



March 25, 2013

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

Re: Renewable Portfolio Standard (RPS) - Docket No. 11-RPS-01 and 02-REN-1038

Dear Chair Weisenmiller and Commissioners:

On behalf of the Coalition For Renewable Natural Gas, Inc., we appreciate the opportunity to comment on the *Staff Draft RPS Eligibility Guidebook, 7th Edition* as proposed by Commission's staff at the recent Workshop held on March 14th. We look forward to working with you, your colleagues, staff and with stakeholders throughout the balance of the rule-making process.

In our February 6th comments, the Coalition responded to Staff's Concept Paper and complimented the good judgment exhibited by Commission staff. Much of their analysis reflected the fact that Kate Zocchetti, Mark Kootstra, Gina Barkalow and Gabe Herrera were present for most, if not all, of the legislative policy hearings for both AB 2196 (Chesbro; 2012) and AB 1900 (Gatto; 2012). Their logic, and reasonable proposals revealed a practical understanding that just as both bills were double-joined throughout the legislative process, successful regulatory implementation of one bill must consider the affect and ramifications on the other.

Successful regulatory implementation of the AB 2196 intent to eliminate future RPS eligibility of biomethane procured from sources outside California after March 28, 2012, must be measured carefully, and in consideration of the primary goal of AB 1900 to promote increased biomethane utilization in the State of California.

Eventual Coalition support for AB 2196 (after it had already failed on the Senate Floor) was tantamount to and contingent upon two crucial tenets. The first being that existing biomethane procurement contracts executed in good faith prior to March 29, 2012, would be grandfathered fully under the laws and rules in place at the time they were executed. The second was that regulatory implementation of AB 2196 would not conflict with or impede regulatory implementation of AB 1900 (and vice versa).

At the conclusion of our comments, the Coalition urged the adoption of the reasonable rationale proposed in the Staff Concept Paper. Today, we once acknowledge and thank the Energy Commission and Staff for their work to date.

However, the Coalition notes the following concerns that remain unresolved or new concerns where the *Staff Draft RPS Eligibility Guidebook, 7th Edition* seems to stray from the aforementioned premise established in the Staff Concept Paper. As such, the Coalition makes the following comments and recommendations specifically regarding potential regulatory impact upon biomethane procurement contracts executed either before March 29, 2012 or after March 28, 2012.

REAPPLICATION FOR CERTIFICATION:

The Coalition understands that there are new requirements as a result of AB 2196. However, considering the backlog that has already been created by prior legislative and regulatory uncertainty, we recommend that the Commission revise the draft requirement on Page 14 of the *Staff Draft RPS Eligibility Guidebook, 7th Edition* so that each facility with an application already pending, does NOT have to reapply for certification. In one particular instance, we have a member with a four-year old contract. That this producer and off-taking facility would have to reapply seems unnecessary and overly burdensome to an already delinquent process.

We recommend that only facilities applying for certification *after* the date the official *RPS Eligibility Guidebook, 7th Edition* is adopted by the Commission, be required to use the new application forms associated with the Guidebook.

If this is not possible, then respectfully request that Commission Staff release drafts of the new applications that are pending, so the applicants could prepare the application in advance and submit completed applications as soon as possible.

COMMON CARRIER PIPELINES:

The definition of a “common carrier pipeline” of extreme importance. Specifically, as it pertains to the RPS Eligibility of New Biomethane Procurement Contracts or Adjustments to Existing Biomethane Procurement Contracts, Public Utilities Code Section 399.12.6(b)(3)(A) refers to a “*common carrier pipeline that physically flows within California.*” Here, even staff’s proposed clarification that this refers to biomethane “delivered through a common carrier pipeline that physically flows *within California’s geographic borders...*” leaves us uncertain about the practical implementation.

Once again, the Coalition requests that the Commission further clarify how they intend to treat common carrier pipelines that extend *within California and beyond* the state’s borders. Although there are few pipelines this clarification might impact (according to the Commission’s natural gas pipelines map at http://www.energy.ca.gov/maps/infrastructure/Natural_Gas_Pipelines.pdf), the practical implications are nevertheless important for some transactions.

We assert that an appropriate interpretation of this statutory language would include a pipeline that has physical pipe infrastructure, at least in part, inside California’s geographic borders, and that the pipe contains either and or both natural gas and biomethane that is physically flowing inside the geographic borders of California.

IDENTIFIED BIOMETHANE SOURCES:

As the Coalition noted in our testimony at the March 14th Workshop, Staff changed two key words on page 17, Subsection b (4). In the following language, *original* was changed to *existing*, and the word *or* was changed to *and*.

*“Any procurement from biomethane sources that were not identified in the **existing** biomethane contract, as originally executed **and** reported to the Energy Commission before March 29, 2012, or the RPS certification application submitted to the Energy Commission before March 29, 2012. The removal of a source(s) of biomethane identified in the **existing** biomethane procurement contract or RPS application submitted to the Commission will not be considered “a change in the source(s) of biomethane”. The removal of a biomethane source cannot be replaced with a new source.”*

We wish to acknowledge for the record and appreciate Staff’s clarification that the change from *original* to *existing* reflects the fact that eligible procurement contracts executed prior to March 29, 2012 does not refer exclusively to the contract as first signed, but also includes eligible contract amendments submitted in advance of the deadline.

We also wish to clarify, consistent with Staff’s explanation, that the change from *or* to *and* does not alter the fact that biomethane procurement had to be reported, not necessarily the related quantities or sources. We appreciate that there would be an opportunity to ‘cure’ by submitting additional information on the new application. We recognize that the lack of reporting on the source would have to be verified in the application with an attestation that the source was in the contract prior to March 29, 2012.

RENEWABLE & ENVIRONMENTAL ATTRIBUTES:

The *Staff Draft RPS Eligibility Guidebook, 7th Edition* states that all biomethane contracts must specify the following: *“all renewable and environmental attributes associated with the production, capture, and injection of the biomethane are transferred in whole to the electric generating facility using the biomethane.”*

This, however, contradicts the requirement listed just prior that *“sufficient environmental attributes are transferred to the POUs to ensure that there are net zero emissions associated with the production of electricity from the facility using the biomethane”*.

Moreover, this confuses *“environmental attributes”*. Attributes from the *capture* of methane do not and need not be transferred in whole to the power generator in order to be considered *“net zero”*. For example, a digester project that uses agricultural waste as a feedstock and captures methane *that would otherwise emit from the agricultural operation* reduces GHG emissions from that operation, even if the methane is flared. Processing the methane and then using it to displace fossil fuel natural gas further reduces GHG emissions. That fuel, regardless of what happens to the GHG credits generated from the capture and destruction of the methane, is *net zero*.

Organic waste digesters should be afforded the opportunity to profit from GHG emission reductions that exceed what is required for the power generation facility to qualify as “net zero emissions” and incentives for the operation to maximize GHG emission reductions (like generating tradable credits under AB 32) should remain in place.

Thus, the Coalition recommends that the Commission clarify and make consistent the rule that *“sufficient environmental attributes are transferred to ensure that there are net zero emissions”*

and delete references to *“transfer of all renewable and environmental attributes associated with the production, capture and injection of the biomethane.”*

ENVIRONMENTAL BENEFITS TO CALIFORNIA

The Coalition also recommends that the Commission allow biomethane projects developed in California that can demonstrate they are capturing methane that would otherwise be emitted into the atmosphere within California to presumptively qualify as *“mitigating a local nuisance in California associated with the emission of odors.”*

ELIGIBILITY

The Coalition respectfully objects to the *Staff Draft RPS Eligibility Guidebook, 7th Edition* proposal that would postpone final determination of RPS eligibility for biomethane-fueled generation until after the facility owner complies with the annual reporting requirement, due on March 31 of each following year.

As proposed, a municipal owned utility may count on the RPS eligibility of a biomethane delivery only to discover a year later, after the verification process has been completed, that the transaction was not RPS eligible after all.

Biomethane deliveries from an RPS certified facility should be presumed RPS eligible also.

STATION SERVICE

Lastly, the Coalition respectfully requests that the Commission strike the current definition of Station Service in the Glossary of Terms, and replace it with FERC's definition, as follows:

“Station Service is the electric energy used for the heating, lighting, air-conditioning, and office equipment needs of the buildings on a generating facility's site, and for operating the electric equipment that is on the generating facility's site such as lights, fans, pumps, electric motors, instrumentation, and pollution control equipment.”

Respectfully, we would also like to also add the following clarifying language to FERC's definition:

“Station service does not include fuel delivery loads such as compressor station loads for pipeline gas; gathering system loads for landfill gas; collection, transportation, chipping and processing of biomass fuel; pumping loads for delivery of water to fuel a geothermal field; and pumping loads to extract and transport geothermal fluids from a geothermal field.”

We believe this change is warranted for the following reasons:

1. FERC is an industry standard and should not be unnecessarily contradicted.
2. The FERC definition creates a level playing field for all technologies.
3. FERC arguably has jurisdiction over bundled RECs. (In WSPP Inc. -Docket No. ER12-1144-000 - FERC states: “Thus, the Commission has jurisdiction over the wholesale energy portion of the transaction as well as the RECs portion of a bundled

REC transaction under FPA sections 205 and 206 (regardless of whether the contract price is allocated separately between the energy and RECs).

CONCLUSION

We appreciate the Commission's commitment to lift the March 28, 2012 suspension of biomethane eligibility commensurate with the adoption of the *RPS Eligibility Guidebook, 7th Edition*, as soon as reasonably possible.

We do not wish to sustain the proceeding. However, we respectfully request that Commission Staff provide at least one more opportunity for stakeholders to both review and submit further comments, in greater detail, on an updated Staff Draft Guidebook.

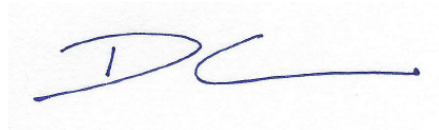
Again, the Coalition For Renewable Natural Gas appreciates the opportunity to submit these written comments and looks forward to continuing our work together to ensure California's energy policies support the public's interest and reflect a strong, diverse renewable energy portfolio.

Sincerely,



Johannes D. Escudero
Executive Director
Coalition For Renewable Natural Gas
Johannes@rngcoalition.com

916.520.4RNG (4764)



David A. Cox
Director of Operations
Coalition For Renewable Natural Gas
David@rngcoalition.com

916. 678.1592