

Decision 24-01-033 January 25, 2024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Continue Implementation and
Administration of California Renewables
Portfolio Standard Program.

Rulemaking 11-05-005

DECISION DENYING PETITION TO MODIFY DECISION 14-12-081

Summary

This decision denies the October 4, 2017 petition to modify Decision (D.) 14-12-081, *Decision Implementing Senate Bill 1122*, filed by the Bioenergy Association of California (BAC). BAC requested modification of D.14-12-081 to remove or extend the Bioenergy Market Adjusting Tariff (BioMAT) program end date to 2025 and to add measures to expedite interconnection for BioMAT projects. These matters in addition to the other programmatic changes have been addressed in D.20-08-043 issued in Rulemaking (R.) 18-07-003. The BioMAT program will continue to be monitored, reviewed, and revised, as necessary, in R.18-07-003 or its successor proceeding.

This proceeding remains open to consider a pending petition to modify D.13-05-034.

1. Procedural Background

On October 4, 2017, Bioenergy Association of California (BAC) filed a petition to modify D.14-12-081 (Petition or PFM). On November 3, 2017,

responses to the Petition were filed by the Agricultural Energy Consumers Association; the California Association of Sanitation Agencies; the Center for Biological Diversity; Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company (collectively, Joint Investor-Owned Utilities or Joint IOUs); Placer Air Pollution Control District; and the Public Advocates Office of the California Public Utilities Commission (Cal Advocates). On November 13, 2017, BAC filed a reply to responses.

2. Relief Requested and Party Positions

Senate Bill (SB) 1122 (Rubio), stats. 2012, ch. 612, created a bioenergy feed-in tariff within the procurement programs of the Renewables Portfolio Standard program and required that the investor-owned utilities (IOU) procure an additional 250 megawatts (MW) of renewable feed-in-tariff resources from small-scale bioenergy projects that commence on or after June 1, 2013.¹ In D.14-12-081, the California Public Utilities Commission (Commission) implemented the provisions of SB 1122.

BAC requests modification of D.14-12-081 to remove or extend the program end date adopted in D.14-12-081; and to add measures to expedite interconnection for BioMAT projects.²

In its PFM, BAC argues that, because the BioMAT program had a slow start, it is unlikely that the required 250 MW will be procured by the end of the program end date, which was the end of 2020 at the time the PFM was filed. Consequently, BAC requests that the Commission remove the end date of the BioMAT program established in D.14-12-081 or, at a minimum, extend it to the

¹ The provisions of SB 1122 are codified at Public Utilities (Pub. Util.) Code Section 399.20(f).

² Petition at 2.

end of 2025, to align with the requirements of the recent policies for bioenergy development.³

BAC's PFM also lists several proposals to reduce and reallocate interconnection costs for bioenergy projects. For example, BAC proposes to revisit the definition of "strategically located" projects and to increase the \$300,000 threshold above which project developers must pay the cost of transmission upgrades or remove the threshold.⁴

BAC also recommends that the Commission shorten interconnection timelines for BioMAT projects, introduce automatic reviews for proposed timeline extensions, and establish penalties for utility-caused delays to match additional costs and risks incurred by developers due to these delays.⁵ BAC contends that these modifications are necessary to meet the requirements of SB 1122, the Governor's Emergency Order, SB 1383, and to meet the goals of various state policies.⁶

The Center for Biological Diversity, Cal Advocates, and the Joint IOUs opposed the PFM on procedural as well as substantive grounds. The Agricultural Energy Consumers Association, the California Association of Sanitation Agencies, and Placer Air Pollution Control District support BAC's PFM.

3. Discussion

3.1. Timeliness of the Petition

Rule 16.4 of the Commission's Rules of Practice and Procedure (Rules) requires petitions for modification to be filed and served within one year of the

³ Petition at 5-6.

⁴ Petition at 10.

⁵ Petition at 11.

⁶ Petition at 13.

effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must explain why the petition could not have been presented within one year of the date of the decision.

The PFM states that BAC submits the PFM more than one year after the decision was issued due to delays in implementation of the BioMAT program and subsequent legislation and Emergency Orders⁷ related to the BioMAT program.⁸

Upon review of BAC's reasoning, the Commission concludes that BAC's late submission has been sufficiently justified and the Petition meets the requirements of Rule 16.4.

3.2. Bioenergy Market Adjusting Tariff Program End Date and Interconnection Issues Addressed in Decision 20-08-043 and Decision 18-11-004

BAC's request to remove or extend the BioMAT program deadline to the end of 2025 and to add measures to expedite interconnection for BioMAT projects is denied. These issues have been addressed in recent Commission decisions adopted in R.18-07-003. Furthermore, BAC's other proposals lack specific wording to carry out all the requested changes as well as specific citations to the record.

Since the filing of the PFM, the Commission took several actions regarding the BioMAT program. On November 28, 2017, the Commission initiated a BioMAT program review with the goal of assessing program performance and recommending programmatic changes, which resulted in a staff proposal, listing

⁷ The Governor's Emergency Proclamation on Tree Mortality was issued in October 2015; SB 1383 (Lara), stats. 2016, ch. 395 and SB 840 (Budget), stats. 2016, ch. 341 were enacted in 2016; the California Air Resources Boards's Short-Lived Climate Pollutant Strategy was issued in 2017.

⁸ Petition at 3.

recommended changes to the BioMAT program rules, contract terms, and process. In D.20-08-043, *Decision Revising the Bioenergy Market Adjusting Tariff Program*, issued in R.18-07-003, the Commission reviewed the staff proposal and determined what modifications were warranted to revise the BioMAT program. Specifically, in D.20-08-043, the Commission extended the BioMAT program end date to December 31, 2025.⁹ In D.20-08-043, the Commission also affirmed the “strategically located”¹⁰ definition adopted in D.18-11-004 and further clarified the “strategically located” definition by finding that the \$300,000 cost threshold is not a limit on reimbursement that a project developer may receive pursuant to the California Independent System Operator (CAISO) tariff, or other tariff, for network transmission upgrade costs.¹¹

Because the Commission has already reviewed and revised the BioMAT program, as necessary; and the program end date and the \$300,000 threshold for upgrades have been expressly addressed by the more recent Commission decisions issued in R.18-07-003, BAC’s petition to extend the BioMAT program deadline to the end of 2025 and to add measures to expedite interconnection for BioMAT projects is denied. The BioMAT program will continue to be monitored, reviewed, and revised, as necessary, in R.18-07-003 or its successor proceeding.

⁹ D.20-08-043 at Conclusion of Law 1.

¹⁰ BioMAT projects must be “strategically located” to qualify for the program. D.14-12-081 defines a project as strategically located if the cost of network transmission upgrades when the project interconnects to the distribution system does not exceed \$300,000, or if the project developer pays any difference between the actual network transmission upgrade costs and \$300,000.

¹¹ D.20-08-043 at 49-50 and Finding of Fact 22.

4. Comments on Proposed Decision

The proposed decision of Administrative Law Judge (ALJ) Nilgun Atamturk in this matter was mailed to the parties in accordance with Pub. Util. Code Section 311 and comments were allowed under Rule 14.3. No comments were filed. No changes have been made to the proposed decision.

5. Assignment of Proceeding

John Reynolds is the assigned Commissioner and Nilgun Atamturk is the assigned ALJ in this proceeding.

Findings of Fact

1. The Petition was not filed within one year of the effective date of D.14-12-081.
2. There were delays in implementation of the BioMAT program and subsequent legislation and Emergency Orders related to the BioMAT program after the issuance of D.14-12-081.
3. D.20-08-043 extended the BioMAT program end date to December 31, 2025.
4. D.20-08-043 affirmed the “strategically located” definition adopted in D.18-11-004.
5. D.20-08-043 clarified the “strategically located” definition by finding that the \$300,000 cost threshold is not a limit on reimbursement that a project developer may receive pursuant to CAISO’s tariff, or other tariff, for network transmission upgrade costs.

Conclusions of Law

1. BAC sufficiently justified the filing of the PFM more than one year after the effective date of D.14-12-081.
2. The Petition should be denied.

O R D E R

IT IS ORDERED that:

1. The October 4, 2017, Petition for Modification of Decision 14-12-081 filed by the Bioenergy Association of California is denied.
2. Rulemaking 11-05-005 remains open.

This order is effective today.

Dated January 25, 2024, at Sacramento, California.

ALICE REYNOLDS
President
GENEVIEVE SHIROMA
DARCIE L. HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
Commissioners