CITY OF BURBANK
OFFICE OF THE MAYOR

02-REN-1038
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11-RPS-01
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March 22, 2012

Robert B. Weisenmiller, Chair
California Energy Commission
1516 9th Street
Sacramento, CA 95814

**SUBJECT:** ***RPS Proceeding*: Notice to Consider Suspension of RPS Eligibility Guidelines Related to Biomethane (Docket No. 11-RPS-01 and Docket No. 02-REN-1038)**

Dear Chairman Weisenmiller:

As the Mayor of Burbank, I am writing regarding the recently released California Energy Commission (CEC) announcement to "suspend" certification of power generation facilities that use pipeline quality biomethane "until further notice." This action has been prompted in part, apparently, by a letter from four California Legislators requesting the CEC to take this action. In a counter response, several other California Legislators including those that represent Burbank have also written the CEC to express their opposition to the proposed "suspension."

Biomethane has long been recognized by California as a renewable fuel. While some have questioned this status for biomethane, particularly from landfills and in particular from out-of-state sources, the vast majority of electric utilities and other industries support biomethane as a renewable resource.

The City of Burbank has used biomethane as a renewable fuel for many years, dating back to the 1980s, in our local community. In efforts to meet the state's renewable goals and in good faith with the full intent of complying with the rules in place, Burbank has entered into four contracts for out-of-state biomethane, which were certified by the CEC at the end of 2011. These contracts will help to Burbank mitigate the overall cost of the Renewable Portfolio Standard program. If Burbank's contracts were nullified or not recognized as we intended them to be, Burbank could face a seven to eight percent rate increase per year. For our community alone, this would translate in millions dollar a year consequence for ten years. This is unacceptable and we would be forced to defend our ratepayers.

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**Biomethane is an important renewable resource** that will help the state and Burbank achieve the environmental goals of AB 32 and SB 1X 2. As fully resourced utility, there are limited tools at our disposal to economically achieve the state's RPS policies. In good faith, Burbank entered into contracts in consultation with the CEC for biomethane.

While much attention has been focused on where the biomethane is coming from, e.g., out-of-state, little consideration has been given to the many benefits of biomethane. By using biomethane in our power plants, we are displacing coal, reducing the amount the GHG emissions and increasing the renewable energy in our portfolio. Other positive attributes of biomethane are that it supports the integration of more variable renewable energy sources; provides a cost-effective way to achieve the state's goals; does not require additional transmission resources since the pipelines exist; and does not require new green-field development and the associated environmental impacts that would be attributable to new wind and solar development. It seems like these are worthy to note.

**Proposed moratorium should not retroactively interfere with existing contracts**
Most concerning to Burbank is that the notice to suspend states that power plants currently certified and receiving biomethane will be required to supply documentation to the CEC of the amount of biomethane that they are currently receiving today. While Burbank has no objection to supplying this information, it is troubled by the possibility that the information might be used to impose a "cap" on the amount of biomethane it is allowed to burn at a level less than the amount it is contractually required to take.

Biomethane production projects often anticipate production increases and in any case have some variability in day-to-day production and volume. Burbank's contracts include a range of minimum to maximum contract quantities designed to accommodate such production increases and variability. Any regulatory "cap" on the amount of biomethane that would be recognized for RPS purposes would deprive Burbank of the benefit of its contracts and have a detrimental impact on Burbank as we are counting on biomethane to help meet the first RPS compliance period.

It is most dismaying that Burbank followed all the rules in place in good faith and worked closely with CEC and Air Resources Board staff to complete these contracts prior to the RPS bill becoming law, only to find out later that the CEC may retroactively interfere with those contracts and limit the amount/flows of biomethane. This is unacceptable, and Burbank urgently requests that care be taken to avoid this outcome.

**No gold rush of applications:**
Burbank was first alerted to the concerns about biomethane at the September 20, 2011 CEC workshop.



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To our knowledge there are only six municipal utilities that have submitted biomethane applications for pre-certification or certification to the CEC. Most if not all of these contracts take many months to 36 months to negotiate and bring to market. There does not appear to be a need to place a ban on biomethane at this time especially when the Legislature seems poised with several potential vehicles to discuss this through the legislative process.

**If the CEC intends to move forward with the suspension, at a bare minimum, the terms of the suspension must state unequivocally:**

**That signed contracts to procure biomethane prior to the date of the moratorium will have related certification application processed in accordance with the Fourth Edition of the *RPS Guidebook even* if the final certification application is filed after the effective date of the moratorium and that all terms of the existing contracts will be honored. *Interference with existing contracts and disruption of projects that are under construction should be avoided at all costs.***

The failure to do so sets a terrible precedent for the State's RPS program. The proposed "suspension" on biomethane usurps the legislative process and will result in unintended consequences for California ratepayers.

I appreciate the opportunity to provide these comments to the Commission and look forward to a further opportunity to comment on these issues before a suspension is implemented.

Sincerely,

Jess Talamantes

Jess Talamantes
Mayor

c: Karen Douglas, Commissioner
Carla Peterman, Commissioner
Senator Carol Liu
Assembly Member Mike Gatto
Gareth Elliot, Office of the Governor

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