RURAL COUNTY REPRESENTATIVES OF CALIFORNIA

November 3, 2025

Alice Busching Reynolds
President, California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: Oppose R.18-07-003 Proposed Decision Terminating the BioMAT Program

Dear President Reynolds:

On behalf of the Rural County Representatives of California (RCRC), we write to strongly oppose the Public Utilities Commission's (CPUC) attempt to terminate the BioMAT program in a Proposed Decision in the R.18-07-003 rulemaking. RCRC is an association of forty rural California counties and the RCRC Board of Directors is comprised of elected supervisors from each of those member counties.

RCRC is concerned that this proposal is arbitrary, unlawful, and will have damaging consequences for important wildfire prevention and waste management efforts. Procedurally, this process highlights a dysfunctional and inconsistent regulatory environment that results in stakeholders playing whack-a-mole at the CPUC. The Proposed Decision also exemplifies a troubling disconnect across state regulatory agencies, as the CPUC proposes terminating a program that its sister agencies have identified as vital for wildfire prevention and waste management, and that have been highlighted (and funded) as part of Governor Newsom's Jobs First economic development initiative.

Rather than terminate the BioMAT program, the CPUC should continue the program and coordinate with sister agencies to examine and evaluate how the program's minimal costs can be supported through the state's waste management and wildfire prevention efforts.

Legislature's Directive for CPUC to Establish BioMAT Program Did Not Contain a Sunset Date and More Time Is Necessary to Meet Statutory Requirements

In 2012, the Legislature *required*[1] the CPUC to direct electrical corporations to collectively procure at least 250MW from small biomass projects under 3MW (up to 5MW

[1] Contrary to the CPUC's assertion that the Legislature merely "authorized" the CPUC to direct utilities to procure at least 250MW of bioenergy under a new BioMAT Program, PUC Section 299.20(f)(2) is a clear

in nameplate capacity). That law, embedded in Public Utilities Code Section 399.20 requires procurement of:

- 110MW from wastewater treatment, municipal organic waste diversion, food processing, and co-digestion
- 90MW from dairy and other agricultural operations
- 50MW from sustainable forest management activities in high fire risk areas

PUC §399.20 does not contain a sunset date for the program, but the CPUC established a five-year sunset in D.14-12-081 and extended that an additional five years to December 31, 2025 in D.20-08-043.

The CPUC notes that roughly 21% of the required 250MW have been procured under the BioMAT Program as of early 2025. As can be seen, the CPUC is still far from achieving the statutory directive. The program is even more important now given the state's pressing need to find alternative ways to manage biomass waste from agricultural operations and wildfire risk reduction projects.

Despite the need and the clear statutory mandate, the CPUC proposes to terminate the BioMAT Program on December 31, 2025 and preclude IOUs or CCAs from entering into new contracts to fulfill the statutory objective.

In its most recent Proposed Decision, the PUC argues that it may terminate the program since PUC §399.20(f)(2) does not prohibit the inclusion of a sunset clause.[2] This is a wild statutory interpretation that essentially allows any regulatory agency to disregard statutory directives by the Legislature by simply dragging bureaucratic feet and establishing arbitrary sunset dates. This creative interpretation would effectively require the Legislature to include specific clauses barring regulatory sunset dates. The CPUC cannot read authority to establish a regulatory sunset date into the plain language of a statute directing procurement of specified quantities of bioenergy without regard to a statutory sunset date. The Legislature knows how to establish statutory and regulatory sunset dates and regularly exercises those powers. The Legislature created statutory sunset dates for other CPUC-regulated programs like the Self-Generation Incentive Program and regulation of VoIP service carriers. On other occasions, the Legislature has specifically granted regulatory agencies the authority to take regulatory actions to sunset programs (or exemptions) upon making certain findings.[3]

The CPUC may have authority to establish a ***regulatory*** sunset date for the ***limited purpose*** of reviewing the effectiveness of the existing statutory program and modifying it to better accomplish the statutory directive. However, that is a far cry from what the CPUC

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statutory requirement and does NOT give the CPUC any discretionary authority on the matter. (Proposed Decision, Page 12).

[2] R. 18-07-003, *Proposed Decision Denying Petition to Modify Decision 20-08-043*, Page 19, Conclusion of Law #2.

[3] See Public Resources Code Section 42649.82

seeks to do in the Proposed Decision, which is to terminate the BioMAT program, disallow new contracts, and thereby ignore the law to secure additional bioenergy resources.

Sunset Contravenes Legislative Intent to Allow CCAs to Meaningfully Participate in BioMAT Program

Assembly Bill 843 (Aguiar-Curry) of 2021 allows Community Choice Aggregators (CCAs) to participate in the BioMAT program. Several CCAs expressed a strong interest in securing contracts under the BioMAT program and multiple projects are at varying points in the planning, permitting, and development process as a result.

Stakeholders have long warned CPUC of the long lead time associated with designing and connecting BioMAT projects to the grid. This is why it was so frustrating for the CPUC to take two years to develop implementing regulations and allow CCAs less than two years to participate in the program. These delays, and the CPUC's refusal to extend its regulatory sunset date, undermine the Legislature's intent to allow CCAs to meaningfully secure BioMAT projects.

Project developers face lengthy interconnection processes and grid capacity constraints that take time to resolve. These issues add time to an already lengthy design, permitting, and construction process and are outside the control of the project developer and host communities.

Simply speaking, CCAs did not have enough time to meaningfully participate in the BioMAT program because administrative delays created by the CPUC pushed project completion timeframes even further beyond the December 31, 2025 deadline.

Despite these challenges, the BioMAT program is showing signs of new life and blossoming with CCA participation. Central Coast Community Energy executed the first CCA BioMAT project and Pioneer Community Energy hopes to finalize at least one project in the next few months. Developers are well on the way to bringing many other projects online – often in rural, high fire risk areas like Mariposa, Nevada, Butte, Placer, and Plumas Counties. Some of those projects have already been awarded funding from state, federal, and local partners. As a result, the Proposed Decision threatens to pull the rug out from under a program that is on the verge of success.

Termination of the BioMAT Program Frustrates Achievement of Broader Wildfire Safety, Waste Management, Air Quality, and Climate Goals

The policy decisions of one state agency often have ripple effects on the objectives of sister state agencies and statewide goals and commitments. The CPUC's BioMAT Program does far more than simply deliver electricity to the grid – it plays an important role in achieving the state's wildfire risk reduction, forest management, waste diversion, and climate change goals. Indeed, many other state agencies have recently recognized the key role that smaller biomass facilities play in these larger state efforts.

Unfortunately, one of the consequences of siloed regulatory agency decision making is that the goals of one agency are often reliant upon (but are sometimes ignored by) a sister agency, as appears to clearly be the case here. For example, biomass facilities are crucial to accomplishing the state's wildfire risk reduction and fuel management goals; however, electricity from baseload biomass energy is expensive (compared to other forms of intermittent renewable energy) and so utilities and energy regulators are sometimes reluctant to prioritize the purchase of electricity from those facilities. While RCRC does not dispute the need to keep energy costs down, focusing on the price of electricity delivered by those facilities ignores the key role they play in managing forest fuel loads. Similarly, biomass and bioenergy facilities often play an important role in achieving the state's organic waste diversion mandates, as alternatives like landfilling or composting are unrealistic. Failure to align the state's energy planning and investment decisions to accommodate and align with these objectives leaves the state, local governments, and businesses with virtually no other alternatives for the management of those waste streams and inhibits compliance with state waste management and wildfire risk reduction goals and mandates.

Forest Health and Wildfire Risk Reduction

Biomass facilities convert residual materials (for which there is often no marketable use) into energy and avoid the emissions that result when material is managed through open burning, left to decompose naturally, or fuels future wildfires.

Decades of fire suppression have resulted in unsustainable tree density and accumulation of high fuel loads, which "are the dominant factor driving large fire events" in northern California conifer forests.[4] When combined with hotter temperatures and drought conditions, this has created a virtual tinderbox out of much of the state's forests. Where forest fires averaged 60,000 acres annually between the 1950's and 1990's and 175,000 acres annually in the 2000's, they averaged over 1.2 million acres burned in recent years.[5] As the Legislature observed:

> *"Wildfires result in significant greenhouse gas emissions. The State Air Resources Board acknowledges that wildfires are the largest source of black carbon, a short-lived climate pollutant, and wildfire emissions are orders of magnitude higher than black carbon emissions from anthropogenic sources. Furthermore, the combustion of forest material during a fire may only contribute a relatively small portion of the total emissions, since a high-intensity fire that kills vegetation may actually contribute four to five times as many emissions during post-fire decomposition."*[6]

Indeed, wildfires have released hundreds of millions of metric tons of greenhouse gas emissions over the last decade, thereby undermining many of the state's efforts to reduce emissions from industrial, transportation, and other sectors.

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[4] Assembly Budget Subcommittee No. 3 on Resources and Transportation, Informational Hearing: Wildfire Mitigation Measures, October 20, 2020, Briefing Materials, page 5.
[5] https://www.fire.ca.gov/our-impact/statistics.
[6] SB 901 (Dodd) (Chapter 626, Statutes of 2018) Section 1(e).

California has spent billions of dollars on wildfire suppression and prevention over the last several years, with the state seeking to rapidly increase the pace and scale of fuel reduction, thinning, and the use of prescribed fire. This has and will continue to result in a significant increase in the quantity of woody biomass waste. Without biomass facilities, residual materials from thinning operations are often left in the forest where they are either left to burn in piles or decompose naturally. Open pile burning is more commonly used than natural decomposition because of the fire hazard risks associated with leaving materials to decompose naturally.[7] That being said, it can be difficult to find windows of time in which to perform the pile burns.

RCRC strongly believes the state should work to expand the use of biomass facilities and promote the development of newer, even more environmentally friendly biomass technologies to achieve the state's forest health and wildfire risk reduction goals, while avoiding the emissions and air quality impacts associated with open pile burning and combustion of post-harvest slash during a wildfire. Biomass facilities reduce greenhouse gas emissions, including black carbon, that would otherwise result from alternative management of those materials. Without biomass facilities, the woody residuals that would be used as fuel are typically managed through open burning or are left in place to decompose naturally or be consumed in a wildfire. The Congressional Research Service noted that "removal of woody biomass (e.g., thinnings) in large quantities may reduce carbon, and some methane, emissions on a CO2-equivalent basis that would have been released if the woody biomass remained in the forest to decompose."[8] A relatively recent field study indicates that biomass energy generation results in 98-99% lower PM2.5, carbon monoxide, methane, and black carbon emissions compared to open pile burning (along with a significant reduction in NOx and carbon dioxide equivalent greenhouse gas emissions).[9]

Biomass facilities can also help achieve water quality and water yield improvements in forest ecosystems. California's forests have become unsustainably dense, resulting in increased competition for scarce water resources. This has resulted in massive tree mortality events involving hundreds of millions of trees. Forest health projects focused on improving ecosystem function often include projects to return the state's forests to natural densities, which will increase water quality and yield. But these efforts are dependent upon having biomass facilities available to manage the forest residuals that would otherwise be left to decompose, be burned in place, or combust in future wildfires.

[7] Springsteen B, Christofk T, York R, Mason T, Baker S, Lincoln E, Hartsough B, Yoshioka T. 2015. "Forest biomass diversion in the Sierra Nevada: Energy, economics and emissions." Calif Agr 69(3):142-149. https://doi.org/10.3733/ca.v069n03p142.
[8] Kelsi Bracmort, *Is Biopower Carbon Neutral?* Congressional Research Service, February 4, 2016, page 10.
[9] Springsteen, et al.

Waste Management and Zero Waste Goals

Biomass facilities are integral to California's ambitious and long-standing waste management goals, especially in rural and agricultural areas. Public Resources Code Section 41780 requires local governments to divert 50% of solid waste from landfill disposal. Additionally, Health and Safety Code Section 39730.6 requires the state to reduce the disposal of organic waste by 75%. The state also has a goal to divert 75% of solid waste from landfills and is in the process of preparing a statewide zero waste plan.

Beyond merely providing electrons to the grid, biomass facilities have long supported solid and organic waste diversion efforts. With respect to organic waste from normal farm activities, orchards, and vineyards, biomass facilities present a preferable waste disposal option compared to open burning, which releases uncontrolled emissions into the environment and is often performed near sensitive communities. Furthermore, not all orchard and vineyard pruning can easily be turned into compost or reincorporated into the soil because of the quantity of materials involved and the rate at which they decompose.

Both urban and rural communities depend on biomass facilities for waste management. As previously mentioned, biomass facilities are also imperative to manage the woody material created from fuels management and forest health improvement projects. Biomass facilities are also important waste management strategies for woody waste coming from urban communities. Some of the woody material from urban communities can be used in composting operations; however, too much woody material can adversely impact the composting process.

There are no other pathways available to manage these woody waste streams if the state's biomass facilities were to cease operations. Diverting forest waste and wood products residuals away from biomass facilities would either flood compost facilities with material they cannot use and do not have the capacity to process, rapidly increase disposal in rural landfills, and/or result in even greater emissions from uncontrolled open burning. Landfill disposal is not a viable alternative, as it would be inconsistent with state and local diversion requirements, and existing facilities lack the capacity to deal with this waste stream. Furthermore, it would be extremely difficult to build new landfills or expand the size of the state's existing landfills to address any capacity gaps caused by the loss of bioenergy facilities.

Termination of the BioMAT Program Highlights a Dangerous Lack of Leadership and Coordination Between California's Regulatory Agencies

Aside from the CPUC's own observations about the need for small scale biomass facilities [10], several other key state agencies have called for increasing bioenergy

[10] CPUC staff noted that ""BioMAT is one of several tools that the state is using to address wildfire threats and tree mortality and appears to be particularly well-suited for addressing forest management needs in forested areas close to population centers and far from other wood infrastructure… Among the various forest management options, BioMAT Category 3 appears particularly well-suited to forested areas close to

production to meet the state's wildfire risk reduction, organic waste diversion, and climate change goals, including the California Air Resources Board, Department of Conservation, and CalRecycle.

As noted by the California Bioenergy Association, "California's climate plans all call for increased bioenergy production and/or full implementation of the BioMAT program, including: CARB's 2022 Climate Change Scoping Plan, CARB's Short-Lived Climate Pollutant Reduction Strategy, The California Forest Carbon Plan, adopted by CalEPA, the California Natural Resources Agency, and CalFire."[11]

California's Forest Carbon Plan outlines the key roles that biomass projects can play in managing waste from forest management projects, noting that:

> *"Biomass projects can potentially offer net benefits to the public in scenarios where utilizing waste from commercial timber harvests will help reduce risk of damage to forest watershed, reduce costs of fire suppression and wildfire emissions, and/or meet other forest management objectives."*[12]

The California Board of Forestry recommended expanding the BioMAT program to better utilize forest wood waste and promote the state's wildfire risk reduction activities.[13] The Board also called for allowing CCAs and others to participate in the BioMAT program. While AB 843 allows CCAs to participate, the CPUC's Proposed Decision undermines their ability to meaningfully secure BioMAT projects in the mere two years allowed, thereby flatly impeding achievement of recommendations made by the Board of Forestry.

Outside of the forestry and fire prevention context, the Air Resources Board has also noted the importance of the BioMAT Program to achieve the state's SB 1383 (Lara) of 2016 methane reduction goal and has noted its important role in reducing livestock emissions.[14] BioMAT is an important program to help state and local governments achieve the state's goal of diverting 75% of solid waste from landfills and ultimately working toward a zero waste society. Without adequate pathways to manage residual wood waste, those materials would either be left to decompose in the natural environment (and risk fueling future fires) or burned in place, as landfills and composting facilities are not viable.

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population centers where forest treatment is needed, but where prescribed burns and open burning are restricted or face local opposition, larger-scale biomass operations are not nearby or limited by smaller need, or where other more economically lucrative end-uses for the feedstock do not currently exist." CPUC, *Bioenergy Market Adjusting Tariff (BioMAT) Program Review and Staff Proposal*, October 30, 2018, pages 9-10.

[11] R.18-07-003, *Bioenergy Association of California Petition to Modify Decision 20-08-043*, pages 7-8.

[12] California Forest Climate Action Team, *California Forest Carbon Plan*, May 2018, Pages 131-132.

[13] Joint Institute for Wood Products Innovation, California Board of Forestry and Fire Protection, *Joint Institute Recommendations to Expand Wood and Biomass Utilization in California*, November 4, 2020, page 18.

[14] ARB 2022 *Scoping Plan for Achieving Carbon Neutrality, Appendix H*, page 23; ARB, *Analysis of Progress Toward Achieving the 2030 Dairy and Livestock Sector Methane Emissions Target*, March 2022, page 14.

Termination of the BioMAT Program Will Jeopardize Recent Jobs First Economic Development Awards

Governor Newsom's Jobs First Council was convened to "develop and implement a comprehensive approach to advancing California's economy." That program developed blueprints for 13 regions, highlighting key sectors and strategies to promote sustainable economic growth, innovation, and jobs. The program has also invested hundreds of millions of dollars in key local projects across the state. Unfortunately, the CPUC's Proposed Decision to terminate the BioMAT Program jeopardizes several of those investments made earlier this year.

The Governor's signature Jobs First Initiative calls for increased support for and investment in biomass facilities and funding for utilization of lower value biomass, noting that removing excess biomass restores forest and watershed ecological function, improves air soil, and water quality, and aligns with the state climate goals and wildfire mitigation efforts. Some highlighted contributors noted that there are "too few viable alternatives" for dealing with woody biomass from defensible space and wildfire risk reduction projects.[15] The Jobs First Program has invested $500,000 to study the feasibility of locating biomass energy facilities in 2-5 areas in the seven-county Capital Region, $345,000 million in a Red Hills Bioenergy Facility that benefits the Scotts Valley Band of Pomo Indians, and $1.4 million for a 3MW biomass energy facility in Calaveras County to convert forest waste into electricity, heat, and biochar. Termination of the BioMAT Program directly threatens those and other similar projects that are vital to achieve state and local safety, climate, resiliency, ecosystem, and economic goals.

Beyond merely sacrificing recently-awarded Jobs First Initiative funding, the CPUC's termination of the BioMAT Program also threatens $30 million in grants West Biofuels received from the U.S. Department of Energy to develop new BioMAT projects across the state. These facilities are planned for Burney, Mariposa, and Mammoth Lakes and the monumental award was highlighted in the "California Jobs First – State Economic Blueprint."[16]

CPUC Inappropriately Relies on Executive Order N-5-24 to Justify an Exercise of Authority Not Granted By the Legislature – while Disregarding the Order's Explicit Requirements

The CPUC also mistakenly seeks to justify the BioMAT program's sunset as being in accordance with Executive Order N-5-24 on energy affordability. That Executive Order directs the CPUC to examine the benefits and costs to electric ratepayers of programs it oversees pursuant to statutory mandates that may be unduly adding to electric rates, or whose funding might more appropriately come from a source other than ratepayers. The CPUC was ordered to report on its findings and recommendations for modifying or repealing statutes that would reduce costs to ratepayers without compromising public

[15] *California Jobs First North State Regional Strategies, Regional Plan Part 2*, September 2024; *California Jobs First Sierra Region 2024 Strategic Plan, Regional Plan Part 2*, August 2024.
[16] R.18-07-003, *West Biofuels, LLC Comments on the Proposed Decision Denying Petition to Modify Decision 20-08-043*, October 8, 2025.

health and safety or achievement of the state's carbon neutrality goal. The Executive Order also allows the CPUC to take action under its existing authority to modify or sunset underperforming or underutilized programs or orders whose costs exceed the value and benefits to electric ratepayers.

Here, the CPUC argues that ending the BioMAT Program is justified as a way to save ratepayers money; however, the CPUC failed to quantify and balance the value and benefits of the program against ratepayer costs, as required by N-5-24. In its N-5-24 report, the CPUC noted that the BioMAT and BioRAM programs together cost approximately $150 million annually and represent about 0.3% of ratepayer bills. This estimate fails to break down the standalone costs of BioMAT compared to BioRAM. As BioMAT is a much smaller program than BioRAM, that breakdown would show that BioMAT costs consumers just a fraction of that $150 million aggregate cost and so would likely result in less than a 0.1% change in ratepayer bills.

The CPUC also failed to balance those minor BioMAT costs against the significant benefits that result from the program, including avoiding harmful air emissions, significantly reducing wildfire risk, and facilitating waste management. These benefits accrue directly to ratepayers both in avoided wildfire liability, reduced wildfire mitigation costs, and reduced risk of having to draw on wildfire insurance policies. These benefits also accrue to taxpayers in general (who are also ratepayers) through reduced wildfire management and suppression costs.[17] The BioMAT program's assistance to stop, slow, or prevent ***even one wildfire*** is likely to more than offset its annual ratepayer costs.

Regardless, N-5-24 could not provide the CPUC any additional authority to sunset statutory mandates even if it had complied with the actual directives of that Executive Order.

CPUC's Concern Over BioMAT Costs is Misplaced Given Its Indifferent to Other Statutory Mandates that Increase Utility Vegetation Management Labor Costs by Up to 175%

RCRC sincerely appreciates recent attention on utility rates – California has among the highest energy costs in the nation, which disproportionately impact ratepayers in inland areas like the Central Valley.

At the same time, RCRC is confused by the CPUC's targeting of the BioMAT program, which costs ratepayers as little as *$1-$2 a year*[18] at a time when the CPUC is completely ignoring the impact that other statutory mandates have on utility bills.

Utility vegetation management programs are among the most expensive components of utility wildfire risk reduction costs. PG&E received $547 million for

[17] RCRC Comments to the California Energy Commission, *Comments on 24-OIIP-03 Proceeding on Non-Energy Benefits and Social Costs,* October 21, 2024, pages 4-7.
[18] R.18-07-003, *Bioenergy Association of California Petition to Modify Decision 20-08-043,* March 6, 2025, pages 11-12.

vegetation management in its 2020 General Rate Case (GRC), $602 million in 2021, and $663 million in 2022. Senate Bill 247 (Dodd) of 2019, among other things, requires all electrical line clearance tree trimmers to be paid prevailing wage. Cost recovery filings by IOUs implementing SB 247 were eye opening, showing a 175% increase in vegetation management contract rates for Southern California Edison,[19] an 82% average increase in hourly rates for Bear Valley Electric Service,[20] and a 62% increase in costs to remove trees for PG&E.[21] Given that PG&E has been spending well over half a billion dollars on vegetation management annually, a 62% increase in the cost to remove each tree has significant and profound impacts on ratepayer bills. ***SB 247's labor cost increases have certainly added hundreds of millions of dollars to ratepayer bills, yet the CPUC failed to even mention these costs or SB 247 in its response to Executive Order N-5-24***.

While RCRC welcomes the CPUC's consideration of ratepayer cost pressures, it is erroneous, if not disingenuous for the CPUC to completely ignore major cost drivers like SB 247.

The CPUC's Claim that Other State Bioenergy Procurement Programs May Better Support State Goals is Simply Inaccurate and Will Sacrifice Numerous Projects Without First Identifying and Developing a Successor Program

The CPUC seems to believe that other state energy procurement programs may better support smaller biomass facilities, but there is no basis for this belief. The CPUC fails to recognize that the Legislature created the BioMAT Program to promote smaller biomass projects because other programs failed to meet those vital objectives. As the Joint Community Choice Aggregators observe, the CPUC "ignores the fact that these other procurement mechanisms have been unsuccessful in spurring any bioenergy development in recent years, leaving the state well short of its bioenergy-related goals."[22]

While some BioMAT Program costs could be funded through non-ratepayer resources, the state simply cannot let the existing program terminate without first identifying and ensuring that other funding pathways will seamlessly achieve the statutory objectives laid out in SB 1122 (Rubio) of 2012. The CPUC effectively seeks to wash their hands of the BioMAT program without first ensuring that other agencies or programs will be able to support those projects currently in development that are needed to reach the targets specified in SB 1122, or that will help the state achieve its climate, wildfire risk reduction, and waste management goals.

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[19] SCE – *Advice Letter 44881-E, October 26, 2022, pages 2, 5, and Appendix B – Declaration of Melanie Jocelyn, SCE's Principal Manager of Vegetation Management*.
[20] *Bear Valley – Advice Letter 481-E*, January 8, 2024, pages 1-2.
[21] *PG&E – A.21-09-008 – Decision Approving Partial Recovery of Pacific Gas and Electric Company's Costs for 2020 Electric Distribution Vegetation Management Work, pages 30 and 33.*
[22] R.18-07-003, *Opening Comments of the Joint Community Choice Aggregators on the Proposed Decision Allowing the Bioenergy Market Adjusting Tariff Program to Sunset*, October 8, 2025. page 4.

Simply speaking, the CPUC cannot walk away from its BioMAT obligations without the CPUC first ensuring that CalFire, CalRecycle, and other sister agencies are willing and able to seamlessly fund those projects going forward.

The Proposed Decision Exemplifies the Pattern of CPUC's Reactive and Inconsistent Regulatory Approach

Stakeholders broadly acknowledge that the administrative and regulatory processes established by the CPUC are among the most complex in the state. The overlapping nature of its numerous proceedings often make it challenging for participants to identify the appropriate venue or proceeding for a given issue.

For example, stakeholders like RCRC and others petitioned the CPUC to extend the BioMAT Program's sunset date and make other policy changes in November 2021 as part of Rulemaking 11-05-005. It took the CPUC ***nearly two and a half years*** to deny our petition for modification. That rejection was not on any policy ground, but on procedural requirements: the CPUC argued the petition should have been filed sooner and should have instead been filed in Rulemaking 18-07-003.

In those intervening 2+ years, the CPUC initiated a new rulemaking to consider further changes to the Renewables Portfolio Standard Program (R.240-01-017). RCRC quickly became a party to that proceeding because the CPUC indicated in the Order Instituting Rulemaking that its principal topics would include the "ongoing monitoring reviewing, and revising, as needed, [of] all RPS procurement methods and tariffs including "the Bioenergy Market Adjusting Tariff."[23] RCRC highlighted the key role that BioMAT facilities play in forest health improvement, wildfire protection, and organic waste diversion programs – all of which are intended to facilitate achievement of the state's greenhouse gas emission reduction goals.[24] In response to those and other stakeholder comments, the CPUC indicated that it would consider issuing a revised Scoping Memo extending the BioMAT program end date as part of the R.24-01-017 rulemaking in early 2025.[25]

After waiting more than a year for the CPUC to act on BioMAT under R.24-01-017, the Bioenergy Association of California submitted a petition to extend the BioMAT program in the R.18-07-003 proceeding in March 2025. The objectionable Proposed Decision terminating the BioMAT Program was issued as part of the R.18-07-003 proceeding despite ongoing discussions as part of R.24-01-017.

When combined with procedural landmines, the CPUC's failure to act timely on petitions (or follow through on its own official statements) have left stakeholders with little

[23] R. 24-01-017, *Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program*, January 25, 2024, page 7.
[24] R.24-01-017, *Reply Comments of Rural County Representatives of California on the Order Instituting Rulemaking to Continue Implementation and Administration, and Consider Further Development, of California Renewables Portfolio Standard Program*, March 13, 2024, page 3.
[25] R.24-01-017, *Assigned Commissioner's Scoping Memo and Ruling*, May 9, 2024, pages 5-6.

choice but to play regulatory whack-a-mole in an attempt to maintain important multi-benefit programs.

Conclusion

RCRC appreciates your consideration of these concerns and urges the continued operation of the CPUC's BioMAT Program and rejection of the Proposed Decision. If you should have any questions, please do not hesitate to contact me at jkennedy@rcrcnet.org.

Sincerely,

JOHN KENNEDY
Senior Policy Advocate

cc: Darcie Houck, Commissioner, California Public Utilities Commission
John Reynolds, Commissioner, California Public Utilities Commission
Karen Douglas, Commissioner, California Public Utilities Commission
Matthew Baker, Commissioner, California Public Utilities Commission
Wade Crowfoot, Secretary, California Natural Resources Agency
Joe Tyler, Director, CalFire
Jennifer Lucchesi, Director, California Department of Conservation
Zoe Heller, Director, California Department of Resources Recycling and Recovery
Angela Avery, Executive Officer, Sierra Nevada Conservancy
Lauren Sanchez, Chair, California Air Resources Board
Karen Ross, Secretary, California Department of Food and Agriculture
Dee Dee Myers, Senior Advisor and Director, Governor's Office of Business and Economic Development
Grant Mack, Deputy Legislative Secretary, Governor Gavin Newsom
CPUC R.18-07-003 Service List
CPUC R.24-01-017 Service List