California Energy Commission
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Clean Energy

February 8, 2013

California Energy Commission
Dockets Office, MS-4
Re: Docket No. 11-RPS-01, and
Docket No. 02-REN-1038
RPS Proceeding
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: Docket numbers 11-RPS-01 and 02-REN-1038 – Renewables Portfolio Standard

Dear Ms. Zocchetti and California Energy Commission staff,

Clean Energy would like to thank the Energy Commission staff for the opportunity to comment on the "Concept Paper for Implementation of Assembly Bill 2196 for the Renewables Portfolio Standard." Clean Energy, North America's leading provider of natural gas for transportation, fuels over 27,000 vehicles daily at over 310 stations with conventional and renewable natural gas in both compressed and liquefied form. Our wholly-owned subsidiary, Clean Energy Renewable Fuels (CERF), develops biomethane from landfills in Dallas, TX and Canton, MI and is in the process of adding additional production facilities in the state of California.

General Comments

CERF has two biomethane contracts with California load-serving entities (and amendments to one of the contracts) all of which were signed prior to the California Energy Commission's moratorium set at the close of business on March 28, 2012. These contracts are with California load-serving entities that generate or will generate RECs under California's Renewable Portfolio Standard (RPS). CERF, therefore, holds a vested interest in the successful implementation of AB 2196 consistent with the legislation's intent.

After reviewing the Concept Paper prepared by the CEC, it is clear that the CEC worked hard to ensure that the language and intent of AB 2196 was reflected in their draft of the Concept Paper. We are in full support of CEC's intent to honor contracts that were entered into between sellers and buyers prior to March 29, 2012 under the rules in place at the time of their signing. It is our understanding, based on AB 2196 and the Concept Paper, that power generated by load serving entities using biomethane delivered under the contracts

signed prior to March 29th, will be classified as either "PCC Procurement" under SB X1-2 or "count in full procurement" depending on whether the contract was signed before or after June 1, 2010.

We support this conclusion, and also believe that the Energy Commission should further clarify that amendments to biomethane procurement contacts that increase the volume of biomethane to be sold under the contract, and that were signed between June 1, 2010 and March 29, 2012, will also be classified as PCC Procurement even if the original contract was signed prior to June 1, 2010.

Quantity of Biomethane Specified in the Original Contract

In the concept paper, the Energy Commission Staff Proposal states that incremental biomethane sales in excess of the quantity of biomethane specified in a pre-March 29, 2012 contract will be subject to PUC Section 399.12.6(b) (i.e, not "grandfathered"). We believe that it is important for the Staff to further clarify over what time period the maximum quantity specified will be determined. For example, most contracts have a daily "Maximum Daily Quantity" that is specified but the maximum purchase obligation of the utility (and minimum delivery obligation of the producer) is actually determined on an annual basis. Biomethane production projects are subject to significant and often unpredictable production variability. In order to preserve the economic viability of these projects, it is important for the Energy Commission to clarify that the "maximum quantity of biomethane specified in the contract" will be determined on an annual basis rather than a daily basis. Imposing a cap on a daily basis would impose difficult and costly operational and sales constraints on biomethane producers and would not be consistent with the economic expectations of either the buyer or seller of the biomethane pursuant to a pre-March 29, 2012 contract.

Flexibility in the Transport Pathway

We believe that the Concept Paper should clearly state that once the CEC moratorium is lifted, projects that are eligible as PPC procurement or "count in full procurement" are afforded transport flexibility. There is currently an historic level of new natural gas production occurring across the United States, creating many unanticipated and often dramatic changes in the flow of gas and constraint on movement of gas in the interstate pipeline system. Biomethane producers that have multi-year contracts with California load-serving entities must be able to modify the pipeline arrangements for delivery of their product to the California market in response to these changes. Failure to provide for such

flexibility would place the biomethane producers, California load-serving buyers of biomethane and their rate-paying customers all at economic risk and would not further any of the economic or environmental goals of California's RPS program.

Conclusion

Clean Energy and CERF would again like to thank the CEC for their hard work in drafting the Concept Paper for Implementation of Assembly Bill 2196 Pertaining to the Renewables Portfolio Standard. Should you have any further questions, do not hesitate to reach out to us.

Sincerely,

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