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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Address
Utility Cost and Revenue Issues Associated
with Greenhouse Gas Emissions.

Rulemaking 11-03-012
(Filed March 24, 2011)

**ADMINISTRATIVE LAW JUDGE'S RULING
ADDING CALIFORNIA AIR RESOURCES BOARD GUIDANCE ON
THE LOW CARBON FUEL STANDARD INTO THE RECORD**

This ruling places guidance from the California Air Resources Board on the Low Carbon Fuel Standard (LCFS) into the record of this proceeding. This information was previously distributed to parties informally via electronic mail on Thursday, June 7, 2012. Parties are encouraged to consider this guidance in the preparation of their comments and reply comments on the LCFS proposals due on June 12 and July 10, 2012, respectively. Parties may also comment directly on this guidance in those comments.

IT IS RULED that:

1. The guidance received from the California Air Resources Board on the Low Carbon Fuel Standard and included as Attachment A to this ruling is entered into the record of this proceeding.

2. Parties are encouraged to consider the attached guidance in the preparation of their comments and reply comments on the Low Carbon Fuel Standard proposals due on June 12 and July 10, 2012, respectively. Parties may also comment directly on this guidance in those comments.

Dated June 21, 2012, at San Francisco, California.

/s/ JANET A. ECONOME for

Melissa K. Semcer
Administrative Law Judge

/s/ JESSICA T. HECHT

Jessica T. Hecht
Administrative Law Judge

ATTACHMENT A

CARB Guidance on Implementation of LCFS Credit Revenue Allocation
Provided to CPUC Staff 6/6/12

1. What is CARB's position on the forward sales of LCFS credits? CARB Staff suggested that parties would not be able to borrow from credits they do not have. He added though, that parties could enter bilateral contracts that would let them sell credits but not exchange them until after they are generated.

ARB Response: Section 95485(c)(2)(B) of the LCFS regulation prohibits regulated parties from borrowing or using credits from anticipated future carbon intensity reductions. Therefore, regulated parties cannot sell credits that they do not already have in their account. Contracts between credit sellers and buyers that would permit regulated parties to sell credits *when they become available* are the private business of regulated parties.

2. What price and volume data can you provide on the three credit transactions? CARB Staff said that it intended to aggregate this information. Can you clarify whether or not the 50 regulated parties voluntarily or were obligated to participate, and any other information?

ARB Response: The regulation does not yet require the reporting of credit sale price, and we do not yet have price data for the three credit transactions that have occurred to date. The amendments to the regulation, approved by our Board in December 2011, require credit prices to be reported. After the amendments are part of the regulation, expected to take effect in January 2013, we plan to release aggregated price data pursuant to 95488(e) of the amended LCFS regulation.

3. Energy Division staff asked about the possibility of trading credits between regulated and non-regulated parties for market liquidity. CARB Staff replied that a principal reason it is not going forward with that due to the need to track fraud through the Reporting Tool. Is this correct? Are there other concerns?

ARB Response: Section 95485(c)(1)(B) of the LCFS regulation prohibits third-parties from acquiring LCFS credits. The December 2011 amendments approved by the Board do not change that requirement. That all LCFS credits are contained within a closed community of regulated parties, who are reporting through the LCFS Reporting Tool (LRT), certainly discourages credit fraud. Nevertheless, ARB staff will monitor the vigor and success of the LCFS credit market and determine if, at a later date, allowing additional entities into the market is beneficial to the overall goals of the LCFS program.

4. The first Eligibility Criterion states that LCFS value must be used to the benefit of current PEV drivers. What is the definition of a "current PEV driver?" The two definitions parties have been discussing thus far have been: 1) customers that are already PEV customers at the time the credits are sold and distributed, and 2) potential or recent purchasers of vehicles. CARB's comments during the May 22 workshop

suggest that the definition can be decided by the regulated party and the objective of their credit return mechanism. Is this the case?

ARB response: The intent of the requirement in the LCFS regulation to return credit value to “current EV customers” is to return benefits to those EV drivers who have used electricity to charge an EV and generated credits for the regulated party. However, due to timing of credit sales, uncertainties in the emerging credit market, and logistics of returning credit value to customers, ARB acknowledges that it may not be possible to benefit all customers who have generated credits. In addition, ARB will not be prescriptive in how regulated parties return credit value. Definition 1 above qualifies as a definition of “current EV customer” in the regulation. However, definition 2 does not qualify as written; “potential purchasers of EVs” are not current EV customers, and “recent purchasers of vehicles” will qualify only if they are customers of the utility. In other words, “recent purchasers of vehicles” become “current EV owners” when they begin charging their vehicles.

5. During the April 18 workshop CARB briefly explained the difference in intents between the LCFS Program and the Cap and Trade Program, which will include transportation fuels in 2015. Can you explain how the programs will differ and complement each other once both are operational?

ARB Response: The two programs will be complementary. Beginning in 2015, the emissions from transportation fuels and natural gas will have a compliance obligation under the cap-and-trade program, thereby incenting less use of fossil fuels. Suppliers of these fuels will hold the compliance obligation. Renewable fuels, such as ethanol and biodiesel, will not have compliance obligations. Emissions from electricity generation have a compliance obligation as of 2013. The LCFS will continue to incent lower-CI transportation fuels, such as electricity, natural gas, hydrogen, and lower-CI ethanol, biodiesel, and renewable diesel. Both programs will discourage the use of fossil fuels.

6. Please provide any additional clarifying information that CARB would like to have recorded in Track 2 of R.1103012.

(END OF ATTACHMENT A)