
**SENATE COMMITTEE ON ENERGY, UTILITIES AND
COMMUNICATIONS**
Senator Ben Hueso, Chair
2021 - 2022 Regular

Bill No: AB 843 **Hearing Date:** 7/12/2021
Author: Aguiar-Curry
Version: 7/5/2021 Amended
Urgency: No **Fiscal:** Yes
Consultant: Nidia Bautista

SUBJECT: California Renewables Portfolio Standard Program: renewable feed-in tariff: Bioenergy Market Adjusting Tariff program: community choice aggregators

DIGEST: This bill authorizes Community Choice Aggregators (CCAs) to submit eligible bioenergy-projects for cost recovery pursuant to the Bioenergy Market Adjusting Tariff (BioMAT) program, if open capacity exists within the 250 megawatts (MW) program limit, as specified.

ANALYSIS:

Existing law:

- 1) Establishes the California Public Utilities Commission (CPUC) has regulatory authority over public utilities, including electrical corporations. (Article XII of the California Constitution)
- 2) Requires the CPUC, in consultation with the California Independent System Operator (CAISO), to establish resource adequacy requirements for all load-serving entities (LSEs), defined to include electrical corporations, CCAs, and electric service providers (ESPs). (Public Utilities Code §380)
- 3) Establishes the California Renewables Portfolio Standard (RPS) Program to require all retail sellers, defined as including electrical corporations, CCAs, and ESPs, to procure a minimum quantity of electricity products from eligible renewable energy resources, as defined, so that the total kilowatt hours (kWh) of those products sold to their retail end-use customers achieves 33 percent of retail sales by December 31, 2020, 44 percent by December 31, 2024, 52 percent by December 31, 2027, and 60 percent by December 31, 2030. (Public Utilities Code §399.11-399.33)
- 4) The California RPS Program requires every electrical corporation to file with the CPUC a standard tariff for electricity generated by an electric generation facility, as defined, that qualifies for the tariff, is owned and operated by a retail

customer of the electrical corporation, and is located within the service territory of, and developed to sell electricity to, the electrical corporation. The CPUC refers to this requirement as the renewable feed-in tariff (FIT). Requires the CPUC to direct the electrical corporations, collectively, to procure at least 250 MW of cumulative rated generating capacity from developers of bioenergy projects that commence operation on or after June 1, 2013. Pursuant to this requirement, the CPUC has established and revised the Bioenergy Market Adjusting Tariff (BioMAT) program. (Public Utilities Code §399.20)

- 5) 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)

This bill:

- 1) Provides that the renewable FIT would apply to a qualifying electric generation facility that is developed to sell electricity to the electrical corporation or, for a bioenergy electric generation facility, to an electrical corporation or a CCA within the electrical corporation's service territory.
- 2) Authorizes a CCA to submit eligible bioenergy-projects for cost recovery pursuant to the BioMAT program, if open capacity exists within the 250 MW-BioMAT program limit, as specified.
- 3) Additionally requires that every kWh of electricity purchased from a bioenergy electric generation facility count toward both the CCA's renewables portfolio standard procurement requirements and the bioenergy project procurement requirements of the electrical corporation whose service territory encompasses the CCA, and that the physical generating capacity of a bioenergy electric generation facility count toward the CCA's resource adequacy requirements.

Background

Bioenergy Market Adjusting Tariff (BioMAT). The BioMAT program is a FIT program for small bioenergy renewable generators less than five MW in size which was created by AB 1122 (Rubio, Chapter 612, Statutes of 2012). The goal of the program is to promote competition for entrants to the bioenergy market using a simple procurement mechanism. The BioMAT program offers up to 250 MW to eligible projects through a fixed-price standard contract to export electricity to

California's three large electric investor-owned utilities (IOUs). 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

Electricity generated as part of the BioMAT program counts towards the utilities' RPS targets and resource adequacy requirements. For the electric 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 procurement costs are allocated through a non-bypassable charge, per a recent CPUC decision (D. 20-08-043 in August 2020), to all customers (bundled and unbundled) in each electric IOU's service territory.

BioMAT contract prices are more costly compared to other RPS eligible energy contracts, as bioenergy is one of the most expensive of California's electricity sources. Contract prices for BioMAT generators range between \$127 to \$199 per megawatt hour (MWh), compared to RPS eligible energy contracts across all technology types which reached a historic low of \$28/MWh in 2019 (*2020 CA RPS Annual Report*, CPUC, November 2020, p. 6).

Community Choice Aggregators (CCAs). CCAs are governmental entities formed by cities and counties to serve the energy load of their local residents and businesses. An individual customer within the territory of a CCA is automatically opted-in as a customer of the CCA, based on the implementation schedule when the customer's local government elects to join or establish the CCA. However, the customer retains the option to return to the energy procurement service of the incumbent electric IOU. Notwithstanding CCA outreach, customers of CCAs may never notice they have been opted-in to the CCA, as the electric utility bill continues to be sent to the customer by the electric IOU for both the energy procurement and the distribution and transmission services. However, a close inspection of the utility bill would show a line item that notes the procurement of energy resources coming from the CCA.

Oversight of CCAs. The CPUC has regulated electric IOUs for about a century. However, the CPUC's experience is much more limited in regulating CCAs. In 2002, statute first allowed the formation of CCAs. It was not until nearly a decade later that the first CCA—Marin Clean Energy—came into existence. The motivation for a local government to join or create a CCA can be many, but, in

general, there is an element of local control and, to varying degrees, a belief that rates would be lower as compared to the electric IOU. Today, there are over 20 CCAs operating in the state serving energy load to over 11 million customers (per estimates from California Community Choice Association (CalCCA)), with an expectation that the number of customers served by CCAs is likely to continue to grow. CCA customer rates are not regulated by the CPUC. Rather, the CCA sets its own pricing, following approval by its governing board. 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. Whereas electric IOU procurement contracts must be reviewed and approved by the CPUC to ensure they are “just and reasonable” in order to authorize the electric IOU to charge the costs to their electric ratepayers, CCA contracts are approved by local governing boards driven by the specific priorities for their community.

BioMAT program participation has been a challenge. In October 2018, the CPUC Staff released *BioMAT Program Review and Staff Proposal* which noted “if [BioMAT program] contract executions were to continue at the current rate, it could take approximately 20 years to reach the BioMAT program procurement goal of 250 MW.” As noted in the table below, only a small fraction of the BioMAT program allocations have been contracted.

BioMAT Mandated Allocation Summary				
<i>(Source: 2020 CA RPS Annual Report, CPUC, November 2020, p. 45)</i>				
BioMAT Category	BioMAT MW Allocation	MW Contracted	MW Remaining	Contract Price (\$/MWh)
Biogas from waste <i>(Category 1)</i>	110	13	97	\$127.72
Dairy and agricultural bioenergy <i>(Category 2)</i>	90	22	68	\$187.72 (Dairy) \$183.72 (Other Agriculture)
Forest bioenergy <i>(Category 3)</i>	50	11	39	\$199.72
Total	250	41	204	-

AB 843. This bill authorizes a CCA to submit eligible bioenergy projects for cost recovery pursuant to the BioMAT program, if open capacity exists within the 250 MW program limit, as specified. This bill would also require CCAs who participate in the procurement program to use the standard contract terms and conditions approved by the CPUC, coordinate any incentives to reduce costs for ratepayers, utilize the electrical corporation’s approved tariff with no

modifications, and require the facility to provide a twice-yearly inspection report. This bill would authorize the kWhs of electricity purchased by the CCA to count towards their RPS and resource adequacy requirements. This bill also provides the CPUC with ongoing review authority over any contracts of CCAs submitted pursuant to this section and allows the CPUC to authorize the requirements for CCAs with fewer than 100,000 customer accounts.

When the BioMAT program was first established in 2012, there was only one CCA serving customers. There are now over 20 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. Supporters for AB 843 state that BioMAT participation will enable CCAs to procure more renewable resources and contribute to grid reliability. According to the proponents of this bill, potential projects include a two MW biogas project in Napa and another in San Rafael that Marin Clean Energy is exploring. Pioneer CCA (located in Placer County) is exploring a one MW biogas project in Lincoln and a five MW microgrid biomass projects in Placer County. Central Coast Community Energy (3CE) is exploring local landfill projects to help offset obligations from the state's waste diversion requirements.

Until August 2020, BioMAT program costs were recovered from electric 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 electric IOUs. The CPUC staff proposed to collect costs for the BioMAT program via a non-bypassable charge on all electric customers (bundled and unbundled) in each electric IOU's service territory. In response to the proposal, joint CCAs did not oppose the proposal as long as all LSEs, including CCAs, are able to participate in the BioMAT program. In the August 2020 Decision, the CPUC adopted a non-bypassable charge for cost recovery of the BioMAT program to all customers in each electric IOU's service territory, including CCA customers, and to collect those charges through the electric IOU's public purpose program charge. However, the CCAs' request to be included in the procurement was not adopted because existing code specifies only electric 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." This bill proposes to provide the statutory authority to authorize CCAs to participate in the BioMAT program and include safeguards and requirements to ensure CPUC oversight of the CCAs BioMAT contracts. Given the available capacity, standard tariff and

contract framework of the program, it is unclear whether authorizing CCAs to procure these resources through the program would result in additional contracts. Nonetheless, it's possible CCAs' relationships with their local government(s) may assist in the development of these projects. However, recognizing that the local governments may be both buyer and sellers of the energy procured from these BioMAT contracts, CPUC oversight of the contracts will be necessary to ensure all ratepayers are protected.

Prior/Related Legislation

AB 1923 (Wood, Chapter 663, Statutes of 2016) increased, from three MW to five MW, the limit on the nameplate capacity of a bioenergy electric generation facility that may participate in the BioMAT program so long as the generation facility delivers no more than three MW to the grid at any time.

SB 840 (Committee on Budget and Fiscal Review, Chapter 341, Statutes of 2016) expedited transmission interconnections for specified bioenergy or biomass projects in order to give them first priority to commence operations over other renewable energy resources.

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

SB 1383 (Lara, Chapter 395, Statutes of 2016) 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.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT:

Marin Clean Energy, Co-Sponsor
Pioneer Community Energy, Co-Sponsor
Bioenergy Association of California
California Biomass Energy Alliance
California Community Choice Association
Central Coast Community Energy
City of Goleta
City of Santa Cruz
County of Santa Barbara

Monterey Bay Air Resources District
Monterey One Water
Peninsula Clean Energy
Rural County Representatives of California
Valley Clean Energy Alliance
Wisewood Energy

OPPOSITION:

None received

ARGUMENTS IN SUPPORT: According to the author:

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[(Rubio), Chapter 612], 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 non-bypassable 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, Chapter 395, Statutes of 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 CO₂. 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.

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