

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

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Order Instituting Rulemaking to
Continue Implementation and
Administration of California Renewables
Portfolio Standard Program.

Rulemaking R-06-05-027

**JOINT REPLY COMMENTS OF THE GREEN POWER INSTITUTE,
THE CALIFORNIA BIOMASS ENERGY ALLIANCE,
AND THE CALIFORNIA FORESTRY ASSOCIATION
ON THE BIOMASS ISSUES IN ATTACHMENT A OF THE
SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER**

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Introduction

Pursuant to the August 21, 2006, *Scoping Memo and Ruling of Assigned Commissioner*, as modified by the September 14, 2006, *Administrative Law Judge's Ruling on Filing of Draft 2007RPS Procurement Plans and Revised Schedule*, the Green Power Institute (GPI), the California Biomass Energy Alliance (CBEA), and the California Forestry Association (CFA) hereby submit these *Joint Reply Comments of the Green Power Institute, the California Biomass Energy Alliance, and the California Forestry Association on the Biomass Issues in Attachment A of the Scoping Memo and Ruling of Assigned Commissioner*, in Proceeding R-06-05-027, **Order Instituting Rulemaking to Continue Implementation and Administration of California Renewables Portfolio Standard Program**. These *Joint Reply Comments* address points raised by other parties in their *Opening Comments* regarding issue no. 5 in Attachment A, biomass.

The Issue is How, not Whether, to Comply

The three large IOUs, PG&E, SCE, and SDG&E, all oppose the biomass targets in the Governor's Executive Order S-06-06, and the Bioenergy Interagency Working Group's (BIWG) *Bioenergy Action Plan for California*. The ESPs and the CCAs argue that the targets do not apply to them. All of these parties are missing the point. The California Public Utilities Commission, as a member of the BIWG, has already endorsed the *Bioenergy Action Plan's* target of maintaining biomass and biogas as, at a minimum, twenty percent of the overall state-mandated RPS portfolio, and committed itself to developing rules and regulations to achieve those goals. Our understanding is that the

Commission, through the August 21, 2006, *Scoping Memo and Ruling*, is asking the parties to comment on how to achieve the goals of Executive Order S-06-06 and the *Bioenergy Action Plan*, not whether to do so. This is not to say that presenting the case for a biomass policy is not a part of the rationale and development of the policy. We believe that it is an intrinsic and vital part. The task before us is not to repudiate the Governor's and BIWG's policy directive. The task at hand is to make the case for a biomass policy in the context of the Commission's established rulemaking process so that it either does or does not stand on its own right.

In this regard we take strong exception with UCS's argument that the case for the value of the benefits of biomass and biogas is fuzzy and complicated and therefore should not be pursued:

Given the difficult and complicated accounting and verification issues surrounding the purported "additionality" of these non-electric sector reductions, UCS does not believe that these claimed benefits should be included in the RPS evaluation criteria." (UCS *Opening Comments*, page 15).

As we demonstrated with the four documents that we attached to our October 18, 2006, *Joint Comments*, the benefits are well documented and demonstrated in the scientific and policy literature. The fact that they are complicated should in no way dissuade the Commission from addressing them.

Resource Neutrality

All three IOUs argue that a biomass support program is incompatible with the principle of "resource neutrality," which, they argue is, as a matter of statute, part of the RPS program. This is simply not correct. In fact, the term resource neutrality does not even appear in Pub. Util. Code § 399.11 et seq., and has never been proffered by the legislature as a guiding principle for renewables policy in California. The Commission recognizes this in its recent Decision on RPS reporting and compliance, D.06-10-050, which concludes: "Thus we adopt GP 8 [resource neutrality] here for purposes of guiding us in the reporting and compliance methodology, not necessarily all aspects of the RPS program (D.06-10-

050, page 9).” An effective biomass energy policy requires policies targeted at biomass. Targeted policies are perfectly compatible with renewable energy policy in California. The State’s treatment of solar renewable energy generation is a good example of a technologically specific policy. Whatever the Commission ultimately decides to do about biomass and biogas policy, resource neutrality absolutely should not be a factor in its deliberations.

Several parties argue that support for the Commission’s preference for “resource neutrality” can be gleaned from its decision to end the use of resource stacks in utility RPS procurement plans. This interpretation of the Commission’s past action on resource stacks in the RPS proceeding is incorrect. Resource stacks were judged to add no useful information to the procurement plans, and to be in possible conflict with the application of the utilities’ least-cost / best-fit (lc/bf) bid ranking process. The lc/bf process takes into account the load-serving and capacity-providing characteristics of proposed biomass and biogas projects, but does not address the non-market benefits of these energy sources that relate to their waste-disposal services, including reducing the emissions of greenhouse gases from some of society’s waste and residue resources. Indeed, it is the package of non-market benefits that provides the essential rationale for providing targeted incentives to biomass generators. These kinds of benefits go well beyond what can be captured in the lc/bf process.

The California Energy Commission has long recognized that keeping the biomass plants running full-time, as opposed to shutting down or curtailing during periods when energy prices are too low to cover the cost of operation, is a worthy policy. The CEC has determined that the non-electric waste management and clean air benefits have justified their provision of an off-peak subsidy to the biomass facilities during periods when the plants would otherwise curtail or shutdown. As the CBEA pointed out in its *Opening Comments*, this policy has been successful in keeping some, but not nearly all, of the existing biomass plants in operation, largely because this is a limited off-peak price boost, not an overall economic and benefit-recognition support program for the industry.

Program Coverage

The ESP and CCA respondents argue that the biomass targets described in the Executive Order and *Bioenergy Action Plan* do not apply to them. The utilities do not want to apply these targets at all, but if they are imposed, they want them imposed on all LSEs, not just the LSEs. We agree with the utilities. All of the goals and targets in Executive Order S-06-06 and the *Bioenergy Action Plan*, including those that apply to the electricity sector, as well as those that apply to non-electrical energy forms, clearly are meant to apply statewide. As we argued in our *Joint Comments*, there are a number of ways to structure a biomass program, not all of which involve imposing the targets individually on all LSEs. That is a matter that we expect will be addressed as the record on bioenergy policy issues is developed. No matter how the program is ultimately structured, it is clear that it is meant to apply statewide.

Compliance with Biomass Targets

PG&E and SCE both argue that the biomass targets in the Governor's Executive Order and the *Bioenergy Action Plan* should not be enforced by any kind of compliance or performance protocol. This argument is an extension of the opposition of these utilities to the essential goals and intentions of the Executive Order itself. The reality is that a program that lacks a compliance mechanism is not a program at all. Reaching the ambitious goals and targets in Executive Order S-06-06 and the *Bioenergy Action Plan* will only happen if there are clear and enforceable targets and program requirements.

Dairy Digesters

In *Opening Comments*, both Sustainable Conservation and PG&E argue in favor of streamlining some of the RPS program components that apply specifically to dairy digester generation systems. In our October 13, 2006, *Joint Comments*, the GPI argued:

Small, farm-based systems certainly could grow in their importance in California in the future, but in the opinion of the GPI, it is highly unlikely that they will be able to make a quantitatively meaningful contribution to the achievement of the Executive Order's biomass targets over the course of the coming decade. (*Joint Comments*, page 10)

Our point is not to oppose taking measures that would promote the development of these resources, but simply to point out that their contribution will be limited in magnitude for the foreseeable future. The same can be said for small, distributed PV systems, which are major beneficiaries of the state's three-billion-dollar solar initiative. Based on the information in Sustainable Conservation's *Opening Comments*, we calculate that if every cow in California were hooked up to a digester / generator system, the generating capacity would total 220 MW. Realistically, an ambitious goal would be to develop one-quarter of this potential over the coming decade, which would provide, in total, about 50 MW of generating capacity. This is a modest contribution compared to the fact that, for example, at the present time there are four 50 MW bioenergy generators operating in the state (three biomass and one landfill gas), as part of a total of almost 800 MW of existing bioenergy generating capacity supplying the grid. A modest contribution does not make dairy digester systems unworthy of pursuing, it simply has to be taken in context of the challenge posed by the Executive Order and *Bioenergy Action Plan*, which entails a major expansion of biopower production in California.

Future Collaboration

The October 25, 2006, *Administrative Law Judge's Ruling Granting Motions to Intervene and Refile Comments*, states, on page 3:

The interests of some parties appear to overlap with those of others. I encourage all parties with overlapping or similar interests (including but not limited to Sustainable Conservation, CFA, RCRC, Farm Bureau, California Biomass Energy Alliance, and others) to coordinate their efforts to the extent reasonable and feasible to promote efficiency.

CBEA and CFA collaborated with the Green Power Institute in this round of *Comments* and *Reply Comments*, which is dedicated to, in effect, teeing up the biomass issues for future consideration in this proceeding. As we move into the more detailed phase of biopower policy development, we pledge to heed the Judge's encouragement and attempt to form as broad a collaboration as possible, not only with the groups cited above, but also other environmental and consumer groups, and possibly the LSEs. Of course, there will

inevitably be issues on which even the parties with generally overlapping interests disagree, and this may result in multiple filings.

Conclusion

After many years of analysis and deliberation, California has embraced the establishment of a state policy in favor of encouraging energy production from the state's abundant biomass and biogas resources. The Governor's Executive Order S-06-06 on biomass, supported by the state's Bioenergy Interagency Working Group's *Bioenergy Action Plan for California*, sets aggressive targets for bioenergy contributions to California's renewable energy future. In the area of electricity production, the Commission is committed to enacting policies to ensure that biomass and biogas resources continue to provide at least twenty percent of the total annual renewable procurement portfolios of California's LSEs, as they increase their overall renewable procurement to meet the RPS program targets of 20 percent renewables by 2010, and 33 percent by 2020.

Several parties to this proceeding oppose adoption of the goals and targets for bioenergy that are now a part of California public policy. We hope that the Commission will focus its efforts on addressing the issues and building a solid record that can guide its ultimate decisions in enacting its biomass policies, and **NOT** re-litigate the question of whether to implement the state's already adopted biomass policy. We look forward to working with the Commission and the parties in formulating an effective bioenergy policy for California.

Dated November 3, 2006, at Berkeley, California.

Respectfully Submitted,



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VERIFICATION

I, Gregory Morris, am Director of the Green Power Institute, and a Research Affiliate of the Pacific Institute for Studies in Development, Environment, and Security. I am authorized to make this Verification on its behalf, and on behalf of the Joint Parties sponsoring this Filing. I declare under penalty of perjury that the statements in the foregoing copy of *Joint Reply Comments of the Green Power Institute, the California Biomass Energy Alliance, and the California Forestry Association on the Biomass Issues in Attachment A of the Scoping Memo and Ruling of Assigned Commissioner*, filed in R.06-05-027, 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.

Executed on November 3, 2006, at Berkeley, California.



Gregory Morris

PROOF OF SERVICE

I hereby certify that on November 3, 2006, I have served a copy JOINT REPLY COMMENTS OF THE GREEN POWER INSTITUTE, THE CALIFORNIA BIOMASS ENERGY ALLIANCE, AND THE CALIFORNIA FORESTRY ASSOCIATION ON THE BIOMASS ISSUES IN ATTACHMENT A OF THE SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER upon all parties listed on the Service List for this proceeding, R-06-05-027. All parties have been served by email or first class mail, in accordance with Commission Rules.



Gregory Morris