

**BEFORE THE  
CALIFORNIA ENERGY COMMISSION**

**DOCKET**

**02-REN-1038**

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Developing Regulations and Guidelines for the 33  
Percent Renewables Portfolio Standard

and

Implementation of Renewables Investment Plan  
Legislation

Docket No. 11-RPS-01

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**COMMENTS OF THE IMPERIAL IRRIGATION DISTRICT ON PROPOSED  
SUSPENSION OF RPS ELIGIBILITY GUIDELINES RELATING TO BIOMETHANE**

**Stephen J. Keene  
Assistant Manager Policy/Regulatory  
Affairs  
Imperial Irrigation District  
333 E. Barioni Boulevard  
P.O. Box 8937  
Imperial, CA 92252**

Dated: March 23, 2012

## **TABLE OF CONTENTS**

	<b><u>Page</u></b>
I. INTRODUCTION AND SUMMARY .....	1
II. A SUSPENSION SHOULD NOT BE IMPOSED. ....	2
A. A suspension would have negative impacts on IID and its customers. ....	2
B. A suspension is not necessary.....	4
III. THE PROCESS FOR CONSIDERING A SUSPENSION SHOULD ALLOW FOR GREATER PUBLIC INPUT. ....	4
IV. ANY SUSPENSION SHOULD BE LIMITED TO CONTRACTS EXECUTED AFTER THE SUSPENSION TAKES EFFECT.....	5
V. CONCLUSION.....	6

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**I. INTRODUCTION AND SUMMARY.**

The Imperial Irrigation District (“IID”) respectfully submits the following comments on the notice issued by the California Energy Commission (“Commission”) dated March 16, 2012 entitled *Notice to Consider Suspension of the RPS Eligibility Guidelines Related to Biomethane* (“Suspension Notice”).

In summary, IID opposes the proposed suspension since it would have negative impacts on current contracts IID has executed as well as on IID’s ability to meet the goals of the Renewable Portfolio Standard (“RPS”) program introduced by Senate Bill X1 2 (2011) at a reasonable cost to ratepayers. If the Commission is to consider a suspension, a longer notice period should be given of the meeting at which the suspension will be considered, and there should be a full opportunity to provide public input at the meeting. Furthermore, any suspension should only operate in relation to contracts executed after the date of the suspension, allowing entities with existing contracts to apply for and receive pre-certification and certification under the current rules.

## **II. A SUSPENSION SHOULD NOT BE IMPOSED.**

### **A. A suspension would have negative impacts on IID and its customers.**

In December 2011, IID executed a 10-year contract for biomethane supplies. The contract was entered into in good faith reliance on the current rules of the Commission relating to biomethane, and provides for the biomethane to be delivered to California in accordance with the current rules. IID promptly applied for certification of all of its gas fired facilities in relation to these biomethane supplies, including one facility which is undergoing repowering at the present time ("Repowered Facility"). The repowering is desirable as it will result in making an existing unit the most efficient in the IID fleet thus, reducing emissions from gas combustion. After the repowering is complete, the Repowered Facility will return to service in June 2012.

In February 2012, biomethane was delivered to California under the existing contract for use at the Repowered Facility, a test burn was conducted at the Repowered Facility and energy was produced. Based on that test burn, IID submitted an application for certification of the Repowered Facility in relation to the biomethane. During the month of March 2012, the unit has been tested several times and just recently completed a successful twenty-four hour test burn with full use of our contracted biomethane. However, it appears that under the Commission's current rules that a further application for certification of the Repowered Facility will be required after the repowering is complete, in June 2012.

The Suspension Notice states on page 5 that:

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.

If the suspension goes into effect on March 28, 2012, as proposed in the Suspension Notice, the biomethane supply contract IID has signed will be directly affected as IID will not be

able to apply for certification of the Repowered Facility after the proposed suspension.

Depending on the changes to the RPS certification requirements for biomethane that are put in place after the suspension, IID may be permanently deprived of its most efficient source of renewable energy, biomethane used at the Repowered Facility, on which IID had planned to rely in order to meet its RPS targets. At a minimum, IID will be deprived of this resource during the period of the suspension, which is of unknown duration. Use of the contracted biomethane only at IID's other, less efficient facilities will not be economic for IID, and IID may not be able to proceed under the contract without the use of biomethane at the Repowered Facility.

If, as a result of the suspension, IID is not able to count biomethane used at the Repowered Facility towards its RPS targets, IID's ability to meet its targets would be compromised. Biomethane is an integral part of IID's plans to meet its RPS targets in the near term. IID intends to rely on local renewable generation to meet its RPS requirements in the long term in an effort to promote economic development in the Imperial Valley. The Imperial Valley is one of the most economically impoverished regions in the Country with a large low-income population and chronic high unemployment. The development of renewable generation projects will bring new jobs to a region that desperately needs them. However, many of these renewable generation projects are still in the planning and development phase and renewable energy from these projects will not be available in the immediate future. In the interim, IID must rely in part upon biomethane to meet its RPS targets.

In-state sources of biomethane would be desirable, but are not yet available in any significant quantities, due in part to regulatory issues. The costs to IID of acquiring more expensive wind or solar power – costs which it would be forced to pass on to its ratepayers in the form of rate increases – would be considerably higher than under the current arrangement. As we transition to a greater mix of renewable resources in our portfolio, having access to biomethane

will help prevent rate shock to our customers, many of whom already struggle to pay their monthly electric bills. In addition to cost concerns, it would be difficult for IID to procure sufficient alternative sources of renewable energy in time to meet the RPS targets in the first compliance period, given that we are now almost halfway through this period.

For these reasons, the proposed suspension will operate unfairly in relation to IID and its ratepayers, as well as the supplier of the biomethane, and should not be imposed.

**B. A suspension is not necessary.**

The Suspension Notice notes that various issues must be addressed in relation to the use of biomethane from out-of-state sources to meet RPS targets. IID would dispute the legitimacy of some of these concerns. However, even if it is conceded that these concerns must be addressed, it is not necessary to impose a suspension in order to do so. The Legislature is currently in the process of considering these issues. The deliberations of the Legislature will proceed regardless of whether the Commission implements a suspension.

The Commission appears concerned about the likelihood of a large number of entities seeking certification of biomethane procurement before any change to the rules as a result of a new law. However, there is no evidence that there is or will be any such rush to certification. Biomethane transactions typically take some months to negotiate and it also takes a period of time to construct new biomethane projects (there is, in any case, only a limited supply of existing and feasible new projects). A suspension is not needed to head off a rush of last-minute biomethane projects.

**III. THE PROCESS FOR CONSIDERING A SUSPENSION SHOULD ALLOW FOR GREATER PUBLIC INPUT.**

If the Commission must consider a suspension, IID believes that a meeting to consider a suspension should not take place on March 28, 2012, but should be delayed to a later date to allow a greater opportunity for public input. The Suspension Notice gives a very short time

period to identify and discuss the issues, and draft and approve comments – effectively only five days, as the Suspension Notice was issued late on Friday March 16 and most entities were unaware of the details of the proposed suspension until Monday March 19. This comment period should be extended, given the importance of the issue and the negative impact the suspension is likely to have on many entities.

In addition, the Commission meeting at which the suspension is discussed should allow time for in-person public input before the Commissioners make their decision. All stakeholders should be given the opportunity to present their positions and discuss the consequences of a suspension.

#### **IV. ANY SUSPENSION SHOULD BE LIMITED TO CONTRACTS EXECUTED AFTER THE SUSPENSION TAKES EFFECT.**

The Suspension Notice attempts to protect existing arrangements from some of the negative effects of the proposed suspension. However, these efforts do not go far enough. As described above, a contract that IID has executed in good faith reliance on the existing rules would be significantly affected by the proposed suspension. To avoid interfering with existing legal obligations and introducing detrimental uncertainty into the renewable energy market, contracts that have already been executed should be protected, up to the full amount of biomethane provided for in the contract. All applications for pre-certification and certification arising out of contracts executed before the date of the suspension should be processed under the current rules, regardless of whether the application is submitted after the date of the suspension. This would allow IID to proceed with its current biomethane contract and the repowering process, in the knowledge that IID remains able to apply for certification of the Repowered Facility under the current rules when the repowering is complete.

The suspension, if any, should apply only in relation to applications for pre-certification and certification that arise out of contracts executed after the effective date of the suspension.

**V. CONCLUSION.**

IID appreciates the opportunity to provide these comments to the Commission and looks forward to a further opportunity to comment on these issues before a suspension is implemented.

Respectfully submitted,

**Stephen J. Keene**  
**Assistant Manager Policy/Regulatory**  
**Affairs**  
**Imperial Irrigation District**  
**333 E. Barioni Boulevard**  
**P.O. Box 8937**  
**Imperial, CA 92252**

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