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

Application of Southern California Gas  
Company (U 904 G) and San Diego Gas &  
Electric Company (U 902 G) for Renewable  
Natural Gas Tariff.

Application 19-02-015  
(Filed February 28, 2019)

**WILD TREE FOUNDATION REPLY BRIEF ON THE APPLICATION OF SOUTHERN  
CALIFORNIA GAS COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY  
FOR RENEWABLE NATURAL GAS TARIFF**

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**BEFORE THE PUBLIC UTILITIES COMMISSION  
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Application of Southern California Gas Company (U 904 G) and San Diego Gas & Electric Company (U 902 G) for Renewable Natural Gas Tariff.

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**WILD TREE FOUNDATION REPLY BRIEF ON THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY AND SAN DIEGO GAS & ELECTRIC COMPANY FOR RENEWABLE NATURAL GAS TARIFF**

Pursuant to the Rule 13.4 of the Commission Rules of Practice and Procedure, Wild Tree Foundation (“Wild Tree”) submits the following reply brief on the Application of Southern California Gas Company (U 904 G) and San Diego Gas & Electric Company (U 902 G) (“Applicants”) For Renewable Natural Gas Tariff (“Application”). Applicants have not met their burden of proof that the program for a biomethane “green” tariff proposed in the Application or in the Contested Settlement would be just and reasonable in light of the record, is consistent with the law, or would be in the public interest and should, therefore, be denied.

**ARGUMENT**

**A. POLICY ASPECTS OF SETTLEMENT**

**1. Additionality**

Neither the Application nor the Contested Settlement propose sufficient additionality requirements for the biomethane that would be procured for the proposed biomethane tariff

program. In its Opening Brief, Applicants admit, for the first time, that a “specific additionality requirement is not *required*” for in-state supplies.<sup>1</sup> Given that Applicants assert that the Contested Settlement will provide 50% in-state procurement<sup>2</sup>, this program would be designed to rely upon non-additional sources. Verified additionality is critical to ensuring that the use of biomethane actually results in reduced GHG emissions. Procurement of any amount of non-additional biomethane would be counterproductive to California’s goals and policies to reduce greenhouse gas (“GHG”) emissions, especially methane, as an extremely potent short-lived climate pollutant. And so, approval of a “green” biomethane tariff that would permit up to 50% of procurement from non-additional sources would not be reasonable in light of the record, not in the public interest, and not consistent with the law and is grounds alone for the Commission to deny the Application and Contested Settlement.

Wild Tree concurs with Leadership Counsel for Justice and Accountability and Sierra Club (“LCJA and Sierra Club”) that the Contested Settlement does not satisfy the Commission’s standards for additionality and the claimed environmental benefits from RNG do not adequately justify procurement of biomethane from any non-additional sources.<sup>3</sup> The intervenors that contested the Contested Settlement as well as those who have jointed the settlement have demonstrated that additionality verification is necessary to ensure that that the use of biomethane actually results in GHG emission reductions.<sup>4</sup> The Utilities Reform Network (“TURN”) explains

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<sup>1</sup> A.19-02-015, *Opening Brief Of Applicants Southern California Gas Company (U 904 G) and San Diego Gas & Electric Company (U 902 G)* (July 9, 2010) (“Applicants Opening Brief”) at p. 9.

<sup>2</sup> Applicants Opening Brief at p. 15.

<sup>3</sup> See A.19-02-015, *Opening Brief of Leadership Counsel for Justice & Accountability and Sierra Club* (July 9, 2020) (“LCJA and Sierra Club Opening Brief”) at pp. 5-9.

<sup>4</sup> See A.19-02-015, *Opening Brief of the Coalition of California Utility Employees* (July 9, 2020); *Opening Brief of Environmental Defense Fund* (July 9, 2020); *Opening Brief of the Utility Reform Network* (July 9, 2020) (“TURN Opening Brief”); *Opening Brief of Leadership Counsel for Justice & Accountability and Sierra Club* (July 9, 2020); and *Wild Tree Opening Brief* (July 9, 2020).

that the Commission “should remain focused on the importance of additionality and condition approval of a voluntary tariff on requirements to increase the overall supply of RNG and produce incremental reductions in GHG emissions.”<sup>5</sup> Further, LCJA and Sierra Club state “[a]pproval of the Proposed Settlement would send the troubling signal that the Commission is willing to weaken its existing standards to allow voluntary procurement programs that are not designed to ensure real and additional environmental benefits.”<sup>6</sup>

The Applicants argue that any additionality requirements for in-state procurement should not be imposed: “Meeting the ‘additionality’ requirement pushed by TURN and SC/LC should not be imposed. . . The Settlement Agreement should be approved as it stands.”<sup>7</sup> Although the Applicants admit that the “purpose of requiring additionality is to confirm that the procured energy is providing *new* environmental benefits and to prevent resource shuffling,”<sup>8</sup> the Applicants argue that this confirmation of *new* environmental benefits and prevention of resource shuffling should not apply to in-state supplies. The Applicants’ provide no authority for their bald assertion that there should be no additionality verification requirements for in-state biomethane procurement. Applicant has not met its burden of proof that a program absent such requirements would be just and reasonable especially in light of the Commission precedent and the Commission’s pending adoption of specific biomethane procurement targets or goals for each gas corporation under SB 1440.

First, the Applicants state that D.15-01-051, should not apply to this proceeding. D.15-01-051 implemented the Green Tariff Shared Renewables (“GTSR”) program, intended to expand access to all eligible renewable energy resources for all ratepayers who were unable to

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<sup>5</sup> TURN Opening Brief at p. 4.

<sup>6</sup> LCJA and Sierra Club Opening Brief at p. 9.

<sup>7</sup> Applicants Opening Brief at p. 13.

<sup>8</sup> Applicants Opening Brief at p. 9.

access onsite generation benefits, and ensured additionality for new renewable facilities.<sup>9</sup> The Applicants do not believe this decision is applicable because the “standards applicable to the [Renewable Portfolio Standards (“RPS”)] and GTSR . . . are entirely different from the proposed program.”<sup>10</sup> However, the Applicants fail to provide any explanation as to why the additionality requirements under D.15-01-051 are “*entirely different*” from the Renewable Natural Gas Tariff application, other than “[t]here is no reason why a . . . voluntary program supported by [an] RPS should apply here.”<sup>11</sup>

Second, the Applicants argue “the 2018 SB 1440 legislation did not adopt the requirements imposed by the RPS and GTSR in a significant recognition of the differences between electricity procurement and the newer RNG market.”<sup>12</sup> However, SB 1440 requires “the PUC, in consultation with the State Air Resource Board, to consider adopting specific biomethane procurement targets or goals for each gas corporation, as specified.”<sup>13</sup> The Applicants fail to consider the likely scenario that the Commission adopts additionality requirements similar to the GTSR and RPS as described in D.15-01-051. As described in Wild Tree’s Opening Brief, Applicants filed this application prematurely, prior to the Commission conducting rulemaking to implement SB 1440. Therefore, Applicants argument that “there is *currently no utility procurement requirement* (e.g. a renewable gas standard or “RGS”) backstop for the program for excess RNG procured for purposes of the RNG Tariff,”<sup>14</sup> is due to the

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<sup>9</sup> Decision 15-01-051, *Decision Approving Green Tariff Shared Renewable Program for SDG&E, Pacific Gas & Electric Co. (“PG&E”), and SCE Pursuant to Senate Bill (“SB”) 43* at pp. 1-2 (Jan. 29, 2015).

<sup>10</sup> A.19-02-015, *Opening Brief of Applicants Southern California Gas Company (U 904 G) and San Diego Gas & Electric Company (U 902 G)* (“Applicant Opening Brief”) (July 9, 2020) at p. 12.

<sup>11</sup> Applicant Opening Brief at p. 21.

<sup>12</sup> Applicants Opening Brief at p. 12.

<sup>13</sup> SB 1440, *Legislative Counsel’s Digest*, (September 23, 2018).

<sup>14</sup> Applicants Opening Brief at p. 12 (emphasis added).

unnecessary hasty nature of the Application filed before the Commission has implemented requirements pursuant to SB 1440.

Instead of additionality provisions for in-state procurement, the Applicants insist that the environmental benefits from in-state RNG procurement would be beneficial enough to exclude any additionality requirement. The Applicants assert that a “customer enrolling in the RNG Tariff program is still helping procure RNG that has less carbon impact than the traditional natural gas their use is replacing.”<sup>15</sup> However, without additionality, this shift of customer usage from “traditional natural gas” to “enrolling in the RNG Tariff program” would create miniscule environmental benefits, or more likely, provide no additional environmental benefits at all once the RNG Tariff program is in effect.

Wild Tree concurs with the other non-settling parties that the environmental benefits the Applicants rely upon to excuse any additionality requirements for in-state procurement is questionable at best. The Contested Settlement claims the GREET model for the Low Carbon Fuel Standard (LCFS) program would be used to evaluate RNG supply choices’ carbon intensity.<sup>16</sup> As otherwise addressed by Wild Tree, the GREET model is not designed for pipeline-injected biomethane and cannot be relied upon as a verification of carbon intensity for the proposed program. Furthermore, “absent additionality, the carbon intensity of procured biomethane is meaningless in assessing the impact of program participation.”<sup>17</sup> In addition, LCJA and Sierra Club correctly argue that the proposed tariff would not protect disadvantage communities from air and water pollution from biomethane sources.<sup>18</sup>

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<sup>15</sup> Applicants Opening Brief at p. 9.

<sup>16</sup> LCJA and Sierra Club Opening Brief at pp. 25-26.

<sup>17</sup> LCJA and Sierra Club Opening Brief at p. 26.

<sup>18</sup> *See e.g.* LCJA and Sierra Club Opening Brief pp. 26-32.

Furthermore, “encouraging customers to subscribe to a program that reduces the Sempra Utilities’ cap-and-trade obligations may result in GHG increases due to the lack of additionality requirements under the Proposed Settlement.”<sup>19</sup> The Sempra Utilities purchased over five million carbon offsets under CARB’s Cap-and-Trade Program from 2015-2017.<sup>20</sup> The RNG Tariff program would take away projects from Sempra Utilities that would “potentially result in the replacement of a compliance instrument that must generate additional GHG reductions.”<sup>21</sup>

Wild Tree encourages the Commission to reject the Application and the Contested Settlement since the RNG Tariff program lacks guaranteed environmental benefits and the Applicants oppose any additionality requirements for in-state procurement. The RNG Tariff program misleads potential RNG customers into believing the program would result in reduced GHG emissions or produce environmental benefits in place of traditional natural gas usage.<sup>22</sup> These RNG customers may be left in a worse position than they otherwise would be at the end of the RNG Tariff program, as other options would be more beneficial to California’s goals and policies.

## **2. Long-Term Contracts**

Short term, low dollar contracts – that which Applicants state they plan on using for procurement under the Contested Settlement – are unlikely to be found given the healthy market for high dollar transportation uses.<sup>23</sup> Such contracts would obviously be disfavored by RNG suppliers and would demand a price premium. As Applicant admits, transportation offtake can

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<sup>19</sup> LCJA and Sierra Club Opening Brief at p. 24.

<sup>20</sup> LCJA and Sierra Club Opening Brief at pp. 24-25.

<sup>21</sup> LCJA and Sierra Club Opening Brief at p. 25.

<sup>22</sup> See e.g. Applicants Opening Brief at p. 9.

<sup>23</sup> Direct Testimony of Thomas R. Del Monte, JD/MBA On Behalf Of Wild Tree Foundation at p. 5.



provide additional value that the RNG Tariff cannot.<sup>24</sup> Procurement will thus be exceedingly expensive given that contracts for pipeline-injected RNG cannot possibly be competitive with contracts for transportation use that carry greatly increased value due to credits.

### **3. Compliance with Other RNG Standards**

Applicant argues that procurement for the proposed program is not subject to any requirements pursuant to statute or precedent. As discussed in more detail in Wild Tree's Opening Brief and below, the proposed program would be subject to state law and Commission precedent but Applicant will not be able to prove compliance with any standards because there exists no reliable, independent, third party-administered verification systems to verify GHG emission reductions or the characteristics of RNG sources.

#### **a. The Contested Settlement Is an Attempt to Evade Standards Mandated in SB 1440**

This Application and Contested Settlement is presumptive; the Commission should deny this and any other similar applications until it has completed its review pursuant to SB 1440 (as codified in Public Utilities Code sections 650 and 651.) Applicants are attempting an end run around state law by seeking to increase procurement of biomethane prior to the Commission rulemaking regarding biomethane procurement by the gas utilities. This application is little more than an attempt to evade the requirements of Public Utilities Code section 651 that biomethane eligible for procurement be delivered through a dedicated pipeline or be physically injected into a California common carrier pipeline and/or provide environmental benefit to California.

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<sup>24</sup> Applicants Opening Brief at p. 20.

Applicants claims that “Delaying approval to allow the Biomethane proceeding to run its course would be an unnecessary and indefinite delay.”<sup>25</sup> Commission implementation of SB 1440 will not be indefinite. Wild Tree stated in its opening brief that the Commission has not yet opened a proceeding pursuant to section 651. While the Commission has not opened a new proceeding, it has added a new track to an existing proceeding to address SB 1440. Track 4 is underway with a scoping memo issued and the Commission will makes it determinations in due time. There is no reason that Applicants could not have waited and cannot still wait until this process is complete to bring its application for a biomethane tariff. Moreover, Applicants’ haste is utterly unjustified given that Applicants have stated that “the earliest estimated date that SDG&E can bill customers on this RNG Tariff rate would be 2022”<sup>26</sup> and the fact that there is no existing verification programs that could be used for the proposed program.

Applicants state,

There is nothing that requires the RNG Tariff to comply with Section 651. The statute merely states that the Commission is required to formally consider whether a broad-based RGS, funded by all of Applicants natural gas ratepayers in the state, would be appropriate, and to look at certain procurement requirements in doing so. The proposed program at issue in this docket is a voluntary opt-in program, which is an entirely different program – as such, no statutory or other precedent prohibits such a program from procuring RNG from out-of-state. . . In light of the challenges this type of program presents, strict adherence to an RGS paradigm is unwarranted.<sup>27</sup>

This is a misstatement of the applicable law. Section 651 requires more than Commission consideration of a program, the program is not distinguishable as being voluntary, and any supposed challenges are of Applicants’ own making.

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<sup>25</sup> Applicants Opening Brief at p. 21.

<sup>26</sup> Direct Testimony of Grant Wooden on Behalf of SDG&E/SoCalGas at p. 13.

<sup>27</sup> Applicants Opening Brief at p. 18.

Applicant asserts that, because the proposed program would be voluntary, “no statutory or other precedent prohibits such a program from procuring RNG from out-of-state.”<sup>28</sup>

Applicants have proposed that wind down costs be payable in rate increase from all ratepayers, instead of shareholder profits. Applicants’ claim that it need not comply with any law or precedent regarding biomethane procurement is based upon the alleged voluntary nature of the tariff. This argument is groundless. The program cannot be described as voluntary because all ratepayers would have an involuntarily rate increase to pay wind down costs. Additionally, Applicants’ statements miss the point that just because Applicant claims nothing prohibits it from procuring RNG for “such a program,” does not mean that the Applicant has been given permission by statute or precedent to procure any RNG pursuant to its Application or Contested Settlement. Applicants bear the burden of proof in this case that the Commission should approve a program and the Applicants have failed to meet this burde.

Moreover, the biomethane procurement program that Applicants are attempting to gain approval for in the Contested Settlement would be in violation of clear mandates in section 651. The Commission is tasked with ensuring that ensuring that any biomethane targets or goals are consistent with Health and Safety Code section 39730.6 landfill organic waste disposal reduction targets. The Contested Settlement would seek to create a market for landfill RNG which would frustrate the purpose of the Health and Safety Code section 39730.6 “targets to reduce the landfill disposal of organics.” This plan would also not meet the section 651 requirement regarding source of biomethane.

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<sup>28</sup> Applicants Opening Brief at p. 18.

#### **4. Verification**

##### **a. Applicants Have Not Proposed Any Protocol For Verification**

As described further in Wild Tree’s Opening Brief, Applicants have failed to demonstrate that it has proposed a workable verification system. Applicants have not provided even the basic facts about the supposed verification programs it would utilize. Nonetheless, the Applicants state, “There are also multiple levels of verification required for the procured RNG through the Settlement Agreement, including a verifier to confirm the gas meets CARB’s requirements, and contractual assurances regarding the RNG supply. (Settlement Agreement §§IV(B)(3), IV(C).)”<sup>29</sup> The only proposal in the Application or the Contested Settlement regarding verification is that Applicants will utilize the GREET model and will use a non-existent verification to be created by a non-profit funded and staffed by Applicants. As explained in Wild Tree’s Opening Brief, the GREET model cannot be directly applied to pipeline injected biomethane and Applicant has failed to propose the use of a truly independent, third party verifier. In regards to CARB requirements, there effectively are no requirements for in-state biomethane so verification of compliance with CARB requirements for in-state biomethane would be meaningless. And the supposed “contractual assurances regarding the RNG supply” are mentioned for the first and only time in Applicants Opening Brief without any further explanation of what exactly these supposed assurance are.

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<sup>29</sup> Applicants Opening Brief at p. 5.

## 5. Program Costs

The Application lacks basic information such as an actual cost estimate for the program. For example, Applicant states, “it is not possible for SDG&E to estimate the costs to implement the RNG Rate in the new billing system at this time, because it has not yet been built”<sup>30</sup> and “actual annual Green-e certification costs are unknown at this time.”<sup>31</sup> The Contested Settlement does not quantify additional costs it would add such as costs of intervenor’s participating in the Procurement Advisory Group’s bi-weekly meetings or costs to file and litigate all the required Advice Letters. Neither the Contested Settlement nor Applicants’ Opening Brief include any further information regarding unknown costs and there are no cost limits established. But, the Contested Settlement does include allowance for Sempra Utilities to recover any overruns from ratepayers. Most of the costs that the Applicant claims are unknown are due to Applicants bringing the application at the wrong time and are thus an inexcusable problem of the Applicants’ own making. The Application is incomplete and should be dismissed as such along with the Contested Settlement.

## 6. Marketing Claims

Applicants have already made marketing claims that are misleading and unproven regarding biomethane in general and the proposed program specifically. Wild Tree endorses the LCJA and Sierra Club argument that “the proposed settlement provides no information on marketing material content and offers no assurance that the materials will accurately describe

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<sup>30</sup> Prepared Direct Testimony Of Grant Wooden On Behalf Of Southern California Gas Company And San Diego Gas & Electric Company at p. 13.

<sup>31</sup> *Id.* at p.14.

claimed program benefits, adverse localized impacts from biomethane sources, or alternative GHG reduction actions such as electrification.<sup>32</sup>

## **7. RNG for Building Decarbonization**

Applicant has made no showing to overcome Wild Tree and other intervenor witness testimony that demonstrates that the scarcity, lack of scalability, and excessive cost of RNG pipeline injection makes RNG swapping for building decarbonization bad policy.<sup>33</sup> RNG does not have any significant role to play in building decarbonization efforts in California because it is not abundant enough, costs too much, and lacks benefits such as improvement of indoor air quality and increase in public safety that other measures provide.

## **8. CARE**

Wild Tree does not have any comments to make regarding this topic.

## **9. Other Policy Issues**

### **B. FACTUAL ISSUES**

#### **1. Program Support**

Applicants have not proven there is customer demand for a “green” RNG tariff and Applicants will not be able to attract customers to the proposed program given the extremely

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<sup>32</sup> See LCJA & Sierra Club Opening Brief at pp. 18-21.

<sup>33</sup> See, for example, Direct Testimony Of Thomas R. Del Monte, JD/MBA On Behalf Of Wild Tree Foundation at p. 11; Protest of the Sierra Club at p. 11.

high cost. Applicants state in their Opening Brief that, “As shown by the 94 letters of support received by SoCalGas from various entities in its territory, the results of customer surveys, and the existence of other similar programs around the country, there is broad support for this type of program from many groups.”<sup>34</sup> None of these factors demonstrate support for the proposed program in the Application of Contested Settlement. Applicants have demonstrated only that there is an extremely low level of customers interest in any such program. Applicants have not proven that there is even a low level of customer interest, much less “broad support.”

Applicants statements about letters of support is misleading. It is surprising that Applicant is continuing to rely upon these 94 letters to demonstrate support given their own testimony on this matter. In Applicants’ second supplemental testimony, which was provided only in response to questions by the ALJ questions seeking more details on Applicants’ allegation of customer support, Applicants admit that only 20 of these 94 letters are actual customers of Applicants.<sup>35</sup> The fact that Applicants were able to convince some entities that are not customers to write letters of support is meaningless and demonstrates only that Applicants are desperate to divert attention from the fact that their own customers are not interested in the proposed program, even when asked leading questions and provided overly optimistic promises regarding program impact. Likewise, the fact that less than a handful of pipeline injected biomethane tariffs exist proves nothing. There are many bad ideas out there and these are a few of them. The existence of such programs does not in any way demonstrate Applicants’ customer support for the proposed program.

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<sup>34</sup> Applicants Opening Brief at p. 2.

<sup>35</sup> Prepared Second Supplemental Direct Testimony Of Grant Wooden And Reginald M. Austria On Behalf Of Southern California Gas Company (U 904 G) And San Diego Gas & Electric Company (U 902 G) at pp. 5-7.

Applicant also misconstrue the results of its own focus group surveys, relying upon the general claims that customers “are willing to pay more for clean energy.”<sup>36</sup> As demonstrated in detail in Wild Tree’s Opening Brief, Applicant ignores the specific results of its own survey that customers are not willing to pay the steep increases in bills that the program participation would cost. The ALJ’s preliminary determination stands correct that “the Application lacks an adequate and affirmative showing that there is sufficient customer demand to support the Utilities’ proposed program.”<sup>37</sup>

## 2. Supply

Applicants Opening Brief makes it clear that Applicants do not expect that there are enough in-state to meet even the 50% guidelines. Applicant states:

Wild Tree’s arguments boil down to the simple argument that there will not be enough supplies to provide RNG for the program. The RNG Tariff proposed in the settlement allows for RNG to be procured nationwide in the event there are insufficient in-state supplies to make up 50% of the required RNG. And, there are substantially more out-of-state sources of RNG available than in-state.<sup>38</sup>

Importing more RNG from out-of-state resources may be able to up the fossil natural gas offset numbers a bit. However, in the out-of-state import case, the GHG benefits *gained* using the RNG in California are the same potential GHG benefits *lost* by the non-California jurisdiction importing the RNG, plus all the inefficacies added for transportation and the required upgrading.<sup>39</sup>

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<sup>36</sup> Applicants Opening Brief at p. 9.

<sup>37</sup> *Administrative Law Judge’s Ruling Directing Submission Of Supplemental Testimony* at pp. 5-6

<sup>38</sup> Applicants Opening Brief at p. 35.

<sup>39</sup> Direct Testimony of Thomas R. Del Monte, JD/MBA On Behalf Of Wild Tree Foundation at p. 4.



### 3. Environmental Benefits

Applicants claims remain unproven that that the program would be beneficial for the environment because it will reduce GHG emission. Instead, Applicants resort to folksy attacks on the fact-based arguments presented by multiple intervenors that Applicants have not demonstrated any environmental benefits of the program because the Contested Settlement would not establish standards – including additionality - for all the biomethane that would be procured under the program, and because Applicant has proposed no actual verification plan to assure that the biomethane sourced would serve to decrease GHG emissions. Applicants state:

Despite these benefits of RNG that would flow from the program, several parties attempt to discount the benefits, claiming that the gas that will be procured is just not good enough. However, the arguments are generally misguided and impose standards on the RNG to be procured that are unreasonable and impractical in light of the new, voluntary nature of the program.<sup>40</sup>

Wild Tree wholeheartedly agrees with the Applicants that “the gas that will be procured is just not good enough.” Biomethane is not all created equal and the environmental harm or benefit from use of biomethane varies widely based upon the source, storage and transportation, and end-use. Additionality is the foundation required to prove an environmental benefit from the use of biomethane and Applicants have refused to require additionality for all procured biomethane. It goes without saying that, due to the widely divergent characteristics of differently sourced biomethane, truly independent, 3<sup>rd</sup> party verification is essential to determining the harm or benefit of a biomethane use. Applicant is unable to provide a plan for independent, 3<sup>rd</sup> party verification of any of the relevant factors.

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<sup>40</sup> Applicants Opening Brief at p. 8.

Applicants have not demonstrated that they can provide verified, accurate GHG accounting that demonstrates an environmental benefit and has not otherwise demonstrated that there will be environmental benefit from the proposed program. Instead, Applicant makes unsupported assertions such as, “Given the broad support RNG programs have enjoyed from many organizations, states, and other entities, the environmental benefits of RNG should be clear.”<sup>41</sup> There is, of course, no such support and, even if there were, support for RNG programs in general is not evidence that the proposed program will have any environmental benefits.

Applicants attempt at demonstrating environmental benefits consists of comparison with transportation fuels carbon intensity scores, a Commission decision approving Southwest Gas RNG procurement, and the language of the settlement. As discussed elsewhere, transportation fuels cannot be compared apples to apples with pipeline injected fuels and the settlement does not require the Commission to find environmental benefits to make the tariff permanent. In regards to the Southwest Gas decision, that decision is distinguishable on a number of points, most saliently, the fact that Southwest Gas will require compliance with SB 1440 requirements.

Applicants claims that “The program is structured to emphasize in-state procurement.”<sup>42</sup> This is untrue, but even if it were, this provides no guarantee that the proposed program will have any environmental benefits. Either Applicant will procure some amount of non-additional in-state biomethane or will procure out-of-state biomethane that will either 1.) require lengthy transportation or 2.) be gas swaps. All of these scenarios are problematic.

As described elsewhere, additionality is critical to biomethane having an environmental benefit. Any in-state procurement that is not additional will not benefit the environment. That said, it is extremely likely that little to no in-state biomethane will be procured. The Contested

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<sup>41</sup> Applicants Opening Brief at p. 37.

<sup>42</sup> Applicants Opening Brief at p. 6.

Settlement creates an exception to the 50% in-state guideline based upon comparison to price for out-of-state resources, which is something largely in control of the Applicant. The fact that the 50% is effectively unenforceable and could easily result in no in-state procurement is made clear by Applicant's own words in its Opening Brief. Applicant states, "the program now requires a minimum of 50% of the RNG to be procured from sources in California, unless none is available or if the only available RNG exceeds a price cap of 200% of the average price of the out-of-state gas that SoCalGas procures for the program."<sup>43</sup>

The Contested Settlement states, "In the event there are no qualifying in-state landfill offers in any instance, demand will be met with out-of-state RNG until the next solicitation."<sup>44</sup> The Contested Settlement does not have any provisions for how many solicitations would occur. But, there should not be more than procurement cycle for this program. If there were, it would mean that Applicant was entering into extremely short term contracts of less than 5 years or entering into contracts for longer than the term of the "pilot" program which would be extremely problematic unless Applicant plans on having shareholders shoulder the costs of the stranded assets of those contracts after the "pilot" program expire. Of course, that is not Applicants' plan. Instead, they would have all ratepayers, notably the 99+% of ratepayers that do not volunteer to pay more for their gas bill, pay for program "wrap-up" fees.

In reality, if there is no in-state biomethane that meets the price limits in the first solicitation, there will be no in-state procurement for the "pilot" program as contracts terms would only get shorter and shorter as the 5 year mark approached thus making them less and less appealing to biomethane providers, and, in turn, more expensive. This increase in contract cost

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<sup>43</sup> Applicants Opening Brief at p. 6.

<sup>44</sup> Contested Settlement at (IV)(A)(8).

would be, of course, on top of the already greatly increased cost of the contracts due to lack of availability of transportation credits for pipeline injected biomethane.

There is little chance that Applicants will be able to procure RNG for pipeline injection in California for significantly less cost than out of state and thus most likely 100% of the biomethane procured for this project will not meet the sourcing requirements. Applicants explain why there is little chance that in-state sources would be procured for the proposed program:

The Settlement Agreement does not require 100% in-state procurement because, as explained in testimony, *there are challenges to procuring in-state*. While the development of in-state sources is underway, *there remain few viable in-state supply options today*. In the event no or limited in-state supplies are available, or are only available at exorbitant prices, the program must be able to continue. Furthermore, *limiting the supplies to solely in-state could lead to more expensive RNG*. Many in-state RNG sources “were likely designed with the intention of either using the biogas onsite and/or delivering it to the transportation market to generate the valuable environmental credits available from the LCFS and RFS programs.” Thus, *in-state RNG solicitations would be “competing with transportation offtake that can provide additional value that the RNG Tariff cannot....”* Strictly limiting procurement to in-state RNG supplies simply does not make sense for this particular program at this time.<sup>45</sup>

Given the highly likely scenario that no in-state biomethane is procured for the program, Applicants with either procure from far flung sources or use gas swaps because, for some unexplained reason, “In the event no or limited in-state supplies are available, or are only available at exorbitant prices, the program must be able to continue.”<sup>46</sup> Following animal agriculture and landfills, the third largest contributor to methane emissions in California is leaks from transmission and distribution of natural gas.<sup>47</sup> Leakage of methane at all points along the

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<sup>45</sup> Applicants Opening Brief at pp. 19-20 (emphasis added).

<sup>46</sup> *Ibid.*

<sup>47</sup> 2017 IEPR at p. 247.

RNG life cycle can completely erase any claimed GHG emissions reductions.<sup>48</sup> Onsite use of RNG eliminates the emissions caused by leakage in transport and storage, including pipeline leakage<sup>49</sup> yet Applicants would divert biomethane from onsite uses to transport and store biomethane elsewhere. Such biomethane can actually result in environmental harm and must be closely scrutinized. Critically, the out-of-state procurement would likely also involve gas swaps which are clearly not in compliance with the section 651 requirements. The use of swaps from far-flung producers would violate the requirements that the RNG be injected into a dedicated pipeline or flow into California and provide California environmental benefits.

#### **4. Program Impacts on Nearby Disadvantaged Communities**

Applicants have presented no argument to counter LCJA and Sierra Club demonstration that the proposed project will harm disadvantaged communities and Wild Tree endorses the LCJA and Sierra Club arguments that “the proposed settlement exacerbates environmental injustice by allowing procurement on biomethane from sources with localized air and water quality impacts.”<sup>50</sup>

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<sup>48</sup> World Resources Institute, *The Production and Use of Renewable Natural Gas as a Climate Strategy in the United States* (April 2018) at pp. 15-17, available at: <http://www.wri.org/publication/renewable-natural-gas>.

<sup>49</sup> *Id.* at p. 17.

<sup>50</sup> LCJA and Sierra Club Opening Brief at pp. 26-32.

## 5. Review and Reporting

The program proposed in the contested settlement is falsely portrayed as a pilot program. Applicants states vaguely that, “The program has been changed to *more* of a pilot structure”<sup>51</sup> and mentions “pilot program” throughout its Opening Brief. The Contested Settlement does not establish a pilot program. A pilot program would be of a specified duration without the possibility that it would be turned into a permanent tariff via an advice letter proceeding.

Applicants make it clear that they view the Advice Letter proceeding as merely a procedural hurdle that will easily be overcome. Applicants state in their Opening Brief that, “After the program has been running for three years, there will be a filing to advise the Commission on the program’s achievements . . .”<sup>52</sup> If the Commission were to approve the Contested Settlement, Applicants are likely correct that they will easily be able to utilize an Advice Letter process to secure a permanent biomethane tariff. Advice Letter proceedings are extremely truncated proceedings with very reduced public participation opportunities.

As discussed in more detail in Wild Tree’s Opening Brief, the Contested Settlement does not establish any standards that the program must meet to be converted into a permanent program. The intention of the Applicants to have no standards upon which Commission’s approval must be based to make a temporary program into a permanent must be based is made clear in Applicants’ Opening Brief. Applicants write, “The program also requires environmental benefits to be a “primary consideration” at the time of the three-year review, meaning a failure to show reduced GHG emissions for the program may lead to the program’s termination.”<sup>53</sup> Applicants herein state that failure to show reduced GHG emissions for the program “may”, but

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<sup>51</sup> Applicants Opening Brief at p. 4 (emphasis added.)

<sup>52</sup> Applicants Opening Brief at p. 2.

<sup>53</sup> Applicants Opening Brief at p. 5.

not “shall,” lead to the program’s termination. In other words, the program could result in no reduced GHG emission but still be turned into a permanent tariff via an advice letter approval.

Should any type of program, temporary or permanent be approved in this proceeding, it must be truly a pilot program with a set begin and end date. If the Commission approves the Contested Settlement as proposed with 5 year duration subject to extension via an Advice Letter, at the very least, Applicants must provide notice to the parties in this proceeding of any Advice Letter filings regarding biomethane tariff. Applicants should be provided additional time to protest and otherwise respond to Advice Letter filings, as provided in a decision in this proceeding.

#### **6. Price of RNG**

Applicants have provided no credible data on the price of RNG. This is one of many aspects of this Application that are incomplete. Without such basic information, the Commission cannot make an informed decision that the Application is just and reasonable and it should, thus, be dismissed.

#### **7. Other Factual Issues**

#### **C. WIND DOWN RECOVERY**

Applicant would force costs of a supposed “voluntary” program upon all ratepayers. Applicant states, “If there is any reason to believe the program may serve the public interest, even if it is ultimately wound down after five years, the Commission should abstain from determining the appropriateness of cost recovery until such time that Applicants have been

afforded the opportunity to justify recovery of any outstanding amounts.”<sup>54</sup> Applicants justification for forcing wind up costs on ratepayers is 1.) the program would be a pilot and there would therefore be “program continuity risk that will not necessarily be within Applicants’ sole control” and 2.) “this program will provide a wealth of information.” As explained above, the Contested Settlement does not propose a pilot program and any supposed risk is entirely within Applicants control. For example, Applicants state that things out of its control include:

For example, a different RNG procurement program could be adopted by the Commission, and the RNG Tariff could be required to wind down. Changes in regulation, legislation, or the marketplace that cannot be anticipated today may render the program unable to be continued.<sup>55</sup>

The Commission is going to make some sort of decisions in implementing SB 1440 and this should and will impact any proposed program approved in this proceeding. This is hardly a risk out of control of the Applicants but is a risk entirely created by the Applicants intentionally bringing the Application prior to the implementation of SB 1440.

Applicant has other ways to gather the information that this program and there is no reason to dupe unwitting customers into paying more than double for their gas services so that Applicants can gather some information about biomethane. As discussed in Wild Tree’s Opening Brief, Applicant has more information than it has shared in this proceeding and so this justification is particularly distasteful. A program established via a contested Contested Settlement that would saddle ratepayers with undefined costs incurred as a result of a failed program that will provide no ratepayer or environmental benefit is per se against public interest and should be denied.

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<sup>54</sup> Applicants Opening Brief at p. 43.

<sup>55</sup> *Ibid.*



#### **D. LEGAL ASPECTS OF SETTLEMENT**

As discussed further above and in Wild Tree's Opposition to the Contested Settlement, and Wild Tree's Opening Brief, Applicant has not met its burden of proof of demonstrating that the proposed settlement is reasonable because the application is incomplete; undefined and potentially large costs will be born both by participants and by non-volunteer ratepayers; there is scarcity of RNG resources and limitations of cost make the program unrealistic; there is no demonstrated customer interest; the proposed program would not comply with applicable law and Commission precedent; and because it will not serve to create a market for any new pipeline-injected RNG as claimed but will instead cause harm to ratepayers and our climate.

#### **CONCLUSION**

For the reasons state herein and in Wild Tree Foundation's Opposition to Contested Settlement and in Wild Tree's Opening Comments, the Application and Contested Settlement should be denied.

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