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October 28, 2009

California Energy Commission  
Dockets Office, MS-4  
Re: Docket No. 09-IEP-1A  
1516 Ninth Street  
Sacramento, CA 95814-5512

**DOCKET**

**09-IEP-1A**

DATE OCT 28 2009

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The California Biomass Energy Alliance ("CBEA") appreciates the opportunity to comment on the Draft 2009 Integrated Energy Policy Report ("IEPR"). CBEA recognizes that the IEPR is a massive undertaking, having to address all aspects of the State's energy picture, of which the biomass power industry represents only a small slice. CBEA believes that the Draft IEPR's assessment of the biomass industry is accurate and fair, and CBEA supports the recommendations made to address the barriers confronting the industry. In particular, the State needs to start today to address the impacts of the CEC's expiring Renewable Energy Program, and determine how the loss of revenue to the biomass generators can be made up. With the limited revenues available to the biomass plants from their contracts with the Investor Owned Utilities the CEC generation subsidy is a lifeline to the biomass plants, particularly in this era of extremely low natural gas prices.

CBEA respectfully recommends the IEPR expand further the description and analysis of barriers and near-term cliffs. The IEPR should note the following:

- The federal production tax credit ("PTC") for the biomass industry expires Dec 31, 2009. Unlike other renewables such as wind and geothermal, which benefit from a 10-year term of PTC, existing biomass facilities were only given five years. With the production tax credits available to all biomass facilities expiring on December 31, 2009, unless extended by Congress. Continued production tax credits are a "lifeline" to our industry and vitally important to our survival.
- Moreover, the 2004 federal tax legislation provided biomass with only half the tax credit rate available to wind and other renewables. There is no legitimate public policy reason for this disparate treatment. To the contrary, it violates basic principles of technology neutrality, and places Congress in the position of picking "winners and losers" among renewable technologies who often compete for long-term power purchase agreements. This is especially true as existing plants attempt to compete with other renewable generation technologies in the developing "Renewable Portfolio Standards" in California and many other states.
- Unrelated to tax policy, but equally troubling to our industry, are a number of issues that are a result of the Congressional Renewable Energy Standard and climate change legislation being enacted this year. Specifically, CBEA continues to be concerned about any definition of "biomass" that overly restricts our ability to source clean, organically-based waste and residue fuels. Congress should enact aggressive policies to encourage, and not discourage,

the growth of all renewables. By placing unreasonable restrictions on our biomass fuel supply, Congress places in jeopardy the critically important role we play in providing green power and reducing greenhouse gas emissions and conventional air pollution.

- At the State level, the CPUC SRAC value this year has been between 15 – 20% lower than the value during most of 2008, impacting biomass plants with market contracts, as well as any other renewable and cogeneration QF. While QF contracts have remained relatively unchanged despite large inflationary increased in the last five years, the market prices they get paid have gone down. This is not good for the biomass industry or for any other QF. The State should consider setting up a separate formula for renewables to ensure they remain financially viable until the contracts expire
- Finally, it is well documented that the RPS program, which was created in 2002, has had a great deal of difficulty in producing new renewable energy generation, and CBEA believes that the existing Market Price Referent (MPR) mechanism has contributed to the program's difficulties. The current process adds unnecessary complexity to the administration of the program and interferes with the efficient procurement process that is intended to be at the heart of the program. The MPR has had some additional unintended consequences. In its current form, the MPR has become a de facto target price for bidders in the competitive RPS solicitations. The IOUs have complained that this interferes with the competitive procurement process, while many generators complain that even though the MPR is not meant to be a ceiling on the price that can be paid for renewable electricity (renewables can be paid the MPR plus an AMF increment, which is not capped but is limited by the total funds available in the AMF pot), it has become a proxy for just that, although a small number of projects have been referred to the AMF account. Since the cost to expand an existing biomass plant, or to build and operate a new biomass plant will almost always be above the MPR, the biomass industry is most affected by this unintended consequence. The MPR in fact does not actually reflect what it costs to build and operate any renewable power plant. The CBEA is on record as favoring the elimination of the MPR in the RPS program and instead apply the statutorily-based "just and reasonable" standard of review to proposed contracts for renewables, with appropriate recognition of the benefits provided by each renewable technology, as well as the deliverability characteristics of each technology.

Although the IEPR properly outlines the barriers to development, the benefits of biomass-fueled generation technology are great. It is these benefits that are encouraging developers to build new projects, repower old ones, and even repower coal facilities to run on biomass fuel. It is important for the IEPR to note that the existing biomass power industry provides California with significant economic and environmental benefits by:

- Diverting over 6 million tons of waste wood annually for fuel. This greatly reduces the burden on the State's waste management system, and prevents the alternate, more environmentally harmful, and greenhouse gas (GHG) generating, disposal of this waste, such as disposing in landfills, open-burning, or biodegrading or burning in the forest.
- Diverting the wood waste into biomass power generation also provides a net reduction of over 3.75 million tons of GHG emissions per year, which would otherwise occur as a result of the conventional mechanisms of biomass disposal. Even further, an additional 3 million tons of avoided GHG emissions per year results from the biomass industry's displacement of fossil-fueled generation by the electric utilities.
- Reducing criteria pollutants by preventing open-field burning of 1.5 million tons of agricultural waste each year, biomass plants cut criteria pollutants up to 98%.

- Employing about 750 direct jobs at the facilities and 1,200 to 1,500 dedicated indirect jobs in the fuel supply infrastructure. Most of these jobs are in rural areas of the State.

### **Biomass and Feed-In Tariffs (“FITs”)**

A properly structured FIT can be an effective contracting option for both the maintenance of existing renewable generating capacity (many existing biomass generators will see their current PPAs expire over the next several years), and for the development of new renewable generating capacity in California. California is well endowed with renewable resources, but it is a challenging place indeed in which to develop renewable-energy-generating projects. FITs can be a valuable tool in:

- Streamlining the RPS contracting process
- Producing PPAs for renewable generating projects that can be successfully financed, built, and operated.
- Allowing developers, if designed properly, an adequate margin to absorb some amount of unexpected costs in responding to routine project-development challenges.
- Assisting in preventing some of the gaming of the system that currently plagues the competitive-solicitation process, such as developers under-bidding their projects in order to get on the short list, while intending to later obtain contract amendments needed to make their projects viable.
- Allow project development to precede beyond some of the high-risk development hurdles, greatly increasing the project viability, with the assurance that a FIT contract at a known price will be available when needed. Non-viable projects will be minimized because developers will see early on that their project can or cannot succeed at the FIT price level.

There is no compelling rationale for limiting the FIT program to generators of 10 MW generating capacity, or of any capacity level, for that matter. If they are RPS-qualified generators, then the state should be doing everything it can to facilitate their development, and one promising option is the FIT program. Some have argued that generators larger than 20 MW are more complicated, because they are required to obtain Participating Generator agreements with the CAISO. However, CAISO requirements pertain regardless of the type of PPA that a project holds (e.g. FIT vs. competitive RPS), and all generators that participate in the FIT program will have to comply with all applicable rules and regulations, so there is no reason to exclude generators larger than 20 MW from a FIT program. Why shouldn't all generators have the benefit of a FIT program that provides much greater simplicity and transparency in the contracting process than is possible with the existing opaque competitive-solicitation process?

Additionally, when you limit the size, you are excluding certain types of renewable technologies. The average biomass plant in California is about 25 MWs. When you take cogenerators out of the equation, no new stand alone biomass plant could be built today under 20MWs, because of the effects of the inverse economy of scale that such small plants suffer. The same could be said of geothermal, wind and large-scale solar.

The standard-offer contracts of the 1980s had their flaws, but it is a fact that with no size or technology limitations they were very successful in the largest build-up of renewable technologies in the world at that time, and spawned the development of most of the existing fleet of renewable generating facilities in the state.

Thank you again for the opportunity to comment. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, reading "Julee Malinowski-Ball". The signature is fluid and cursive, with the first name "Julee" being the most prominent.

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