

R.013-02-008



**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**FILED**

Order Instituting Rulemaking to Adopt  
Biomethane Standards and Requirements,  
Pipeline Open Access Rules, and Related  
Enforcement Provision

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**PRE-HEARING CONFERENCE STATEMENT BY  
THE COALITION FOR RENEWABLE NATURAL GAS, INC.**

Dated: March 20, 2013

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**I. Introduction**

The Coalition For Renewable Natural Gas (“The Coalition”) is a nonprofit organization dedicated to the advancement of renewable natural gas (RNG, biogas, biomethane) as a clean, low-carbon, renewable energy resource for utilization in the generation of electricity, thermal heat and transportation fuel purposes. The Coalition’s diverse membership and partner organizations include small business, renewable energy developers, engineers, financiers, marketers, transporters, environmental advocates, organized labor, law firms, ratepayers and utilities.

**II. Agreements**

A. Scoping Memo

The Coalition has no objections to the proposed scope of the R.13-02-008. We agree that the scope should adopt standards for health, safety, facility integrity and requirements for monitoring, testing, reporting and recordkeeping. We concur that rules for non-discriminatory open access to gas utility pipelines for interconnection and delivery of gas, as well as enforcement protocols, should also be adopted.

B. Schedule & Process

Consistent with The Coalition’s initial OIR Comments filed electronically on March 7, 2013, The Coalition will recommend a second Workshop below, but otherwise has no objections to the adopted schedule or process for R.13-02-008.

C. Hearing Details

To the extent possible, The Coalition requests that the Office of Environmental Health Hazard Assessment (OEHHA) and California Air Resources Board (CARB) make their preliminary list of constituents of concern and preliminary schedule of requirements for monitoring, testing, reporting and recordkeeping available for interested parties at either the Pre-Hearing Conference or during their presentation at the Workshop scheduled for March 27, 2013.

### III. Recommendations

#### A. Schedule & Process

The Coalition understands that, given the scope of their work, OEHHA and CARB staff may be unable to present their preliminary compilation of constituents of concern and requirements for monitoring, testing, reporting and record keeping at the Pre-Hearing Conference and or Initial Workshop on March 27, 2013. As such, The Coalition recommends that the Public Utilities Commission direct Staff to schedule a second Workshop, with a specific focus on OEHHA and CARB work product. We recommend that the second Workshop be scheduled to allow sufficient time for both OEHHA and CARB to consider recommendations from interested parties and make any adjustments they deem necessary prior to their May 15<sup>th</sup>, 2013 deadline.

#### B. Preliminary Information

##### i. *Proposals to OEHHA and CARB*

The Coalition has engaged OEHHA and CARB through our AB 1900 Implementation Working Group by participating with their staff on a conference call to discuss current standards in place for biogas, studies that examine the end-user exposure to compounds in biomethane, and various approaches to monitoring trace contaminants. We submitted to CARB and OEHHA staff the attached AB 1900 Implementation White Paper dated January 23, 2013 (See Appendix A). Much of the information from that White Paper is submitted here to you as preliminary information. We also submitted a list of all thirty-nine (39) High-BTU landfill projects in the country (See Appendix B) and the 2009 and 2012 Gas Technology Reports (See Appendix C and D) that have examined eleven (11) of the thirty-nine (39) projects in exceptional detail. Additionally, we provided a Battelle Labs Report (See Appendix E) for historical context and a paper written by National Grid for context of comments on the Fresh Kills Landfill RNG project on Staten Island in New York (See Appendix F).

Historical context: The Battelle Labs Report is key relative to understanding the original issue that Assembly Bill 4037 (Hayden; Stats. 1988, Ch. 932) - otherwise referred to as the "Hayden Amendment" - was introduced to address is no longer of concern today. The Battelle Labs Report concludes that vinyl chloride comes from microbial action on chlorinated solvents. Chlorinated solvents may only be lawfully disposed of in a hazardous waste landfill. Issues of vinyl chloride in landfill gas that existed in 1988 when the Hayden Amendment became statute arose from uncollected landfill gas produced at a hazardous waste landfill in southern California.

AB 1900 (Gatto; Stats. 2012, Ch. 602) prohibits introduction of RNG derived from landfill gas collected at any hazardous waste landfill.

The 2009 report from the Gas Technology Institute (GTI) primarily reviewed dairy waste and wastewater treatment sludge, but also included an analysis of landfill gas-derived RNG produced at 3 landfills (which were not included in the 2012 GTI Study referred to below).

The most recent 2012 GTI Study reviews landfill gas-derived RNG from 8 separate landfills in detail. Please also find attached a summary of the Study prepared for our group by Kristine Wiley of GTI.

Our AB 1900 Implementation Working Group compiled the list of all High-BTU landfill projects in the country. To date there are approximately 600 landfill projects in the U.S. However, there are only 39 High-BTU, pipeline quality landfill gas projects that are operational in the U.S.

*Case Study:* The Fresh Kills Landfill RNG project on Staten Island in New York has operated for more than 30 years (including a number of years by a member of our working group) in the heart of a major residential area. RNG produced by this project is introduced into the distribution natural gas pipeline system on Staten Island operated by National Grid. Such pipeline serves the natural gas needs of largely residential customers. The paper published by National Grid outlines its support for RNG and the role it views RNG can play toward sustainability in the Northeast region.

ii. *Standards and Requirements*

The CPUC's responsibility to the public to ensure the provision of safe, reliable utility service and infrastructure is critical, not only to the fulfillment of your mission and purpose, but for the sake of success of the very product our members have embraced as a central solution to the pressing energy needs of this and future generations. Our members stake their reputations and financial well being on Renewable Natural Gas being safe, clean and affordable. It would be detrimental to a successful business model to produce a fuel that harmed the pipeline infrastructure, or by extension the public at large. Thus, we agree with you that setting safe and reliable standards are critical. For this reason, The Coalition wholeheartedly endorsed the health and safety provisions when sponsoring AB 1900.

What is important to understand is that RNG is molecularly and substantively natural gas. The distinction and difference is the source (decomposing organic waste rather than a geologically-trapped natural gas that had been produced from organic materials in the past) and the substantial scrubbing process that the gas goes through to ensure its quality. As clearly revealed in the conclusions written by the Gas Technology Institute in its two comprehensive reports on RNG, High-BTU Renewable Natural Gas quality, or pipeline quality biomethane, is at least equal to and often exceeds the quality of traditional natural gas.

Current natural gas pipeline standards (tariffs) in other states do not differentiate between renewable natural gas and fossil fuel natural gas. As such, RNG projects have continuously introduced RNG into natural gas pipelines, including distribution pipelines, since the early 1980's.

California's former 1988 Hayden Amendment (removed by AB 1900) was the only law in place in the United States that restricted landfill gas introduction into common carrier pipelines.

California natural gas pipeline tariffs, in response to the Hayden Amendment, restricted introduction of RNG derived from landfills due to concerns over government-imposed criminal penalty fines.

AB 1900 maintains the health and safety protections of the original Hayden Amendment by prohibiting the use of hazardous waste landfills for High-BTU RNG production.

Proposition 65 currently requires warnings to natural gas customers about risks of constituents, such as Benzene, so no new warning requirements by natural gas pipeline companies would be required with respect to any trace constituents present from RNG that are not normally already present in natural gas.

In response to the list of constituents of concern being compiled by OEHHA and CARB, the Commission will need to consider whether or not to impose additional, more stringent requirements on RNG than is currently imposed on fossil fuel natural gas already populating the distribution pipeline system.

While it makes sense to maintain sufficient standards to ensure raw biogas that has not been scrubbed to meet a level of pipeline quality is not injected into the distribution system, the scientific reports of the Gas Technology Institute and the State's policies of encouraging renewable energy and a diverse energy portfolio, inform a reasonable position that onerous requirements should not be placed as a barrier to productive use of RNG in California, including the injection and transportation of the gas through the interstate distribution pipeline system.

iii. *Open Access*

The Coalition recognizes that the specific provisions in AB 1900 relative to the promotion of RNG will be addressed in R.11-05-005. Nonetheless, because promotion of RNG is a tenet of Assembly Bill 1900, it should have bearing on the Commission's assessment of what constitutes true, non-discriminatory and open pipeline access in the course of R.13-02-008.

Furthermore, how the Commission interprets this concept, in tandem with standards and requirements, will largely determine whether the policy intent of the Legislature to encourage the in-State use of RNG will be carried out in practice, or whether the access will be non-discriminatory and open in theory only.

The notion that California's existing natural gas pipeline standards (tariffs) are generally open and non-discriminatory is not true regarding RNG. These standards, based on the now overturned, twenty-four year old Hayden amendment and related antiquated regulations, make it technically and feasibly impossible for developers and transporters to inject RNG into the interstate pipelines system, as they are able to do throughout the rest of the United States and North America.

True non-discriminatory, open access must equal practical, technical and feasible access to the interstate pipeline system. The Coalition's AB 1900 Implementation Working Group has provided OEHHA and CARB with several acceptable pipeline specifications, as required by other pipeline companies outside of California. The Coalition believes it is possible to achieve non-discriminatory open access through reasonable monitoring, testing and record keeping requirements, without compromising public health, safety or pipeline integrity.

iv. *Enforcement Provisions*

Respectfully, we will reserve our right to comment on the enforcement provisions until such time as we are able to see how the enforcement provisions are developed during the process. We do note, however, that it was the enforcement provisions of the 1988 Hayden Amendment (actual criminal penalties), not the technical standards or requirements, that resulted in pipeline company tariffs with prohibitions against the introduction of RNG derived from landfill sources.

#### **IV. Attachments**

Please also find included online, e-filed along with our official Pre-Hearing Conference Statement, the attachments previously referenced: AB 1900 Implementation Concept Paper, 39 High Btu Landfill Projects List, GTI's 2009 and 2012 Reports, Battelle Labs and National Grid Reports.

#### **V. Conclusion**

We appreciate the opportunity to provide a joint Pre-Hearing Conference Statement on the OIR 13-02-008 to Adopt Biomethane Standards and Requirements, Pipeline Open Access Rules, and Related Enforcement Provisions. The Coalition has no further comment at this time, but wishes to reserve the right to bring additional related matters to the Commission's

attention in the future as may be warranted. Together, we believe careful and accurate implementation of Assembly Bill 1900 (Gatto; Stats. 2012, Ch. 602) will enable the development of California's in-State renewable natural gas market, to the collective benefit of the State's environment, economy, municipal utilities and rate-paying electricity consumers alike.

Respectfully submitted,

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