

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

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| Order Instituting Rulemaking to Continue |) | Rulemaking 15-02-020 |
| Implementation and Administration, and |) | (Filed February 26, 2015) |
| Consider Further Development, of |) | |
| California Renewables Portfolio Standard Program.) |) | |
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**BIOENERGY ASSOCIATION OF CALIFORNIA'S COMMENTS ON THE
ADMINISTRATIVE LAW JUDGE'S RULING
ON IMPLEMENTATION OF POTENTIAL LEGISLATIVE
CHANGES RELATED TO BIOMAT**

DATED: August 24, 2016

JULIA A. LEVIN
Executive Director
Bioenergy Association of California
PO Box 6184
Albany, CA 94706
510-610-1733
jlevin@bioenergyca.org

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ON IMPLEMENTATION OF POTENTIAL LEGISLATIVE
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The Bioenergy Association of California (BAC) submits these Comments on changes to the BioMAT program that are required by Senate Bill 840, which passed out of the Legislature on August 22, and Assembly Bill 1612, which is pending Senate approval.¹ BAC is grateful to the Commission for posing these questions before the legislation was passed in order to move forward as quickly as possible with changes to the BioMAT called for in the Legislation and the Governor’s Emergency Proclamation on Tree

¹ Senate Bill 840 was passed on August 22, 2016. Available at: http://leginfo.ca.gov/pub/15-16/bill/sen/sb_0801-0850/sb_840_bill_20160822_status.html. Assembly Bill 1612, introduced by the Assembly Budget Committee, as amended in the Senate on June 27, 2016, is available at: http://leginfo.ca.gov/pub/15-16/bill/asm/ab_1601-1650/ab_1612_bill_20160627_amended_sen_v95.pdf

Mortality.² BAC's responses to the specific questions in the Administrative Law Judge's Ruling are below.

In addition to addressing the interconnection changes required by SB 840, BAC urges the Commission to address the need for a higher contract price for forest BioMAT projects to meet the requirement of the Governor's Emergency Proclamation to expedite BioMAT contract execution within six months.³ The Emergency Proclamation, which was issued almost ten months ago, states that the Commission:

"shall take expedited action to ensure that contracts for new forest bioenergy facilities that receive feedstock from high hazard zones can be executed within six months . . ." ⁴

Correcting the interconnection queue requirement will enable projects to remain in the BioMAT queue, but will not by itself accelerate the execution of forest BioMAT contracts for projects that take feedstock from high hazard zones. Without increasing the offering price or accelerating the price adjustment periods, it will still be a year or more from the time of the Decision on interconnection before any forest BioMAT contracts can be executed. While not the focus of these Comments, BAC urges the Commission to increase the initial offering price for forest BioMAT projects as described in BAC's Comments of February 26, 2016, which is the only way to ensure that contracts for these projects can be executed within six months, or at least to move to monthly price adjustment periods.⁵

BAC's responses to the specific questions in the Administrative Law Judge's Order are below.

² Governor's Proclamation of a State of Emergency, dated October 30, 2015. Available at: https://www.gov.ca.gov/docs/10.30.15_Tree_Mortality_State_of_Emergency.pdf

³ Governor's Proclamation of a State of Emergency, footnote 2 above, Section 9.

⁴ Id.

⁵ 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, filed February 26, 2016 in R. 15-02-020.

1. What, if any, are the relevant differences for purposes of implementation and administration of the BioMAT program between the new legislative proposals and the previous BAC interconnection proposal?

In general, the requirements of SB 840 are quite similar to BAC's interconnection proposal. Both are intended to remove the requirement that project developers maintain an active interconnection queue position while waiting to execute a BioMAT contract and both require an updated interconnection study upon execution of a BioMAT contract.

The main differences between SB 840 and BAC's proposal are:

a) SB 840 is limited to forest BioMAT projects. BAC had proposed removing the requirement for an active interconnection queue position for all BioMAT projects, not just forest sector projects. SB 840 is limited to forest BioMAT projects, but is not limited to projects in High Hazard Zones.

b) SB 840 does not require project developers to monitor the interconnection queue while they wait in the BioMAT queue. BAC suggested requiring developers to file quarterly Pre-Application Reports to monitor the interconnection queue. SB 840 requires instead that projects submit a new application for interconnection within 30 days of contract execution, but does not require other interim steps.

c) SB 840 does not require additional deposits or other criteria to ensure project viability. BAC had suggested various options to demonstrate project viability if the Commission determines that is necessary. The financial security recommended in BAC's answer to Question 4 should be sufficient for this purpose.

2. What, if any, effect will the changes proposed by the legislation have on interconnection procedures under Rule 21? Provide a detailed explanation of your position, with examples if relevant.

SB 840 does not address nor will it affect interconnection procedures under Rule 21. For a project that cannot move forward quickly with interconnection because it is waiting for an appropriate PPA price offering, this approach will allow such project to leave the

Rule 21 queue. By allowing projects to leave the Rule 21 queue, subsequent projects will not be delayed. The project applicant will assume the risk that interconnection costs may change over time.

3. Should the California Public Utilities Commission (Commission) require any additional financial security from projects that have received a Phase 1 study but have left the interconnection queue while bidding into BioMAT, in accordance with the proposed legislation?

Requiring an additional financial security is appropriate for forest BioMAT projects that withdraw from the interconnection queue but remain in the BioMAT queue since they will have to incur additional interconnection expenses if they enter into a BioMAT contract. Financial security could be required of projects that withdraw from the interconnection queue, and an amount of \$25,800, which represents the cost of a new interconnection Application Fee (\$800), System Impact Study deposit (\$10,000), and Facilities Study deposit (\$15,000) would be a fair amount. This would ensure that capable applicants would be able to move forward quickly with a new interconnection study upon executing a PPA.

4. Should any required deposit be refundable to the developer? If yes, under what circumstances (e.g., execution of a BioMAT contract with the IOU)? If not, how should the deposit be accounted for and applied?

For projects that continue forward once a PPA has been secured, this posting should go toward the required new interconnection study. For projects that leave the BioMAT queue, \$25,000 should be returned and \$800 should be forfeited as a non-refundable deposit to cover administrative costs. This is consistent with the interconnection study approach where none of the deposits for the studies would be used if the project does not continue, but there is a fee to cover administration.

While unlikely, if the total interconnection costs are less than \$25,000, then the remaining deposit should be returned to the applicant. This scenario is highly unlikely, however, since the total cost of the interconnection study process, the interconnection financial securities postings and the actual interconnection would have to be less than \$25,000.

5. Should there be a limit on the number of times a developer may have a system impact study done for the same project while remaining in the BioMAT queue before executing a BioMAT contract for that project? If yes, provide a rationale and a proposed numerical limit. If no, provide a rationale for your choice.

There is no reason to limit the number of times that a developer may have a system impact study done for the same project. First, if the Commission increases the offering price and/or accelerates the price adjustment periods, then the time spent waiting in the BioMAT queue (for forest BioMAT projects) should be six months or less, which is also what the Emergency Proclamation requires. Second, since the project starts over again in the interconnection queue when it withdraws, there is no need to restrict the number of times that the project reapplies. As long as the project is not clogging the queue for subsequent projects (which it will not be if it has withdrawn from the interconnection queue), then applicants should be allowed to pay for the re-study as frequently as they wish.

The additional financial security deposit described in Question 3 and Question 4 should apply to these re-applications. If the project subsequently withdraws, a new financial security should be required (including a new administrative fee).

For example: Project A completes their interconnection study but elects to leave the interconnection queue. Project A will withdraw from the queue and will provide a financial security of \$25,800 to maintain its position in the BioMAT queue. While Project A is waiting for a PPA, Project A reapplies in the interconnection queue which will cost \$800 for the application fee and \$10,000 for a deposit. The application fee will be paid for by Project A and then \$10,000 will be drawn from the BioMAT financial security. At this point Project A will have \$15,000 of refundable funds in the BioMAT financial security account and \$10,000 will have shifted to the interconnection study.

Upon completion of the System Impact Study, Project A elects to withdraw again. In this example, let's say the System Impact Study cost \$9,000. At this point, to maintain their BioMAT position, Project A will have to submit \$9,800 for the administration fee to cover the portion of the original financial security posting that used to re-perform the study. At

this point, Project A will have \$25,000 of refundable financial securities, \$15,000 that never moved, \$1,000 from the System Impact Study deposit that was not used, and \$9,000 in new funds.

6. The proposed legislation provides that, for a project that has dropped out of the interconnection queue and then executes a BioMAT contract, "the time to achieve commercial operation shall begin to run from the date when the new system impact study or other interconnection study is completed rather than from the date of execution of the standard contract." What, if any, would be the effects on the IOUs' administration of the BioMAT program of this extension of time to achieve commercial operation for those projects that have used the process proposed in the legislation?

The proposed legislation will extend the development process by the length of time it takes the Utility to perform the restudy. Many BAC members have submitted interconnection study applications over the last year and have often received delay notices from the Utilities without requests for additional information; in other words, the delays were due entirely to the IOU. If the IOUs comply with their own study timelines outlined in Rule 21, the additional time needed to achieve commercial operation should be no longer than 80 business days. If there has been no change on the transmission line, the extension of time should be considerably less.

7. What if any changes would be required in the IOUs' administration of the BioMAT tariff to manage the eligibility of projects identified in proposed new Section 399.20(f)(4)(A)(i) and (ii)?

SB 840 requires two changes in the IOUs' administration of the BioMAT tariff for forest BioMAT projects only:

- a) The IOUs would need to collect any financial deposit required from developers that leave the interconnection queue, and
- b) The IOUs would need to verify that the applicant has maintained an active queue position or submitted a new application for interconnection within 30 days of executing a PPA.

8. What changes would be required to the BioMAT tariff and/or the BioMAT standard contract in order to implement the proposed statutory changes? Please be specific, and justify each change proposed. A redline version of the current tariff and/or power purchase agreement (as relevant) reflecting the proposed changes should be attached to comments.

Three changes are required to the BioMAT tariff and standard contract to implement SB 840. A redline version of these changes is attached as Attachment A. The first and third changes use the language from SB 840 to clarify the definitions of project eligibility and commercial operation.

The changes needed to implement SB 840 are:

- a) Need to add a sentence to the BioMAT Tariff Section 5 (“Eligibility”) clarifying that forest BioMAT projects are not required to have a pending, active interconnection application to be eligible for the BioMAT, as provided by new Public Utilities Code section 399.20(f)(4)(iii).
- b) Need to revise PPA Template Cover Sheet, Section B, to clarify that a current interconnection queue position may not be required.
- c) Need to revise PPA Template to add a new section on Commercial Operation Date that reflects the requirement in SB 840 that a project shall submit a new application for interconnection within 30 days of execution of a standard contract if the project does not have a pending, active interconnection application.

BAC thanks the Commission again for its consideration of these issues at this time, so that the Commission can move forward as quickly as possible to implement SB 840 and the Governor’s Emergency Proclamation. As noted at the beginning of these Comments and in BAC’s previous comments, the Commission must also address the need for a higher offering price to meet the requirement of the Governor’s Emergency Proclamation to execute forest BioMAT contracts within six months.

DATED: August 24, 2016

Respectfully submitted,

/s/ Julia A. Levin

JULIA A. LEVIN, Executive Director
Bioenergy Association of California
PO Box 6184, Albany, CA 94706
510-610-1733
jlevin@bioenergyca.org

VERIFICATION

I am a representative of the non-profit organization herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 24th day of August, 2016, in Kensington, California.

/s/ Julia A. Levin

JULIA A. LEVIN
Executive Director
Bioenergy Association of California
PO Box 6184
Albany, CA 94706
510-610-1733
jlevin@bioenergyca.org

ATTACHMENT A

BAC's Redline of BioMAT Tariff and PPA Template Changes As Required by SB 840

(Using PG&E's January 2016 PPA Template and BioMAT Tariff. Proposed additions are underlined)

1) BioMAT Tariff – Eligibility

Section 5 “Interconnection Study/Strategically Located”

An Applicant must have passed the Fast Track screens, passed Supplemental Review, completed a PG&E System Impact Study in the Independent Study Process, completed a PG&E Distribution Group Study Phase 1 Interconnection Study in the Distribution Group Study Process, or completed a PG&E Phase 1 Study in the Cluster Study Process for its Project (Interconnection Study), or make use of an existing interconnection agreement to the extent permitted by PG&E's tariff. A project that meets the eligibility requirements of Public Utilities Code section 399.20(f)(2)(A)(iii) is not required to have a pending, active interconnection application to be eligible for BioMAT, provided that the project submits a new application for interconnection within 30 days of execution of a standard contract pursuant to the tariff.

2) PPA Template, Cover Sheet, Section B:

“XIII - The Interconnection Queue Position number, if applicable, is:

3) PPA Template, Commercial Operation Date

Insert New Section 1.1.5:

For projects that meet the eligibility requirements of Public Utilities Code section 399.20(f)(2)(A)(iii), the time to achieve commercial operation shall begin to run from the date when the new system impact study or other interconnection study is completed rather than from the date of execution of the standard contract.