

---

**SENATE COMMITTEE ON ENERGY, UTILITIES AND  
COMMUNICATIONS**

**Senator Steven Bradford, Chair  
2023 - 2024 Regular**

---

<b>Bill No:</b>	SB 488	<b>Hearing Date:</b>	4/24/2023
<b>Author:</b>	Alvarado-Gil		
<b>Version:</b>	4/10/2023 Amended		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Nidia Bautista		

**SUBJECT:** California Renewables Portfolio Standard Program: bioenergy projects: community choice aggregators

**DIGEST:** This bill authorizes a community choice aggregator (CCA) to procure the proportionate share of the exempted portion of the existing bioenergy procurement requirement, and requires the California Public Utilities Commission (CPUC) to recover the costs from all electric investor-owned utility distribution customers.

**ANALYSIS:**

Existing law:

- 1) Establishes and vests the CPUC has regulatory authority over public utilities, including electrical corporations. Authorizes the CPUC to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. (Article XII of the California Constitution and Public Utilities Code §451)
- 2) Requires electrical corporations, by December 1, 2023, to collectively procure, through financial commitments of five to 15 years, their proportionate share of 125 megawatts (MW) of cumulative rated generating capacity from bioenergy projects commencing operation before June 1, 2013. Requires local publicly owned electric utility serving more than 100,000 customers to procure their proportionate shares of 125 MW of cumulative rated generating capacity from those kinds of bioenergy projects subject to terms of at least five years. Exempts from the requirements a local publicly owned electrical utility that previously entered into five-year financial commitments for its proportionate share under specified conditions. (Public Utilities Code §399.20.3)
- 3) Requires an electrical corporation, local publicly owned electric utility, or CCA with a contract to procure electricity generated from biomass that is operative at any time in 2018, and expires or expired on or before December 31, 2023, to

seek to amend the contract to include, or seek approval for a new contract that includes, an expiration date five years later than the expiration date in the contract that was operative in 2018, so long as the contract extension follows the feedstock requirement described above. Prohibits this requirement from applying to facilities located in federal severe or extreme nonattainment areas for particulate matter or ozone. (Public Utilities Code §8388)

This bill:

- 1) Authorizes the cumulative rated generating capacity to be procured from bioenergy projects regardless of when the projects commence operations.
- 2) Authorizes a CCA to procure, subject to terms of at least five years, any portion of a local publicly owned electric utility's required proportionate share of 125 MW of cumulative rated generating capacity from bioenergy projects that was not procured due to exemptions as provided in the statute.
- 3) Requires the CPUC to ensure that the costs of any contract procured by a CCA are recoverable from all electric investor-owned utility (IOU) distribution customers (IOU, CCA, and direct access customers).

## **Background**

*Biomass.* Biomass power plant is the general term for waste-to-energy power plants that burn organic material, including wood waste. According to the California Energy Commission (CEC) website, in 2021, biomass electric facilities produced 5,381 gigawatt-hours or roughly three percent of the state's in-state electricity generation portfolio. The CEC notes there are just under 90 operating biomass power plants in California, with installed capacity of about 1,259 MW.

A number of state policies have required and encouraged the procurement of biomass, in many cases to address other policy issues, such as tree mortality and wildfires.

*2015 Executive Order.* In 2015, then-Governor Brown issued an Emergency Proclamation to protect public safety and property from falling dead and dying trees and wildfire. The proclamation directed the California Department of Forestry and Fire (CalFire), the Natural Resources Agency, the Department of Transportation, and the CEC to identify the state's High Fire Hazard Severity Zones (HHZ) as a high priority for tree removal to prevent wildfire and falling trees. The proclamation also directed the CPUC to use its authority to extend contracts for bioenergy facilities receiving feedstock from HHZs.

*BioRAM 1 Contracts.* On March 17, 2016, the CPUC issued Resolution E-4770 requiring each of the electric IOUs to enter into contracts to purchase their share of at least 50 MW of collective generating capacity from biomass generation facilities that use progressively higher annual minimum prescribed levels of HHZ material as feedstock. Specifically, the biomass facilities were required to use a minimum of 40 percent feedstock from the HHZ in 2016 and grow to 80 percent in 2018 and all subsequent years. The electric IOUs were required to provide five-year contracts to facilities, with the right to extend the five-year contract term for one year at a time, up to a cumulative total of 10 years so long as HHZ fuel is available at the minimum fuel requirement (80 percent).

*SB 859 (Committee on Budget, Chapter 368, Statutes of 2016).* SB 859 included a new requirement for electric IOUs and publicly owned utilities (POUs) to procure their respective share of 125 MW from existing biomass facilities using prescribed amounts of dead and dying trees located in HHZs as feedstock. The electric IOUs were assigned the proportionate share of the 96 MW. SB 859 requires that at least 60 percent of the feedstock must come from HHZs. SB 859 required that the procurement costs would be recovered from all customers on a non-bypassable basis.

*CPUC Resolution E-4805.* In October 2016, the CPUC issued Resolution E-4805 to implement the electric IOU procurement requirements of SB 859. Resolution E-4805 provided that the IOUs could meet their proportionate shares of the 125 MW goal using any combination of: (a) the BioRAM ordered by Resolution E-4770; (b) a subsequent RAM (BioRAM 2) authorized in the Resolution; and (c) bilateral procurement. However, in order to allow procurement under option (b), Resolution E-4805 required the IOUs to create an updated BioRAM 2 standard contract rider. Specifically, BioRAM2 contracts must contain the feedstock requirements established in SB 859, specify that the contract length is five years, requires that the contracted facility is an existing bioenergy project that commenced operation prior to June 1, 2013, and update administrative details such as dates, deadlines, and process requirements.

*SB 901 (Dodd, Chapter 626, Statutes of 2018).* SB 901 required a number of actions to reduce and prevent the risk of wildfires and to address issues associated with electric IOU cost recovery of wildfire damages. SB 901 also included provisions to loosen the requirements on biomass facilities, such as: revising the HHZ fuel definitions, require BioRAM contracts to include a monthly compliance option with updated reporting and payment. SB 901 also prohibits biomass facilities for the BioRAM to operate in areas of the

state with severe or extreme federal air quality designations, and revise default terms.

*CPUC Resolution E-4977.* In its efforts to implement the changes noted in SB 901, the CPUC adopted resolution E-4977 in January 2019. The resolution notes, collectively, the BioRAM program requires the IOUs to procure 146 MW of qualifying biomass electricity and that 153 MW is currently under contract – 119 MW under BioRAM 1 contracts and 34 MW under BioRAM2.

*SB 1109 (Caballero, Chapter 364, Statutes of 2022).* SB 1109 extended to December 31, 2023, the electrical IOUs’ obligation to collectively procure their proportionate share of 125 MW of cumulative rated generating capacity from existing bioenergy projects, commencing operation before June 1, 2013, through financial commitments of five to 15 years, inclusive. The bill also exempted the electric POUs for (1) contracts with a facility operator who was in a bankruptcy or other insolvency proceeding, or (2) a contract for a project that does not deliver energy to the utility. POUs reported that the BioRAM procurement requirements have resulted in procuring resources strictly for the capacity, because the electricity could not get to the procuring electric POUs given the interconnections are out of state and wheeling charges to transmit these resources to their utility service territories are not cost-effective. As a result, POU electric ratepayers under these contracts are strictly paying for the capacity on the system to satisfy BioRAM requirements without a direct benefit to serving their load. In another case, POUs argue that the biomass contract was priced 20-30 percent more than other renewable baseload energy contracts for geothermal and landfill gas.

<b>IOU BioRAM Procurement Orders</b>			
(Source: CPUC website)			
	<b>PG&amp;E</b>	<b>SCE</b>	<b>SDG&amp;E</b>
Emergency Order/Res. E-4770	20	20	10
SB 859 (Res. E-4805)	43	44	9
<b>TOTAL</b>	<b>63</b>	<b>64</b>	<b>19</b>

<b>Electric IOU BioRAM Contracts</b> (Source: CPUC website)			
<b>IOU</b>	<b>Facility Name</b>	<b>Location</b>	<b>Capacity (MW)</b>
PG&E	Burney	Shasta County	29
PG&E	Wheelabrator Shasta	Shasta County	34
PG&E	Woodland Biomass	Yolo County	58
SCE	Rio Bravo Fresno	Fresno County	24
SCE	Rio Bravo Rockliin	Placer County	24
SCE	Pacific Ultrapower Chinese Station	Tuolumne County	18
SDG&E	Honey Lake Power Company/Greenleaf	Lassen County	24
<b>Total</b>			<b>178</b>

### Comments

*Cost of biomass energy.* According to the CPUC's 2021 Padilla Report, *Costs and Cost Savings for the RPS Program*, the average price of contracts executed in 2019 that were greater than three MW was 2.8¢/kWh compared to 3.5¢/kWh in 2020, compared to average contract price of existing BioRAM contracts of 12.0¢/kWh. In the November 2021 CPUC RPS report, the CPUC notes a number of challenges with accessing fuel for biomass facilities, including insufficient supply chain capacity, long hauling distances, and high transportation costs, as well as, the need for retrofits of existing facilities. The analysis notes: "Overcoming these barriers would require further, possibly substantial, investment and subsidies."

*Need for the bill.* The sponsors of this bill argue that the procurement of biomass electricity is beneficial to the state in helping to reduce wildfire risks, while providing reliable and renewable energy resources. They contend that CCA ratepayers are already paying for the BioRAM program, as the costs of any contract procured to satisfy the requirements under SB 859 are recoverable from all customers on a nonbypassable basis. They argue that this bill will simply allow the CCAs to participate in the same way AB 843 (Aguiar-Curry, Chapter 234, Statutes of 2021) authorized CCAs to participate in the Bioenergy Market Adjusting Tariff (BioMAT) program.

*Costs to ratepayers.* Electric utility bill affordability has been a growing concern. The required procurement requirements of the BioRAM program are recovered from electric IOU distribution service ratepayers via nonbypassable charges on their utility bills. Opponents of this bill note that electric IOU customers have already procured their proportionate share as required in existing law. They oppose

socializing the costs of authorizing CCAs to procure the residual of the exempted POU contracts (roughly 30 MWs) stating it would unfairly add costs to electric IOU customers who have already shouldered the costs of the program.

Additionally, they argue that the CCAs already have authority to procure any resource, including biomass, so a bill is not needed. Unlike the BioMAT program, the allocated procurement has been fully satisfied by electric IOU customers. It is the POU customer contracts that were exempted due to a bankruptcy of a facility and the energy costs not benefiting the POUs' load.

*Amendments needed.* This bill would add to the public purpose program charge on all electric IOU distribution customers, including those not served by the CCA, given that procurement authorized by this bill would be additional to the 96 MW these customers are already paying for their proportionate share. While the CCAs supporting this bill may feel it is unfair that their entities did not enter the contracts directly, the benefits of the intended policy to support biomass seems to have been fulfilled by these customers (including with contracts with biomass plants in CCA service territory). CCAs have the authority to enter into their contracts without socializing the costs to non-CCA customers. *The author and committee may wish to amend this bill to maintain the existing contracts, and prohibit CCAs from socializing costs of additional BioRAM procurement authorized by this bill.*

### **Prior/Related Legislation**

SB 1109 (Caballero, Chapter 364, Statutes of 2022) extended requirements on electric IOUs to procure energy from biomass generating electric facilities by five years and requires extension of existing contracts by five years.

SB 843 (Aguiar-Curry, Chapter 234, Statutes of 2021) authorized CCAs to submit eligible bioenergy-projects for cost recovery from electric utility ratepayers, pursuant to the BioMAT program, if open capacity exists within the 250 MW program limit.

SB 515 (Caballero, 2019) would have expanded the fuels and feedstocks that are eligible to satisfy requirements related to specified contracts for mandated electricity generation from biomass facilities. The bill was further amended to require a report on available fuel feedstocks. The bill died in the Assembly Committee on Appropriations.

SB 901 (Dodd, Chapter 626, Statutes of 2018) addressed numerous issues concerning wildfire prevention, response and recovery, including provisions related to biomass operations and electricity procurement.

SB 859 (Senate Budget and Fiscal Review, Chapter 368, Statutes of 2016) required retail sellers of electricity to purchase a total of 125 MW of power from biomass

facilities that generate electricity from forest materials removed from specific high fire hazard zones, as designated by Cal Fire in the Governor's Proclamation of a State of Emergency issued October 30, 2015.

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

**SUPPORT:**

Pioneer Community Energy, Sponsor  
Association of California Water Agencies  
California Biomass Energy Alliance  
California Community Choice Association  
California Farm Bureau  
California Forestry Association  
City of Colfax  
City of Lincoln  
City of Nevada City  
City of Rocklin  
County of El Dorado  
County of Placer  
El Dorado County Chamber of Commerce  
El Dorado Hills Chamber of Commerce  
Greenleaf Power  
Folsom Chamber of Commerce  
Humboldt and Mendocino Redwood Companies  
Lincoln Area Chamber of Commerce  
Marin Clean Energy  
Rancho Cordova Chamber of Commerce  
Redwood Coast Energy Authority  
Rocklin Area Chamber of Commerce  
Roseville Area Chamber of Commerce  
Sierra Business Council  
Shingle Springs/Cameron Park Chamber of Commerce  
Silicon Valley Clean Energy  
Wisewood Energy  
Yuba Sutter Chamber of Commerce

**OPPOSITION:**

Pacific Gas and Electric Company  
Southern California Edison

**ARGUMENTS IN SUPPORT:** According to the author:

As California pushes for strong renewable energy goals by 2045, the Legislature must consider a balanced portfolio of options to achieve these goals. In addition to the energy benefits of biomass, it also has numerous ancillary benefits, such as providing a necessary outlet for forest waste that would otherwise provide for dangerous forest floor fuels as that contribute to the increase in devastating wildfires. Biomass has other benefits such as fossil fuel avoidance, contributing to air pollution reduction efforts, reducing landfilling or in-field decay/decomposition, preventing open burning of 1.5 million tons of agricultural and forest waste each year, and reducing criteria pollutant emissions by up to 98% (when compared to open burning).

Allowing CCAs to participate in the BioRAM program will ensure that the Legislative mandate to procure 125 MW of biomass energy will indeed be met. It would also allow CCAs to participate in an existing state program without any structural changes. In addition, this bill would provide necessary support to biomass facilities resulting in a BioRAM contract for up to two facilities.

**ARGUMENTS IN OPPOSITION:** Pacific Gas & Electric (PG&E) and Southern California Edison (SCE) oppose the bill contending:

“[SB 488]...is incompatible with the State’s affordability objectives. The IOU procurement process is rigorous and thorough and involves steps that ensure fair decision-making, including: (1) neutral third-party review, (2) confidential multi-party review, (3) CPUC authorized protest periods, and (4) pre-approval processes to ensure that the buyer adheres to pre-reviewed contracts and processes. To be clear, CCA’s already have the ability today to choose to procure from these bioenergy facilities, so long as their customers bear the costs. This bill would simply allow the CCAs to make procurement decisions while spreading the costs to other retail sellers, including PG&E and SCE. This is not the best and equitable solution for California.”

-- END --