BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program.	Rulemaking 18-07-003 (Filed July 12, 2018)

COMMENTS OF DAIRY CARES ON THE BIOENERGY MARKET ADJUSTING TARIFF PROGRAM REVIEW AND STAFF PROPOSAL

Brian S. Biering
Ellison Schneider Harris & Donlan LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Telephone: (916) 447-2166
Facsimile: (916) 447-3512
Email: bsb@eslawfirm.com

Attorneys for Dairy Cares

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Pursuant to Decision (D).14-12-081 initiating a review of the Bioenergy Market Adjusting Tariff (BioMAT) program, and the Energy Division's October 30, 2018 email requesting informal comments on Staff's BioMAT Program Review and Staff Proposal, Dairy Cares[1] provides the following comments in response to Staff's proposal and initial program review.

Dairy Cares represents the interests of dairy producers and processors. The State Legislature directed the CPUC to implement the BioMAT program in order to encourage the development of bio-energy resources, which could not effectively compete with other renewable resources in competitive RPS solicitations or in the ReMAT program. As noted by the Author of SB 1122:

> Without differentiating small renewable biomass and biogas projects from other renewable distributed generation technologies, opportunities for methane pollution reduction and clean energy

[1] Formed in 2001, Dairy Cares (www.dairycares.com) is a coalition of California's dairy producer and processor organizations, including the state's largest trade associations representing dairy farmers (California Dairy Campaign, California Farm Bureau Federation, Milk Producers Council and Western United Dairymen), other cattle ranchers (California Cattlemen's Association), the largest milk processing companies and cooperatives (including California Dairies, Inc., Dairy Farmers of America-Western Area Council, Hilmar Cheese Company, and Land O' Lakes, Inc.), and others with a stake in the long-term environmental and economic sustainability of California dairies. Some producers represented by Dairy Cares' members currently produce and/or use dairy biomethane while others are considering developing facilities to produce and/or use dairy biogas in the future.

> generation will not be realized. Unless and until the PUC accounts for benefits to ratepayers and the environment from reducing air pollution and global warming emissions by generating electricity from small renewable biomass and biogas, a separate procurement requirement for these technologies is necessary.[2]

The BioMAT program is an important incentive mechanism in the dairy sector. BioMAT provides dairy digester projects with a predictable option to lock in a long-term revenue stream. BioMAT facilitates financing for the significant capital investments needed to reduce emissions at dairies (e.g., digester equipment, cleaning and conditioning facilities, generation facilities, interconnection facilities and other related infrastructure). While many projects are also pursuing pipeline biomethane injection and transportation fuel development through the Low Carbon Fuel Standard ("LCFS") and Federal RINs programs, the transportation fuels markets remain highly volatile and developers are pursuing both transportation fuels and electricity generation. BioMAT is a critical tool for dairies to voluntarily make near-term progress towards the aggressive SLCP emissions reduction targets set by SB 1383.

As discussed further in Dairy Cares' responses to the staff questions below, Dairy Cares provides three general comments on the BioMAT program. First and foremost, Dairy Cares strongly supports the Energy Division staff proposal to extend the program by at least five years. Second, the CPUC should consider modifications to the BioMAT pro-forma contract that would provide project developers with more options to oscillate between electric generation, onsite vehicle fueling, and pipeline injections of renewable natural gas. Third, the BioMAT pro-forma contract should provide greater flexibility to both the utility and the developer to generate LCFS credits through the new EV crediting mechanisms in the LCFS program. Dairy Cares appreciates the opportunity to provide the following responses to the CPUC staff's program

[2] See Assembly Utilities and Commerce Bill Analysis of SB 1122, available at: https://leginfo.legislature.ca.gov/faces/billAnalysisClient.xhtml.

review and looks forward to continuing to work with the Commission staff and other parties to improve the BioMAT program in furtherance of the State's emission reduction objectives.

BIOMAT PRICING MECHANISM

1. Do you support the proposal to reduce the market depth requirement from five to three for unaffiliated applicants? Why or why not?

Five unaffiliated applicants are an appropriate market depth requirement for category 2 projects. As noted in the staff report, the current dairy offer price of $187.82 is between the low and medium levelized cost estimates for energy generation from dairy manure projects.[3] Dairy Cares is concerned that if the CPUC changes the market depth requirement, the price will drop below these levelized cost estimates and there is a risk that the only developers that will seek contracts will be developers with little market experience that underestimate their project costs. In order to attract serious developers, the CPUC should retain the existing market depth requirements. Dairy Cares has also evaluated this issue from a ratepayer perspective since dairy farms and processors are important ratepayers of the IOUs. Given the relatively small cap on Category 2 projects (90 MW) and the proposal to allocate program costs through a non-bypassable charge, Dairy Cares does not believe that retaining the existing market depth requirement poses significant concerns from a ratepayer perspective.

2. Do you support proposal 2 to revise when the BioMAT offer price moves up, moves down, and stays the same? Why or why not?

Dairy Cares generally supports the commission's objectives of providing a simplified and predictable pricing mechanism. However, under the primary proposal, the price adjustment mechanism would lead to decreasing prices when there are at least two price acceptances. As noted in Dairy Cares' response to question #1, Dairy Cares is concerned by the risk that

[3] See CPUC BioMAT Staff Report at p. 7.

developers with little experience will underestimate their costs, drive the administratively set prices down and then fail to deliver on the contracts. Dairy Cares is also concerned that if the prices change quickly, it will be difficult for dairy digester developers to incorporate the BioMAT contract prices into their financial modeling for a particular project.

3. Should the Commission transition to a fixed price feed-in-tariff instead of the price adjusting mechanism? Why or why not?

Dairy Cares would support a fixed price feed-in-tariff provided the price is set at a level to encourage feasible category 2 projects. As discussed in the staff report, the current price for Category 2 projects remains below the medium levelized cost estimates for these project types. Thus, any fixed price would likely need to be set at a level that is higher than the current offer price for category 2 projects in order to encourage participation. There would be benefits to a fixed price insofar as a fixed price would provide digester developers with greater certainty than the current mechanisms. In addition, the Commission would need to include a mechanism to adjust the fixed price in the event that participation remains low or there is a material change to the cost profile of eligible category 2 projects. For example, in recent years, the Legislature made annual appropriations to the CDFA Dairy Digester Research and Development Program, which has provided an important financial incentive and informed the overall cost profile for digester projects. If the Legislature changes this appropriation in the future or there are other changes to incentives for Category 2 projects, the Commission would need to revisit any fixed price that was previously set.

4. Should the Commission transition to a renewable auction mechanism (RAM) instead of the price adjusting mechanism? Why or why not?

The Commission should not transition to a RAM because, as proposed, the RAM would include a mix of projects from the three categories. Maintaining the division of the categories is

critical because dairy projects have different cost structures than other projects (e.g., municipal projects, which can be bond financed). Moreover, the division of project categories recognizes that each of the projects have different benefits. For example, dairy projects have the highest GHG reduction potential due to the reduction of manure methane emissions, which is not already subject to emission reduction requirements like certain municipal waste water and landfill projects. Finally, a RAM mechanism would lack predictability, making it difficult for developers to plan for the potential revenue stream from a contract under SB 1122. Dairy digester projects require a higher degree of coordination than other generation projects like solar PV projects. In addition to the land use, permitting and interconnection requirements applicable to all projects, dairy digester developers work closely with dairy farmers and off-takers for transportation fuels to provide financial projections for their projects. Incorporating electricity generation into a project will be relatively more difficult if the developers do not have certainty as to the pricing in an SB 1122 contract.

5. Should the Commission consider changes to the BioMAT definition of "unaffiliated applicants" to better ensure that projects with common developers count as affiliated for the purpose of determining market depth? Why or why not?

   Dairy Cares does not offer comments on this issue but may offer reply comments.

6. As noted in Staff's observations on page 7, BioMAT offer prices are now sufficiently high to encourage price acceptance and project development within each category. This raises a concern that even small price adjustments in the future could lead to ratepayer overpayment for projects willing to execute contracts at lower PPA prices, and offer prices that are too low for other projects that need higher PPA prices. For example, a project developer willing to execute a contract for an additional $4/MWh would receive an $8/MWh windfall if the offer price increases by $12/MWh. Should the Commission consider changes to simplify the price adjustment mechanism and allow for more granular pricing (e.g. revise the price adjustment amount to $4 per MWh, rather than the current system of $4, $8, and $12)? Please explain.

   Dairy Cares does not offer comments on this issue but may offer reply comments.

7. Are there any other program pricing proposals that the Commission should consider? If so, explain the proposal and how it would be consistent with Public Utilities Code section 399.20.

Dairy Cares does not offer comments on this issue but may offer reply comments.

PROGRAM ADMINISTRATION

8. Do you support proposal 3 to adopt BioMAT queue management procedures for the BioMAT program? Why or why not?

Dairy Cares does not offer comments on this issue but may offer reply comments.

9. Do you support the proposal to set a 30-day deadline to execute contracts after the program participant accepts the offered price and provides all necessary information to the IOU? Why or why not?

Dairy Cares supports staff's proposal to set a 30-day deadline in order to avoid any undue delays in the implementation of feasible projects.

10. Do you support the proposal to extend the current program end date for an additional five years, from February 2021 to February 2026? Why or why not?

As discussed above, Dairy Cares strongly supports the proposal to extend the program by a minimum of five years. The BioMAT program is an important incentive mechanism in the dairy sector. BioMAT provides dairy digester projects with a predictable option to lock in a long-term revenue stream. BioMAT facilitates financing for the significant capital investments needed to reduce emissions at dairies (e.g., digester equipment, cleaning and conditioning facilities, generation facilities, interconnection facilities and other related infrastructure). As more alternative fuels enter the LCFS markets (which may cause LCFS credit prices to decline), there may be greater interest in the BioMAT program going forward. In addition to serving as a hedge against the LCFS and RINS markets, the BioMAT program will play an important role in furthering the voluntary emission reduction efforts of dairies under SB 1383. Dairy Cares supports a five-year extension and would encourage the Commission to go a step further and

extend the program out to 2030 consistent with the state's current effort to reduce SLCPs. If the Commission adopts a five-year extension, it should not make the program expire automatically in five years. Instead, the Commission should undertake another program review at the end of the five-year period and evaluate whether there is a sufficient amount of head room in the MW caps for each category to justify another extension.

11. Do you support the proposal to extend a project's Guaranteed Commercial Operation Date by 12 months if it fails to interconnect by the PPA's Guaranteed Commercial Operation Date due to delays beyond the Seller's reasonable control? Why or why not?'

Dairy Cares supports this proposal. Interconnections can be delayed for a variety reasons that are often out of the control of the developer. The utilities have a low bar for the information required in an interconnection request and many developers (of all sorts of generation types) experience delays due to technical issues (e.g., application of the requirements in the utility's interconnection handbook). The developer should not be penalized for these delays and providing this additional flexibility will better ensure that feasible projects are able to meet their contractual obligations under a BioMAT contract.

PROGRAM ELIGIBILITY

12. Do you support the proposal to remove the three MW cap on payments via BioMAT PPAs for facilities larger than three MW? Why or why not?

    a. Do you believe that the Commission can implement this change under existing statutory authority, or would legislation be required to enable BioMAT PPAs for capacities greater than three MW?

Dairy Cares supports the proposal to remove the three MW cap because it will provide developers with greater flexibility to size projects. This is flexibility is particularly important for developers that are developing projects at dairy clusters. The existing statutory authority set forth in AB 1923 provides the Commission with the authority to make this programmatic change.

13. Do you support the proposal to allow incremental generation from existing units to be eligible for the BioMAT program? Why or why not?

Dairy Cares does not offer comments on this issue but may offer comments in its reply comments.

14. Do you support the proposal to temporarily set an 80% HHZ fuel requirement for Category 3? Why or why not?

Dairy Cares does not offer comments on this issue.

15. Should the Commission also consider a geographic component to the requirement that facilities be "strategically located" to better ensure that BioMAT projects are optimized to meet the state's wildfire and greenhouse gas reduction goals (e.g. require Category 3 projects to be located in areas of the state most in need of hazardous fuels treatment, with the highest levels of tree mortality, or located in areas of state that do not already have other nearby facilities that could utilize the wood)? Please explain.

Dairy Cares does not support any geographic components for Category 2 projects.

OTHER GENERAL QUESTIONS

16. Do you support the proposal to allocate BioMAT procurement costs through a non-bypassable charge to all California ratepayers? Justify your response with statutory or other legal reasoning.

Dairy Cares agrees with the conclusions in the staff proposal that the costs of the program should be shared equitably among all California ratepayers. Doing so would be consistent with the general policy direction of the Commission's recent PCIA decision as well as the statutory framework underpinning that decision. If the Commission determines that BioMAT procurement costs are non-bypassable, the Commission should also ensure that all LSEs share in the benefits that the IOUs receive from BioMAT procurement. In particular, as BioMAT procurement grows, the direct access customers should receive a proportionate share (on a retail load share basis) of any PCC-1 RECs that the IOUs receive from the program. While the allocated share may be relatively small for many providers, sharing in this benefit is nevertheless important from an equity standpoint.

17. As noted in Staff's observations on pages 11-12, BioMAT is connected to the policy efforts of other State and Federal agencies. How could the Commission coordinate more closely with other agencies to streamline bioenergy development, increase consistency across related programs, and reduce costs for market participants and ratepayers?

    a. What actions should the Commission take to better coordinate/maximize funding from federal agencies to support BioMAT program goals?

One important area of collaboration is with the California Air Resources Board and the implementation of the Low Carbon Fuel Standard. As noted above, dairy digester developers often evaluate BioMAT contracts as a mechanism for hedging against the volatility of the LCFS and RINS markets. The BioMAT pro-forma contract structure should be amended to provide operators with greater flexibility to reduce their output and divert more renewable natural gas to pipeline injections or onsite fueling. In particular, the minimum delivery obligations should be revised to allow for multiple points at which an operator can amend the delivery requirements upon sufficient notice to the utility. In addition, the LCFS was recently amended to allow for new EV crediting opportunities. Dairy Digesters are a particularly attractive source of generation for EV load due to the carbon intensity score digesters can obtain as compared to other renewable generation resources. For this reason, the pro-forma contract should be revised to enable an operator and the utility to work together to develop a BioMAT contract that allows both the operator and the utility to capture the LCFS credit value for both residential and non-residential charging applications. These changes to the pro-forma contract will allow the operator and the utility to not only achieve the benefits contemplated in the BioMAT program but also maximize the GHG reductions possible in the transportation sector.

18. Achieving pollution and GHGs reductions was an original goal of BioMAT. However, whether or not individual projects reduce net lifecycle emissions depends on project-specific factors. Do you think that the Commission should establish a requirement that facilities reduce emissions as a condition for BioMAT eligibility? In your response, please explain how such a program requirement would complement or not complement

the work of other state or local agencies that regulate or provide grants to BioMAT-eligible facilities.

a. Would you support a proposal requiring that in order to be eligible for BioMAT, a project must demonstrate that it will result in net GHG emissions reductions based on the GHG quantification methodologies and accompanying calculator tools developed by CARB that are discussed on pages 12-13, or a customized calculator tool developed by the CPUC? Please explain.

b. Are there other established emissions quantification tools or methodologies that the Commission should consider to establish that BioMAT projects will result in net emission reductions? Please explain.

Dairy Cares does not support this proposal for category 2 projects because category 2 projects will necessarily result in net-GHG reductions. Application of the proposed calculator will create additional hurdles to program participation.

19. Are there additional actions the Commission should take to address program barriers and expand program participation? Please explain your proposal(s) and provide rationale.

    Dairy Cares does not offer comments on this question but may offer reply comments.

20. Do you anticipate any challenges transitioning from the existing BioMAT program to a program that incorporates any of the changes under consideration? Explain the challenge(s) and provide a proposal to address the challenge(s).

    Dairy Cares does not offer comments on this question but may offer reply comments.

CONCLUSION

Dairy Cares appreciates the opportunity to provide these comments and looks forward to working with the Commission, utilities, and other stakeholders towards the successful implementation and extension of the BioMAT program.

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Respectfully submitted,

/s/

Brian S. Biering
Ellison Schneider Harris & Donlan LLP
2600 Capitol Avenue, Suite 400
Sacramento, CA 95816
Telephone: (916) 447-2166
Facsimile: (916) 447-3512
Email: bsb@eslawfirm.com

Attorneys for Dairy Cares