

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

**SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY
COMMENT ON THE PROPOSED CHANGES TO
THE LOW CARBON FUEL STANDARD REGULATION**

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SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY COMMENT ON THE PROPOSED CHANGES TO THE LOW CARBON FUEL STANDARD REGULATION

I. INTRODUCTION.

The Southern California Public Power Authority (“SCPPA”)¹ respectfully submits this comment on the proposed changes to the Low Carbon Fuel Standard Regulation (“LCFS Regulation”) released by the California Air Resources Board (“ARB”) for discussion at the ARB workshop on September 14, 2011.

SCPPA supports the proposed changes to section 95484(a)(6) of the LCFS Regulation. This section, entitled *Regulated Parties for Electricity*, allocates LCFS credits to electrical distribution utilities for electric vehicle (“EV”) charging in certain circumstances. For the reasons set out in SCPPA’s comments to the ARB submitted on August 5, 2011, SCPPA supports the allocation of credits to utilities. This approach is in accordance with the following principles that were identified by the ARB staff at previous LCFS workshops:

- Keep it simple
 - Works for many business models
 - Keeps individuals and most businesses out of LCFS requirements
- Maximize available credits to regulated parties
- Return value to the EV owners.

SCPPA proposes certain revisions to sections 95484(a)(6)(B), (C), and (D) to improve the clarity of these sections and to include a process for notifying an electrical distribution utility, as second-priority credit recipient, that it has become eligible to opt in as the regulated party.

These changes will help to avoid having unclaimed credits, one of the ARB’s priorities.

¹ 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, the Imperial Irrigation District, Pasadena, Riverside, and Vernon.

II. SECTION 95484(a)(6)(B) ON PUBLIC ACCESS CHARGING SHOULD BE REVISED.

A. Correct terminology should be used.

The first paragraph of section 95484(a)(6)(B) provides that either the electric vehicle service provider (“EVSP”) or the electrical distribution utility can be the regulated party (i.e., can receive LCFS credits) for charging EVs through public access charging equipment, depending on which entity installed the equipment and has a service contract with the property owner or “lessor:”

For transportation fuel supplied through public access EV charging equipment, the third-party non-utility Electric Vehicle Service Provider (EVSP) or Electrical Distribution Utility that has installed the equipment, or had an agent install the equipment, and who has a contract with the property owner or lessor where the equipment is located to maintain or otherwise service the charging equipment is eligible to opt-in as the regulated party.

The term “lessor” should be changed to “lessee” to cover a situation in which the EVSP or utility contracts with a party that leases the EV charging site from the property owner. A party who rents property from another is a lessee.² A party who rents property to another is a lessor.³

“Lessor” is not a defined word.

The second paragraph of section 95484(a)(6)(B) provides that if an EVSP elects not to become a regulated party, the “Electrical Distribution Company” is eligible to be the regulated party if the EVSP signs an agreement to this effect:

If the EVSP elects not to become a regulated party, the Electrical Distribution Company is eligible to be the regulated party provided there is a contract or other written evidence of mutual agreement that the EVSP has elected not to be the regulated party and is

² Black’s Law Dictionary, 6th ed., p. 902 (1991).

³ *Ibid.*

allowing the Electrical Distribution Company to be the regulated party.

The term “Electrical Distribution Utility” is defined in section 95484(a)(6)(A) and should be used throughout sections 95484(a)(6)(B), (C), and (D) rather than the undefined term “Electrical Distribution Company.” Additionally, the definition of “Electrical Distribution Utility” in section 95484(a)(6)(A) should be moved to the definitions section of the LCFS Regulation, section 95481.

B. Eliminate the requirement that the utility must get written permission from the EVSP to be the regulated party.

SCPPA understands the second paragraph of section 95484(a)(6)(B) is intended to cover situations in which an EVSP or its agent has installed public access EV charging equipment and has a contract with the owner or lessee of the site where the equipment is located. The requirement that in those situations the utility must receive written permission from the EVSP to become the regulated party should be reconsidered. This requirement is overly broad.

1. Requiring the utility to receive written permission from the EVSP to become the regulated party would give an EVSP undue veto power.

The requirement that the utility must receive written permission from the EVSP to become the regulated party would give an EVSP veto power over a utility becoming the regulated party. The EVSP could wield its veto power even when the EVSP does not intend or is not eligible to become the regulated party itself. The EVSP’s exercise of veto power in such situations would conflict with the ARB’s principle of avoiding unclaimed credits.

Under the first paragraph of section 95484(a)(6)(B), if no EVSP is involved in a public charging station, or if an EVSP is involved but does not have a service contract with the property owner or lessee, then the electrical distribution utility would automatically be the first-priority recipient of the credits (if it chooses to become the regulated party) without needing an EVSP’s

permission. The same should occur if an EVSP or its agent has installed public access EV charging equipment and has a contract with the owner or lessee of the site where the equipment is located but the EVSP does not intend or is not eligible to become the regulated party itself. In those situations, the utility should be eligible to become the regulated party without needing the EVSP's permission. Likewise, if the EVSP has a service contract but ceases to perform its obligations under that contract (for example as a result of bankruptcy), the utility should be eligible to become the regulated party without needing the EVSP's permission.

2. Provide notice when the utility is eligible to become the regulated party.

Section 95484(a)(6)(B) should be revised to delete the provision on the EVSP giving the utility written permission to become the regulated party. That provision should be replaced with a notice provision that permits the electrical distribution utility to choose to be the regulated party if the EVSP does not become the regulated party or ceases to perform its obligations under its service contract.

As the regulator, the ARB will have the most complete and accurate methods for identifying whether an EVSP has not elected to become a regulated party, or fails to meet or has ceased to meet the criteria for receiving credits. The ARB should notify the electric distribution utility if any of these situations occur. To assist with this procedure, the application or registration form to be completed by the first-priority regulated party should include a space for the name and contact details of the relevant electrical distribution utility.

C. Proposed amendments to section 95484(a)(6)(B).

In accordance with the discussion above, section 95484(a)(6)(B) should be revised as follows.

(6) *Regulated Parties for Electricity*. For electricity used as a transportation fuel, the party who is eligible to opt-in as a regulated party is determined as specified below: ...

(B) For transportation fuel supplied through public access EV charging equipment, the third-party non-utility Electric Vehicle Service Provider (EVSP) or Electrical Distribution Utility that has installed the equipment, or had an agent install the equipment, and who has a contract with the property owner or ~~lessee~~ where the equipment is located to maintain or otherwise service the charging equipment is eligible to opt-in as the regulated party.

If ~~an~~ EVSP does not elect ~~not~~ to become a regulated party for a specific volume of fuel within [90] days of becoming eligible to do so, ceases to meet the criteria for being the regulated party and receiving credits for that volume of fuel under this subsection, or ceases to perform its obligations under its service contract, the Executive Officer will notify the Electrical Distribution Utility and the Electrical Distribution Utility ~~Company~~ is eligible to opt in ~~as~~ the regulated party for that volume of fuel provided there is a contract or other written evidence of mutual agreement that the EVSP has elected not to be the regulated party and is allowing the Electrical Distribution Company to be the regulated party. To receive credit for transportation fuel supplied through public access EV charging equipment, the regulated party must: ...

III. SECTION 95484(a)(6)(C) ON FLEET CHARGING SHOULD BE REVISED.

Section 95484(a)(6)(C) sets out the responsible party in relation to credits for charging fleets of EVs. For the reasons set forth above regarding section 95484(a)(6)(B), section 95484(a)(6)(C) should be amended to parallel the recommended amendments to section 95484(a)(6)(B). First, the term “Electrical Distribution Company” should be replaced with “Electrical Distribution Utility.” Second, the requirement for the fleet operator to give the utility written permission to become the regulated party should be deleted. This provision should be replaced with a provision for the ARB to notify the utility if the fleet operator does not elect to become a regulated party or fails to meet the criteria for receiving credits.

In addition, because of the administrative burden associated with regulating and monitoring a large number of small fleets, SCPPA recommends that the language be revised to

allow fleet operators to be the regulated party for transportation fuel supplied to a fleet of ten or more EVs (rather than three or more EVs). This will reduce the number of regulated parties in the fleet market segment and will consequently reduce the ARB's administrative burden.

SCPPA's suggested changes to section 95484(a)(6)(C) are as follows:

(C) For transportation fuel supplied to a fleet of ~~ten~~three or more EVs, a ~~person~~company operating a fleet (fleet operator) is eligible to be a regulated party. If the fleet operator does not elects not to become a regulated party for a specific volume of fuel within [90] days of becoming eligible to do so, or the fleet operator ceases to meet the criteria for being the regulated party and receiving credits for that volume of fuel under this subsection, the Executive Officer must notify the Electrical Distribution Utility and the Electrical Distribution UtilityCompany is eligible to opt in asbe the regulated party for that volume of fuel provided there is a contract or other written evidence of mutual agreement that the fleet operator elects not to be the regulated party and is allowing the Electrical Distribution Company to be the regulated party. For transportation fuel supplied to a fleet of less than ~~ten~~three EVs, the Electrical Distribution ~~Utility~~Company is eligible to be the regulated party. To receive credit for transportation fuel supplied to an EV fleet, the regulated party must include in annual reporting an accounting of the number of EVs in the fleet.

IV. SECTION 95484(a)(6)(D) ON PRIVATE WORKPLACE CHARGING SHOULD BE REVISED.

For the reasons set forth above regarding section 95484(a)(6)(B), section 95484(a)(6)(D) on the responsible party in relation to credits for workplace charging should be amended. First, the term "Electrical Distribution Utility" should be used instead of "Electrical Distribution Company." Second, the requirement for the business owner to give the utility written permission to become the regulated party should be replaced with a provision for the ARB to notify the utility if it becomes eligible to become the regulated party.

One of the requirements for the regulated party to receive credits for workplace charging is to provide "preferred parking" (§ 95484(a)(6)(D)(1)(d)). If the electrical distribution utility is the regulated party for workplace charging, it may not be able to provide preferred parking at the

relevant workplace. This requirement should be amended to require the regulated party to offer preferred parking only if it is feasible to do so.

SCPPA's suggested changes to section 95484(a)(6)(D) are as follows:

(D) For transportation fuel supplied through private access EV charging equipment at a business or workplace, the business owner is eligible to be a regulated party. If the business owner ~~does not elects not to become~~ does not elect to become a regulated party for a specific volume of fuel within [90] days of becoming eligible to do so, or the business owner ceases to meet the criteria for being the regulated party and receiving credits for that volume of fuel under this subsection, the Executive Officer must notify the Electrical Distribution Utility and the Electrical Distribution Utility Company is eligible to opt in as ~~be~~ the regulated party for that volume of fuel provided there is a contract or other written evidence of mutual agreement that the business owner elects not to be the regulated party and is allowing the Electrical Distribution Company to be the regulated party. To receive credit for transportation fuel supplied through private access EV charging equipment at a business or workplace, the regulated party must:

1. actively educate employees on the benefits of EV transportation (including environmental benefits and costs of EV charging as compared to gasoline) through outreach efforts that may include, but are not limited to, the following:

- a. employee meetings
- b. employee flyers
- c. webpage content
- d. preferred parking, if feasible

2. Include in annual reporting a summary of efforts to meet requirement 1, as well as an accounting of the number of EVs known to be charging at the business.

V. CONCLUSION

SCPPA urges the ARB to consider these comments in finalizing the amendments to the LCFS Regulation. SCPPA appreciates the opportunity to submit these comments to the ARB and looks forward to working with the staff of the ARB to further refine the LCFS Regulation.

Respectfully submitted,

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