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 15-02-020
(Filed February 26, 2015)

ADMINISTRATIVE LAW JUDGE’S RULING REQUESTING SUPPLEMENTAL COMMENT ON INTERCONNECTION ISSUES RELATED TO THE BIOENERGY FEED-IN TARIFF UNDER THE CALIFORNIA RENEWABLES PORTFOLIO STANDARD AND STATING INTENTION TO TAKE OFFICIAL NOTICE OF DOCUMENTS

Background

The bioenergy feed-in tariff (BioMAT), established pursuant to Senate Bill (SB) 1122 (Rubio), Stats. 2012, ch. 612 and implemented in Decision (D.) 14-12-081 and D.15-09-004, mandates procurement by the large investor-owned utilities (IOUs) from specified types of generation resources eligible under the California renewables portfolio standard (RPS) program.¹ The first program period of the BioMAT program began February 1, 2016.

¹ The statutory provisions governing the BioMAT program are set out at Pub. Util. Code §§ 399.20(c)-(f); a copy of the provisions is attached as Attachment A to this ruling. All further references to sections are to the Public Utilities Code, unless otherwise specified.
On October 30, 2015, Governor Brown issued the Emergency Proclamation on Tree Mortality (Emergency Proclamation). Among several other things, the Emergency Proclamation requires among other things, that:

The Department of Forestry and Fire Protection, the California Natural Resources Agency, the California Department of Transportation, and the California Energy Commission shall immediately identify areas of the State that represent high hazard zones for wildfire and falling trees using best available science and geospatial data.

(Ordering Paragraph 1.)

The Emergency Proclamation also directs the Commission to undertake several actions related to facilitating the use of dead trees from high hazard zones as fuel for RPS-eligible generation facilities. These include possible adjustments to the BioMAT program, as well as facilitating interconnection agreements for forest bioenergy facilities.

On February 12, 2016, the Administrative Law Judge's Ruling (1) Accepting into the Record the Energy Division Staff Proposal to Implement Governor's Emergency Proclamation on Tree Mortality by Making Targeted Changes to the Bioenergy Market Adjusting Tariff Program to Facilitate Contracts with Facilities Using Fuel from High Hazard Zones and (2) Seeking Comment on Staff Proposal (Staff Proposal Ruling) propounded a number of questions about implementation of the Emergency Proclamation in the context

2 The Emergency Proclamation may be found at: www.gov.ca.gov/docs/10.30.15_Tree_Mortality_State_of_Emergency.pdf.

3 See Ordering Paragraphs 9 and 10 of the Emergency Proclamation.
of the BioMAT program. Comments were filed on February 26, 2016; reply comments were filed on March 7, 2016.4

**Interconnection proposal of Bioenergy Association of California**

The comments filed by BAC include a new proposal on the process of interconnection for BioMAT projects using fuel consisting of byproducts of sustainable forest management (often referred to by staff and parties as "Category 3" for BioMAT purposes). See Bioenergy Association of California’s Comments on Administrative Law Judge’s Ruling on the Staff Proposal to Implement the Governor’s Emergency Proclamation on Tree Mortality and Seeking Comment on the Staff Proposal (February 26, 2016), at 11-16 (BAC interconnection proposal).

Since the BAC interconnection proposal would change important elements of the staff proposal and was put forward only in comments on the Staff Proposal Ruling, the fairness and efficiency of this proceeding would be furthered by allowing all parties the opportunity to comment directly and specifically on the BAC interconnection proposal.

Comments should address each question presented in this ruling. It is not necessary to reproduce the question, but responses should be numbered to match the questions addressed, or otherwise clearly identify the issue being discussed.

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4 Comments were filed by Bioenergy Association of California (BAC), Center for Biological Diversity (CBD), Office of Ratepayer Advocates (ORA), Pacific Gas and Electric Company (PG&E), Phoenix Energy, Placer County Air Pollution Control District, Southern California Edison Company (SCE), and San Diego Gas & Electric Company. Reply comments were filed by BAC, CBD, Green Power Institute, ORA, PG&E, Phoenix Energy, SCE, SDG&E, and Shell Energy North America (US), L.P.
Comments should be as specific and precise as possible. Legal arguments should be supported with specific citations. Where appropriate and useful, quantitative examples should be provided.

Comments should be complete in themselves and should not incorporate by reference a party’s prior comments or reply comments on the Staff Proposal Ruling, or any other materials. Other materials necessary to the response should be attached, or, if the materials are available on a web site, the link to the materials should be given. Prior comments or reply comments should not be attached, but only referenced.

All comments should use publicly available materials. All comments should specifically identify, with respect to each question, whether any potential sources of information addressed in the response to the question are confidential.

Comments of not more than 15 pages may be filed and served not later than May 25, 2016. Reply comments of not more than ten pages may be filed and served not later than June 3, 2016.

With respect to the BAC interconnection proposal:

1. What, if any, effect would adopting the BAC interconnection proposal have on interconnection procedures under Rule 21 and the Wholesale Distribution Access Tariff (WDAT)? Provide a detailed explanation of your position.

2. The BAC interconnection proposal would allow projects to bid into BioMAT after investing only the cost of a Phase 1 interconnection study, without any additional fees for maintaining a position in the Rule 21/WDAT interconnection queue. What, if any, additional screens on project viability should the Commission require for projects that have received a Phase 1 study but have left the interconnection queue prior to receiving a BioMAT
power purchase agreement (PPA)? Please provide a detailed rationale and provide examples, if relevant.

3. What, if any, are the potential effects of the BAC interconnection proposal on the ability of BioMAT projects to meet their contractual commercial online date, i.e., 24 months after executing the PPA, with a possible six-month extension for interconnection delay? Please be specific and provide examples if relevant.

4. Compare the potential impact on the administration of the BioMAT program of the BAC interconnection proposal to the Staff Proposal on interconnection, addressing at least the following issues:
   a. Management of the interconnection queue
   b. Interconnection costs for BioMAT participants
   c. Costs to ratepayers of BioMAT projects that receive PPAs.

5. If the Commission were to adopt the BAC interconnection proposal, should it apply to the entire BioMAT program? Why or why not?

6. If the BAC interconnection proposal should not apply to the entire BioMAT program, should it apply only to generators in Category 3? Should only those generators using fuel from high hazard zones be included? Please provide a detailed rationale for your position.

7. If the BAC interconnection proposal is adopted, should the Commission set a condition that the terms of the BAC interconnection proposal will expire once the tree mortality emergency declared by the Emergency Proclamation has been declared to be over? Should the Commission set a different expiration date? Please provide a detailed rationale for your position.

8. What changes would be required to the BioMAT tariff and the BioMAT PPA in order to implement the BAC interconnection proposal? Please specify and justify the changes proposed. A redline version of the current tariff
and/or PPA reflecting the proposed changes should be attached to the comments.

**Intention to take official notice of documents**

Pursuant to Rule 13.9 of the Commission's Rules of Practice and Procedure, I intend to take official notice of the following documents:

1. Letter from Ken Pimlott, Director of California Department of Forestry and Fire Protection to Michael Picker, President of the California Public Utilities Commission, dated April 6, 2016. The letter may be found at [http://www.fire.ca.gov/treetaskforce/downloads/HHZ_ltr_to_CPUC_President_Picker.pdf](http://www.fire.ca.gov/treetaskforce/downloads/HHZ_ltr_to_CPUC_President_Picker.pdf). A copy of the letter is attached to this ruling as Attachment A.

2. The mapped geospatial data defining high hazard zones available in GIS Map Viewer, as referred to in Attachment A. The map viewer may be found at [www.treetaskforce.org](http://www.treetaskforce.org); Tree Mortality Viewer.

Any objections to taking official notice of these documents must be filed and served not later than May 16, 2016. Any objections must provide specific reasons for the claim that official notice should not be taken.

**IT IS RULED** that:

1. Comments of not more than 15 pages may be filed and served not later than May 25, 2016, in accordance with the instructions in this ruling.

2. Reply comments of not more than ten pages may be filed and served not later than June 3, 2016.

3. Objections to taking official notice of the documents identified by this ruling must be filed and served not later than May 16, 2016.
4. Responses to any objections to taking official notice must be filed and served not later than May 23, 2016.

Dated May 6, 2016, at San Francisco, California.

/s/ MARYAM EBKE for
Anne E. Simon
Administrative Law Judge
ATTACHMENT A

April 6, 2016 Letter from Department of Forestry and Fire Protection
April 6, 2016

President Michael Picker
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Dear President Picker:

Thank you for meeting with my staff and me last week regarding coordinating on implementing the tree mortality emergency proclamation and specific directives related to bioenergy contracting. We look forward to meeting with you, Commissioner Peterman and the Governor’s staff on May 2nd to continue coordinating on implementing the proclamation.

As we discussed, the proclamation directs CPUC to expedite bioenergy contracts for facilities receiving feedstock from the high hazard zones. CAL Fire is directed to identify areas of the State that represent high hazard zones for wildfire and falling trees using best available science and geospatial data. CAL FIRE has adopted the statewide definition of high hazard zones and has completed designating these zones in specific areas around the State. This geospatial data is posted in GIS Map Viewer format on the following website www.treetaskforce.org.

The definition is as follows:

**HHZ Direct (Tier 1):** These high hazard zones are in close proximity to communities, roads, and utility lines. They represent a direct threat to public safety.

**HHZ Indirect (Tier 2):** These high hazard zones are defined by watersheds (HUC 12) that have significant tree mortality, combined with community and natural resource assets. Work at the Tier 2 level supports broader forest health and landscape level fire planning issues.

The intent is that the HHZ definition includes both Tier 1 and 2 for purposes of CPUC policies and programs. In addition to the map, a description of the watershed scoring methodology for HHZ is available on the website. The HHZ watershed scoring is consistent with analytical methods that support CAL FIRE Unit level fire plans.

"The Department of Forestry and Fire Protection serves and safeguards the people and protects the property and resources of California."
President Michael Picker
April 7, 2016
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HHZ will be updated periodically to reflect new data from tree mortality surveys and improved asset information. Initially the data will be updated as frequently as quarterly to ensure current data on tree mortality is incorporated. CAL FIRE will not contract or delete sections of the HHZ for the first 5 years of the Bio MAT and RAM programs. After this 5-year period, CAL FIRE will re-evaluate HHZ in relation to tree mortality, wildfire, and asset status. It is anticipated that tree mortality will persist and expand over the next year and beyond, and will take up to 5 years before the existing large volume of impacted trees and associated vegetation is removed to properly address public safety and fire risk concerns. However, more time will be needed to remove additional mortality if the drought persists or new insect and disease breakouts occur.

I look forward to continuing to work with you. Please do not hesitate to contact me if you have any questions.

Sincerely,

KEN PIMLOTT
Director

cc: Commissioner Carla Peterman
    Cliff Rechtschaffen
    Martha Guzman-Aceves
    Edward Randolph

(END OF ATTACHMENT A)