

Calif.'s Renewable Natural Gas Standard: Tips For Suppliers

By **Buck Endemann, Molly Barker and Matthew Clark** (April 13, 2022)

On Feb. 24, the California Public Utilities Commission issued a decision, D.22-02-025, requiring California's investor-owned utilities, or IOUs, that supply gas to the public to satisfy short- and medium-term procurement targets for renewable natural gas.

RNG can be produced from feedstocks including organic food and agriculture waste, dairy and swine manure, and wastewater treatment plant solids.

By focusing initially on diverting organic food and agriculture waste from landfills, the CPUC's short-term RNG procurement goals are meant to create demand to amplify other waste diversion strategies supervised by the California Department of Resources and Recycling, or CalRecycle, and the California Air Resources Board, or CARB.

By linking energy procurement mandates with organic waste diversion, the CPUC's renewable gas standard is a unique order that ties together several complementary statewide waste policies. While the CPUC directly regulates a large handful of gas IOUs, waste collection in California is historically performed by a much more diffuse array of local entities.

D.22-02-025 is an important step taken by an energy regulator to promote a unified waste collection and reuse strategy to meet California's emissions reduction goals.

The first installment of this two-part article examined the background of the CPUC's decision requiring IOUs to satisfy short- and medium-term RNG procurement targets. This second installment will review the primary issues that RNG suppliers and producers will need to be aware of when drafting an agreement with an IOU.

Things to Watch

While D.22-02-025 has many requirements, it is hoped that a ratepayer-backed renewable gas standard will lead to lower costs and best practices to propel organic waste collection efforts.

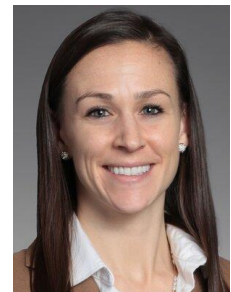
Participants need to be aware, however, of the CPUC's various and sundry requirements before it approves an IOU to procure RNG. The requirements below summarize the primary issues that RNG suppliers and producers will need to be aware of when drafting an agreement with an IOU.

Hydrogen Sulfide Limits

RNG suppliers and producers should be prepared to guarantee that their hydrogen sulfide concentrations will not exceed 10 parts per million, which matches federal Occupational Safety and Health Administration allowable work limits.



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The CPUC's hydrogen sulfide requirements reflect requirements from other California agencies — e.g., RNG projects in the San Joaquin Valley Air Pollution Control District that participate in the California Department of Food and Agriculture Dairy Digester Research and Development Program.

Role of Procurement Advisory Group in Regulating IOU Decisions

RNG suppliers and producers will need to accommodate procurement advisory groups, or PAGs, that will provide input on the cost-effectiveness of each individual project. The IOUs must consider the impact that RNG procurement will have on customer bills, and each IOU will manage a PAG that will work to avoid excessive ratepayer costs and confirm cost-effectiveness.

The CPUC's Energy Division will approve all PAG memberships, which will include nonmarket participants. PAG members are anticipated to propose cost remediation measures in the rate design phases, which could, in turn, potentially impact the value of an offtake agreement for a RNG supplier.[1]

Tipping Fees

RNG suppliers and producers should also review D.22-02-025's tipping fee provisions. Tipping fees, which reflect a facility's willingness to accept waste, provide revenue for waste disposal and RNG production facilities.

If those tipping fees increase, a developer could theoretically use increased tipping fee revenue to offset RNG production costs. D.22-02-025 allows for periodic review of tipping fees to ensure customers don't bear any negative impact of changing waste disposal costs.

Financing parties will want to be particularly aware of the potential renegotiation of long-term contract pricing. D.22-02-025 attempts to mitigate this risk, however, by requiring RNG procurement contracts to specify how tipping fees may modify the specific procurement contract terms, if at all, and directs staff to scrutinize each contract submitted for approval to ensure all contracts meet this requirement.[2]

RNG suppliers should be clear, and narrowly tailor provisions to explain the circumstances when tipping fees may be invoked to modify the terms of a procurement contract.

No Diesel Vehicles

To be eligible for IOU procurement contracts, RNG producers and suppliers must agree to purchase or lease only near-zero-emission or zero-emission Class 8 trucks for RNG production. The mandate would apply specifically to the facility operator, not the landowner, and wouldn't necessarily mandate the producer purchase such trucks for other facilities relating to other operations.

Further, zero-emission trucks would not be required if they are not commercially available. IOUs will give procurement priority, however, to those facilities that can also show that waste haulers delivering to the RNG production facility also commit to using near-zero-emission or zero-emission vehicles.

RNG suppliers and producers should expect to identify all existing Class 8 trucks used in operations, and agree to inform the IOU whenever a new vehicle is purchased or leased for use at the facility where RNG is being procured. This will require planning and engaging in a

compliance exercise with numerous vendors.[3]

On-Site Generator Restrictions

Facilities offering RNG under D.22-02-025 must agree to prospectively limit their ability to combust biogas or RNG to generate electricity. The CPUC will require producers to disclose annual on-site biogas- or RNG-fired electric generation data, and will restrict producers from generating power that exceeds those levels.

D.22-02-025 additionally requires RNG producers to commit to using noncombustion technologies — i.e., solar, wind, etc. — to generate onsite electricity.[4] Developers should plan accordingly to identify alternative ways to source electric generation on-site.

Carbon Capture and Storage Preferences

The CPUC will prioritize RNG projects involving carbon capture and use or storage technologies that can receive more favorable carbon intensity scores. Examples of approved uses of captured carbon dioxide or methane include mineralization, geologic storage, methanation, biofuel production, and industrial or manufacturing applications.

Notably, D.22-02-025 authorizes procuring RNG sourced from methanation of captured CO₂ to meet both the short-term and medium-term targets. The carbon intensity score of RNG will be relevant as each IOU employs its own standard RNG procurement methodology that will assist the IOU and PAG in making procurement decisions.[5]

RTC Tracking

The CPUC will track compliance with the renewable gas standard by requiring RNG producers to track volumetric injections of RNG into pipelines by generating renewable thermal certificate, or RTCs, on the M-RETS platform. M-RETS issues a unique, traceable, digital RTC for every dekatherm of verified renewable thermal energy producers record on its platform.

The M-RETS platform also allows producers to track carbon pathways and carbon intensity values with comprehensive documentation as part of each certificate. Once RTCs are issued, M-RETS users can choose to buy, sell, retire, import or export them.

M-RETS users can retire certificates either to comply with regulatory mandates or to fulfill their voluntary commitments, ensuring that certificates are not double-counted.

The CPUC will be able to access RTC data via the M-RETS platform. The CPUC will use that data to calculate potential gas production based on tons of organic waste, and to obtain data on gas production among facilities of different sizes, geographies and production conditions.

The initial data collection of short-term volumes will help the CPUC review and modify medium-term targets in current or successor renewable gas standard proceedings to begin in 2025.[6] RNG producers and suppliers eager to contract with IOUs should be prepared to employ and use the RTC tracking on the M-RETS platform.

Contract Duration

RNG offtake contracts procured under D.22-02-025 will have a maximum duration of 15 years, with all RNG deliveries terminating prior to 2040. While this restriction may stunt some benefits provided by longer-term contracts, the CPUC retained flexibility to tweak S.B. 1440's RNG procurement benchmarks for gas corporations.[7]

Getting Involved

D.22-02-025 is a major step forward for California's Renewable Gas Standard. Further details are still being worked out, however. Should stakeholders wish to get involved in the IOUs' subsequent RNG procurement plans and methodologies, the following workshops were scheduled to offer additional information:

D.22-02-025 is a major step forward for California's Renewable Gas Standard. Not all the details have been decided, however. Stakeholders wishing to get involved in the IOUs' subsequent RNG procurement plans and methodologies should be aware of the following workshops required by the decision:

- CPUC required California's largest gas IOUs to host a standard RNG procurement methodology workshop on cost-effectiveness and environmental justice no later than 45 days from the date of adoption of D.22-02-025, or by April 10. This workshop was required to involve industry stakeholders and members of the public to evaluate several issues, including: (1) what specific factors should be included in the standard RNG procurement methodology cost-effectiveness test; (2) how carbon intensity should be calculated in the standard RNG procurement methodology cost-effectiveness test; (3) what standards should be employed in developing a modified greenhouse gases regulated Emissions and energy use in technologies, or GREET, model, and who should be charged with that task; (4) cost control mechanisms to use for each gas IOU; and (5) what standards should be used in an initial cost-effectiveness test while a modified GREET model is being built out.[8] CPUC expected this workshop to address environmental justice concerns — e.g., how livestock and dairy RNG facilities contracting with an IOU can avoid adverse impacts to water and air quality.[9] The results of this workshop will create the foundation for establishing the standard RNG procurement methodology.
- The CPUC will host a workshop to receive comment on the development of the renewable gas procurement plan, formerly known as the RNG procurement plan. This workshop will engage the public and stakeholders on a variety of topics relating to the plan, including: (1) what enumerated points should be in a template advice letter for all elements of such a plan (e.g., list of project priorities, cost, noneconomic benefits); (2) what cost control measures should be used for each gas IOU (e.g., cost caps, rate increases); (3) what benchmarks should be used in the plan to authenticate project viability, high uptime and accurate deliverability of promised volume of RNG; and (4) what protocol is necessary to guarantee additionality and verifiability. A template RGPP shall be developed by the utilities within 30 days of the workshop.[10]

Final Thoughts

D.22-02-025 is a unique energy regulatory order that focuses heavily on waste, has zero-emission vehicle and environmental justice considerations, and promotes the policies of other industry regulators, including CalRecycle and CARB. According to the CPUC, diverting organic and woody waste from landfills will offer meaningful short-term progress in decarbonizing the natural gas and waste collection industries.

Aware of the high costs and logistics of organic waste diversion, however, the CPUC has instituted several mechanisms to protect ratepayers from unreasonable RNG procurement costs, including procurement advisory groups, an advice letter review reflecting the social cost of carbon, and potential reopeners for changed tipping fees.

Time will tell whether these CPUC requirements make RNG as ubiquitous as wind and solar in California's energy mix.

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[1] *Id.*, at 29.

[2] *Id.*, at 40.

[3] *Id.*, at 41-42.

[4] Order at 42.

[5] *Id.*, at 43-44.

[6] *Id.*, at 50.

[7] *Id.*, at 50.

[8] *Id.*, at 27-28, 36.

[9] *Id.*, at 35.

[10] Order at 39.