REPUBLIC SERVICES, INC.

California Energy Commission
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February 8, 2013

Kate Zocchetti
California Energy Commission
ATTN: Dockets Office, MS-4
1516 Ninth Street
Sacramento, CA 95814-5512

Subject: Re: Docket No. 11-RPS-01 and Docket No. 02-REN-1038 RPS Proceeding

Dear Ms. Zocchetti,

Republic Services, Inc. (RSI) provides these comments to the California Energy Commission (CEC) on the Renewable Portfolio Standard (RPS) Proceeding and the *Staff Concept Paper for Implementing Assembly Bill 2196 for the Renewables Portfolio Standard (Staff Concept Paper or Paper)*. 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.

As we have often pointed out, California's RPS policies have been the prime motivation for the development of several renewable energy projects for Republic. The existing determinations and rulings by the CEC and the 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. Without a clear statement that certain biomethane projects qualify for Bucket 1 RPS eligibility, Republic's biomethane projects will not be developed and the growing biomethane industry will be stymied. We believe that AB 2196 and the *Staff Concept Paper* provide significant needed clarity for the industry, but some further clarity and certainty is still necessary.

As a supporter of AB 2196 (Chesbro) and AB 1900 (Gatto), Republic was involved in the detailed and complex negotiations on both bills. In general, we believe that the *Staff Concept Paper* is a fair and accurate interpretation of AB 2196 and we are supportive of the concepts proposed by the *Paper*. We also wish to point out that those negotiations included agreements and understandings about the intent of AB 2196 such as an intent not to adversely impact contracts in-place, and recognition that projects delayed by the suspension will need at least 18 months to produce and inject pipeline quality biomethane.

Republic is a leader in renewable energy from landfill gas (LFG) generated 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. Republic has one project that is currently delivering pipeline biomethane to California and we have several additional projects pending certification that are in various stages of development. We believe that the Staff Concept Paper provides affirmation that these projects will be eligible under Public Utilities Code Section 399.12.6 (a).

As requested, we are providing the following comments to assist the CEC staff in their efforts to finalize the Staff Concept Paper so that the Commission can lift the March 28, 2012 suspension of the RPS eligibility of biomethane and allow these biomethane projects to proceed. We support the *Staff Concept Paper* as proposed with the following comments:

- ***Biomethane Volume Increases after April 1, 2014***. AB 2196 is clear that new volumes and sources of biomethane beyond limits specified in the original contract cannot count under the Portfolio Content Categories (PPC) specified in PUC 399.16 and 399.12.6(a). However, we believe that AB 2196 provides that increases that are allowed in the contracts that were executed prior to March 29, 2012 and otherwise eligible for PPC consideration may continue to increase deliveries under those contracts after April 1, 2014 – provided such increased deliveries are provided for in the contract.

- **Honoring existing contracts.** We believe that AB 2196 intends to protect contracts that were in place at the time the CEC imposed the suspension. Items 7 and 8 on page 6 of the Staff Concept Paper confuse us because those Items seem to limit production increases even when specified in the original contract. If an original contract provides for future increases at the discretion of the seller or options by the seller to increase gas deliveries, then we believe that the original contract should be honored and that such options should not be restricted as a PPC under PUC 399.16 and 399.12.6(a). We request further clarification of this point in the *Staff Concept Paper*.

- ***Biomethane delivered prior to certification***. One point that we believe is not addressed in the *Paper* relates to biomethane delivered prior to certification. We believe that the Paper should specify that biomethane deliveries made prior to certification are eligible as PPC sources once the project has been certified by the CEC.

- ***Transport Pathway.*** When the CEC adopted the biomethane "moratorium" on March 28, 2012, it indicated that pathways for delivering gas to California could not be changed pending final resolution by the CEC. This standard assumes that the national pipeline system is static. In fact, that is not the case,

and pipeline improvements are being made regularly. We believe that the staff concept paper should clearly indicate that once the CEC lifts the RPS suspension, projects that are eligible as PPC procurement are afforded transport flexibility. Situations will certainly arise when project developer may need to modify its transport pathway to deliver the biomethane to California.

- ***Outstanding Issues.*** Republic is in the process of reviewing the request for additional support information in Section D of the *Paper.* We will provide additional information as appropriate and in conjunction with our gas developers prior to the workshop. Further, we have reviewed the Verification White Paper prepared and submitted as an attachment to their comments. We are in agreement with the procedures and policies outlined in that white paper.

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,

Jim Ambroso

Republic Services, Inc.