Decision **PROPOSED DECISION OF COMMISSIONER RECHTSCHAFFEN**
(Mailed 11/12/2020)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue the Development of Rates and Infrastructure for Vehicle Electrification.	Rulemaking 18-12-006

DECISION CONCERNING LOW CARBON FUEL STANDARD HOLDBACK REVENUE UTILIZATION

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DECISION CONCERNING LOW CARBON FUEL STANDARD HOLDBACK REVENUE UTILIZATION

Summary

This decision adopts elements of a Transportation Electrification Framework staff proposal regarding utilization by the large electrical corporations of certain proceeds they earn through the Low Carbon Fuel Standard program. The large electrical corporations are directed to spend certain Low Carbon Fuel Standard proceeds in accordance with the guidance and regulations established by the California Air Resources Board and the Commission.

The large electrical corporations are also directed to file their plans for Low Carbon Fuel Standard expenditures as a Tier 2 Advice Letter, and coordinate their marketing, education, and outreach activities related to their Low Carbon Fuel Standard projects with other transportation electrification initiatives.

This proceeding remains open.

1. Procedural Background

The instant rulemaking was established by the Commission on its own motion by an Order Instituting Rulemaking (OIR) issued on December 19, 2018. This proceeding is intended to provide a framework for the Commission to consider utility applications for investments and rates related to zero emission vehicles (ZEVs), and also includes issues held over from the predecessor transportation electrification (TE) proceeding – Rulemaking (R.) 13-11-007.

A decision in the instant proceeding – Decision (D.) 20-09-025 – summarizes the recent procedural background and is incorporated by reference.

The assigned Commissioner's scoping memo and ruling (scoping memo) in this proceeding was filed on May 2, 2019. The scoping memo set forth a variety of issues to be considered in this proceeding including "[p]olicies to support and ensure efficient implementation of the Low Carbon Fuel Standard (LCFS) program."[1]

On February 3, 2020, an assigned Administrative Law Judge (ALJ) issued a ruling attaching a draft Transportation Electrification Framework (TEF) and seeking party comment. The draft TEF contained language concerning the Commission's implementation of the LCFS program in Section 11.3. After several revisions, a timeline for party comment on Section 11.3 was set in an ALJ e-mail ruling of March 24, 2020. Opening party comments on Section 11.3 of the TEF were due on May 11, 2020, and reply comments were due on June 19, 2020. This decision is based on the record provided by party comments on Section 11.3 of the draft TEF.

2. Issues Before the Commission

As defined in the scoping memo, this decision concerns policies to support and ensure efficient implementation of the LCFS program.

3. Discussion

3.1. The Genesis of the LCFS Program and Commission Regulation of Large Electrical Corporation Participation

As explained in the draft TEF, the LCFS is one of the critical greenhouse gas (GHG) reduction measures established to implement Assembly Bill (AB) 32 (Stats. 2006, Ch. 488), also known as the California Global Warming Solutions Act of 2006. The California Air Resources Board (CARB) adopted its original LCFS regulations in 2009 and has amended them several times, including in 2018 and 2019.[2] The purpose of CARB's LCFS regulations is to transform and

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[1] Scoping memo at 7.

[2] Draft TEF at 146.

diversify California's transportation fuels, reduce petroleum dependency, and reduce emissions of air pollutants and GHGs.

As providers of clean transportation fuel (*i.e.,* electricity), the large electrical corporations generate LCFS credits. These credits may be sold at CARB's LCFS credit marketplace to entities that are legally required to meet certain LCFS standards. According to the draft TEF, the scope of the Commission's role within the LCFS is limited to oversight of the large electrical corporations' LCFS credits, the revenue from the sale of those credits, and the distribution of that revenue back to customers of the large electrical corporations. The Commission is involved in the LCFS program because the selling of credits and allocation of revenue affect the customers of large electrical corporations, the rates of the large electrical corporations, and the TE programs of the large electrical corporations, all of which are within the jurisdiction of the Commission.[3]

On March 24, 2011, the Commission opened R.11-03-012 to address, among other things, the use of revenues the large electrical corporations may receive from the sale of LCFS credits. In that proceeding, the Commission issued D.14-05-021, as modified by D.14-07-003, which authorized the large electrical corporations to sell LCFS credits and established criteria and reporting requirements for the sale of the LCFS credits.[4] The Commission also issued D.14-12-083, which adopted the methodology by which the large electrical corporations were to distribute revenue from the sale of LCFS credits.

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[3] Draft TEF at 147.

[4] D.14-05-021 exercised this authority based on Pub. Util. Code § 701 and §§ 851 et seq. (D.14-05-021 at 11-12). These sections of the Public Utilities Code predate the LCFS regulations promulgated by CARB and concern Commission authority to exercise oversight of the sale of assets belonging to the large electrical corporations.

Decision 14-12-083 noted that the LCFS regulations promulgated by CARB required the large electrical corporations to use LCFS credit proceeds to directly benefit current or future electric vehicle (EV) drivers, educate the public on the benefits of EV transportation, and provide rate options that encourage off-peak charging and minimize adverse impacts to the electrical grid.[5] That decision held that the large electrical corporations should allocate their LCFS revenue by either reducing the upfront purchase price of an EV at the point-of-sale with a rebate, and/or reducing fuel costs for EV drivers annually with a credit.[6]

The large electrical corporations implemented this mandate in different forms. In March 2015, each of the large electrical corporations submitted an implementation plan via Advice Letter proposing their revenue return programs. Southern California Edison Company (SCE) offered a one-time rebate for up to three owners of the same vehicle, Pacific Gas and Electric Company (PG&E) offered a one-time rebate, and San Diego Gas & Electric Company (SDG&E) offered an annual bill credit. Each of these large electrical corporation programs include associated administrative and marketing, education, and outreach (ME&O) budgets.[7]

3.2. The Legal Authority for the Commission to Adopt Specific LCFS Revenue Expenditure Rules that Accord with CARB Regulations

The history of this issue demonstrates that the Commission's authority to regulate the use of the proceeds emanating from the sale of LCFS credits by the large electrical corporations is distinct from CARB's authority to set conditions

[5] D.14-12-083 at 6.

[6] D.14-12-083 at 22.

[7] Draft TEF at 148.

on the use of LCFS credit sales.[8] By requiring the large electrical corporations to use their LCFS revenues to either reduce the upfront purchase price of an EV at the point-of-sale with a rebate, and/or reduce fuel costs for EV drivers annually with a credit, the Commission adopted regulations governing the use of LCFS credit revenue that were complementary to, but more detailed than, the CARB regulations governing the use of LCFS revenue.

To illustrate, D.14-12-083 held that the following criteria should guide the Commission's adoption of particular initiatives funded with LCFS revenue: "[w]e find that Compliance with the [CARB LCFS] Regulation, encouraging [plug-in electric vehicle (PEV)] adoption, and equitable return to PEV drivers should be the primary objectives for LCFS revenue return. Utility notification and administrative simplicity are considered secondary objectives, but remain important to the Commission's evaluation of revenue return options."[9] It is apparent that compliance with CARB's LCFS regulations was one of several principles, but not the only principle, guiding the Commission's determination of how to regulate LCFS revenue expenditures by the large electrical corporations over which it has jurisdiction.

While some parties to the instant proceeding, such as PG&E, argue that the Commission should not promulgate regulations for the use of LCFS revenue and specifically recognize CARB's oversight of the program as a "lead agency,"[10] the Commission has legal authority and a statutory duty to oversee the sale of LCFS

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[8] As determined by D.14-05-021, the Commission's authority is derived from Public Utilities Code § 701 and §§ 851 et seq. CARB's authority to regulate the sale of LCFS credits springs from AB 32 (Health & Saf. Code §§ 38500 et seq.).

[9] D.14-12-083 at 24.

[10] *See, e.g.*, PG&E comments at 1, 14.

credits and consequent use of LCFS revenue held by the large electrical corporations. In this decision, the Commission reaffirms the relevant conclusions of law from D.14-05-021 that are the foundation of this exclusive authority and duty.

Preliminarily, the Commission possesses broad authority to regulate the large electrical corporations' use of the LCFS revenue. Pub. Util. Code § 701 grants the Commission the power to "supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction." Further, the sale by a large electrical corporation of LCFS credits usually amounts to several tens of millions of dollars a year,[11] and therefore it is a sale of utility assets covered by Pub. Util. Code § 851. That section of the Public Utilities Code disallows such sales without a Commission order. However, under Pub. Util. Code § 853(b) a large electrical corporation may be exempted from the requirement to receive a Commission order authorizing a sale of assets. If such an exemption is granted under Pub. Util. Code § 853(b), the Commission may establish rules or impose requirements deemed necessary to protect the interest of the customers of the large electrical corporation.

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[11] CARB reports that the average price per LCFS credit was $201 in the first quarter of 2020 (https://ww3.arb.ca.gov/fuels/lcfs/credit/September%202020%20-%20Monthly%20Credit%20Transfer%20Activity.pdf). CARB also reports that in the first quarter of 2020 there were approximately 500,000 LCFS credits distributed for on-road electrical fueling (https://ww3.arb.ca.gov/fuels/lcfs/dashboard/quarterlysummary/quarterlysummary_073120.xlsx). Multiplying these figures leads to a first quarter 2020 value of $100,500,000 for LCFS on-road electrical fueling credits.

This decision holds, as D.14-05-021 did, that it is appropriate to exempt the sales of LCFS credits by the large electrical corporations from the standard requirements of Pub. Util. Code § 851. In order to provide sufficient ratepayer protections, it is reasonable for the Commission to adopt parameters and procedures governing LCFS credit sales by the large electrical corporations as authorized by Pub. Util. Code § 853(b).

For these reasons, the Commission in this decision imposes requirements on the large electrical corporations regarding their sale of LCFS credits and the use of the revenues resulting from those sales. These requirements are complementary to, and do not contradict, CARB's LCFS regulations.

3.3. Replacement of the Existing LCFS Rebate Programs with the Clean Fuel Reward Program

In 2018 CARB approved amendments to its LCFS regulations. These amendments directed the large electrical corporations to establish a statewide upfront rebate (at the point-of-vehicle-purchase) for EVs and plug-in hybrid electric vehicles (PHEVs) that is funded by LCFS credit revenue. From 2019 through 2022, CARB requires that the large electrical corporations contribute at least 67 percent of their LCFS credit revenue to this new point-of-sale rebate program, known as the Clean Fuel Reward program.[12] The initial operation of the Clean Fuel Reward program was approved by the Commission in Resolution E-5015 and is not modified by this decision.

3.4. Status of LCFS Credit Revenue not Related to the Clean Fuel Reward Program

While CARB ordered that 67 percent of the LCFS revenue of the large electrical corporations must be used to fund the Clean Fuel Reward program,

[12] Draft TEF at 147.

that leaves 33 percent of the revenues to be refunded to EV drivers in some other form. These remaining revenues are known as "holdback" funds or credits[13] and the determination of their use is the main subject of this decision.

On November 21, 2019, CARB considered proposed changes to its LCFS regulations that included requirements for how the large electrical corporations are to use their holdback LCFS credit revenue. These proposed amendments were eventually adopted by CARB and became effective July 1, 2020.

Under the 2020 amendments to CARB's LCFS regulations, by 2022 the large electrical corporations are required to use at least 30 percent of the proceeds from the sale of their holdback LCFS credits for the primary benefit of or primarily serving disadvantaged communities, low-income communities,[14] rural areas, or low-income individuals that meet the definition of low-income in Health and Safety Code § 50093 or that meet the eligibility criteria for the California Alternative Rates for Energy (CARE) program or Family Electric Rate Assistance Program (FERA). This requirement increases to 40 percent of the LCFS holdback proceeds in 2023, and 50 percent in 2024 and in subsequent years. As specified in CARB's LCFS regulations, projects that meet these criteria are known as "equity projects."[15] This is the term that this decision will use to refer to these kinds of LCFS-funded projects.

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[13] *See* Cal. Code Regs., tit. 17, § 95481, subd. (a)(6).

[14] "Low-Income Communities" means census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low income by the Department of Housing and Community Development's list of state income limits adopted pursuant to Health & Saf. Code § 50093 (Cal. Code Regs., tit. 17, § 95481).

[15] Cal. Code Regs., tit. 17, § 95483, subd. (c)(1)(A)(6)(a).

The 2020 amendments to CARB's LCFS regulations also provided several implementation pathways that would meet the intent of the equity projects requirement, including:

- Electrification and battery swap programs for school or transit buses.
- Electrification of drayage trucks.
- Investment in public EV charging infrastructure and EV charging infrastructure in multi-family residences.
- Investment in electric mobility solutions, such as EV sharing and ride hailing programs.
- Multilingual marketing, education, and outreach designed to increase awareness and adoption of EVs and clean mobility options and including information about: the environmental, economic, and health benefits of EV transportation; basic maintenance and charging of EVs; electric rates designed to encourage EV use; and local, state, and federal incentives available for purchase of EVs.
- Additional rebates and incentives for low-income individuals beyond existing local, federal and state rebates and incentives including the Clean Fuel Reward for: purchasing or leasing new or previously owned EVs; installing EV charging infrastructure in residences; promoting use of public transit and other clean mobility solutions; and offsetting costs for residential or nonresidential EV charging.
- Alternatively, large electrical corporations, in coordination with local environmental justice advocates, local community-based organizations (CBOs), and local municipalities, may develop and implement other projects that promote TE in disadvantaged and/or low-income

> communities and/or rural areas or for low-income individuals.[16]

With respect to the LCFS holdback funds not specifically utilized for equity projects, the 2020 amendments to CARB's LCFS regulations are silent on the matter, and the proposed amendments of November 19, 2019 simply stated that "[t]he remaining holdback credits must be invested by utilities in projects that further the adoption of electric vehicles such as charging infrastructure, used EV rebates, and public outreach and education."[17]

3.5. Impact of AB 841

AB 841 (Stats. 2020, Ch. 372) recently amended Pub. Util. Code § 740.12 (effective January 1, 2021) to require that at least 35 percent of TE investments made by the large electrical corporations be made in "underserved communities."[18] This legislation was passed and chaptered subsequent to party comment on the LCFS portions of the draft TEF, and so this decision applies AB 841 to the issue of LCFS holdback fund expenditure using its inherent authority to interpret law and apply it to Commission orders where applicable. The Commission finds that it should harmonize the equity project requirements

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[16] These alternative projects are subject to approval by CARB's Executive Officer. Applications submitted to the Executive Officer must include, and will be evaluated for approval based on, a complete description of the project, demonstration that the project promotes transportation electrification in disadvantaged and/or low-income communities and/or rural areas or provides increased access to electric transportation for low-income individuals, and evidence that the project was developed in coordination with local environmental justice advocates, local community-based organizations, and local municipalities (Cal. Code Regs., tit. 17, § 95483, subd. (c)(1)(A)(6)(a)).

[17] November 19 proposed amendments at VIII-6.

[18] Pub. Util. Code § 740.12(b). It is not clear if this requirement is meant to apply to LCFS holdback expenditures, but this decision applies the requirement to LCFS holdback expenditures notwithstanding any ambiguity. The Commission may make a different interpretation regarding the applicability of AB 841 to LCFS holdback expenditures in the future.

of CARB's LCFS regulations and the underserved community requirements of AB 841 in order to ensure administrative simplicity and honor the legislative intent of AB 841.

AB 841 defines an underserved community as a community that meets one of the following criteria:

1. A community with a median household income less than 80 percent of the statewide average.[19]
2. Census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low income by the Department of Housing and Community Development's list of state income limits adopted pursuant to Health and Safety Code § 50093.[20]
3. Is within an area identified as among the most disadvantaged 25 percent in the state according to the California Environmental Protection Agency and based on the most recent California Communities Environmental Health Screening Tool, also known as CalEnviroScreen.[21]
4. A community in which at least 75 percent of public school students in the project area are eligible to receive free or reduced-price meals under the National School Lunch Program.[22]

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[19] Pub. Util. Code § 1601(e)(1), citing Pub. Resources Code § 75005(g). As noted by comments to the proposed decision, there appears to be a misapplication of the concept of median income when compared with average income and ambiguity in the use of the term "community;" but this language is directly from statute and cannot be modified by this decision. The electrical corporations should use good faith efforts to reasonably apply this definition.

[20] Pub. Util. Code § 1601(e)(2), citing Health & Saf. Code § 39713(d)(2).

[21] Pub. Util. Code § 1601(e)(3).

[22] Pub. Util. Code § 1601(e)(4). As noted by comments to the proposed decision, there is ambiguity in the use of the term "community;" but this language is directly from statute and cannot be modified by this decision. The electrical corporations should use good faith efforts to reasonably apply this definition.

5. A community located on lands belonging to a federally recognized California Indian tribe.[23]

This decision holds that two categories of underserved communities established by AB 841 are already subsumed by the types of equity project communities defined by CARB's LCFS regulations. Equity projects are to be for the primary benefit of or primarily serving disadvantaged communities and/or low-income communities and/or rural areas or low-income individuals eligible under CARE or FERA or the definition of low-income in Health and Safety Code § 50093 or the definition of low-income established by a publicly-owned electric utility's (POU's) governing body.[24] "Low-income communities" are defined by CARB's LCFS regulations as census tracts with median household incomes at or below 80 percent of the statewide median income or with median household incomes at or below the threshold designated as low-income by the Department of Housing and Community Development's list of state income limits adopted pursuant to Health and Safety Code § 50093.[25] The definition of low-income communities in CARB's LCFS regulations therefore includes low-income communities defined as "underserved communities" by Pub. Util. Code § 1601(e)(2).

CARB's LCFS regulations define "disadvantaged communities" as communities that are defined by California Health and Safety Code § 39711(a) that are identified based on geographic, socioeconomic, public health, and

[23] Pub. Util. Code § 1601(e)(5). As noted by comments to the proposed decision, there is ambiguity in the use of the term "community;" but this language is directly from statute and cannot be modified by this decision. The electrical corporations should use good faith efforts to reasonably apply this definition.

[24] Cal. Code Regs., tit. 17, § 95483, subd. (c)(1)(A)(6)(a).

[25] Cal. Code Regs., tit. 17, § 95481, subd. (a)(96).

environmental hazard criteria, and may include, but are not limited to, either of the following: (1) areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation or (2) areas with concentrations of people that are of low-income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.[26] The Commission considers that these communities are the same as those that are within an area identified as among the most disadvantaged 25 percent in the state according to the California Environmental Protection Agency and based on the most recent California Communities Environmental Health Screening Tool, also known as CalEnviroScreen. The definition of disadvantaged communities in CARB's LCFS regulations therefore includes disadvantaged communities defined as "underserved communities" by Pub. Util. Code § 1601(e)(3).

However, the kinds of underserved communities defined in Pub. Util. Code § 1601(e)(1),(4), and (5) are not referred to as communities eligible for equity project expenditures under CARB's LCFS regulations. In order to ensure consistency between the equity project requirement of CARB's LCFS regulations and the underserved communities requirement of AB 841, the Commission holds that all communities defined as underserved communities should qualify as communities eligible for LCFS holdback expenditures on equity projects, in addition to the areas already defined by CARB's LCFS regulations as eligible for LCFS holdback expenditures on equity projects.

Therefore, a large electrical corporation's expenditure of LCFS holdback funds for the primary benefit of or primarily serving disadvantaged

[26] Cal. Code Regs., tit. 17, § 95481, subd. (a)(41).

communities and/or low-income communities and/or rural areas or low-income individuals eligible under CARE or FERA or the definition of low-income in Health and Safety Code § 50093 or the definition of low-income established by a POU's governing body, or a community with a median household income less than 80 percent of the statewide average, or a community in which at least 75 percent of public school students in the project area are eligible to receive free or reduced-price meals under the National School Lunch Program, or a community located on lands belonging to a federally recognized California Indian tribe shall qualify as an LCFS holdback expenditure that meets the equity project requirement of CARB's LCFS regulations.

In response to comments on the proposed decision, the Commission clarifies that small businesses located in the locations eligible for equity projects are eligible to participate in a large electrical corporation's equity projects.

Through these holdings, the Commission ensures that the intent of AB 841 is met in the expenditure of LCFS holdback funds by the large electrical corporations.

The only other change required to harmonize the equity project requirement of CARB's LCFS regulations with the underserved communities requirement of AB 841 is to increase the minimum amount of equity project expenditures to at least 35 percent in 2021 and 2022. The current minimum percentage of zero percent in 2021 and 30 percent in 2022[27] would be inadequate to meet the requirements of AB 841, which are operative today. Beyond increasing the requirements to meet AB 841 in these earlier years, we are persuaded by the comments filed jointly by Center for Community Action and

[27] Cal. Code Regs., tit. 17, § 95483, subd. (c)(1)(A)(6)(a).

Environmental Justice, East Yard Communities for Environmental Justice, Sierra Club, Union of Concerned Scientists, and Center for Biological Diversity (collectively "Joint Commenters"), that more than 50 percent of LCFS holdback funds should be dedicated to equity projects.[28] The Joint Commenters argue that, instead of the existing requirements, all of the LCFS holdback funds should be spent on equity projects. EDF makes a similar argument that the Commission should require the large electrical corporations to fund equity projects beyond the 50 percent minimum mandated by CARB.[29] Although we disagree that increasing the requirement to 100 percent is appropriate at this time, we agree that a higher percentage is warranted. We hereby implement a ramp up period for equity spending that begins with 35 percent in 2021, increases to 45 percent in 2022, increases to 55 percent in 2023, and increases to 75 percent in 2024 and thereafter. The ramp up period will allow the large electrical corporations time to properly plan and develop these equity programs. However, we expect the large electrical corporations to spend the funds promptly rather than allow them to remain unused, and therefore encourage early compliance with the equity spending requirement.

3.6. Staff Proposal for Use of LCFS Holdback Funds

As noted previously, the draft TEF considered the appropriate use of LCFS holdback funds in Section 11.3.2. It should be noted that the draft TEF was prepared and circulated for party review prior to the adoption by CARB of the final 2019 amendments to its LCFS regulations. The draft TEF therefore contains

[28] Joint Commenter comments at 7.

[29] EDF comments at 10.

information and assumptions made without awareness of the final 2019 amendments to the LCFS regulations, which went into effect on July 1, 2020.

In addition to any requirements set out by CARB for equity projects, Section 11.3.2 of the draft TEF recommended that the large electrical corporations choose from the following three options for the use of their LCFS holdback funds:

- Develop a used EV rebate program, coordinated across the territories of the large electrical corporations.
- Reduce the cost to ratepayers of existing school bus or transit charging infrastructure programs by supplementing program budgets with LCFS holdback credit revenue.
- Support EV resiliency efforts, including by addressing climate and wildfire resiliency.[30]

The draft TEF also recommended that the large electrical corporations contribute the revenue from any other LCFS credit sales (*e.g.*, their forklift LCFS credit sales) to any initiatives funded by the sale of the LCFS holdback credits, reasoning that such a contribution would "have a more meaningful impact if combined with the other remaining LCFS credit revenue."[31]

3.7. Party Comment on the Draft TEF's Recommendations Regarding LCFS Holdback Funds

We now consider whether the recommendations of the draft TEF, or other recommendations made by parties for the use of LCFS holdback revenues, are consistent with CARB's equity project rules and the requirement that the revenues benefit current and future EV drivers in California.

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[30] Draft TEF at 149.

[31] *Id.*

Many parties were broadly critical of the LCFS holdback recommendations made in the draft TEF, which they argued exclude the equity project and other project options included by CARB in its revisions to its LCFS regulations. Parties making this general argument included PG&E,[32] Environmental Defense Fund (EDF),[33] Ecology Action,[34] SCE,[35] SDG&E,[36] Advanced Energy Economy (AEE),[37] the Joint Commenters,[38] and jointly by Natural Resources Defense Council, the Coalition of California Utility Employees, Plug in America, Greenlots, Enel X North America Inc., Siemens, EVBox, and the Alliance For Automotive Innovation Inc. (collectively "NRDC").[39]

3.8. Party Proposals for LCFS Expenditures

PG&E, SDG&E, and NRDC each made an argument that the large electrical corporations should be allowed flexibility over their use of LCFS holdback revenue expenditures, without the need to conform with the

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[32] PG&E comments at 11.

[33] EDF comments at 10 ("…it is unclear that Commission Staff should be dictating the options for a program run by the Air Resources Board").

[34] Ecology Action comments at 6 ("[w]e concur with other parties that the CARB rules should guide the programs with appropriate reporting back to the [Commission] under the guidelines of previous rulings including D.14-07-003").

[35] SCE comments at 4 ("…the draft TEF recommends that the utilities choose between only three options, which—while having some overlap—do not correspond with CARB's regulation").

[36] SDG&E comments at 7 ("[t]he Commission suggested in the Draft TEF limiting utilities to creating programs that fit three suggested options for using LCFS revenue…").

[37] AEE comments at 7 ("we disagree with the Commission's recommendation to limit holdback funds to only these three options").

[38] Joint Commenter comments at 7 ("[t]he draft TEF would prevent utilities from using LCFS for important projects that CARB specifically identified as primarily benefiting disadvantaged communities (DACs) and low-income Californians").

[39] NRDC comments at 8 ("[s]ection 11.3.2 of the Draft TEF proposes to restrict the utilities to just three uses of their holdback credit funds, significantly narrowing the options laid out by [CARB]").

Commission's recommendations on how to spend the funds. PG&E reasoned that because CARB does not place restrictions on non-equity project expenditures of holdback revenues (beyond that they benefit the state's EV drivers), then the Commission should not impose any additional restrictions in order to maintain consistency with CARB's approach.[40] SDG&E asserted that they should have the flexibility to utilize their LCFS revenue in a way that reflects the unique needs of their service territory.[41] NRDC argued that the Commission should not impose any restrictions on how the large electrical corporations use their LCFS revenues beyond the obligations imposed by CARB.[42] As previously held, this decision maintains the Commission's authority to impose requirements on the LCFS expenditures of the large electrical corporations so long as those requirements are complementary to CARB regulation.

The record demonstrates substantial interest by some parties in defining how LCFS holdback revenue should be spent. These parties indicated that there are various state policy objectives regarding TE that could be advanced if the LCFS holdback revenue were directed toward certain projects.

For example, Ecology Action believed that focusing holdback funds on EV charging infrastructure in multi-family residences would align with CARB and Commission goals simultaneously.[43] They also mentioned that the holdback funds could be used to assist with used EV adoption.[44]

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[40] PG&E comments at 12-13.

[41] SDG&E comments at 7.

[42] NRDC comments at 9.

[43] Ecology Action comments at 5.

[44] Ecology Action comments at 6.

Small Business Utility Advocates (SBUA) believed that any Commission orders should increase incentives for used EV purchases, as recommended by the draft TEF.[45] The Joint Community Choice Aggregators (Joint CCAs) did not object to the Commission's recommendations for LCFS holdback expenditures, particularly a used EV rebate program, and also suggested that holdback funds be used to defray costs related to the installation of Level 1 and Level 2 EV charging in multi-unit dwellings. Furthermore, they expressed that CCAs should be allowed to implement the programs themselves as program administrators.[46]

Peninsula Clean Energy (PCE) made comments along the same lines as the Joint CCAs and specifically proposed that CCAs and large electrical corporations coordinate their TE program efforts to avoid duplication and customer confusion.[47] They also argued against any funding for EV resiliency projects beyond pilot projects and recommended a focus on charging infrastructure for residents of multi-unit dwellings.[48]

AEE recommended the adoption of other potential initiatives such as a vehicle incentive program for rideshare electrification, or a vehicle replacement program (which may essentially be viewed as an EV rebate program).[49]

EVgo and Tesla each argued that holdback funds should focus on EV rebates in order to meet state goals for EV deployment.[50] The Utility Reform

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[45] SBUA comments at 6.

[46] Joint CCA comments at 11-13.

[47] PCE comments at 9-10.

[48] PCE comments at 11, 13-14.

[49] AEE comments at 7-8.

[50] EVgo comments at 3; Tesla comments at 6-7.

Network (TURN) also supported the draft TEF's proposal for a used EV rebate program; however they recommended that the program include income eligibility requirements to ensure low-income customers receive the benefits of the program. TURN did not support the draft TEF's proposal to fund resiliency programs.[51]

Electrify America recommended the Commission focus on oversight of the LCFS expenditures of the large electrical corporations, ensuring accountability for such expenditures, and recommended a programmatic focus on rebates to low-income individuals for used EVs or utility bill rebates for low-income EV owners.[52] Green Power Institute and Community Environmental Council (GPI/CEC) supported a used EV rebate program, but wished to include other electrified forms of transportation such as scooters.[53]

Tesla argued against LCFS expenditures on existing school bus or transit charging infrastructure programs given that LCFS credits are generated by residential EV charging and should therefore benefit residential applications.[54]

Vehicle-Grid Integration Council (VGIC) sought to ensure flexibility for the use of LCFS revenue and suggested that the Commission create a grant pool out of LCFS revenue. They supported the draft TEF's recommendation that EV resiliency projects be funded using LCFS revenue.[55]

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) asserted that using holdback revenue to develop more direct

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[51] TURN comments at 6.

[52] Electrify America comments at 3.

[53] GPI/CEC comments at 14.

[54] Tesla comments at 7.

[55] VGIC comments at 19.

current fast charging (DCFC) stations would help facilitate state policy goals in that area.[56]

The surfeit of party proposals for the use of LCFS holdback revenue demonstrates substantial interest in using LCFS revenue to help meet certain state policy goals (*e.g.*, five million EVs by 2030, 250,000 chargers statewide by 2025, and Governor Newsom's Executive Order N-79-20 directing that all new passenger car sales be zero emissions vehicles by 2035). While CARB's baseline requirements that LCFS expenditures benefit current or future EV drivers and that at least 50 percent be used on equity projects by 2024 are laudable goals, further refining those broad goals into certain project areas will help achieve specific state policy goals around EV adoption, equitable distribution of EV infrastructure development, or advancing the deployment of EV infrastructure. So long as these more refined goals benefit current or future EV drivers and comply with the equity project requirements, there is no conflict with CARB regulations. For these reasons, this decision holds that it is reasonable to impose requirements on the large electrical corporations regarding their use of LCFS holdback revenues.

3.9. Equity Projects Must Be Funded in Accordance with Commission Requirements

Several parties indicated that they wished to see the equity project requirements of the LCFS regulations fully implemented, and some parties even urged the Commission to impose further equity project requirements on the large electrical corporations beyond those required by CARB's regulation. This decision previously adjusted the equity project requirement of CARB's LCFS regulations to harmonize it with similar requirements appearing in AB 841 and

[56] Cal Advocates comments at 20-21.

increased the percentage of LCFS holdback funds to be dedicated to equity projects. The large electrical corporations must comply with the equity project requirements established by CARB's LCFS regulations and modified by this decision. This decision also imposes additional operational requirements on the large electrical corporations to ensure that their proposed equity project expenditures are in the best interests of utility ratepayers. These additional operational requirements are discussed further in this decision.

3.10. LCFS Holdback Revenues not Spent on Equity Projects Must Be Spent on Resiliency Projects

CARB's LCFS regulations do not impose any requirements on non-equity project LCFS holdback expenditures by the large electrical corporations, other than that they must benefit current or future EV drivers in California. The draft TEF proposed, among other things, that non-equity project expenditures be directed toward projects that enhanced the ability of EVs to support resiliency given the importance of enhancing community resiliency as a state policy goal.[57]

Exercising the Commission's authority to regulate LCFS holdback expenditures, this decision holds that a portion of LCFS expenditures not spent on equity projects must be expended on resiliency projects in an amount up to 20% of that year's LCFS holdback proceeds, unless the large electrical corporation can reasonably demonstrate why it is unable to do so. The large electrical corporations must propose resiliency projects in their Implementation Plans to meet this 20% target. If they are unable to meet this target, they must

[57] Draft TEF at 149 ("[m]uch work is still necessary to improve resiliency within TE and to utilize EVs to improve grid resiliency. As resiliency bleeds into equity issues and the larger issues of increased EVs on the road, staff finds this to be a good subject area for LCFS-funded programs").

identify in their Implementation Plans why they are reasonably unable to do so and what measures they have taken to meet the resiliency target.

Section 5.1 of the draft TEF defines "resiliency projects" as those that lead to the installation of EV charging facilities at evacuation/emergency response centers; and/or pilot technologies and programs that use EVs as backup power resources and provide benefits back to EV drivers to enhance resiliency in communities that may face power shut-offs due to weather, wildfire risk, or other emergencies.[58] Several parties generally supported the prioritization of resiliency projects defined in this manner, including SBUA,[59] Liberty CalPeco,[60] SCE,[61] the California Energy Storage Alliance (CESA),[62] Cal Advocates,[63] Connect California LLC,[64] VGIC,[65] EVgo,[66] Joint Commenters,[67] TURN,[68] and AEE.[69]

PG&E objected to the inclusion of resiliency projects as a subject of focus in this proceeding, reasoning that such projects were better addressed in other Commission proceedings more explicitly focused on resiliency issues.[70]

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[58] Draft TEF at 43-44.

[59] SBUA comments of March 6, 2020 at 8.

[60] Liberty CalPeco comments of March 6, 2020 at 4-5.

[61] SCE comments of March 6, 2020 at 16-18.

[62] CESA comments of March 6, 2020 at 8-9.

[63] Cal Advocates comments of March 6, 2020 at 15.

[64] Connect California LLC comments of March 6, 2020 at 5.

[65] VGIC comments of March 6, 2020 at 13.

[66] EVgo comments of March 6, 2020 at 9-10.

[67] Joint Commenters comments of March 6, 2020 at 21.

[68] TURN comments of March 6, 2020 at 17.

[69] AEE comments of March 6, 2020 at 15.

[70] PG&E comments of March 6, 2020 at 20. *See also* UCAN comments of March 6, 2020 at 19.

Notwithstanding the objection of some parties to a Commission focus on this area, it remains the case that promotion of resiliency for the electrical grid is an important statewide policy goal, can provide benefits to EV drivers, and that this area of focus in the draft TEF was supported by many of the parties to this proceeding. This decision therefore finds that it is reasonable to focus LCFS holdback expenditures on resiliency projects and programs, so long as they only benefit existing or future EV drivers, consistent with CARB's LCFS regulations. This decision defines resiliency projects that would appear to be consistent with CARB's LCFS regulations as:

1. Those that lead to the installation of EV charging facilities at evacuation/emergency response centers, or at other critical facilities and critical infrastructure, like those defined under the Self-Generation Incentive Program.[71] This could include deployment of charging infrastructure at these locations, storage-supported charging, off-grid charging, or other innovative ways to support charging infrastructure and resiliency by providing EV owners with the ability to charge their vehicles in the event that grid outages prevent them from fueling their EVs where they would normally charge them; and/or

[71] D.19-09-027 at 26 identifies critical facilities and critical infrastructure that are essential to the public safety and require additional assistance and advance planning to ensure resiliency during de-energization events. These include "[p]olice stations; fire stations; emergency response providers as defined in D.19-05-042; emergency operations centers; 911 call centers (also referred to as Public Safety Answering Points); medical facilities including hospitals, skilled nursing facilities, nursing homes, blood banks, health care facilities, dialysis centers and hospice facilities; public and private gas, electric, water, wastewater or flood control facilities; jails and prisons; locations designated by the [large electrical corporations] to provide assistance during PSPS events; cooling centers designated by state or local governments; and, homeless shelters supported by federal, state, or local governments." *See also* D.20-01-021, Conclusion of Law 18 ("…(b) grocery stores, corner stores, markets and supermarkets with average annual gross receipts of $15 million or less over the last three tax years as calculated at a single location;, (c) independent living centers;, (d) food banks…").

2. Those that pilot technologies that allow EV owners to use their electric vehicle to power electric equipment at their homes or businesses in the event of power shut-offs due to weather, wildfire risk, or other emergencies.

3.11. Implementation Plans

This decision adopts a requirement that the large electrical corporations file LCFS holdback revenue return Implementation Plans in order to qualify for an exemption from the requirements of Pub. Util. Code § 851 pursuant to Pub. Util. Code § 853(b). The Implementation Plan requirements are imposed on the large electrical corporations in order to help ensure that the ratepayer benefits of the LCFS holdback expenditures are maximized and are therefore appropriate to impose under the Commission's authority to regulate LCFS expenditures. In its initial Implementation Plan, each of the large electrical corporations shall include: 1) a proposal for at least one program, and 2) a description for how the large electrical corporation plans to spend the rest of the funds. This shall include the status of the program development of the remaining program(s), the implementation timeline, and the approximate budget. While the large electrical corporations are still bound to comply with the spending requirements, this will allow the large electrical corporations the ability to ramp up their program development and ensure revenues do not remain unused. Once a subsequent program is developed, the large electrical corporation should submit an additional Implementation Plan. As programs may change or end over time, large electrical corporations may submit revised Implementation Plans in the future to update their programs.

Further, in its initial and subsequent Implementation Plans, each of the large electrical corporations shall also specify:

1. How its LCFS holdback expenditures are dedicated to equity projects or resiliency projects, if applicable and as

defined by this decision, in the years considered by the Implementation Plan.

2. How each of its LCFS holdback expenditures and planned investments benefit current or future EV drivers in the state.

3. How its LCFS holdback expenditures comply with all other CARB regulations regarding the use of LCFS holdback funds (*e.g.*, administrative cost caps and prohibited uses).

4. How any proposal for its LCFS holdback expenditure:

   a. Demonstrates input from environmental justice groups and/or community-based organizations.

   b. Will address gaps in program design not already addressed through a large electrical corporation's TE expenditures or other publicly funded program, or in the alternative how the proposed expenditure will reduce costs to ratepayers.

   c. Will address a barrier to TE, equity, and/or resiliency.

   d. Includes data collection requirements that allow for an evaluation of the effectiveness of the proposal in addressing TE, equity, and/or resiliency barriers.

5. How any proposal for an equity project will be for the primary benefit of or primarily serve communities eligible for equity project expenditures.[72]

[72] The Commission holds that the requirement of CARB's LCFS regulations that equity projects must be for the primary benefit of or primarily serving communities eligible for equity project expenditures must be strictly adhered to. A failure by an Implementation Plan to adequately describe how an equity project proposal will be for the primary benefit of or primarily serve communities eligible for equity projects as defined by this decision will lead to a rejection of the proposal by the Commission's Energy Division staff. Projects that primarily benefit or primarily serve underserved communities in this context means projects that are designed to exclusively benefit or serve underserved communities and/or individuals even if they result in incidental benefits for non-equity eligible communities.

6. How any proposal for a resiliency project is aligned with other TE-related utility resiliency efforts, including but not limited to Public Safety Power Shutoffs (PSPS) and Wildfire Mitigation Plans, and reflects consultation with EV service providers where appropriate.
7. How any proposal for a resiliency project aligns with Commission policy on vehicle-grid integration (VGI).

In addition, the Implementation Plan shall include answers to the following general information questions as ordered by the Commission in D.14-12-083:

1. How will the large electrical corporation calculate the number of LCFS credits generated by each customer?
2. Who receives the revenue from the sale of LCFS credits?
3. How are LCFS revenue recipients identified?
4. How will the large electrical corporation calculate the amount of revenue to be distributed to each customer, if appropriate?[73]
5. By what means is the revenue distributed to the customer and how frequently is revenue distributed?
6. How will vehicle ownership changes be identified, addressed, and tracked?
7. How will the large electrical corporation track and true-up revenues and disbursements from the program?
8. How will the program be marketed in a competitively neutral manner so that plug-in EV owners, regardless of their load serving entity, are aware that they are eligible to receive LCFS revenue?
9. How will the large electrical corporation receive and distribute credits generated by non-residential customers?

[73] This decision recognizes that some programs proposed by the large electrical corporations may not be suitable for calculating the amount of LCFS holdback revenue distributed to each customer.

Proposals for certain kinds of LCFS equity project expenditures in a large electrical corporation's Implementation Plan have their own operational requirements to fulfill. These are described below.

If a large electrical corporation proposes to expend LCFS holdback revenues on an equity project as described at Title 17 of the California Code of Regulations § 95483(c)(1)(A)(6)(a)(i) (electrification and battery swap programs for school or transit buses), then the large electrical corporation must address in its Implementation Plan how the proposed investment is not currently addressed within an existing ratepayer funded medium- and heavy-duty electrification program. If choosing to implement a battery swap technology program, the large electric corporation must address why investment in this technology is currently necessary, why it is more cost effective than other electrification strategies, and why it is expected to continue to be a necessary technology investment.

If a large electrical corporation proposes to expend LCFS holdback revenues on an equity project as described at Title 17 of the California Code of Regulations § 95483(c)(1)(A)(6)(a)(ii) (electrification of drayage trucks), then the large electrical corporation must demonstrate in its Implementation Plan how the proposal will address gaps or barriers not addressed by the electrical corporation's current TE programs, or how the proposal reduces the cost of ongoing program(s) to ratepayers.

If a large electrical corporation proposes to expend LCFS holdback revenues on an equity project as described at Title 17 of the California Code of Regulations § 95483(c)(1)(A)(6)(a)(iii) (investment in public EV charging infrastructure and EV charging infrastructure in multi-family residences), then the large electrical corporation must demonstrate in its Implementation Plan how the proposal will address gaps or barriers not addressed by the electrical corporation's current TE programs, or how the proposal reduces the cost of ongoing program(s) to ratepayers.

If a large electrical corporation proposes to expend LCFS holdback revenues on an equity project as described at Title 17 of the California Code of Regulations § 95483(c)(1)(A)(6)(a)(iv) (investment in electric mobility solutions, such as EV sharing and ride hailing programs), and the proposal is designed to support transportation network companies (TNCs) then the large electrical corporation must demonstrate in its Implementation Plan how the proposal's funding is also accompanied by data sharing agreements and meaningful co-funding from the TNCs. If the proposal includes funding for the vehicle itself, then the Implementation Plan should demonstrate why the large electrical corporation is uniquely suited to managing such a program, and how the program fills a gap not yet addressed. The large electrical corporation must in its Implementation Plan also demonstrate how a program supporting TNCs is addressing equity barriers.

If a large electrical corporation proposes to expend LCFS holdback revenues on an equity project as described at Title 17 of the California Code of Regulations § 95483(c)(1)(A)(6)(a)(v) (multilingual marketing, education, and outreach designed to increase awareness and adoption of EVs), then the large electrical corporation must in its Implementation Plan address how the proposal focuses on equity, promotes engagement with CBOs and communities, and focuses on education specifically around electricity, rates, and fueling from the grid. Any such proposal should also describe in the Implementation Plan how the proposal either fills a gap in current programs or reduces costs to ratepayers.

If a large electrical corporation proposes to expend LCFS holdback revenues on an equity project as described at Title 17 of the California Code of Regulations § 95483(c)(1)(A)(6)(a)(vi) (additional rebates and incentives for low-income individuals), and chooses to propose a second-hand vehicle rebate, then the large electrical corporation must in its Implementation Plan describe how the large electrical corporations as a whole have coordinated their proposals in this area, with the goal of creating similar customer experiences across their territories. This demonstrated coordination should seek to ensure consistency in proposed rebate levels, eligibility requirements, application processes, and outreach messaging. If choosing another option from this category, a large electrical corporation's Implementation Plan must also describe how the proposal's aims are not already addressed in existing programs, and what TE barrier the proposal addresses.

If a large electrical corporation proposes to expend LCFS holdback revenues on an equity project as described at Title 17 of the California Code of Regulations § 95483(c)(1)(A)(6)(a)(vii) (other projects that promote TE in underserved communities), then the large electrical corporation must in its Implementation Plan: include a description of clear input from more than one CBO, environmental justice (EJ) group, and/or local municipality; describe what gap in existing publicly funded programs the proposal is addressing; describe the barrier to widespread TE that the proposal is addressing; describe how the proposal will directly impact TE equity within the community; and describe why the large electrical corporation is uniquely suited to implement the proposal.

Proposals for LCFS resiliency project expenditures in a large electrical corporation's Implementation Plan have their own operational requirements to fulfill. Proposals for resiliency projects shall address resiliency barriers by identifying opportunities to address how EV charging is impacted by a power outage. The large electrical corporation's resiliency project proposal should demonstrate efforts to work with county/local governments, state emergency agencies, CCAs, local planning/transportation agencies, CBOs, and/or EJ organizations on the proposal.

Each of the large electrical corporations shall file a Tier 2 advice letter detailing its LCFS holdback revenue return Implementation Plan no later than 180 days following the effective date of this decision. The Commission's Energy Division staff may reject a proposal for an expenditure of LCFS holdback funds by a large electrical corporation if staff, in its sole discretion, are not satisfied that these above requirements are sufficiently met. For example, the Commission's Energy Division staff may reject a proposal if a large electrical corporation does not sufficiently explain why a particular expenditure is justified in light of other publicly funded programs that may address the same object of the expenditure. This authority granted to the Commission's Energy Division staff is severable, meaning that staff may reject some proposals appearing in the filed Implementation Plan while accepting others.

3.12. Previous Commission Orders on LCFS Sale Process and Reporting Unaffected

For the sake of clarity, previous Commission orders regarding the processes to be used by the large electrical corporations in selling their LCFS holdback credits[74] are unaffected by this decision and continue to apply. Furthermore, the LCFS revenue return reporting obligations established by D.14-05-021, D.14-12-083, and Resolution E-5015 are unaffected by this decision,

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[74] *See generally* D.14-05-021.

and the large electrical corporations shall report on their LCFS holdback revenue expenditures in accordance with those obligations.

3.13. Adding LCFS Forklift Credit Revenue to the Pool of Holdback Funds

The draft TEF recommended that revenue the large electrical corporations receive from the sale of their LCFS forklift credits be pooled with their LCFS holdback credit programs in order to maximize the funding for holdback revenue programs. Several parties supported this approach, with Cal Advocates reasoning that it would reduce expenditures on EV infrastructure programs that would otherwise be funded entirely by ratepayers.[75] Joint Commenters argued that if forklift revenues are pooled, then they should be used for equity projects.[76]

However, PG&E argued that the pooling for LCFS forklift revenue with holdback revenue was improper as CARB regulations do not require that forklift credit sales be used to benefit EV drivers.[77]

SCE also argued against the proposal to pool revenue, stating that CARB's LCFS regulations require that forklift revenues "be used to educate the public and customers on the benefits of EV transportation and provide rate options that encourage off-peak charging and minimize adverse impacts to the electric grid."[78] They claimed that allowing forklift revenues to stand outside of the holdback revenue programs would allow SCE to implement innovative programs such as agricultural electrification or technology demonstrations. SDG&E also sought to maintain maximum flexibility for the use of their LCFS

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[75] Cal Advocates comments at 20. *See also* TURN comments at 7.

[76] Joint Commenters comments at 7.

[77] PG&E comments at 13.

[78] SCE comments at 5, citing to Cal. Code Regs., tit. 17, § 95483, subd. (c)(4)(B)(3) and Cal. Code Regs., tit. 17, § 95491, subd. (d)(3)(A)(3)-(5).

forklift revenues and did not wish to seem them pooled with the holdback funds.[79]

This decision holds that it is reasonable to require the large electrical corporations to pool their LCFS forklift revenue with their LCFS holdback revenue to maximize the support LCFS funding can provide for the important statewide policy objectives mentioned previously (*e.g.*, resiliency and reducing barriers to EV adoption in disadvantaged communities).

While some parties objected to this proposal on the grounds that CARB's LCFS regulations do not require such pooling, this decision has already established that the Commission has the authority to require the large electrical corporations to utilize their LCFS revenues in a manner determined by the Commission so long as it is not in conflict with a CARB requirement. In particular, SCE's argument that CARB's LCFS regulations require LCFS forklift revenue to be used for certain purposes described at Title 17 of the California Code of Regulations § 95491(d)(3)(A)(3)-(5) is inapposite as these requirements apply to LCFS expenditures generally and must be met regardless of whether LCFS forklift revenue is pooled with LCFS holdback revenue.

The large electrical corporations shall pool their LCFS forklift funds with their LCFS holdback funds and use the total pool to fund proposals as described in this decision. Proposals funded by LCFS forklift funds are subject to same requirements applied to LCFS holdback funds by this decision.

3.14. Authorizing Implementation Plans and Reporting LCFS Holdback Revenue Expenditure

The draft TEF recommended that the large electrical corporations include descriptions of their LCFS programs within their Transportation Electrification

[79] SDG&E comments at 8.

Plans (TEP) and identify how the programs funded with LCFS credit revenue will contribute to a large electrical corporation's overall TE strategy and contribute to its TE targets and goals.

Parties generally supported this recommendation; however some parties, such as Ecology Action, wished to ensure that LCFS expenditure could happen quickly through an advice letter process, and not necessarily be tied to the large electrical corporation's TEP application process.[80] SCE concurred, and stated that while it agreed with the idea of LCFS reporting in a large electrical corporation's TEP, it also sought clarification from the Commission that the large electrical corporations should continue to use an "expedited process, such as a Tier 2 advice letter," to receive authorization of implementation plans for LCFS revenue expenditures that comply with CARB regulations and Commission requirements.[81] Joint Commenters also proposed a Tier 2 advice letter process for approval of LCFS expenditures by the large electrical corporations.[82]

In light of the draft TEF's recommendations and party comments, it is reasonable to utilize an advice letter process for submitting Implementation Plans for returning the LCFS holdback revenues. D.14-12-083 set out a similar process when first considering the large electrical corporations' expenditures of LCFS revenues.[83] The record reflects no difficulties in considering and approving LCFS expenditures using the advice letter method. Therefore, this decision orders each of the large electrical corporations to file a Tier 2 advice letter detailing their LCFS holdback revenue return Implementation Plans, as

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[80] Ecology Action comments at 6.

[81] SCE comments at 6-7.

[82] Joint Commenters comments at 11.

[83] D.14-12-083, Ordering Paragraphs 2 and 3.

defined earlier in this decision, no later than 180 days following the effective date of this decision. The Implementation Plans shall conform with the requirements of this decision for such plans. As held in D.14-12-083, the large electrical corporations may also update their Implementation Plans, if necessary, by filing a Tier 2 advice letter.

The draft TEF recommended that the large electrical corporations be required to report on their LCFS expenditures in any potential TEP that they may be required to file. This recommendation was broadly supported by the parties. However, the Commission has not yet determined if a TEP will be required or what form it should take. For that reason, it is not appropriate to decide at this juncture what the LCFS reporting requirements in a potential TEP should be. A future Commission decision that determines whether and how to require a TEP will address this issue, and this decision does not prejudice that determination in any way.

3.15. Marketing, Education, and Outreach Coordination

The draft TEF recommended that the Commission direct the large electrical corporations to coordinate LCFS related ME&O with other TE ME&O efforts. Cal Advocates and several other parties supported this recommendation, arguing that it will create consistency among TE ME&O efforts in California, help prevent duplicative TE ME&O efforts, and help focus the large electrical corporations' TE ME&O efforts on existing gaps in California's overall TE ME&O.[84]

In order to ensure efficient use of ratepayer funds on TE ME&O efforts, it is reasonable to adopt the draft TEF's proposal on this matter. The large

[84] Cal Advocates comments at 19. *See also* ChargePoint comments at 8.

electrical corporations shall incorporate a description of how their LCFS-related ME&O efforts are leveraged across their TE portfolios and demonstrate that there are no duplicative efforts.

4. Comments on Proposed Decision

The proposed decision of Commissioner Rechtschaffen in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Rules. Comments were filed on December 2, 2020 by SCE, Tesla, ChargePoint, SDG&E, Plug In America, EDF, Center for Sustainable Energy, NRDC, PG&E, SBUA, GPI/CEC, and AEE. Reply comments were filed on December 7, 2020 by EDF, Cal Advocates, SDG&E, PG&E, SBUA, Center for Community Action and Environmental Justice and East Yard Communities for Environmental Justice, ChargePoint, TURN, and SCE. Changes were made throughout the decision is response to party comment.

5. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Patrick Doherty and Sasha Goldberg are the assigned Administrative Law Judges in this proceeding.

Findings of Fact

1. The draft TEF's three recommended categories for LCFS holdback expenditures are intended to be complementary to and not replace CARB's LCFS rules regarding equity projects.

2. There are various state policy objectives regarding TE that could be advanced if the LCFS holdback revenue were directed toward certain projects.

3. Two categories of underserved communities established by AB 841 are already subsumed by the types of equity project communities defined by CARB's LCFS regulations.

4. The kinds of underserved communities defined in Pub. Util. Code § 1601(e)(1),(4), and (5) are not referred to as communities eligible for equity project expenditures under CARB's LCFS regulations.

5. CARB's LCFS regulations require a minimum expenditure on equity projects of zero percent in 2021 and 30 percent in 2022, and this would be inadequate to meet the requirements of AB 841.

6. Further refining CARB's broad goals for LCFS expenditures into certain project areas will help achieve specific state policy goals around EV adoption, equitable distribution of EV infrastructure development, and advancing the deployment of EV infrastructure.

7. Resiliency projects will benefit future or current EV drivers in California by supporting the ability of EVs to charge in areas experiencing an emergency, and by contributing to the reliability of the electrical grid and increasing public confidence in the use of electricity as a fuel.

8. Enhancing community electrical resiliency is an important state policy goal.

9. Directing the large electrical corporations to coordinate LCFS related ME&O with other TE ME&O efforts will create consistency for TE ME&O efforts in California, help prevent duplicative TE ME&O efforts, and help focus the large electrical corporations' TE ME&O efforts on existing gaps in California's overall TE ME&O.

Conclusions of Law

1. The Commission's authority to regulate the use of the proceeds emanating from the sale of LCFS credits by the large electrical corporations is distinct from CARB's authority to set conditions on the use of LCFS credit sales.

2. The Commission has legal authority and a statutory duty to oversee the sale of LCFS credits and consequent use of LCFS revenue held by the large electrical corporations.

3. The sale by a large electrical corporation of LCFS credits is a sale of utility assets covered by Pub. Util. Code § 851.

4. It is appropriate to exempt the sales of LCFS credits by the large electrical corporations from the standard requirements of Pub. Util. Code § 851 pursuant to Pub. Util. Code § 853(b).

5. In order to provide sufficient ratepayer protections, it is reasonable for the Commission to adopt parameters and procedures governing LCFS credit sales by the large electrical corporations as authorized by Pub. Util. Code § 853(b).

6. The requirements imposed by this decision on the use of LFCS revenue by the large electrical corporations are complementary to, and do not contradict, CARB's LCFS regulations.

7. CARB's 2019 amendments to its LCFS regulations, which became effective on July 1, 2020, provided seven options for equity project expenditures.

8. It is reasonable to harmonize the equity project requirements of CARB's LCFS regulations and the underserved community requirements of AB 841 in order to ensure administrative simplicity and honor the legislative intent of AB 841.

9. In order to ensure consistency between the equity project requirement of CARB's LCFS regulations and the underserved communities requirement of AB 841, communities defined as underserved communities should qualify as communities eligible for LCFS holdback expenditures on equity projects.

10. A large electrical corporation's expenditure of LCFS holdback funds for the primary benefit of or primarily serving disadvantaged communities and/or

low-income communities and/or rural areas or low-income individuals eligible under CARE or FERA or the definition of low-income in Health and Safety Code § 50093 or the definition of low-income established by a POU's governing body, or a community with a median household income less than 80 percent of the statewide average, or a community in which at least 75 percent of public school students in the project area are eligible to receive free or reduced-price meals under the National School Lunch Program, or a community located on lands belonging to a federally recognized California Indian tribe, shall qualify as an LCFS holdback expenditure that meets the equity project requirement of CARB's LCFS regulations.

11. LCFS holdback expenditures must benefit current or future EV drivers in California.

12. The Commission may select narrower and complementary objectives for LCFS investments as compared to CARB's regulation regarding the use of LCFS proceeds.

13. It is reasonable to increase the minimum amount of LCFS holdback expenditure on equity projects over time, ultimately resulting in a 75 percent requirement starting in 2024 and thereafter.

14. It is reasonable to impose requirements on the large electrical corporations regarding their use of LCFS holdback revenues to advance state policy goals surrounding TE.

15. It is reasonable to require that certain LCFS holdback expenditures not spent on equity projects must be expended on resiliency projects, unless a large electrical corporation can reasonably demonstrate why it is unable to do so, given the importance of enhancing community resiliency as a state policy goal.

16. It is reasonable to impose operational requirements on the large electrical corporations in order to help ensure that the ratepayer benefits of the LCFS holdback expenditures are maximized pursuant to Pub. Util. Code § 853(b).

17. It is reasonable to require the large electrical corporations to file LCFS holdback revenue return Implementation Plans in order to qualify for an exemption from the requirements of Pub. Util. Code § 851 pursuant to Pub. Util. Code § 853(b).

18. The requirement of CARB's LCFS regulations that equity projects must be for the primary benefit of or primarily serving communities eligible for equity project expenditures must be strictly adhered to.

19. It is reasonable to require the large electrical corporations to pool their LCFS forklift revenue with their LCFS holdback revenue to maximize the support LCFS funding can provide for important statewide policy objectives related to transportation electrification.

20. It is appropriate to consider and approve LCFS expenditures using the advice letter method.

21. It is reasonable to utilize an advice letter process for approving the large electrical corporation's Implementation Plans for utilizing LCFS holdback revenues.

22. It is reasonable to direct the large electrical corporations to incorporate a description of how their LCFS-related ME&O efforts are leveraged across their TE portfolios and demonstrate that there are no duplicative efforts.

O R D E R

IT IS ORDERED that:

1. Each of Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall ensure that at least

35 percent of its Low Carbon Fuel Standard (LCFS) holdback expenditures in 2021, 45 percent in 2022, 55 percent in 2023, and 75 percent in 2024 and thereafter meet the equity project requirement of the California Air Resources Board's LCFS regulations, as harmonized with Assembly Bill 841 by this decision. A portion of LCFS holdback expenditures not spent on equity projects must be expended on resiliency projects in an amount up to 20 percent of that year's LCFS holdback proceeds for a large electrical corporation, unless the large electrical corporation can reasonably demonstrate why it is unable to do so. Each of Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company must propose resiliency projects in their Implementation Plans to meet this 20 percent target. If a large electrical corporation is unable to meet this target, it must identify in its Implementation Plan why it is reasonably unable to do so and what measures it took to meet the resiliency target.

2. Each of Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall pool its Low Carbon Fuel Standard forklift credit revenues with its Low Carbon Fuel Standard holdback credit revenues and use the total revenue pool to fund proposals appearing in its Low Carbon Fuel Standard holdback revenue return Implementation Plan. If the California Air Resources Board assigns additional categories of electric Low Carbon Fuel Standard credits to the large electrical corporations in the future, the large electrical corporations may also pool this credit revenue with its holdback revenue.

3. No later than 180 days following the effective date of this decision, each of Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall seek an exemption to the requirements of

Public Utilities Code Section 851 (pursuant to Public Utilities Code Section 853(b)) as it applies to its Low Carbon Fuel Standard holdback credit sales by filing a Tier 2 advice letter detailing its Low Carbon Fuel Standard holdback revenue return Implementation Plan, which shall comply with the requirements for Low Carbon Fuel Standard holdback revenue return Implementation Plans described in this decision. The large electrical corporations may also update their Implementation Plans, if necessary, by filing a Tier 2 advice letter.

4. Each of Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall report on its Low Carbon Fuel Standard holdback revenue expenditures in accordance with the orders of Decision (D.) 14-05-021, D.14-12-083, and Resolution E-5015.

5. Each of Southern California Edison Company, San Diego Gas & Electric Company, and Pacific Gas and Electric Company shall, in its next transportation electrification application filed subsequent to the effective date of this decision, incorporate a description of how its Low Carbon Fuel Standard-related marketing, education, and outreach efforts are leveraged across its transportation electrification portfolio and demonstrate that there are no duplicative efforts.

6. Rulemaking 18-12-006 remains open.

This order is effective today.

Dated ______________________________, at San Francisco, California.

APPENDIX A – STYLE REFERENCE TABLES

Common Styles – May be Accessed from Styles Ribbon

Name	Description/Usage	Shortcut
Standard	Body text	Alt Ctrl `
Heading 1	First level headings	Alt Ctrl 1
Heading 2	Second level headings	Alt Ctrl 2
Heading 3	Third level headings	Alt Ctrl 3
List Alpha	Lower case lettered list at one indent	Alt Ctrl A
List Bullet	Bulleted list at one indent	Alt Ctrl B
Block Quote	Block quotes	Alt Ctrl Q
FoF	Findings of Fact	
CoL	Conclusions of Law	
OP	Ordering Paragraphs	

Uncommon Styles – Accessed from Styles Pane (Ctrl + Alt + Shift + S)

Name	Description/Usage	Shortcut
No Spacing	"Standard" Style – Single spaced, no indent	
Dummy	Unnumbered headings	
Heading 4	Fourth level headings (avoid deep subheadings if possible)	
Heading 5	Fifth level headings (avoid deep subheadings if possible)	
Heading 6	Sixth level headings (avoid deep subheadings if possible)	
List Num	Numbered list at one indent. Avoid if possible.	
Table Text	Text inside tables	
Main	Centered titles	
Mainex	"Order" title	
TOC 1/2/etc.	Table of Contents style by level	
TOC Heading	Table of Contents title	
Footnote Text	Footnotes	

Fonts and Usage

Font	Description/Usage
Arial 13 Bold Caps	Titles
Arial 13 Bold	Headings
Book Antiqua 13	Body text
Book Antiqua 11	Footnotes

(END OF APPENDIX A)

APPENDIX B

APPENDIX [X]

(END OF APPENDIX B)