Placer County
AIR POLLUTION CONTROL DISTRICT

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Erik C. White, Air Pollution Control Officer

December 7, 2018

Mr. James McGarry
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: <u>Comments on BioMAT Program Review and Staff Proposal</u>

Dear Mr. McGarry:

Placer County Air Pollution Control District (Placer APCD or District) is pleased to offer the following comments on the BioMat program staff proposal. The District was involved with the BioMat Program as a contributing author to the authorizing legislation, SB 1122, back in 2012, and has been actively participating in the program since that time. At the center of this effort is the District's deep commitment to supporting state policy that promotes activities that reduce the risk of catastrophic wildfire, while promoting forest health and rural economies. Half of the land base within the Placer Air District is forested landscape, which has seen several devastating fires over recent years. The District is firmly committed to seeing the BioMat program succeed in bringing about small scale strategically located forest biomass to energy facilities within the forested communities of California.

To begin, Placer APCD is encouraged by the staff proposal because it reflects a sincere intent on the part of the Commission to consider many important facets of the program that focus on the deployment of bioenergy projects, taking into account the best interests of rate payers. The District urges the Commission to keep in mind throughout this process the following two key concepts that are not covered within the questions presented by staff.

An economic analysis of the benefits of the Program was completed back in 2013 within a study completed by Black and Veatch. A brief and expeditious review of that study should be done now. Placer APCD finds that most of the data and information within that study is still relevant and applicable. If the Commission decides to do any additional work on this matter, we would recommend that avoided costs of wildfire suppression and damage, and benefits to water supply and quality from forest fuel reduction work, be included within the analysis, as well as a more in depth coverage of the use of CEMA (Catastrophic Event Memorandum Accounts) in dealing with wildfire, and how that would impact costs to the ratepayers, as well as the concept of a non-bypassable charge that is mentioned in the staff proposal. The work done within this study created the substantive foundation for the BioMat program and is likely still providing a strong underpinning for any changes, and as such should be discussed and reviewed.

Second, the District supports the concept of cost sharing for all project types between all three Investor Owned Utilities (IOUs) because the benefits from every project type are conferred on ratepayers across the state. For example, the benefits of a dairy project's methane emissions

reductions do not only benefit the people of the southern San Joaquin valley within the SCE service territory; and certainly forest fire reduction in Northern California provides benefits to SCE customers in Bakersfield who breathe smoke filled air during fire events, and SDG&E customers who drink Northern California water that is directly impacted from fire events. In summary, a cost sharing approach between the IOUs should be seriously considered.

Now the District now turns to the questions presented by Commission staff.

Questions related to market depth and the pricing mechanism

The prices for the three categories have stabilized at a place that is consistent with the Black and Veatch Study (and even lower in some cases) and at this point reflects current market price. Changes in program price offerings at this point will not incentivize project development, and could undermine confidence in the Program. If the prices are locked at the current levels, then ratepayers are protected from uncompetitive solicitations (as the market has spoken within the program now). Note that there is nothing within the statute that requires that a sliding pricing mechanism be used for this program, and such a mechanism has not been seen as favorable by the Courts.[1]

Placer APCD strongly suggests that the Commission add to the stability of the Program by simply locking prices in as they are now for the remainder of the Program. The District suggests affirmative action to do so, rather than "leaving the program as is", which is suggested as an alternative within the staff proposal. The affirmative action to lock the price will provide much needed certainty.

Additionally, there are many complicated issues related to this Program; choosing to lock in prices as they are now eliminates a myriad of complications and limits administrative staff time that is needed to formulate and solve other problems within BioMat.2 In conclusion, Placer APCD recommends maintaining current prices in all categories as they are currently for the remainder of the program.

Program Administration: Staff Proposals 3-6

Generally, Placer APCD does not support adding administrative burden on this Program and would caution against making an already complicated program worse. When it comes to the issue of delays due to interconnection, more mechanisms in place that prevent the IOUs from delaying interconnection development would be welcome, but such actions may be better placed within other proceedings. That being said, the District urges communication with the Commission's different staff teams who work on interconnection issues to develop further checks and balances to ensure timeline compliance on the part of the IOUs.

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[1] The Winding Creek Solar Case found that while a utility's avoided costs could be determined by the "spot market price" of electricity, the Court held that Re-MAT's complex administrative auction procedure "strayed too far" from PURPA's requirements and was "burdened with arbitrary rules" such as its two month program period and the $4/MWh increments in which the price could rise or fall. (*Winding Creek Solar LLC v. Peevey* (N.D.Cal. 2017) 293 F. Supp. 3d 980.)

2 Note that the definition of "unaffiliated applicants" is moot if the price is fixed. Also there has been no evidence of market collusion at this point. There are other aspects of the Program that prevent nefarious activity.

It is also critical to point out here that the Program should not have an expiration date, as there is no language within SB 1122 or other sections of the FiT statutes that would allow for the obligations of this law to expire due to the passage of time. Any Program expiration is contrary to the statute and should be removed.

Program Eligibility: Staff Proposals 7-9

Placer APCD notes that changing project size from 3 to 5 MW would require legislative action. The change could be consistent with the purpose of the program to develop small scale projects that support local, community scale waste to energy solutions because 5 MW is still a small facility. That being said, changes to this might create more uncertainty within the markets. Perhaps through this process project developers may weigh in with specifics about how this change would increase project success. As to incremental generation, it appears based on the lack of current market saturation that such inclusion would not displace new projects, and therefore should probably be allowed.

We agree with BAC, the Sierra Nevada Conservancy and many others that limiting Category 3 to HHZ feedstock cuts against the intent of SB 1122. The District participated in a multiple year effort to define what types of forest fuels should be considered "sustainable forestry", as the term is used within the statute. There is no evidence that has been presented that suggests this definition should be changed. The definition covers biomass that could be available across the state, which allows for a more comprehensive option for more ratepayer benefits in larger geographic areas. Wildfires happen in every corner of California. Also note that the HHZ fuel designation is temporary and updated periodically, so is not a fixed definition (or map) that project developers can rely on over the 20-year life of a BioMAT contract. These projects have a very challenging time establishing feedstock agreements with the US Forest Service and others; this will only worsen their ability to be predictable and profitable.

Placer APCD also agrees that an adder for projects that are able to utilize at least 80% HHZ could work, but only if there is a clear structure in place that preserves predictable pricing if conditions change. In general, it is likely that no projects would avail themselves of such an adder if there is uncertainty relating to the PPA in years 10-20. As to the satisfaction of the Governor's orders, the projects that are being developed in the region will offer benefit without a CPUC HHZ feedstock use directive, as tree mortality is an obvious source of feedstock. Additionally, the Governor's order supports long term forest health, which these projects support. The Commission does not need to limit feedstock options for projects to demonstrate how the BioMat helps with biomass removal and the overall tree mortality crisis. The projects will do that naturally.

Now we come to perhaps the most important issue that Placer APCD needs to address in these comments, and that is the Commission's handling of the definition, and implementation, of the concept of Strategic Location.

Strategic Location must be re-defined through this Proceeding.

To begin, the concept of strategic location is based on the statutory use of the phrase[3], which defines the term as projects sited near load, or in the case of BioMat projects, ones already connected to the distribution system or existing transmission lines. In a recent Commission Decision D. 18-11-004, the Commission revised its interpretive definition of strategic location as follows:

> "The definition of "Strategically Located" means that the generator be (1) interconnected to the distribution system or the transmission system, and (2) sited near load, meaning sited in an area where the cost of upgrades for interconnection of the proposed generation to the distribution or to an existing transmission system does not exceed $300,000, or if the project developer pays all transmission upgrade costs in excess of $300,000."[4]

The analysis within the D. 18-11-004 and the conclusions reached within the Decision pertaining to costs of upgrades associated with interconnection are a concept vetted by the Commission in D. 14-12-081, which further defined the words "sited near load" (as found in the statute) to essentially limit reimbursements of transmission network upgrades sought from projects located in non-urban areas. At that time, FiT projects were eligible to receive reimbursement for transmission level upgrades through Rule 21, through a reference in table E2, which stated that projects would be completely reimbursed pursuant to Appendix Y of the CAISO tariff.[5] This reference was in place for many years, and essentially gave PG&E staff the freedom to request a wide array of transmission level upgrades from projects, knowing those projects would get reimbursed.[6] Within D. 14-12-081 the Commission felt that they had to give "effect" to the words sited near load, so they limited those reimbursements to $300,000.00.

Then, in 2017 the playing field changed. Placer APCD became aware of the fact that PG&E was considering applying for a change in reimbursement limits without changing the Rule 21 reference in table E2 from Y (also known as GIP) to DD (also known as GIDAP). This change would mandate that reimbursement of costs would be limited to $60,000.00 per MW. In 2012 CAISO went through its own process to update several tariffs related to small scale projects, and through that process decided to significantly limit reimbursement for projects that interconnect through their system directly; such reimbursements are limited to $60,000.00 per MW through their new DD tariff. This process, however, did not automatically apply to Rule 21 projects because the reference to the CAISO tariff is not mandated by any law or regulation, but is rather a choice made by the CPUC to govern how reimbursements are calculated for Rule 21 projects. Rule 21 is completely controlled by the CPUC, which makes decisions about its content.

While discussions were occurring with PG&E staff about the interpretation of and application of CAISO tariff on BioMat, PG&E amended table E2 through an unrelated Advice Letter relating to solar projects to state that projects would be reimbursed through the "CAISO applicable tariff". The understanding we have is that now BioMat projects will be limited to

[3] Cal Pub Utilities Code 399.20(b)(3)
[4] D. 18-11-004 Page 14.
[5] See any version of Rule 21 older than July 2017. This can be provided upon request.
[6] Note that PG&E staff told many project developers that transmission upgrades would be completely reimbursed. Attestations to this fact are available.

GIDAP/Appendix DD reimbursement amounts of 60,000.00 Per MW.
This action caused considerable frustration, as no meaningful discussion of that change occurred within that advice letter process.[7] Based on the current reference to CAISO GIDAP within table E2 of Rule 21, we are very concerned that the dialogue about reimbursements within this proceeding, and within D. 18-11-004, is limited by the application of this tariff: its seems all projects are limited to reimbursement amounts of 60,000.00 per MW. As the Commission is well aware, interconnection costs are a considerable burden on BioMat projects, particularly those in rural areas. This limitation further limits project viability.

Placer APCD suggests that the CPUC revisit the definition of Strategic location and specifically, how to give effect to the words "sited near load" so that projects can achieve the goals of the program (essentially by being supported properly so they can develop). Traditionally FiT projects have been reimbursed for transmission upgrades because the Utility, CAISO and all the grid users benefit from these more generalized upgrades. Placer APCD suggests that a list of factors be taken into account to develop perhaps three levels of possible reimbursement for transmission interconnection based on factors that staff mentions, such as proximity to feedstock and other projects. This also makes sense because projects that are located closer to one another will likely not need as many upgrades. Projects that are sited near feedstock and in key areas without other wood disposal methods could be eligible for total reimbursement of costs, which would also serve to improve rural grid infrastructure and make the development of renewable energy facilities in rural California possible. <u>In any case, every project should receive at least $300,000.00 in reimbursement.</u> This is the amount that the CPUC has stated would be available, as recently as last month within D. 18-11-004. This can be done without amending Rule 21 by simply stating that the reimbursements for BioMat projects is handled differently and supersedes Table E2 within Rule 21. Or, the Rule can be amended via advice letter. If the state wants to include rural California in the renewable energy revolution, then investments must be made to its grid infrastructure.

Other Issues and Staff Proposal 10

Placer APCD is intrigued by the idea of a non-bypassable charge concept and the application of the BioMat within all different utility territories. It will be critical that the benefits of the Program are made available to any utility that participates. Generally speaking, Placer APCD supports a broad application of bioenergy procurement. That being said, this issue needs significant legal analysis and social capital to be successful. Placer APCD's main concern would simply be the amount of administrative time it could take to work this into the BioMat program. As long as the Commission can ensure that its staff and/or contractors can work out a viable proposal on the timeline asserted, within this staff proposal, the District is in support of further exploration into the issue, and would be willing to assist within a committee, working group or directly with staff.

Another topic raised within this section pertains to coordination with other state and federal agencies to support Program success. We applaud the question and hope that the agencies themselves write letters to suggest ideas. From the District's perspective, the Commission could really do well to create a position within the Division that focuses on making sure that the silos between the different agencies are removed and that real, substantive coordination occurs. The

[7] Please see Attachment A to this letter which explains more.

lowest hanging fruit, so to speak, in this area would be to have better coordination between the Divisions within the CPUC itself, particularly between staff working on the safety proceeding and on interconnection issues. All three staff groups must collaborate and understand the goals and anticipated outcomes of BioMat.

Finally, the District does not support the concept of doing GHG analysis to support the BioMat program. The definition of sustainable forest management mentioned earlier captures the concerns and focuses the program feedstock use in a way that supports a wide array of stakeholder interests. Additionally, the Forest Carbon Plan clearly demonstrates the value of finding ways to facilitate fuel reduction activities, as discussed within Section 3.3 of the Plan. It is challenging enough for small rural communities that are trying to implement projects using GGRF funding to wind their way through the calculations process. We hope that the state will develop a tool to make this process easier, but meanwhile there is no need to apply such complexity to determine the benefit of these projects because (1) the forest carbon plan describes the benefits, (2) the Short Lived Climate Pollutant Plan and the latest Scoping Plan both recognize the need for bioenergy, and finally (3) these projects are not paid for with GGRF funds; significant private capital will be the primary funding engine for these projects. In summary, Placer APCD opposes adding any complicated new process that would likely slow down the pace of project development. These projects do not need to individually justify their own existence: we have plenty of other science and data that support the need for bioenergy projects.

As to the general question asked within the Staff Proposal about project barriers, the District believes that the primary challenge to project development (outside of BioMat program challenges) is securing feedstock agreements that can provide enough certainty for financial institutions. We hope that the Commission can ask staff to consider access to feedstock issues, and be sure to consider efforts occurring within the BioRam program. Possibly, the CPUC could ask the US Forest Service for a commitment to a serious review of its timber contracting processes, in partnership with Cal Fire and others.

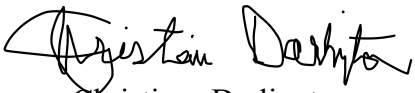
Conclusion and Placer APCD Recommendations

Our suggestions include:

- A Fixed price should be set based on current prices
- No program expiration should be in place
- No limitation of HHZ fuel should be added
- More assurance of interconnection deadlines by IOU
- Strategic Location should be redefined and reimbursement be reestablished in the Program
- Staff position should be created to break down silos and support changes in feedstock contracting, especially with the US Forest Service
- No GHG calculations, but rather continued use of sustainable forest management definition and consistency with Forest Carbon Plan.

Thank you again for the opportunity to provide comments on the Staff Proposal, and we stand ready to assist on any the issues mentioned above.

Sincerely,



Christiana Darlington
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Erik C. White, Air Pollution Control Officer

September 13, 2017

Edward Randolph
Energy Division
505 Van Ness Avenue
San Francisco, CA 94102

RE: Protest of Advice letter 5107 – E

Dear Mr. Randolph,

Pursuant to CPUC General Order 96-B, Section 7.4.4, the Placer Air Pollution Control District requests that you consider this late filed Protest letter of AL 5107-E, which was approved by the Energy Division on July 29, 2017. Through this AL PG&E changed Rule 21 by significantly reducing the potential for the reimbursement of transmission network upgrades by allowing the Utility itself, at the time of the signing of the Interconnection Agreement for a project, to choose how any reimbursement of such costs will be handled. This particular AL pertained to smart inverters (related to the development of Solar Projects), but the change made applied to Rule 21 generally, which governs many types of small scale energy production facilities. [1] This creates uncertainty and limits the options for repayment for the costs of interconnection related to small scale projects, and specifically, significantly hurts bioenergy projects.

The District requests consideration of this late filed Protest so that that a well-informed discussion can take place. The basis for the Protest itself is pursuant to CPUC GO 96-B 7.4.2 (3) because AL 5107-E improperly omitted material evidence about the impact the change to Rule 21, (Table E2 referencing how transmission network upgrades would be reimbursed) would impact all projects – beyond those implementing smart inverters, which was the purpose of the AL. After accepting this late Protest Letter, the District respectfully requests that the Energy Division make the following change to Rule 21:

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1 Note that in at least two later approved advice letters, AL 5129 and 5140, PG&E also proposed making the same change to different tariffs and Documents associated with solar projects and NEM. The District learned of this language change within AL 5129 the day after the closing of the comment period on the AL. While the District could still make comments on the language change within the AL 5140 pertaining to documents relating to the NEM program, it seems most appropriate to request leave to file a late protest regarding AL 5107, as it appears to be the first AL that attempted to make the relevant change to Rule 21 itself.

Modified column title in Table E.2 *Summary of Producers Cost Responsibility*
Modify (sheet 62) "Transmission Network Upgrade Cost (~~**per Applicable CAISO Tariff at signing of IA**~~) **per methodology approved within CPUC approved template Generator Interconnection Agreement)**

The District will now describe the basis for this change.

Over the past several months the Governor's Tree Mortality Task Force has been discussing how to handle the costs associated with interconnection of new forest biomass to energy facilities. One identified way dealt with how transmission network upgrade costs could be managed. Rule 21 directed that such upgrades would be handled pursuant to Table E2, Sheet 61, which refers to a CAISO Appendix Y that allowed for 100% of transmission upgrade costs to be reimbursed to project developers over a 5 year period. The BioMat program, however, limits the reimbursement of transmission level upgrades to 300,000.00.[2] Generally, stake holders and CPUC staff agreed that it would not be appropriate in the context of forest biomass projects to allow for full reimbursement, hence there was consideration of the new higher cap within the BioMat program (not within Rule 21). For various public policy reasons, your staff has been considering raising this cap, an idea of which this District supports.

As these discussions were occurring in June and July, PG&E informed the Committee working on these issues that it was 'compelled' to require that a specific CAISO tariff reference change within Rule 21 from Y (also known as GIP) to DD (also known as GIDAP). This change would mandate that reimbursement of costs would be limited to $60,000.00 per MW. This change would significantly impede the potential for handling project transmission network upgrade reimbursements as the group had been discussing. It was very unfortunate to learn later that PG&E was moving forward with changes to Rule 21 at the same time these conversations were taking place, but did not inform stakeholders as to the manner (ie specific Advice Letters) that they were proceeding under.

Meanwhile, despite PG&E's position that the change they suggest is mandatory, the District is confident that the Commission has full authority to determine how transmission network upgrade reimbursements are handled when projects connect to the grid through the distribution system. As stated in a recent FERC decision[3],

> "[F]or resources exporting power, the utility distribution company must assess how distributed energy resources may operate as part of an aggregation and whether the utility distribution company's system is sufficiently robust to accommodate that operation in response to a range of CAISO dispatch instructions. CAISO notes that the scope of this effort largely involves the business rules of the affected utility distribution company, not CAISO. CAISO

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2 For reference, this is the definition of 'strategic location'.

3 155 FERC ¶ 61,229

> states that it recognizes that utility distribution companies and local regulatory authorities may need to consider what rules and program changes are appropriate."

It is understood at CAISO, and at FERC, that the CPUC has authority over resources exporting power and to make decisions to accommodate CAISO, but they are not required to handle cost reimbursements in any specifically dictated way. In summary, it is up to the CPUC to decide which mechanism is most appropriate to handle the distribution of reimbursements for network upgrades.

The District recommends that the Commission carefully consider for each separate program that is subject to Rule 21 which mechanism for reimbursement may be appropriate. The concept of imposing a particular methodology through Interconnection Agreements (IA) is an appropriate concept, but it should not be left to the discretion of the Utility to determine reimbursement practice. The CPUC should specifically consider which reimbursement process is appropriate, whether GIP or GIDAP, or some other methodology, for each Interconnection Agreement template for the different programs.

As mentioned in the FERC decision that approved GIDAP for CAISO, there are many factors that the CPUC could consider.[4] The suggestion made by PG&E that they should have the Discretion to make those decisions on a case by case basis leaves too much uncertainty related to interconnection costs for projects, and too much discretion to PG&E.

In the case of the IA that is used for forest biomass projects under the BioMat program, Form 79-1161 Advice 3609-G/4674-E effective August 23, 2015, the District respectfully requests that it continue to refer to the GIDAP, so that the Commission can continue with the flexibility to increase the cap on reimbursements of transmission upgrades through the BioMat program by changing the definition of Strategic Location. The District asks that the Commission, through the Advice Letter process, make the modest change suggested by the District to remove any doubt that reimbursement methods will be determined by the CPUC, and that a uniform process will govern reimbursement of network upgrades, not something left to the discretion of the Utility, but rather governed by Commission approved template agreements. Also, we ask that the specific template IA for BioMat projects remain unchanged to continue to apply Appendix Y (GIDAP). Note that the change to the definition of Strategic Location must be made in the BioMat proceeding, and in that proceeding a decision can be made about whether to apply only to forest biomass projects, or could apply to the entire BioMat program.

Thank you for your time on this important matter,

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4 149 FERC ¶ 61,231