

December 3, 2012

Commissioner Carla J. Peterman
Lead Commissioner, 2012 Integrated Energy Policy Report Update
California Energy Commission
Dockets Office, MS-4
RE: Docket No. 12-IEP-01
1516 North Street Sacramento, CA 95814-5512

Submitted via email at: docket@energy.ca.gov

Subject: Docket # 12-IEP-01; Waste Management Comments on Draft Lead Commissioner Report, 2012 Integrated Energy Policy Report Update

Dear Commissioner Peterman:

We appreciate the opportunity to submit these comments on behalf of Waste Management and Wheelabrator Technologies Inc. on the Draft Lead Commissioner Report, 2012, Integrated Energy Policy Report Update (the "Report").

Introduction

Waste Management is the leading provider of comprehensive waste management and environmental services in North America. The company serves approximately 20 million municipal, commercial, industrial and residential customers through a network of 390 collection operations, 294 transfer stations, 266 active municipal solid waste (MSW) landfill disposal sites, 121 recycling facilities, 34 organic processing facilities and 136 beneficial-use landfill gas projects. Many of these facilities operate in California. In addition, Waste Management has recently focused on investing in emerging technologies for converting waste materials into renewable energy through our Organic Growth Group.

Wheelabrator Technologies is a wholly owned subsidiary of Waste Management and the owner/operator of safe, clean and renewable power across the United States,

including 17 waste-to-energy power plants and its Shasta Energy Plant in Anderson, California, that generates electricity from wood waste. Wheelabrator's Norwalk Energy power plant, a natural gas fueled Combined Heat and Power facility, produces electricity sold to the local utility and provides steam and chilled water to meet the needs of a co-located state hospital.

We commend the Commission on the Report and its continuing focus on clean energy programs. In particular, our comments are intended to strengthen the goals articulated in the Report by encouraging the Commission's support for policy directives and public funding that increase bioenergy generation.

Support for Existing Biomass Energy Facilities

We ask that the Commission consider as a priority its support for California's existing biomass and bioenergy facilities that generate electricity from a variety of wastes. Development of energy from waste should be encouraged for a multitude of reasons. Energy from waste technologies may generate extremely low emissions and are thus very clean technologies. They represent low carbon energy. Many technologies that make good use of waste are best sited near urban energy demand and their generation is base load energy, not intermittent. Conversely, California's biomass facilities are located in rural areas, creating much-needed jobs and lowering the risk of fire in the State's less populated areas. Equally important, beneficial use of waste to generate energy encourages landfill diversion and/or cleaner, more efficient landfill operations.

California is reaping the benefit of policies that support bioenergy, but it cannot and should not lose sight that economic hard times have hit bioenergy operations in similar fashion to other segments of our economy. Bioenergy facilities also have shouldered increasing economic burdens from newly enacted policies and regulations. The resulting impact threatens existing generation from bioenergy sources. The Commission should act to protect California's existing bioenergy assets.

The State's approximately 30 biomass facilities lost \$16 million annually in support when the Public Goods Charge (PGC) expired last year and the Electric Program Investment Charge (EPIC) that replaced the PGC failed to allot funding for existing biomass operations. The PGC funds had provided support to the existing biomass

power industry, enabling it not only to continue to operate at all, but also enabling full operations during times when revenues are at their lowest. The result of the program was that the state's biomass industry operated at a high capacity factor throughout the first decade of the new century. However, circumstances have changed for these generators.

Many biomass facilities completed contract amendments with their purchasing utility for the remaining years of their old Power Purchase Agreements (PPAs), and these new amendments were thought to be sufficient to allow them to continue operating. But that is not always the case, and facilities have closed or curtailed operations despite contract amendments.

The Commission can protect the State's biomass facilities. We ask that the Commission consider programs for biomass in California that are geared to promoting the use of targeted kinds of biomass resources (agricultural and in-forest residues) that, while expensive to produce, provide particularly valuable public benefits when used for energy production. Biomass facilities beneficially use waste as a fuel rather than being disposed of using conventional means (usually open burning), or allowed to accumulate as overgrowth material in California's increasingly fire-prone forests (in-forest residues not removed). Smaller communities near California's forests would greatly benefit from *fuel incentive programs* that lower the risk of devastating fires. Such *fuel incentive programs* are needed to support the collection of in-forest residues. Such a fuel incentive program, while lessening the risk of devastating wildfires, also supports many more jobs in rural communities than conventional disposal.

Support for Existing Biogas Facilities

The Report also should state the Commission's support for assistance in retrofitting renewable technologies that face significant new compliance costs and market barriers for growth. The California Air Pollution Control Districts are imposing increasingly restrictive criteria pollutant emission standards on existing landfill gas-to-energy facilities. This is true in virtually all air districts, but particularly so in the South Coast, San Joaquin Valley and Bay Area. The cost of compliance with air district standards may result in many of these bioenergy operations shutting down. Programs are needed to assist biogas to energy projects that may be abandoned because of the increasingly stringent criteria pollution emission standards – usually

NOx and CO – being imposed on this renewable generation. The cost of the emission controls that are being required may lead to the abandonment of existing biogas to energy facilities and return to flaring.

And while we support California's Cap and Trade Program, we are concerned that the regulation does not treat all facilities fairly. Wheelabrator's Norwalk CHP plant is being treated in a discriminatory manner as compared to other parties to the Cap and Trade Program. Norwalk has a legacy PPA with no reasonable means of recovery for the cost of greenhouse gas allowances the facility must purchase for compliance. Norwalk is one of a relatively small but important number of Independent Power Producers who entered into PPAs prior to enactment of AB32, and therefore the parties to the agreements did not contemplate the recovery of the then unknown and unknowable costs. Norwalk, like other facilities in its position, face new, variable operating costs of compliance for which they have no reasonable means of recovery. We are a party to the current Public Utility Commission proceeding assigned with finding an equitable solution on this issue, but we caution that should the cost of Cap and Trade Program compliance be borne by the generator, California could lose significant, clean energy generation as facilities are forced to shut down.

Support Programs and Policy That Advance Biogas and Biomethane

Biogas (onsite landfill-gas-to-energy) and biomethane (high-BTU pipeline-quality methane) projects are key to the development of bioenergy. Landfill gas is the largest existing source of biogas currently collected in California. CalRecycle estimates only about 53% of collected landfill gas is used beneficially to produce electricity or fuels. The remaining 47% is flared and its energy wasted. The Commission should encourage demonstration of the commercial viability of biomethane and biogas-to-energy projects.

In support for programs that advance the use of biogas, we believe policies should not differentiate between the treatment of on-site generation as compared to offsite use of biogas to produce electrical power. The two should be treated similarly. There should be no restrictions or location requirements on biogas, as there is no justification for differentiating between biogas used on-site and biogas used offsite. The state is benefited by landfill biogas and other biogas projects that result in a cleaner environment, lower emissions and the beneficial use of waste as a fuel.

The economic benefits accrue to the state with increased jobs resulting from new projects. The energy consumer benefits by obtaining the best price, and this leads to a more robust market and lower energy costs for the consumer overall from greater competition.

Currently, the state of California is the only state in the U.S. that prohibits distribution in pipelines of biogas generated from landfills. CPUC tariffs currently impose a complete restriction on the development of landfill biogas for utility pipeline distribution. The implementation of recently enacted AB 1900 will change this. Technology exists to safely treat and monitor landfill gas for pipeline distribution, as demonstrated by approximately 30 projects in the U.S. outside California. The Commission should review successful programs in other states and fund similar programs to demonstrate the efficacy of landfill biomethane distribution in California. While some landfill gas is currently used to produce power onsite through engines, turbines and boilers, a more efficient use of biomethane would be to wheel the gas to combined cycle natural gas. More efficient use of the biogas will result in additional reduction of both greenhouse gases and criteria pollutants.

Conclusion

Thank you for the opportunity to provide comment on the 2012 Integrated Energy Policy Report Update. Please contact me if you have questions about these comments or require further information.

Respectfully submitted,



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Director of Regulatory Affairs, West
Waste Management

cc: Leslie Barody, Advisor, Leslie.Barody@energy.ca.gov