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**BEFORE THE
CALIFORNIA ENERGY COMMISSION**

Developing Regulations and Guidelines for the 33
Percent Renewables Portfolio Standard

and

Implementation of Renewables Investment Plan
Legislation

Docket No. 11-RPS-01

Docket No. 02-REN-1038

**COMMENTS OF THE CITY OF VERNON ON PROPOSED SUSPENSION OF
RPS ELIGIBILITY GUIDELINES RELATING TO BIOMETHANE**

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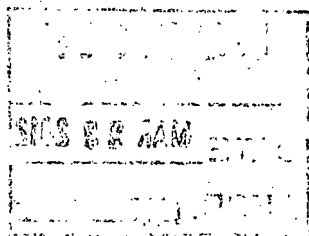


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I. INTRODUCTION AND SUMMARY.

The City of Vernon ("Vernon") 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, Vernon strongly opposes the proposed suspension as it would have negative impacts on current contracts Vernon has executed as well as on Vernon'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, in order to allow more time for input from affected entities. A suspension (if any) 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 Vernon and its customers.

Vernon has executed a 10-year contract for certain biomethane supplies sourced from a new landfill gas collection project, which will enter into operation in the period May/June 2012. 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.

This new source of biomethane was targeted in order to comply with the requirements of the California Air Resources Board in the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms regulation ("Cap and Trade Regulation"), which became effective on January 1, 2012. The Cap and Trade Regulation requires biomethane that is provided under a contract dated on or after January 1, 2012 to be from a new source, or expansion of an existing source, in order to be treated as a zero-emissions source under that regulation (17 California Code of Regulations § 95852.1.1(a)(2)).

Vernon has applied to the Commission for pre-certification of this source of biomethane. However, since biomethane from this new project will not be available to transport to California until the project becomes operational in late spring or early summer this year, Vernon is not currently able to apply for certification of this source under the current rules of the Commission.

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 Vernon has signed will be directly affected as Vernon will not be able to apply for certification under the current rules. Depending on the changes to the RPS certification requirements for biomethane that are put in place after the suspension, Vernon may be permanently deprived of a source of renewable energy on which Vernon planned to rely in order to meet its RPS targets. At a minimum, Vernon will be deprived of this resource during the period of the suspension after the new landfill gas collection project starts operation. Even if it is eventually determined (for example by means of new legislation) that new RPS requirements for biomethane would not prevent such transactions, the biomethane project may fail in the interim as it would be deprived of finance due to the suspension.

If Vernon is not able to access biomethane from this source as a result of the suspension, Vernon's ability to meet its RPS targets would be severely compromised. Vernon currently meets most customer demand for electricity from a single gas-fired power plant in its service territory, with which Vernon has a binding long-term power purchase agreement. The biomethane would be designated for use at this power plant, displacing natural gas. If this biomethane cannot be used towards compliance, Vernon would be required to purchase more expensive renewable energy from another source – energy which it does not need to meet customer demand, as demand is already met by contracted-for generation from the natural gas plant. In-state sources of biomethane would be desirable, but they are not yet available in any significant quantities, due in part to regulatory issues of which the Commission is aware. The costs to Vernon 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.

In addition to cost concerns, it may not even be possible for Vernon 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 Vernon 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. Vernon disputes 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 Suspension Notice refers to a recent letter from a limited number of legislators requesting a “moratorium” on the RPS eligibility of biomethane. However, a larger number of legislators have also written to the Commission opposing a suspension, so a suspension cannot be justified solely by reference to the request from the first, smaller group of legislators.

The Commission appears concerned about the possibility 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, Vernon 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 to draft and approve comments – effectively only five days, as the Suspension Notice was issued late on Friday, March 16, 2012, and most entities were unaware of the details of the proposed suspension until Monday, March 19, 2012. 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.

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 Vernon 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 allowed to proceed, up to the full amount of biomethane provided for in the contract. All applications for pre-certification and certification arising from 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. The suspension, if any, should apply only in relation to applications for pre-certification and certification that arise from contracts executed after the effective date of the suspension.

V. CONCLUSION.

The City of Vernon appreciates the opportunity to provide these comments to the Commission and looks forward to a further opportunity to comment on these issues before any suspension is implemented.

Respectfully submitted,

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