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BAC Comments on RPS Eligibility Guidebook Scope

Additional submitted attachment is included below.

November 1, 2024

The Honorable David Hochschild, Chair
California Energy Commission
1416 Ninth Street
Sacramento, CA 95814

Re: Comments on Proposed Scope of RPS Eligibility Guidebook, Tenth Edition (Docket No. 21-RPS-02)

Dear Chair Hochschild:

I am writing on behalf of the Bioenergy Association of California (BAC) to provide comments on the proposed scope of the tenth RPS Eligibility Guidebook. BAC is very concerned about some of the changes proposed in the Commission's October 18 Notice and Request for Comments. Most importantly, the Table on page 2 of the Notice incorrectly states that AB 1921 eliminates hydrogen used in fuel cells as an RPS eligible resource. This is incorrect for a number of reasons described below. In addition, the Table lists a number of potential changes to the treatment of biomass resources and conversion technologies, but there is no explanation of what those changes might be or what is triggering the proposed changes. Both of these areas require correction and clarification before moving forward with the RPS Eligibility Guidebook revisions.

BAC represents about 100 members that are developing organic waste to energy projects in California to help meet the State's renewable energy, climate change, air quality, waste reduction, and wildfire mitigation policies. BAC's public sector members include Tribes, cities and counties, air quality and wastewater agencies, research institutions, community and environmental groups, and a publicly owned utility. BAC's private sector members include energy technology firms, project developers, waste haulers, investors, an investor-owned utility, and others.

BAC's comments on the proposed scope of the Tenth RPS Eligibility Guidebook are below.

1. **The Notice Incorrectly Proposes to Delete Fuel Cells Using Renewable Hydrogen.**

The Commission's Notice of October 18 states that AB 1921 "effectively eliminates the eligibility of fuel cells using hydrogen gas." This statement is not accurate and

contradicts the clear purpose of AB 1921, which was to add linear generators to the RPS, not to remove anything from RPS eligibility. BAC was a strong supporter of AB 1921 because it added an important, non-combustion conversion technology (linear generators) to the RPS. Neither BAC nor the other supporters would have supported the bill if it had been intended to remove hydrogen from the RPS. The proposed interpretation is incorrect and unsupported by the legislative history of AB 1921.

None of the legislative committee analyses suggested that hydrogen derived from RPS eligible resources should be deleted from RPS eligibility. In fact, the Assembly Utilities and Energy Committee proposed revisions to AB 1921 to clarify that linear generators were already RPS eligible and to ensure that the bill did not enable the use of fuels that are derived from fossil fuels.[1] As the analysis suggested, "the committee may wish to preserve the author's intention of clarifying existing RPS-eligibility but remove the addition of new fuel types into the RPS."[2] The committee analysis also acknowledged that fuel cells using hydrogen derived from RPS eligible resources are already considered RPS eligible and did not suggest specific amendments to change that fact.[3] In other words, the committee analysis suggested clarifying existing RPS eligibility – which the committee acknowledged already included fuel cells using hydrogen – not deleting non-fossil fuel derived hydrogen used in fuel cells.

The exclusion of fuel cells using renewable hydrogen (and, by logical extension, other technologies that use renewable hydrogen) would also contradict one of the goals of the *2022 Climate Change Scoping Plan* and other state policies that call for increases in renewable hydrogen production and use. The 2022 Scoping Plan calls for a 1,700-fold increase in the use of hydrogen in California.[4] Both fuel cells and linear generators that use renewable hydrogen will also help to meet air quality goals by reducing the need for diesel backup generators and fossil fuel use more generally. Both fuel cells and linear generators can provide virtually emission-free, clean firm power, which is needed for reliability and cost containment. The Commission's own analysis in its modeling for SB 100 found that California may need up to15,000 MW of firm power for reliability purposes.[5] Other studies have found that California will need even more than that and that developing a diverse portfolio of clean firm resources will also save ratepayers money.[6]

The RPS Eligibility Guidebook, Tenth Edition, should clarify that both fuel cells and linear generators are RPS eligible technologies when they use fuels derived from RPS eligible resources. Nothing in existing law nor in AB 1921 requires or suggests excluding the use of renewable hydrogen in fuel cells or linear generators.

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[1] Assembly Utilities and Energy Committee analysis of AB 1921, bottom of page 3.

[2] Id at page 4.

[3] Id. at page 3, footnote 8.

[4] California Air Resources Board, *2022 Scoping Plan For Achieving Carbon Neutrality,* adopted November 16, 2022.

[5] California Energy Commission, *2021 Integrated Energy Policy Report*, Volume III, at page 72.

[6] E. Baik, et al, "What is different about different net-zero carbon electricity systems?" published in *Energy and Climate Change* 2 (2021) 100046, July 2021.

2. **The Notice Proposes Unspecified Changes to Biomass Verification and Conversion Technologies Without Providing the Basis for the Changes.**

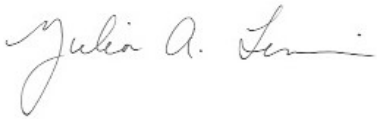
BAC is also concerned that there are proposed – but unspecified – changes to biomass feedstock verification and conversion technologies. There is no rationale or legislative basis for these proposed changes, so it is difficult to provide comment on them in the scoping notice. BAC is particularly concerned that the notice suggests that the RPS Eligibility Guidebook, Tenth Edition, should "Review requirements for Biomass Conversion technologies such as gasification or pyrolysis." There is no indication where such requirements might be coming from or what they might be beyond existing requirements under CEQA, air quality laws, etc. Public Resource

The RPS has allowed biomass conversion as an eligible feedstock since the first RPS legislation enacted in 2002. Public Resources Code section 40106 lists several types of biomass feedstocks and allows their conversion using combustion or noncombustion thermal conversion technologies. For biomass feedstocks listed in PRC 40106, there are no additional requirements, whether they are converted using combustion or noncombustion thermal technologies such as gasification or pyrolysis.

BAC urges the Commission to delete this from the scope of the Tenth RPS Eligibility Guidebook unless there are specific legislative or regulatory requirements related to gasification or pyrolysis that have been adopted since the Ninth edition of the Guidebook was issued. If new requirements exist, then they should be referenced explicitly in the scoping notice.

Thank you for your consideration of these comments.

Sincerely,



Julia A. Levin
Executive Director