PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ENERGY DIVISION **RESOLUTION E-5376**
April 3, 2025

R E S O L U T I O N

Resolution E-5376. Commission Motion Amending the Bioenergy Renewable Auction Mechanism (BioRAM) Program and Authorizing the Procurement and/or Extension of Eligible Contracts pursuant to Assembly Bill 2750.

PROPOSED OUTCOME:

- Extends the deadline for Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) to procure their proportionate share of 125 megawatts of eligible BioRAM contracts to July 1, 2025.
- Requires PG&E, SCE, and SDG&E with contracts to procure electricity from biomass that expire on or before December 31, 2028, to seek to amend the contracts or to seek approval for new contracts to include expiration dates *at least* 5 years later than the expiration dates in the contracts that were operative in 2022.
- Prohibits the extension of a contract between an IOU and a biomass generator located in a federal ozone nonattainment area in California, unless the biomass generator first obtains a letter from the jurisdictional air district that states the continued operation of the facility does not impede the air district's ability to meet requirements.

SAFETY CONSIDERATIONS:

- Renewable Auction Mechanism standard contracts contain Commission approved safety provisions.

ESTIMATED COST:

- Actual costs are unknown at this time.

By Energy Division's own motion.

SUMMARY

This Resolution extends the deadline for Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) (collectively IOUs) to procure their proportionate share of 125 megawatts (MW) from eligible Bioenergy Renewable Auction Mechanism (BioRAM) facilities from December 1, 2023 to July 1, 2025. It also requires the IOUs with contracts to procure electricity generated from biomass that expire on or before December 31, 2028, to amend the contracts or seek approval for new contracts to include expiration dates *at least* five years later than the expiration dates in the contracts that were operative in 2022.

This Resolution also prohibits the extension of a contract between an IOU and a biomass generator that is located in the Sacramento federal ozone nonattainment area, or any other federal ozone nonattainment area in California, unless the biomass generator first obtains a letter or certificate from the air district with jurisdiction over the biomass generator that states that the federal ozone nonattainment area voluntarily opted to be classified in one or more federal standards in a severe or extreme nonattainment zone and that the continued operation of the facility does not impede the air district's ability to meet its applicable requirements.

BACKGROUND

Overview and History of the BioRAM Program

Emergency Proclamation – October 2015

Severe drought conditions and an epidemic infestation of bark beetles have caused tree mortality in several regions of California. On October 30, 2015, Governor Brown issued an Emergency Proclamation (Proclamation)[1] to protect public safety and property from falling dead trees and wildfire. The Proclamation classified the dead and dying trees located in designated high-hazard zones (HHZ) as being a high priority for removal.

Resolution E-4770 – March 2016

In response to the Proclamation, the Commission issued Resolution E-4770 on March 17, 2016, establishing the BioRAM program and requiring that each of the investor owned utilities (IOUs) enter into contracts to purchase their share of at least 50 megawatts (MW) of collective generating capacity from biomass generation facilities that use progressively higher annual minimum prescribed levels of HHZ material as

[1] Proclamation of State Emergency (October 30, 2015). Available at: KM_C454e-20151030092137 (ca.gov)

feedstock. The calendar year HHZ minimums were set as follows: 40 percent in 2016, 50 percent in 2017, 60 percent in 2018, and 80 percent for each subsequent year. The IOUs were required to provide five-year contracts to facilities, with the right to extend the five-year contract term for one year at a time, up to a cumulative total of ten years so long as HHZ fuel is available at the minimum fuel requirement. Contracts executed pursuant to the terms of Resolution E-4770 are known as "BioRAM 1" contracts.

Resolution E-4805 – October 2016

On October 21, 2016, the Commission issued Resolution E-4805 to implement the IOU procurement requirements of SB 859 (stats. 2016, ch. 368).[2] Resolution E-4805 directed IOUs to meet their proportionate shares of the 125 MW goal using any combination of a) the BioRAM ordered by Resolution E-4770; b) a subsequent RAM, or "BioRAM 2" authorized in the Resolution; and c) bilateral procurement. To allow procurement under option b) above, Resolution E-4805 required the IOUs to create an updated BioRAM 2 standard contract rider. BioRAM 2 contracts only differ from BioRAM 1 contracts in that they contain the feedstock requirements established in SB 859[3]; specify that the contract length is five years; require that the contracted facility is an existing bioenergy project that commenced operation prior to June 1, 2013; and update administrative details such as dates, deadlines, and process requirements.

In addition, the Commission adopted D.18-12-003[4] to establish a methodology for calculating a non-bypassable charge to collect revenue from all customers to pay for costs associated with tree mortality biomass procurement by the IOUs through each utility's public purpose program charge which was also required by SB 859[5].

Resolution E-4977 – January 2019

In 2018, SB 901 (stats. 2018, ch. 626) was enacted.[6] SB 901 revised the definition of HHZs and expanded the eligibility of Tier 1 and Tier 2 HHZs to include biomass fuels removed from fuel reduction operations exempt from timber harvesting plan requirements pursuant to subdivisions (a), (f), (j), and (k) of Section 4584 of the Public Resources Code. The legislation also established fuel or feedstock reporting requirements to be based on a monthly or annual basis and allowed contracted bioenergy facilities to opt out of the mandated fuel or feedstock

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[2] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB859

[3] SB 859 required at least 80 percent of the feedstock of an eligible facility, on an annual basis, must be a byproduct of sustainable forestry management, which includes removal of trees from HHZs and is not that from lands that have been clear cut, and that at least 60 percent of the feedstock must come from HHZs.

[4] Decision 18-12-003: Established a non-bypassable charge for costs associated with tree-mortality biomass energy procurement https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M252/K547/252547425.PDF

[5] Public Utilities (Pub. Util.) Code § 399.20.3(h)

[6] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB901

usage levels without creating an event of default provided written notice is given for that month. Facilities are paid the alternate price adopted in Commission Resolution E-4770 for months in which they opted out or missed the mandated fuel or feedstock targets.

On January 31, 2019, the Commission issued Resolution E-4977 to implement the key provisions of SB 901. Resolution E-4977 required the IOUs to amend their existing BioRAM contracts to; a) add monthly opt-out and reporting optionality with revised payment terms for those facilities that choose to opt out of the mandated fuel and feedstock usage levels, b) remove the event of default from sellers not achieving the mandated fuel or feedstock usage levels, and c) include the expanded definition of eligible HHZ feedstock. Additionally, Resolution E-4977 required IOUs to offer five-year contract extensions or new contracts to eligible sellers that included the terms and conditions of BioRAM 2.

Resolution E-5288 – October 2023

On October 12, 2023, the Commission issued Resolution E-5288 to implement the procurement requirements of SB 1109 (stats. 2022, ch. 364).[7] Resolution E-5288 required the investor-owned utilities (IOUs) to collectively procure their proportionate share of 125 megawatts (MW) of cumulative rated generating capacity, through financial commitments of 5 to 15 years, from existing eligible bioenergy facilities that source at least 80 percent of their feedstock from byproducts of sustainable forest management and at least 60 percent of their feedstock from Tier 1 and Tier 2 high hazard zones (HHZ), on an annual basis. Eligible bioenergy resources must meet emissions limits equivalent to, or more stringent than the applicable best available retrofit control technology when the new operating period begins, as determined by the local air pollution control district or air quality management district.

Resolution E-5288 also required the IOUs and CCAs with BioRAM contracts to amend their existing contracts or execute new contracts to include an extension of five years so long as the eligible biomass facilities are not located in federal severe or extreme nonattainment areas for particulate matter or ozone.

Overview of Assembly Bill (AB) 2750

The California Legislature passed AB 2750 (Gallagher 2024, ch. 575)[8] on August 30, 2024, and Governor Newsom signed it into law on September 25, 2024. The portions of this bill that are implemented herein are Section 1, which amended Pub. Util. Code § 399.20.3, and Section 2, which amended Pub. Util. Code § 8388.

[7] https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1109
[8] Today's Law As Amended - AB-2750 Electricity: procurement: generation from biomass.

Appendix A contains the full text of Sections 1 and 2. Key provisions of Pub. Util. Code § 399.20.3, for purposes of this Resolution, are summarized below:

- Sub-division (b)(1): Requires the IOUs to procure, on or before July 1, 2025, their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects that commenced operations before June 1, 2013.

Key provisions of Pub. Util. Code § 8388, for purposes of this Resolution, are summarized below:

- Sub-division (a) Requires IOUs, Publicly Owned Utilities (POUs), and CCAs with a contract to procure electricity from biomass that expires on or before December 31, 2028, to seek to amend the contract to include, or seek approval for a new contract that includes, an expiration date *at least* five years later than the expiration date in the contract that was operative in 2022.

- Sub-division (b)(1) Except as provided in paragraph (2), subdivision (a) does not apply to a facility located in a federal severe or extreme nonattainment area for particulate matter or ozone.

- Sub-division (b)(2) Notwithstanding paragraph (1), subdivision (a) applies to a facility in an area that voluntarily opts for severe or extreme nonattainment status but the air district has determined that the continued operation of the facility does not impede the air district's ability to meet its applicable attainment deadline.

- Sub-division (b)(3) A contract between an electrical corporation, local publicly owned electric utility, or community choice aggregator and a biomass generator that is located in the Sacramento federal ozone nonattainment area shall not be extended unless the biomass generator first obtains a letter or certificate from the air district with jurisdiction over the biomass generator that states that the Sacramento federal ozone nonattainment area voluntarily opted to be classified in one or more federal standards in a severe or extreme nonattainment zone and that the continued operation of the facility does not impede the air district's ability to meet its applicable requirements.

DISCUSSION

Part I: BioRAM Program Procurement Deadline Extended to July 1, 2025

Amended Pub. Util. Code § 399.20.3 (b)(1) states:

> In addition to the requirements of subdivision (f) of Section 399.20, on or before July 1, 2025, electrical corporations shall collectively procure, through financial commitments of 5 to 15 years, inclusive, their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects that commenced operations before June 1, 2013. At least 80 percent of the feedstock of an eligible facility, on an annual basis, shall be a byproduct of sustainable forestry management, which includes removal of dead and dying trees from Tier 1 and Tier 2 high hazard zones and is not that from lands that have been clear cut. At least 60 percent of this feedstock shall be from Tier 1 and Tier 2 high hazard zones.

As noted above, the CPUC directed the IOUs[9] to procure their proportional share of 125 MW of capacity from existing bioenergy projects in Resolution E-4805. The shares were determined based on their respective shares of peak, coincident demand resulting in the MW allocations in Table 1.

Table 1: MW Allocations for Electrical Corporations and Publicly Owned Utilities Adopted in Resolution E-4805

Entity	Allocation of MWs
PG&E	43
SCE	44
SDG&E	9
POUs with 100,000 or more customers	29
Total	125

The proportional shares were to be procured by December 1, 2016. In total, the IOUs procured 153 MW pursuant to Resolution E-4805.[10] In addition, many of the executed contracts were amended and/or extended pursuant to Resolution E-4977 or E-5288.

AB 2750 extends the 125 MW procurement requirement such that by July 1, 2025, the IOUs

[9] In Resolution E-4805 the Commission declined to require the small IOUs to procure pursuant to BioRAM program.
[10] 2017 RPS Annual Report to the Legislature.

shall be financially committed to active contracts of 5 to 15 years in length of their proportional share. To be consistent with previous CPUC BioRAM orders, IOUs are authorized to procure their allocated MW share included in Table 1. The procurement may be: 1) a BioRAM contract executed pursuant to E-4770, E-4805, E-4977, or E-5288; 2) a new BioRAM contract via solicitations or bilateral contracting, or 3) an amended biomass contract that meets the feedstock, emission, and term length requirements of Pub. Util. Code § 399.20.3 and has the most recent BioRAM terms.

Part 2: Contract Dates to be Extended *At Least* Five Years

In addition, AB 2750 amends Pub. Util. Code § 8388 (a) to read:

> An electrical corporation, local publicly owned electric utility, or community choice aggregator with a contract to procure electricity generated from biomass pursuant to Section 399.20.3, commission Resolution E-4770 (March 17, 2016), or commission Resolution E-4805 (October 12, 2016) that expires on or before December 31, 2028, shall seek to amend the contract to include, or seek approval for a new contract that includes, an expiration date *at least* five years later than the expiration date in the contract that was operative in 2022 if the contract extension follows the feedstock requirement of subdivision (b) of Section 399.20.3

Accordingly, the IOUs must offer contract negotiations to all eligible sellers and make all reasonable efforts to amend existing contracts and extend contract term lengths by a minimum of five years. Eligible sellers are all counterparties to BioRAM contracts that were operative at any time in 2022 and expire on or before December 31, 2028, except for sellers that operate facilities located in federal severe or extreme nonattainment areas for particulate matter or ozone, unless the facility meets § 8388 paragraph 2 or 3 of subdivision b as detailed in the next discussion section.

Contracts amended or executed pursuant to Pub. Util. Code § 8388(a) must follow the feedstock requirements of Pub. Util. Code § 399.20.3(b)—at least 80 percent of the feedstock of an eligible facility must be a byproduct of sustainable forestry management, which includes the removal of trees from Tier 1 and Tier 2 HHZs and not from lands that have been clear cut, and at least 60 percent of the feedstock must come from Tier 1 and Tier 2 HHZs. Additionally, the contracted facilities must meet the requirements of Pub. Util. Code §8388(b) (see below).

To comply with this section, the IOUs must offer contract extensions or procure new contracts to eligible sellers, for a minimum of five years. The IOU must make all reasonable

efforts to execute new or amended contracts with the seller. If the parties execute a new or amended contract, the IOU must seek Commission approval. If the parties do not execute a new or amended contract, the IOU shall file an attestation that the parties agree not to move forward or parties do not agree on terms and provide supporting documentation showing that all reasonable efforts were made including an Independent Evaluator report on the negotiations. Upon review of the attestation and supporting documentation, the Deputy Director of Energy Division may approve the filing or order the IOU to go back into negotiations with an eligible seller.

We note that Pub. Util. Code § 8388 also includes small IOUs, CCAs, and POUs.[11] In Resolutions E-4805, E-4977, and E-5288, the Commission declined to require the small IOUs to procure pursuant to the BioRAM program and found that SB 859 and SB 901 did not provide procurement direction for direct access providers. CCAs were authorized to contract with BioRAM eligible facilities in Resolution E-4977, but none of the CCAs or facilities pursued this option. Thus, neither the small IOUs nor CCAs have any BioRAM contracts that were operational in 2022. These smaller electricity providers, however, shall integrate biomass facilities that use forest fuels from HHZs into their energy portfolio and may have biomass contracts with eligible sellers. The Commission will coordinate with the California Energy Commission and the state's Wildfire and Forest Resilience Task Force to stay informed of their AB 2750 implementation progress.

Part 3: Federal Ozone Non-Attainment Area Specifications

Amended Pub. Util. Code § 8388 (b) states:

> (b) (1) Except as provided in paragraph (2), subdivision (a) does not apply to a facility located in a federal severe or extreme nonattainment area for particulate matter or ozone.
> (2) Notwithstanding paragraph (1), subdivision (a) applies to a facility in an area that voluntarily opts for severe or extreme nonattainment status but the air district has determined that the continued operation of the facility does not impede the air district's ability to meet its applicable attainment deadline.
> (3) A contract between an electrical corporation, local publicly owned electric utility, or community choice aggregator and a biomass generator that is located in the Sacramento federal ozone nonattainment area shall not be extended unless the biomass generator first obtains a letter or certificate from the air district with jurisdiction over the biomass generator that states that the Sacramento federal ozone nonattainment area voluntarily opted to be classified in one or more federal standards

[11] This Commission does not have regulatory and procurement oversight over the POUs.

in a severe or extreme nonattainment zone and that the continued operation of the facility does not impede the air district's ability to meet its applicable requirements.

Resolution E-4977 implemented what is now Pub. Util. Code § 8388(b)(1). AB 2750 amendments allow IOUs to comply with Pub. Util. Code § 8388(a) and execute an amendment to an existing contract or execute a new contract with an otherwise eligible seller located in the Sacramento federal ozone nonattainment area or other nonattainment area, if the seller first obtains a letter or certificate from the air district with jurisdiction over the biomass generator that states that the Sacramento or other federal ozone nonattainment area voluntarily opted to be classified in one or more federal standards in a severe or extreme nonattainment zone and that the continued operation of the facility does not impede the air district's ability to meet its applicable requirements.

IMPLEMENTATION

The procurement directed in Part 1 of this Resolution must be executed by July 1, 2025. The IOUs shall request CPUC approval of executed or amended contracts via Advice Letter[12]. If the executed or amended BioRAM contract does not modify the standard BioRAM contract, and the contract price meets the per se reasonableness benchmark (see below), the IOU may request CPUC approval via a Tier 2 Advice Letter. If an IOU claims to already be meeting its proportional share, it shall file within 60 days of this Resolution's effective date a Tier 2 Advice Letter showing how it meets the procurement allocation identified in this Resolution. For new contracts, contract amendments, and contract extensions authorized in Part 2 of this Resolution, IOUs shall file Tier 2 Advice Letters within 60 days of this Resolution which contain: a list of contracted and previously contracted BioRAM facilities that contains facilities' information (name, city location, and size (MW)) and contract end date as well as whether the facility is located in a federal severe or extreme nonattainment area for particulate matter or ozone.

Tier 2 Advice Letters must also contain a showing that the IOU has contacted all their contracted BioRAM facilities with contracts that were operative at any time in 2022, and expire on or before December 31, 2028, so long as those facilities are not located in federal severe or extreme nonattainment areas for particulate matter or ozone, notwithstanding the direction of Pub. Util. Code § 8388 (b) as amended by AB 2750.

[12] Per Resolution E-5288, IOUs shall show that the contracted bioenergy facility's emissions are equivalent to or below the best available retrofit control technology, as determined by the applicable air pollution control district or air quality management district before the start of the operation period of a new contract. This requirement still applies to any new or amended contracts.

Furthermore, if the IOU and the eligible seller do not wish to execute contract amendments or new contracts with an extended term length and the required fuel and feedstock requirements or do not agree on terms, then the Tier 2 advice letter shall include supporting documentation to show that all reasonable efforts were made by the IOU including an Independent Evaluator report on the negotiations with an attestation to those facts.

For executed new contracts, contract amendments, and contract extensions authorized in this Resolution, PG&E, SCE and SDG&E shall each request CPUC approval via Advice Letter(s). The Advice Letter shall include a showing that includes a) summary of the facility's compliance with air quality district requirements within the prior contract term; b) current end date of existing Power Purchase Agreement (PPAs) with seller; and c) whether or not the facility is located in a federal severe or extreme nonattainment area for particulate matter or ozone. If the facility is located in the Sacramento federal severe or extreme nonattainment area, or any other federal ozone nonattainment area in California, the IOU shall also submit a copy of the letter or certificate obtained by the facility from the air district with jurisdiction over the biomass generator that states that the federal ozone nonattainment area voluntarily opted to be classified in one or more federal standards in a severe or extreme nonattainment zone and that the continued operation of the facility does not impede the air district's ability to meet its applicable requirements.

This Resolution maintains a per se reasonableness benchmark for BioRAM contracts as established in E-4977 for all executed and amended contracts authorized by this Resolution. As with previous BioRAM program and biomass contract extensions, the goal of the per se reasonableness benchmark is to prevent protracted contract negotiations and contain costs by removing incentives to hold out for a higher price. The reasonableness benchmark represents what the CPUC has found to be reasonable for BioRAM contracts and per this Resolution will be based on the current BioRAM contract's price. A Tier 3 Advice Letter must be filed if contract prices are executed above the per se reasonableness benchmark and will be subject to Commission cost reasonableness review via a Tier 3 Advice Letter. Any procurement expenses incurred pursuant to this Resolution shall be collectible through the BioRAM non-bypassable charge[13].

[13] Decision 18-12-003: Established a non-bypassable charge for costs associated with tree-mortality biomass energy procurement https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M252/K547/252547425.PDF. Also see Pub. Util. Code § 451 that requires that all charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable.

SAFETY

Pub. Util. Code § 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 amend certain BioRAM contracts or procure new contracts for five to fifteen years. It implements the biomass provisions of AB 2750, which in part addresses biomass energy as a means to remove hazardous forest materials.

Additionally, BioRAM contracts to be used pursuant to this Resolution contain Commission approved safety provisions, which require, among other things, the seller to operate the generating facility in accordance with Prudent Electrical Practices, as defined in the contracts, and all applicable requirements of law, including those related to planning, construction, ownership, and/or operation of the projects. These provisions specifically require that all sellers take a list of reasonable steps to ensure that the generation facility is operated, maintained, and decommissioned in a safe manner.

Aside from Air District records, any facility relevant Occupational Safety and Health Administration (OSHA) or Water District reportable incidents, citations or violations should also be provided. Those aforementioned records should be provided for the last 5 years or more based on a good faith effort.

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. Any comments are due within 20 days of the date of its mailing and publication on the Commission's website and in accordance with any instructions accompanying the notice. Section 311(g)(2) provides that this 30-day review period and 20-day comment period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day review and 20-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments on February 24, 2025.

Comments were filed in a timely fashion on March 17, 2025, by Pacific Gas and Electric Company (PG&E) and the California Biomass Energy Alliance (CBEA). The objective and timing of this Resolution is to implement directives from AB 2750. We carefully considered

the comments as relevant to the implementation of the statute and BioRAM program and provide responses here.

Eligible Contract Extensions

PG&E requested modifications to reflect its assertion that it has already met the statutory requirements in Section 8388, as amended by AB 2750, to seek new contracts or contract extensions of at least 5 years for its qualifying contracts. Specifically related to its contract with Burney, PG&E asserts that it fulfilled its obligation to seek a contract extension by having negotiated with Burney per direction from SB 1109 and Resolution E-5288.

PG&E recounts that it submitted Advice Letter 7264-E on May 9, 2024, which provided an update on its efforts to negotiate a contract extension with Burney in which the two parties were unable to agree to price terms. As related by PG&E, Energy Division issued a disposition letter to make Advice Letter 7264-E effective on March 3, 2025.

Although Advice Letter 7264-E complied with direction from SB 1109 and Resolution E-5288 with its recent negotiations with Burney, we interpret AB 2750 to demonstrate a legislative intent to extend BioRAM PPAs and offer all eligible counterparties new contracts or contract extensions of at least 5 years. We direct the IOUs to pursue extensions with all eligible facilities, including Burney. We are maintaining the Draft Resolution's orders, but we note that in consideration of the Commission's concern for cost containment in balance with the legislative direction for eligible contract extensions, negotiations for such extensions shall incorporate the per se reasonableness price benchmark.

Alternate Opt-Out Pricing

As noted above, the Commission issued Resolution E-4977 in January 2019 to implement key provisions of SB 901 (2018) including allowing contracted bioenergy facilities to opt out of the mandated fuel or feedstock requirements without creating an event of default provided written notice is given for that month. Pursuant to SB 901 and established through Resolutions E-4805 (2016) and E-4977 (2019), the Commission adopted an alternate payment price of $89.23/MWh for facilities that choose to opt out of the mandated feedstock usage levels.

CBEA submitted comments that generally support Draft Resolution E-5376. However, CBEA requested an increase for the program opt-out price from $89.23 to $118.70/MWh based on the Bureau of Labor Statistic's consumer price index increase over the last 10 years. CBEA

cites inflation and the uncertainty about future fuel availability from federal lands given recent cuts in the federal budget for forestland management.

CBEA also asserts that increasing the opt-out price level will in no way incentivize the BioRAM biomass facilities to choose opt-out over HHZ and sustainable forest management fuel when they are able to obtain the required quantity of qualifying fuel.

Considering the current average BioRAM contract price is $122/MWh[14], staff believes that an opt-out increase to $118.70/MWh would not provide a great enough difference between current contract and opt-out prices to strongly encourage the biomass facilities to fulfill the HHZ and sustainable fuel requirements.

Therefore, the alternate price will not be changed, and this Resolution is not amended for this purpose.

FINDINGS

1. AB 2750 extends the 125 megawatt procurement requirement for generation from eligible BioRAM facilities to July 1, 2025.

2. Resolution E-4805 previously determined each investor-owned utilities respective share of the 125 MW of capacity from existing bioenergy projects ordered in Senate Bill 859 (2016).

3. To be consistent with previous CPUC BioRAM orders, the CPUC should authorize Pacific Gas and Electric Company, Southern California Edison, and San Diego Gas & Electric to procure their allocated MW share included in Table 1 of this Resolution via solicitations or bilaterally from biomass facilities that commenced operation prior to June 1, 2013, and should request CPUC approval of executed contracts via Advice Letter.

4. AB 2750 requires extension or new contracts from eligible BioRAM contracts if facilities meet certain criteria.

5. Sellers that should be eligible for new BioRAM contracts and extensions to BioRAM contracts are all counterparties to BioRAM contracts which were operative at any time in 2022 and the contract expires or expired on or before December 31, 2028.

[14] 2024 Padilla Report Costs and Cost Savings for the RPS Program, p. 23.

6. Sellers that operate facilities located in federal severe or extreme nonattainment areas for particulate matter and ozone are not eligible for the contract extensions or new contracts pursuant to Section 8388 of the Public Utilities Code, unless the facility has obtained a letter or certificate from the air district with jurisdiction over the biomass generator that states that the federal ozone nonattainment area voluntarily opted to be classified in one or more federal standards in a severe or extreme nonattainment zone and that the continued operation of the facility does not impede the air district's ability to meet its applicable requirements.

7. New or amended contracts executed pursuant to this Resolution that extend the contract term length must follow the feedstock requirements consistent with Pub. Util. Code § 399.20.3(b)(1) which are that at least 80 percent of the feedstock of an eligible facility must be a byproduct of sustainable forestry management, which includes the removal of trees from Tier 1 and Tier 2 HHZs and not from lands that have been clear cut, and at least 60 percent of the feedstock must come from Tier 1 and Tier 2 HHZs.

8. The Commission should authorize the IOUs to extend their existing BioRAM contracts for five years or more, provided they meet the requirements set in this Resolution.

9. It may be reasonable that IOUs and sellers agree to not move forward with a contract extension or parties do not agree on terms for a new contract or amendment.

10. The Deputy Director of Energy Division may order the IOUs to go back into contract negotiations with an eligible seller if the parties are unable to execute an amended contract pursuant to this Resolution.

11. It is reasonable to set a per se reasonableness price benchmark to prevent protracted contract negotiations and contain costs by removing incentives to hold out for a higher price.

12. The per se reasonableness benchmark for contract prices for new or amended BioRAM contracts executed pursuant to this Resolution should be no higher than current contract prices.

13. It is reasonable to allow any procurement expenses incurred pursuant to this Resolution to be collected through the BioRAM non-bypassable charge authorized

by the Commission in D.18-12-003.

THEREFORE IT IS ORDERED THAT:

1. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are ordered to execute new BioRAM contracts by July 1, 2025, for the capacity (megawatt) amount equal to or above their respective proportional share included in Table 1 of this Resolution. The new contracts shall have term lengths of 5 to 15 years and shall only be executed with facilities that commenced operation prior to June 1, 2013. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are ordered to request CPUC approval of the new or amended contracts via Advice Letter.

2. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall file within 60 days of this Resolution's effective date a showing that it meets the conditions of Public Utilities Code §399.20.3(b)(1) via Tier 2 Advice Letter if it claims it does not need to execute or amend any contracts to meet Ordering Paragraph 1 of this Resolution.

3. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are ordered to amend existing BioRAM contracts or execute new contracts if the BioRAM contract expires or expired on or before December 31, 2028, the facility was operative in 2022, and the facility is not located in federal severe or extreme nonattainment areas for particulate matter or ozone, unless the facility meets the specifications of Public Utilities Code § 8388 (b). The amended or new contract must have an expiration date at least five years or more later than the expiration date in the current (or most recent) contract and follow the feedstock requirement of subdivision (b) of Section 399.20.3.

4. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company are authorized to use a CPUC approved BioRAM standard contract and any of the procurement methods specified herein to procure capacity ordered by this Resolution.

5. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are ordered to file Tier 1 advice letters within 60 days of this Resolution containing:
    a. a list of all the IOU's current BioRAM contracts, as well as any that were

operating in 2022 but have since terminated, that contains contracted facility's name, location, and size (megawatts); contract's termination date and whether they are located in a federal severe or extreme nonattainment zone for particulate matter or ozone;

b. a showing that the buyer has contacted all their contracted BioRAM facilities; and
c. if applicable, an attestation that a buyer and the eligible seller do not wish to execute contracts with an extended term length or do not agree on terms, and supporting documentation to show that all reasonable efforts were made by the buyer, including an Independent Evaluator report on the negotiations.

6. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company are ordered to file Advice Letters requesting approval of contract amendments or new contracts pursuant to Public Utilities Code § 8388 that contain:
    a. Contract amendments with extended term lengths or new contracts with term lengths for a minimum of five years provided they meet the requirements set in this Resolution;
    b. an explanation for why each amendment or new contract meets the criteria of Public Utilities Code § 8388; and
    c. information regarding whether the facility is located in a federal extreme or severe nonattainment area for particulate matter or ozone; and
    d. if the facility is located in a federal extreme or severe nonattainment area, a copy of the letter obtained by the facility from the air district with jurisdiction over the biomass generator that states that the federal ozone nonattainment area voluntarily opted to be classified in one or more federal standards in a severe or extreme nonattainment zone and that the continued operation of the facility does not impede the air district's ability to meet its applicable requirements.

7. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company are ordered to request CPUC approval via Tier 3 Advice Letters instead of a Tier 2 Advice Letters if they execute a new or amended biomass contract pursuant to this Resolution and the price of that contract or amendment is higher than the per se reasonableness benchmark, which is set here as the price of the current contract between that buyer and seller of the existing BioRAM contract.

8. Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company are ordered to file a Tier 2 Advice Letter no later than 210 days showing compliance with this Resolution if an agreement(s) extending the contract term length or executing a new contract(s) is not reached between the IOU and eligible seller(s) within 180 days of the effective date of this Resolution.

This Resolution is effective today.

The foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on April 3, 2025 the following Commissioners voting favorably thereon:

ALICE REYNOLDS
President

DARCIE HOUCK
JOHN REYNOLDS
KAREN DOUGLAS
MATTHEW BAKER
Commissioners

Dated April 3, 2025, at San Francisco, California

APPENDIX A

Appendix A

Text of Assembly Bill 2750, Sections 1 and 2 (Additions to Statute made by AB 2750 shown as underlined and deletions shown as ~~strikethrough~~.)

SECTION 1.

Section 399.20.3 of the Public Utilities Code is amended to read:

399.20.3.

(a) For purposes of this section, the following definitions apply:

(1) "Bioenergy" has the same meaning as set forth in paragraph (6) of subdivision (f) of Section 399.20.

(2) "Tier 1 high hazard zone" includes areas where wildlife and falling trees threaten electrical transmission and distribution lines, roads, and other evacuation corridors, critical community infrastructure, or other existing structures, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(3) "Tier 2 high hazard zone" includes watersheds that have significant tree mortality combined with community and natural resource assets, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(b) (1) In addition to the requirements of subdivision (f) of Section 399.20, ~~by December 1, 2023~~, on or before July 1, 2025, electrical corporations shall collectively procure, through financial commitments of 5 to 15 years, inclusive, their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects that commenced operations before June 1, 2013. At least 80 percent of the feedstock of an eligible facility, on an annual basis, shall be a byproduct of sustainable forestry management, which includes removal of dead and dying trees from Tier 1 and Tier 2 high hazard zones and is not that from lands that have been clear cut. At least 60 percent of this feedstock shall be from Tier 1 and Tier 2 high hazard zones.

(2) Paragraph (1) ~~shall~~ does not apply to a utility subject to subdivision (g) if both of the

following apply:

(A) The utility, either directly or through a joint powers authority, entered into five-year financial commitments for its proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects pursuant to this section as it was enacted by Chapter 368 of the Statutes of 2016.

(B) The utility's financial commitments referenced in subparagraph (A) ~~include, (1)~~ include either: (i) a contract with a facility operator that was, on June 1, 2022, in a bankruptcy or other insolvency ~~proceeding,~~ proceeding; or ~~(2)~~ (ii) a contract for a project that does not deliver energy to the utility.

(c) For the purpose of contracts entered into pursuant to subdivision (b), commission Resolution E-4770 (March 17, 2016), and commission Resolution E-4805 (October 13, 2016), Tier 1 and Tier 2 high hazard zone fuel or feedstock shall also include biomass fuels removed from fuel reduction operations exempt from timber harvesting plan requirements pursuant to subdivisions (a), (f), (j), and (k) of Section 4584 of the Public Resources Code.

(d) The commission shall require an electrical corporation that has entered into a contract pursuant to subdivision (b), commission Resolution E-4770 (March 17, 2016), or commission Resolution E-4805 (October 13, 2016) to allow fuel or feedstock reporting requirements to be based on a monthly or annual basis, and a bioenergy facility providing generation pursuant to that contract shall have the right to opt out of the mandated fuel or feedstock usage levels in any particular month upon providing written notice to the electrical corporation in the month of operation. For months in which a bioenergy facility opts out of the mandated fuel or feedstock usage levels or misses the mandated fuel or feedstock targets, that facility shall be paid the alternate price adopted by the commission in commission Resolution E-4770 for all megawatthours generated during that month. Contracts shall continue in force through the end of the contracted term without creating an event of default for missing mandated fuel or feedstock usage levels and without giving rise to a termination right in favor of the electrical corporation.

(e) (1) For each electrical corporation, the commission shall allocate its proportionate share of the 125 megawatts based on the ratio of the electrical corporation's peak demand to the total statewide peak demand.

(2) Procurement by an electrical corporation of generation capacity pursuant to a contract under the commission's Resolution E-4770 (March 17, 2016) that is in excess of the

requirement of that electrical corporation under that resolution shall count towards meeting the electrical corporation's proportionate share allocated pursuant to paragraph (1).

(f) The commission may direct each electrical corporation to develop standard contract terms and conditions that reflect the operational characteristics of the bioenergy projects and to provide a streamlined contracting process or may require the electrical corporations to use the mechanism established pursuant to the commission's Resolution E-4770 (March 17, 2016) to meet the requirements of subdivision (e). The procurement pursuant to the developed standard contract shall occur on an expedited basis due to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(g) A local publicly owned electric utility serving more than 100,000 customers shall procure its proportionate share, based on the ratio of the utility's peak demand to the total statewide peak demand, of 125 megawatts of cumulative rated capacity from existing bioenergy projects described in subdivision (b) subject to terms of at least five years.

(h) The commission shall ensure that the costs of any contract procured by an electrical corporation to satisfy the requirements of this section are recoverable from all customers on a nonbypassable basis.

(i) The Procurement Review Group within the commission shall advise the commission on the cost of the generation procured pursuant to this section and its impact on ratepayers.

(j) For purposes of this section, any incremental procurement of electricity products from bioenergy resources by a new contract or contract extension of five years or longer in duration shall be from a resource that meets emission limits equivalent to, or more stringent than, the applicable best available retrofit control technology, as determined by the local air pollution control district or air quality management district. The determination shall be made before the start of the operating period under the new contract or contract extension.

SEC. 1.5.

Section 399.20.3 of the Public Utilities Code is amended to read:

399.20.3.

(a) For purposes of this section, the following definitions apply:

(1) "Bioenergy" has the same meaning as set forth in paragraph (6) of subdivision (f) of Section 399.20.

(2) "Tier 1 high hazard zone" includes areas where wildlife and falling trees threaten electrical transmission and distribution lines, roads, and other evacuation corridors, critical community infrastructure, or other existing structures, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(3) "Tier 2 high hazard zone" includes watersheds that have significant tree mortality combined with community and natural resource assets, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(b) (1) In addition to the requirements of subdivision (f) of Section 399.20, ~~by December 1, 2023~~, on or before July 1, 2025, electrical corporations shall collectively procure, through financial commitments of 5 to 15 years, inclusive, their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects that commenced operations before June 1, 2013. At least 80 percent of the feedstock of an eligible facility, on an annual basis, shall be a byproduct of sustainable forestry management, which includes removal of dead and dying trees from Tier 1 and Tier 2 high hazard zones and is not that from lands that have been clear cut. At least 60 percent of this feedstock shall be from Tier 1 and Tier 2 high hazard zones.

(2) Paragraph (1) ~~shall~~ does not apply to a utility subject to subdivision (g) if both of the following apply:

(A) The utility, either directly or through a joint powers authority, entered into five-year financial commitments for its proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects pursuant to this section as it was enacted by Chapter 368 of the Statutes of 2016.

(B) The utility's financial commitments referenced in subparagraph (A) ~~include, (1)~~ include either: (i) *a* contract with a facility operator that was, on June 1, 2022, in a bankruptcy or other insolvency ~~proceeding,~~ proceeding; or (2) (ii) a contract for a project that does not deliver energy to the utility.

(c) For the purpose of contracts entered into pursuant to subdivision (b), commission Resolution E-4770 (March 17, 2016), and commission Resolution E-4805 (October 13, 2016), Tier 1 and Tier 2 high hazard zone fuel or feedstock shall also include biomass fuels removed from fuel reduction operations exempt from timber harvesting plan requirements pursuant

to subdivisions (a), (f), (j), and (k) of Section 4584 of the Public Resources ~~Code.~~ Code, as those subdivisions read on January 1, 2024.

(d) The commission shall require an electrical corporation that has entered into a contract pursuant to subdivision (b), commission Resolution E-4770 (March 17, 2016), or commission Resolution E-4805 (October 13, 2016) to allow fuel or feedstock reporting requirements to be based on a monthly or annual basis, and a bioenergy facility providing generation pursuant to that contract shall have the right to opt out of the mandated fuel or feedstock usage levels in any particular month upon providing written notice to the electrical corporation in the month of operation. For months in which a bioenergy facility opts out of the mandated fuel or feedstock usage levels or misses the mandated fuel or feedstock targets, that facility shall be paid the alternate price adopted by the commission in commission Resolution E-4770 for all megawatthours generated during that month. Contracts shall continue in force through the end of the contracted term without creating an event of default for missing mandated fuel or feedstock usage levels and without giving rise to a termination right in favor of the electrical corporation.

(e) (1) For each electrical corporation, the commission shall allocate its proportionate share of the 125 megawatts based on the ratio of the electrical corporation's peak demand to the total statewide peak demand.

(2) Procurement by an electrical corporation of generation capacity pursuant to a contract under the commission's Resolution E-4770 (March 17, 2016) that is in excess of the requirement of that electrical corporation under that resolution shall count towards meeting the electrical corporation's proportionate share allocated pursuant to paragraph (1).

(f) The commission may direct each electrical corporation to develop standard contract terms and conditions that reflect the operational characteristics of the bioenergy projects and to provide a streamlined contracting process or may require the electrical corporations to use the mechanism established pursuant to the commission's Resolution E-4770 (March 17, 2016) to meet the requirements of subdivision (e). The procurement pursuant to the developed standard contract shall occur on an expedited basis due to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(g) A local publicly owned electric utility serving more than 100,000 customers shall procure its proportionate share, based on the ratio of the utility's peak demand to the total statewide peak demand, of 125 megawatts of cumulative rated capacity from existing bioenergy

projects described in subdivision (b) subject to terms of at least five years.

(h) The commission shall ensure that the costs of any contract procured by an electrical corporation to satisfy the requirements of this section are recoverable from all customers on a nonbypassable basis.

(i) The Procurement Review Group within the commission shall advise the commission on the cost of the generation procured pursuant to this section and its impact on ratepayers.

(j) For purposes of this section, any incremental procurement of electricity products from bioenergy resources by a new contract or contract extension of five years or longer in duration shall be from a resource that meets emission limits equivalent to, or more stringent than, the applicable best available retrofit control technology, as determined by the local air pollution control district or air quality management district. The determination shall be made before the start of the operating period under the new contract or contract extension.

SEC. 2.

Section 8388 of the Public Utilities Code is amended to read:

8388.

(a) An electrical corporation, local publicly owned electric utility, or community choice aggregator with a contract to procure electricity generated from biomass pursuant to Section 399.20.3, commission Resolution E-4770 (March 17, 2016), or commission Resolution E-4805 (October 13, 2016), ~~and~~ that expires ~~or expired~~ on or before December 31, 2028, shall seek to amend the contract to include, or seek approval for a new contract that includes, an expiration date at least five years later than the expiration date in the contract that was operative in ~~2022, so long as~~ 2022 if the contract extension follows the feedstock requirement of subdivision (b) of Section 399.20.3. ~~This section shall not apply to facilities located in federal severe or extreme nonattainment areas for particulate matter or ozone.~~

(b) (1) Except as provided in paragraph (2), subdivision (a) does not apply to a facility located in a federal severe or extreme nonattainment area for particulate matter or ozone.

(2) Notwithstanding paragraph (1), subdivision (a) applies to a facility in an area that voluntarily opts for severe or extreme nonattainment status but the air district has determined that the continued operation of the facility does not impede the air district's ability to meet its applicable attainment deadline.

(3) A contract between an electrical corporation, local publicly owned electric utility, or community choice aggregator and a biomass generator that is located in the Sacramento federal ozone nonattainment area shall not be extended unless the biomass generator first obtains a letter or certificate from the air district with jurisdiction over the biomass generator that states that the Sacramento federal ozone nonattainment area voluntarily opted to be classified in one or more federal standards in a severe or extreme nonattainment zone and that the continued operation of the facility does not impede the air district's ability to meet its applicable requirements.

SEC. 3.

The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because the Sacramento federal ozone nonattainment area voluntarily reclassified its nonattainment status to severe, which had the unintended impact of disqualifying a biomass facility in Lincoln, California from a bioenergy renewable auction mechanism power purchase agreement extension.

SEC. 4.

Section 1.5 of this bill incorporates amendments to Section 399.20.3 of the Public Utilities Code proposed by both this bill and Assembly Bill 2276. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2025, (2) each bill amends Section 399.20.3 of the Public Utilities Code, and (3) this bill is enacted after Assembly Bill 2276, in which case Section 1 of this bill shall not become operative.

SEC. 5.

No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

End of Appendix A