COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY TO THE CALIFORNIA AIR RESOURCES BOARD ON THE STAFF REPORT: INITIAL STATEMENT OF REASONS AND PROPOSED AMENDMENTS TO THE LOW CARBON FUEL STANDARD

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TABLE OF CONTENTS (CONTINUED)

COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY TO THE CALIFORNIA AIR RESOURCES BOARD ON THE STAFF REPORT: INITIAL STATEMENT OF REASONS AND PROPOSED AMENDMENTS TO THE LOW CARBON FUEL STANDARD

TABLE OF CONTENTS (CONTINUED)

I.

INTRODUCTION

Southern California Edison Company ("SCE") respectfully submits these comments to the California Air Resources Board ("CARB") on the Staff Report: Initial Statement of Reasons and the Proposed Amendments to the Low Carbon Fuel Standard ("Staff Report")[1] and the Proposed Regulation Order,[2] issued in October 2011.

SCE broadly supports the proposed amendments to the Proposed Regulation Order as they relate to electricity as a transportation fuel. SCE commends CARB staff on their efforts over the last year to draft the revised Low Carbon Fuel Standard ("LCFS") regulation language through workshops and working group meetings. CARB staff ensured that the development efforts provided a collaborative and transparent environment for all stakeholders, striving to ensure market efficiency, fairness, ease of administration, while maximizing the number of LCFS credits available in the market. Throughout the Staff Report, CARB staff has identified eight goals for regulated parties for electricity.[3] SCE supports CARB staff's goals. By designating electrical distribution utilities ("EDUs") as the primary regulated party in the residential sector, and the alternate regulated party in the non-residential sector, CARB's proposed language will successfully achieve these goals and work towards compliance with Assembly Bill ("AB") 32's greenhouse gas ("GHG") reduction targets.

SCE supports the Proposed Regulation Order language as appropriately rigorous for the LCFS program. Despite some parties' assertions, it is premature to loosen the compliance requirements until information is gathered from the nascent low carbon fuel markets. Because the LCFS compliance ramp in the early years is modest, CARB will have plenty of time to

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[1] California Air Resources Board, *Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Proposed Amendments to the Low Carbon Fuel Standard* ("Staff Report"), October 2011, *available at* http://www.arb.ca.gov/regact/2011/lcfs2011/lcfsisor.pdf.

[2] California Air Resources Board, Appendix A Proposed Regulation Order ("Proposed Regulation Order"), Staff Report Appendix A, October 2011, *available at* http://www.arb.ca.gov/regact/2011/lcfs2011/lcfsappa.pdf.

[3] *See* Staff Report, at ES-8, 42-43, 45.

collect adequate information for a later Board decision. In addition, in the next few years, when CARB makes practical the generation of credits from non-road, transit, and rail markets, a substantial number of new credits will enter the market to help regulated entities with their LCFS compliance. The market should be active and robust before any decision to reduce the LCFS program stringency.

SCE supports CARB's intent to design a proposal that can be exported to other states or on a national level to facilitate an even broader LCFS market. As written, the Proposed Regulation Order is likely to gain support from major stakeholders in other jurisdictions, which will help to create a broader LCFS program and market, which in turn will increase market efficiencies and more quickly achieve GHG reduction goals.

II.

SCE SUPPORTS THE REGULATION LANGUAGE DESIGNATING THE ELECTRIC DISTRIBUTION UTILITY AS THE PRIMARY REGULATED PARTY IN THE RESIDENTIAL MARKET SEGMENT AND AS THE DEFAULT (ALTERNATE) REGULATED PARTY IN ALL OTHER ON-ROAD CHARGING STATION MARKET SEGMENTS

SCE supports the Proposed Regulation Order provisions that designate the entities that are eligible to be the primary regulated party for the light-duty, on-road, charging station market in the residential,[4] fleet,[5] public-access,[6] and workplace[7] charging market segments. Specifically, designating EDUs as the primary regulated party in the residential market segment and as the alternate regulated party in all other on-road charging station market segments strengthens and clarifies the regulation. The existing LCFS regulation establishes a hierarchy for

[4] Proposed Regulation Order, § 95484(a)(6)(A) at 34.
[5] Proposed Regulation Order, § 95484(a)(6)(C) at 35-36.
[6] Proposed Regulation Order, § 95484(a)(6)(B) at 34-35.
[7] Proposed Regulation Order, § 95484(a)(6)(D) at 36.

claiming credits, which staff admits is ambiguous.[8] The amended Proposed Regulation Order removes the hierarchy process and removes the ambiguities which could have been be interpreted to allow for multiple parties to claim the same credit.[9] The improved regulation meets the staff's stated LCFS program goals,[10] and is workable, fair, and does not create too heavy an administrative burden.

The role of an alternate regulated party in the non-residential market segments is to step in for entities that cannot or will not claim LCFS credits. An alternate regulated party will serve as a back-up, catch-all entity to ensure that captured LCFS credits are maximized. Given their small number, stability, and long-term presence in the electric vehicle ("EV") market as electricity providers and distributors, EDUs have the experience and commitment to achieve CARB staff's goals. EDUs are therefore best suited to serve as the alternate regulated party in the non-residential market segments.

1. <u>SCE is Committed to Upholding the Requirements Placed on EDUs as Regulated Parties.</u>

The Proposed Regulation Order imposes a number of requirements on EDUs that opt in as the regulated party for electricity. SCE supports these requirements, which include: passing the LCFS credit value directly to plug-in electric vehicle ("PEV") customers, conducting education and outreach to customers about electric vehicles, and offering rates that encourage time-of-use ("TOU") and off-peak charging in order to minimize grid impacts.[11]

EDUs offer a number of benefits to the LCFS market. For example, they can ensure transparent participation in the market and transfer of credits to customers. Moreover, as regulated entities, EDUs are obligated to report their operational activities to the California

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[8] *See* Staff Report at 43, for the current regulation hierarchy for credit recipients.

[9] *See* Staff Report at 43 ('While staff intended non-utility EVSPs to receive credits only for fuel delivered through public charging equipment, the [current] regulation can be interpreted to include residential charging credits to non-utility EVSPs").

[10] *See* Staff Report, at 42, 43, 45.

[11] Proposed Regulation Order, § 95484(a)(6)(A) at 34.

Public Utilities Commission ("CPUC") and other regulatory agencies. In addition, as explained in earlier comments and in Section III below, EDUs help CARB meet its goals for the LCFS regulation and provide many other benefits to CARB and to PEV customers.[12]

In the coming years, CARB and industry stakeholders will have a more substantial and useful amount of relevant data on the needs of the nascent LCFS market. In the next few years, CARB may wish to reconsider the use of credit value proceeds to fund education and outreach efforts by utilities.

2. CARB's Designation of Regulated Parties Is Consistent with the CPUC Alternative Fuel Vehicle OIR Decisions

To remain consistent with the CPUC's Alternative Fueled Vehicles ("AFV") Order Instituting Rulemaking ("OIR") Phase I and II decisions[13] and with Assembly Bill ("AB") 631,[14] non-utility electric vehicle service providers ("EVSPs") should not be designated as the primary credit generators in the residential market segment. The CPUC decisions and statutes clearly state that EVSPs are not energy service providers and merely operate as customers of the investor-owned utilities. Moreover, if they are residential customers of the EDUs, they will receive the benefit of LCFS credit value proceeds. In other words, as a utility customer, non-utility third-party EVSPs (consistent with the CPUC and AB 631) will receive the same benefits required by CARB as any other utility customer: TOU rates, education and outreach and other

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[12] Comments of Southern California Edison Company to the California Air Resources Board on the LCFS Draft Regulation Language and the Low Carbon Fuel Standard Regulatory Amendments Workshop, August 5, 2011 at 1-5 (detailing how the EDUs meet the CARB staff principles of (1) simplicity, (2) ensuring that all credits were claimed, (3) rewarding those that invest in transforming the electricity market, and (4) providing value back to the customer) (*available at* http://www.arb.ca.gov/lists/lcfs-regamend-ws/10-sce_comments_on_lcfs_draft_regulation_08-05-11.pdf. *See also* Comments of Southern California Edison Company on the Low Carbon Fuel Standard Electricity Workgroup Meeting of July 14, 2010, August 11, 2010, at 2-5.

[13] Decision ("D.") 11-07-029, Phase 2 Decision Establishing Policies to Overcome Barriers to Electric Vehicle Deployment and Complying with Public Utilities Code Section 750.2, July 14, 2011; D.10-07-044, Decision in Phase 1 on Whether a Corporation or Person Who Sells Electric Vehicle Charging Services to the Public is a Public Utility, July 29, 2011.

[14] Assembly Bill 631, amending Ca. Pub. Util. Code § 216, Signed by Governor and Chaptered Oct 2011, *available at* http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0601-0650/ab_631_bill_20111006_chaptered.pdf

customer support, and the direct pass through of the value of LCFS credits. Finally, SCE supports the equitable requirement that all regulated parties should return the LCFS credit proceeds to the PEV customer. SCE does not support a solution where non-utility EVSPs could use the LCFS credit proceeds to increase profits or for reinvestment, as this would violate CARB's goal of passing the LCFS credit proceeds directly to the PEV customers.

CARB is correct in defining direct metering broadly, not just as sub-meters, but including separate meters.[15] SCE also supports CARB in allowing sufficient time for the market to develop metering solutions for residences.[16] The CPUC is currently investigating metering options and is also allowing time for market development regarding the type and location of metering solutions.[17] Also, it is not clear that a sub-meter is required to collect LCFS credits. Currently, it seems likely that low- or no-cost consumer options will emerge. In fact, some no-cost options under consideration would also capture charging at Level 1, and many current PEV owners are charging at Level 1. Because many plug-in hybrid EVs and some pure battery EVs will charge at Level 1, which does not require the typical home charging station, it is crucial to capture Level 1 charging for the benefit of the LCFS program. SCE supports the Proposed Regulation Order's approach to measurement and metering, as it allows an appropriate amount of time for lower-cost metering solutions to emerge, does not mandate the form or location of these solutions, and is consistent with CPUC decisions.

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[15] Proposed Regulation Order, at 43.

[16] Direct metering solutions are not required until 2015 under the current LCFS. *See* Proposed Regulation Order, at 43.

[17] NRDC and other parties advocated before the CPUC for a "sub-metering" protocol to explore low-cost metering in various locations. D.11-07-029 stated: "We agree that a process is needed to develop an Electric Vehicle submetering protocol. We also agree with NRDC that the Electric Vehicle submeter protocol should create a framework that can incorporate emerging metering technologies and encourage innovation. The submetering category as defined here remains broad, and any Electric Vehicle submeter protocol should support the use of submeters in various physical locations, such as standalone customer-owned submeters, or in electric vehicle service equipment or a vehicle. D.11-07-029 at 42.

III.

EDUS MEET CARB STAFF GOALS JUSTIFYING THE EDU DESIGNATION AS PRIMARY OR ALTERNATE REGULATED PARTY

In the Staff Report, and throughout the workshops, CARB has described its goals for the LCFS regulation. SCE strongly supports these eight goals (outlined below) as they will assist in meeting CARB's GHG reduction goals for establishing a fair, stable, comprehensive, and competitive LCFS market. Because the EDUs as regulated parties are best suited to meeting CARB's goals, SCE believes that the current amendments in the Proposed Regulation Order language correctly designate the EDUs as the primary regulated party in the residential charging market segment, and the alternate regulated party in the fleet, workplace, and public-access charging market segments.

Below, SCE lists CARB's stated goals and explains why EDUs are best suited to be the primary or alternate regulated party in each instance.

1. Maintaining Relevancy as the EV Charging Market Continues to Evolve

EDUs are critical stakeholders in the long-term EV market and will maintain relevancy[18] in the growing EV market by continuing to provide value in the future. SCE disagrees with CARB staff that allocating LCFS credits to utilities in all market segments does not further the goal of "maintaining relevancy."[19] As discussed below, EDUs are relevant in many ways as either the primary regulated party in the residential market segment or the alternate regulated party in the fleet, workplace, and public-access market segments.

As the primary distributor and deliverer of electricity for use as a transportation fuel, EDUs will almost always be involved in the EV market. Indeed, as the market grows and more electricity is consumed for use as a transportation fuel, their relevancy grows.

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[18] *See* Staff Report at 45.
[19] *See* Staff Report at ES-8.

The fact that EDUs will remain relevant in the EV market is also demonstrated by the significant roles EDUs play in transforming the EV market through education and outreach efforts with workplaces, fleets, and public charging station providers, a role that CARB has noted.[20] EDUs's efforts with respect to innovation and research, improved customer service, development of codes and standards, dissemination of best practices and lessons learned, EV rate incentives for business customers, and new metering solutions, benefit all of the market sectors that CARB has identified.

EDUs are leaders with regard to innovation and investments in the PEV market. They continue to invest in electric infrastructure on the utility side of the meter, developing and implementing new metering hardware and back-office system solutions, and improving load management equipment and services. In addition, they face compliance costs associated with increased PEV load, providing additional generation capacity that cannot be transferred to off-peak hours, expanding customer information and outreach efforts, expanding customer technical assistance, and integrating PEV energy management measures.

EDUs also continue to be leaders in research and development and innovation. For example, EDUs lead a submetering working group, work on developing solutions for advance notification for distribution system upgrades, and conduct load research and cost studies for innovative PEV rates.

Some of the most significant investments from the EDUs will be on the distribution system. The cost impact of the distribution system upgrades will vary dramatically not only with time-of-use charging, but will also depend on whether charging is done at 1 kW, 7 kW or an even higher kW level per PEV. Because EDUs, their regulators, and their customers all are extremely concerned about rising rates and costs, EDUs are working to minimize the cost impacts on the distribution system

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[20] *See* Staff Report, at 34-36.

With regulatory and public oversight, EDUs provide additional assurance that LCFS credit value will be returned to PEV customers. The rigorous, cost-based, public, comprehensive and transparent oversight over the investor-owned utilities from the CPUC will be an advantage to CARB in its implementation of the program. EV owners, third-party EVSPs, and parking lot host sites are all EDU "customers" that will receive the benefit of LCFS credits as EDUs pass the credit value back through to EV customers.

Accordingly, EDUs are and will continue to be relevant in all market segments; allowing them to be the regulated party for electricity will advance CARB staff's goals of maintaining relevancy.

2. Incentivizing Electric Transportation

Developing and facilitating the EV market is an important aspect of achieving CARB's GHG reduction goals, and is another goal identified by CARB staff.[21] Using the value of LCFS credits to encourage the development of the market is a major component of satisfying this goal. SCE concurs with CARB staff's statements in LCFS workshops that LCFS credits should be given to reward those who invest in, innovate in, and transform the market for electricity as a transportation fuel. Providing the value of LCFS credits to EV customers through the EDUs sends a strong signal to the EV marketplace that EVs are important to advancing the state's GHG goals. The EDUs are committed to sending this signal to the EV market. Directly passing the value of LCFS credits to EV customers could also improve the economics of vehicle electrification, further incentivizing EV adoption and EV market growth.

SCE also supports the Proposed Regulation Order's request that regulated parties for electricity engage in active education and outreach in order to be eligible as a regulated party and receive LCFS credits. The investor-owned utilities, third-party EVSPs, regulatory agencies, and other market stakeholders all recognize the importance that education and outreach plays in

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[21] Staff Report at 43.

facilitating the EV market.[22] In fact, the CPUC, as part of the Phase II AFV OIR decision,[23] is requiring investor-owned utilities to educate EV customers about a number of related topics, including safety, reliability, off-peak charging, and available EV rates. Accordingly, EDUs play a critical role in supporting the EV market.

3. **Limiting the Number of Regulated Parties to Increase the Possibility that Credits Will Be Captured and Made Available**[24]

There are relatively few EDUs in the state today. Because they are large and stable entities that provide a necessary public service, they will not be exiting the market in the near future. Having only a few, stable EDUs will allow for simple and comprehensive program implementation by minimizing the implementation burden on CARB and reducing the gaps when capturing LCFS credits. A small number of EDUs means a small number of parties that must measure the kWh consumed, generate quarterly reports for LCFS credits, sell the credits, and meet other regulatory requirements. The EDUs have had extensive experience with regulatory reporting and participating in trading markets of this type and magnitude. Because EDUs are already regulated entities, CARB will have to provide less oversight than for unregulated or less regulated parties and can rely upon EDUs to support the long-term development of the PEV market.

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[22] *See* Opening Comments of Southern California Edison Company on the Phase 2 Decision Establishing Policies to Overcome Barriers to Electric Vehicle Deployment and Complying with Public Utilities Code Section 740.2, April 5, 2011, at 15; See Reply Comments of General Motors to Phase 2 Decision Establishing Policies to Overcome Barriers to Electric Vehicle Deployment and Complying with Public Utilities Code Section 740.2, April 11, 2011, at 6, filed in R.09-08-009. See also Decision ("D.").11-07-029, Phase 2 Decision Establishing Policies to Overcome Barriers to Electric Vehicle Deployment and Complying with Public Utilities Code Section 740.2, July 14, 2011, at 63-64.

[23] D.11-07-029, Phase 2 Decision Establishing Policies to Overcome Barriers to Electric Vehicle Deployment and Complying with Public Utilities Code Section 740.2, July 14, 2011, at 87, Ordering Paragraph 8.

[24] Staff Report at 45.

4. Including Alternate Regulated Parties in the Proposed Regulation Language to Maximize the Number of Credits Captured and Made Available (Maximize the Number of Credits Available For Use)[25]

Should the first credit generator choose to avoid the long-term burden of quarterly metering, reporting, and credit selling, SCE agrees that there should be a designated alternate credit generator to cover that market segment. Designating an alternate credit generator for each market segment is both simpler than the current rule and should reduce the risk of two parties claiming the same credit. Because EDUs are particularly close to the residential segment, they can most easily prevent LCFS credits from going unclaimed in that segment (and in other segments). There may be situations in the future where LCFS credits go unclaimed due to evolution in the source of the charging equipment. For example, EV customers today can buy Electric Vehicle Service Equipment ("EVSE") from a big-box store and either self-install or use an installer such as an electrician whose business model does not depend on operating a home charging station long-term. In this situation, the LCFS credits will likely go unclaimed, resulting in a smaller number of available credits and increasing the compliance burden for regulated parties. However, the EDU will still be involved as the provider of the electric service and is in the best position to aggregate the potential LCFS value for the benefit of the LCFS market and the customer. EDUs will be able to identify those customers through rate information notification programs, or load research efforts.

5. Keeping the Proposed Language Simple to Avoid Confusion/Eliminate Ambiguity in the Regulated Party Definition[26]

SCE agrees that the rules for electricity should be as simple as possible, given the complex nature of the electric vehicle market. Simplicity in program design will assist CARB

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25 Staff Report at 43, 45.
26 Staff Report at 42, 45.

staff by reducing their administrative burden, minimizing the potential for fraud, and maximizing the ease of verification and accounting. The Proposed Regulation Order is much clearer in its definitions. For example, it uses the term "EDU" rather than the more complex term "load-serving entity."[27] Designating EDUs as primary and alternate regulated parties, and implementing a sector-based allocation approach for EV charging allows the regulation language to maintain simplicity and ease of understanding, and eliminates confusion as to the identities of the regulated parties. Having only one alternate regulated party is also a simple and easily understood approach. Still, additional refinements could be made in an LCFS Guidance Document over the next year to more clearly define the LCFS electricity market segments. SCE looks forward to working closely with CARB staff to further simplify and clarify the regulation.[28]

6. Ensuring Fair Treatment of Regulated Parties[29]

SCE supports CARB's goal of a fair LCFS market where regulated parties are treated in a consistent manner. CARB's regulations should be fair by remaining consistent in its treatment of regulated parties across the various low-carbon fuels and by holding regulated parties within the electricity fuel to the same standards. Specifically, within the electricity fuel regulations, it is crucial that EDUs, third-party EVSPs, and fleet owners are held to the same requirements within each market segment. SCE commends staff for incorporating this important goal in the Proposed Regulation Order.

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27 *See* Final Regulation Order, December 2009, at 27, *available at* http://www.arb.ca.gov/regact/2009/lcfs09/lcfscombofinal.pdf.

28 *See* Comments of Southern California Edison Company to the California Air Resources Board on the Third Low Carbon Fuel Standard Regulatory Workshop, October 14, 2011, and the Proposed Regulation Amendments, October 21, 2011, at 7 (*available at* http://www.arb.ca.gov/lists/lcfs-regamend-ws/52-sce_comments_to_carb_on_third_lcfs_regulatory_workshop_oct_21_2011.pdf).

29 Staff Report at 43.

7. Clearly Awarding Potential Credits for Residential and Public-Access Charging[30]

SCE supports the change in direction in the Proposed Regulation Order of awarding credits by market segment rather than the current regulation's method of using definitions based on business models. Business models are frequently changing and multiple business models can apply to the same customer. In addition, as proposed in SCE's earlier comments, additional refinements should be made in an LCFS Guidance Document over the next year to more clearly define the four market segments.[31]

Designating a single primary and alternate credit generator for the workplace, fleet, and public charging sectors upholds this goal and allows for simple program implementation. In addition, it will avoid much of the confusion raised in the current regulation language that could prove detrimental to maximizing the number of LCFS credits captured.

8. Incorporating Vehicle Charging Applications that Were Not Foreseen When the Regulation Was Adopted[32]

CARB has appropriately addressed this goal by adding workplace charging to the regulation.[33] In addition, to cover the possibility that there is measured electricity as a transportation fuel that was not covered in the regulation language addressing residential, fleet, workplace, and public charging, CARB has appropriately created a new Subsection E, designating the EDU as the party eligible to opt in as the alternate regulated party.[34]

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30 Staff Report at 42-43.

31 *See* Comments of Southern California Edison Company to the California Air Resources Board on the Third Low Carbon Fuel Standard Regulatory Workshop, October 14, 2011, and the Proposed Regulation Amendments, October 21, 2011, at 7 (*available at* http://www.arb.ca.gov/lists/lcfs-regamend-ws/52-sce_comments_to_carb_on_third_lcfs_regulatory_workshop_oct_21_2011.pdf).

32 Staff Report at 43.

33 See, e.g., Proposed Regulation Order at 36.

34 Proposed Regulation Order, § 95484(a)(6)(E), at 39.

IV.

SCE SUPPORTS STAFF'S PROPOSALS TO REEVALUATE THE REGULATION REGARDING 1) ELECTRIC NON-ROAD EQUIPMENT AND ELECTRIC TRANSIT / RAIL, 2) OPERATIONAL DETAILS, AND 3) THE ENERGY EFFICIENCY RATIO ("EER")

Given the complexity and scope of the LCFS regulation, it is certainly understandable that outstanding issues remain. Specifically, staff has stated in workshops that it intends to address the following issues in subsequent years:

- Establishing detailed rules for electric non-road equipment and electrification of trains, buses, rail and heavy duty vehicles;
- Creating guidelines or advisories addressing how EDUs, fleets, workplaces, and non-utility EVSPs operate within the LCFS market; and
- Creating an on-going methodology for EER updates.[35]

SCE has long supported the role of electric transportation beyond light-duty plug-in electric vehicles in the current regulation[36] and understands that these electric transportation ("ET") technologies are included due to the definition of transportation fuel.[37] Incremental GHG reductions from these technologies can increase by several million metric tons per year by

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35 *See* Proposed Regulation Order, § 95485(a), Table 5, at 54.

36 *See* Comments of Southern California Edison Company to the California Air Resources Board on the Third Low Carbon Fuel Standard Regulatory Workshop, October 14, 2011, and the Proposed Regulation Amendments, October 21, 2011, at 4 (*available at* http://www.arb.ca.gov/lists/lcfs-regamend-ws/52-sce_comments_to_carb_on_third_lcfs_regulatory_workshop_oct_21_2011.pdf); Comments of Southern California Edison Company to the California Air Resources Board on the Second LCFS Regulatory Amendments Workshop Held September 14, 2011, and the Proposed Regulation Order (SCE October 5 Comments), October 5, 2011, at 4 (*available at* http://www.arb.ca.gov/lists/lcfs-regamend-ws/39-sce_comments_to_carb_on_lcfs_regulation_amendments_october_2011.pdf; Comments of Southern California Edison Company to the California Air Resources Board's Public Workshop to Discuss Proposed Changes to the Low Carbon Fuel Standard Regulation, August 28, 2009, at 5-9. See also Updated Comments of CalETC on the January 2009 Revisions to Draft LCFS Regulation, errata mailing March 16, 2009 at 7.

37 Proposed Regulation Order, at 17 ("'Transportation fuel' means any fuel used or intended for use as a motor vehicle fuel or for transportation purposes in a nonvehicular source"). *See also* Final Statement of Reasons, at 295, 629 (Board Resolution 09-31 "also directed staff to further evaluate feasibility of generating credits for electricity in non-road transportation sources"), *available at* http://www.arb.ca.gov/regact/2009/lcfs09/lcfsfsor.pdf.

2020.[38] Because of the substantial potential for credit generation from other ET technologies, it is crucial to allow them to do so as soon as possible. Thus, SCE agrees with staff that they should, in the next few years, examine possible modifications to the LCFS regulation to implement these qualifying technologies, including potential changes to the EER calculation, the definition of "regulated party," and calculation of the average carbon intensity requirements for gasoline and diesel (or "baselines"). SCE plans to actively participate in this upcoming process. SCE respectfully requests that CARB add language directing staff to address the topic of non-road EVs and electric rail and transit as part of its December 15 Board Resolution. In addition, the Board Resolution should direct CARB staff to investigate and clarify the primary and alternate regulated parties for other ET technologies, and to amend Section 95484(a)(6) to add a new subsection designating the regulated party for electric transportation outside of light-duty on-road vehicles.

SCE recommends that the LCFS Guidance Document be updated or additional regulatory advisories be issued in 2012 to work through any implementation issues for the regulated parties for electricity as a transportation fuel. For example, in prior comments, SCE has asked CARB to clarify issues surrounding the content of annual reports, verification by CARB of regulated parties, allowing an EDU to become an alternate regulated party, minimizing multiple claims on the same LCFS credit, as well as requirements on the measurement of kWh in the LCFS program.[39] Properly addressing these issues in detail requires a substantial amount of time and potentially meetings with CARB's electricity working group. Because the Staff Report suggests the use of guidelines and advisories for similarly detailed implementation issues,[40] SCE suggests using them here as well.

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[38] TIAX LLC, "Electric Transportation and Goods Movement Technologies in California: Technical Brief," September 2008, *available at* http://www.arb.ca.gov/regact/2009/lcfs09/tiax.pdf.

[39] *See generally* Comments of Southern California Edison Company to the California Air Resources Board on the Third Low Carbon Fuel Standard Regulatory Workshop, October 14, 2011, and the Proposed Regulation Amendments, October 21, 2011 (*available at* http://www.arb.ca.gov/lists/lcfs-regamend-ws/52-sce_comments_to_carb_on_third_lcfs_regulatory_workshop_oct_21_2011.pdf). *See generally* SCE October 5 Comments.

[40] Staff Report, at ES-2.

In the Proposed Regulation Order, CARB established an EER value[41] for battery EVs, PHEVs and fuel cell EVs. SCE supports this as a near-term solution. SCE looks forward to working with CARB in 2012 and beyond to develop more robust, published guidelines or advisories on an EER methodology. This methodology should include broad stakeholder support and address the many detailed issues involved in the calculation, such as data sources, baseline comparison vehicles, and use of averages.

V.

BUYERS AND SELLERS OF LCFS CREDITS SHOULD BE ALLOWED TO MAINTAIN THEIR ANONYMITY

Section 95488(c)(3) of the Proposed Regulation Order allows parties to use a credit facilitator for the seller, the buyer, or both. In earlier comments, SCE advocated that CARB implement rules stating that credit facilitators or brokers are not required to disclose the identities of the buyers and the sellers, as is common practice in other markets such as the stock and bond markets, electricity markets, and the upcoming cap-and-trade allowance market.[42] SCE continues to support this position. By allowing the anonymous purchase and sale of LCFS credits, CARB would increase the efficiency of the LCFS market, avoid the risk of large numbers of unsold credits, but still allow for the release of other market information. SCE respectfully requests that the Board direct staff to make any necessary changes to the regulation (including changes to its credit transfer form) within its 15-day comment period so that this common practice can be implemented as soon as possible. Because of the importance of this issue to the development of the LCFS market, CARB should not wait to address this issue in a future LCFS amendment proposal to the Board.

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41 Proposed Regulation Order, § 95485(a), Table 5, at 54.

42 Comments of Southern California Edison Company to the California Air Resources Board on the Second LCFS Regulatory Amendments Workshop Held September 14, 2011, and the Proposed Regulation Order, October 5, 2011, at 8 (*available at* http://www.arb.ca.gov/lists/lcfs-regamend-ws/39-sce_comments_to_carb_on_lcfs_regulation_amendments_october_2011.pdf).

VI.

<u>OTHER TOPICS: CREDIT ESTIMATION, AND THE EV ACRONYM</u>

SCE respectfully submits its comments on some additional topics, including credit estimation and the definition of "EV," or electric vehicle. First, SCE has long supported the option that exists in the current LCFS regulation for EDUs to estimate residential credits in the electricity sector.[43] SCE requests that CARB revise the regulation so as to not preclude the current and ongoing estimation of kWh when an EDU opts to become the default regulated party.[44] Specifically, CARB should delete the word "measured" in Section § 95484(a)(6)(E).[45]

Second, the Proposed Regulation Order utilizes the term "EV" but does not define the term. Instead, it defines the acronyms "BEV" and "PHEV," but does not appear to use them.[46] SCE suggests that CARB define the term "EV" broadly to mean light-duty plug-in vehicles, including BEVs and PHEVs.

VII.

<u>CONCLUSION</u>

SCE appreciates this opportunity to comment on the Staff Report and the Proposed Regulation Order and urges CARB to make changes in accordance with the principles outlined above.

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[43] *See* Final Statement of Reasons, at 886, *available at* http://www.arb.ca.gov/regact/2009/lcfs09/lcfsfsor.pdf. SCE has also expressed its views with CalETC (see Updated Comments of CalETC on the January 2009 Revisions to Draft LCFS Regulation, errata mailing March 16, 2009 at 6).

[44] Proposed Regulation Order, Section § 95484(a)(6)(E), at 36.

[45] Proposed Regulation Order, Section § 95484(a)(6)(E), at 36.

[46] Proposed Regulation Order, at 17.

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