December 7, 2018

VIA ELECTRONIC [JAMES.MCGARRY@CPUC.CA.GOV] MAIL

James McGarry
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 9

Re: Informal Comments Regarding Staff's *BioMAT Program Review and Staff Proposal*

Dear Mr. McGarry:

The Agricultural Energy Consumers Association (AECA) appreciates the opportunity to comment on the Bioenergy Market Adjusting Tariff (BioMAT) Program Review and Staff Proposal (Staff Proposal).[1] AECA was the co-sponsor of Senate Bill 1122, which created the program, and recognizes the continued importance of the program to provide long-term contracts for critical bioenergy projects. Bioenergy projects will play an increasingly important part of the state's efforts to reduce greenhouse gas emissions, particularly as those efforts have been expanded under SB 100, and the Governor's recent Executive Order B-55-18 which establishes carbon neutrality by 2045 as a statewide goal.

[1] AECA represents the collective interests of the state's leading agricultural associations, including California Citrus Mutual, Western Growers Association, California Grape and Tree Fruit League, Milk Producers Council, California Dairies, Inc., California Poultry Federation, Almond Hullers and Processors Association, California Grain and Feed Association, Agricultural Council, Western Agricultural Processors Association, and California Cotton Ginners and Growers Association. AECA also works on behalf of the combined interests of several county farm bureaus and more than forty agricultural water districts. AECA's membership is broad based, reflecting family farmers from Redding in the north to San Diego in the south, who grow crops ranging from alfalfa to walnuts. Through its members and membership associations, AECA represents in excess of 40,000 California agricultural producers. Many of our members are vertically integrated and as a result, AECA also represents the interests of numerous food and fiber processing operations located throughout California. Finally, AECA represents the interests of the state's leading dairy digester project developers.

It is clear that the state's current and future dairy methane reduction goals cannot and will not be met without long-term viable offtake agreements for the renewable energy produced by dairy digester projects. As a result, AECA strongly supports the Staff Proposal's recommendations to simplify, extend, and expand the important BioMAT program. Specifically, AECA supports the CPUC's stated goals, as follows:

- Simplify the BioMAT procurement process
- Enable expanded program participation
- Reduce ratepayer expenditures, and
- Help achieve statewide goals

AECA's responses to the questions posed by the Program Review and Staff Proposal follow. AECA has chosen to not respond to all twenty questions posed by the review in opening comments but reserves the right to respond to the comments of other parties to all questions posed in our reply comments.

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

AECA *does not* support or see a need to reduce the market depth requirement from five to three unaffiliated applicants. Category 2 of the BioMAT program has been underutilized in large part due to the significant time required to reach a price high enough to achieve market participation. Price stability at that price is now critical to support and expand project development in the state. Reducing the market depth requirement will simply increase price volatility, resulting in uncertainty and risk for developers, which in turn will reduce or preclude program participation. Additionally, AECA strongly supports adoption of a fixed-price contract (similar to staff's first alternate proposal under proposal 2) at the level that is demonstrated to attract contract execution, along with the associated methane emission reductions.

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?

Please see response to Question 1, above. Price stability is of critical importance now that the market-driven adjustment mechanism has resulted in prices that achieve at least some program participation; accordingly, AECA strongly supports a fixed-price program at those established levels and even higher, consistent with staff's first alternate proposal. AECA submits that the market-driven adjusting mechanism that has resulted in current prices is an objective method, such that current prices are the appropriate minimum starting point for discussing a fixed price. Such a fixed-price program moving forward will best ensure achievement of the CPUC's stated goals of this program review, including simplifying the process, expanding participation and achieving statewide goals.

3. **Should the Commission transition to a fixed price feed-in-tariff instead of the price adjusting mechanism? Why or why not?**
   a. **If so, how should the market price(s) be determined?**
   b. **If so, should the price(s) be periodically reviewed and revised? If yes, how should it be reviewed and how often should it be reviewed?**

Yes. As stated above, AECA strongly supports establishment of a fixed-price contract moving forward. The current adjustment process has demonstrated the inability of dairy and agricultural projects to supply bioenergy at any level below $187 per MWh; even at that level participation is constrained. A fixed price contract above this level should be established to ensure increased program participation. Identification and establishment of an appropriate price should be a primary discussion topic for planned workshops on the BioMAT program.

4. **Should the Commission transition to a renewable auction mechanism (RAM) instead of the price adjusting mechanism? Why or why not?**
   a. **If so, how much capacity should be offered in each RAM solicitation? Do you think there should be specific capacity targets for each BioMAT category? Please explain.**
   b. **If so, do you agree that RAM solicitations should be held annually? If not annually, how often should RAM solicitations be held? Please explain.**
   c. **If so, how should bids be evaluated?**
   d. **If so, how should ratepayers be protected from high prices that could result from uncompetitive solicitations?**

No. Transition to RAM at this juncture will increase market confusion and instability and, therefore, not allow the CPUC's stated goals to be met. Additionally, the effort that would be required to resolve the substantial complexities raised by the implementation questions asked in the Staff Proposal (see Questions 4.a through 4.d above) suggests that transition to a RAM mechanism could substantially delay improvements to bioenergy procurement.

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?**
   a. **If so, please explain what the changes should be.**

No. AECA does not support this proposal. More importantly, if the CPUC adopts a fixed-price contract this change is not required.

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.

No. This concept would simply increase uncertainty, volatility, and risk for developers and create market instability, thereby stymieing participation. It also is not clear that this approach would take into account the value of the methane emission reductions associated with dairy (and other eligible) bioenergy projects.

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

No. Queue management procedures appear to be at odds with the goal of simplifying the BioMAT program. AECA does not support unnecessary additional burdens on applicants and, potentially, the creation of opportunities for the utilities to delay contract execution.

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?

AECA strongly supports a requirement to execute contracts within 30 days. This is sufficient time for contract execution and is consistent with the goal of simplifying the program. Such a requirement would also help to prevent unwarranted and burdensome delays by the utility. AECA recommends its adoption.

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?

AECA strongly supports extension of the program end date. Notably, the legislation authorizing this program (SB 1122) *does not* include a program sunset, indicating the Legislature's goal to achieve the full authorized 250 megawatts of bioenergy procurement. The February 2021 end date is arbitrary, and it is clear that the program is not on track to meet the statutory goal of 250 MW. Extension of the program date beyond February 2021 is therefore necessary. AECA recommends extension through 2030 to be consistent with current Short-lived Climate Pollutant Program Objectives.

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.

a. If yes, how should BioMAT procurement costs be allocated? Provide explanation and justification for your proposal.
b. If no, please explain why not.
c. If no, do you have an alternative proposal to ensure that all California ratepayers pay for the benefits provided by the BioMAT program.

AECA generally supports the concept that procurement costs should be allocated to customers on whose behalf they were incurred and who benefit from the procurement, to the extent they are also responsible for the Power Charge Indifference Adjustment. AECA appreciates that the BioMAT program is a statewide program, available in each of the IOU customer service territories and that customers in those areas share in the benefits of the program.

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.

There is no question that projects in Category 2 reduce net lifecycle GHG emission reductions. Additional requirements are unnecessary.

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.

AECA supports the ability to create more flexibility in the annual MWh production under BioMAT PPAs. Forecasting biogas production is difficult, particularly before a project is built and operational. Moreover, biogas production in dairy digesters (particularly in covered lagoon projects) is highly seasonally and weather variable. Projects produce far more biogas in summer months as temperatures rise and methane production increases. As a result, additional flexibility to annually adjust annual MWh production up and down should be permitted within the program limit of 3 MW.

Other Comments

AECA also wants to ensure recent recommendations from the Dairy and Livestock Greenhouse Gas Working Group, authorized by SB 1383 and coordinated by the California Air Resources Board, are included in the record of this proceeding. Subgroup 2 of the Working Group was focused on Fostering Markets for Digester Projects and adopted several important recommendations regarding the BioMAT program. Subgroup 2 was convened specifically to review status of, and identify barriers to, and make recommendations towards advancing digester development to further reduce dairy manure methane emissions. Subgroup 2 adopted three specific recommendations regarding the BioMAT feed-in-tariff (FiT) program, as follows:

1) The BioMAT FiT program should be extended by the CPUC
2) The CPUC should consider revisions to BioMAT:
   a. Explore possible ways to modify the BioMAT FiT Program that will provide greater flexibility for project operations to migrate to and from electric generation, onsite vehicle fueling, and/or pipeline injection
   b. Explore possible ways to capture value from LCFS Program electricity pathway opportunities for both producing and procuring parties

Work to revise the BioMAT program should explicitly take these recommendations into account.

AECA appreciates the Commission's consideration of these informal comments and looks forward to participating in additional proceedings relating to BioMAT Program improvements.

Sincerely,

Michael Boccadoro

Michael Boccadoro
Executive Director

cc: Service list for R.18-07-003