

Decision: **PROPOSED DECISION OF ADMINISTRATIVE LAW JUDGE  
ZITA KLINE (Mailed 4/10/2026)**

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

Order Instituting Rulemaking To Continue  
Implementation and Administration, and  
Consider Further Development, of California  
Renewables Portfolio Standard Program

Rulemaking 18-07-003

**DECISION DENYING PETITION TO MODIFY DECISION 20-08-043**

**Summary**

This decision denies the March 6, 2025, petition to modify Decision (D.) 20-08-043, filed by the Bioenergy Association of California, on procedural grounds.

The petition seeks to extend or remove the end date of the Bioenergy Market Adjusting Tariff (BioMAT) and proposes other programmatic changes. The petition fails to meet the requirements of Rule 16.4 of the California Public Utilities Commission’s Rules of Practice and Procedure because these modifications could have been sought within one year of the issuance of D.20-08-043.

Pursuant to D.20-08-043, the BioMAT ended on December 31, 2025.

This proceeding is closed.

## 1. Background

Section 1.1 provides an overview of the Bioenergy Market Adjusting Tariff (BioMAT) program and Section 1.2 provides the procedural background

### 1.1. BioMAT Program Overview

The Feed-in Tariff (FiT) program is a policy mechanism designed to accelerate investment in small, distributed renewable energy technologies via contracts with terms of 10 years or longer and price certainty. The investor-owned utilities (IOUs) are required to procure renewable energy through mandated feed-in tariff programs to meet additional policy goals.

The BioMAT is a FiT program for small bioenergy renewable generators established by Senate Bill (SB) 1122 (Rubio, Chapter 612, Statutes of 2012) and launched by the IOUs in 2016. SB 1122 required 250 megawatts (MW) of small-scale bioenergy procurement by the IOUs. In 2021, Assembly Bill (AB) 843 (Aguiar-Curry, Chapter 234, Statutes of 2021) authorized Community Choice Aggregators (CCAs) to participate in the program.

The intent of the program is to encourage growth in electrical generation from eligible small, bioenergy resources. The program offers eligible projects a fixed-price standard contract to export electricity to California's IOUs. Procured projects must be 3 MW or less in size but can be up to 5 MW in nameplate capacity. These small-scale projects can be procured in three categories:

1. Category 1 (Biogas from wastewater treatment, municipal organic waste diversion, food processing, and co-digestion - 110 MW);
2. Category 2 (Dairy and other agricultural bioenergy – 90 MW); and,

3. Category 3 (Bioenergy using byproducts of sustainable forest management, including fuels from high hazard zones effective February 1, 2017 - 50 MW).

Electricity generated from the BioMAT program counts towards the Renewables Portfolio Standard (RPS) targets.<sup>1</sup>

The Commission set an end date for the BioMAT Program five years from the program's start to provide developers a fair opportunity "to learn the rules and propose viable projects, while not allowing the price adjustments (leading to price uncertainty) to go on indefinitely."<sup>2</sup> In D.20-08-043, the Commission extended the end date an additional five years to allow more time for additional project development and provide long-term programmatic certainty "while maintaining the Commission's direction to establish a clear program end date."<sup>3</sup> In addition to the program end date, the Commission made several other modifications since the program's inception. Most recently, D.23-11-084 established rules to enable CCAs to participate in BioMAT.

## **1.2. Procedural Background**

On March 6, 2025, the Bioenergy Association of California (BAC) filed a petition to modify D.20-08-043 (Petition). The following parties filed responses to the Petition on April 7, 2025: Public Advocates Office (Cal Advocates); California Association of Sanitation Agencies (CASA); California Biomass Energy Alliance (CBEA); Center for Biological Diversity/Partnership for Public Integrity

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<sup>1</sup> More information on BioMAT can be found here:  
<https://www.cpuc.ca.gov/industries-and-topics/electrical-energy/electric-power-procurement/rps/rps-procurement-programs/rps-sb-1122-biomat>

<sup>2</sup> D.14-12-081 at 70-71.

<sup>3</sup> D.20-08-043 at 10-11.

(CBD/PFPI); California Forestry Association (CFA); Dairy Cares/Agricultural Energy Consumers Association (AECA); Green Power Institute (GPI); Pioneer Community Energy/Redwood Coast Energy Authority (Joint CCAs); Pacific Gas and Electric Company (PG&E); and Southern California Edison Company (SCE).

BAC filed a reply to the responses on April 17, 2025.

## **2. Relief Requested and Party Positions**

In its Petition, BAC requests several changes to the BioMAT program “to ensure that the BioMAT program meets the requirements of state law and other important state policies, including wildfire mitigation, protection of air quality, reduction of Short-Lived Climate Pollutant emissions, and energy reliability.”<sup>4</sup> These requested changes are as follows:

- a. Removing the program end date until the megawatts required by the statute have been procured or extending the program end date to 2035;
- b. Adjusting program prices to reflect inflation, at least in BioMAT Feedstock Category 1;
- c. Removing the utility specific allocations within each feedstock category; and,
- d. Facilitating the use of BioMAT projects for microgrids, resource adequacy, and power for vehicle charging under the Low Carbon Fuel Standard Program.<sup>5</sup>

All parties responding to the Petition, except for Cal Advocates, PG&E, and SCE, substantively support BAC’s Petition.

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<sup>4</sup> Petition at 3-4.

<sup>5</sup> Petition at 3.

Several parties oppose the Petition on procedural grounds. Cal Advocates and PG&E argue that the Petition is redundant as potential BioMAT program adjustments are within the scope of the Commission's current RPS proceeding, R.24-01-017, and for that reason, they recommend that the Petition be rejected on procedural grounds.

CBD/PFPI also request that the Commission reject the Petition on procedural grounds for violating Rule 16.4 of the Commission's Rules of Practice and Procedure (Rules), requiring citations for factual allegations, which CBD/PFPI assert the Petition lacks. CBD/PFPI also argue that the Petition's policy arguments support bioenergy in general and that many of the Petition's claims are neither factual nor specific to BioMAT.<sup>6</sup>

### **3. BAC's Petition is Summarily Denied on Procedural Grounds**

Rule 16.4 requires petitions for modification to be filed and served within one year of the 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. In this case, the Petitioner has not sufficiently justified why the Petition could not have been timely filed.

BAC cited the following reasons for filing the Petition more than one year after the issuance of D.20-08-043:<sup>7</sup>

- Lasting impacts of the Covid-19 pandemic on BioMAT procurement including extended supply chain disruptions,

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<sup>6</sup> CBD/PFPI Response at 2-3.

<sup>7</sup> Petition at 4-6.

- workforce availability, and inflation, leading to delays in project development;
- The passage of AB 843 allowing CCAs to participate in BioMAT;
  - The California Air Resources Board's February 2021 plan to phase out the open burning of agricultural waste that calls for increased bioenergy production as a preferred alternative to open burning;
  - The CalRecycle's regulations to implement the landfill diversion requirement of SB 1383 allowing biomass conversion to electricity as an alternative to landfilling that waste becoming effective in January 2022.

Supporting BAC's Petition, Dairy Cares/BAC state that the business disruption due to the pandemic, subsequent impacts on the economy, and interconnection delays have negatively affected BioMAT project development.<sup>8</sup>

In contrast, opposing BAC's Petition, Cal Advocates recommends that the Commission deny the Petition as untimely because BAC cites previously rejected reasons to explain why its Petition could not have been presented within one year of the effective date of D.20-08-043, and that the Commission considered these arguments and denied BAC's 2021 petition where it found that BAC "[did] not sufficiently justify the delayed filing" of its 2021 petition.<sup>9</sup> First, Cal Advocates finds BAC's assertion about the COVID-19 pandemic and related supply chain disruptions justifying the delay unpersuasive, as these conditions

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<sup>8</sup> Dairy Care/BAC Response at 2.

<sup>9</sup> Cal Advocates Response at 2 referring to D.24-03-003, *Decision Denying the Petition to Modify Decision (D.) 14-12-081 and D.20-08-043* at 6, issued in R.11-05-005.

originated in 2020 and do not apply to a filing made in 2025.<sup>10</sup> Cal Advocates adds that BAC fails to provide specific evidence demonstrating that such factors materially affected the BioMAT program in a manner warranting modification. Second, Cal Advocates finds BAC's reliance on AB 843 similarly unsupported.<sup>11</sup> Cal Advocates argues that AB 843, enacted in 2021, and its implications were already addressed in BAC's prior petition, where the Commission rejected identical arguments concerning feedstock allocations and program structure and BAC does not explain why these previously rejected contentions now justify its delayed filing. Finally, Cal Advocates points out that BAC cites various policies adopted in 2021 and 2022 but does not establish their relevance to the petition filed in 2025.<sup>12</sup>

The Commission finds Cal Advocates' contentions persuasive. The Petition was filed on March 6, 2025, more than four years after D.20-08-043 became effective on August 27, 2020. The legislature authorized CCAs to participate in the BioMAT in AB 843, which the Governor approved on September 23, 2021, more than three years before the Petition was filed. The Commission affirmed that R.18-07-003 was the appropriate venue to consider changes to the BioMAT program sunset date on April 6, 2023, which is almost two years before the Petition was filed.<sup>13</sup> Therefore, based on the record, the Commission finds that the Petitioner does not sufficiently justify the delayed

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<sup>10</sup> Cal Advocates Response at 3.

<sup>11</sup> Cal Advocates Response at 3-4.

<sup>12</sup> Cal Advocates Response at 4-5.

<sup>13</sup> Assigned Commissioner's Scoping Memo and Ruling, R.22-10-010, at 2.

filing of the Petition and concludes that the Petition does not satisfy the timeliness requirement of Rule 16.4.

#### **4. Summary of Public Comment**

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding. There are no relevant comments on the Docket Card pertaining to this subject matter.

#### **5. Comments on Proposed Decision**

The proposed decision of ALJ Zita Kline in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission’s Rules of Practice and Procedure. Comments were filed on April 30, 2026 by BAC, and no reply comments were filed.

We have carefully reviewed and considered BAC’s comments, and concluded that BAC did not raise any factual, legal, or technical errors that would warrant modification to the proposed decision. The Commission responds to BAC’s comments below.

First, BAC opposes the proposed decision, arguing that the CPUC’s Rules of Practice and Procedure do not authorize or envision the issuance of a second proposed decision by a different Administrative Law Judge. Similarly, BAC argues that the second proposed decision “appears to replace the first proposed

decision issued on September 18, 2025, without withdrawing the first proposed decision.”<sup>14</sup>

We disagree. Article 14 of the Commission’s Rules of Practice and Procedure sets forth the rules pertaining to issuance of proposed decisions. BAC fails to identify rules in Article 14 that prevent the Commission from issuing a new proposed decision where a prior proposed decision was withdrawn. Likewise, there is no requirement in rule or statute that the Commission explain why a proposed decision was withdrawn.

Similarly, coassignments on large, complex, or extended rulemakings such as the Renewables Portfolio Standards rulemaking proceedings are consistent with Commission practice and promote administrative efficiency. For example, R.24-01-017, the successor RPS rulemaking, has two co-assigned ALJs, with rulings and decisions that can be issued by either ALJ, or jointly.

In this proceeding, a proposed decision was issued on September 18, 2025, placed on the Commission’s voting meeting agenda but held several times for further review, and ultimately withdrawn prior to the January 15, 2026, voting meeting agenda.<sup>15</sup> Therefore, BAC’s assertion that the proposed decision was not withdrawn is in error. Because the Commission did not hear and vote on the proposed decision, dated September 18, 2025, that proposed decision has no legal effect.<sup>16</sup> The notice accompanying the September 18, 2025, proposed decision

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<sup>14</sup> BAC Comments on PD at 1, 4-5.

<sup>15</sup> Results of Commission Meeting Agenda Results, Jan. 15, 2026, item 2 withdrawn.  
[https://ia.cpuc.ca.gov/agendadocs/3575\\_results.pdf](https://ia.cpuc.ca.gov/agendadocs/3575_results.pdf).

<sup>16</sup> Pub. Util. Code § 311(d).

clearly states, “[u]ntil and unless the Commission hears the item and votes on it, the proposed decision has no legal effect.”

Withdrawal of a proposed decision does not affect the placement of a proposed decision on the proceeding docket card. Therefore, a proposed decision will remain on the proceeding docket card even if it is later withdrawn and no longer pending before the Commission.

By arguing that this decision is a “second proposed decision,” BAC mistakenly implies that there are two proposed decisions by different ALJs before the Commission for the May 14, 2026, agenda meeting. This is in error. Only this proposed decision resolving BAC’s PFM is before the Commission as item 17 for the May 14, 2026, agenda meeting.<sup>17</sup> There is no alternate decision by an ALJ or Commissioner for the Commission’s consideration.

BAC also objects to this decision, stating that “the second proposed decision reaches the opposite conclusion from the first proposed decision on whether BAC’s Petition was timely filed, yet never explains why the two proposed decisions reached opposite conclusions on this or points to any standards or precedent for this reversal[.]”<sup>18</sup> However, the proposed decision issued on September 18, 2025, has no legal effect and has been withdrawn from consideration. Therefore, the Commission has no reason to compare and contrast the two proposed decisions, and BAC fails to cite any legal authority requiring the Commission to do so.

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<sup>17</sup> Commission Meeting Agenda, May 14, 2026, item 17, <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M606/K201/606201347.pdf>.

<sup>18</sup> BAC Comments on PD at 1, 6-9.

Finally, BAC asserts that the second proposed decision violates Pub. Util. Code Section 399.20(f)(2) by ending BioMAT without adopting a successor program. However, this decision does not reach BAC's substantive arguments as it dismisses the PFM on procedural grounds. Rule 16.4(d) establishes the timeliness requirement for petitions to modify decisions. As such, a petition for modification must be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision. Determining whether the late submission has been sufficiently justified by the petitioner is entirely discretionary.<sup>19</sup> If the Commission determines that the late submission has not been justified, "it may on that ground (alone) issue a summary denial of the petition,"<sup>20</sup> as this proposed decision does.

## **6. Assignment of Proceeding**

Christine Harada is the assigned Commissioner and Nilgun Atamturk and Zita Kline are the assigned Administrative Law Judges in this proceeding.

## **Findings of Fact**

1. BAC filed its petition for modification on March 6, 2025, more than four years after D.20-08-043 became effective.
2. AB 843 authorized CCAs to participate in the BioMAT program, and was signed by the Governor on September 23, 2021.

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<sup>19</sup> Pub. Util. Code § 1708 [the Commission "may" modify orders or decisions.]

<sup>20</sup> D.25-06-003 at 3-4; D.24-03-051 at 6-7 (parenthetical in original).

3. The Commission affirmed that R.18-07-003 was the appropriate venue to consider changes to the BioMAT program sunset date on April 6, 2023.

4. BAC does not sufficiently justify the delayed filing of the Petition.

**Conclusions of Law**

1. BAC's Petition does not meet the timeliness requirement of Rule 16.4.
2. BAC's Petition should be denied.
3. Rulemaking 18-07-003 should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. The March 6, 2025, petition to modify Decision (D.) 20-08-043, filed by the Bioenergy Association of California Petition is denied.
2. Rulemaking 18-07-003 is closed.

This order is effective today.

Dated May \_\_\_\_, 2026, at San Francisco, California