

STATE OF CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

11-RPS-01

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02-REN-1038

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In the matter of:)
)
Developing Regulations and Guidelines)
for the 33 Percent Renewables Portfolio)
Standard)
)
and)
)
Implementation of Renewables Investment)
Plan Legislation)

Docket No. 11-RPS-01

Docket No. 02-REN-1038

COMMENTS OF THE UTILITY REFORM NETWORK ON
THE NOTICE OF SUSPENSION OF THE
RPS ELIGIBILITY GUIDELINES RELATED TO BIOMETHANE



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**COMMENTS OF THE UTILITY REFORM NETWORK ON
THE NOTICE OF SUSPENSION OF THE
RPS ELIGIBILITY GUIDELINES RELATED TO BIOMETHANE**

In response to the March 16, 2012 notice, The Utility Reform Network (TURN) submits these comments on the proposed suspension of the RPS eligibility guidelines related to biomethane delivered via the natural gas pipeline system for purposes of compliance with the California Renewable Portfolio Standard (RPS). TURN strongly supports the suspension, with modifications, and urges the Commission to approve it at the March 28th business meeting.

During the suspension, TURN urges the Commission to evaluate the following criteria that could apply to future pipeline biomethane transactions:

- Ensuring displacement of fossil fuels by requiring the biomethane be physically injected into natural gas in pipelines that flow from a relevant supply basin to California.
- Ensuring additionality by requiring any biomethane transaction to demonstrate new (or incremental) methane capture at a source facility that does not have any current or expected regulatory obligation to capture the methane.
- Ensuring appropriate renewable value by netting out the use of nonrenewable fuel needed to process the methane onsite, compress it for pipeline injection, and transport it from the source to the consuming power plant.
- Preventing double counting by establishing a national tracking system and requiring that all certified GHG reductions be transferred to the final purchaser of the biomethane and retired.

TURN also urges the Commission to direct all RPS-obligated entities to submit data on their existing contracts for pipeline biomethane. This information will allow the Commission to fully analyze the quantities transacted to date, the additionality associated with these transactions, and the expected environmental benefits.

Finally, TURN urges the Commission not to accept any new applications for certification filed after the issuance of the Suspension Notice. It would be a mistake to permit a last-minute gold rush as buyers and sellers seek to get their transactions in the queue in the moments before the suspension is adopted. The Commission should defer to the Legislature with respect to the criteria applicable to new transactions.

I. DISPLACEMENT OF IN-STATE FOSSIL FUEL CONSUMPTION MUST BE DEMONSTRATED

The Suspension Notice explains that pipeline biomethane “may not displace in-state fossil fuel consumption” and “may not be physically delivered to the purchasing power plan, or even to the state, and may not even be used to produce electricity.”¹ This important observation requires the consideration of additional conditions. As all participants recognized during the September 2011 workshop, any biomethane injected into a pipeline in Pennsylvania is not the actual fuel used to run a Combined Cycle Gas Turbine (CCGT) in California. The fuel being used to actually generate the electricity is natural gas.

Industry proponents assert that the Commission should recognize that the procurement of biomethane is not a true physical transaction that allows the biomethane to flow to California but merely a transfer of certain fungible attributes to the purchaser along with a delivery of natural gas. Allowing scheduling against the flow of a pipeline highlights the fact that these transactions are simply an exercise in procuring

¹ Suspension Notice, page 3.

environmental attributes. The RPS program does not allow a California retail seller or Publicly Owned Utility to receive credit for procuring RECs from a Maine wind farm and scheduling an unrelated electricity import into a California Balancing Authority. Yet the current CEC Guidelines allow this exact type of transaction to count when it involves pipeline biomethane.

Many of the actual biomethane deals executed to date involve sources that inject gas into pipelines flowing Eastward. For these deals, there is no possibility that either the biomethane could actually be delivered into California or that such transactions will have any impact on the supply of natural gas to California. Requiring the biomethane to physically displace natural gas that would otherwise be flowing into California should be a minimum condition of eligibility.

There are six supply basins that serve California – Baja, Permian, San Juan, Rockies, Canada and California. Unless biomethane is injected into pipelines carrying gas from one of these areas to California, there is no displacement of fossil fuel used to serve California. TURN has catalogued many of the deals executed thus far (see Attachment A) and finds that very few would satisfy this threshold condition.

Moreover, the Commission should be concerned that the operation of local generating units powered by natural gas are unaffected by the purchase of pipeline biomethane. Indeed, industry proponents argue that one of the benefits of these transactions is that it does not alter the operation of existing CCGT units, does not require the installation of any new equipment, and does not require any additional generation.² Retail sellers and Publicly Owned Utilities procuring biomethane intend to rely on existing output from units already under contract (or ownership) to produce this “new” renewable energy using conventional natural gas. This behavior demonstrates that the only real

² For example, see the April 19, 2011 memo by Burbank Water and Power General Manager Ron Davis to Burbank City Manager Michael Flad (http://burbank.granicus.com/Viewer.php?view_id=6&clip_id=2368&meta_id=104263)

transaction is a purchase of tradable attributes, not the generation of additional renewable electricity.

II. ADDITIONALITY TESTS MUST BE ADOPTED

The Suspension Notice explains that the benefits of biomethane transactions are brought into question “if the biomethane producer previously sold its biomethane for another purpose or sold it to another power generator.”³ Specifically, the Notice expresses concern that the incremental environmental benefits to California may be compromised “if the biomethane was previously being used on the site of production for purposes such as power generation or heating, or was being disposed of through other means such as flaring”.⁴

Based on a review of recent pipeline biomethane transactions (see Attachment A), TURN believes that many purchases do not satisfy an additionality test. The bulk of the quantities transacted to date involve landfills with existing capture, processing and injection activities. There is no demonstration that these transactions have caused, or will result in, incremental pipeline injections. As a result, these deals merely redirect existing quantities and produce no net environmental benefits.

In many cases, the biomethane is already captured at the site due to existing regulatory requirements and may be either flared or burned for direct heat or onsite electricity use. The environmental benefits of a new biomethane transaction with such a facility may be small or inconsequential. The Commission should consider the environmental benefits of allowing purchases of biomethane from such facilities and should work with the California Air Resources Board to determine the net GHG reductions attributable to this type of transaction.

³ Suspension Notice, page 3.

⁴ Suspension Notice, pages 3-4.

In order to ensure additionality, the Commission should consider requiring that any biomethane transaction must demonstrate new methane capture at a source facility that does not have any regulatory obligation to capture the methane. If the biomethane transaction results in the capture of methane that would otherwise be directly vented into the atmosphere (without flaring), then the transaction should be deemed to satisfy the additionality test.

III. MORE DETAILED REPORTING ON BIOMETHANE TRANSACTIONS SHOULD BE REQUIRED

In adopting the suspension, the Commission should direct all RPS-obligated entities to submit data on their existing contracts for pipeline biomethane. Submissions should include the following information:

- Names of counterparties
- Duration of contract
- Quantity of biomethane to be supplied for each year of the contract
- Pricing (if public)
- Specific sources supplying the biomethane
- For each source of biomethane, the date that the facility began capturing methane and the date that any processing and injection facilities became (or will become) operational.
- For each source of biomethane, the alternative use of the gas absent the contract with the California buyer.

- Treatment of environmental and Greenhouse Gas attributes associated with methane capture, treatment and injection.

This information will allow the Commission to evaluate the specific environmental impacts of each transaction and should prove helpful to the Legislature and other state policymakers seeking to evaluate the benefits of these transactions.

IV. THE RENEABLE VALUE OF BIOMETHANE SHOULD BE ADJUSTED TO ACCOUNT FOR FOSSIL FUELS REQUIRED TO TREAT, COMPRESS AND TRANSPORT THE FUEL TO THE POWER PLANT

The process of injecting and transporting biomethane from a distant source to California involves non-trivial quantities of nonrenewable fuel. Nonrenewable fuel is used to compress the biogas for pipeline injection and to maintain sufficient pressure to transport the biomethane over the entire distance between injection and final delivery. Any nonrenewable fuel used for this purpose must be netted against the renewable credit provided under the RPS program. Pursuant to Public Utilities Code §399.12(h)(3)(A), “any electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels....shall not result in the creation of a renewable energy credit.”

During the period of the suspension, the Commission should evaluate and develop standardized estimates for the amount of nonrenewable fuel required for injection of biogas into the pipeline. The Commission could use tariff “fuel rates” to calculate the amount of gas used for transportation over interstate pipelines. The entire contribution of nonrenewable fuels should be netted against the gross contribution of the biomethane in order to determine a final quantity eligible to receive RPS credit (subject to Legislative authorization).

V. A NATIONAL TRACKING SYSTEM SHOULD BE DEVELOPED TO VERIFY QUANTITIES AND PREVENT DOUBLE COUNTING OF ENVIRONMENTAL ATTRIBUTES

The Suspension Notice explains the potential difficulty in verifying that biomethane “is in fact injected into the natural gas pipeline system and sold to the designated power plants in the quantities represented by the producers and power plant operators.”⁵ The Notice also identifies concerns over the disposition of environmental attributes associated with GHG reductions. TURN agrees with these concerns. During the suspension period, the Commission should investigate the establishment of a national tracking system and consider potential rules regarding the certification and transfer of environmental attributes for biomethane transactions.

The Commission should require any certified GHG reductions to be transferred to the final purchaser of the biomethane and retired. Absent such a requirement, the greenhouse gas benefits may be double counted if the producer sells biomethane to a California POU or retail seller and the GHG attributes to another unrelated entity. There is no justification for counting such benefits more than one time.

VI. THE COMMISSION SHOULD NOT CERTIFY ANY NEW TRANSACTION EXECUTED BETWEEN THE ISSUANCE OF THE NOTICE AND THE ADOPTION OF THE SUSPENSION

The Suspension Notice allows new transactions to be executed and submitted for certification prior to the date of final adoption by the Commission. TURN disagrees with this approach and urges the Commission not to apply the current guidelines to any new transaction or requests for certification. The Commission should take all available steps to avoid a last-minute gold rush involving existing supplies of

⁵ Suspension Notice, page 4.

biomethane from existing landfills with existing capture and injection facilities. There is no incremental environmental benefit to California associated with these transactions.

The Legislature is poised to address the appropriate conditions for new biomethane transactions. Allowing new deals to be subject to grandfathering will only complicate the Legislative process and should be avoided.

Respectfully submitted,

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ATTACHMENT A -- PIPELINE BIOMETHANE PROCUREMENT

<u>PUBLICLY OWNED UTILITIES</u>	MMBtu/day	MMBtu/year	GWH/year	Mw(a)	MW equiv. (solar)	% of retail sales	Price (\$/mmBTU)	Start/End Year	Location/Notes
LADWP									
Atmos/McCarty Landfill	5,000	1,825,000	261	30	119	1.1%	9.80	2009/2014	Houston, TX
Atmos/Carter Valley Landfill	600	219,000	31	4	14	0.1%	9.80	2009/2014	Church Hill, TN
Shell 2009/Various sources	8,200	2,993,000	428	49	195	1.8%	9.80	2009/2014	Rumpke Sanitary Landfill, Cincinnati, OH; Fort Smith Landfill, Fort Smith, AR; Greenwood Farms Landfill, Tyler, TX; Jefferson Davis Parish Sanitary Landfill, Welsh, LA; Johnson County Landfill, Shawnee, TX
Shell 2011/Various sources	10,000	3,650,000	521	60	238	2.2%	10.85	2012/2021	Greentree Landfill, Kersey PA; Imperial Landfill, Imperial, PA; Turkey Creek Landfill, Alvarado, TX
Pasadena Water and Power									
EDF Trading/Dos Rios	1,440	525,600	70	8	32	5.8%	11.15	2011/2021	San Antonio, TX; Will use Magnolia CCGT.
Sequent/Meadow Branch Landfill	810	295,650	36	4	16	3.0%	10.80	2011/2021	Athens, TN
Waste Management/American Landfill	935	341,275	41	5	19	3.6%	10.80	2011/2021	Ohio
Burbank									
EDF Trading/Dos Rios	1,210	441,650	63	7	29	4.9%	11.15	2011/2021	San Antonio, TX; Will use Magnolia CCGT.
Sequent/Meadow Branch Landfill	810	295,650	36	4	16	2.8%	10.80	2011/2021	Same as Pasadena deal
Waste Management/American Landfill	935	341,275	41	5	19	3.2%	10.80	2011/2021	Same as Pasadena deal
SMUD									
Shell/McCommas Bluff	6,000	2,190,000	313	36	143			2010/2025	Dallas, TX.
EIF KC/Johnson County Landfill	7,050	2,573,250	368	42	168			2014/2033	Kansas City, MO
Vernon									
Element Markets Renewable Energy	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	2011	Texas, Pennsylvania, Kansas, Georgia
Clean Energy Fuels/Sauk Trail Landfill	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN				Sauk Trail Hills Landfill, MI
IID									
Element Markets Renewable Energy	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	UNKNOWN	2011	Texas, Pennsylvania, Kansas, Georgia
Anaheim									
Magnolia Green Gas			153	17	70	6%		2012/2022	Not clear if yet executed
POU subtotal	42,990	15,691,350	2,362	270	1,078				

ATTACHMENT A -- PIPELINE BIOMETHANE PROCUREMENT

<u>ELECTRIC SERVICE PROVIDERS</u>	MMBtu/day	MMBtu/year	GWH/year	Mw(a)	MW equiv. (solar)	% of retail sales	Price (\$/mmBTU)	Start/End Year
Pilot Power								
Calpine/Pastoria			125	14	57			2011/2013
Constellation								
Unnamed sources			200	23	91			2011
Commerce Energy								
Calpine/Pastoria			23.45	3	11			2011
Direct Energy								
Powerex/Grayson Landfill gas			REDACTED	REDACTED				
Shell Energy								
Unknown			REDACTED	REDACTED				
Calpine Energy America								
Calpine/Pastoria			22.44	3	10			2012
ESP subtotal	-	-	371	42	169			