



11-RPS-01

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Mr. Robert B. Weisenmiller, Ph.D.
Chairman
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: RPS Proceeding, Docket Numbers 02-REN-1038 and 11-RPS-01; Notice to Consider Suspension of RPS Eligibility Guidelines Related to Biomethane

Dear Chairman Weisenmiller:

We have become deeply concerned since we received and reviewed the Commission's Notice to Consider Suspension of the RPS Eligibility Guidelines Related to Biomethane. The wholesale moratorium proposed by the CEC will immediately and negatively impact the prospects for new projects, investment and increased employment in California's emerging biogas industry. These are projects which clearly meet the current requirements of the RPS and whose attributes are quantifiable and verifiable under the SB X1-2 requirements.

As a member of The American Biogas Council (ABC), which represents 148 companies dedicated to the development of the anaerobic digestion, biogas and biomethane industry, with more than a dozen of these companies involved in projects located within California, we've had the exposure to a variety of perspectives on this subject matter since it came to our attention. Member companies include biogas project developers, landowners, anaerobic digestion providers, waste water companies, waste managers, utilities, and financial firms across the entire biogas supply chain.

Over the past year, ABC members have participated in active dialogue and debate with numerous stakeholders on the eligibility of biomethane in California's Renewable Portfolio Standard (RPS). We understand the different sides of the related issues and California's interest in supporting California businesses and encouraging the use of renewable energy. The proposed action to suspend biomethane from the California RPS is disruptive to the industry on many fronts, with the following two being particularly harmful:

1. Suspension of biomethane pipeline injection from the CA RPS will cause immediate harm to the California biomethane industry, limit the renewable energy production potential in CA, plus slow job creation and capital expenditures within California.
 2. Dealing with the complexities to increase eligible biomethane projects under the California RPS is best handled through California's legislative process.
- 1. Suspension of biomethane pipeline injection from the CA RPS will cause immediate harm to the California biomethane industry, limit the renewable energy production potential in CA, plus slow job creation and capital expenditures within California.**

The technology to produce biogas from organic waste and upgrade it to biomethane is well known and mature. However, the production and use of biomethane in California is just beginning and growing. Already, millions and millions of dollars have been invested and soon many more will be invested in new projects that will create new high-wage construction and permanent jobs and develop renewable energy in California while improving the environment. The Commission's proposed action puts those investments and economic activity in immediate jeopardy. In addition, stranding assets currently in development within California will add costs if and when the path is cleared through the legislative process, many months in the future.

We would love to tell you that the biomethane industry is so strong that it can weather a multi-month disruption of project development, but that is not the case. One cannot simply press the pause button on multi-million dollar projects underway in California while the Commission debates this topic. Doing so will stop the related economic development in its tracks and companies will be forced to move immediately elsewhere to develop new work. While there is significant potential for California to develop new biomethane projects that create renewable natural gas to make clean electricity or vehicular fuel (see table below), California is not the only state where American Biogas Council members want to work. Additionally, without the incentive to make the investment into the equipment necessary to upgrade biogas to biomethane, renewable energy production will be limited to the amount of energy that can be used on-site only. As compared to the much greater potential biogas/biomethane production volume potential should producers optimize systems to maximize/boost biogas volume, and subsequently biomethane production, with new technologies such as the organic bio-stimulant produced by JSH international and offered to the market by its Prodex division – as long as there is a use for such surplus production. The California economy will suffer and California will lose the smartest way to convert organic waste into baseload renewable electricity, a renewable substitute for natural gas and vehicular fuels.

Biomethane projects are being developed a variety of sectors because they enable companies to improve their sustainability and competitiveness. We count dozens of active new projects that ABC members are developing today in California and each project requires investment levels ranging from \$1 million to tens of millions of dollars and more. It is notable that many of these projects are being developed by new companies because the industry is only now gearing up.

The CEC's proposed action will stop economic development for all projects, large and small, that are currently California's #1 way to convert agricultural waste, food waste, wastewater sludge and the organic part of any waste stream and turn it into useful, renewable energy and a host of other benefits. The benefits include reduced runoff, reduced methane emissions, nutrient rich fertilizers, and 4 times more jobs created compared to burying the waste instead. The California agricultural sector, which includes the largest dairy industry of any state, stands to benefit from biomethane project expansion because of increased sustainability through improved manure management.

Table. 1 Current and Potential Biogas Projects in the U.S. and California

	Current Projects		Potential Additional Projects	
	US	CA	US	CA
Agriculture	176	11	8,200	1,000+**
Wastewater	250	55	3,250	190
Landfill/Urban Waste	582	85	507	33

** We don't have an exact number yet, but the dairy industry in California, as you know, is huge. The manure from dairy cows (and other types of farms) could be turned into biomethane.

2. Dealing with the complexities to increase eligible biomethane projects under the California RPS is best handled through California's legislative process.

We believe that the right thing for the Commission to do under the circumstances is to allow the California legislature to determine how biomethane eligibility should be treated under the RPS without imposition of a suspension that will directly and immediately derail in-state renewable energy projects.

The precedent that the Commission is setting—that any rule or long-standing eligibility classification of a renewable energy resource can be eliminated by unilateral agency action at any time—sets a terrible precedent that will create many consequences across many industries, including the investment community. Use California's legislative process. The legislative process will enable the best policy to be implemented—a policy that is balanced and ensures that the State's goals set forth in SB X1-2 are met without imposing huge financial losses on companies and investors that have acted in good faith to provide renewable resources to California under the existing rules of the

Commission.

In addition, please consider the impacts this action will have on the California renewable energy industry. What will this action do to investor confidence, when others realize that the Commission is willing to disrupt the contractual rights of the private market with little regard for the impact the proposed action will have on developing renewable energy projects? This sets the stage for future difficulties as industry works to meet the goals of the RPS.

We believe we share the Energy Commission's desire to see California regain its place as one of the strongest and most competitive economic forces in the world. Pairing biomethane technology with the large organic waste resources in California can play a major role in rural and urban economic growth and environmental sustainability. Private investors and businesses are working closely with cities, counties and the State to create jobs and better incomes while protecting the environment will not help.

The proposed wholesale moratorium is bad for California, bad for the State's economy and bad for the environment. We already know from the reactions we've seen so far that the unintended consequences of this proposed action will be severe and extremely negative to companies creating economic growth in California. We strongly urge you to reconsider this moratorium and keep California biomethane businesses in business.

Sincerely,



Kevin Mulvihill
Chief Executive Officer
JSH international
American Biogas Council Member

CC:

Carla Peterman, Commissioner
Karen Douglas, Commissioner
Steven Bradford, Assemblymember, 51st District
Wesley Chesbro, Assemblymember, 1st District
Nancy Skinner, Assemblymember, 14th District
Darrell Steinberg, Senate President Pro Tempore
John A. Perez, Speaker of the Assembly
Gareth Elliot, Office of the Governor
Kate Zocchetti
Mark Kootstra
Cliff Rechtschaffen, Director, California Department of Conservation
Carroll Mortenson, Director, CalRecycle
John Laird, Secretary of Natural Resources
Scott Smithline, Assistant Director, CalRecycle