

Date of Hearing: April 7, 2021

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Chris Holden, Chair

AB 843 (Aguiar-Curry) – As Introduced February 17, 2021

**SUBJECT:** California Renewables Portfolio Standard Program: renewable feed-in tariff

**SUMMARY:** Allows Community Choice Aggregators (CCAs) to access the California Public Utilities Commission's (CPUC) Bioenergy Market Adjusting Tariff (BioMAT) program.

**EXISTING LAW:**

- 1) Requires investor-owned utilities (IOUs) to collectively procure no more than 250 megawatts (MW) of generated resources from bioenergy projects, and the CPUC to allocate amongst the IOUs shares of the 250 MW from bioenergy derived from organic waste diversion, dairy and agricultural sources, and byproducts of forest management. Requires the CPUC to encourage IOUs to develop programs and services that facilitate the development of bioenergy and biogas. This program is known as BioMAT. (Public Utilities Code § 399.20)
- 2) Establishes the Renewables Portfolio Standard (RPS) program, which requires that 50% of electricity retail sales must come from renewable energy sources by 2026 and 60% by 2030. (Public Utilities Code § 399.11-399.33)
- 3) Requires the CPUC, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities (LSEs), facilitate the development of resources, equitably allocate costs of generating capacity, minimize enforcement requirements and costs, and maximize the ability of CCAs to determine the resources used to serve their customers. (Public Utilities Code § 380)
- 4) Authorizes the creation of CCAs, describes essential CCA program elements, requires the states' utilities to provide certain services to CCAs, and establishes methods to protect existing utility customers from liabilities they might incur when a portion of the utility's customers transfer their energy services to a CCA. Confers the CPUC general jurisdiction over CCA program implementation. (Public Utilities Code § 366.2)

**FISCAL EFFECT:** This bill is keyed fiscal and will be referred to the Appropriations Committee for its review of the fiscal effect of this bill.

**BACKGROUND:**

*BioMAT Program* – A feed-in tariff (FIT) is a contracting mechanism for small renewable generators to sell power to a utility at predefined terms and conditions, without contract negotiations. For the IOUs, the FIT operates as a "must-take" contract in its portfolio. If the participant generates the power, the IOU must take it and pay for it according to the pre-defined terms of the FIT.

The BioMAT program is a feed-in tariff program for small bioenergy renewable generators less than 5 MW in size. The BioMAT program offers up to 250 MW to eligible projects through a

fixed-price standard contract to export electricity to IOUs. Electricity generated as part of the BioMAT program counts towards the utilities' RPS and resource adequacy targets. Small-scale bioenergy projects can be procured in three categories:

- Category 1: Biogas from wastewater treatment, municipal organic waste diversion, food processing, and co-digestion - 110 MW
- Category 2: Dairy and other agricultural bioenergy - 90 MW
- Category 3: Bioenergy using byproducts of sustainable forest management, including fuels from high hazard zones effective February 1, 2017 - 50 MW

As shown in Table 1, only a small fraction of the BioMAT program allocations have been contracted out. BioMAT contract prices are costly compared to \$28/MWh for RPS eligible energy contracts across all technology types in 2019.<sup>1</sup> Bioenergy is one of the most expensive of California's electricity sources. In 2018, the levelized cost of biomass power averaged \$166 per megawatt-hour compared to \$49 per megawatt-hour for photovoltaic solar and \$57 for wind.<sup>2</sup>

Table 1. BioMAT Allocation Summary in 2020<sup>3</sup>

BioMAT Category	BioMAT MW Allocation	MW Contracted	MW Remaining	Contract Price (\$/MWh)
1: Biogas from waste	110	13	97	127.72
2: Dairy and agricultural bioenergy	90	22	68	Dairy: 187.72 Other Ag: 183.72
3: Forest bioenergy	50	11	39	199.72
Total	250	41	204	-

*CCA procurement guidelines* – CCAs are governmental entities formed by cities and counties to serve the energy requirements of their local residents and businesses. Once established, a CCA purchases power for its customers. CCA customer rates are not regulated by the CPUC. Rather, the CCA sets its own pricing, following its own public process. While the CCA is responsible for procurement, the IOU still provides other services such as transmission, distribution, metering, billing, collection, and customer service. The nature of these divided but related responsibilities requires partnership between the CCA and the IOU on many operational issues. For instance, the bill that CCA customers receive comes from the IOU and identifies the amount that a customer owes to the CCA for procurement and to the IOU for the remaining electric services. However, the CPUC's oversight of the IOUs' and CCAs' RPS compliance differs. While the CPUC "approves" RPS plans for IOUs, the CPUC only "accepts" these plans for CCAs. Additionally, CCAs do not need CPUC approval for solicitations and procurement contracts.

<sup>1</sup> 2020 California Renewables Portfolio Standard Annual Report, CPUC. p.6

<sup>2</sup> *Estimated Cost of New Utility-Scale Generation in California: 2018 Update (May 2019)*, CEC Staff Report; CEC-200-2019-500, at B-12 (levelized mid-level cost of Solar PV: C-Si, Tracking 100 MW is \$49), at B-18 (levelized mid-level cost of Wind 80 m Hub Height 100 MW is \$57), and B-21 (levelized mid-level cost of Biomass fluidized bed boiler 20 MW is \$166). The levelized cost estimates reflect the average cost per megawatt-hour for an independent developer to build and operate a power plant over the lifetime of the facility.

<sup>3</sup> 2020 California Renewables Portfolio Standard Annual Report, CPUC. p. 45

**COMMENTS:**

- 1) *Author's Statement.* "California has ambitious renewable energy goals. Baseload renewable resources, like bioenergy resources, have a role to play in California's transition to renewable energy. In 2012, the California Legislature passed SB 1122, which required the state's investor-owned utilities to procure 250 megawatts of bioenergy resources from small-scale producers. Cost recovery for these baseload resources would come from all customers through a nonbypassable charge under the Commission's BioMAT program. AB 843 is a narrow bill aimed at allowing community choice aggregators (CCAs) to access the BioMAT program to procure bioenergy electricity projects. AB 843 does not propose any structural changes to the existing program and allows for similar PUC oversight of the program with these new applicants.

Separate but related, cities and counties are currently implementing SB 1383 (Lara, 2016), which sets targets for reducing short-lived climate pollutants including methane and black carbon. One of the potential compliance pathways a city/county can take to reduce short-lived climate pollutants is through bioenergy. Some local governments have expressed interest in exploring bioenergy with their CCAs, but these projects are usually cost-prohibitive for CCAs without access to cost recovery through the BioMAT program.

The air emissions impact of the catastrophic 2020 California wildfires is currently estimated to be over 100 million metric tons of CO<sub>2</sub>. Because the BioMAT program supports generation from the byproducts of sustainable forest management, AB 843 would help ensure that there are profitable waste streams for some of this material, incentivizing better forest and agricultural land management as well as providing potential renewable energy resources for microgrids and other backup energy projects."

- 2) *CCA participation in BioMAT.* When the BioMAT program was first established in 2012, there was only one CCA serving customers. There are now 23 CCAs that serve more than 11 million customers in the state. If enacted, AB 843 will allow a growing portion of the state's energy sector to participate in BioMAT. Support for AB 843 states that BioMAT participation will enable CCAs to procure more renewable resources and contribute to grid reliability.

Until August 2020, BioMAT program costs were recovered from IOU customers and CCA customers who departed from IOU service after the signing of BioMAT contracts. The CPUC asserted that the environmental and public safety goals of the BioMAT program benefit all Californians, and it is inequitable to impose the costs on only customers served by IOUs.<sup>4</sup> The staff proposed and adopted a nonbypassable charge to all customers in each IOU's service territory, including CCA customers, and to collect those charges through the IOU's public purpose program charge. In the same program review, the CPUC staff also proposed that non-IOU LSEs be allowed to participate in the BioMAT program and benefit from the nonbypassable charge.

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<sup>4</sup> CPUC D. 20-08-043

The CPUC staff proposal was not adopted however, because existing code specifies only IOUs may participate in BioMAT, and because of concerns about the limited oversight the CPUC may have over non-IOU entities. The CPUC stated, “[Jurisdictional limits and regulatory distinctions between IOUs and CCAs] may present problems in assessing the value of a project's attributes and cost allocation, given the Commission's limited oversight over non-IOU LSEs.”<sup>5</sup>

This bill partially addresses these concerns by specifying that CCAs may submit eligible bioenergy contracts for cost recovery under similar conditions as apply to IOUs, which could include the nonbypassable charge discussed in the CPUC Decision. However, due to the CPUC’s limited oversight of CCA procurement and the relative novelty of the cost recovery process, potential difficulties remain with designing an effective nonbypassable charge with all CCAs procuring. Opposition to the bill echo this concern, and state that the CPUC’s lack of ability to compel a prudency review of CCA program administration still remains an issue. *The committee may wish to consider amendments that allow the CPUC to compel a prudency review of BioMAT program administration should the CCAs be permitted to participate.*

The CPUC may require administrative flexibility in these initial stages, so that cost allocations are fairly socialized to all customers. This bill currently requires CCAs to participate in a cost recovery process defined in a specific Decision, but this could prematurely constrain the CPUC in designing the optimal cost recovery process. *As such, the committee may wish to consider striking the specific Decision that the bill refers to for cost recovery mechanisms and instead reference the same cost recovery principles apply to the CCAs as they do to the IOUs.*

- 3) *BioMAT and ReMAT Statute.* The statute for BioMAT is nested within the code which implements a separate but related program, the Renewable Market Adjusting Tariff (ReMAT) program. As a result, this bill erroneously includes CCA participation in the ReMAT program in addition to the BioMAT program, counter to the author’s intent. *The committee may wish to consider technical changes to ensure CCA participation is limited only to the BioMAT program.*

- 4) *Prior Legislation.*

SB 1122 (Rubio) Established the BioMAT program and required the CPUC to implement a cost recovery process for energy purchased by IOUs from bioenergy renewable generators less than 5 MW in size. Status: Chapter 612, Statutes of 2012.

SB 1383 (Lara) Among its provisions, required the CEC and the CPUC to develop recommendations for the development and use of biomethane and biogas as part of the 2017 Integrated Energy Policy Report, and to adopt policies and incentives to increase the production and use of biomethane and biogas. Status: Chapter 395, Statutes of 2016.

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<sup>5</sup> CPUC D. 20-08-043 p. 18

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

Aries Clean Energy, LLC  
Bioenergy Association of California  
Brad Thompson Company  
California Biomass Energy Alliance  
California Community Choice Association  
California Compost Coalition  
Californians Against Waste  
County of Santa Barbara  
East Bay Community Energy (EBCE)  
Fall River Resource Conservation District  
Hitachi Zosen Inova  
Marin Clean Energy (MCE)  
Marin Sanitary Service  
Napa Recycling & Waste Services  
Peninsula Clean Energy  
Pioneer Community Energy  
Pit Resource Conservation District  
Placer County Air Pollution Control District  
Resource Recovery Coalition of California  
Rural County Representatives of California  
Tss Consultants  
USA Renewable Energy  
Valley Clean Energy Alliance  
Wisewood Energy

**Oppose**

Coalition of California Utility Employees  
Elders Climate Action, Norcal and Social Chapters  
Leadership Counsel for Justice and Accountability

**Other**

Pacific Gas and Electric Company

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