Decision 09-09-048 September 24, 2009

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the California Solar Initiative, the Self-Generation Incentive Program and Other Distributed Generation Issues.	Rulemaking 08-03-008 (Filed March 13, 2008)

DECISION GRANTING PETITION TO MODIFY SELF GENERATION INCENTIVE PROGRAM REGARDING RENEWABLE FUELS

1. Summary

This decision grants a petition by Bloom Energy Corporation (Bloom) to modify certain renewable fuel requirements rules for the Commission's Self Generation Incentive Program (SGIP). The decision modifies SGIP policies to expand eligibility for Level 2 incentives of $4.50 per watt to include projects that use renewable fuels delivered through directed biogas contracts.

The SGIP program administrators are directed to implement the handbook revisions contained in Bloom's petition, and attached as Appendix A of this decision, which has been modified to incorporate the following: 1) the expanded eligibility applies to any SGIP eligible gas-fired generator that uses directed biogas; 2) facilities using directed biogas must meet requirements to ensure the biogas meets local utility injection standards; and 3) the 20 percent adder for using a California supplier of distributed generation (DG) resources is calculated on the non-renewable SGIP incentive rate of $2.50 per watt before adding $2.00 per watt for using renewable fuel.

2. Background

In Decision (D.) 01-03-073, the Commission established the SGIP to encourage the development and commercialization of new DG technologies. DG refers to generation technologies installed on the customer's side of the utility meter that provide electricity for all or a portion of a customer's onsite electric load. SGIP provides funding to qualifying entities[1] for installing DG. Incentives offered under the SGIP vary based on the technology funded and whether the DG facility uses renewable fuel. Current SGIP incentives are as follows**:**

Table 1: SGIP Incentive Levels[2]

Incentive Level	Eligible Technologies	Incentive[3]
Level 2 Renewable	Wind Turbines Renewable Fuel Cells	$ 1.50 per watt $ 4.50 per watt
Level 3 Non-Renewable	Non-Renewable Fuel Cells	$ 2.50 per watt

With regard to Level 2 incentives for renewable fuel cells, the Handbook used by the SGIP Program Administrators (PAs)[4] to implement the program

[1] At its inception, SGIP funded solar photovoltaics, wind turbines, fuel cells, microturbines, small gas turbines, internal combustion engines and combined heat and power cogeneration plants. Pursuant to Pub. Util. Code § 379.6, SGIP is currently limited to wind and fuel cell technologies.

[2] Initially, SGIP also included Level 1 incentives for photovoltaics. Level 1 was dropped when the Commission moved its photovoltaic incentive program to the California Solar Initiative.

[3] Pursuant to Pub. Util. Code § 379.6(g), SGIP will pay an additional 20 percent incentive for installation of DG from "California suppliers," as defined in the statute.

limits the scope of eligible renewable fuels to those that are on-site. (Handbook, Section 4.3.2, at 37). However, the SGIP Working Group[5] has approved an exception to allow Level 2 SGIP funding where the renewable fuel is delivered by truck from an offsite fuel production facility to the DG facility.

3. Petition for Modification

On May 26, 2009, Bloom filed a petition to modify D.01-03-073 and allow an amendment to the SGIP Handbook to authorize SGIP-eligible fuel cell projects to receive Level 2 incentives (i.e., $4.50/watt) if the renewable fuel for the facility is obtained pursuant to a contract where biogas is nominated and delivered[6] to customers via a natural gas pipeline. Bloom refers to this mode of renewable fuel delivery as "directed biogas." Bloom suggests this authorization be extended to not just fuel cells, but any SGIP-eligible DG facility.

According to Bloom, the SGIP Handbook was written before pipeline delivered renewable fuels became commercially available. The current Handbook mentions "onsite" renewable fuels and should be clarified to allow eligibility for SGIP incentives to DG facilities that contract for pipeline delivered renewable fuel. Bloom notes that it is not recommending specific modifications

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[4] The SGIP PAs are Southern California Edison (SCE), Southern California Gas Company (SoCalGas), Pacific Gas and Electric Company (PG&E), and the California Center for Sustainable Energy (CCSE).

[5] Per D.04-12-045, the SGIP Working Group is composed of SCE, San Diego Gas & Electric Company, SoCalGas, PG&E, the Commission's Energy Division, the California Energy Commission, and CCSE.

[6] Bloom's petition explains that the renewable biogas is nominated and injected into the pipeline for delivery to the customer. Nevertheless, as with electricity, there is no means of ensuring the actual molecules of renewable gas are consumed at the customer's site. Thus, the gas is not literally delivered, but notionally delivered, as the biogas may actually be utilized at any other location along the pipeline route.

to D.01-03-073 because the issue of pipeline renewable fuel was not envisioned at that time, but that decision is referenced as the Commission's foundation for the policies underlying SGIP.

Bloom maintains that deliveries of renewable fuel using directed biogas can work within the existing SGIP processes and can be fully verified over the life of the SGIP project. According to Bloom, the SGIP PAs can verify delivery of directed biogas in the same way as PG&E's existing nomination, delivery, and invoicing for transportation of customer-owned gas. Appendix A of Bloom's petition contains proposed amendments to the SGIP Handbook outlining a step by step process for SGIP participants and PAs to use to verify directed biogas deliveries and usage. This proposed process includes the following significant steps:

- The customer will enter into a renewable fuel supply contract to procure 100% of the customer's forecasted renewable fuel consumption for at least 5 years.[7]
- Both the customer and renewable fuel supplier will utilize revenue grade meters that measure all gas flows in and out of their facilities.
- The fuel supplier and customer will true-up on actual deliveries on a regular basis, based on their contract.
- The SGIP PAs will be able to verify the gas nominations and consumption at any time over the life of the project, and can

[7] Bloom's petition states that 100% is higher than the current Level 2 requirement that allows customers to use up to 25% fossil fuel. (*See* Section 2.6.1 of the SGIP Handbook.) The petition further states that if the supplier experiences a supply disruption or fails to deliver the full quantity of renewable fuel in the schedule, the customer will have the contractual right to procure an alternative source of renewable fuel to maintain compliance with the 75% threshold for renewable fuel consumption, as measured annually.

elect to use the same methods that an investor-owned utility uses to verify and audit its biogas purchases from out of state biogas facilities.

- If the customer cannot or does not procure adequate renewable fuel, the SGIP PAs will have the right to request a refund of the difference between Level 2 and Level 3 incentive payments.

To support its petition, Bloom claims that directed biogas renewable fuel sources are available and the market is growing quickly. Bloom maintains there is more demand than local supply, as evidenced by PG&E's purchase of pipeline delivered renewable fuel from Texas. Further, Bloom expects that over time, suppliers will seize the opportunity to meet this demand and California-based supplies will materialize as favorable market economics encourage their development.

Bloom contends its petition is consistent with Commission precedent. Specifically, Bloom cites to Resolution E-4193[8] in which the Commission granted PG&E the ability to procure biogas from a facility that creates agricultural methane (i.e., biogas) in Texas and injects it into the natural gas pipeline. The gas is then nominated for consumption at PG&E's Humboldt Bay Generation Facility in California. PG&E is able to count the megawatt hours generated from this facility towards its Renewable Portfolio Standard (RPS) requirements. Bloom's proposed SGIP handbook revisions use the same Commission approved method used by PG&E to procure renewable fuel delivered by natural gas pipelines from out of state renewable facilities to generate RPS eligible electricity in California.

[8] See Resolution E-4193, Oct. 2, 2008 approving PG&E Advice Letter 3132-E.

Bloom alleges that ratepayers should be indifferent to its petition as the requested changes do not result in any incremental costs to ratepayers, are within the existing scope of SGIP, and merely allow a new mode of renewable fuel delivery. Moreover, Bloom asserts that a pipeline-based option for renewable fuel delivery may reduce SGIP administrative costs for verification of renewable fuels, as verification will not require physical site visits by SGIP PAs. In addition, Bloom claims directed biogas may offer the benefit of increased renewable electricity in California by advancing the development and deployment of biogas and ultra-clean DG technologies, promoting methane destruction, and spurring green jobs in California.

Pursuant to Commission Rule 16.4(d), if more than one year has elapsed since the effective date of the decision, a petition for modification must state the reason the petition could not have been filed within one year. Bloom contends that its petition could not have been filed within one year of D.01-03-073 because recent changes in the fuel cell marketplace in terms of the availability of renewable fuels transported via pipeline have only recently developed. Bloom's reasons for filing the petition beyond the one year deadline are reasonable and we will accept the petition for consideration.

Bloom requests expedited treatment of its petition because the requested changes have been previously reviewed and approved by the SGIP Working Group, as directed by D.08-11-044, and the Working Group unanimously supported the Program Modification Request that preceded this petition. Bloom attaches to its petition the Working Group Summary wherein the Working Group voted to support Bloom's proposal. Bloom claims it has incorporated into its proposal most of the Working Group's specific suggestions, and provides its rationale where it did not accept them. Bloom's request for a shortened response

period for the petition was not opposed and was granted by the Administrative Law Judge.

4. Comments on Petition

Comments on the petition were filed by BioFuels Energy LLC (BFE), FuelCell Energy Inc. (FCE), Microgy Inc., and PG&E on behalf of the SGIP PAs.

BFE, FCE and Microgy support the petition and urge its adoption to propel increased use of renewable fuels and deployment of new fuel cell DG systems in California. FCE notes that according to the recent SGIP Year 7 Impact Report, fuel cells operated on biogas have demonstrated high capacity factors while simultaneously delivering significant reductions in greenhouse gas (GHG) emissions.

PG&E comments that the PAs support the Bloom proposal, but outline three suggested modifications. We discuss these modifications in the discussion below.

5. Discussion

The key issue raised in the Bloom petition is whether the Commission should modify the SGIP policies and practices to expand eligibility for Level 2 funding to include projects that use renewable fuels notionally delivered through directed biogas contracts. Under existing SGIP rules, projects must use on-site renewable fuels to receive Level 2 incentives. This restriction limits SGIP projects to those that have an adequate source of renewable fuel, such as recoverable biogas, on the premises.

If we expand eligibility for Level 2 incentives to include facilities that use renewable fuels from directed biogas, it will enable any project that can secure an offsite directed biogas supplier to receive Level 2 incentives. This should not only increase participation in SGIP, but also can be reasonably expected to

increase the market for biogas in California as in-state biogas developers see opportunities from increased demand for their product. We agree with Bloom that its petition can be implemented with minimal administrative expense and should not impose a burden on the program budget given that SGIP funding in the last few years has been underutilized.

In D.01-03-073, the Commission established SGIP and set forth an incentive design to provide higher incentives to DG technologies that use renewable fuels. As stated in D.01-03-073, SGIP is intended "to encourage deployment of DG to reduce peak electric demand, give preference to new renewable energy capacity, and ensure deployment of clean self-generation technologies having low and zero operational emissions." (D.01-03-073, Attachment 1, at 23.) We find that Bloom's petition has the ability to further these intentions. If we allow incentives for directed biogas we can potentially increase program participation by renewable fuel technologies and thereby increase the amount of electricity produced by renewable generating facilities. This potential, and the corresponding potential to reduce peak electric demand, remains even though the fuel is not produced on the same site as the generating facility. We are persuaded that expanding Level 2 SGIP incentives to eligible DG technologies that use renewable fuel from directed biogas sources will increase the market for fuel cells and help SGIP achieve its goals.

This approach is consistent with the approach taken in the context of our RPS program. Under RPS, directed biogas can qualify as an eligible renewable fuel when notionally delivered to a gas-fired facility producing RPS eligible energy. In our view, current SGIP rules, which require on-site renewable fuels, impose a more stringent requirement than the RPS program. We see no compelling reason for this difference. If directed biogas qualifies as a renewable

fuel in the RPS context, we believe it should qualify as a renewable fuel under SGIP.

For these reasons, we will grant Bloom's petition, with the modifications discussed below. We will direct the SGIP PAs to implement SGIP handbook revisions as set forth in Bloom's proposed amendments to the SGIP Handbook, which we attach to this decision as Appendix A, which incorporates the additional modifications which we now discuss.

First, the PAs suggest that if SGIP eligibility is expanded by legislation to include technologies other than fuel cells, the ability to use offsite renewable fuel should apply to all eligible gas-fired generators under the program. We agree and herein specify that the modification to allow renewable fuels from directed biogas should apply to all eligible SGIP participants.

Second, the PAs propose that, in order to avoid disputes over the eligibility of directed biogas, the Commission should require SGIP applicants to provide documentation at the incentive claim stage from the utility gas pipeline owner confirming that the renewable gas has been approved for injection into the local natural gas pipeline. The PAs claim that not all biogas is eligible for injection into gas pipelines, and pipeline owners in different states can have differing injection standards. Bloom responds that rather than requiring applicants to provide such documentation, the Commission should adopt the requirement that:

> "the renewable fuel supplier represents and warrants that it holds the rights to the renewable attributes to the fuel prior to the sale to the SGIP customer, and it agrees that it is only selling the renewable attributes of the renewable fuel to the SGIP customer, and will not otherwise unbundle or sell the fuel's renewable attributes to another party. This will ensure that any renewable

> gas injected into the natural gas pipeline will be used by the applicant." (Bloom reply, 6/18/09, p. 2.)

We agree with the SGIP PAs that we should ensure any directed biogas used to qualify for Level 2 incentives meets local utility injection standards. Bloom's suggested language does not resolve this concern.

Rather, we find it reasonable to look to the qualification standards for directed biogas that are currently employed in our RPS program. Commission Resolution E-4193 discusses RPS biogas standards and describes that in the RPS program, the California Energy Commission (CEC) determines what resources are eligible to count towards RPS. The CEC's RPS Eligibility Guidebook,[9] states that biogas, derived from digester gas, is an RPS eligible renewable energy resource and must meet specific delivery requirements. (CEC RPS Eligibility Guidebook, December 19, 2007, at 20-21.) We will mirror these RPS delivery requirements, with minor word changes to reflect SGIP rather than RPS, and require that all directed biogas used to meet SGIP Level 2 incentive criteria meet the following requirements:

- The gas must be injected into a natural gas pipeline system that is either within the Western Electricity Coordinating Council (WECC) region or interconnected to a natural gas pipeline in the WECC region that delivers gas into California.
- The gas must be nominated for use at a facility that is SGIP eligible.

[9] The CEC guidebook can be found at the following link: http://www.energy.ca.gov/2007publications/CEC-300-2007-006/CEC-300-2007-006-ED3-CMF.PDF

- When applying for SGIP funding, the applicant shall include: 1) an attestation from the facility operator of its intent to procure directed biogas and 2) an attestation from the fuel supplier that the fuel meets currently applicable RPS eligibility requirements for biogas injected into a natural gas pipeline.[10]

The SGIP PAs should ensure handbook revisions reflect these additional requirements. If RPS biogas delivery requirements are modified in the future, we direct the SGIP PAs to conform the handbook to current RPS requirements.

Third, the PAs suggest that the Petition be modified to require that, beginning in 2012, applicants must use off-site renewable gas from in-state sources to be eligible for SGIP incentives. The PAs assert that since SGIP funds are collected from California electric and gas utility customers, the SGIP should fund projects using renewable fuel developed in California. In response, Bloom contends the critical policy consideration with respect to California ratepayer benefits under SGIP is not where the renewable fuel is produced, but where that renewable fuel is ultimately converted into electricity. Bloom asserts that its petition will provide local air quality benefits and greenhouse gas reductions to California ratepayers by displacing demand for "brown" electricity from the local grid with renewable fueled DG installations. In addition, Bloom maintains that increased demand for renewable DG projects fueled by directed biogas should encourage expansion of in-state renewable fuel supplies, whereas a requirement that pipeline delivered renewable fuels come from in-state sources

[10] RPS eligibility requirements shall pertain to the source of the biogas, the conditions of its injection, and the measurement of biogas supply only. The SGIP generating facility need not be certified as RPS eligible, nor must the electricity produced necessarily qualify for RPS.

after 2012 injects regulatory uncertainty into long-term renewable fuel supply arrangements and represents a potential barrier to renewable electricity generation in California.

While the Commission supports development of and reliance on in-state renewable fuel supplies, we do not believe it is reasonable or necessary to require this as a condition for receiving Level 2 incentives for directed biogas. We agree with Bloom that it would be counterproductive to insert a requirement that fuel supplies must come from California by 2012. We also agree that expanding program eligibility to give Level 2 incentives to facilities using directed biogas is likely to increase demand for biogas and stimulate biogas development within California. Thus, we will not modify the Bloom petition as the SGIP PAs suggest on this point.

Finally, Pub Util. Code § 379.6(g) requires the Commission to "provide an additional incentive of 20 percent from existing funds for the installation of eligible distributed generation resources from a California supplier" in administering SGIP.[11] Given that the statute refers to "eligible distributed generation resources," and defines a "California supplier" as an entity that manufactures DG resources, we will calculate the 20 percent adder on the DG facility's equipment installation, irrespective of fuel type. In other words, the

[11] Pub. Util. Code § 379.6 (g) states in pertinent part:

> (1) In administering the self-generation incentive program, the commission shall provide an additional incentive of 20 percent from existing program funds for the installation of eligible distributed generation resources from a California supplier.

Footnote continued on next page

20 percent "California adder" will be calculated on the base incentive of $2.50 per watt applicable to the installation of a DG non-renewable fuel cell project. A 20 percent adder would increase this incentive to $3.00 per watt for using a California supplier, as defined in the code. If a facility uses renewable fuel and thus qualifies for a Level 2 incentive, the additional $2.00 per watt incentive for fuel cells operating on renewable fuel will be added after the 20 percent California adder, increasing the total incentive to $5.00 per watt.

6. Comments on Proposed Decision

The proposed decision of President Michael R. Peevey in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code. Under Rule 14.6(b) of the Commission's Rules of Practice and Procedure, the parties agreed to a reduced comment period of seven days. Comments were filed by Bloom, BioEnergy Solutions LLC (BES), BFE, the City of San Diego, FCE, and SCE. Reply comments were filed jointly by CCSE, SDG&E and SoCalGas.

Bloom, BFE, the City of San Diego and FCE all urge removal of a requirement in the proposed decision that facilities using directed biogas contracts use 100% renewable fuel. These parties claim this requirement could prevent host customers from using directed biogas contracts due to the higher risk of having to procure 100% of their fuel in the nascent biogas market. The parties cite intermittency in biogas production, possible equipment failures, and lack of biogas supply options and hedging opportunities as reasons that the 100% requirement places too great a risk on the host customer and could

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(2) California supplier" as used in this subdivision means any sole proprietorship, partnership, joint venture, corporation, or other business entity that manufactures eligible distributed generation resources in California ….

undermine the purpose of the petition to expand opportunities for biogas. Moreover, parties argue that customers using directed biogas should not be held to a higher standard than facilities where biogas is delivered by truck. The parties urge a return to the 75% fuel use requirement in the petition, or the increased flexibility of a true-up period. We find the parties assertions convincing that a 100% fuel use requirement for directed biogas is not reasonable at this time given the infancy of the directed biogas market. The decision has been modified to require a customer to contract for at least 75% of its 5 year forecasted fuel consumption, and does not penalize customers unless they fall below a 75% threshold for renewable fuel consumption, as measured annually.

BES requests modification of the decision to allow the 20 percent adder for California suppliers to apply to the full Level 2 incentive of $4.50 if the biogas also comes from California. We will not make this change because, as the decision explains, we interpret the statute to require the adder only for the installation of the DG equipment, not its fuel source.

7. Assignment of Proceeding

Michael R. Peevey is the assigned Commissioner and Dorothy J. Duda is the assigned Administrative Law Judge to this portion of the proceeding.

Findings of Fact

1. The SGIP Handbook limits the scope of renewable fuels eligible for Level 2 incentives to those that are on-site.

2. In Resolution E-4193 regarding RPS, the Commission granted PG&E the ability to procure directed biogas from an out-of-state facility that creates the gas and injects it into the natural gas pipeline.

3. As stated in D.01-03-073, the intent of SGIP is to encourage deployment of DG to reduce peak electric demand, give preference to new renewable energy capacity, and ensure deployment of clean DG technologies.

4. Pub. Util. Code § 379.6(g) requires the Commission to pay an additional incentive of 20 percent for the installation of DG resources from a California supplier, as defined in that section.

5. Bloom filed its petition more than one year from the date of D.01-03-073 which it seeks to modify.

Conclusions of Law

1. Bloom's petition should be accepted for consideration because of recent changes regarding the availability of renewable fuels transported by pipeline.

2. Allowing directed biogas to qualify as a renewable fuel under SGIP is consistent with treatment of biogas in the RPS program and has the potential to increase participation in SGIP by renewable fuel technologies, increase the amount of electricity produced by renewable generating facilities in California, and increase the market for biogas in California.

3. Bloom's petition to allow directed biogas to qualify for SGIP Level 2 incentives can further SGIP goals.

4. Bloom's petition should be granted as long as it is modified to require directed biogas to meet local utility injection standards consistent with RPS delivery requirements for biogas injections as currently in effect.

5. The ability to qualify for Level 2 incentives for using directed biogas should not be limited to fuel cells but should apply to all eligible gas-fired generators under the program.

6. The 20 percent "California adder" should be calculated on the base incentive of $2.50 per watt applicable to the installation of a DG non-renewable

fuel cell project. If a facility uses renewable fuel and thus qualifies for a Level 2 incentive, the additional $2.00 per watt incentive for fuel cells operating on renewable fuel will be added after the 20 percent California adder.

O R D E R

IT IS ORDERED that:

1. The petition filed by Bloom Energy Corporation to modify Decision 01-03-073 is granted as modified below.

2. The Self Generation Incentive Program program administrators shall implement program handbook revisions, as set forth in Appendix A, which contains the following modifications in Sections 5 through 9:

a) Any Self Generation Incentive Program eligible gas-fired generator that uses directed biogas may qualify for Level 2 incentives.

b) Any facility seeking Level 2 incentives for use of directed biogas shall meet currently applicable Renewable Portfolio Standard biogas delivery requirements, which are currently as follows:

- The gas must be injected into a natural gas pipeline system that is either within the Western Electricity Coordinating Council region or interconnected to a natural gas pipeline in the Western Electricity Coordinating Council region that delivers gas into California.
- The gas must be nominated for use at a facility that is Self Generation Incentive Program eligible.
- When applying for Self Generation Incentive Program funding, the applicant shall include: 1) an attestation from the facility operator of its intent to procure directed biogas and 2) an attestation from the fuel supplier that the fuel meets currently applicable Renewable Portfolio Standard eligibility requirements for biogas injections.

c) The 20 percent adder for using a California supplier of Distributed Generation resources, as defined in Pub. Util. Code § 379.6(g) shall be calculated on the non-renewable Distributed Generation facility rate of $2.50 per watt before adding the additional $2.00 per watt incentive for using renewable fuel.

3. Rulemaking 08-03-008 remains open.

This order is effective today.

Dated September 24, 2009, at San Francisco, California.

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON
Commissioners

APPENDIX A
AMENDMENTS TO THE SGIP HANDBOOK

(Note: Commission additions are shown in underline.)

The SGIP Program Administrators manage the SGIP Handbook, and changes are normally made to the Handbook by obtaining the agreement of the SGIP Working Group. The proposed revisions to the 2009 SGIP Handbook to enable Directed Biogas are provided below:

1) Remove all references to "onsite" that are superfluous

Affected Sections:

- **Section 2.5.6.5** (System Sizing Based on Future Load Growth or Availability of Renewable Fuel)
- **Section 4.3.2** (Proof of Adequate Renewable Fuel)

2) Insert gas verification protocols:

Add the following language to section 2.6.1

If the renewable fuel is delivered from off-site, the following conditions and verification protocols must be utilized:

1) **Project Guidelines**:
    a. Host Customer should design the project to be powered by at least 75% renewable fuel for at least 5 years.
    b. Renewable Fuel Supplier facility must produce fuel that meets the SGIP definition of renewable fuels.
    c. The installation must exclusively use a revenue-grade, net generation output meter (NGOM) that can be remotely monitored by the utility.

2) **Reservation Request.** SGIP Reservation Requests for Level 2 incentive using off-site renewable fuels must include:
    a. Forecasted fuel consumption of generator over the life of project. If multiple periods apply, then the consumption in each period should be identified.
    b. Documentation that shows that the third party gas provider can inject the renewable fuel into the utility pipeline.
    c. Confirmation that the project is designed to include a revenue grade NGOM meter that will exclusively measure input fuel to the system.

3) Once the above materials are deemed adequate by the relevant SGIP PA, SGIP will grant a Conditional Reservation to the Host Customer.

4) The customer will then work in parallel to advance the project and work with the Supplier to develop and execute a binding renewable fuel contract.

5) **Renewable Fuel Contract**. A copy of the executed renewable fuel contract is provided to SGIP at the proof of project milestone. The following criteria must be included in the contract:

   a. Contract should at a minimum include term (minimum of 5 years), cost, amount of renewable fuel injected on a monthly basis for the length of the contract, address of renewable fuel facility, and facility address of Host Customer.

   b. SGIP has the right to audit & verify Customer Generator's consumption of renewable fuel consumption upon request over the life of the contract.[1]

   c. The Host Customer will consume the contracted renewable fuel for the sole purpose of powering the SGIP systems.

   d. The contract includes a forecast for <u>at least 75%</u> of the system's anticipated fuel consumption. One possible schedule:

Fuel Demand Schedule for SGIP <u>System</u>

	Starts	Ends	MMBtu/month	MMBtu/year
Period 1	Date Date		X	M
Period 2	Date Date		Y	N
Period 3	Date Date		Z	O

   e. True-up Mechanism. The Supplier & Customer will handle variations in actual consumption vs. the contract as follows:

      A. True ups will occur quarterly, or as otherwise specified, based on actual consumption of the <u>system</u> over the preceding quarter.

      B. Customer and Renewable Fuel Supplier will agree to true up based on actual deliveries of renewable fuel. Note that the fleet of <u>SGIP</u> systems will have its own revenue-grade, NGOM meter that is readable – often remotely over the internet – by the utility.

         i. If less onsite fuel is consumed than renewable fuel is nominated into the pipeline, then parties can agree to a financial make-whole provision.

[1] <u>Since directed biogas is "notionally delivered," auditing and verification should involve review of contracts and deliveries rather than actual consumption of the fuel.</u>

ii. If more onsite fuel is consumed than renewable fuel is nominated into the pipeline, then parties can agree to a make whole provision, such that Customer Generator consumes at least 75% renewable fuel, as measured annually, per SGIP Handbook section 2.6.1.

C. Customer & Supplier recognize that the final SGIP Incentive Payment will not be made until the renewable fuel contract is executed and the renewable fuel is being supplied to the Customer.

6) **Incentive Claim Stage.** The following information must be submitted at the Incentive Claim stage:

a. Documentation for the Supplier showing that the fuel is renewable, and that it meets the quality standards to be injected into the local natural gas pipeline.

b. Documentation showing that the contract has commenced, and the Supplier has begun nominating the renewable fuel into the pipeline.

7) **Verification, Audits, & Refund Terms.** After the incentive is issued, SGIP requires a yearly audit process for five years after the renewable fuel contract commences. The audit process works as follows: at the completion of each year, the Customer must provide the SGIP Program Administrator with the preceding 12 months of invoices for renewable fuel purchases. The Program Administrator will review the invoices to ensure that the Customer is satisfying the intent to procure renewable fuel to meet <u>at least 75%</u> of the generator's consumption.

Audits can be conducted remotely, thereby reducing costs for the SGIP program.

a. If invoices show that nominated renewable fuel deliveries fell below 75% of the generator's fuel demand over the same period, and the generator is not malfunctioning such that it consumes more fuel than originally forecast for the nomination, then the SGIP Program Administrators have the right to request that the Customer refund the difference between the higher renewable Level 2 SGIP incentive and the lower, non-renewable Level 3 SGIP incentive.

8) If the Host Customer decides to change their renewable fuel Supplier, or if the Customer's current renewable fuel Supplier cannot meet the obligations to perform as set forth in their contract, then the Customer is allowed to find a new supplier within 90 days, so long as they remain in compliance with the standard Level 2 SGIP requirement (section 2.6.1) that at least 75% renewable fuel is consumed on an annual basis during this period of transition. Once Customer finds a new Supplier, then they must enter into a new contract that provides for <u>at least 75%</u> of the system's anticipated consumption.

9) **<u>Other.</u>**

<u>a. Any SGIP eligible gas-fired generator that uses directed biogas may qualify for Level 2 incentives.</u>

b. Any facility seeking Level 2 incentives for use of directed biogas shall meet currently applicable RPS biogas delivery requirements, which are currently as follows:

- The gas must be injected into a natural gas pipeline system that is either within the Western Electricity Coordinating Council (WECC) region or interconnected to a natural gas pipeline in the WECC region that delivers gas into California.
- The gas must be nominated for use at a facility that is SGIP eligible.
- When applying for SGIP funding, the applicant shall include: 1) an attestation from the facility operator of its intent to procure directed biogas and 2) an attestation from the fuel supplier that the fuel meets currently applicable Renewable Portfolio Standard eligibility requirements for biogas injected into a natural gas pipeline.[2]

c. The 20 percent adder for using a California supplier of Distributed Generation (DG) resources, as defined in Pub. Util. Code § 379.6(g) shall be calculated on the non-renewable DG facility rate of $2.50 per watt before adding the additional $2.00 per watt incentive for using renewable fuel.

(END OF APPENDIX A)

[2] RPS eligibility requirements shall pertain to the source of the biogas, the conditions of its injection, and the measurement of biogas supply only. The SGIP generating facility need not be certified as RPS eligible, nor must the electricity produced necessarily qualify for RPS.