



WASTE MANAGEMENT

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February 18, 2013

California Energy Commission
Dockets Office, MS-4
Re: Docket Nos. 11-RPS-01
1516 Ninth Street
Sacramento, CA 95814-5512

California Energy Commission

DOCKETED

11-RPS-01

TN 72674

FEB 14 2014

Via Email: docket@energy.ca.gov and RPS33@energy.ca.gov

RE: Proposed Changes to the Renewable Portfolio Standard (RPS) Eligibility Guidebook

Dear Energy Commission:

Waste Management (WM) appreciates the opportunity to comment on the Proposed Revisions to the Renewable Portfolio Standard Eligibility Guidebook, Seventh Edition (“Staff Draft Guidebook”).

WM is involved in a number of renewable energy projects in California including the following:

- We operate several landfill-gas-to-electricity projects at WM landfills in California. These projects typically involve the generation of electricity by internal combustion engines that generate renewable electricity that is sold to the public and/or investor owned utilities (IOU).
- Our Wheelabrator subsidiary operates a biomass-to-energy facility in Shasta County, California. This facility accepts forest, agricultural and urban wood fuel and generates renewable electricity that is sold to an IOU.
- WM has contracts with the publicly owned utilities (POU) of Burbank and Pasadena to generate electricity from renewable natural gas provided by a WM landfill in Ohio. The renewable natural gas is delivered through common carrier pipelines to gas turbines owned by those utilities.

WM’s comments are provided below.

Precertification

WM recognizes that precertification of RPS-eligible renewable facilities has significant commercial value and should be available to generators. Precertification of facilities assists the buyers and sellers in RPS transactions by providing a signal from the regulator that a particular facility will be deemed an eligible renewable energy facility if it is developed and operated as

proposed consistent with the eligibility rules and standards. In this respect, precertification of the facility provides very valuable guidance to developers, lenders, as well as buyers and sellers.

This same approach should be employed for the commercial transactions between buyers and sellers to meet the Procurement Content Categories (i.e. the “Buckets”). Formal verification of RPS compliance by the CEC can only be realized after the transaction has been reported and verified. The CEC should provide up-front guidance regarding which of the Procurement Content Categories specific commercial transactions would fall if consummated *exactly* in the matter presented to the CEC for pre-review.

Unfortunately, lack of action by the CEC has resulted in significant uncertainty and loss of revenue for some renewable projects. In particular, we point to WM’s long-term contracts to deliver biomethane to the Burbank and Pasadena public utilities that were entered into in August of 2011. Gas deliveries were initiated on or about October 1, 2011 and continue to this day. The delivered gas is being used by these public utilities to produce renewable energy in gas turbines that they own and operate. The use of the biomethane in these units to generate renewable energy was both pre-certified and finally certified by the CEC. Unfortunately, uncertainty regarding the proper PCC category continues to this day. Both the utilities and WM expect these projects to be verified to be PCC 1 eligible *but the CEC has yet to make any determination of their PCC status.*

WM is unable to recognize the full value of these contracts. The utilities are willing to compensate WM for the biomethane that, we believe, should make the power generated from this gas to be PCC 1 (i.e., “Bucket 1”) eligible pursuant to AB 2196. But this cannot happen until the CEC renders a PCC determination.

WM strongly requests that such a PCC Ruling be immediately rendered for the projects to which WM is providing renewable biomethane based on the existing renewable precertification and final certification that have already been issued by the CEC for these projects. This ruling can be conditional upon final verification that the projects are operating as precertified and certified.

Definitions: Prime Generating Equipment; Dedicated Biomethane Pipeline

With regard to questions on the definition of prime generating equipment, WM would suggest that the proposed definitions are acceptable and that facilities using biomethane from digester gas or landfill gas can use the same definition. However, we would suggest not using the term “prime mover” with regard to the entire unit, since in the power industry, “prime mover” is the equipment that uses fuel to generate power, and does not include the equipment or source that produces the fuel.

Furthermore, the definition should be the same for a biomethane facility receiving gas from a dedicated pipeline or a common carrier pipeline. The amount of processing done to the biogas or the form of delivery to the power production equipment does not alter the fact that the fuel originates as biomethane and offsets fossil fuel.

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We also are pleased to provide guidance in relation to making a distinction between ownership of the gas collection or processing equipment and the electricity generation facility, which should be made to reflect operational reality. The owner of a landfill is usually not the owner of the power plant. WM and some cities/counties are exceptions to this fact, but this does not alter the usual course of business in which power plant owners do not own the landfill from which electricity is generated. The owner of the power plant, not the landfill owner, is the owner of the energy and the renewable energy credits (RECs). The owner of the power plant negotiates a private contract to purchase the gas from the landfill owner. We would expect that the investor and owner of an anaerobic digester would also own the power production, since the combined revenue from tipping fees and power production are often needed to achieve returns on investment. Nevertheless, if the fuel source and energy generation ownership of a digester is split, the owner of the power plant is the owner of the energy and RECs.

We believe the Energy Commission's definition of dedicated pipeline as stated below achieves its objective of differentiating between a dedicated pipeline and a pipeline that services third-party end-users. We do not believe the definition of dedicated pipeline as proposed is too narrow.

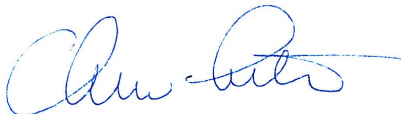
"Dedicated pipeline - for purposes of RPS eligibility of biomethane, refers to a gas conveyance pipeline that is not part of a common carrier pipeline system, that conveys biomethane from a specific biomethane producer to a specific electrical generation facility and to no other end users."

Change in Law

WM supports the position of the Independent Energy Power Association (IEPA) with regard to the CEC's proposed changes in how the RPS Guidebook handles Change in Law.

We thank the CEC for the opportunity to comment on the Renewable Portfolio Standard Eligibility Guidebook, Seventh Edition.

Sincerely,



Charles A. White, P.E.
Director of Regulatory Affairs/West

cc: Kate Zocchetti, CEC, kate.zocchetti@energy.ca.gov