

CALIFORNIA ENERGY COMMISSION

1516 Ninth Street
Sacramento, California 95814

Main website: www.energy.ca.gov

DOCKET**02-REN-1038**DATE APR 05 2012RECD. APR 05 2012

In the matter of:)

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

NOTICE OF CORRECTION
RE: **Biomethane**

Notice of Correction to Resolution on Suspension of the RPS Eligibility Guidelines Related to Biomethane

As part of the March 28, 2012 Business Meeting, the California Energy Commission suspended the RPS eligibility guidelines related to biomethane in accordance with the conditions specified in Resolution Number 12-0328-3. Resolution No. 12-0328-3, adopted by the Energy Commission on March 28, 2012, contained a clerical error. Attached hereto is a corrected resolution in strikeout form, showing the error. The final corrected resolution will be docketed separately, and replaces the original Resolution No. 12-0328-3, dated March 28, 2012 and docketed as received on March 29, 2012.

Date: April 5, 2012

RESOLUTION NO: 12-0328-3

STATE OF CALIFORNIA

**STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

**CORRECTED
RESOLUTION**

SUSPENSION OF RPS ELIGIBILITY GUIDELINES RELATED TO BIOMETHANE

WHEREAS, the California Energy Commission is charged with certifying electric generation facilities (i.e. power plants) as eligible renewable energy resources for purposes of California's Renewables Portfolio Standard (RPS) pursuant to Public Resources Code section 25740 et seq. and Public Utilities Code section 399.11 et seq., and

WHEREAS, Public Resources Code section 25747 authorizes the California Energy Commission to adopt guidelines to govern its implementation of the RPS; and

WHEREAS, on April 21, 2004, the California Energy Commission adopted guidelines, entitled the *Renewables Portfolio Standard Eligibility Guidebook*, that describe the requirements, conditions, and process to certify facilities (i.e. power plants) as eligible renewable energy resources for the RPS pursuant to Public Resources Code section 25740 et seq. and Public Utilities Code section 399.11 et seq., and has subsequently revised these guidelines pursuant to this authority; and

WHEREAS, the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*, adopted by the Energy Commission on December 15, 2010, identifies biomethane as a renewable resource and allows power plants that use biomethane to generate electricity to be certified as eligible for the RPS; and

WHEREAS, the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*, describes "biomethane" as biogas, such as landfill gas, digester gas, or gas derived from biomass, that is upgraded or otherwise conditioned so that the gas may be transported offsite to a power plant through the natural gas transportation pipeline system; and

WHEREAS, the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*, generally allows biomethane to be used for the RPS if the following requirements are satisfied:

- The biomethane is injected into a natural gas pipeline system and extracted at a designated power plant and used to generate electricity;
- The injection point for the biomethane is an interstate pipeline in the Western Electricity Coordinating Council region or connected to a pipeline that delivers gas into California or to the facility, if the facility is located outside California;

- The volume of the biomethane injected into the pipeline system, and its measured heat content, and the volume of the natural gas used at the designated power plant are accurately metered to quantify the amount of RPS-eligible electricity produced by the power plant;
- The power plant operator enters into contracts for the purchase of the biomethane and for the delivery of the biomethane with every pipeline or storage facility operator from the biomethane injection point to the extraction point; and
- The necessary environmental attributes for the biomethane are conveyed to the power plant operator, along with the gas itself, for purposes of electricity generation at the designated power plant.

WHEREAS, Public Utilities Code section 399.11 et seq., as recently amended by Senate Bill X1-2 (SBX1-2, Stats. 2011, 1st Ex. Sess., Ch. 1), now establish a preference for electricity generation that provides more environmental benefits to the state by displacing in-state fossil fuel consumption, reducing air pollution within the state, and helping the state meet its climate change goals by reducing emissions of greenhouse gases (GHG) associated with electrical generation; and

WHEREAS, it is not clear whether, or to what extent, the biomethane requirements in the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*, advance the environmental goals of SBX1-2 with respect to biomethane, because the guidebook does not require that the use of biomethane displace fossil fuel consumption or reduce air pollution, does not require a showing that the use of biomethane results in GHG reductions, and does not establish rigorous requirements to verify that the claimed quantity of biomethane was actually used by the designated power plant, or that the necessary biomethane attributes were transferred to the power plant operator for purposes of the RPS and not double counted for other purposes; and

WHEREAS, California Energy Commission staff are proposing that the RPS eligibility guidelines related to biomethane in the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*, be suspended to provide the California Energy Commission an opportunity to evaluate the aforementioned issues and ensure the intended benefits of SBX1-2 are realized; and

WHEREAS, the California Energy Commission is informed that the California Legislature is concerned with the same aforementioned issues and has separately expressed a desire to clarify the RPS-eligibility of biomethane; and

WHEREAS, on March 16, 2012, the California Energy Commission published a notice of staff's proposed suspension of the RPS eligibility guidelines related to biomethane, which provided information on the current biomethane requirements, the shortcomings of these requirements in light of SBX1-2, and the purpose and conditions of the proposed suspension; and

WHEREAS, the California Energy Commission has considered Energy Commission staff's proposed suspension of the RPS eligibility guidelines related to biomethane in the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*, as described in the public notice of March 16, 2012, and agrees that the suspension is necessary for the reasons stated in the public notice.

THEREFORE BE IT RESOLVED, the California Energy Commission hereby suspends the RPS eligibility guidelines related to biomethane in accordance with the following Conditions of Suspension:

Conditions of Suspension

1. The suspension will suspend provisions in the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*, that allow power plants to be certified as RPS-eligible if the power plants use biomethane to generate electricity.
2. The suspension will take effect at 5:00 p.m. PDT on March 28, 2012, and will remain in effect until the Energy Commission takes subsequent action to lift the suspension.
3. Power plants that are already certified as RPS-eligible by the Energy Commission will remain RPS-eligible and may continue to use biomethane procured under contract(s) with sources that were specifically identified in the power plant's approved application for RPS certification, subject to the following limitations:
 - a. The biomethane is used in accordance with the requirements of the edition of the *Renewables Portfolio Standard Eligibility Guidebook* under which the power plant was certified for the RPS;
 - b. The power plant's use of biomethane is limited to the biomethane procured under contract(s) with sources that were specifically identified in the power plant's approved application for RPS certification;
 - c. To ensure that the amount and availability of biomethane supplied to a RPS-certified power plant is not increased after the suspension takes effect, power plant operators shall provide the Energy Commission adequate documentation of the biomethane supplied to the power plant prior to the effective date of the suspension. This documentation shall include, but not be limited to, information on the term length of the biomethane supply contracts, the start and end dates of supply contracts, and the terms of biomethane delivered monthly under the supply contracts; and
 - d. Any extension of a biomethane contract term, increase in biomethane supply, or other change in the supply contract that increases the amount or availability of biomethane supplied to the RPS-certified power plant will require an amendment to the power plant's RPS certification.
4. Power plants that have been pre-certified for the RPS by the Energy Commission will remain pre-certified.
5. Complete applications for RPS certification and RPS pre-certification for power plants seeking to use biomethane that are received by the Energy Commission prior to the effective date of the suspension will be processed in accordance with the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*. To be complete, applications for RPS certification shall include the information and documentation specified in the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*. This information and documentation was summarized in March 16, 2012, public notice of the proposed suspension. ~~RPS certification shall not be granted for future or prospective biomethane supplies.~~
6. Complete applications for RPS certification and pre-certification must either be hand

delivered to the Energy Commission by no later than 5:00 p.m. on the date the suspension is adopted by the Energy Commission, or must be sent to the Energy Commission by mail and postmarked no later than the date the suspension is adopted by the Energy Commission. Notwithstanding anything to the contrary in the *Renewables Portfolio Standard Eligibility Guidebook, Fourth Edition*, any application for RPS certification or pre-certification that is 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. Therefore, applicants are advised to take special care to complete their applications for RPS certification or pre-certification before submitting the applications to the Energy Commission.

7. The suspension will not affect the RPS eligibility requirements for power plants that utilize biogas that is produced on site or that is delivered to the power plant via a dedicated pipeline or is delivered to the power plant via truck or railcar.
8. Energy Commission staff is directed to gather information from applicants that have submitted applications for RPS certification and precertification on the biomethane supplies identified in the applications, and to report back to the Energy Commission on such supplies.
9. The Energy Commission defers consideration of the status of pending applications for RPS certification and precertification until an upcoming meeting, which will be separately noticed.

The Executive Director, or his designee, is hereby authorized and directed to implement the suspension as specified herein.

RESOLVED,

Dated: March 28, 2012

STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT
COMMISSION

ROBERT WEISENMILLER,
Chairman