P U B L I C   P O L I C Y   A D V O C A T E S [LLC]

DOCKET
02-REN-1038
DATE JUN 16 2008
RECD. JUN 17 2008

June 16, 2008

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 02-REN-1038
1516 Ninth Street
Sacramento, CA 95814-5512

Re: **02-REN-1038 Guideline Revisions for the Existing Renewable Facilities Program**

Dear Commissioners

On behalf of my client, the California Biomass Energy, I respectfully submit the following suggested changes to the Existing Account Guidebook (adopted at March 14, 2007) which are consistent with the comments of the existing biomass and solar thermal industries over the past year and a half.

1. Restore and include in the Guidebook a set target price(s) and cap(s) for which facilities would qualify. Previously these had been deleted from the Guidebook in order to avoid having to change the Guidebook every time economic conditions prompted they be changed. Agreeing on and putting in print a set, available incentive that takes into account the number of potentially eligible facilities and the availability of funds designed to protect the renewable base in California would give these facilities an up front, clear picture on how much assistance is available to support them in staying on-line and generating as much as maximum feasibly possible. This clarity and assurity has been absent from the program for the last year and a half. The uncertainty of an award or the amount forced some plants last year to put off investments and even curtail operations.

Setting a target price or set of target prices, depending on a facility's contract, would also ensure the goals of the program outlined in PRC 25742 are met. First, by making certain the facilities stay on-line using this incentive method, this program is de facto securing for the state "the environmental, economic, and reliability benefits that continued operation of those facilities will provide during the 2007 -2011 investment cycle." As you know when it comes to protecting and improving California's environment, biomass technology is leading the way. By preventing open-field burning of 1.5 million tons of agricultural waste each year, biomass plants cut criteria pollutants up to 98%. Biomass plants actually reduce GHG emissions by diverting waste from high emission conventional disposal like landfill disposal and agricultural field burning. Biomass is also at least 2 times more effective in reducing GHG emissions than any other type of renewable technology, including nuclear. Finally, the biomass power industry provides waste disposal alternatives, diverting 2.3 million tons of urban wood waste from landfills annually and in total consuming 7.8 million tons of organic waste.

Second, by restoring an appropriate target price(s) and cap(s), the CEC can comply with the second program objective by keeping the biomass industry in business for a year or two more until the cost of conventional generation catches up and biomass and solar thermal power are indeed competitive. The cost of electric energy with which the biomass and solar thermal power industries are to become competitive by the end of 2011 is rapidly rising. Biomass generation experiences fuel cost increases as the cost of diesel fuel increases, but diesel fuel is only about 25% of the cost of biomass fuel delivered and used, and biomass fuel is only about 50% of the cost of biomass generation, rather than the 80% to 85% that gas makes up of the cost of gas-fired generation. In other words, although the costs of natural gas and diesel fuel are increasing, the increase hits the biomass plants much less harder than it hits the gas-fired generators. By the end of this program, those eligible existing renewable facilities left standing and able to avoid curtailment will be competitive and self sustaining as the power generation playing field is levelized.

2. <u>Simplify the qualifications for receiving these incentive funds by refocusing on what is required in PRC 25742</u>. In other words, to qualify for the agreed upon set target price(s) and cap(s), facilities should provide the following information:

- The cumulative amount of funds the facility has received previously from the commission and other state sources

- The value of any past and current federal or state tax credits,

- The facility's contract price for energy and capacity, the prices received by similar facilities,

- The market value of the facility,

The CEC would then take this information and conduct specific evaluations which assess a facility's role in the market currently and in the future, the likelihood that the award will assist this facility in staying on-line, avoiding curtailment in order to achieve the twin goals of this program and the State's renewable energy goals.

We are open to discussing what additional information would be needed for this evaluation, but at this time we suggest deleting all additional requirements in the Guidebook.

3. <u>Set the target price at 6.5 cents for plants delivering to PG&E and Sierra Pacific Resources and 6.2 cents for plants delivering to SCE and SDG&E, with a 1.5 cent cap for</u>

biomass plants and a 2 cent cap for solar thermal plants. This incentive level takes into account available funds, the number of eligible facilities likely to take advantage of the program, market conditions, current fixed price contracts and diesel fuel prices. The result of this would be that qualifying plants will be given enough incentive to avoid curtailment when contract prices are lowest and for some increase generation when prices are at their highest.

In the event there are insufficient funds in the account, CBEA agrees that plants with uneconomic contracts be provided incentives for all 12 months in the year if possible, while all other plants would forego payments. This process could be outlined in an amended *Section D: Production Incentive Rate* on page 6 of the current Guidebook.

CBEA recommends the following specific definitions and procedures in implementation CY 2008, 2009

Definitions:

PGC Collection Amount: The amount of PGC funds collected in CY 2008 or CY 2009 designated for existing renewables.

Rollover Amount: The amount of PGC funds designated for existing renewables collected in prior years but not expended.

Energy Price Deficiency Plants: The five biomass plants commonly known as Sierra Power, Madera Power, Dinuba Energy, SPI Loyalton, and Covanta Delano.

Methodology:

1. The Target Price for all eligible plants delivering to PG&E or SPR = 6.5 cents/kWh. The Target Price for all eligible plants delivering to SCE or SD&E = 6.2 cents/kWh.
2. The Cap for all biomass plants = 1.5 cents/kWh. The Cap for all solar-thermal plants = 2.0 cents/kWh.
3. Beginning Jan 1, 2008, all eligible plants will be awarded monthly production subsidy amounts in accordance with the Target Price and Cap methodology.
4. If and when the amount awarded in CY 2008 reaches the sum of the CY 2008 PGC Collection Amount plus 50% of the Rollover Amount, award payments to all plants except the Energy Price Deficiency Plants shall be terminated. Award payments to the Energy Price Deficiency Plants shall be continued in accordance with the Target Price and Cap methodology until the end of CY 2008.
5. Beginning Jan 1, 2009, payments to all eligible plants shall begin in accordance with the Target Price and Cap methodology, using funds made up of the Rollover Amount plus the projected CY 2009 PGC Collection Amount.
6. If and when the amount awarded in CY 2009 reaches an amount such that the remaining unawarded funds are estimated to be sufficient to continue payments only to the Energy Price Deficiency Plants for the remainder of CY 2009, then payments to all plants except the Energy Price Deficiency Plants shall be terminated. Award payments to the Energy Price Deficiency Plants shall be

continued in accordance with the Target Price and Cap methodology until the end of CY 2009.

4. Delete additional fuel attestation requirements. The current guidebook asks applicants to provide biomass fuel usage for the previous calendar year and additionally asks that each individual fuel supplier attest to this information (C. Withholding Payments, p 14). As we mentioned earlier in this process, this information from both the biomass facilities and the fuel suppliers would be unnecessarily duplicative and over burdensome. First, each of the facilities survives by knowing what kind of fuel is coming to their plants and from where it was derived to ensure proper operation of the plant. Regardless of the fuel type, facility operators regularly and frequently visit fuel source sites such as orchards, transfer stations, and the forest operations to ensure suppliers are holding to the types and quality contracted for. Further, each plant visits and inspects the suppliers' grinding yards, where both the raw waste wood and the processed fuel chips are inspected for acceptability. Because it is easy to check-up on them, a supplier has nothing to gain by misleading a facility as to where the fuel is coming from. Many plants already have to track this information for their local governments which require no more than the individual plant attestations.

Second, facilities have many fuel suppliers; most have dozens, and some have over one hundred. Knowing these fuel suppliers as we do, it is unrealistic to expect full cooperation from every single supplier that comes through the gates. In fact, the mere request for a supplier to get involved with this process will only raise questions on their part, possibly raising our fuel prices.

Every plant knows where their fuel is coming from because it is essential to the operation of the plant, and our reporting and attesting to that information should satisfy the fuel reporting requirement for this program. The proposed amendment in Attachment B of the Workshop Notice does not satisfy CBEA's concern since these additional fuel attestations are still required. We respectfully ask the individual fuel supplier attestation be deleted from the Guidebook as follows (page 14):

> Applicants are required to provide fossil fuel and biomass fuel usage for the previous calendar year in the Biomass and Fossil Fuel Usage Report for Biomass Facilities (CEC-1250E-4), which is due by January 31st of each calendar year. ~~Additionally, applicants shall include an attestation from the facility's fuel supplier(s) stating that the biomass fuel delivered to the facility for the previous year meets the applicable statutory requirements. The attestations for the fuel suppliers shall be submitted annual with form CEC-1250E-4, starting in 2008 for the 2007 calendar year.~~ Applicants must keep specific records regarding the type and quantity of the biomass fuels used (for example the type of biomass purchased, the tons of biomass purchased, the supplier purchased from, and the location of the fuel's origin). The Energy Commission reserves the right to request specific documentation for auditing purposes.

In addition to meeting the goals of the program, taking these suggested changes to the Existing Account Guidebook would create a more simplified and efficient process, treat individual facilities in these industries fairly, eliminate pages of unnecessary reporting, and eliminate the need for the staff to make judgment calls on whether not a facility is making the right financial decisions for its plant. CBEA strongly urges you to accept these substantive but valuable changes to the Existing Guidebook.

Sincerely

Julee Malinowski-Ball

Julee Malinowski-Ball