March 15, 2016

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Re: Low Carbon Transit Operations Program (LCTOP) Guidelines

Dear Brian, Jila and Joshua:

Thank you for discussing with us the concerns we raised in our December 18 letter (attached) commenting on the recent update of the Low Carbon Transit Operations Program (LCTOP) Guidelines.

We continue to believe that the next Guidelines update should reflect the changes we enumerated in our letter, and appreciate that you will be taking our comments into account at that time.

At the same time, we were encouraged to learn that, as you review pending LCTOP funding applications, you will be evaluating proposals on a case-by-case basis consistent with our understanding of the program requirements. In particular:

- As Brian stated, "ridership is a requirement," not just the reduction of greenhouse gas (GHG) emissions. That is clear in the statute itself which requires recipient transit agencies both to "demonstrate that each expenditure *directly enhances or expands transit service* to *increase mode share*" and "that each expenditure reduces greenhouse gas emissions." Pub. Res. Code §§ 75230(d)(2), (3).
- As Brian also confirmed, you share our understanding that "not supplanting is a key principle" for implementing LCTOP, as for all GGRF-funded programs.
- Finally, we were pleased to learn that you do not accept projects as counting toward SB 535 if the affected transit route "passes through disadvantaged communities without stops in those communities."

As you review pending LCTOP applications, we wanted to reiterate two sets of recommendations we made during our discussion that we believe are necessary to implement those points of shared understanding:

First, transit agencies that propose a capital use of LCTOP funds must demonstrate how that capital use will increase service levels and ridership.

In most cases, operators proposing capital projects must demonstrate not simply that operating revenue is available for the capital asset or improvement, but that sufficient additional operating revenue is available to increase service and ridership with that capital investment. As we mentioned, LCTOP is the first new source of transit operating support in a very long time; in fact, the other major source of operating support, the State Transit Assistance program, has been shrinking.

In short, if a capital investment of LCTOP funds were to be proposed without that additional operating support, that proposal would have to be rejected in virtually all cases, for two reasons: first, the investment would not meet the ridership requirement, and second, because – by merely supplanting existing uses of existing operating funds -- it would create no new GHG reduction.

In a very limited set of scenarios, we can conceive of a capital project that would increase service levels and mode share with little additional operating revenue. One scenario we can imagine is a capital purchase of higher-capacity buses or additional rail cars for use on a route on which existing service is overcrowded to the point of turning away a significant number of riders. In that case, the use of LCTOP funds for that capital purchase might be justified by demonstrating that the investment in higher-capacity vehicles, when run on an existing route without increasing service frequency, would result in increased ridership and transit mode share.

Brian gave the example of another potential scenario: a capital investment that results in running faster trains. Faster trains could be part of a program to increase ridership if they allow the transit agency to operate more trains. That, in turn, requires a demonstration of additional operating revenue. If, on the other hand, the basis for claiming that faster trains equals more ridership is that new riders will be attracted by shorter trip times, then an empirical basis for that claim should be provided.

These limited exceptions, however, simply prove the rule. Short of a demonstrable empirical basis to expect that a capital investment will result in a meaningful ridership increase, the investment of LCTOP funds in a capital asset without additional operating support to run more service should not be an eligible use of LCTOP grants.

Second, to meet the disadvantaged community benefits requirements of the LCTOP program and SB 535, an LCTOP project must not only invest in a route with a stop or station in a disadvantaged community, but must demonstrate actual mobility benefits for riders who reside in that community.

The statute requires these investments to "reduce greenhouse gas emissions and *improve mobility, with a priority on serving disadvantaged communities*." Pub. Res. Code § 75230(a). The priority on "serving" disadvantaged communities means "improv[ing] mobility" for residents of those communities, as well as reducing emissions in those communities.

But the fact that a transit route has a station within a disadvantaged community does not necessarily mean that any significant number of residents living in that community actually gain mobility benefits from that route. This is particularly likely to be the case for rail transit that carries riders from more affluent areas to jobs located in a disadvantaged community, many of which are near urban downtowns or suburban business centers. Accordingly, transit agencies should be required to demonstrate ridership of a significant number of disadvantaged community residents in order to satisfy Section 75230 (a). FTA requirements for rider demographic surveys mean that most transit agencies should already have the data they need to make this showing.

Finally, as Jeanie mentioned, projects should count mobility benefits and GHG/air quality benefits separately. The LCTOP Guidelines currently allow an either/or approach to SB 535 compliance, when in fact relevant statutes require a "both/and" approach.[1]

As we mentioned in our discussion, the SB 535 Coalition's "disadvantaged community benefits tool," attached, provides a framework that the Air Resources Board has largely incorporated in its GGRF Funding Guidelines. The Funding Guidelines also incorporate, nearly verbatim, a chart of disadvantaged community co-benefits from a companion 535 Coalition "principles" document, also attached. (Compare with Table 2-2 in volume 2 of ARB's guidelines.)

[1] First, AB 32 provides that it is the intent of the Legislature that GHG reduction measures "maximize[] additional environmental and economic co-benefits for California, *and* complements the state's efforts to improvement air quality." Health & Saf. Code § 38501 (h) (emphasis added). The companion bill to SB 535, AB 1532, in turn provides that all GGRF allocations must further the regulatory purposes of AB 32. Health & Saf. Code § 39712 (a) (2). AB 1532 also requires that GGRF investments, to the extent feasible, "maximize economic, environmental, and public health benefits"; "improve air quality"; *and* "direct investment toward the most disadvantaged communities and households in the state." Health & Saf. Code §§ 39712 (b) (1), (3) & (4). Finally, Section 75230 (a) of the Public Resources Code requires LCTOP investments to prioritize improving mobility for disadvantaged communities.

We look forward to continuing to work with you on two fronts to ensure that LCTOP investments maximize mobility, GHG reduction and other co-benefits for transit riders in general, and residents of disadvantaged communities in particular:

First, we will be in touch as we identify pending applications that raise unanswered questions about key issues, such as the source of additional operating revenue to increase ridership or the extent to which residents of disadvantaged communities receive a fair share of mobility benefits. To that end, we request that Caltrans and CalSTA follow the best practice of some other agencies (such as the Strategic Growth Council, for the Affordable Housing and Sustainable Communities grant program) by posting a searchable database of all pending and funded applications online for the GGRF programs they administer.

And second, we will continue to work with you as you prepare a draft of the next guidelines update that we understand you anticipate releasing in September.

Very truly yours,

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