

DOCKETED

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Project Title:	Appeal by Los Angeles Department of Water & Power re Renewables Portfolio Standard Certification Eligibility
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CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov



In the matter of:)	
)	
Developing Regulations and Guidelines)	Docket No. 11-RPS-01
for the 33 Percent Renewables Portfolio)	
Standard)	Docket No. 02-REN-1038
)	
and)	NOTICE OF BUSINESS MEETING
)	RE: Biomethane
)	
Implementation of Renewables)	
Investment Plan Legislation)	

Notice to Consider Suspension of the RPS Eligibility Guidelines Related to Biomethane

The California Energy Commission will hold a Business Meeting on:

WEDNESDAY, MARCH 28, 2012
10 a.m.
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
First Floor, Hearing Room A
Sacramento, California
(Wheelchair Accessible)

Audio from this meeting will be broadcast over the Internet.

For details, please go to:

www.energy.ca.gov/webcast

As part of the March 28, 2012 Business Meeting, the Energy Commission will consider suspending previously adopted guidelines that allow electric generation facilities to be certified as eligible for the Renewables Portfolio Standard (RPS) if the facilities use biomethane to generate electricity.

Background

The Energy Commission is charged with certifying electric generation facilities (i.e. power plants) as eligible renewable energy resources for the RPS and has adopted guidelines for this purpose that describe the requirements, conditions, and process to certify facilities as eligible renewable energy resources for the RPS. The current guidelines are set forth in the

Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition (RPS Guidebook), and the *Overall Program Guidebook for the Renewable Energy Program, Third Edition (Overall Guidebook)*. The *RPS Guidebook* identifies biomethane as an eligible renewable energy resource and allows power plants that use biomethane to generate electricity to be certified as eligible for the RPS.

Biomethane is biogas, such as landfill gas, digester gas, or gas derived from biomass, that is upgraded or otherwise conditioned so that the gas may be transported offsite to a power plant through the natural gas transportation pipeline system. In general, the *RPS Guidebook* allows biomethane to be used for the RPS if the following requirements are satisfied. The biomethane is injected into a natural gas pipeline system and extracted at the designated power plant and used to generate electricity. The injection point for the biomethane may be any interstate pipeline in the Western Electricity Coordinating Council (WECC) region or connected to a pipeline that delivers gas into California or to the facility, if the facility is located outside California. The volume of the biomethane injected into the pipeline system, and its measured heat content, and the volume of the natural gas used at the power plant must be accurately metered to quantify the amount of RPS-eligible electricity produced by the power plant. In addition, the power plant operator must enter into contracts for the delivery of the biomethane with every pipeline or storage facility operator from the biomethane injection point to the extraction point. Lastly, the necessary environmental attributes for the biomethane must be conveyed to the power plant operator, along with the gas itself, for purposes of electricity generation at the power plant.

The RPS eligibility of biogas as a separate category of eligible renewable energy resources was first addressed in the Second Edition of the RPS Eligibility Guidebook, which was adopted by the Energy Commission on March 14, 2007.¹ Its inclusion in that edition of the guidebook was the result of an inquiry in 2006 seeking clarification regarding the eligibility of digester gas produced at an in-state dairy. Instead of utilizing the digester gas to generate electricity onsite (which would be considered an eligible digester gas facility for purposes of RPS eligibility), there was interest in using the natural gas pipeline system to transport the digester gas to a designated power plant for use in generating electricity.

The law at that time, as well as now, did not specifically identify “biogas” as an eligible renewable energy resource for purposes of the RPS, but did identify “biomass,” “digester gas,” and “landfill gas” as eligible renewable energy resources. These terms, however, were not defined in the law. Nor did the law specify whether these fuels needed to be used on the site of the fuel’s production to generate electricity for purposes of the RPS. Likewise, the law did not specify how these fuels, if produced offsite, should be delivered to a power plant for purposes of generating electricity.

Purpose of Suspension

¹ California Energy Commission, *Renewables Portfolio Standard Eligibility Guidebook, Second Edition*, March 2007. <http://www.energy.ca.gov/2007publications/CEC-300-2007-006/CEC-300-2007-006-CMF.PDF>

The suspension is being implemented to provide the Energy Commission additional time to evaluate the RPS eligibility of biomethane as a result of Senate Bill X1-2.² Although SBX1-2 does not change the law with respect to the RPS eligibility of biomass, digester gas, or landfill gas, or specify how these renewable fuels should be used by, or delivered to, a power plant for generating electricity, SBX1-2 does establish a preference for electricity generation that provides more environmental benefits to the state by displacing in-state fossil fuel consumption, reducing air pollution within the state, and helping the state meet its climate change goals by reducing emissions of greenhouse gases (GHG) associated with electrical generation.

It is not clear whether, or to what extent, the current *RPS Guidebook* advances these environmental goals with respect to biomethane. The current *RPS Guidebook* does not require that the use of biomethane displace fossil fuel consumption or reduce air pollution. It does not require a showing that the use of biomethane results in GHG reductions. And it does not establish rigorous requirements to verify that the claimed quantity of biomethane was actually used by the designated power plant, or that the necessary biomethane attributes were transferred to the power plant operator for purposes of the RPS and not double counted for other purposes. The Energy Commission is evaluating these issues to ensure the intended benefits of SBX1-2 are realized. The state Legislature also is concerned with these same issues and has separately expressed a desire to clarify the RPS-eligibility of biomethane.

Biomethane that is injected into a natural gas pipeline system for delivery to a designated power plant in accordance with the *RPS Guidebook* may not displace in-state fossil fuel consumption. It may, in fact, not be physically delivered to the purchasing power plant, or even to the state, and may not even be used to produce electricity. This is true for several reasons. First, the natural gas pipeline system is a non-dedicated transportation system. Once the biomethane is injected into the pipeline system it is commingled with fossil fuel natural gas in the pipeline. Second, the gas within the pipeline does not consistently flow in one direction. Lastly, there could be multiple extraction points on the pipeline system between the point of injection of the biomethane and extraction point for the designated power plant.

If the biomethane is not actually delivered to the designated power plant, and the power plant instead uses fossil fuel natural gas to generate electricity, are the environmental benefits realized consistent with SBX1-2? This question is further complicated if the biomethane producer previously sold its biomethane for another purpose or sold it to another power generator. 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, the environmental consequences associated with these uses and disposal options need to be considered to determine any incremental environmental benefits to California.

Unlike other renewable resources that are located at the site of the power plant, such as wind, solar, hydroelectric or geothermal resources, biomethane originates offsite and is delivered to the power plant via a non-dedicated natural gas pipeline system. This makes its use for the RPS more difficult or impossible to verify and introduces the possibility of fraud. The

² SBX1-2, Simitian, Statutes of 2011, First Extraordinary Session, Chapter 1. SB X1-2 amends pertinent provisions in Public Resources Code 25740 through 25751, and amends and/or adds Public Utilities Code Sections 399.11 through 399.31.

biomethane producer may be located in one state and the designated power plant located in another state. The biomethane producer may dispose of the biomethane through multiple contracts with different parties and for different purposes. Moreover, biomethane transactions may involve middlemen that take ownership of the biomethane from various producers and market it along with fossil fuel natural gas to power plant operators. For these reasons it may be difficult to verify 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.

The disposition of the biomethane attributes is another issue that must be addressed. The attributes associated with the use of biomethane, including attributes associated with GHG reductions, can be disposed of separately from the biomethane itself. These attributes can be used to satisfy a GHG compliance obligation independent of their use to verify an RPS obligation. No national tracking system exists at this time to verify these biomethane sales or the sales and disposition of the attributes associated with the use of the biomethane. Consequently, it may be difficult to verify that the biomethane attributes are not being double counted for both the RPS and for other purposes.

Separate and apart from the Energy Commission's ongoing efforts to evaluate these issues, we are informed by the California Legislature that it too is interested in evaluating the RPS-eligibility of biomethane to ensure the use of biomethane results in demonstrable environmental benefits to California as contemplated by the law. In a recent letter to the Energy Commission, legislative leaders specifically asked that the Energy Commission place a moratorium on the RPS eligibility of biomethane to provide the Legislature an opportunity to act and clarify eligibility. A copy of this letter is included as Attachment A to this notice.

By suspending the biomethane rules at this time, the Energy Commission hopes to protect program participants from prematurely entering into biomethane-related transactions that could be subject to different RPS eligibility rules established by the Energy Commission or enacted by the Legislature.

Conditions of Suspension

Under the proposed action the Energy Commission will suspend previously adopted provisions in the *RPS Guidebook* that allow power plants to be certified as RPS-eligible if the power plants use biomethane to generate electricity. The suspension will take effect at 5:00 p.m. PDT on date of adoption by the Energy Commission and will remain in effect until the Energy Commission takes subsequent action to lift the suspension.

The suspension will not affect power plants that are certified as RPS-eligible by the Energy Commission and permitted to use biomethane as part of that certification, subject to the following limitations:

1. The biomethane is used in accordance with the requirements of the edition of the *RPS Eligibility Guidebook* under which the power plant was certified for the RPS;

2. The power plant's use of biomethane is limited to the biomethane procured under contract(s) with sources that were specifically identified in the power plant's approved application for RPS certification;
3. To ensure that the amount and availability of biomethane supplied to a RPS-certified power plant is not increased after the suspension takes effect, power plant operators shall provide the Energy Commission adequate documentation of the biomethane supplied to the power plant prior to the effective date of the suspension. This documentation shall include, but not be limited to, information on the term length of the biomethane supply contracts, the start and end dates of supply contracts, and the terms of biomethane delivered monthly under the supply contracts; and
4. Any extension of a biomethane contract term, increase in biomethane supply, or other change in the supply contract that increases the amount or availability of biomethane supplied to the RPS-certified power plant will require an amendment to the power plant's RPS certification. No such amendments will be considered by the Energy Commission during the suspension, and will be subject to the requirements in place when the Energy Commission lifts the suspension.

Power plants that have been pre-certified for the RPS by the Energy Commission will remain pre-certified. Pre-certified power plants will be subject to the RPS certification requirements in place when the power plant applies for RPS certification. If the power plant applies for RPS certification after the effective date of the suspension, the power plant's application will not be processed until the suspension is lifted by the Energy Commission and will be subject to the RPS certification requirements in place when the suspension is lifted.

Complete applications for RPS certification and RPS pre-certification for power plants seeking to use biomethane that are received by the Energy Commission prior to the effective date of the suspension will be processed in accordance with the Fourth Edition of the *RPS Guidebook*. To be complete, applications for RPS certification shall include the information and documentation specified in the *RPS Guidebook*. This information and documentation is summarized in Attachment B of this notice. In addition, applications for RPS certification shall demonstrate that the biomethane is being produced and injected into the natural gas pipeline system on or before the date of the application for RPS certification. RPS certification shall not be granted for future or prospective biomethane supplies.

Complete applications for RPS certification and pre-certification must either be hand delivered to the Energy Commission by no later than 5:00 p.m. on the date the suspension is adopted by the Energy Commission, or must be sent to the Energy Commission by mail and postmarked no later than the date the suspension is adopted by the Energy Commission. Notwithstanding anything to the contrary in the Fourth Edition of the *RPS Guidebook*, any application for RPS certification or pre-certification that is incomplete or received by the Energy Commission after 5:00 p.m. on the date the suspension is adopted by the Energy Commission will **not** be processed by the Energy Commission and will be returned to the applicant. Applicants that submit incomplete applications will not be given an opportunity to complete their applications

after the suspension takes effect. Therefore, applicants are advised to take special care to complete their applications for RPS certification or pre-certification before submitting the applications to the Energy Commission.

Written Comments

Written comments on the Energy Commission's proposed action to suspend guidelines related to the RPS eligibility of biomethane should be submitted by 5:00 p.m. on March 23, 2012. Parties should note that Docket Number 03-RPS-1078 has been replaced by Docket Number 11-RPS-01 for the Energy Commission's RPS proceedings. Parties under Docket Number 03-RPS-1078 will automatically be added to the new distribution list for Docket Number 11-RPS-03.³ Please include the docket numbers 02-REN-1038 and 11-RPS-01 and indicate *RPS Proceeding* in the subject line or first paragraph of your comments.

Please hand deliver or mail an original copy of your written comments to:

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 11-RPS-01
and
Docket No. 02-REN-1038
RPS Proceeding
1516 Ninth Street
Sacramento, CA 95814-5512

The Energy Commission encourages comments by e-mail. Please include your name or organization's name in the name of the file. Those submitting comments by electronic mail should provide them in either Microsoft Word format or as a Portable Document (PDF) to [docket@energy.state.ca.us]. **One paper copy** must also be sent to the Energy Commission's Docket Unit.

All written comments submitted to the Energy Commission will be filed with the Dockets Unit and become part of the public record in this proceeding.

Public Participation

The Energy Commission's Public Adviser's Office provides the public assistance in participating in Energy Commission activities. If you want information on how to participate in this forum, please contact the Public Adviser's Office at (916) 654-4489 or toll free at (800) 822-6228, by FAX at (916) 654-4493, or by e-mail at PublicAdviser@energy.state.ca.us. If you have a disability and require assistance to participate, please contact Lou Quiroz at (916) 654-5146 at least five days in advance.

³ Docket Number 03-RPS-1078 will also remain in effect until the completion of activities already begun under that docket, such as the RPS Procurement Verification Report for years 2008 through 2010, after which time it will be closed.

Please direct all news media inquiries to the Media and Public Communications Office at (916) 654-4989, or by e-mail at mediaoffice@energy.state.ca.us .

If you have questions on the technical subject matter of the proposed suspension, please contact Kate Zocchetti, RPS Technical Director, at (916) 653-4710, or by e-mail at kzocchet@energy.state.ca.us.

Remote Attendance

Participating by Telephone at a Business Meeting

To participate by telephone, please call toll free 1-888-823-5065 on March 28, 2012 after 10:01 a.m. (PDT). The pass code for the meeting is "Business Meeting" and the call leader is Jerome Lee. If you plan to speak on a specific item, please give the operator the item number.

The Business Meeting is broadcast via WebEx, the Energy Commission's on-line meeting service. To listen to the meeting and view any presentations, please click the following link or paste it into your browser:

<https://energy.webex.com/energy/onstage/g.php?t=a&d=920643951>

You may also go to <https://energy.webex.com/ec> and enter Meeting Number **920 643 951**. The meeting password is **mtg@10am**.

The service list for revisions to the *Renewables Guidebook* and *Overall Program Guidebook* is handled electronically. Parties interested in receiving these notices may sign up for the "renewable" list server through the Energy Commission website www.energy.ca.gov/listservers/index.html. Scroll down the Renewable Energy Lists and select the "renewable" list to receive electronic information via your e-mail address.

Date: March 16, 2012

Carla Peterman
Lead Commissioner

Electronic Mail List: renewable

CALIFORNIA LEGISLATURE

STATE CAPITOL
SACRAMENTO, CALIFORNIA
95814

February 22, 2012

Robert Weisenmiller, Chair
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

RE: Pipeline Biomethane and 33% Renewable Portfolio Standard (RPS)

Dear Chair Weisenmiller and Commissioners:

We are writing to you regarding pipeline biomethane and its treatment as an eligible renewable energy resource under SB 2-1X (Simitian, Steinberg et al) which establishes the 33% RPS.

SB 2-1X confirmed and expanded the Commission's duties under the RPS so that it now has a more significant role in certifying renewable energy resources to assure that implementation of the RPS achieves the benefits described under the law.

The RPS eligibility conditions for energy products were very carefully negotiated in the extensive legislative process resulting in the enactment of SB 2-1X and related legislation. These conditions, including the product content categories established under Public Utilities Code Section 399.16, are based on the final product – electricity – not the fuel or the resource used to generate the electricity.

Various parties--both proponents and opponents of pipeline biomethane alike--have shared their views with the Legislature and the Commission on the eligibility of biomethane under the RPS and its broader implications for the state's renewable energy goals. We understand that the Commission has held at least one workshop on the topic to accept public comment and that there will be legislation introduced on the issue this year.

We wish to state our support for lawful and carefully-regulated deployment of pipeline biomethane as both an energy and transportation fuel resource. However, we also share concerns expressed by clean energy companies, consumer groups, and environmental advocates over whether there are demonstrable environmental benefits to California as required by law, whether additionality is achieved in the GHG context, and over the apparent lack of any national tracking system to prevent double counting of these transactions.



Robert Weisenmiller, Chair
February 22, 2012
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For these reasons, we believe that eligibility of pipeline fuels deserves careful consideration by the Legislature to harmonize treatment of pipeline fuels with the requirements and objectives of the RPS.

To that end, we request that the Commission place a moratorium on permitting any additional pipeline biomethane transactions to be credited toward RPS compliance obligations to allow time for the Legislature to act to clarify eligibility conditions for pipeline biomethane.

Thank you in advance for your consideration.

Sincerely,



DARRELL STEINBERG
Senate President Pro Tempore



WESLEY CHESBRO
Assemblymember, 1st District



NANCY SKINNER
Assemblymember, 14th District



STEVEN BRADFORD
Assemblymember, 51st District

Attachment B

Applicants must submit properly completed 1(A/B), S1(A/B), and S5(A/B) forms to certify or pre-certify facilities for the use of biomethane. These forms must include the following information to be considered a **complete application** at the time of submittal.

The 1B form (precertification) must include:

- Name of the applicant (must be an individual, not an entity)
- Name and contact information of the applicant (name, address, phone, email)
- Company name and address
- Facility Owner name, address, phone, email
- Complete Facility location (physical address or GPS, city, county, state, zip code)
- Nameplate in MW of the facility (total capacity of the facility)
- Balancing Authority
- WECC interconnection substation location
- Commercial Operations Date (date the facility began using biomethane)
- Choose whether central station or distributed generation station
- Any and all facility ID numbers (FERC QF, EIA, WREGIS, etc.)
- Type of fuel, the associated annual percentages of each type of fuel and technology used by the facility, and the technology used to calculate for the contribution
 - Example: If the facility uses diesel (fossil fuel) and biomethane, list the annual percentage for each (98% diesel and 2 % biomethane)
- WET, original signature (copies will NOT be accepted)

The 1A form (certification) must include:

- **ALL** of the above
- A WREGIS Generating Unit ID number (if no WREGIS GU ID is provided, the application will NOT be considered complete)

The S1 form for either 1A (certification) or 1B form (precertification) must include:

- Name of the applicant (must match information from 1(A/B) form)
- Name of the facility (i.e. the power plant)
- Physical location of the facility
- Specific fuel type
- Source of the fuel (onsite, delivered, etc.)

The S5 form “packet” must be completed for EACH fuel producer and delivery pair and must include:

- Name of the applicant (must match information from 1(A/B) form)
- Name of the facility
- Physical location of the facility
- Facility Operator information and a WET signature
- Fuel producer information including name, physical location, owner and a WET signature
- Pipeline/Delivery Entity information including name, authorized agent/owner, receipt and delivery point and a WET signature
- *If you have 5 fuel producers and they each have 3 delivery entities, then 15 S5 form “packets” are required, all with all three sections completed and WET signatures for each corresponding party (facility operator, fuel producer, and delivery entity). We will NOT accept copies.