November 5, 2020

James Duffy
Branch Chief, Transportation
California Air Resources Board
1001 I St #2828
Sacramento, CA 95814

Re: Potential Low Carbon Fuel Standard Regulation Revisions

Dear Mr. Duffy:

Enel X North America, Inc. (Enel X) respectfully provides the following comments on the California Air Resources Board (CARB)'s October 14, 2020 workshop regarding the scope of a new Low Carbon Fuel Standard (LCFS) rulemaking to consider potential amendments to the LCFS regulation. We focus our comments on the workshop presentation topics as follows.

1. Electricity Credit Proceeds Spending Requirements (Slide 26)

Staff cites the recently issued LCFS Guidance 20-03 that clarified annual compliance reporting requirements for electricity credit proceed spending. Staff notes that it is considering proposing to clarify the LCFS regulation following stakeholder feedback it received on Guidance 20-03, including clarifying that spending requirements apply to all entities generating credits using electricity pathways, and to add details on appropriate uses of credit proceeds, including limits on using for administrative costs.

In comments on the Guidance, we noted that annual compliance reporting requirements for Incremental (Metered) Residential EV Charging and Non-residential EV charging are cross-referenced in the regulation with the equivalent language for Base (Non-Metered) Residential EV charging, rendering the reporting requirements for the two former pathways unclear and easy to miss. Enel X thus appreciates and supports Staff's intent to clarify the regulation with regards to reporting on credit proceed spending.

Otherwise, we reiterate our comments on the Guidance that the spending requirements laid out in §95491(d)(3)(A) of the regulation and further described in the Guidance are very broad and encompass a large portion of the routine business activities of non-LSE electricity credit generators that are in the business of promoting electrified transportation (rather than taking ownership and purely transacting these credits as an intermediary). As such, while we would support CARB Staff considering further clarifications and streamlining on reporting templates to allow credit generators to flexibly demonstrate proceed reinvestment, we do not support consideration of additional reporting or quantification requirements beyond that already delineated in the regulation.

2. [Renewable Energy Credit] (REC) Retirement for Low-[Carbon Intensity] (CI) Electricity (Slide 29)

Staff notes the regulation's provision for credit generating entities to apply for a zero-CI electricity Lookup Table pathway using indirect book-and-claim accounting with the retirement of RECs. Staff then describes that it is considering requiring retirement of RECs for the zero-CI electricity pathway when electricity is directly supplied and eligible for REC generation, and also adding consistent requirements across all provisions in the LCFS for demonstrating REC retirements associated with low-CI electricity.

Enel X does not have a position on these potential scoping items at this time. However, we recommend that the rulemaking consider amendments to the regulation that would make explicit that each existing registered FSE can utilize low or negative CI electricity for the duration of the regulation. Such amendments can provide much needed certainty to suppliers of low and negative CI RECs and parties to structured EV infrastructure financing as to the lifetime value of low or negative CI RECs.

3. Miscellaneous (Slide 32)

Staff notes the regulation's allowance for first fuel reporting entities to designate a third-party to oversee reporting and credit generation for electricity used as a transportation fuel on their behalf. Staff describes that it is considering clarifying requirements for the FSE registrations by a designee on behalf of the original first fuel reporting entity. In the instance that Staff scopes this subject into the rulemaking, Enel X stresses the need to ensure that any clarifications or new provisions in the regulation does not make it more onerous for FSEs to knowingly assign reporting obligations or credit generation to third parties.

4. Third-Party Verification of Electricity Transactions (Slide 34)

Staff notes that electricity transactions submitted in Quarterly Fuel Transaction Reports are currently not subject to third-party verification, but subject to Staff audits. Staff describes that it is considering proposing third-party verification requirements for electricity transactions.

Enel X opposes inclusion of this topic in the regulation, as such verification requirements would be onerous and expensive to implement. As Staff references in the presentation, the regulation provides CARB with 10-year audit rights to all fuel transactions. We believe that third-party verification of every transaction is unnecessary for relatively straightforward transactions, such as EV charging sessions that utilize the Tier 1 lookup pathways. Implementing third-party verification will unnecessarily take LCFS value out of the EV charging value chain and discourage new LCFS entrants in the electricity sector.

5. Conclusion

We appreciate CARB Staff's consideration of our comments and look forward to working with Staff and other stakeholders on further amendments to the LCFS regulation.

Sincerely,

Marc Monbouquette
Regulatory Affairs Manager
Enel X North America, Inc.