

structure to apply only to biomethane contracts signed after March 28. Any original terms in contracts signed prior to that date that would lead to an amended certification in the future, such as options to reflect increased biomethane production from the facility under contract, should be processed as an amendment to certification under the rules in place today. This is necessary to avoid regulatorily stranding contracts signed in good faith. Any amendments to certification or new certifications involving changes regarding the certified designated facility, rather than the underlying biomethane contracts, should be processed under today's rules. For example, if the designated certified facility is subject to a scheduled repowering or an unforced outage, this should not cause a biomethane contract signed in good faith under CEC eligibility rules in effect at the time to face suspension or altered eligibility. The designated facility is not a term in the biomethane contract, and changes in that facility should not negate the contract.

In short, executed biomethane contracts should be grandfathered in their entirety, and certified (or pre-certified) even if certification changes are required to do so.

Second, the CEC should change its suspension so that it applies only from the start date through the end of July, 2012. This will allow the Energy Commission sufficient time to take public comment and conduct workshops on revisions to the *Eligibility Guidebook* and answer the questions raised in the Notice. An indefinite suspension will have an extremely negative effect on the biomethane marketplace. Biomethane capture and combustion is a promising greenhouse gas reduction technology and has just started to become a viable, commercial industry. The regulatory uncertainty from a suspension is likely to be a large setback to this new industry. This will cost jobs around the country, including in California.

Third, the CEC should make it clear that the suspension applies only to biomethane contracts using common carrier pipelines, and not to biomethane contracts using dedicated pipelines or to contracts using dedicated pipelines that involve less processed biogas that has not been fully processed to pipeline quality. These resources will, by definition, be local, involving dedicated rather than common pipelines, yet currently must be certified through the Energy Commission process identically to biomethane contracts using common carrier pipelines. Biomethane or biogas delivered in dedicated pipelines avoid the issues raised in the Notice, and so should not be subject to the regulatory suspension.

SMUD next provides comments in opposition to the proposed suspension and questions about the description of the rationale for the proposed suspension below.

A. *Suspension of biomethane will remove or make very uncertain the procurement of a relatively low-cost and high-value renewable option, increasing costs for ratepayers, including low-income ratepayers.*

Biomethane is consistently among the lowest cost renewables on a per kilowatt hour, or pure energy cost basis. When firming costs are added to the pure energy costs of intermittent renewables, including the wear and tear on power plants that must ramp up and down to regulate intermittents, the customer cost impacts of removing the biomethane option are greater than they might appear from a simple analysis. Biomethane contracts are consistent with the cost intent of SBX1 2 found in Pub. Util. Code Section 399.11(b)(5) and in Section 399.11(e), which state that it is legislative intent to promote stable retail rates for electric service and that rates should not be significantly affected by the procurement requirements of the RPS.

Allowing eligibility and procurement of biomethane facilitates firming renewables with renewables, by providing GHG-free, dispatchable, backup power and firming and shaping resources. Forgoing biomethane would require greater consideration of baseload resources such as geothermal and biomass, for which there is less potential in-state supply to meet RPS and AB 32 goals, or increased use of fossil power plants for firming and shaping. This latter policy would be contrary to the goal of reducing fossil fuel use and GHG, and come at an economic cost for Cap and Trade compliance.

Biomethane enables the continued use of existing infrastructure and existing jobs, using a renewable rather than fossil resource, or in an environmentally friendly manner. In addition to helping keep costs low, such use can help to avoid the unintended environmental impacts associated with the development of new greenfield resources and infrastructure.

B. *Biomethane procurement provides significant environmental benefits and reduces fossil fuel use in state, contrary to the implication in the Notice that it does not.*

SBX1-2 did not alter the RPS eligibility of biomethane or biogas for good reason – the resource is truly an environmentally beneficial renewable option. The current RPS Guidebook does not require that any renewable demonstrate specific environmental goals, such as the displacement of fossil fuel consumption, the reduction of in-state air pollution, or GHG reductions, but it is understood that renewable generation generally leads to these goals, and these were among the intentions expressed by the Legislature for enacting the RPS. It is inappropriate to single out biomethane as the one renewable resource that must demonstrate these benefits, as the suspension Notice implies. In fact, it is likely that biomethane provides more of these benefits than many other eligible renewables.

Biomethane capture and productive use has excellent GHG reduction qualities, and designated use in power plants in the state directly displaces in-state fossil fuel

consumption. For the most part, any reduction in fossil fuel use from renewables comes from “displacement” of these resources on the interconnected electricity grid. This displacement is not required to be from fossil fuel resources. It is generally understood that fossil fuel resources will be “on the margin” and so displaced with additional renewable generation, but there is no mechanism that requires this, and there are hours when the system may have few viable fossil resources to displace or turn down. More importantly, such displacement is not at all required to be from *in-state* fossil resources. Economic dispatch will generally dictate that in-state fossil fuel resources will not be displaced if they are cost-effective to run, even for export. In these cases, the fossil displacement will occur in out of state resources.

With biomethane, there is a significant difference from other renewable sources. Because a power plant is designated to use biomethane, not natural gas, the “displacement” occurs on the fuel side, not the grid side, leading to full displacement of fossil fuel. Less natural gas gets purchased and included in the interstate pipeline system to be combusted in power plants and California homes and businesses. While all of this natural gas displacement will not necessarily occur within California, because the state imports 80% of the natural gas used, it is clear that this fuel displacement directly and strongly affects fossil fuel use in the state.

Biomethane procurement and use can also reduce greenhouse gas emissions much more significantly than many other renewables. First, as described above, biomethane can have a greater impact on GHG than most other renewables through more likely displacement of fossil fuel use. While biomethane combustion also releases CO₂ to the atmosphere, this carbon has been recently removed from the atmosphere by biologic processes – it is not geologic. In short, it is not an “incremental” release of CO₂ to the atmosphere. Second, biomethane capture and use for AB 32 compliance is often associated with the reduced release of methane gas to the atmosphere. Preventing the release of methane provides a significant contribution to the state’s GHG reduction goals, as methane is 23 times more powerful as a GHG than the CO₂ resulting from fossil fuel combustion. If the biomethane had been previously combusted, there is no methane-release-prevention benefit, but there are numerous instances where biomethane production will prevent methane release.

C. Biomethane procurement is currently adequately tracked and verified.

Biomethane procurement follows the standard rules in the natural gas pipeline marketplace for tracking injection, transfer contracts, and designated use in power plants. These transactions are common commercial documents, and are required to be documented and provided by the Energy Commission certification and tracking procedures. These rules provide more than adequate ability to track what is occurring, and do not, contrary to the Notice, raise the possibility of fraud or make biomethane transactions any more difficult or impossible to verify than contracts for renewable generation in general. Verification is relatively straightforward and performed

adequately today, and there is no greater possibility of fraud than with other renewables or with the natural gas pipeline marketplace in general.

Biomethane that is deemed to not have a GHG compliance obligation under the AB 32 Cap and Trade structure is fully reported under Mandatory Reporting and is fully verified by independent verifiers under that regulation, providing a second independent verification process.

D. Conclusion

In conclusion, SMUD opposes and recommends that the Energy Commission reconsider the proposed suspension of biomethane certification and permitting. Should the Energy Commission continue to adopt a suspension on the date proposed, three changes to the proposal are necessary to avoid undue market disruption:

- 1) Tie the suspension to a biomethane contract date, not an Energy Commission certification date, and fully honor the provisions of the grandfathered biomethane contracts;**
- 2) Provide a defined end to the suspension period to avoid indefinite uncertainty that would damage the biomethane marketplace; and**
- 3) Clearly indicate that biogas or biomethane contracts and certifications that use dedicated pipelines are not subject to the suspension.**

Thank you again for the opportunity to comment.

/s/

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cc: Corporate Files