

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



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Order Instituting Rulemaking to Implement Dairy
Biomethane Pilot Projects to Demonstrate
Interconnection to the Common Carrier Pipeline
System In Compliance with Senate Bill 1383.

Rulemaking 17-06-015
(Filed June 15, 2017)

**COMMENTS OF DAIRY CARES ON IMPLEMENTATION OF DAIRY BIOMETHANE
PILOT PROJECTS TO DEMONSTRATE INTERCONNECTION TO THE COMMON
CARRIER PIPELINE SYSTEM IN COMPLIANCE WITH SENATE BILL 1383**

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In accordance with Rule 6.2 of the California Public Utilities Commission’s (“CPUC” or “Commission”) Rules of Practice and Procedure, Dairy Cares¹ submits these comments in response to the June 15, 2017 Order Instituting Rulemaking to Implement Dairy Biomethane Pilot Projects to Demonstrate Interconnection to the Common Carrier Pipeline System in Compliance with Senate Bill 1383.²

Dairy Cares supports the Commissions efforts to quickly implement the pilot project mechanisms set forth in SB 1383. As discussed in response to the questions in the OIR, Dairy Cares is generally supportive of the draft implementation plan and provides several recommendations and redlines to the scoring criteria that will help ensure that highly successful projects with maximum benefit are selected. Our comments are also intended to help ensure that this rulemaking is implemented in a way that maximizes GHG reductions through dairy

¹ Formed in 2001, Dairy Cares (www.dairycares.com) is a coalition of California’s dairy producer and processor organizations, including the state’s largest trade associations representing dairy farmers (*California Dairy Campaign, California Farm Bureau Federation, Milk Producers Council and Western United Dairymen*), other cattle ranchers (*California Cattlemen's Association*) and the largest milk processing companies and cooperatives (including *California Dairies, Inc., Dairy Farmers of America-Western Area Council, Hilmar Cheese Company, and Land O' Lakes, Inc.*), and others with a stake in the long-term environmental and economic sustainability of California dairies.

² Order Instituting Rulemaking, filed June 15, 2017:
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M191/K136/191136501.PDF>

biomethane projects and enables considerable GHG reductions ahead of 2024, when mandatory emission reduction measures may take effect under SB 1383.

DISCUSSION

1. Should the CPUC adopt the definition of Pipeline Infrastructure set forth in Appendix A? If not, how should it be modified?

Appendix A defines the term “Pipeline Infrastructure” to include “biogas collection lines, interconnection facilities at the point of receipt, and the interconnection pipeline extension to the existing pipeline network. Appendix A states that “[a]ll other costs (e.g., digester and biogas conditioning facility costs), are the responsibility of biomethane producers and are not considered Pipeline Infrastructure costs.” In order to quickly develop five or more pilot projects, we support the proposal to define the term “pipeline infrastructure” to include pipeline interconnection as well as gas gathering and collection lines of dairy cluster projects. The pipeline from a centralized clean-up and condition facility to the interconnection point should also be included. Finally, the Commission should allow utilities to make investments in infrastructure to enable the trucking of refined biogas to enable cluster(s) that are located too far from the existing pipeline network. Dairy Cares also remains open to discussing the inclusion of gas clean-up and conditioning facilities in the definition of pipeline infrastructure but provides no comment at this time as to how that could effectively and consistently be implemented in the selected projects.

2. Should the CPUC adopt the implementation plan set forth in Appendix A? If not, how should it be modified?

Dairy Cares is generally supportive of the implementation plan set forth in Appendix A. However, we believe the implementation plan should be clearer that the purpose of this OIR is to help achieve the aggressive SB 1383 emissions reduction targets through dairy projects. The Legislature recognized the integral role California dairies will play in meeting the SB 1383

targets by directing the Commission to swiftly authorize at least five dairy biomethane pilot projects by January 2018.³ The timely implementation of this requirement is critical as the dairy industry is working with the Air Resources Board (“ARB”), California Department of Food and Agriculture (“CDFA”) and other state agencies to expeditiously reduce manure methane emissions through voluntary projects. Achieving these reductions in the near future is critical because in 2024 the ARB will be evaluating mandatory emissions reductions, which could lead to considerable local economic impacts and emissions leakage. Successfully implementing the pilot project requirement will help protect against these leakage risks and facilitate the near term goal of creating a cost effective and readily available negative carbon transportation fuel.

The pilot projects requirement should not be viewed as a “demonstration” or “innovation” program where diverse technologies are being tested and compared. Rather, the requirement was intended for the Commission to work with stakeholders to identify five or more dairies where pilot projects could be quickly developed. The Commission should clarify in the implementation plan that the statutory language of SB 1383 clearly limits the program to dairy projects, including dairy co-digestion, to the exclusion of landfill, wastewater, forestry and other feedstocks.⁴

Facilitating dairy cluster projects is an important and cost effective strategy. Clusters will maximize opportunities for smaller dairies by creating opportunities for cost effective biogas development. In some cases, smaller dairies may be able to join larger existing or developing clusters. The CPUC should focus its efforts on clusters of dairies in close proximity, which will permit the inclusion of large and small dairies in the area. In response to Question 4 below (regarding scoring criteria), Dairy Cares recommends revisions to the GHG reduction scoring to

³ Cal. Health and Safety Code Sec. 39730.7(d)(2).

⁴ *Id.*

ensure that large clusters and initial phases of clusters are able to compete. Regardless of size or phasing, the pilot projects should rely on commercially viable and proven dairy digester technologies. This type of pilot project will be required to produce sufficient biogas to have the economies of scale necessary to successfully develop the pipeline and gas clean-up and conditioning infrastructure needed to create significant future opportunities for additional dairy manure methane destruction in the state.

On the whole, Dairy Cares believes the implementation Plan will further the goals of SB 1383. Dairy Cares supports the discussion at the outset of the implementation plan that dairy producers will retain rights to the RNG as well as all offsets, LCFS credits and RINs. This is made clear in the opening Section of the implementation plan. Section 4.3 discusses cap-and-trade costs and discusses the potential for transfer of Cap-and-Trade offsets to the utility. Section 4.3 should be clarified that it is contemplating scenarios where the producer sells RNG to the utility and transfers offsets, but there would be no requirement or value provided for such arrangements in the Scoring Criteria.

The Commission should make two other refinements to the implementation plan. First, the Commission should create a more flexible process that allows for approval of more than five projects, provided that the additional projects are clearly viable. SB 1383 directs the Commission to implement “not less than five” dairy biomethane pilot projects. We are concerned the implementation plan would only allow for the approval of five projects because additional projects would only be selected in the event that the lowest scoring projects all received the same score. Given the diverse scoring criteria and ranges, we are concerned that it is unlikely that the bottom scoring projects will receive the exact same score. There will likely be much more interest than five projects. For example, CDFA recently received 36 applications requesting \$75 million in grant funding. With only \$27 - \$36 million available, this program is

oversubscribed by 2 to 3 times. The Legislature anticipated this interest and the important role of ratepayer funded pipeline infrastructure in meeting the SB 1383 targets by directing the Commission to implement “at least” five projects. The implementation plan should be revised to allow the Commission the flexibility to select all viable and high scoring projects (i.e., beyond five projects), so long as doing so is in the best interest of the state.

Second, the scoring criteria in the implementation plan would score project readiness and implementation as the lowest criteria, but these criteria should be expanded to include prior performance by the primary project developer(s) and weighted higher. Project readiness, prior performance and implementation will be a key indicator of whether a project is likely to be successful. By giving these criteria more weight the Commission would minimize risks of stranded costs and ensure that the projects that are selected stand the best chance of furthering the emissions reductions goals of SB 1383.

3. Should the CPUC adopt the cost recovery framework set forth in Appendix A? If not, how should it be modified?

Dairy Cares does not offer any comments regarding the cost recovery framework, but may provide comments on this issue in its reply comments.

4. Should the CPUC adopt the pilot selection criteria framework set forth in Appendix B? If not, how should it be modified?

As discussed above, the Commission should adjust the weighting and scoring to ensure that viable projects are prioritized in this process. In addition, some of the scoring criteria are very similar and won’t allow for meaningful differentiation and transparency. For example, a project that scores high on the readiness and implementation criteria likely also has a well developed business and marketing plan and may have partnered with a strong dairy operation.

Similarly, projects with high GHG emissions reductions may also enable significant criteria pollutant reductions by creating a greater volume of CNG transportation fuel. We also

recommend adjusting the GHG reduction and other environmental benefits criteria to allow for greater differentiation among projects and provide the Commission with more flexibility in scoring projects.

The Commission should also adjust the point scoring in two ways. First, as explained in response to Question 2, project readiness should be expanded and weighted higher to become a more important criterion. Second, GHG Reductions should be measured in terms of Cost (\$ of Pipeline Infrastructure) / MT reduced using a standardized measurement. By scoring GHG emissions this way (as opposed to total GHG emission reductions), the Commission will allow for both large and small dairy projects to compete, and the higher scoring projects representing the most cost effective investment of ratepayer funds. Scoring GHG emissions (and criteria pollutant benefits in this way) will also provide a mechanism to recognize the development of future clusters through the “right-sizing” of Pipeline Infrastructure. To recognize right-sizing opportunities, the Commission would need to enable a developer to present both the GHG reductions that will be achieved by the initial phase as well as the total GHG reductions attributable to a fully-built cluster.

Dairy Cares’ recommendations can be implemented through the following revisions to the scoring criteria and maximum points:

Scoring Criteria	Maximum Points
Dairy Waste-to-Biomethane Business Model	20 <u>15</u>
Dairy Operation, Technology Plan • Marketing Plan • Scalability	
Financial Plan/Soundness	15
GHG Reduction (<u>\$ Pipeline Infrastructure / MT reduced</u>)	20 <u>25</u>
Other Environmental Benefits	15 <u>10</u>
Disadvantaged Communities	15
Project Readiness, <u>Prior Performance and Implementation</u>	10 <u>20</u>

5. ***Should the CPUC adopt the data gathering parameters set forth in Attachment B to Appendix B? If not, how should it be modified?***

Although some of the requested information appears to be fairly open ended, Dairy Cares appreciates that the Commission's desire to collect information and learn from the program. Doing so, will inform future process improvements. So long as there are sufficient confidentiality protections and an appreciation for the need to minimize administrative burdens associated with voluminous informational requests, Dairy Cares does not object to data collection aspects of the Implementation Plan.

6. ***Does the proposed implementation framework support the safe provision of natural gas services? If not, how should it be modified?***

Dairy Cares believes the proposed implementation framework will support the safe provision of natural gas services.

Conclusion

Dairy Cares appreciates the opportunity to provide these comments and looks forward to working with the Commission, gas utilities, and other stakeholders towards the successful implementation of this important rulemaking.

Dated: August 7, 2017

Respectfully submitted,

/s/

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VERIFICATION

I am the attorney for Dairy Cares and am authorized to make this verification on its behalf. Dairy Cares is absent from the County of Sacramento, California, where I have my office, and I make this verification for that reason. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and belief, and as to those matters I believe them to be true.

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

Executed on August 7, 2017 at Sacramento, California.

/s/

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