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**BEFORE THE ENERGY COMMISSION
OF THE STATE OF CALIFORNIA**

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:
Implementation of Renewables)	Biomethane
Investment Plan Legislation)	

**COMMENTS FROM THE LOS ANGELES DEPARTMENT OF WATER AND
POWER TO THE CALIFORNIA ENERGY COMMISSION'S NOTICE TO
CONSIDER SUSPENSION OF THE RPS ELIGIBILITY GUIDELINES RELATED
TO BIOMETHANE**

Pursuant to the procedures established by the California Energy Commission (Energy Commission, or CEC), the Los Angeles Department of Water and Power (LADWP) respectfully submits these Comments on the CEC's Notice to Consider Suspension of the Renewables Portfolio Standard (RPS) Eligibility Guidelines Related to Biomethane.

I. INTRODUCTION AND OPENING COMMENTS

The City of Los Angeles is a municipal corporation and charter city organized under the provisions of the California Constitution. LADWP is a proprietary department of the City of Los Angeles, pursuant to the Los Angeles City Charter, whose governing structure includes the Mayor, 15 member City Council and five member Board of Water and Power Commissioners. As the third largest electric utility in the state and the nation's largest municipal utility serving a population of over four million people, LADWP is a vertically integrated utility,

both owning and operating the majority of its generation, transmission and distribution systems. LADWP has annual sales exceeding 23 million megawatt-hours (MWhs) and has a service territory that covers 465 square miles in the City and most of the Owens Valley. The transmission system serving the territory totals more than 3,600 miles that transports power from the Pacific Northwest, Utah, Wyoming, Arizona, Nevada, and California to Los Angeles.

The LADWP is undertaking a utility-wide transformation and making billions of dollars in investments on behalf of its ratepayers to replace more than 70 percent of the energy resources over the next 25 years that it has relied upon for the last 50 years, as a result of combined regulatory mandates for increased renewable energy, emissions performance standard on fossil fuel generation, energy efficiency, solar roofs, reduction in GHG emissions, and the elimination of using once-through cooling (OTC) for coastal power plants.

II. COMMENTS

Biomethane continues to be one of the few renewable energy resources available that provides dispatch and baseload capability. By 2016, LADWP expects to displace 638 GWh of non-renewable natural gas with biomethane and has already made financial and resource commitments that are critical to meeting the proposed compliance criteria in the CEC RPS Rulemaking. Capturing biomethane to generate electricity rather than flaring it reduces the amount of greenhouse gases emitted. While LADWP does utilize local biogas from Hyperion Treatment Plant and Lopez Canyon, biomethane transported within the existing gas pipeline system represents the best current supply available of this

important resource. Furthermore, by injecting biomethane into the existing natural gas pipeline system, LADWP is offsetting the cost of building additional unnecessary infrastructure to supply biomethane to California.

The LADWP's primary concern is that existing biomethane contracts be grandfathered and certified to count towards compliance with California's Renewables Portfolio Standard Program under the California Renewable Energy Resources Act (also known and referred to as SB 2 (1x)). The LADWP is concerned with the following aspects of the proposed suspension:

a. Grandfathered Publicly Owned Utility Biomethane Contracts

The LADWP wants to emphasize that biomethane contracts approved by a POU board prior to June 1, 2010, are grandfathered contracts per SB 2 (1X). LADWP's biomethane contracts meet the definition of a "Renewable Electrical Generation Facility" as defined in Section 25741 of the Public Resources Code. Therefore, these contracts *should be deemed certified*. The CEC should allow entities to submit these grandfathered resources for certification, regardless of the suspension.

**b. All Submitted Applications Prior to Suspension Adoption
Should be Processed**

Policy change by fiat is not standard practice with the CEC or within the regulatory arena. There is the potential for an applicant to have an existing application rejected months after submittal with no recourse for having an existing facility evaluated under prior rules. The CEC states "[n]otwithstanding 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.”

The CEC staff has stated that they will not deem an application complete prior to March 28, 2012. *Given that the CEC has a huge backlog on previously submitted applications prior to the announcement of the proposed suspension,* applications received by the CEC prior to the suspension can be denied for administrative discrepancies, in which the application will remain in limbo until new rules are adopted, which can potentially disqualify the project from being certified. The burden is on the applicants to prove the applications are “complete.”

For example, LADWP submitted their CEC Certification Applications on January 5, 2012, and has yet to receive any status updates from the CEC. As is, the Energy Commission can potentially reject these applications during the suspension, which will automatically make them subject to the CEC’s future eligibility criteria for biomethane. The utilities have diligently complied with the application filing requirements of the Energy Commission and should not be penalized by this sudden policy change.

The LADWP has submitted all its current biomethane certification applications to the CEC prior to any formal discussion of the suspension. It is our

assertion that all the applications are complete and should be processed for certification. If the CEC requires additional information, then the CEC should provide a “grace period” to allow entities to amend a rejected application if the application submitted prior to the March 28, 2012, deadline was made in good faith.

c. Existing Supply Contracts Should be Fully Counted

The proposed suspension should not affect power plants with existing supply contracts that allow suppliers to increase production in phases or to make up shortfalls from different sources. As is, Item 2 on Page 5¹ already restricts the ability to make up shortfalls from different sources. These supply contracts are usually firmed in supply amount and it is very common that new sources may need to be added to meet this amount due to depletion and variation of weather driven production of these existing sources.

d. Suspension Should not Affect Repowering Efforts

As the CEC is fully aware, the LADWP is currently repowering facilities to meet several California and Federal regulatory mandates. For example, all Los Angeles area-coastal generating units are being scheduled for replacement due to once-through-cooling requirements by 2029. As these units are being replaced, biomethane consumed at the facilities will transition from inefficient older units to the repowered units. The first six new units at the Haynes Generating Station are being constructed and could be operational before any suspension is lifted.

¹ Notice to Consider Suspension of the RPS Eligibility Guidelines Related to Biomethane, dated March 16, 2012. Available At: http://www.energy.ca.gov/portfolio/notices/2012-03-28_biomethane_notice/2012-03-28_Biomethane_Suspension_Notice.pdf

The CEC has not provided utilities with a proposed date it plans to lift the suspension or what its potential modifications to the eligibility guidelines for biomethane will be. LADWP wants to ensure that in light of this regulatory uncertainty, the CEC will recognize that LADWP still needs to meet several other state and federal regulatory mandates. As such, the eligibility of LADWP's existing biomethane resources should not be affected by the CEC's suspension.

e. Existing Tracking Mechanisms Suffice

The CEC claims that “[u]nlike 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.” This statement is incorrect. The gas industry's standard delivery methods to deliver biomethane to the burner tip should be sufficient to verify and prevent fraud.

Current tracking requirements ensure that biomethane *is produced and is not* (emphasis added) double counted, and provides GHG benefits. Currently, biomethane contractual procurement is tracked by monthly supplier invoices, meter reads, and pipeline reports. These documents show the metered volume of gas the source produced, scheduled and shipped, and the volume of gas used at the designated facility. All of these contracts must be made available to the verifier or the California Air Resources Board (CARB) for review to demonstrate the receipt of eligible biomethane.

Furthermore, independent verifiers under the Cap and Trade program must also examine all documentation and must ensure any discrepancies in the fuel volumes, heat values and/or energies evaluated as a material misstatement for the reporting entity, which must be corrected to avoid a penalty. The CEC should clearly recognize that over 80 percent of the current natural gas used in California is delivered through long distance pipelines from out-of-state natural gas fields and such tracking requirements are reliable.

Gas is delivered into the pipeline grid, both interstate and intra-state, and the gas industry uses its methods to account for the delivery of the gas to the ultimate customer. In using existing standard industry delivery, measuring, and monitoring methods, the CEC can effectively verify the delivery of biomethane and ensure that the possibility of fraud is negligible.

f. Biomethane Qualifies for Section 399.16(b)(1)(A) Treatment

The combustion of biomethane at a California generating facility will produce electricity products that meet the Portfolio Content Category found in Section 399.16 (b)(1) (Bucket 1), regardless of the location of the source of the biomethane. However, as stated previously, contracts approved by POUs prior to June 1, 2010, as part of the POUs RPS requirements should count *in full* towards RPS requirements, regardless of whether the contract meets the CEC Eligibility Guidebook, as long the resource is adopted by the POUs governing board as a procurement contract which is consistent with SB 2 (1X).

The focus of Section 399.16 (b)(1) is with “electricity products,” not the delivery of the fuel resources. To assume that biomethane is an “electricity

product” that is subject to the Portfolio Content Categories is an inappropriate interpretation of SB 2 (1X). Once biomethane is consumed at a California facility, electricity products generated within the metered boundaries of California would be scheduled to California Balancing Authority, therefore making it subject to Bucket 1.

This approach is in accordance with the relevant provisions of SB 2 (1X), to which the CEC should adhere.

**g. Treatment of Existing Biomethane Contracts Under the
Suspension**

The CEC has clearly stated that it intends to lift the suspension once it has modified the eligibility criteria for biomethane. LADWP requests in light of the suspension, that the CEC consider allowing the utilities to maintain their resource mix capacity for biomethane through the suspension. As the graph below illustrates, the LADWP does not plan to add more out-of-state biomethane into its resource mix further into the RPS program, but rather plans to maintain its existing capacity.

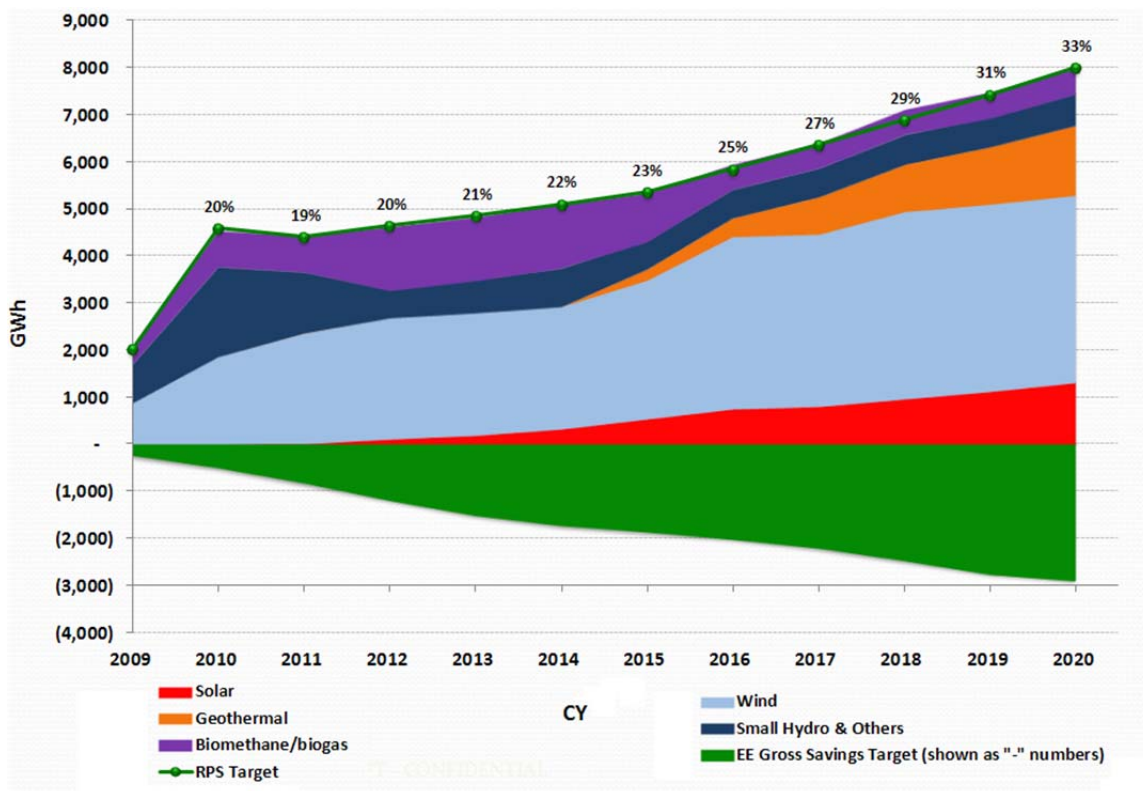


Figure 1: LADWP's Renewable Resource Mix


The LADWP is jointly working with the City of Los Angeles, Bureau of Sanitation to develop several in-state trash-to-energy and additional waste-to-energy biomethane projects that should not be included in any proposed suspension. If LADWP adds new out-of-state biomethane contracts into its resource mix in future years, it would do so only in compliance with the CEC's future RPS Guidelines.

III. Conclusion

The LADWP remains committed to reducing greenhouse gas emissions and transitioning to a greater usage of a renewable energy resource mix in a cost effective manner while maintaining grid reliability. LADWP recommends that the CEC provide compliance certainty by grandfathering existing biomethane contracts, limiting any suspension to out-of-state biomethane facilities, and by avoiding impacts to those on-going in-state projects. LADWP appreciates the opportunity to submit these comments.

Dated March 23, 2012

Respectfully submitted,

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