BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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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 SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ON COMMENTS ON THE PROPOSED DECISION IMPLEMENTING PORTFOLIO CONTENT CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM

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Dated: November 1, 2011

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I. INTRODUCTION.

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission ("Commission"), the Southern California Public Power Authority ("SCPPA")[1] respectfully replies to opening comments by The Utility Reform Network ("TURN") and the Solar Alliance, the California Solar Energy Industries Association, and the Vote Solar Initiative ("Joint Solar Parties") on the October 7, 2011 Proposed Decision ("PD") in this proceeding. TURN and the Joint Solar Parties rely on misrepresentations of fact in an attempt to reverse the PD's conclusion that electricity that is generated by burning RPS-eligible biomethane in California generation facilities should be assigned to portfolio content category one. SCPPA submits this reply comment to correct those misrepresentations and to support the reply comment by the California Municipal Utilities Association on the same topic.

II. TURN AND JOINT SOLAR PARTIES RELY ON ERRORS OF FACT IN OPPOSING BIOMETHANE ELECTRICITY AS CATEGORY ONE.

The PD concludes that electricity generated in California from RPS-eligible biomethane ("Biomethane Electricity") should be categorized in portfolio content category one ("Category

[1] SCPPA is a joint powers authority. The members are Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, Los Angeles Department of Water and Power, Imperial Irrigation District, Pasadena, Riverside, and Vernon. This comment is sponsored by Anaheim, Azusa, Banning, Burbank, Cerritos, Colton, Glendale, the Imperial Irrigation District, Pasadena, Riverside, and Vernon.

One") as defined in Public Utilities Code ("PUC") section 399.16(b)(1) as promulgated in Senate Bill ("SB") 2 (1X) (Simitian, 2011). The PD states:

> For purposes of classifying RPS procurement into the appropriate portfolio content category, the CEC's determination of RPS eligibility is the definitive first step. If a generation facility that the CEC certifies as RPS-eligible is using a fuel that the CEC finds is RPS-eligible, and the facility is directly interconnected with the transmission or distribution system in a California balancing authority area, or has its electricity output scheduled into a California balancing authority without substitution of electricity from another source, or is dynamically transferred, the facility's output could be classified as meeting the criteria for section 399.16(b)(1).[2]

TURN and the Joint Solar Parties argue that the electricity should instead be categorized in portfolio content category three ("Category Three") under PUC section 399.16(b)(3). They contend that all of the gas that is actually consumed in California generation facilities that contract to receive biomethane is natural gas. TURN says: "The fuel being used to actually generate the electricity is 100% natural gas."[3] The Joint Solar Parties say: "The fuel consumed at the generating facility is nothing more than natural gas."[4]

TURN and the Joint Solar Parties disregard the way in which all pipeline quality gas – both natural gas and pipeline biomethane – is transported once it is injected into the North American pipeline system. Pipeline gas is transported by displacement, and pipeline gas is fungible. If gas is injected into a pipeline at one point, pressure increases, and gas may be withdrawn at another point. Consequently, when a quantity of gas is injected into the pipeline grid in North America and a like quantity is delivered for consumption under a contractual arrangement, the delivered quantity is regarded as being the equivalent of the gas that was injected into the pipeline grid. If natural gas is injected into the pipeline grid under a contract for delivery, the gas that is delivered is regarded as being the equivalent of the natural gas that was

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[2] PD at 36. Footnote in PD omitted.

[3] TURN at 2.

[4] Joint Solar Parties at 5.

injected. Likewise, if biomethane is injected into the pipeline grid under a contract for delivery, the gas that is delivered is regarded as being the equivalent of the biomethane that was injected.

TURN states that "The only real transaction is the purchase of tradable attributes associated with the biomethane."[5] This is just as incorrect as stating that the only real transaction associated with natural gas purchases is the purchase of some sort of natural gas attribute. Given the fact that gas is transported by displacement, it is appropriate to regard the gas that is delivered to the customer as being the gas that was injected into the pipeline, which could be either natural gas or biomethane.

The purchase of biomethane results in biomethane being injected into the pipeline grid and delivered to burn, replacing the injection and delivery of an equivalent amount of natural gas that would otherwise be used to meet demand. The result is an increase in the use of a renewable fuel and a decrease in the use of fossil fuel, to the benefit of the environment.

III. TURN MISREPRESENTS THE IMPACT OF BIOMETHANE.

TURN also states that "there is a real danger that ESPs, CCAs and POUs are likely to rely heavily on pipeline biomethane from Texas, Pennsylvania and the Midwest to satisfy a significant portion of future RPS requirements."[6] TURN misrepresents the potential impact of biomethane. The supply of biomethane commercially available in the whole of the United States could, if directed to California in accordance with California Energy Commission ("CEC") rules, provide only a small portion of California's total RPS requirements.[7]

IV. BIOMETHANE ELECTRICITY MEETS THE STATUTORY CRITERIA FOR CATEGORY ONE.

TURN and the Joint Solar Parties err in implying that Biomethane Electricity would not

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[5] TURN comments at 2. The Joint Solar Parties make a similar comment at 5-6.

[6] TURN at 3.

[7] Opening Comments of Clean Energy Renewable Fuels, LLC, filed August 8, 2011 in R.11-05-005, at p. 9, drawing on data from the US EPA.

meet the requirements for Category One in PUC section 399.16(b)(1). Biomethane Electricity meets all the conditions for being in Category One.

First, pipeline biomethane is RPS-eligible. Public Resources Code section 25741(a)(1) in SB 2 (1X) lists digester gas and landfill gas as eligible fuels for "renewable electrical generation facilities." California facilities that burn the eligible fuels can be certified by the CEC as RPS-eligible. Second, generating facilities that procure a mix of biomethane and natural gas (in accordance with the CEC rules regarding delivery of biomethane to California) have been treated by the CEC as renewable energy facilities for several years to the extent of their generation from biomethane.[8] Third, California facilities meet the criteria of PUC section 399.16(b)(1)(A) insofar as they, *inter alia,* "have a first point of interconnection with a California balancing authority."

V. TURN AND JOINT SOLAR PARTIES ERR IN REFERRING TO POLICY CONSIDERATIONS RATHER THAN STATUTORY REQUIREMENTS.

Where a statute has a clear meaning, there is no need to refer to policy considerations in interpreting it.[9] Thus, the PD states: "It is not necessary to determine whether the use of pipeline biomethane does or does not further certain environmental goals."[10] The comments of TURN and the Joint Solar Parties err by relying on policy considerations rather than the language of SB 2 (1X).

VI. POLICY CONSIDERATIONS SUPPORT BIOMETHANE ELECTRICITY AS CATEGORY ONE.

If, despite the clear applicability of PUC section 399.16(b)(1) to Biomethane Electricity, policy considerations were relevant in determining whether the electricity is in Category One or

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[8] See for example the CEC's Renewables Portfolio Standard Eligibility Guidebook Second Edition, pub. March 2007, pp. 22-23 (available at: http://www.energy.ca.gov/2007publications/CEC-300-2007-006/CEC-300-2007-006-CMF.PDF); the third edition, pub. December 2007, pp. 20-21 (available at: http://www.energy.ca.gov/2007publications/CEC-300-2007-006/CEC-300-2007-006-ED3-CMF.PDF); and the fourth, current edition, pub. January 2011, pp. 18-21 (available at: http://www.energy.ca.gov/2010publications/CEC-300-2010-007/CEC-300-2010-007-CMF.PDF).

[9] *Imperial Merchant Services, Inc. v. Hunt* (2009) 47 Cal. 4th 381, 387.

[10] PD at 36.

Category Three, there are strong policy considerations in favor of including Biomethane Electricity in Category One.

Biomethane Electricity is a "least-cost/best-fit" product, as discussed further in SCPPA's opening comment on the PD. Concluding that Biomethane Electricity is in Category Three would be inconsistent with the SB 2 (1X) policy favoring least-cost/best-fit renewable products.[11]

Additionally, relegating Biomethane Electricity to Category Three would hamper development of California biomethane projects. That could result in the wasteful flaring of landfill biogas instead of using the gas productively to generate electricity at efficient and clean California power plants such as SCPPA's state-of-the-art Magnolia power plant in Burbank.

VII. CONCLUSION.

SCPPA appreciates the opportunity to provide these reply comments to the Commission in this proceeding and urges the Commission to reject the unfounded arguments by TURN and the Joint Solar Parties as discussed above.

Respectfully submitted,

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Dated: November 1, 2011

[11] SB 2 (1X), PUC section 399.16(b).

VERIFICATION

I, Norman A. Pedersen, am counsel of record for the Southern California Public Power Authority in proceeding R.11-05-005 and am authorized to make this verification on its behalf. I hereby verify that the statements made in the foregoing **REPLY COMMENTS OF THE SOUTHERN CALIFORNIA PUBLIC POWER AUTHORITY ON COMMENTS ON THE PROPOSED DECISION IMPLEMENTING PORTFOLIO CONTENT CATEGORIES FOR THE RENEWABLES PORTFOLIO STANDARD PROGRAM** are true and correct to the best of my knowledge, except for those matters which are stated on information and belief, and as those matters, I believe them to be true.

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

Executed on November 1, 2011 at Los Angeles, CA.

/s/ Norman A. Pedersen

Norman A. Pedersen