

DRAFT

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA
Agenda ID 16314
ENERGY DIVISION **RESOLUTION E-4922**
March 22, 2018

R E S O L U T I O N

Resolution E-4922. Commission order to continue the Bioenergy Market Adjusting Tariff (BioMAT) program and to execute certain bioenergy contracts.

PROPOSED OUTCOME:

- Continuation of BioMAT programs, and execution of BioMAT contracts, under current program rules pending further Commission action.

SAFETY CONSIDERATIONS:

- Commission approved standard contracts contain Commission approved safety provisions, which require the Seller to provide an independent report certifying a written plan for the safe construction and operation of the Facility.

ESTIMATED COST:

- The estimated annual cost of the BioMAT contracts ordered by this resolution is \$23 million. Total potential BioMAT program costs are between \$232 million per year and \$344 million per year.

By Energy Division's own motion.

SUMMARY

This Resolution orders Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) (collectively IOUs) to continue their BioMAT programs under current program rules.

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This Resolution also orders PG&E, SCE, and SDG&E to execute contracts with sellers that have accepted and may in the future accept prices offered as part of the BioMAT program.

BACKGROUND

Overview of the Renewables Portfolio Standard (RPS) Program

The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, SB 2 (1X), and SB 350.¹ The RPS program is codified in Public Utilities Code Sections 399.11-399.32.²

Under SB 2 (1X), the RPS program administered by the Commission requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources be an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; and 33 percent of retail sales by December 31, 2020.³ On October 7, 2015, SB 350⁴ made further changes to Sections 399.11, et seq. including a requirement that the amount of electricity generated and sold to retail customers from eligible renewable energy resources be increased to 50% by December 31, 2030.⁵

¹ SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007); SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session); SB 350 (de León, Chapter 547, Statutes of 2015).

² All further statutory references are to the Public Utilities Code unless otherwise specified.

³ D.11-12-020 established a methodology to calculate procurement requirement quantities for the three different compliance periods covered in SB 2 (1X) (2011-2013, 2014-2016, and 2017-2020). Note it is 33% of a Load Serving Entity's annual retail sales for 2020 and each year thereafter.

⁴ SB 350 (De León, Chapter 547, Statutes of 2015) effective on January 1, 2016.

⁵ D.16-12-040 established additional procurement requirement quantities for the three compliance periods established by SB 350: 2021-2024, 2025-2027, 2028-2030.

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One procurement program implemented by the Commission to support the RPS is the Renewable Market Adjusting Tariff (ReMAT) program.

Additional background information about the Commission's RPS Program, including links to relevant laws and Commission decisions, is available at http://www.cpuc.ca.gov/RPS_Overview/ and http://www.cpuc.ca.gov/RPS_Decisions_Proceedings/.

Overview of the BioMAT Program

SB 1122 (Rubio, 2012) added a requirement of 250 MW of RPS-eligible procurement from small-scale bioenergy projects that commence operation on or after June 1, 2013. In D.14-12-081 and D.15-09-004, the Commission implemented SB 1122 by adopting the Bioenergy Market Adjusting Tariff (BioMAT) program. In D.16-10-025, the Commission implemented several changes to the BioMAT program in response to the tree mortality emergency identified in the Governor Edmund G. Brown's October 30, 2015 Proclamation of a State of Emergency and SB 840 (Trailer Bill, 2016). Most recently in D.17-08-021, the Commission implemented changes to the effective capacity limitation of projects in the BioMAT program pursuant to Assembly Bill (AB) 1979 (Bigelow, 2016). The Energy Division Director also issued a letter on November 28, 2017 sent to PG&E, SCE, and SDG&E temporarily capping the BioMAT offer price for BioMAT Category 3 (sustainable forest management) projects that do not commit to using at least 60% high hazard zone⁶ (HHZ) fuel, and initiating an overall BioMAT program review pursuant to D.14-12-081.

DISCUSSION

The Energy Division Director issued a letter on November 28, 2017 that was sent to the IOUs temporarily capping the BioMAT offer price for BioMAT Category 3 (sustainable forest management) projects, and initiated an overall BioMAT program review. More specifically, the Energy Division Director's letter capped the BioMAT Category 3 (sustainable forest management) offer price at the then current level of \$199.72/MWh unless a seller is committed to using at least 60%

⁶ High hazard zones are designated by the California Department of Forestry and Fire Protection in accordance with the Governor's October 15, 2015 Emergency Proclamation.

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HHZ fuel. The temporary price cap was ordered to remain in effect during the BioMAT program, which is currently ongoing.

BioMAT Program Review

As Energy Division conducts the program review, it may propose changes to reform the BioMAT program. Until the Commission acts to enact program changes, the Commission-adopted program rules continue to govern BioMAT and the IOUs shall continue to hold new BioMAT program periods, accept new BioMAT applications, and execute new BioMAT contracts for projects that accept a BioMAT price.

BioMAT contracts

In some of the more recent BioMAT program periods, several BioMAT program participants applied to the BioMAT program and accepted offered prices at \$127.72/MWh, \$187.72/MWh, and \$199/72/MWh, but contracts have not been executed. As noted above, the BioMAT program remains in effect and shall continue during its program review. Accordingly, the IOUs and BioMAT program participants that have already accepted a BioMAT contract price shall go forward with contract execution. The IOUs shall complete contract executions within 30 days of this Resolution and shall file a compliance filing with the executed contracts by filing Tier 1 Advice Letter(s) within 45 days of this Resolution.

SAFETY

Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public.

This Resolution requires the IOUs to execute contracts for projects that have accepted a BioMAT offer price and continue running their BioMAT programs. Contracts using Commission approved standard contracts contain Commission approved safety provisions, which require the Seller to provide to the Buyer, prior to commencement of any construction activities on the Site, a report from an independent engineer (acceptable to both Buyer and Seller) certifying that the seller has a written plan for the safe construction and operation of the facility in accordance with Prudent Electrical Practices. As a result, there are not any

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expected incremental safety implications associated with the execution of contracts approved by this resolution.

BioMAT is one of several programs that support the Governor's Emergency Proclamation to address bark beetle and drought caused tree mortality and the hazards such tree mortality creates for the State of California. These hazards include, among other things, wildfires and tree falls that endanger thoroughfares, electric power lines, and public and private structures. Execution of contracts that meet the requirements of BioMAT Category 3 – sustainable forest management, especially those that use HHZ fuels – are intended to help address the hazards addressed in the Governor's Tree Mortality Emergency Order.

COMMENTS

Public Utilities Code Section 311(g)(1) provides that this Resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft Resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

FINDINGS

1. The BioMAT program review initiated along with a temporary price cap by the Commission's Energy Division Director in a letter sent to PG&E, SCE, and SDG&E on November 28, 2017 is ongoing.
2. The Commission will consider Energy Division staff's recommendations for BioMAT program changes when a proposal becomes available. Current program rules should continue to govern BioMAT until the Commission acts to enact program changes.

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3. Several program participants successfully applied to the BioMAT program and accepted offered prices, but the BioMAT contracts have not yet been executed by the IOUs and participants.

THEREFORE IT IS ORDERED THAT:

1. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall continue to hold new BioMAT program periods, shall accept new BioMAT applications, and shall execute BioMAT contracts for projects that accept a BioMAT price, consistent with existing Commission orders regarding the BioMAT program.
2. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall within 30 days of this Resolution execute contracts with the developers that have already accepted a BioMAT offered price.
3. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall within 45 days of this Resolution file Tier 1 Advice Letter compliance filings with the contracts ordered in Ordering Paragraph 2.

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This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on March 22, 2018; the following Commissioners voting favorably thereon:

TIMOTHY J. SULLIVAN
Executive Director