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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Ruling to Continue
Implementation and Administration, and
Consider Further Development, of
California Renewables Portfolio Standard
Program.

Rulemaking 15-02-020
(Filed February 26, 2015)

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON THE
PROPOSED DECISION IMPLEMENTING PROVISIONS OF
GOVERNOR'S PROCLAMATION OF A STATE OF EMERGENCY RELATED
TO TREE MORTALITY AND SENATE BILL 840 RELATED TO
THE BIOENERGY FEED-IN TARIFF IN THE RENEWABLES PORTFOLIO
STANDARD PROGRAM**

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October 17, 2016

I. INTRODUCTION

Pursuant to the September 27, 2016 *Proposed Decision Implementing Provisions of Governor's Proclamation of a State of Emergency Related to Tree Mortality and Senate Bill 840 Related to the Bioenergy Feed-in Tariff in the Renewables Portfolio Standard Program*, the Office of Ratepayer Advocates (ORA) submits these comments.

ORA supports the Proposed Decision, especially its maintenance of the existing Bioenergy Market Adjusting Tariff (BioMAT) pricing structure and proposed limitations on the duration of the accelerated Category 3 fuels price mechanism. ORA recommends that the PD be clarified to develop a more formal, frequent, and detailed process for monitoring and evaluating the levels of Category 3 fuel procured from High Hazard Zones (HHZ).

II. DISCUSSION

ORA generally supports the Proposed Decision as a reasonable and pragmatic approach for modifying the Bioenergy Feed-in Tariff program in response to the requirements set forth in the Governor's Emergency Proclamation on widespread tree mortality. The proposed accelerated BioMAT program periods and the revised interconnection processes for Category 3 fuels should result in faster procurement of fuel stock from HHZs. However, the Commission should establish a more formal, frequent, and detailed process for monitoring and evaluating the levels of Category 3 fuel procured from HHZs.

A. **ORA supports the Proposed Decision's maintenance of the current BioMAT pricing structure**

ORA supports the Commission's decision to maintain the current BioMAT pricing structure. As the Proposed Decision states: "It is reasonable to continue to use the BioMAT pricing structure established in [Decision] D.14-12-081 without adjustments to the starting price or other price incentives for using fuel from HHZ because minimizing the administrative, financial, and reporting complexity in the program will reduce

burdens on the small generation facilities in the BioMAT program.”¹ The final decision should adopt this language, as there is no need to complicate the BioMAT program and burden small generators with complex rate schemes and accounting for a single fuel category.

B. ORA supports the Proposed Decision’s limitations on the duration of the accelerated Category 3 fuels price mechanism

The Proposed Decision requires that “the monthly program periods for Category 3 will revert to the existing BioMAT bimonthly periods when the Emergency Proclamation is no longer in effect, or in the program period following the period in which the Category 3 BioMAT price adjusts downward, due to 100% subscription of the MW offered, whichever first occurs.”²

ORA supports the Proposed Decision’s limit on the length of time that the accelerated program periods for Category 3 fuels will apply. The Proposed Decision’s modifications to BioMAT are being made solely for the purposes of facilitating the procurement of HHZ fuel stock to address the statewide emergency. Therefore, the Commission correctly states that “this change is designed to meet the circumstances of the tree mortality emergency, not change the fundamentals of the BioMAT program.”³

Without limits reflecting the emergency situation, an accelerated program period for only one category of fuel unfairly promotes a single bioenergy fuel source over other fuel sources. When the emergency is declared to be over, or when the investor owned utilities (IOUs) have fulfilled their BioMAT Category 3 requirements, it is appropriate that the BioMAT program period for Category 3 fuels revert to its normal status.

¹ *Proposed Decision Implementing Provisions of Governor’s Proclamation of a State of Emergency Related to Tree Mortality and Senate Bill 840 Related to the Bioenergy Feed-in Tariff in the Renewables Portfolio Standard Program*, Finding of Fact 7, p. 29.

² *Ibid.*, p. 13.

³ *Ibid.*, p. 13.

C. The Commission should establish a more formal, frequent, and detailed process for monitoring and evaluating the levels of fuel procured from HHZs

Given that modifications to the BioMAT program will accelerate the procurement of HHZ fuel to address the statewide emergency, the biomass projects that participate in the accelerated program periods for Category 3 fuel should be required to utilize a minimum level of HHZ fuel. However, the Proposed Decision also explains that one objective in modifying BioMAT is to minimize unnecessary administrative, accounting, and reporting burdens.⁴ ORA supports minimizing such burdens in an effort to streamline the program, but the Commission should also ensure that the modified BioMAT effectively addresses the emergency situation.

While HHZ fuel qualifies as a Category 3 fuel, Category 3 fuel can also be sourced from areas outside of HHZs. Without a mandate requiring the use of specific levels of HHZ fuels, there are few if any guarantees that significant procurement of HHZ fuel will take place. The adjustment of BioMAT's pricing is based on the quantity of projects participating in the program. The Proposed Decision changes the bimonthly program periods to monthly, which essentially could double the rate of Category 3 BioMAT price increases. Monthly changes to the Category 3 price will quickly lead to higher prices for ratepayers. If the bioenergy generators fail to use HHZ fuel, ratepayers will likely pay these higher prices, without any guarantee that they will also experience the benefit of decreased fire risk from tree mortality.

At a minimum, the Commission should develop a more detailed, frequent, and formal methodology for evaluating the effectiveness of the proposed BioMAT modifications towards procuring significant quantities of HHZ to address the emergency situation. ORA's comments below, as well as the proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs in Attachment A, provide more details on this recommendation.

⁴ *Ibid.*, p. 11-12.

Currently, D.14-12-081 requires biomass generators to file annual attestations to demonstrate they are using the BioMAT fuel type for which they contracted.⁵ The Proposed Decision states that these attestations should be revised to include reporting on the levels of HHZ fuel use.⁶ The Proposed Decision also authorizes the Director of the Energy Division to request information and/or regular reports from the IOUs to collect information on HHZ fuel use that will aid the Commission in evaluating the effectiveness of the changes made to BioMAT in addressing the statewide tree mortality emergency.⁷

ORA is concerned that the current requirement of filing annual fuel attestations with HHZ fuel use information is not frequent enough, and authorization for the Director of Energy Division to request information or reports does not provide sufficient specificity to ensure HHZ fuel is used. ORA recommends that the Proposed Decision be modified to specify that fuel reports from accelerated Category 3 BioMAT forest bioenergy generators to the IOUs be submitted monthly, and HHZ fuel usage reports from the IOU to the Commission be submitted every three months. The Energy Division should publish this information on the Commission's website in order to provide transparency to ratepayers and the general public of the efforts to address the statewide emergency on tree mortality.

Further, the Proposed Decision states that "if over time the reports suggest that there is little meaningful use of HHZ fuel by Category 3 generation facilities, the Commission may revisit the question of imposing HHZ fuel use requirements for BioMAT contracts as part of the response to the tree mortality emergency."⁸ The Commission should be more specific regarding when it intends to formally review and revisit the issue of HHZ fuel usage levels. ORA recommends that the Commission review and revisit HHZ fuel usage every six months, or after two quarterly HHZ fuel reports

⁵ D.14-12-081, pp. 34, 65.

⁶ *Ibid.*, p. 15.

⁷ *Ibid.*, Ordering Paragraph 3, p. 33.

⁸ *Ibid.*, p. 15.

have been received from the IOUs. This review also should be posted on the Commission's website. If the fuel reports indicate that HHZ fuel is not the primary fuel source, the Commission should immediately reconsider either establishing a minimum HHZ threshold, or suspending the accelerated monthly price adjustment mechanism.

III. CONCLUSION

ORA respectfully requests that the Commission consider ORA's recommendations discussed above.

Respectfully submitted,

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October 17, 2016

VERIFICATION

I, Lisa-Marie G. Clark, am attorney of record for the Office of Ratepayer Advocates in proceeding R.15-02-020, and am authorized to make this verification on the organization's behalf. I have read the

COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON THE PROPOSED DECISION IMPLEMENTING PROVISIONS OF GOVERNOR'S PROCLAMATION OF A STATE OF EMERGENCY RELATED TO TREE MORTALITY AND SENATE BILL 840 RELATED TO THE BIOENERGY FEED-IN TARIFF IN THE RENEWABLES PORTFOLIO STANDARD PROGRAM

filed on October 17, 2016. I am informed and believe, and on that ground allege, that the matters stated in this document are true. I declare under penalty of perjury that the foregoing are true and correct.

Executed on October 17, 2016 at San Francisco, California.

/s/ LISA-MARIE CLARK
LISA-MARIE CLARK

Attorney for the
Office of Ratepayer Advocates

ATTACHMENT A

ORA Proposed Findings of Fact, Conclusions of Law, and Ordering Paragraphs

Findings of Fact

11. It is reasonable to require forest bioenergy generation facilities in the BioMAT program to make ~~annual~~ monthly reports to the IOU with which they contract on the use of HHZ fuel in those facilities.

12. It is reasonable to require the IOU to make reports to the Commission every three months on the use of HHZ fuel in the BioMAT forest bioenergy generation facilities that they contract with.

13. It is reasonable for the Commission to review HHZ fuel usage by accelerated Category 3 BioMAT forest bioenergy generators every six months in order to determine if mandatory levels of HHZ fuel usage should be implemented or if the price adjustment mechanism should revert to bimonthly.

Conclusions of Law

7. In order to provide information on the effectiveness of the BioMAT program in addressing the tree mortality emergency, BioMAT forest bioenergy generation facilities should be required to report ~~annually~~ monthly to the IOU with which they contract on their use of HHZ fuel.

9. In order to allow the Commission to evaluate the effectiveness of the BioMAT program in addressing the tree mortality emergency, the Director of Energy Division should be authorized to obtain regular reports from the IOUs on the use of HHZ fuel in BioMAT forest bioenergy generation facilities every three months and any other information necessary to evaluate the BioMAT program.

11. In order to allow the Commission to evaluate the effectiveness of the BioMAT program in addressing the tree mortality emergency, the Commission should review HHZ fuel usage by accelerated Category 3 BioMAT forest bioenergy generators every six months in order to determine if mandatory levels of HHZ fuel usage should be implemented or if the price adjustment mechanism should revert to bimonthly.

IT IS ORDERED that:

3. The Director of Energy Division is authorized to take appropriate steps, including but not limited to requiring reports every three months and requesting any other information ~~requesting information and/or regular reports~~ from Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company, to collect information that will aid the Commission in evaluating the effectiveness of the changes made to the bioenergy feed-in tariff by this decision in addressing the statewide tree mortality emergency declared in the Proclamation of a State of Emergency (October 30, 2015).

4. BioMAT forest bioenergy generation facilities are required to report monthly to the IOU with which they contract on their use of HHZ fuel.

6. In order to allow the Commission to evaluate the effectiveness of the BioMAT program in addressing the tree mortality emergency, the Director of Energy Division is required to review HHZ fuel usage by accelerated Category 3 BioMAT bioenergy generators every six months in order to determine if mandatory levels of HHZ fuel usage should be implemented or if the price adjustment mechanism should revert to bimonthly.