

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



**FILED**

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Order Instituting Rulemaking to Continue  
Implementation and Administration of  
California Renewables Portfolio Standard  
Program.

Rulemaking 11-05-005  
(Filed May 5, 2011)

**REPLY COMMENTS OF THE AGRICULTURAL ENERGY CONSUMERS  
ASSOCIATION TO JOINT IOUS' SUBMISSION OF THIRD REVISED  
PROPOSED STANDARD FROM CONTRACT FOR THE SECTION 399.20  
FEED-IN TARIFF PROGRAM**

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For Agricultural Energy Consumers  
Association

Date: September 10, 2012

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Pursuant to the Commission's Rules of Practice and Procedure, the Agricultural Energy Consumers Association (AECA) submits the following Reply Comments on the Joint IOUs' Submission of Third Revised Proposed Standard From Contract For The Section 399.20 Feed-In-Tariff Program (Contract).

**INTRODUCTION**

AECA respectfully submits these reply comments on the Contract. AECA is generally supportive of the comments of the Clean Coalition, which highlight the need for modifications to the Contract to ensure a vibrant and active SB 32 feed-in tariff program (now called Re-MAT) that recognizes the specific needs of small community scale generation projects.

**COMMENTS OF NOTE**

As indicated above, AECA generally supports the comments and proposed contract revisions submitted by Clean Coalition, but calls the Commission's attention to specific comments of particular importance to bioenergy projects.

**A. Insurance Requirements**

AECA joins other parties in urging the Commission to significantly modify the insurance requirements contained in the Contract Requirement beyond general liability

insurance as the requirements would be onerous and serve to freeze out small generation projects.

## **B. Forecasting**

AECA agrees with the Clean Coalition that sellers should be given flexibility of paying a reasonable fee to the buyer for forecasting services or providing such services on their own. It should also be noted that forecasting uses are unique for biogas and other bioenergy technologies.

## **C. Network Upgrades**

AECA is concerned about Network Upgrade requirements in the proposed IOU Contract. Biogas and other bioenergy projects are generally located at the source of biogas, such as a dairy or wastewater treatment facility. As a result there is no flexibility to move the project to where network upgrades are minimized. Flexibility should be provided to ensure bioenergy projects cannot be dismissed by IOUs if project developers are willing to pay for additional upgrades necessary to develop the project.

## **D. Resource Adequacy**

AECA agrees with Clean Coalition that resource adequacy (RA) should be afforded to those projects that are equal to or lesser than the minimum coincident load of the substation at issue and, thus, eligible for higher TOD factors. If RA is not given automatically, the TOD Schedule should be modified to recognize Partial Capacity Deliverability and a prorated incentive provided accordingly. If resource adequacy is achieved, biogas projects should be given or have the right to apply for Use Limited Resource status or alternatively a biogas project should not be assessed any CAISO costs or penalties based on the utilization rate of the project's capacity.

## **E. Force Majeure Delay**

AECA remains concerned about the 1-year period for Force Majeure as proposed by the IOUs. A strict 1-year requirement may not be appropriate for dairy and other biogas projects. Force Majeure events such as a catastrophic animal disease could

necessitate additional delay. AECA requests the contract be modified to reflect additional discretion and flexibility be granted for catastrophic events.

**F. Additional Incentives**

The proposed IOU Contract should be changed to reflect specific characteristics of bioenergy projects where the biogas capture and energy generation are separate activities at energy generation sites. The strict prohibition of additional “state incentives” could preclude grants for improved methane capture and destruction and would also preclude grants, or other state incentives, to test emerging clean generation technologies as they are developed in the future. Again, AECA recommends the Contract be worded to not preclude future research grants or technology upgrades that improve a project’s environmental performance.

**AECA SUPPORTS CLEAN COALITION’S MODEL POWER PURCHASE AGREEMENT (PPA)**

The Clean Coalition provided a Model PPA as part of their comments. The Model PPA provides a simplified contract based on previously used, workable contracts. The Model PPA provides reasonable requirements in recognition of the market realities of smaller generation projects. We urge the Commission to significantly modify Third Revised Contract as highlighted in pervious comments and redlines or to reject said Contract and instead use the Model PPA as proposed by Clean Coalition.

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## CONCLUSION

A workable Contract is a necessary component of a successful Re-MAT program. To ensure maximum participation and maximum value, we urge the Commission to order the Joint IOUs to adopt the Model PPA as proposed by the Clean Coalition with proposed changes contained in these comments to reflect the specific situation faced by biogas and other bioenergy projects.

Respectfully submitted,

September 10, 2012

/s/ MICHAEL BOCCADORO  
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## VERIFICATION

I am a consultant representing the AGRICULTURAL ENERGY CONSUMERS ASSOCIATION and am authorized to make this verification on its behalf. I have read the foregoing "COMMENTS OF THE AGRICULTURAL ENERGY CONSUMERS ASSOCIATION" dated September 10, 2012, and am informed and believe that the matters stated therein are true. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 10th day of September, 2012 at Sacramento, California.

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