May 10, 2024

The Honorable Liane Randolph
Chair, California Air Resources Board
Low Carbon Fuel Standard Program
1001 I Street
Sacramento, CA 95814

RE: April 10, 2024, California Low Carbon Standard Workshop

Dear Chair Randolph and Members of the California Air Resources Board,

DTE Vantage (DTE) appreciates the opportunity to provide the following comments on the April 10, 2024, workshop to discuss the proposed amendments to California's Low Carbon Fuel Standard (LCFS) program. DTE is a developer, owner, and operator of biomass, co-generation, and landfill gas electricity facilities in California and nationally, supplies renewable natural gas (RNG) to the state, and participates in the LCFS program.

Our company has invested millions of dollars in California's decarbonization goals due to the strong market signal provided by the LCFS program. By spurring investment and innovation, the LCFS has been and can continue to be a critical tool for achieving the state's objectives to reduce the carbon intensity of the transportation sector, while continuing to set a leading example for other states and jurisdictions on how to drive performance-based emission reductions in the transportation space.

We appreciate the California Air Resources Board's (CARB) efforts to engage stakeholders and provide the agency's underlying model assumptions and outputs as it considers changes to the LCFS program. We respectfully submit the following comments for your consideration.

Further Increasing the Stringency of the Program Will Accelerate California's Transportation Decarbonization Goals

As DTE and other stakeholders have commented throughout this amendment process, CARB has an opportunity to enhance the market signal to low carbon fuels and drive further greenhouse gas (GHG) emissions reductions by increasing the LCFS program's stringency. DTE strongly supports CARB's efforts to strengthen the program in the 15-day package. We are encouraged by the Agency's recent workshop outlining its intention to increase the 2030 carbon intensity (CI) targets from 20% to 30% by 2030, with a one-time reduction of 5%, 7%, or 9% in 2025. However, we urge the Agency to consider even more stringent reduction goals to support California's ambitious climate targets and address the current LCFS market imbalance.

Time is of the essence when considering implementation of the new LCFS amendments; we strongly urge CARB to stay on pace for a late 2024 or early 2025 implementation. DTE Vantage's internal modeling suggests that the currently proposed changes to the LCFS program are not sufficient to address the growing credit bank. In fact, we predict that the credit bank could increase to over 80MM credits by 2030 absent additional changes to the latest proposed rules. Failing to curb the growing credit bank could undermine necessary investments in low carbon fuels and unwind the clean fuels market needed for California to meet its climate goals. If the credit bank swells to 2x to 4x its current size, credit pricing may decrease to the point that further decarbonization investments are no longer incentivized and existing projects may be forced to shut down for economic reasons. Our recommended actions, discussed further below, will establish a more robust LCFS program that will continue to drive innovation and accelerate GHG emissions reductions.

To CARB's credit, the LCFS program is highly successful and has overperformed in recent years, creating greater reductions than required and leading to a significant oversupply of credits. We anticipate the rate of credit generation will continue to grow in the near and medium term, driven by large renewable diesel refinery conversions and an increasing adoption of electric light-duty vehicles. The cumulative LCFS credit bank now stands at ~23.6 million surplus credits, while LCFS prices continue to decline, hovering around $60 per ton in April 2024. **We encourage CARB to target at least a 40% CI reduction by 2030 to address the credit surplus.**

Additionally, due to the size of the current credit bank and the ongoing credit surpluses, we believe that CARB's proposed 5% step-down in 2025, while helpful, is unlikely to impact the market at the scale needed. A decisive step-change reduction in 2025 would provide a signal of strong intent by the Agency to support both short- and long-term investment to meet California's climate goals. CARB introduced modeling scenarios of 7% and 9% step-downs in the latest workshop, and **DTE encourages the Agency to consider increasing the step-down provision's size to at least 9% to appropriately address the current state of credit and deficit creation**.

Finally, we applaud CARB's proposal to integrate an auto-acceleration mechanism to increase the stringency of the annual CI targets of the program when triggered by clear criteria. However, like our recommendations above regarding the CI reduction target and the step-down mechanism, we encourage CARB to be more ambitious in its proposal to ensure the greatest progress in achieving the goals of the LCFS. **We recommend the agency adopt the auto-acceleration mechanism earlier, as soon as 2025, to allow triggering as early as 2026 and ensure the current surplus is addressed promptly and efficiently.** While there is no rationale for delaying the implementation of the acceleration mechanism given its triggering criteria, there is substantial risk in further growth of the credit bank if adoption of the mechanism is delayed.

CARB's Proposed Remedy of a 4x Penalty for CI Exceedance is Excessive and will Disproportionately Impact Agriculture Facilities

DTE Vantage incorporates by reference the comments submitted by the RNG Coalition dated February 20, 2024, which reflect our stance on CARB's proposed penalty for CI exceedance.

"We continue to support a full true up to verified actual CI performance for all pathways (temporary, provisional, and fully certified). Dairy Manure Digesters (and other biological systems) experience substantial increases and decreases in gas production due to weather, livestock herd changes, and other uncontrollable factors that are not present in other fuel pathways. Because the carbon intensity of the gas from these systems is calculated against a quantity of avoided methane emissions, these variations in biogas production necessarily result in outsized changes in the digester pathways' carbon intensity (CI) scores every year. Under the current structure of the LCFS (prior to the changes proposed in this rulemaking), all dairy digesters pathways experience the following negative impacts:

1. Substantial underestimation of greenhouse gas benefit (and associated lost revenue) during the project startup (temporary pathway) period.
2. Substantial risk of underestimation of greenhouse gas benefit (and lost revenue) each year during annual verification.
3. Substantial risk of LCFS enforcement, resulting in fines or potential pathway cancellation, due to no fault of the pathway holder.

These consequences are an unavoidable outcome of CARB's overly conservative approach to dairy digester pathways (and some other pathways with biological feedstocks) under the current LCFS structure. As we will describe below, no amount of careful management, conservative pathway assumptions, or other actions can fully protect a digester under the Current Rule—and the Proposed Rule's changes alleviate some, but not all, of these concerns."[1]

DTE Vantage understands CARB's focus on program integrity and the importance of recouping excess credits created by CI scores, adjusted during reviews. However, imposing a 4x penalty for adjustments not resulting from misconduct is unwarranted and unfair. DTE agrees with a party refunding excess credits received (despite the fact that CARB does not award additional credits when a review finds that a lower CI score was warranted) but opposes the 4x penalty. This punitive provision is not justified by any history of problems with the program, and the existing documentation and 3rd party review requirements already provide adequate protection for the program. **DTE strongly encourages CARB to eliminate this multiplier penalty. Conversely, providing a true up mechanism whereby excess credits are refunded back to CARB and additional credits are awarded following a review showing that a lower CI score was warranted would be an acceptable solution to the inherent variability in dairy manure digester pathways.** DTE Vantage agrees with the system proposed by the Coalition for Renewable Natural Gas' comment letter dated 2/20/2024.

Conclusion

[1] RNG Coalition's Comments on Low Carbon Fuel Standard Initial Statement of Reasons dated 2/20/2024

In summary, DTE Vantage appreciates the opportunity to provide the agency with these comments and commends CARB for its efforts and dedication to this program and amendment process. As the Agency looks to finalize this rulemaking, we strongly encourage CARB to implement the following changes:

- At least a 40% CI reduction target in 2030,
- Increase the step-down provision by at least 9% in 2025,
- Effectuate the auto-acceleration mechanism in 2025, and
- Implement symmetrical CI true up mechanism for pathways known to have inherent variability.

We would welcome the opportunity to meet with the agency should there be any questions regarding our recommendations. Thank you for your consideration of our comments.

Sincerely,

Philip O'Niel

Vice President – DTE Vantage