

May 14, 2019

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**STAFF**

**Jeffrey Serfass** | Executive Director  
**Emanuel Wagner** | Deputy Director

Commissioners  
 California Public Utilities Commission  
 505 Van Ness Avenue  
 San Francisco, CA 94102

**RE: Response to Revised Alternate Proposed Decision Regarding Biomethane Tasks in Senate Bill 840 (R.13-02-008)– OPPOSE**

Dear President Picker, Commissioner Rechtschaffen, Commissioner Guzman-Aceves, Commissioner Randolph, and Commissioner Shiroma:

The following is the response of the California Hydrogen Business Council (CHBC)<sup>i</sup> to the Revised Alternate Decision Regarding Biomethane Tasks in Senate Bill 840 (RAPD) issued on May 10, 2019 by CPUC President Picker, which seeks to address parties’ comments and reply comments to the Alternate Proposed Decision, but does not diminish CHBC’s concerns.

- While we welcome the recognition in the RAPD that topics such as hydrogen, defining renewable methane, and the potential for renewable methane are “ripe for consideration,”<sup>ii</sup> **we continue to oppose the decision to close this proceeding because we strongly believe it is based on the incorrect application of statutory guidance in PUC Code 1701.5(a). It is inconsistent with a previous Commission decision in the proceeding in question, state law, and other relevant policies,<sup>iii</sup> and will also further and unnecessarily delay reviewing these important issues.**
- **The reasons given for closing this proceeding are inaccurate.** The RAPD states: *“This proceeding has been open for six years and its continuation would show a disregard for our statutory mandate to resolve Commission rulemakings in a timely manner, pursuant to Section 1701.5(a).”<sup>iv</sup>* However:
  - **Section 1701.5(a), does not, in fact, mandate closing the proceeding,** but rather requires the Commission to resolve the issues in the scoping memo within 18 months.<sup>v</sup>
  - **It would actually be inconsistent with the cited section of the PUC Code to close the proceeding because there were**

**issues in the July 2018 scoping memo that have not yet been resolved**, such as whether biomethane injection standards also apply for pipeline injection of renewable methane (Issue #6 in the Scoping Memo).<sup>vi</sup>

- **The CPUC’s own guidelines on keeping proceedings open explicitly contradict the RAPD**, stating *“that a long open period for a proceeding does not necessarily indicate non-compliance with a statutory deadline. There are many reasons why a proceeding continues to be open for more than 18 months. Most commonly, the scope of a proceeding was modified to address additional issues, and this resets the deadline for closure.”*<sup>vii</sup> When proceeding reopened in July 2018, the scope was modified, so keeping it open to resolve the issues raised as well as to modify it again if additional issues need to be addressed, adheres to CPUC’s own direction.
- **The RAPD’s stated intention to abide by requirements to resolve issues in a timely manner is surprising and ironic, given that the Commission has kept stakeholders waiting for more than five years to review hydrogen blending limits, missed its own deadline for doing so earlier this year, and by closing the proceeding, would extend the wait further still.** As detailed in our and other party’s comments on the Scoping Ruling,<sup>viii</sup> D.1401034 of this proceeding committed the Commission in 2014 to a review of upper and lower limits of gas blending gas system by January 2019, which, more than three months after this deadline passed, has yet to be done. If timely decision making is the Commission’s genuine concern, it will not seek to further delay the process by interrupting this proceeding. Instead it will uphold the Proposed Decision of the Assigned Commissioner, who has been diligently and thoughtfully working on this phase of the proceeding for the past year.
- **Closing this proceeding now would also show a disregard for statutory mandate in AB 1900.** As the Bioenergy Association of California stated in their Comments on the Alternate Proposed Decision, *“Even if the Commission opens a new proceeding, it would mean many months of delay before the Commission could begin taking up the requirement to review pipeline biomethane standards, meaning that that review would not take place within five years of the original standards being adopted, as required by AB 1900.”*<sup>ix</sup>
- **The RAPD’s non-committal suggestion that issues pertaining to renewable gas, such as hydrogen and renewable methane, “may” be considered in an upcoming Energy Division workshop and in another proceeding that “may” be initiated is not adequate.**<sup>x</sup> While we welcome and encourage additional complementary forums of discussion, the current proceeding is the appropriate venue to expeditiously move forward on addressing these important issues and should be kept open, as was unanimously urged by all parties who commented on the Alternate Proposed Decision.
- **The RAPD does not show true commitment to advancing renewable gas.** There has already been a long period of inaction since the time that SB 1383 mandated the CPUC to *“consider and, as appropriate, adopt policies and incentives to significantly increase the sustainable production and use of renewable gas,”*<sup>xi</sup> and more than a year since the California Energy Commission’s 2017 IEPR recommended support for advancing renewable hydrogen and renewable methane derived from renewable hydrogen to help

**implement SB 1383.**<sup>xii</sup> This inertia leave us doubting that the RAPD, if approved, will not become part of this unfortunate pattern of delay.

- **In sum, the only process at the CPUC where we have seen any signs of encouraging progress on addressing issues that can help advance the use of renewable hydrogen on the natural gas system is the current proceeding, which there is no valid statutory reason to close.** We, therefore, continue to urge support for the Assigned Commissioner's Proposed Decision to keep the proceeding open to expeditiously address hydrogen blending limits and definitional issues related to renewable gases beyond the forms of biomethane treated to date.

Thank you for your consideration. Please do not hesitate to contact me with any questions.

Regards,



Jeff Serfass

Executive Director

California Hydrogen Business Council

Cc: Governor Gavin Newsom  
The Honorable Toni Atkins  
The Honorable Ben Allen, Chair  
The Honorable Richard Bloom  
The Honorable Robert Hertzberg  
The Honorable Chris Holden  
The Honorable Ben Hueso  
The Honorable Nancy Skinner  
The Honorable Bob Wieckowski  
Jared Blumenfeld, Secretary, Cal EPA  
William Burke, Chair, South Coast Air Quality Management District  
Wade Crowfoot, Secretary, California Department of Natural Resources  
David Hochschild, Chair, California Energy Commission  
Fiona Ma, California State Treasurer  
Patricia Monahan, Commissioner, California Energy Commission  
Mary Nichols, Chair, California Air Resources Board  
Janea Scott, Vice Chair, California Energy Commission

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<sup>i</sup> The CHBC is comprised of over 100 companies and agencies involved in the business of hydrogen. Our mission is to advance the commercialization of hydrogen in the energy sector, including transportation, goods movement, and stationary power systems to reduce emissions and dependence on oil. The views expressed in these comments are those of the CHBC, and do not necessarily reflect the views of all of the individual CHBC member companies. Members of the CHBC include Advanced Emission Control Solutions, Air Liquide Advanced Technologies U.S., Airthium, Alameda-Contra Costa Transit District (AC Transit), American Honda Motor Company, Anaerobe

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Systems, Arriba Energy, Ballard Power Systems, Bay Area Air Quality Management District, Beijing SinoHytec, Black & Veatch, BMW of North America, California Performance Engineering, Cambridge LCF Group, Center for Transportation and the Environment (CTE), CNG Cylinders International, Community Environmental Services, CP Industries, Dash2energy, Eco Energy International, Eldorado National – California, Energy Independence Now (EIN), EPC - Engineering, Procurement & Construction, Ergostech Renewal Energy Solution, EWII Fuel Cells, First Element Fuel, FuelCell Energy, GenCell, General Motors, Geoffrey Budd G&SB Consulting Ltd, Giner ELX, Gladstein, Neandross & Associates, Greenlight Innovation, GTA, H2B2, H2Safe, H2SG Energy Pte, H2Tech Systems, Hitachi Zosen Inova ETOGAS GmbH, HODPros, Hydrogenics, Hydrogenious Technologies, Hydrogen Law, HydrogenXT, HyET - Hydrogen Efficiency Technologies, Hyundai Motor Company, ITM Power, Ivys, Johnson Matthey Fuel Cells, Kontak, KORE Infrastructure, Life Cycle Associates, Linde North America, Longitude 122 West, Loop Energy, Luxfer/GTM Technologies, McPhy Energy, Millennium Reign Energy, Mitsubishi Hitachi Power Systems Americas, Montreux Energy, National Renewable Energy Laboratory (NREL), Natural Gas Fueling Solutions – NGFS, Natural Hydrogen Energy, Nel Hydrogen, New Flyer of America, Next Hydrogen, Noyes Law Corporation, Nuvera Fuel Cells, Pacific Gas and Electric Company - PG&E, PDC Machines, Planet Hydrogen, Plug Power, Port of Long Beach, PowerHouse Energy, Powertech Labs, Primidea Building Solutions, Proton OnSite, RG Associates, Rio Hondo College, Rix Industries, Sacramento Municipal Utility District (SMUD), SAFCell, Schatz Energy Research Center (SERC), Sheldon Research and Consulting, Solar Wind Storage, South Coast Air Quality Management District, Southern California Gas Company, Sumitomo Corporation of Americas, Sunline Transit Agency, T2M Global, Tatsuno North America, The Leighty Foundation, TLM Petro Labor Force, Toyota Motor Sales, True Zero, United Hydrogen Group, US Hybrid, Verde, Vinjamuri Innovations, Volute, WireTough Cylinders, Zero Carbon Energy Solutions.

<sup>ii</sup> RAPD p. 39

<sup>iii</sup> See CHBC Comments on the Alternate Proposed Decision for a list of relevant laws and policies.

<http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M287/K382/287382169.PDF>

<sup>iv</sup> Ibid.

<sup>v</sup> PUC Section 1701.5(a) reads: “Except as specified in subdivision (b), in a ratesetting or quasi-legislative case, the commission shall resolve the issues raised in the scoping memo within 18 months of the date the proceeding is initiated, unless the commission makes a written determination that the deadline cannot be met, including findings as to the reason, and issues an order extending the deadline.”

<https://codes.findlaw.com/ca/public-utilities-code/puc-sect-1701-5.html>

<sup>vi</sup> Issue 6 in Scoping Ruling filed July 5, 2019, p. 6

<sup>vii</sup> <https://www.cpuc.ca.gov/openproceedings/>

<sup>viii</sup> D.1401034 specifically identified hydrogen as a constituent of concern for pipeline safety and integrity, therefore, hydrogen is de facto already within the scope of this proceeding. The Decision additionally found as a Conclusion of Law that the “four utilities should be required to specify the lower action and upper action levels for ammonia, biologicals, hydrogen, mercury, and siloxanes in the next update proceeding.” This has not been done yet, and this phase of the proceeding ought to qualify as the next update proceeding. Furthermore, the Decision ordered a review of the decision by January 2019, which is now passed. See more details in CHBC Scoping Ruling Comments: <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M221/K866/221866128.PDF>; and [NFCRC Scoping Ruling Comments: http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M222/K198/222198417.PDF](http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M222/K198/222198417.PDF)

<sup>ix</sup> See BAC Comments, p. 3

<sup>x</sup> Ibid.

<sup>xi</sup> [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160SB1383](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB1383)

<sup>xii</sup> [https://www.energy.ca.gov/2017\\_energy/policy/](https://www.energy.ca.gov/2017_energy/policy/)