WESTHOFF, CONE & HOLMSTEDT

02-REN-1038
DOCKET
11-RPS-01
DATE MAR 22 2012
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March 22, 2012

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

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

Dear Chair Weisenmiller and Commissioners:

On September 20, 2011 a representative of the Coalition For Renewable Natural Gas had the privilege of serving on an RPS panel during the California Energy Commission's (CEC, Commission) public workshop, addressing both Commission staff and stakeholder questions specific to the treatment of biomethane under the RPS Proceeding, Docket Numbers 02-REN-1038 and 11-RPS-01. As a member of the diverse Coalition For Renewable Natural Gas, we remain committed to a successful California RPS program.

Unfortunately, today, we write out of concern over the Commissions consideration of a suspension of the RPS eligibility guidelines relating to biomethane. It is particularly troubling that the Commission has chosen to make public the original letter requesting a moratorium signed by four legislators on February 22nd, but has not made public a letter opposing the same moratorium by nine members of both the California State Senate and Assembly. Furthermore, in light of the public proceedings on the subject where an overwhelming majority of those in attendance and providing comments were in favor of biomethane, we are concerned with the tenor and shortness of the public notice that seems to convey an approval of the requested moratorium by the CEC is a foregone conclusion.

Inextricably, a moratorium will have an adverse effect upon green jobs in the renewable natural gas industry, hamper efforts to develop waste-to-energy projects in California, inhibit municipal utilities ability to cost-effectively achieve the State's 33% RPS goals, and our joint ability to enter into and or service contracts that guarantee stable rates for California's electricity consumers.

We do not disagree that eligibility of pipeline fuels such as biomethane deserve careful consideration within the requirements and objectives of the RPS. For this reason we are working with the Legislature, along with the utilities, organized labor and environmental advocates to craft the best possible related legislation and potential public policy.

We too support the goal of expanding demonstrable environmental benefits in California, whether by achieving additionality in the context of Greenhouse Gas (GHG) and or through the creation of a more accurate national accounting system to prevent double counting of the benefit of these transactions.

However, SB 2-1X does not appear to contain any clear or direct authorization for the Commission to change the existing treatment of biomethane for RPS purposes.

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While the well-documented benefits of biomethane are many, including as a base-load power that complements intermittent resources like wind and solar, decreases dependence upon fossil fuel natural gas, and advances the goals of AB 32 as an ultra-low carbon transportation fuel, the relative quantity of available biomethane is minimal. As such, the existing eligibility of biomethane should not be altered by special interests unnecessarily concerned with the presence of a low-cost competitor in the renewable energy sector.

A request for a moratorium at this point undermines the value of the information gathered by the Commission from stakeholders throughout the public hearing process and the legislative process already underway. We are aware of and are monitoring at least two legislative measures that have been introduced to address these very issues. As such, we request that the Commission maintain the existing rules and defer to the Legislature for action to further clarify future RPS eligibility conditions for biomethane.

Respectfully, we ask that the Commission dismiss the request for an immediate, unilateral moratorium on permitting of any biomethane transactions, and allow the legislative body and Administration to jointly effect any necessary changes to the existing statute regarding the treatment of biomethane produced in and out-of-state, for RPS compliance purposes.

Sincerely,

Mark A. Holmstedt

cc: Carla Peterman, Commissioner
Karen Douglas, Commissioner
Darrell Steinberg, Senate President Pro Tempore
John A. Perez, Speaker of the Assembly
Gareth Elliott, Legislative Affairs Secretary, Office of the Governor