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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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<b>In the Matter of the Investigation Required by S.B. 275, Energy Amendments, Addressing Cleaner Air through the Enhanced use of Alternative Fuel Vehicles</b>	<b>Docket No. 13-057-02</b>  <b>COMMENTS OF FUEL FREEDOM FOUNDATION</b>
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Fuel Freedom Foundation (“Fuel Freedom”) hereby submits comments in the captioned docket. Fuel Freedom is a non-profit Foundation that is engaged in a non-partisan effort to promote the development of clean transportation fuels.

S.B. 275, enacted by the Legislature in the 2013 General Session, requires the Public Service Commission to “conduct proceedings to explore and develop options and opportunities for advancing and promoting measures designed to result in cleaner air in the state through the enhanced use of alternate fuel vehicles.” Utah Code Ann. § 54-1-13(1). This proceeding is in response to S.B. 275.

S.B. 275 also sets forth a non-exclusive list of the issues the Commission is to explore in the proceeding, including the role of gas corporations, potential funding options, the role of local government, and means to overcome obstacles to enhanced alternative fuel use. Utah Code Ann. § 54-1-13(1)(a) through (d). These comments address each of these issues as well as additional considerations the Commission should take into account in exploring enhanced use of alternative fuels.

The Role of Gas Corporations. The Commission is to consider “the role that gas corporations should play in the enhancement and expansion of the infrastructure and maintenance and other facilities for alternative fuel vehicles.” Utah Code Ann. § 54-1-13(1)(a).

There are about three dozen compressed natural gas fueling stations in Utah, most of which are operated by Questar. Fuel Freedom supports the continued development of these fueling stations. The design and construction of these new fueling stations should incorporate infrastructure that can accommodate other types of alternative fuels, including ethanol and methanol.

In addition, ethanol and methanol can be produced from natural gas. Therefore, natural gas companies can play a critical role in producing and distributing these fuels.

Funding Options. The Commission is required by S.B. 275 to consider “the potential funding options available to pay for the enhancement and expansion of infrastructure and facilities for alternative fuel vehicles.” Utah Code Ann. § 54-1-13(1)(b).

Utah law provides for certain financial incentives for alternative fuels, including the following:

*Alternate Fuel Conversion and Fueling Infrastructure Grants and Loans*

The Utah Clean Fuels and Vehicle Technology Program Act establishes the Clean Fuels and Vehicle Technology Fund administered by the Utah Department of Environmental Quality (“DEQ”) for the purpose of making loans or grants to convert “a private sector business vehicle or a government vehicle to use a clean fuel,” to purchase a new vehicle by business or government that uses clean fuel, or to install a fueling system for business or government vehicles that use clean fuel. Utah Code Ann. § 19-1-403(2)(a).

The Act defines “clean fuel” as follows:

(1) “Clean fuel” means:

(a) propane, natural gas, or electricity;

(b) other fuel the Air Quality Board certifies . . . to be at least as effective in reducing air pollution as fuels under Subsection (1)(1); or

(c) other fuel that meets the clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990 . . .

Utah Code Ann. § 19-1-402(1).

The amount of a loan from the Fund may not exceed the actual cost of the vehicle

conversion or the additional cost of purchasing a new clean fuel vehicle (as compared with the cost of the same vehicle without the capability to use clean fuel). DEQ may also make a loan for the purchase of vehicle refueling equipment for business of government clean fuel vehicles in an amount not to exceed the actual cost of the equipment and may make grants from the Fund for up to 50 percent of the amount of the cost of vehicle conversion or of the additional cost for a new clean fuel vehicle, less the amount of any tax credit claimed for those costs. Utah Code Ann. § 19-1-403(2).

The Act restricts the Fund balance to no more than \$10,000,000. Utah Code Ann. § 19-1-403(5). The maximum amount for a grant from the Fund is \$100,000, with an annual limit for total grants of \$250,000. UAC R305-4-8(2) and (4). The limit for a loan is also \$100,000 and the annual limit for loans to one entity is \$250,000. UAC R 3065-4-9(2) and (3).

The term “natural gas” in the definition of “clean fuel” in Utah Code Ann. § 19-1-402(1)(a) should include not only natural gas itself, but also ethanol, methanol and other fuels derived from natural gas. Fuel Freedom recommends that the Commission propose amending the definition of “clean fuel” accordingly.

#### *Alternative Fuel and Fuel-Efficient Vehicle Credit*

Utah law provides for an income tax credit of 35 percent of the purchase price up to a maximum \$2500 for an original equipment compressed natural gas (“CNG”) vehicle registered in Utah and 50 percent of the conversion cost up to a maximum of \$2500 for a vehicle to be fueled by propane, natural gas, or electricity or by a fuel determined by the Utah Air Quality Board “to be at least as effective in reducing air pollution” as propane, natural gas or electricity or which meets the federal clean fuel standards of the federal Clean Air Act. The incentives are only applicable to the taxable year beginning on January 1, 2014 and ending on December 31, 2014. Utah Code Ann. §§ 59-7-605(2) and 59-10-1009(2).

Fuel Freedom recommends that the Commission propose amendments to the statute to expand the new vehicles eligible for the credits to those using other clean-burning fuels beyond those fueled by CNG, specifically ethanol, methanol, and other fuels derived from natural gas.

#### *Fuel Tax*

Motor fuel sold in Utah is subject to a tax of 24-1/2 cents per gallon. Utah Code Ann. § 59-13-201(1)(a). “Clean fuel,” however, is taxed at 3/19 of the rate for motor fuel. Utah Code Ann. § 59-13-201(2). “Clean fuel” is defined for motor fuel tax purposes as propane, CNG,

liquefied natural gas, electricity or any fuel that meets federal clean fuel vehicle standards. Utah Code Ann. § 59-13-102(2).

Fuel Freedom recommends that the Commission propose amendments to the statute to expand the list of fuels subject to reduced fuel tax to include ethanol, methanol, and other fuels derived from natural gas. Modifying the list to include such fuels is consistent with the recommendations for other financial incentives as described above.

#### The Role of Local Government

S.B. 275 requires the Commission to consider “the role local government, including any local government entity established for the purpose of facilitating conversion to alternative fuel vehicles and of promoting the establishment and expansion of the infrastructure and facilities for those vehicles, can or should play.” Utah Code Ann. § 54-1-13(1)(c).

The siting, configuration and construction of fueling facilities is largely governed by the applicable county or municipal land use ordinances. The Commission should encourage local planning and zoning authorities to assure that alternative fuel facilities are treated the same as gasoline and diesel filling stations under laws pertaining to zoning, use permits and other authorizations.

#### Obstacles to Alternative Fuels

S.B. 275 requires consideration by the Commission of “the most effective ways to overcome any obstacles to converting to alternative fuel vehicles and to enhancing and expanding the infrastructure and facilities for alternative fuel vehicles.” Utah Code Ann. § 54-1-13(1)(d).

As with many emerging industries, some form of governmental involvement in conversions of vehicles and development of fueling infrastructure will be required. However, the goal of State policy should be to assure a level playing field for all alternative fuels, and ultimately for all transportation fuels. Along with the other measures suggested in these comments, the Commission should encourage greater emphasis on public education so that the consumer is aware of the choices available for alternative fuels.

#### Other Options

The foregoing list is not an exclusive list of options for the Commission to explore in this proceeding. Other issues include:

### *Air Quality State Implementation Plans*

The Commission should coordinate with the Utah Department of Environmental Quality to assure that proper credit is given for alternative fuel initiatives in the Fine Particulate Matter (“PM2.5”) State Implementation Plan (“SIP”) for the Wasatch Front. The PM2.5 SIP is intended to achieve compliance with the 24-hour PM2.5 National Ambient Air Quality Standard (“NAAQS”), which has been exceeded during wintertime inversion episodes. Alternative fuels result in lower emissions of both precursors of PM2.5 and direct PM2.5. Given that transportation generates over half of the PM2.5 ambient pollution along the Wasatch Front, alternative fuels could have a significant impact in improving air quality.

The U.S. Environmental Protection Agency is also considering a lowering the ozone NAAQS. Once that happens, the Wasatch Front may well be in nonattainment for ozone, and thus a SIP revision will be required to set forth the steps required to come into attainment. Greater use of alternative fuels will reduce ozone precursor emissions such as nitrogen oxide and volatile organic compounds. In addition, EPA may classify all or parts of Uintah and Duchesne Counties as being in nonattainment with the current ozone NAAQS, which will in turn trigger a requirement for a SIP to set forth the steps to come into compliance with the ozone NAAQS in that area. Increased use of alternative fuels will be important components of the attainment demonstration for any ozone SIP.

### *Fleet Conversions*

Utah law authorizes the Utah Air Quality Board to “require fleets in specified geographical areas to use clean fuel . . . if necessary to demonstrate attainment of the national ambient air quality in any area in which they are required; and [if] reasonably cost effective when compared with other similarly beneficial control strategies . . .” Utah Code Ann. § 19-2-105.3(2). The term “fleet” is defined in the statute to include 10 or more vehicles owned or operated by a single entity capable of being fueled at a single location, but excludes rental cars, automobile dealers emergency vehicles, farm vehicles and heavy duty trucks. Utah Code Ann. § 19-2-105.3(1)(c).

To require a fleet conversion, the Board must find that the conversion is “necessary” to show attainment of a NAAQS. This makes such a required conversion a measure of last resort, rather than a proactive step to reduce ambient pollution. The Commission should propose to the Legislature that it amend the statute so that a fleet conversion can be required by the Board if the

conversion would significantly reduce emissions from the fleet, regardless of the status of the SIP or the NAAQS attainment status of the area.

*Mission Statement for Interlocal Cooperation Entity*

The Commission should encourage the development of a detailed mission statement with discrete measurable objectives for the interlocal cooperation entity created by S.B. 275. A mission statement should include steps to achieve a specific percentage goal for conversion of vehicles and installation of clean fuel facilities by a specific date. In addition, the interlocal entity should articulate steps to be taken to increase public awareness of the advantages and availability of alternative fuels, convene stakeholder groups, sponsor and organize collaborative seminars, utilize available federal and state incentives, develop model standards for fueling infrastructure, work with private and government fleet operators on the logistics of conversion, and develop relationships with groups in Utah and in other states which are involved in alternative fuel issues.

*Stakeholder Involvement*

The Commission should consider measures to assure that relevant stakeholders are involved in developing and implementing alternative fuel policies. The interlocal entity created by S.B. 275 should organize one or more working groups consisting of state and local government agencies, fuel providers, auto dealers, metropolitan planning organizations, consumer advocates, fleet operators, and public interest groups. The purpose of such groups would be to provide input to the interlocal entity in carrying out the overall statutory goal to “facilitate the conversion to alternative fuel vehicles or to facilitate the construction, operation, and maintenance of facilities for alternative fuel vehicles, or both” as provided in S.B. 275. Utah Code Ann. § 11-13-224(2). In addition, the groups can provide valuable input into how specific goals set by the interlocal entity can be achieved.

DATED this 3<sup>rd</sup> day of July, 2013.

HOLLAND & HART LLP

/s/ James A. Holtkamp  
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by email or hand delivery, as indicated, this 3rd day of July, 2013, on the following:

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/s/ Barbara Thurgood \_\_\_\_\_