

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



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Order Instituting Rulemaking to Continue)
Implementation and Administration, and)
Consider Further Development, of)
California Renewables Portfolio Standard Program.)
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Rulemaking 15-02-020
(Filed February 26, 2015)

**BIOENERGY ASSOCIATION OF CALIFORNIA'S REPLY COMMENTS ON
ADMINISTRATIVE LAW JUDGE'S RULING REQUESTING SUPPLEMENTAL
COMMENT ON INTERCONNECTION ISSUES RELATED TO THE
BIOENERGY FEED-IN TARIFF UNDER THE CALIFORNIA RENEWABLES
PORTFOLIO STANDARD AND STATING INTENTION TO TAKE OFFICIAL
NOTICE OF DOCUMENTS**

DATED: June 3, 2016

JULIA A. LEVIN
Executive Director
Bioenergy Association of California
PO Box 6184
Albany, CA 94706
510-610-1733
jlevin@bioenergyca.org

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The Bioenergy Association of California (BAC) respectfully submits these Reply Comments on BioMAT interconnection issues. BAC agrees with the opening Comments of several parties that BAC’s proposal for interconnection should be applied to all BioMAT projects.¹ BAC also notes that the Governor’s Office has proposed essentially the same solution to BioMAT interconnection barriers in the Governor’s

¹ Opening Comments of the Agricultural Energy Consumers Association and Clean Coalition.

proposed Budget Trailer Bill on BioMAT interconnection.² The Governor's Budget Trailer Bill would allow all BioMAT projects, not just projects under the Emergency Proclamation, to step out of the interconnection queue while they wait in the BioMAT queue. BAC opposes the alternative proposed by PG&E as it will increase project risks and will not remove significant barriers to BioMAT project development.

BAC's specific responses to parties' opening Comments are below.

1. BioMAT Requirements and Rule 21/WDAT Requirements Create a Catch-22.

BAC strongly agrees with Clean Coalition's assessment³ of interaction between the BioMAT and ReMAT eligibility requirements with the Rule 21 or WDAT tariff⁴ (interconnection queue) requirements. Both the BioMAT and Rule 21 guidelines were intended to ensure that each queue would not be clogged by non-viable projects. However, the resulting system is only viable after program has reached a market rate that projects can accept. If a viable market price has not been offered, then the rules become a major barrier to entry because applicants cannot enter or maintain their BioMAT queue position unless they advance in the interconnection queue; yet they cannot afford to remain in the interconnection queue without a high degree of certainty that the market price will be reached and soon.

This Catch-22 has severely restricted participation in the BioMAT program because of increased risk and cost, which is painfully apparent from the utilities' latest BioMAT report showing fewer than three projects in any of the BioMAT categories.

2. BAC's Proposal Does Not Change Rule 21 or WDAT.

All parties agree that BAC's proposal does not change Rule 21 or WDAT tariffs. BAC strongly supports the streamlined approach of the Rule 21 or WDAT tariffs to facilitate

² Governor's Budget Trailer Bill, item 823 on "PUC Bioenergy Interconnection – Tariff Eligibility." Available at: http://www.dof.ca.gov/budgeting/trailer_bill_language/natural_resources_and_capital_outlay/.

³ Clean Coalition's Comments at page 3.

⁴ Per the BioMAT tariff, a BioMAT project can choose to pursue interconnection under either Rule 21 or Wholesale Distribution Access Tariff (WDAT). There is no significant difference between the two tariffs with respect to interconnect requirements and no difference with respect to the issue at hand.

projects through the interconnection queue and does not recommend changes to the Rule 21 or WDAT tariffs.

3. BAC's Proposal Should Apply to All BioMAT Projects.

The Catch-22 described above is not unique to Category 3 projects; this issue is faced by all BioMAT sectors where the offering price is below market rates. BAC supports Clean Coalition and AECA's comments that the changes to interconnection rules should be across all of BioMAT.⁵ The BioMAT starting price, across all categories, was determined by an assessment of biomass RAM prices because there is insufficient available historic information for BioMAT type projects. As predicted by the *Final Consultant's Report on Small-Scale Bioenergy*, prepared for the Commission at the outset of the SB 1122/BioMAT proceeding, the \$127.72/MWh starting price does not adequately reflect market prices in most or all BioMAT categories.⁶ This means that projects in all three BioMAT categories will face the same challenges trying – and generally failing – to meet the requirement to maintain an active interconnection queue position.

Forest projects were the first to be removed from the BioMAT queue due to the interconnection requirements, but now dairy projects and other BioMAT projects face the same challenge. We agree with Clean Coalition and AECA that it makes sense, therefore, to revise the interconnection queue requirement for all BioMAT projects. As BAC noted in its opening Comments, correcting this problem is urgent both to meet the requirements of SB 1122 and the Air Board's *Proposed Short-Lived Climate Pollutant Reduction Strategy*, which are the most critical climate pollutants to address because they are so many times more potent than carbon dioxide.⁷ The *Proposed Strategy* states strongly that California needs to quickly remove obstacles to interconnection of bioenergy projects, and not just projects using forest (Category 3) waste.⁸ Projects in

⁵ Opening Comments of AECA and Clean Coalition.

⁶ *"Final Consultant Report on Small-Scale Bioenergy,"* Prepared for the CPUC, October 31, 2013, submitted as Attachment A to the Final Staff Proposal on SB 1122 Implementation.

⁷ California Air Resources Board, *"Proposed Short-Lived Climate Pollutant Reduction Strategy,"* April 2016. Available at: <http://www.arb.ca.gov/cc/shortlived/shortlived.htm>.

⁸ *Id.* at page 3.

BioMAT categories 1 and 2 are also important to begin to reduce methane emissions from dairies, landfills and other sources of organic waste.

4. PG&E Errs in Several of Its Conclusions Regarding BAC's Proposal.

BAC strongly disagrees with a number of PG&E's assertions about BAC's proposal.

a. BAC's proposal will not encourage frivolous applicants.

PG&E asserts that the "BAC proposal encourages applicants to apply for interconnection even though they do not intend to remain in the queue and utilize that study."⁹ BAC's proposal encourages applicants to apply for interconnection to ensure that applicants understand the potential costs associated with interconnection. The only way for an applicant to get an estimate regarding their project's interconnection cost is by utilizing Rule 21 or WDAT. Once the applicant knows their interconnection cost, which can be several million dollars, then the applicant will have the information they need to determine if they will remain in the interconnection queue or withdraw from the interconnection queue. (BAC will help facilitate discussions with individual project teams and the CPUC to discuss specific System Impact Study results, but will not include specific numbers in public comments).

The decision to remain or withdraw from the interconnection queue will, in many cases, be determined predominantly by the opportunity to get a power purchase agreement (PPA). Without knowing interconnection costs, a project developer cannot make an informed decision about the appropriate PPA price. If the price is near market rate, the opportunity to receive a PPA is good and developers will be incentivized to lock in their interconnection queue position and proceed forward. If the price is not near market rate, the opportunity to receive a PPA is low and developers will be incentivized to withdraw their application to avoid clogging the interconnection queue.

In addition, as BAC noted in its opening Comments, projects in the forest BioMAT category (Category 3) will almost always have state and/or federal grants, local government participation and other indications of due diligence and project viability.

⁹ PG&E's Comments at pages 6-7

Most importantly, and as the current BioMAT experience has demonstrated, it is the interconnection deposit requirements that pose the greatest threat to project viability at this point, resulting in projects being eliminated from the BioMAT queue.

b. The costs of a second interconnection study will be significantly less than the costs of remaining in the interconnection queue for an extended period of time.

PG&E asserts that BAC's proposal would cause higher interconnection study costs and project failures because developers would have to pay two qualifying studies, even though PG&E recognizes that BAC's proposal would reduce the overall costs of participation in the BioMAT.¹⁰ PG&E also raises concerns about the unrealistically short interconnection timeframe, which may increase the overall costs of BioMAT.¹¹

BAC agrees with PG&E that BAC's proposal would reduce the overall costs of participation in the BioMAT, but disagrees that this cost reduction will result in increased project failures.¹² For those projects that withdraw from the interconnection queue, study costs will increase due to the need for a repeated study. However, these costs—estimated at \$10,800 to accommodate the deposit and application fee—are significantly less than the cost of financial security postings which can be hundreds of thousands of dollars (e.g. \$613,500 financial securities posting for a Phoenix Energy project).¹³ The cost of capital alone to set aside the funds for a financial securities posting is more than the \$10,800 re-study which only occurs once a PPA has been accepted and the project can move forward with financing.

c. BAC's proposal will not lead to higher PPA prices.

BAC disagrees with PG&E's assertion that BAC's proposal "has the potential to lead to higher prices if developers hedge the risk of interconnection cost uncertainty with a higher PPA price."¹⁴ BAC's proposal is far less risky than PG&E's proposal since BAC's proposal maintains the requirement for an initial interconnection study, unlike PG&E's

¹⁰ PG&E Comments at pages 2-3.

¹¹ PG&E Comments at pages 3-4.

¹² PG&E Comments at page 7.

¹³ Phoenix Energy's Comments on Administrative Law Judge's Ruling on the Staff Proposal to Implement the Governor's Emergency Proclamation on Tree Mortality and Seeking Comment on the Staff Proposal. February 26, 2016. Page 3

¹⁴ PG&E Comments at page 7 (Table 2)

proposal for only a Pre-Application Report to enter the interconnection queue. In either case, the current interconnection study process does not provide any cost certainty during the Fast Track, Supplemental Review, or Detailed Study processes. BAC has documented cases of five- to ten-fold interconnection cost estimates on several occasions over the last three years. Currently, all estimates are non-binding; therefore any responsible project development team will hedge the risk associated with this uncertainty.

Commissioner Sandoval's Proposed Alternate Decision in Rulemaking 11-09-011 regarding cost certainty directly addresses this risk.¹⁵ If adopted, the cost certainty that will be provided to project teams will mitigate this risk and reduce costs. A decision regarding BioMAT eligibility and interconnection queue position will not impact this risk or mitigate costs associated with it. Only Commissioner Sandoval's Alternate Proposed Decision can achieve this risk mitigation and associated cost reduction.

5. PG&E's Alternative Would Increase Project Failure.

PG&E's alternative, suggesting a project can participate in BioMAT with only a pre-application report is inappropriate. For many projects, interconnection costs are significant—several million dollars. It is critical that applicants understand the potential impacts of these costs before electing to accept a PPA. BAC agrees with SCE on this point. As SCE stated in its Comments:

“The use of a pre-application report (PAR) is not an efficient means of lowering this risk. The PAR can give some level of assurance that the grid has not changed at the proposed point of interconnection, but provides no guarantee that something else may not have changed elsewhere on the distribution system in the interim.”¹⁶

SCE strongly opposes the PAR as a tool to monitor the interconnection queue for withdrawn projects (part of the BAC proposal). SCE states that the tool provides insufficient information to monitor potential changes to the system. If the PAR is insufficient as a monitoring tool, then it is certainly not an adequate basis for entering the interconnection queue and choosing whether to accept a PPA. The PAR should not

¹⁵ Alternate Proposed Decision of Commissioner Sandoval, filed May 6, 2016, in R. 11-09-011.

¹⁶ SCE Comments at page 9

be the only tool used by applicants to develop an understanding of the financial impacts of interconnection.

6. BAC's Proposal Does Not Violate Open Access Interconnection.

SCE asserts that BAC's proposal violates a basic tenet of open access interconnection that applies rules in a non-discriminatory manner to all parties.¹⁷ BAC strongly disagrees with this statement and notes that SCE does not provide any citation or supporting documentation to justify the claim. As all parties already agreed, BAC's proposal does not change Rule 21 at all; therefore does not change open access interconnection since interconnection procedures are not changed. BAC's proposal would only change BioMAT eligibility requirements and BAC proposes to make this change for all BioMAT projects in a non-discriminatory manner, rather than just a specific subset of projects.

7. BAC's Proposal Should Be Adopted for the Duration of the BioMAT Program.

BAC strongly disagrees with SCE's position that the "special treatment" should be terminated prior to the end of the Emergency Proclamation. The BioMAT program itself is legislatively mandated special treatment for community-scale bioenergy projects because existing programs, particularly baseload ReMAT, were insufficient to incentivize development of small-scale bioenergy projects. In fact, SB 1122 calls specifically for changes to the ReMAT – "special treatment" - for small-scale bioenergy projects to reflect its operational differences.¹⁸

Once the program achieves market rates, applicants will be incentivized to streamline the parallel processes of interconnection and BioMAT and the concern that SCE expresses should be alleviated. However, to maintain the ability for project participation and therefore market movement (prices going up or down), BAC's proposal should be adopted for the duration of the program. BAC's proposal would reduce the minimum number of bidders to three projects to better facilitate the price movement, both up and down.

¹⁷ SCE Comments at page 11.

¹⁸ Senate Bill 1122, (Rubio) Stats. 2012, ch. 612, amending Public Utilities Code section 399.20.

Since BioMAT has its own expiration date (December 2020) and capacity limit (250MW), there is already a less than 5-year limit to BAC's proposal.

8. BAC's Proposal Does Not Increase Risks of Meeting the Commercial Operation Date.

BAC agrees with PG&E, SCE, and SDG&E that the 24 month commercial operation date is problematic, but that is true with the current BioMAT program rules, not as a result of BAC's proposal on BioMAT interconnection requirements. PG&E offered a range of independent study process timelines ranging from 18 months to 45 months from start to completion. As SCE outlined in its comments, "to reach BAC's proposed PPA price of \$187.72/MWh would require a minimum of six consecutive price increases, or one full year." PG&E and SCE have highlighted a major issue with the current rules. If the rules do not change, a BioMAT project does not become eligible until its first 4 to 9 months (low and high scenario assuming the system impact study is complete in half of the time allocated for the full two phases of the independent study process). Once eligible for BioMAT, the low to high range to project completion is 14 months to 36 months.

If it takes a minimum of 12 months to reach market prices and on the low end 14 months to complete interconnection, then there is a very real chance that a project could complete its interconnection before being offered an acceptable PPA. No responsible project team can adsorb that level of risk, particularly when interconnection costs may be several million dollars.

Even with the current rules, PG&E's high end is 36 months, a full year beyond the required commercial operation date for BioMAT projects. The timeliness of the Utilities to deploy adequate resources to efficiently interconnect projects should be the topic of another proceeding, but should not be confused with the narrow focus of this set of comments. Project developers cannot be held accountable for timelines exclusively controlled by the utilities. BAC fully acknowledges that project developers can cause delays in the Utility timelines during the study process and the construction process;

however, these potential delays are irrelevant to BioMAT eligibility which is solely determined based on the Utility's estimate and allocation of resources.

Recommendation: To address this risk, which exists with or without adoption of BAC's proposal for BioMAT interconnection requirements, BAC recommends that the BioMAT tariff be revised so that the time to achieve COD begins to run from the date when the new System Impact Study or other interconnection study is completed, rather than from the standard contract execution date.

CONCLUSION:

BAC urges the Commission to adopt BAC's interconnection proposal for all BioMAT projects, with the change to the COD date described above, consistent with the Governor's Proposed Budget Trailer Bill, mentioned above. Making this change for all BioMAT projects is necessary to address not only the Governor's Emergency Proclamation on Tree Mortality, but the state's *Proposed Short-Lived Climate Pollutant Reduction Strategy* and the goals of SB 1122. The lack of progress to date in any the BioMAT categories only underscores the importance of making these changes across all BioMAT categories.

DATED: June 3, 2016

Respectfully submitted,

/s/ Julia A. Levin

JULIA A. LEVIN, Executive Director
Bioenergy Association of California
PO Box 6184, Albany, CA 94706
510-610-1733

jlevin@bioenergyca.org

VERIFICATION

I am a representative of the non-profit organization herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 3rd day of June, 2016, in Kensington, California.

/s/ Julia A. Levin

JULIA A. LEVIN
Executive Director
Bioenergy Association of California
PO Box 6184
Albany, CA 94706
510-610-1733
jlevin@bioenergyca.org