Pacific Gas and Electric Company

Fariya Ali
State Agency Relations

77 Beale Street, B29K
San Francisco, CA 94105
(415) 973-8406

fariya.ali@pge.com

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Mr. James Duffy
Transportation Fuels Branch
California Air Resources Board
1001 "I" Street
Sacramento, CA 95814

RE: Pacific Gas and Electric Comments on the July 31, 2019 Low Carbon Fuel Standard Regulation Cost Containment Workshop

Pacific Gas and Electric Company (PG&E) appreciates this opportunity to comment in response to the California Air Resources Board's (CARB) July 31, 2019 Workshop on cost containment measures for the Low Carbon Fuel Standard (LCFS) Regulation. PG&E continues to support a well-designed LCFS program that advances low-carbon fuels while protecting consumers and reducing regulatory risk with appropriate cost containment mechanisms.

PG&E's comments on the proposed workshop concepts are provided below.

CARB's Revised Staff Proposal:

CARB Staff initially proposed two concepts to strengthen cost containment measures at the April 5, 2019 workshop —a price cap in the daily market and advance or "borrow" credits. PG&E's comments are focused on the changes to Staff's initial proposal as presented in the July workshop.

<u>Advanced/ Borrowed Credits</u>

CARB Staff proposed several changes and new options for the concept of borrowing credits from future residential EV charging in order to provide additional supply for the Credit Clearance Market (CCM) if not enough credits are pledged by suppliers.

Borrowing Window
In the previous workshop, CARB Staff proposed a fixed window (from 2020 to 2025) in which credits could be borrowed from the utilities' future credit issuances to meet any market

participants' unmet deficit obligations. The revised proposal would no longer be fixed from 2020 to 2025 but could begin at any point when there is a credit shortfall in the CCM and last for six years. PG&E supports having a non-fixed borrowing window as it is more likely that borrowing could be needed in later years when the program is more stringent. Thus a floating window better supports the long-term sustainability of the program.

Investor Owned Utility (IOU) Required Participation in the CCM

PG&E sees the merits of providing borrowed credits to help meet market participants' unmet deficit obligations; however, ongoing work is needed to address several issues around implementation of potential IOU participation. Regardless of which option is selected for the distribution of borrowed credits (explored further below), the IOUs will be required to pledge credits to sell into the CCM and to sell to any market participant that offers the Maximum Price[1]. There is currently no standard agreement that would be used to facilitate CCM transactions and no requirement for the buyer of the credits to sign an agreement setting appropriate transaction terms. Therefore, there is no protection for the seller, the IOU, regarding buyer events of default or lack of payment receipt from the buyer.

PG&E and the other IOUs' participation in the LCFS program is governed by the California Public Utilities Commission (CPUC). Therefore, PG&E's participation in the CCM would be contingent on PG&E receiving authority from the CPUC on the following:

1. Borrow future LCFS credits. A section of CPUC Decision (D.)14-05-021 is currently at odds with the proposed cost containment measures. D.14-05-021, Section 4.2.1.1 states "Consistent with the LCFS regulation, a regulated party may not borrow or use credits from anticipated future carbon intensity reductions." While other sections of the decision state that the IOUs may sell any credits that have been provided at that point in time by CARB, PG&E would need to seek clarity and confirm that it has authority to sell borrowed credits.
2. Sell LCFS credits through a means other than solicitations and brokers. D.14-05-021, Appendix A.2 states "Utilities may sell LCFS credits through competitive solicitations or via bilateral transaction presented by a broker registered with the CFTC. The Commission may approve other LCFS credit sale methods in the utilities' Tier 2 Advice Letter Filings." Pursuant to CPUC guidelines, a Tier 2 Advice Letter filing would still require approval before PG&E may proceed with alternative credit sales methods.
3. Credit and collateral requirements. D.14-05-021 mentions "credit and collateral requirements are prudent" (Section 4.2.1.3) and requires the IOUs to submit proposed credit and collateral requirements in their LCFS implementation plan Advice Letter filing (D.14-05-021 Appendix B.3). PG&E stated in its Advice Letter that "PG&E expects to follow its standard credit and collateral processes when transacting LCFS credits."[2]

[1] The LCFS regulation states "Parties that have pledged credit to sell into the Clearance Market cannot reject an offer to purchase pledged credits at the Maximum Price…" (Section 95485(c)(3)(E)(5)).

[2] PG&E's Advice Letter 3575-G/4604-E (approved by the CPUC on August 7, 2015) Attachment A, Section 2.C

PG&E cannot ensure it upholds this procedure without an agreement in place with the market participant that PG&E would be obligated to sell to under these new cost containment measures. PG&E would also not be able to replace that language in its implementation plan without further clarification from CARB on how the CCM transactions would be managed.

In addition to the CPUC's requirements, PG&E must exercise effective prudent contract management and follow internal procurement control guidelines to minimize potential risks from any transactions. Absent any standard agreement or lack of clarity on an implementation framework, a Buyer event of default could prolong the dispute process and credit transfers being upheld which defeats the purpose of offering borrowed credits in the CCM. In addition, given the size of the potential transactions that could go unpaid (a cumulative borrowing of 10 Million LCFS credits at the current CCM cap of ~$214/credit would create a notional value over $2 Billion), a lack of payment would result in a reduction to Clean Fuel Reward (CFR) rebates, and potentially the utilities' holdback programs.

PG&E would need to request approval from the CPUC with respect to the provisions above in order to receive authority to participate in the CCM and the proposed cost containment measures. To help facilitate CPUC approval of PG&E's request, as well as ensure that PG&E can uphold internal and external obligations regarding transaction execution, PG&E recommends:

- CARB creates a clear guidance document regarding participation rules, processes, timelines, and dispute resolution. PG&E will need to know firm details of the credit borrowing and CCM processes so that it can request authority for all applicable actions.
- CARB provides at least 30 days' notice to the utilities with a firm number of credits that will be borrowed from future credit allocations. PG&E has internal transaction governance that could require a series of internal approvals prior to completing the possible large transactions that could result from the sale of borrowed credits.
- CARB addresses lack of transaction protection for the CCM sellers. When PG&E is required to sell to any entity offering the Maximum Price, PG&E cannot ensure that it will be transacting with creditworthy entities and cannot uphold its LCFS implementation plan without some kind of insurance that payment will be received for the credits in an appropriate manner. PG&E is open to further discussion on how transaction, credit, and collateral concerns can be addressed but offers the following suggestions to be explored further:
    - Make the CCM process like the CARB Cap-and-Trade Auction process where no contracts are required between buyer and seller;
    - Update LCFS regulation Section 95485(c)(3)(E)(5) to clarify that the seller is only required to sell to parties it has an executed, LCFS applicable, master agreement with at the time the CCM is initiated; or

- Require CCM buyers sign the seller's standard long-form agreement for CCM transactions when there is no underlying, LCFS applicable, master agreement between the buyer and seller.

Distribution of Borrowed Credits

In the July workshop, CARB Staff suggested two options for how borrowed credits could be distributed to utilities and how the revenue from sale of those credits in the CCM would be used as a result.

- Option 1: Borrow credits from all utilities and distribute them to the utility administering the CFR to sell in the CCM. All proceeds would go to the CFR program.
    - While PG&E appreciates the potential simplicity of this approach, there are several aspects that remain unclear:
        - How would the single utility be selected if the CFR administrator was unable to participate?
        - How would the utility be able to recover administrative costs associated with participating in the CCM?
        - How would this option work if the CFR administrator is no longer a utility but a non-profit organization or other third party?

- Option 2: Borrow credits from only the IOUs and Large POUs (plus opt-in smaller utilities) and those five utilities would then sell their respective credits in the CCM. Proceeds would be split between the CFR and other utility programs according to their existing designations.
    - PG&E believes that while this option is slightly more complicated, the benefit of sharing the responsibility of participating in the CCM across the largest utilities will make it easier for utilities to implement.
    - PG&E prefers to only sell its own credits, rather than taking on the risk of selling credits on behalf of other market participants.
    - PG&E supports the ability to use the CCM sale revenue for utility holdback programs in addition to the CFR program.

CFR Clarifications:

PG&E appreciates staff's action to clarify regulation language regarding the CFR program. Ensuring clarity in the regulation will support the quick and successful set up of the CFR program and further electrification of the transportation sector. PG&E supports Staff's proposal to clarify that all non-metered residential electric credits from non-opt-in utilities must be used to fund the CFR program as this provides additional revenue to the statewide program and reduces complexity in accounting for the credit sales and revenue distribution.

Conclusion

PG&E continues to support the Low Carbon Fuel Standard as a program that will help the state meet its aggressive climate goals while maintaining a healthy economy. PG&E appreciates Staff's responsiveness to stakeholder comments from the previous workshop and looks forward to continuing to work with CARB on resolving the issues identified above related to implementation of the proposed measures.

Please feel free to contact me if you have any questions or concerns.

Sincerely,

/s/

Fariya Ali