



WASTE MANAGEMENT

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March 23, 2012

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

Via Email: ccross@energy.ca.gov

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

02-REN-1038

DOCKET

11-RPS-01

DATE MAR 23 2012

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Dear Chair Weisenmiller:

Thank you for the opportunity to submit comments and express our concerns regarding the recent notice to consider suspension of the RPS Eligibility Guidelines for Biomethane. Waste Management (WM) has extensive experience in developing biomethane resources as a renewable energy fuel and as a low carbon transportation fuel. Further, WM is investing in a wide variety of technologies that can further advance California's complimentary goals of diverting organic wastes from landfills and using that diverted waste to produce renewable low carbon biomethane to help California meet its renewable energy goals and reduce greenhouse gas emissions. However, the proposed moratorium raises significant questions as to California's commitment to the further pursuit of these goals.

Proposed Moratorium will Significantly Harm California's Instate Biomethane Development

Given the recent concerns expressed by various parties over the use of out-of-state biomethane to meet California's renewable energy goals and the possible need for clarifying legislation in this area, WM is not surprised that the California Energy Commission (CEC) is considering some action to address these concerns. However, the proposed breadth and scope of the proposed moratorium is quite surprising given the previous commitments that the CEC has historically made to support the further development of California's biomethane resources.

A good example is the CEC's own BioEnergy Action Plan (Plan) that was revised just last year. This plan extensively promotes the further development of in-state biomethane resources to help meet California's renewable energy and low carbon transportation goals, to wit:

- "Biomethane can be produced by upgrading biogas from digesters and landfills. Converting biomass and biogas to pipeline quality biomethane provides the opportunity for biogas injection into the natural gas pipeline, or for compressing or liquefying the gas for use as a transportation fuel."
- "Biomethane offers an effective way to increase renewable energy usage and displace natural gas."
- "The Energy Commission will provide funding for research to reduce the cost of biomethane gas clean up to meet gas quality standards for use as a transportation fuel or injection into the natural gas pipeline."
- "Injecting biomethane into the pipeline allows the use of this resource without adversely affecting air quality districts."
- "The Energy Commission, CalRecycle, and CPUC will work with California gas utilities and other stakeholders through a public process to address barriers to introducing landfill gas into the California natural gas pipeline."
- "The Energy Commission supports the establishment of state rules and requirements regarding transporting biogas and biomethane in California's natural gas pipelines and development of a set of uniform regulatory standards for pipeline quality."
- "To increase the beneficial use of biogas, The Energy Commission, through the Alternative and Renewable Fuel and Vehicle Technology Program, will provide funding for research to reduce the cost of biomethane gas clean up to meet gas quality standards for use as a transportation fuel or injection into the natural gas pipeline."
- "The Low Carbon Fuel Standard which will reduce greenhouse gas emissions by requiring the reduction of the carbon intensity of transportation fuels used in California by an average of 10 percent by 2020. Low-carbon biofuels, such as compressed (i.e., pipeline) biomethane, will play an important role in achieving this target."

These statements in clear support of biomethane development in California appear to be quite contrary to the proposed moratorium which, as proposed, would affect not only out-of-state but also, and what is more important, the development of in-state biomethane resources.

Waste Management believes that California is poised to make significant advances in the development of its biomethane resources. California has just adopted a 75% goal of diversion of waste from landfills. A significant portion of waste currently disposed in landfills is organic waste that could be diverted to produce biomethane in anaerobic digesters. The continued vigorous support of the CEC for continued biomethane resource development is essential if this is to happen. Adopting a moratorium at this juncture sends the completely wrong message to California's nascent biomethane industry, pulling the rug out from under many investments in California's biomethane resource potential and potentially crippling California's ability to meet the 75% diversion goal it has just adopted.

California has already imposed significant hurdles in the development of biomethane resources. The imposition of a moratorium in the face of significant efforts to reduce these barriers works against the CEC's stated goal to facilitate the development of California biomethane. Investors in California's biomethane resources could very well read this as an indication that California is not serious about developing this resource.

Glide Path Needed for Any Moratorium on Out-of-State Biomethane Resources

While there is clearly a need for legislative clarification and direction on the use of out-of-state biomethane resources to meet California's RPS goals, the immediate and sudden nature of the proposed moratorium is not necessary or warranted. Further, the imposition of an immediate moratorium could be substantially harmful to investments that have been made, in good faith, to help California meet its RPS goals. Such an immediate moratorium could serve to undermine confidence in California's regulatory framework for addressing its energy needs.

Although the premium California has placed on renewable energy development has sparked interest and development of out-of-state biomethane resources to meet California's needs, there is no reason for an immediate moratorium. Contrary to concerns expressed by some, WM does not believe that there is a tidal wave of pending high BTU biomethane projects around the country that will undermine California RPS policy and goals. High BTU biomethane projects take anywhere from 18 months to 2 years to develop. Thus a reasonable delay in imposing a moratorium would not lead to a "land rush" of new qualifying projects,

but it would allow existing investments, made in good faith according to existing Renewable Guidelines, to be completed. A glide path to a future moratorium date would avoid undermining existing investments in biomethane developments but also limit renewable credits to the amount of biomethane actually being delivered on the moratorium date.

- Existing Out-of-State Deliveries. WM requests that the CEC allow out-of-state projects that are currently delivering biomethane, but not to their full delivery potential, additional time to more fully deliver these resources that have been agreed to under contract and within the framework of existing renewable guidelines.
- Pending Out-of-State Deliveries in Development. Further, WM requests that some additional limited time be allowed for projects where significant investments have been made but the projects have yet to deliver biomethane. As with projects currently delivering biomethane, these projects should be allowed to qualify the amount of biomethane that is being delivered when the moratorium takes effect.
- WM believes that a moratorium, if imposed, should not take effect with respect to the above bullets earlier than December 31, 2012.

Summary of WM's Requested Modifications to the Proposed Moratorium

In conclusion WM requests and recommends that the CEC modify the currently proposed moratorium as follows:

- Eliminate all provisions that could adversely affect the continued development of California's in-state biomethane resources and explicitly declare the CEC's support for policies that will remove current barriers to in-state use of renewable biomethane produced in California.
- A moratorium that would affect the delivery of out-of-state biomethane should be imposed not earlier than December 31, 2012 and should apply to projects as follows:
 - For those projects that are currently delivering biomethane under CEC certified contract, the amount of gas being delivered as of the moratorium date should be recognized as RPS-eligible.

- For those projects that are pre-certified but not yet delivering biomethane, the amount of gas being delivered as of the moratorium date should be recognized as RPS-eligible.

Waste Management looks forward to working with the CEC and other responsible California Agencies to ensure the policies and goals of the state are fully realized in a coordinated and practical fashion. If you have any questions regarding our concerns, please contact either of the undersigned at the letterhead address.

Sincerely,



Pete Price
Vice-President Public Affairs/West



Chuck White, P.E.
Director of Regulatory Affairs/West

cc: Steven Bradford, Assemblymember, 51st District
Wesley Chesbro, Assemblymember, 1st District
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