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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 COMMENTS ON THE  
PROPOSED DECISION ADOPTING VOLUNTARY PILOT  
RENEWABLE NATURAL GAS TARIFF PROGRAM**

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**TABLE OF CONTENTS**

SUMMARY OF RECOMMENDED CHANGES..... 2

INTRODUCTION ..... 3

ARGUMENT..... 5

    A. THE CONTESTED SETTLEMENT IS NOT REASONABLE IN LIGHT OF THE WHOLE RECORD, CONSISTENT WITH LAW, OR IN THE PUBLIC INTEREST..... 5

    B. VERIFICATION METHODOLOGY AND PROTOCOLS DO NOT CURRENTLY EXIST ..... 8

        1. There Is No Reliable, Independent, Third Party-Administered Verification System..... 9

    C. APPLICANTS HAVE NOT DEMONSTRATED THAT THERE ARE ANY BENEFITS TO A VOLUNTARY RNG TARIFF ..... 11

        1. RNG for Building Decarbonization is Contrary to California Policy on GHG Emission Reductions..... 11

        2. The Program Would Provide No Environmental Benefits ..... 12

        3. Short Term, High Dollar RNG Contracts Will Not Benefit Ratepayers ..... 13

    D. DESPITE DISHONEST MARKETING THERE IS A STILL A DEMONSTRATED LACK OF PROGRAM INTEREST..... 14

    E. THE PD WOULD NOT ESTABLISH A PILOT PROGRAM ..... 16

CONCLUSION..... 17

APPENDIX..... 18

## SUMMARY OF RECOMMENDED CHANGES

1. Wild Tree recommends that the PD be amended to deny the application and settlement of like-minded parties and deny any voluntary RNG tariff.
2. Should the Commission move ahead with approving a pilot program at this stage in the proceeding, it should truly be a pilot program and should be terminated at the end of the 3 year period without indefinite extension permitted via an advice letter.
3. Should the Commission move ahead with approving a pilot program at this stage in the proceeding, the PD should be amended to require 100% of the procured RNG be additional and new and provide direct and measurable environmental benefits to California.
4. Should the Commission move ahead with approving a pilot program at this stage in the proceeding, the PD should be amended to require, at the very least, Tier 3, instead of Tier 2, Advice Letter approval of the modified GREET methodology.
5. The PD should be amended to clarify that intervenor compensation is available for eligible non-market participants in the procurement advisory group and for substantial contribution to the development process for the modified GREET methodology.
6. The PD should be amended to correct the procedural history regarding the fact that the Contested Settlement was reached among like-minded parties with no outreach to or involvement of Wild Tree.

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In accordance with the provisions of Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (“Commission”), Wild Tree Foundation (“Wild Tree”) respectfully files these comments on the Proposed Decision Adopting Voluntary Pilot Renewable Natural Gas Tariff Program (“Proposed Decision” or “PD”).

**INTRODUCTION**

While the PD proposes some improvements over the Contested Settlement proposed by Southern California Gas Company and San Diego Gas & Electric Company (“Applicants”) and other like-minded parties, Applicants have not met their burden of proof that a renewable natural gas tariff would provide any benefits to ratepayers or to California’s environment. On the contrary, the proposed program would harm the environment, human health, and our climate by discouraging replacement of gas appliances; increasing likeliness of methane leaks in transport instead of onsite use; and frustrate future efforts to decrease methane emissions by diverting biomethane from existing undersupplied and difficult to decarbonize markets of on-site baseload electricity generation and transportation uses. The approval of a modified settlement as described in the PD is thus not reasonable in light of the whole record, is not consistent with law,

and would not be in the public interest. For these reasons, the PD should be amended to deny a tariff for pipeline injected renewable natural gas (“RNG”).

Wild Tree acknowledges that, in the PD, the Administrative Law Judge has attempted to address many of the problems with the settlement agreement raised by non-settling parties. The PD has improved upon the Contested Settlement in a number of ways including: a.) ensuring that ratepayers do not pay for any wind down costs for costs associated with stranded assets; b.) requiring procurement be at least 50% in-state or provide environmental benefits; c.) requiring public disclosure of RNG pricing and source details; d.) providing some limitations on program marketing claims; e.) requiring the development of a modified GREET model. Wild Tree supports these aspects of the PD but the PD fails to address the overarching policy problems with approval of any voluntary pipeline injected RNG tariff.

It would be unjust and unreasonable for the Commission to intervene further than required by law to incentivize use of pipeline injected biomethane for the claimed purpose of decarbonizing buildings, when other uses are less expensive and achieve greater GHG emission reductions. The scarcity, lack of scalability, and excessive cost of RNG pipeline injection makes RNG swapping for building decarbonization bad policy because it would divert limited resources away from hard-to-electrify cases such as heavy truck transportation fuel, methane consuming industries, and renewable baseload capacity. Applicants attempt to create a market for waste methane in competition for transportation use would be counterproductive to efforts to decrease waste methane generation, the most effective method for reducing methane emissions. Where methane generation cannot be avoided, the most efficient, cost-effective, and safe use is on-site such as for distributed electricity production and support of onsite commercial vehicles such as garbage trucks and heavy equipment. Onsite use of waste methane eliminates the emissions from leaks in transmission and distribution systems.

The PD would permit up to 50% of procured RNG to not demonstrate additionality and would permit the use of sources that have existed as far back as 2012. Without demonstrated additionality there are, by definition, no verifiable GHG benefits to using pipeline injected RNG and therefore, up to 50% of the RNG procured under the proposed program would not provide any benefit to and would most likely be harmful to California’s environment. Despite the restrictions that the PD puts on the marketing claims, the proposed program still relies upon the Applicants successfully persuading consumers to accept much higher rates by marketing their

program as “green” even though such a program will be harmful to the environment, human health, and our climate. Wild Tree therefore urges the Commission to reconsider adopting any voluntary program and deny approval of the application and contested settlement.

Should the Commission move ahead with approving an RNG tariff at this stage in the proceeding, the PD should be amended to require all RNG be additional and new and actually create a pilot program with the program terminating at the end of the pilot period. The PD purports to establish a “pilot” program, but adopts the contested settlement’s proposal to allow permanent adoption of the tariff following only advice letter review. The advice letter process severely limits ratepayers’ ability to review the methodology, its assumptions, its input, and results and insufficient to protect ratepayers interests. The PD has not, therefore, truly proposed a pilot program and the PD should be amended to correct this error. If, at the end of the pilot program the Applicants desires to establish a permanent tariff it can file an application and attempt to demonstrate that the voluntary program was successful and should be replicated permanently.

Wild Tree supports the provisions in the PD for involvement of Commission staff, the California Air Resources Board (“CARB”) and interested parties in this proceeding in the development of a modified GREET methodology. However, the PD needs to be amended to require a Tier 3 Advice Letter so that there is some level of Commission review and approval. The PD should also be amended to clarify that intervenor compensation will be available for eligible intervenors that make substantial contributions to the development of the modified GREET methodology and for participation in the procurement advisory group.

## **ARGUMENT**

### **A. THE CONTESTED SETTLEMENT IS NOT REASONABLE IN LIGHT OF THE WHOLE RECORD, CONSISTENT WITH LAW, OR IN THE PUBLIC INTEREST**

Although the PD makes some significant modifications to the Contested Settlement, it would still approve a settlement. The Commission can only approve settlements that are “reasonable in light of the whole record, consistent with law, and in the public interest.”<sup>1</sup> The

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<sup>1</sup> CPUC Rule 12.1, subd. (d).

Commission may reject a proposed settlement whenever it determines that the settlement is not in the public interest.<sup>2</sup> This is regardless of whether or not a settlement is contested.<sup>3</sup>

Wild Tree and other parties contested the Contested Settlement by filing comments contesting all or part of the proposal.<sup>4</sup> Where a settlement is contested, as here, the Commission engages in a closer review of the settlement compared to an all-party settlement. “Central to our analysis here, where the proposed settlement is contested, is the relevant objections or concerns of opposing parties and the question of whether the settlement agreement provides a negotiated resolution of all the disputed issues.”<sup>5</sup> In reviewing any settlement proposed in this proceeding, the Commission should look to relevant precedents relating to contested settlements affecting a broad public interest.<sup>6</sup> The Commission has long relied upon the factors used by the courts in approving class action settlements in reviewing settlements that affect a broad public interest such as all customers of a utility.<sup>7</sup>

As demonstrated in Wild Tree’s Opposition to the Contested Settlement and Opening and Reply Briefs, the Applicants have not met the burden of proof of demonstrating that the Contested Settlement is reasonable because scarcity of RNG resources and limitations of cost make the program unrealistic; there is insufficient customer interest in the programs; the record is absent any credible evidence regarding program costs and verification programs and methodologies; and because the proposed program 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. While the PD significantly improves upon the Contested Settlement, it still fails to address all of these issues.

The Contested Settlement is not consistent with law. As described in detail in Wild Tree’s Opposition to the Contested Settlement and Opening and Reply Briefs, the Contested Settlement would establish a program for RNG procurement that does not comply with requirements of SB 1440. While the PD makes progress in moving the proposed program closer to compliance, it justifies its requirements intended to reflect the objectives of SB 1440 as

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<sup>2</sup> CPUC Rule 12.4.

<sup>3</sup> CPUC Rule 12.1, subd. (d).

<sup>4</sup> CPUC Rule 12.2.

<sup>5</sup> D.16-12-065 at p. 7.

<sup>6</sup> D.09-12-045 at p. 33.

<sup>7</sup> D.88-12-083; D.09-12-045; D.16-12-065.

aspirational rather than required by law and does not go far enough to ensure there will be actual benefits from the tariff. There simply is no reason why a voluntary program should be approved prior to and in conflict with the implementation of SB 1440.

In its Opposition to the Contested Settlement, Wild Tree provided analysis of some of “class action” factors considered by the Commission when reviewing proposed settlements.<sup>8</sup> Neither the Contested Settlement nor the PD’s modified Contested Settlement withstand such scrutiny and are demonstrated as not fundamentally fair, adequate, and reasonable and, therefore, not in the public interest.

The PD correctly finds that the Contested Settlement is not in the public interest but fails to provide any evidence or argument as to why the PD’s modified Contested Settlement would be in the public interest. There is no argument in the Contested Settlement regarding compliance with the standards set by the Commission in evaluating public interest of contested settlements. The Contested Settlement addresses public interest as follows:

Moreover, nothing in the Settlement Agreement would jeopardize the public interest. The Settlement Agreement is the product of over four months of negotiations, including roughly eight group meetings and numerous emails and phone calls. The Settling Parties negotiated in good faith over this time, applying their expertise and collective judgment to a fulsome record. The Commission should find the Settlement Agreement to be in the public interest.

The Settlement Agreement, if adopted by the Commission, avoids the cost of further litigation, and frees up Commission and Settling Parties' time and resources to focus on other proceedings.<sup>9</sup>

Numerous emails and phone calls and supposed good faith negotiation are not factors that determine whether a settlement is in the public interest, especially when the settlement is contested. In this case, the “negotiation” process actually demonstrates a lack of good faith in that it excluded Wild Tree entirely and “settlement” was reached only with like-minded parties that were unlikely to mount any strong opposition to a pilot program proposal. The PD should

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<sup>8</sup> See D.09-12-045 at 33-35, quoting D.88-12-083 (“In order to determine whether the settlement is fair, adequate, and reasonable, the court will balance various factors which may include . . . : the strength of applicant’s case; the risk, expense, complexity, and likely duration of further litigation; the amount offered in settlement; the extent to which discovery has been completed so that the opposing parties can gauge the strength and weakness of all parties; the stage of the proceedings; the experience and views of counsel; the presence of a governmental participant; and the reaction of class members to the proposed settlement.”)

<sup>9</sup> A.19-02-015, *Joint Motion for Approval of Settlement Agreement* at p. 18.



also be amended to correct a factual misstatement regarding the process by which the contested settlement was reached. The PD states that “Wild Tree participated in the settlement negotiations, but oppose the outcome.”<sup>10</sup> Wild Tree did not participate in settlement negotiations. Wild Tree listened in to the single phone call required by the Rules wherein the Applicants presented a fully-formed settlement agreement. Prior to the issuance of the mandatory Rule 12.1 notice, Wild Tree was not made aware that there were any settlement negotiations ongoing. This is consistent with the fact that the settlement parties were like-minded, which is contrary to the intent of an actual settlement. Settlement negotiations were not at arm’s length because the settlement represents a consensus among like-minded parties and will not produce a genuine resolution of the issues.

The strength of the Applicant’s Case does not support settlement. As described herein as well in Wild Tree’s Opposition to the Settlement, and Opening and Reply Briefs, Applicants have not met their burden of proving any aspects of its case – Applicant have not demonstrated what the project will cost, that there is any customers interest in such a program, that the tariff will benefit the environment or climate, or that Applicants can provide verification of GHG emission reductions

## **B. VERIFICATION METHODOLOGY AND PROTOCOLS DO NOT CURRENTLY EXIST**

For GHG emission reductions to count as a offset to GHG compliance obligations, CARB requires that any offset must be real, additional, verifiable, permanent, and enforceable and must comply with an approved accounting offset protocol that incorporates these principles.<sup>11</sup> Applicants have no approved protocol, only vague ideas, as acknowledged in the PD: “We are unable to adopt a specific methodology here, however, due to the lack of record on necessary GREET methodology modifications”<sup>12</sup> Yet, the PD elsewhere states:

In this decision, we find that a modified methodology based on the GREET model used for the LCFS program is reasonable to calculate carbon intensity of eligible RNG sources. We also find that using a third-party to verify the compliance of the purchased RNG supplies with Pub. Util. Code Section 651(b)(3)(B) and out-of-state RNG supplies with MRR and California’s

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<sup>10</sup> PD at p. 13.

<sup>11</sup> CARB, *Cap-and-Trade Regulation Instructional Guidance* (September 2012) at Chapter 1, p. 12, available at <https://ww3.arb.ca.gov/cc/capandtrade/guidance/chapter1.pdf>.

<sup>12</sup> PD at p. 25.

Cap-and-Trade Regulation is reasonable.<sup>13</sup>

How can the Commission find the modified methodology and third-party verification protocol reasonable when it does not know what the methodology or protocols are? Such action would be an abuse of discretion. The Commission should direct Applicants to propose an actual methodology and provide details of the verification protocols once they actually exist and, following further submission of testimony and evidentiary hearing. Only at that point, would it be appropriate for the Commission to make a determination of whether or not the methodology and protocols are reasonable.

Instead, while the PD properly acknowledges that the GREET methodology is not directly applicable to pipeline injected RNG, the PD would permit Applicants to design a new methodology through a Tier 2 Advice Letter process. Any Advice Letter process is insufficient for review of a new methodology upon which the effectiveness of a new tariff rests, but, a Tier 2 process would also be contradictory to other language in the PD. The PD states “The filing shall include the modified GREET model for the Commission’s review and approval.”<sup>14</sup> Commission should review and approve the new methodology and thus a Tier 2 process would be inappropriate. Pursuant to General Order 96-B, a Tier 2 Advice Letter is effective after staff approval<sup>15</sup> while a Tier 3 Advice Letter is effective after Commission approval.<sup>16</sup> The Commission should review development of a new methodology in this proceeding through testimony and hearings but, at the very least, the PD needs to be amended to require a Tier 3 Advice Letter.

### **1. There Is No Reliable, Independent, Third Party-Administered Verification System**

The PD states that “use a third party verifier for review and verification of the compliance of the 50 percent of both in-state and out-of-state RNG supplies that must meet the criteria set forth in Pub. Util. Code Section 651(b)(3)(B)” and also requires Applicants to provide customers the name, location, and feedstock source of each RNG supplier. While Wild Tree

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<sup>13</sup> PD at p. 24.

<sup>14</sup> PD at Appendix p. A-5, Adopted Voluntary Pilot Renewable Natural Gas Tariff Program.

<sup>15</sup> CPUC, General Order 96-B, Industry Rule 5.2

<sup>16</sup> CPUC, General Order 96-B, Industry Rule 5.3

supports these criteria, the PD has not in any way addressed the fact that there is no existing system of verification to collect and verify information needed to demonstrate compliance with these requirements. The PD states, “We agree with the Utilities that the multiple verification options identified in the Settlement Agreement are reasonable.”<sup>17</sup> But the PD leaves open the questions of, by what means will RNG supplier information be collected and verified? By what means will the information to be input into the modified-GREET methodology be collected and verified? Modeling is worthless if the inputs cannot be verified to be accurate and the only verification proposed by Applicants is the currently non-existent Green-E program.

Applicants’ claims that the Green-E program can provide a credible tracking system is questionable and is not supported by the record because there is no currently existing program. The Green-E program is being developed by Center for Resource Solutions. SoCalGas is a member of the Center for Resource Solutions Green-e Renewable Fuels Working Group and made a donation of \$25,000 to support the development of the Green-e Renewable Fuels certification.<sup>18</sup> The Green-e Renewable Fuels certification development is otherwise funded by other gas utilities that have or are pursuing tariffs for RNG or companies that would benefit substantially from such tariffs.<sup>19</sup> “The Working Group are the funders that are helping to advance clean energy development and the availability of environmental commodities, while ensuring market integrity. Without this assistance, our work would not be possible.”<sup>20</sup>

In addition, SoCalGas and SDG&E each paid \$25,000 to the Center for Resource Solutions as sponsors of its 2019 Renewable Energy Markets Conference. A captured working group and \$75,000 in donations to the non-profit that is developing what is supposed to be an

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<sup>17</sup> PD at p. 26.

<sup>18</sup> A.19-02-015, Rebuttal Testimony Of Thomas R. Del Monte, JD/MBA on Behalf Of Wild Tree Foundation at Appendix A - Response to Wild Tree Foundation Data Request #3 to SoCalGas/SDG&E (October 25, 2019).

<sup>19</sup> *Ibid.* For example, see DTE Website, *BioGreenGas*, <https://newlook.dteenergy.com/wps/wcm/connect/dte-web/home/service-request/residential/renewables/biogreen-gas> [as of October 31, 2019]; Vermont Gas Website, *VGS Renewable Natural Gas*, <https://www.vermontgas.com/renewablenaturalgas/> [as of October 31, 2019]; Maas Energy Works, <https://www.maasenergy.com/> [as of October 31, 2019] (“Maas Energy Works celebrates as the Calgren Dairy Fuels digester pipeline cluster begins injecting R-CNG into the SoCalGas Utility Pipeline! MEW serves as the lead Developer of this project and we are very excited about achieving this incredible milestone.”)

<sup>20</sup> Center for Resource Solutions, *Green-e Renewable Fuels FAQs*, <https://www.green-e.org/programs/renewable-fuels/faq>.

independent, 3<sup>rd</sup> party certification system calls into question the impartiality of the developer and system it is developing.

Since there is absolutely no reason whatsoever to rush approval of the proposed tariff, the Commission should either deny the application or take the time necessary to gather the information necessary to determine if verification can be reasonably accomplished. Applicants should be directed to provide information on the Green-E program once the program actually exists and the Commission can then consider, based upon more than just Applicants' word, if it would provide reliable, independent, third party-administered verification.

### **C. APPLICANTS HAVE NOT DEMONSTRATED THAT THERE ARE ANY BENEFITS TO A VOLUNTARY RNG TARIFF**

#### **1. RNG for Building Decarbonization is Contrary to California Policy on GHG Emission Reductions**

The PD does not in any fashion address the fact that Applicants have not proven that an RNG tariff would, in any way, meet the claimed objectives of reducing GHG emissions. As Wild Tree other intervenors have demonstrated, the scarcity, lack of scalability, and excessive cost of RNG pipeline injection makes RNG swapping for building decarbonization bad policy.<sup>21</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. An RNG building decarbonization pathway would displace only finite volumes of fossil natural gas in existing distribution systems, is very expensive, and lacks the capacity to scale.<sup>22</sup>

Pipeline injected RNG is not a cost-effective strategy for building decarbonization and such use diverts limited resources away from hard-to-electrify cases such as heavy truck transportation fuel, methane consuming industries, and renewable baseload capacity.<sup>23</sup> CARB's *California's 2017 Climate Change Scoping Plan*<sup>24</sup> provides an apple-to-apples comparison with

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<sup>21</sup> See, for example, A.19-02-015, Direct Testimony Of Thomas R. Del Monte, JD/MBA On Behalf Of Wild Tree Foundation at p. 11.

<sup>22</sup> *Ibid.*

<sup>23</sup> A.19-02-015, Rebuttal Testimony Of Thomas R. Del Monte, JD/MBA On Behalf Of Wild Tree Foundation at p. 5.

<sup>24</sup> CARB, *California's 2017 Climate Change Scoping Plan* (November 2017) at p. 46, Table 10, available at <https://ww3.arb.ca.gov/cc/scopingplan/scopingplan.htm>.

the metric of \$/ton GHG for each GHG emission reduction strategy considered.<sup>25</sup> By far, pipeline RNG is the most costly GHG emission reduction strategy of those studied: \$1500/ton GHG is many times more expensive than other non-biomass related measures that range from negative \$350/ton to \$350/ton. The exorbitant cost alone of the proposed policy pathway should compel the Commission to reject Applicant's proposal as not being just or reasonable. This Commission itself has determined that RNG had no role to play in building decarbonization. In its implementation of SB 1477, this Commission rejected arguments that RNG should be part of the Technology and Equipment for Clean Heating (TECH) Initiative or Building Initiative for Low-Emissions Development (BUILD) Program.<sup>26</sup>

## **2. The Program Would Provide No Environmental Benefits**

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. While the PD makes an effort to inch closer to a program with environmental benefits, it ultimately fails to do so by permitting up to 50% of the procurement to be non-additional and retaining the contested settlement's utilization of existing RNG sources that have been used as far back as 2012. Without demonstrated additionality there are, by definition, no verifiable GHG benefits. Defects are particularly likely when credits are claimed for projects that already exist; the PD would permit sources established as far back as 2012 thereby providing no additionality and no GHG emission reduction benefits. Further, allowing inclusion of existing facilities magnifies the risk of fraudulent and uneconomic behavior by the project proponents by incentivizing them to make their project appear uneconomic but for the new incentive, when the project economics are or would be healthy if run efficiently. The PD should be amended to require additionality for all procurement and to prohibit grandfathered projects.

Any modification offered by the PD cannot change the fact that the objective for the program will cause harm to California's environment. Even if the proposed program would grow a market for pipeline-injected RNG as Applicant's claim, there is no benefit to growing a

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<sup>25</sup> A.19-02-015, Rebuttal Testimony of Thomas R. Del Monte, JD/MBA On Behalf Of Wild Tree Foundation at p. 4.

<sup>26</sup> D.20-03-027.

market for pipeline injected RNG gas in competition with transportation utilized RNG and there is likely harmed caused by diverting RNG from onsite use for distributed electricity generation or truck and equipment fueling.<sup>27</sup> As the CEC explains, “Analyses indicate that renewable gas end use as a transportation fuel in natural gas vehicles should be prioritized since it provides the most cost-effective GHG emissions reductions with modest capital costs.”<sup>28</sup>

Diverting potential RNG production away from a market with no current viable renewable alternative to use RNG in the building sector which has numerous other decarbonization options does not make sense. As such, RNG will never be a scalable decarbonization strategy for natural gas systems in the building sector.<sup>29</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>30</sup> Leakage of methane at all points along the RNG life cycle can completely erase any claimed GHG emissions reductions.<sup>31</sup> Onsite use of RNG eliminates the emissions caused by leakage in transport and storage, including pipeline leakage.<sup>32</sup>

### **3. Short Term, High Dollar RNG Contracts Will Not Benefit Ratepayers**

Wild Tree strongly supports the PD’s determination that non-participating ratepayers will not bear wind down costs and that “stranded costs from the remaining contract obligation(s) for RNG that are unrecovered from this pilot and other RNG programs cannot be passed onto non-participating customers and should be the Utilities’ shareholders’ responsibility.”<sup>33</sup> But, the PD errors in that it fails to address the fact that the design of the proposed program – whereby long term contracts would not be realistic - would actually exacerbate the problems of lack of RNG supply and high cost for that which might be available. The duration of the proposed program,

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<sup>27</sup> A.19-02-015, Direct Testimony of Thomas R. Del Monte, JD/MBA On Behalf Of Wild Tree Foundation at p. 8.

<sup>28</sup> CEC, *2017 Integrated Energy Policy Report* at p. 271.

<sup>29</sup> A.19-02-015, Direct Testimony of Thomas R. Del Monte, JD/MBA On Behalf Of Wild Tree Foundation at p. 9.

<sup>30</sup> CEC, *2017 Integrated Energy Policy Report* at p. 247.

<sup>31</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>32</sup> *Id.* at p. 17.

<sup>33</sup> PD at p. 24.

complete lack of demonstrated customer interest, and assignment of stranded costs solely to Applicants means that procurement contracts would be short duration contracts for small amounts. Such contracts would obviously be disfavored by RNG suppliers and would demand a price premium. This would make procurement 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. Short term, low dollar contracts are unlikely to be found given the healthy market for high dollar transportation uses<sup>34</sup> and will not serve to meet the stated purpose of the program to grow a market for pipeline-injected RNG.

**D. DESPITE DISHONEST MARKETING THERE IS A STILL A DEMONSTRATED LACK OF PROGRAM INTEREST**

The PD states that the “adopted program is also based on the full record and addresses non-settling parties’ concerns.”<sup>35</sup> Wild Tree acknowledges that the ALJ has made a laudable effort in addressing the non-settling parties’ concerns. But while the result is an improvement over the Contested Settlement, Wild Tree and other parties’ overarching concerns are not cured in the PD. The PD is also based upon only some of the record while critical record evidence - such as that regarding a lack of customer interest, unreasonably high increase in customer bills, and lack of any credible evidence on RNG price or supply – are ignored. Furthermore, the record is incomplete. No evidentiary hearings were held and the PD itself highlights issues of material fact, in particular cost and verification methodology, that must be addressed through evidentiary hearings.

The lack of customer interest, the extreme increase in utility bills, and the fact that Applicants have already poisoned the waters with misleading and unproven marketing claims are grounds for the application to be denied. The PD addresses lack of customer interest only to state, “The Utilities testified in support of their assumption that there is sufficient customer interest in an RNG Tariff program based on their 2017-2019 market research and analysis to make the program self-sustaining without subsidy by non-participants.”<sup>36</sup> This statement seems to imply that Applicants have proven that there is sufficient customer interest to justify the

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<sup>34</sup> A.19-02-015, Direct Testimony of Thomas R. Del Monte, JD/MBA On Behalf Of Wild Tree Foundation at p. 5.

<sup>35</sup> PD at p. 17.

<sup>36</sup> PD at p. 32.

program which is clearly contrary to the record. The PD also does not address the fact that ratepayers that are somehow convinced to participate in this program will have an extreme and unexpected increases in their rates.

As demonstrated in Wild Tree's Opposition to the Contested Settlement and Opening and Reply Briefs, Applicants have not proven there is customer demand for a "green" RNG tariff and will not be able to attract customers to the proposed program given the extremely high cost. Non-residential participants that agree to pay a premium for a 10, 25, or 50% of their use gas to be biomethane, will have extreme increases in their bills. For example, a non-residential customer that agrees to 10% biomethane charges will see its bills increase by almost 80% (SoCalGas) or more than double (SDG&E).<sup>37</sup> On a 25% plan, bills will almost triple (SoCalGas) or quadruple (SDG&E) and on a 50% plan, bills will increase by more than five (SoCalGas) or six (SDG&E) times. Residential customers will also see steep increases in bills under the \$10, \$25 or \$50 monthly flat rate plans. According to Applicants, the average residential customer uses 420 therms a year or 35 therms per month.<sup>38</sup> At \$.36 per therm, 35 therms would be a monthly bill of \$12.60. A \$10 bill increase, which is the lowest allowable increase, would represent an 80% increase in the monthly bill. A \$25 bill increase would almost triple the bills and a \$50 bill increase would increase bills fivefold.

The credibility of all of Applicant's testimony providing guesstimates for participation and cost assumptions is undermined by the Applicant's 2<sup>nd</sup> Supplementary Testimony footnote 6 to the statement that, "The amount of RNG required to meet the above demands for each segment with a commodity cost per therm of \$3.00<sup>6</sup> was calculated." Footnote 6 reads, "\$3.00 was chosen as a benchmark as this would allow residential customers choosing the smallest subscription level to displace approximately 10% of their annual usage with RNG (based on a system average of 420 therms per year)."<sup>39</sup> Applicants herein admit that there is no validity whatsoever to their consumption calculations because the \$3.00 per therm commodity cost was reverse engineered from Applicant's desired program usage, not from actual data regarding the commodity cost. Furthermore, the method described in footnote 6 is wrong because a \$3.00

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<sup>37</sup> SoCalGas -  $\$0.36$  per therm for 90% of use +  $\$3.23$  for 10% =  $\$.647$  per therm;  $\$.647/\$.36 = 1.79$  times increase. SDG&E -  $\$0.36$  per therm for 90% of use +  $\$4.42$  for 10% =  $\$.766$  per therm;  $\$.766/\$.36 = 2.13$  times increase.

<sup>38</sup> A.19-02-015, Applicants 2<sup>nd</sup> Supplemental Testimony at p.10fn6.

<sup>39</sup> *Ibid.*



commodity charge means that residential customers choosing the smallest subscription level of \$10 would “displace” less than 10% of annual usage with biomethane. At \$3.23 or \$4.42 a therm, the average residential user of 35 therms a year would be able to displace 3.10 or 2.26 therms which would be 8.86% (SoCalGas) or 6.46% (SDG&E) of usage.

The credibility of the \$3.00 therm guesstimate is further undermined by the fact that this was generated based upon the “amount of RNG required to meet the above demands” which are guesstimated to be 0.5% for residential customers and 0.1% for small, 0.025% for medium, and 0.025% for large usage non-residential customers. The SoCalGas Consumption Calculations assumptions for this level of demand rely upon cherry-picked, mischaracterized results from its focus group results and comparison to programs in other states that are not equivalent to that proposed here and which have very low participation rates. For example, Applicant’s business focus group responses indicated that none (0%) of respondents that had indicated some sort of interest in an RNG program would be willing to pay 75% or 100% increase.<sup>40</sup> Yet, based upon Applicant’s data, the program would, at a minimum, increase non-residential customer bills by almost 80% (SoCalGas) or more than 100% (SDG&E). In regards to customer demand, Applicants have demonstrated that, at the price point they have arbitrarily selected, which is likely far too low given the high cost of RNG, there is no customer interest. 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>41</sup> The PD does include any analysis as to why this preliminary determination was proven untrue other than to state that Applicants state otherwise. Approval under such circumstances would be an abuse of discretion.

#### **E. THE PD WOULD NOT ESTABLISH A PILOT PROGRAM**

The PD should not permit Applicants to establish a permanent RNG tariff through the guise of a “pilot program.” What has been proposed is not a pilot program but is instead a permanent program that would be subject only to a single undefined advice letter review. The PD retains the Contested Settlement’s use of a Tier 3 Advice Letter process for program

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<sup>40</sup> A.19-02-015, Applicants 2<sup>nd</sup> Supplemental Testimony at p. 176 (pdf), Business Customer Insight Panel.

<sup>41</sup> A.19-02-015, *Administrative Law Judge’s Ruling Directing Submission Of Supplemental Testimony* at pp. 5-6

evaluation and language that GHG emission reductions will be a “primary consideration . . . when evaluating whether the program is reasonable to continue.” With GHG emission reductions as only a “primary consideration”, the Commission could still approve the program to become permanent even if it there had been no GHG emission reductions.

A Tier 3 advice letter proceeding is insufficient to protect ratepayers from paying for greatly increased bills for alleged environmental benefit that Applicants cannot prove will occur. There will be signification questions of material fact in such a review and a full evidentiary hearing application proceeding would be necessary to examine such facts. The PD should be amended to limit any pilot program to a define time period. At the expiration of that time period, Applicants could apply for a permanent tariff through an application, should they so desire.

### **CONCLUSION**

For the reasons state herein and in Wild Tree Foundation’s Opposition to Contested Settlement, Opening Brief, and Reply Brief, Wild Tree Foundation urges the Commission to deny approval of any voluntary RNG tariff. If a pilot program is approved, it should be done so only with the above described amendments to the PD.

Respectfully submitted,

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## APPENDIX

### Wild Tree Foundation Recommended Amendments to the A.19-02-015 PD

The PD should be amended to deny the application and Contested Settlement. If the Commission does not do so, Wild Tree recommends the following amendments to the PD. Insertions are underlined, ~~Deletions are struck through~~.

#### Conclusion of Law 5

~~At least 50~~ 100 percent of in-state and out-of-state RNG eligible to meet program demand should be required to be delivered to California consistent with the requirements in Pub. Util. Code Section 651(b)(3)(B).

#### Conclusion of Law 6

~~Additionality for in-state supplies should not be required beyond the provisions of SB 1440 and CARB's current Cap and Trade Regulation~~ is required for all in state and out of state supplies.

#### Conclusion of Law 7

~~The additionality requirement for biomethane used to generate electricity under the RPS program should not be required for the voluntary RNG Tariff pilot program.~~

#### New Conclusion of Law

Intervenor compensation will be available for eligible intervenors for contributions made to the development of the modified GREET methodology and for participation in the Procurement Advisory Group.

#### New Conclusion of Law

The Commission will review the proposed modified GREET methodology in a Tier 3 Advice Letter.