Parties.**

Under section 95484(a)(6)(B) as modified in this manner, the regulatory body that has authority over the LSE would be the ultimate decision-maker about whether the LSE would be permitted to enter into a contract with a third party to transfer the rights and obligations of being an LCFS regulated party to a third party. For publicly-owned utilities that are members of SCPPA, the decision-making body would be the city council or board that governs the utility. For investor-owned utilities that are subject to the jurisdiction of the California Public Utilities Commission (“CPUC”), the decision-making authority would ultimately rest with the CPUC.

On August 24, 2009, the CPUC issued an Order Instituting Rulemaking to Consider Alternative-Fuel Vehicle Tariffs, Infrastructure and Policies to Support California’s Greenhouse Gas Emissions Reductions Goals. Rulemaking (“R.”) 09-08-009. In the rulemaking, the CPUC “will address the scope and role of the Commission’s regulatory authority over electric vehicle

service providers, including third-party resellers providing electricity to electric vehicles, including the question of whether the Commission has jurisdiction over such entities.” R.09-08-009 at 5. Additionally, the CPUC “will consider the appropriate level of regulatory oversight, including whether third-party resellers providing electricity to electric vehicles should be exempted from our regulation as an electric utility, via a statutory change if necessary.” *Ibid.* Particularly, the CPUC will address issues “related to the relationship between regulated electric utilities and third-party electric vehicle service providers that are proposing and/or implementing charging services at residential, commercial and public locations....” *Ibid* at 21.

Thus, it seems likely that during the course of its rulemaking proceeding the CPUC will opine on the extent to which IOUs should contractually pass their status as being LCFS regulated parties to what the CPUC calls “third-party electric vehicle service providers.” Decisions regarding that relationship should be left to be determined by the CPUC for investor-owned utilities and to the governing boards of publicly-owned utilities.

## **II. QUANTIFYING THE CREDIT FOR OFF-ROAD VEHICLES.**

The Modified Regulation Order that was discussed at the August 5, 2009 workshop modified the metering requirements that were proposed in the ISOR. Section 95484(c)(3)(C) of the regulations that were proposed in the ISOR require reporting of the electricity dispensed to vehicles for transportation use with the amount of electricity being quantified by actual metering. ISOR, Appendix A at A-29. The ISOR explained:

The proposal’s metering requirements very depending on the type of charging facility involved. Because private fleet and public-access charging facilities will be supplying electricity only to electric vehicles, the proposal requires for these facilities only the total amount of electricity dispensed for transportation use (in KW-hr) in each compliance period. On the other hand, electricity supplied to residential charging facilities can supply both transportation electricity and non-transportation electricity (i.e., for all other electricity uses in a home). Thus, for residential charging

facilities, the proposal requires direct metering of the electricity provided for transportation purposes.

ISOR at V-14. The ISOR provided for some exceptions to the requirement that the electricity that is delivered for transportation uses be quantified through metering. The ISOR would permit staff to consider amendments to allow alternative measurement methods:

However, to reduce the costs of installing direct metering, staff may consider amendments to allow alternative measurement methods in lieu of direct metering for a specified period of time (i.e., in the early years of the LCFS program when PHEV/BEV penetration is lower). Such alternatives may include meters installed on individual electric vehicles or other methods for measuring the amount of electricity dispensed.

*Ibid.*

Instead of taking the approach taken in the ISOR, the Modified Regulation Order that was discussed at the August 5, 2009 workshop would permit the use of “another method that the regulated party demonstrates to the Executive Officer’s satisfaction is substantially similar to the use of direct metering....” Modified Regulation Order at 29, §95484(c)(3)(C). This use of “another method” would be permitted in lieu of direct metering only prior to January 1, 2015.

SCPPA members are aggressively pursuing AMI and associated smart grid technologies. The SCPPA members anticipate direct metering of the use of electricity as a transportation fuel within their service territories. However, SCPPA members do not oppose the provision for “another method” to be available to other entities prior to 2015 in the interest of furthering the penetration of electricity as a transportation fuel so as to accelerate the resulting reduction in greenhouse gas emissions.

### **III. CONCLUSION.**

For the reasons set forth above SCPPA urges the ARB to determine that the hierarchy for identifying regulated parties for electricity shall be set forth in section 95484(a)(6) as proposed in the ISOR and modified in the manner suggested above. SCPPA does not oppose providing for



“another method” for quantifying the amount of electricity delivered for uses of transportation fuel during the period prior to 2015.

Respectfully submitted,

*/s/ Norman A. Pedersen*

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