

STATE OF CALIFORNIA
CALIFORNIA ENERGY COMMISSION

California Energy Commission

DOCKETED

11-RPS-01

TN # 69466

FEB 08 2013

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

**COMMENTS OF SHELL ENERGY
NORTH AMERICA (US), L.P. ON
STAFF CONCEPT PAPER ON AB 2196
IMPLEMENTATION**

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Date: February 8, 2013

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Subject: RPS Proceeding

In accordance with the instructions provided in the “Revised Notice” issued by the California Energy Commission (“Commission”) Staff on February 1, 2013, Shell Energy North America (US), L.P. (“Shell Energy”) submits its comments on the “Concept Paper for the Implementation of Assembly Bill 2196 for the Renewables Portfolio Standard,” which was posted on January 25, 2013.

I.

INTRODUCTION

Shell Energy is a wholesale energy marketing and trading company that serves markets throughout the United States. Shell Energy is also an Energy Service Provider (“ESP”) in

California. Shell Energy sells natural gas, power and environmental products, including wind, solar energy and biomethane, to wholesale and retail customers in the State.

In many respects, Shell Energy supports the Commission Staff's interpretation of AB 2196. For example, Shell Energy concurs with the Staff's interpretation of most of the provisions of P.U. Code Section 399.12.6, including (with one exception) the proposed treatment of applicable biomethane contracts executed and reported to the Commission prior to March 29, 2012 (Section 399.12.6(a)). Shell Energy also concurs with the Staff's interpretation of the treatment of applicable biomethane contracts executed on or after March 29, 2012 (Section 399.12.6(b)). Shell Energy seeks clarification, however, concerning three issues, as follows:

First, the Staff should clarify the definition of a "common carrier pipeline" under Pub. Res. Code Section 25741(a)(4). As noted by the Staff (Concept Paper at p. 2, Section A.2), the definition of a "common carrier pipeline" in AB 2196 must align with the definition of a "common carrier pipeline" in AB 1900. The definition in AB 1900 includes gas pipelines, located in California, that are owned or operated by a "utility" or "gas corporation." The definition of a "common carrier pipeline" does not include an interstate gas pipeline.

Accordingly, the Commission Staff should clarify that the RPS eligibility requirements under P.U. Code Section 399.12.6 (a) and (b) apply with respect to biomethane that is delivered through a common carrier pipeline. These eligibility provisions do not apply to contracts for biomethane that is delivered to an electric generation facility directly from an interstate pipeline, or delivered to an electric generation facility located outside California.

Second, the Staff should clarify that under P.U. Code Section 399.12.6(a), pre-June 1, 2010 RPS contracts that are associated with pre-June 1, 2010 biomethane contracts should

qualify as “count-in-full” procurement if the conditions set forth in P.U. Code Section 399.16(d) are satisfied.¹ No additional conditions should be imposed on a pre-June 1, 2010 contract. Specifically, the Commission should modify the Concept Paper to exclude the proposed condition that an otherwise eligible pre-June 1, 2010 contract must have “provided for deliveries of biomethane to the facility for generation before June 1, 2010” See Concept Paper at p. 4, Section B.4.

Finally, Shell Energy acknowledges the Commission Staff’s intention to expand the current “tracking system” for the environmental attributes associated with biomethane used for RPS-eligible generation. As it pursues this effort, the Commission Staff should solicit assistance from industry participants that have experience in tracking and accounting for the environmental attributes associated with biomethane.

II.

DISCUSSION

Shell Energy’s comments address three areas of concern in the Concept Paper, as follows:

A. **P.U. Code Section 399.12.6 Does Not Apply to Biomethane Delivered to an Out-of-State Generation Facility, or to Biomethane Delivered Directly to a Generating Facility Through an Interstate Pipeline**

AB 2196 amends Pub. Res. Code Section 25741(a), which addresses the eligibility requirements for a “renewable electrical generating facility.” Section 25741(a) is amended to include a new subsection (4). This new subsection provides as follows:

(4) If eligibility of the facility is based on the use of landfill gas, digester gas, or another renewable fuel delivered to the facility through a common carrier pipeline, the transaction for the procurement of that fuel, including the source of the fuel and

¹ In accordance with AB 2187 (P.U. Code Section 399.16(c)(4)), the applicable date is January 13, 2011 (not June 1, 2010) for electric service provider (“ESP”) procurement contracts.

delivery method, satisfies the requirements of Section 399.12.6 of the Public Utilities Code and is verified pursuant to the accounting system established by the commission pursuant to 399.25 of the Public Utilities Code, or a comparable system, as determined by the commission.

Emphasis added.

In accordance with Pub. Res. Code Section 2574(a)(4), only if the biomethane is delivered through a “common carrier pipeline” must the transaction for the procurement of the biomethane (and delivery method) satisfy the requirements of P.U. Code Section 399.12.6 (a) or (b) to be RPS-eligible. If the biomethane is not delivered through a common carrier pipeline, subsection (4) of Pub. Res. Code Section 25741(a), and P.U. Code Section 399.12.6(a) and (b), do not apply to a determination of RPS eligibility.

The Staff proposes that a “common carrier pipeline” should mean a “gas conveyance pipeline that is owned or operated by a utility or gas corporation, excluding a dedicated pipeline.” Concept Paper, p. 2, Section A.2. The Staff states that this definition “aligns with the definition in [AB] 1900 . . . , a companion bill to AB 2196.” Id.

In AB 1900, a “common carrier pipeline” is defined as “a gas conveyance pipeline, located in California, that is owned or operated by a utility or gas corporation, excluding a dedicated pipeline.” See Health and Safety Code Section 25420(f) (emphasis added). The definition of a common carrier pipeline in AB 1900 does not include a gas pipeline that is located outside California, and does not include an interstate pipeline.

Under P.U. Code Section 222, a “gas corporation” is defined (in pertinent part) as follows:

Gas corporation” includes every corporation or person owning, controlling, operating, or managing any gas plant for compensation within this state,

Emphasis added. An interstate pipeline that operates outside the State is not a “gas corporation” within the meaning of P.U. Code Section 222.

The limitation in Pub. Res. Code Section 25741(a)(4) means that an electric generation facility that is fueled by biomethane that is delivered to the generation facility directly from an interstate pipeline is not subject to the requirements of P.U. Code Section 399.12.6 (a) and (b). Moreover, any biomethane-fueled electric generation facility that is located outside California is not subject to the eligibility requirements in P.U. Code Section 399.12.6 (a) and (b), because the biomethane is not delivered to the facility through a “common carrier pipeline.” The Staff should clarify the discussion in Sections B and C of the Concept Paper to provide that the RPS eligibility requirements in Sections 399.12.6(a) and (b) only apply to transactions under which the biomethane used for electric generation is delivered to the facility through a “common carrier pipeline.” The Staff should further clarify that when P.U. Code Section 399.12.6 (a) and (b) do not apply, the RPS eligibility of biomethane-fueled generation is to be determined based on the requirements in the Fourth Edition of the Commission’s RPS Eligibility Guidebook.

In this connection, the Staff should eliminate its reference to “interstate pipelines,” and its reference to pipelines that are “outside California’s geographic borders,” in Section C.14 (p. 10) of the Concept Paper. The requirements under P.U. Code Section 399.12.6(b) do not apply to interstate pipelines or pipelines that are located outside California. The direction of the gas flow is only relevant with respect to biomethane that is delivered over a “common carrier pipeline.” This should be clarified as well in Section D.1.6 (p. 19) of the Concept Paper in order to ensure that the referenced “documentation” applies exclusively to “common carrier pipelines.”

B. The Staff Should Clarify that “Count-in-Full” Treatment is Afforded to Otherwise Eligible Pre-June 1, 2010 Contracts, Regardless of Whether the Contract Required Deliveries of Biomethane to the Facility for Generation before June 1, 2010

The Concept Paper properly states that “[t]he date of execution of a biomethane contract should dictate whether the procurement of biomethane-based electricity generation from a facility qualifies as either PCC procurement or count-in-full procurement.” See Concept Paper at

p. 4, Section B.4. Shell Energy agrees with the Staff that “[i]f the biomethane contract was executed on or after June 1, 2010, the procurement of biomethane-based electricity generation should qualify as PCC procurement, provided all other requirements are satisfied” Id.

By the same measure, if the biomethane contract was executed before June 1, 2010 (and if the contract for the purchase of RPS-eligible energy was executed before June 1, 2010), the procurement of the biomethane-fueled electric generation will qualify as “count-in-full” procurement, subject to the following conditions:

- (1) The renewable energy resource was eligible under the rules in place as of the date when the contract was executed.
- (2) For an electrical corporation, the contract has been approved by the commission, even if that approval occurs after June 1, 2010.
- (3) Any contract amendments or modifications occurring after June 1, 2010, do not increase the nameplate capacity or expected quantities of annual generation, or substitute a different renewable energy resource. The duration of the contract may be extended if the original contract specified a procurement commitment of 15 or more years.

P.U. Code Section 399.16(d).

Shell Energy seeks clarification, therefore, as to the Staff’s proposed added condition that the pre-June 1, 2010 contract must have “provided for deliveries of biomethane to the facility for generation before June 1, 2010.” Concept Paper, p. 4, Section B.4. If the Staff means that the pre-June 1, 2010 contract must have included specific language providing for biomethane deliveries, Shell Energy is in agreement. If, however, the Staff intends that the biomethane must be delivered to the facility for generation before June 1, 2010, Shell Energy disagrees. There is no support in P.U. Code Section 399.16(d) or Section 399.12.6(a)(1) for a requirement that biomethane must be delivered to an electric generation facility before June 1, 2010.

Shell Energy requests that the Commission clarify that an otherwise eligible pre-June 1, 2010 contract does not have to require deliveries of biomethane to the facility for generation before June 1, 2010 to be classified as “count-in-full” procurement. As long as the contract was executed before June 1, 2010, the contract is eligible for count-in-full treatment.

C. The Staff Should Seek Industry Input Regarding Expansion of the Current “Tracking System” for the Environmental Attributes of Biomethane

The Staff proposes, pursuant to P.U. Code Section 399.12.6(d) and Section 399.25(c), that the Commission expand the current “tracking system” to ensure that “environmental attributes associated with the biomethane are conveyed to the retail seller or POU procuring the biomethane and are not disposed of separately from the biomethane itself or double counted.” Concept Paper at p. 16 (Section C.20). As a supplier of biomethane to wholesale and retail customers, including customers that use biomethane for RPS-eligible electric generation, Shell Energy has substantial experience verifying and tracking the environmental attributes associated with the biomethane used for RPS generation. Shell Energy would be pleased to assist the Staff by providing information that may be useful in expanding the tracking system for these environmental attributes. The Commission Staff should solicit input and participation from the industry to address any expansion of the tracking system developed to monitor the environmental attributes of biomethane used for RPS generation.

III.

CONCLUSION

Shell Energy appreciates the opportunity to submit these written comments.

Respectfully submitted,



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Date: February 8, 2013

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