REPUBLIC SERVICES, INC.

02-REN-1038
DOCKET
11-RPS-01
DATE MAR 23 2012
RECD. MAR 23 2012

March 21, 2012

Mr. Robert B. Weisenmiller, Ph.D.
Chairman
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: RPS Proceeding Docket Numbers 02-REN-1038 and 11-RPS-01: Notice to Consider Suspension of RPS Eligibility Guidelines Related to Biomethane

Dear Chairman Weisenmiller,

Republic Services, Inc. (RSI) provides these comments to the California Energy Commission (CEC or Commission) on the Renewable Portfolio Standard (RPS) Proceeding and the proposal to suspend the RPS eligibility of biomethane. RSI appreciates the efforts and availability of CEC Members and Staff in your ongoing deliberations on biomethane eligibility and the opportunity to provide the following comments. While we understand the need to update the RPS Guidelines for biomethane, particularly since the passage of SBX1 2, we believe it is very important for the CEC to understand the full breadth and magnitude of the consequences of taking short-term actions that will negatively impact legitimate and quality biomethane projects that have been developed and financed in good faith under the current RPS Guidelines established by the Commission.

Republic Services, Inc. provides non-hazardous solid waste collection and recycling services for commercial, industrial, municipal, and residential customers through 348 collection companies in 40 states. Republic is one of the largest solid waste management companies and recyclers in California

Republic is also a leader in renewable energy from landfill gas (LFG) generated and managed at our landfills. Nationwide we have 70 LFG to energy (LFGTE) projects that produce 325 MW of renewable power and 55,000 cubic feet per minute of fuel that displaces natural gas or is processed into biomethane. In California, we have 6 operating LFGTE projects and 3 more in permitting, design, or construction. The operating projects provide 36.3 MW of renewable power to the California market and RPS, and the ones coming on line in the next 2 years will add 39.8 MW more. The 76.1 MW of renewable power makes Republic one of the leading providers of LFG based renewable energy in California and in the nation.

Republic has developed a multi-pronged LFG strategy that will result in the conversion of many of our landfills from a system of LFG flaring to one of renewable energy production. A key component of the strategy focuses on high BTU projects that will remove LFG from flares, treat LFG to pipeline standards and inject biomethane into the natural gas pipeline system for use as a renewable fuel. While most of those projects are in other states, we would actively pursue similar projects at our California landfills if impediments to pipeline injection were removed. Our experience with biomethane projects in other states will allow RSI to be more prepared and to more rapidly pursue biomethane projects at our California landfills should those impediments to pipeline injection be removed.

We firmly believe that biomethane, both in state and out-of-state, should be an important and significant component of California's renewable energy supply and RPS. Therefore, the need for a flexible RPS standard will be essential to insure that California has a reliable, affordable, and environmentally sustaining renewable energy mix. We believe that biomethane will compliment other renewable energy resources such as solar, wind and geothermal by providing a clean reliable resource that can help offset issues such as reliability, intermittency and storage issues often associated with other renewable resources.

As we have often pointed out, California's RPS policies have been the prime motivation for the development of these renewable energy projects. The existing determinations and rulings by the CEC and the Public Utilities Commission have enabled biomethane producers to achieve a level of success over the past three years that is unprecedented in the history of the industry – since only in California do producers have a clear path to a market that provides incentives for the low-carbon and renewable attributes associated with this fuel. Unfortunately, if that pathway is blocked and RPS eligibility of biomethane is questionable, Republic's biomethane projects will not be developed and the growing biomethane industry will be stymied.

The suspension of biomethane eligibility proposed in these proceedings will in fact freeze biomethane development nationally and will harm the long-term prospects of in state biomethane projects. The suspension will most likely halt the development of many biomethane projects that have contracts in place with tens of millions of dollars invested in contracting, permitting, and construction. Many of these projects are in the advanced stages of development and are scheduled to be delivering biomethane to the natural gas pipeline and California facilities before the end of this year and in early 2013. Those projects will not be RPS eligible under the proposed moratorium due to issues related to viability or compliance with Guidebook standards. Rather, these projects will be ineligible simply because they will not be delivering gas on the date that the moratorium is approved by the Commission.

Rather than imposing a strict and inflexible deadline for project eligibility, we believe that the CEC should authorize a reasonable phase-in of the proposed moratorium. Projects that are in contract negotiations or further down the development process (e.g. in construction) with significant resources already committed in good faith, should be allowed to finish the path they have started and be allowed to proceed under the current eligibility rules.

A case in point is Republic's Sauk Trail Project in Michigan. The project is additional, (will redirect methane that is currently flared or planning to be flared), records and documentation of gas flows will be maintained, and there will be no double counting. The project has been developed over the past two years, before the passage of ABX1 2 and CEC deliberations over limiting the RPS eligibility of biomethane. Contracts were signed in the fall of 2010 and we have invested over $2 million in infrastructure, permitting and associated fees. This project would be injecting gas into the pipeline in July 2012, but will not move forward under the proposed moratorium. What will likely be left is a legal tangle as we try to unwind contracts.

Further, the Sauk Trail Project is the type of project that will be instrumental in forging Republic's long-term gas management strategy. Largely due to California's RPS, that strategy is currently focused on converting landfill methane into a renewable fuel. Loosing this project and facing the prospects of loosing 4-5 other similar quality projects in various stages of development will in fact require Republic to revise their gas management strategy in a manner that will result, at least in the short-term, in continued flaring of a potential renewable fuel. In fact, two of those projects are specifically named and designated to fulfill signed certified contracts with California utilities. What will be left are a loss of significant financial resources and a very complex legal tangle as we try to unwind existing contracts and arrangements

Therefore, we request that the CEC reconsider the specified "Conditions of Suspension" and modify those conditions as follows:

Allow projects that have completed planning, are in the final stages of contracting, or are in construction to proceed under the current RPS Guidebook Rules with the following conditions:

- Projects must be high BTU projects (methane is processed into pipeline quality biomethane);

- Projects are additional and will not redirect gas from an existing viable energy project;

- In order to qualify, the project proposal must have been completed, project developer selected, contract negotiations in progress and signed by parties by June 1, 2012 and the project must be able to be on line and producing

pipeline quality gas for California by December 31, 2013. (It takes approximately 18 months to take a high BTU biomethane project from the contract stage to pipeline injection.)

We believe it is both fair and reasonable to request that projects that are being developed in good faith and are in a real and verifiable state of development should continue under the current RPS Guidelines. We also fully support a reasonable moratorium on any new projects until further debate and decisions are made by the CEC and the Legislature about biomethane eligibility.

Again, we appreciate this opportunity to comment. As mentioned above, we believe that biomethane, both in-state and out-of-state, is an essential component of California's efforts to achieve a 33% RPS. We look forward to working with the CEC to accomplish that goal.

Sincerely,

William Held
Senior Director, Renewable Energy
Republic Services, Inc.

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