October 22, 2018

Via electronic submission

Ms. Rajinder Sahota
Assistant Division Chief
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Subject: Comments on the Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation

Dear Ms. Sahota:

Sierra Club California and Earthjustice submit the following comments on the Proposed Amendments to the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanism Regulation ("Proposed Amendments"). These comments are limited to use of allowance auction proceeds by gas and electric utilities and do not constitute an implicit endorsement of other aspects of the Proposed Amendments.

1) Auction Proceeds Should Not Be Used to Perpetrate Reliance on Natural Gas, Particularly Where Electric Options Are Available.

ARB should only allow use of auction proceeds in a manner that advances California's long-term decarbonization objectives. Independent studies on how California can achieve its 2050 greenhouse gas reduction targets agree that it will require widespread electrification of end uses of energy—such as transportation or space and water heating—that currently use natural gas and other fossil fuels. For example, the report *Policy Implications of Deep Decarbonization in the United States*, by Energy and Environmental Economics ("E3") and the Deep Decarbonization Pathways Project, found that reducing emissions to 80 percent below 1990 levels requires three transitions: (1) highly efficient end use of energy in buildings, transportation, and industry; (2) decarbonization of electricity; and (3) fuel switching of end uses from high-carbon to low-carbon supplies, "primarily electrification."[1] A study conducted by Lawrence Berkeley National Laboratory similarly concluded that electrification of passenger

[1] E3 and the Deep Decarbonization Pathways Project, *Policy Implications of Deep Decarbonization in the United States* at 49-50 (Nov. 2015), http://usddpp.org/downloads/2015-report-on-policy-implications.pdf.

vehicles and building heating was an essential component of reaching the 2050 climate goal.[2] Similarly, a recent study conducted by E3 for the California Energy Commission ("CEC") concluded that a high electrification scenario, described as a transition of the state's buildings from using natural gas to low-carbon electricity for heating, offers the most promising path to achieving GHG reduction targets in the least costly manner.[3] By contrast, "the No Building Electrification with Power-to-Gas scenario is found to be among the most expensive Mitigation scenario in 2050 due to the high expense of providing renewable natural gas with relatively limited biofuels."[4]

Given the critical importance of building electrification to cost-effectively meeting California's climate goals, Earthjustice and Sierra Club California strongly support the explicit inclusion of "switching from natural gas, propane, or diesel to electric equipment" as a permitted use of auction proceeds by electric suppliers.[5] However, with regard to the use of auction proceeds by gas suppliers, the Proposed Amendments would encourage the continued reliance on fossil fuels, even where electric options are available. For example, under the Proposed Amendments, gas suppliers can use auction proceeds for "energy-efficient equipment rebates."[6] This has the potential to lock-in new combustion-based end uses despite the deeper greenhouse gas reductions that could be achieved by replacement with a highly efficient electric option. As currently drafted, the Proposed Amendments frustrate achievement of the aggressive greenhouse gas reductions needed to achieve California's climate objectives.

In addition, Subsection (3)(B), which allows undefined greenhouse gas emission reduction activities to qualify for funding, should be eliminated. The one listed example of such an activity, actions that reduce fugitive emissions of uncombusted gas, can simply be enumerated in Subsection 3(A). This will improve clarity on the types of activities for which use of auction revenue is appropriate. In particular, ARB should not allow auction revenue to be used to fund "renewable natural gas" projects. "Renewable natural gas" is not defined in statute and can be interpreted to mean gas that is generated from the anaerobic decomposition of organic matter or gas that is synthetically produced through biomass gasification or by power-to-gas projects. Because the former already receives significant public revenue streams, such as through the Low Carbon Fuel Standard, additional revenue though auction proceeds is not appropriate. With regard to the latter, costs of production are extremely high and benefits are far less given that methane is not being captured that would otherwise be released into the atmosphere: instead, methane is synthetically produced where it would not have existed. ARB should squarely direct auction proceeds at actions that either reduce demand for methane or reduce its formation and release into the atmosphere, not those that create methane synthetically.

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[2] Max Wei *et al.*, *Scenarios for Meeting California's 2050 Climate Goals*, University of California, Berkeley and Lawrence Berkeley National Laboratory (Sept. 2013), http://www.energy.ca.gov/2014publications/CEC-500-2014-108/CEC-500-2014-108.pdf.

[3] California Energy Commission, Deep Decarbonization in a High Renewables Future (June 2018) at 58, https://www.ethree.com/wp-content/uploads/2018/06/Deep_Decarbonization_in_a_High_Renewables_Future_CEC-500-2018-012-1.pdf.

[4] *Id.* at 59.

[5] Proposed Amendments § 95892(d)(3)(B)(5).

[6] Proposed Amendments § 95893(d)(3)(A)(1).

Accordingly, Subsection (d)(3) of Section 95893 should be revised as follows:

(3) Allowance value, including any allocated allowance auction proceeds, obtained by a natural gas supplier must be used exclusively for the primary benefit of retail natural gas ratepayers of each natural gas supplier, consistent with the goals of AB 32, and may not be used for the benefit of entities or persons other than such ratepayers. Allocated allowance auction proceeds must be used to reduce greenhouse gas emissions or returned to ratepayers using one or more of the approaches described in sections 95893(d)(3)(A)-(C) and may also be used to pay for administrative and outreach costs described in section 95893(d)(4). Auction proceeds may only be used to replace natural gas equipment with more efficient natural gas equipment where efficient electric alternatives are unavailable.

(A) Energy Efficiency. Funding programs or activities designed to reduce greenhouse gas emissions through reductions in energy use in the following categories.

1. Energy efficient equipment rebates for;
2. Energy-efficient building retrofits;
3. Other projects that reduce energy demand;
4. Activities that reduce emissions of uncombusted natural gas and that are not mandated by any federal, state, or local health and safety requirements, legal settlement, enforcement action, Senate Bill 1371 (Morrell, 2014), or the Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (California Code of Regulations, sections 95665-95677).

~~(B) Other GHG Emission Reduction Activities. Funding programs or activities other than energy efficiency, for which the natural gas supplier can demonstrate GHG emission reductions per section 95893(d)(5). This includes funding projects or activities that reduce emissions of uncombusted natural gas and that are not mandated by any federal, state, or local health and safety requirements, legal § 95893. Allocation to Natural Gas Suppliers for Protection of Natural Gas Ratepayers. 66 settlement, enforcement action, Senate Bill 1371 (Morrell, 2014), or the Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (California Code of Regulations, sections 95665-95677).~~

~~(C)~~(B) Non-Volumetric Return to Ratepayers. Distribution of allocated allowance auction proceeds to some or all ratepayers in a nonvolumetric manner, either on- or off-bill.

2) Administrative and Outreach Costs Should Be Limited to Implementing Specific Greenhouse Gas Reduction Programs and Not General Education.

Consistent with the regulation's focus on benefitting ratepayers and reducing greenhouse gas emissions, general consumer education about natural gas – which accomplishes neither of these objectives – is not an appropriate use of allowance funds. Earthjustice and Sierra Club California therefore strongly support the proposed language specifying that the use of

greenhouse gas reduction funds for administrative expenditures should be "solely limited to necessary costs for the implementation" of the programs.[7]

As described in ARB Staff's Initial Statement of Reasons, permissible administrative and outreach costs are limited to the "costs necessary to implement the GHG-reducing activities."[8] For example, appropriate outreach costs are limited to expenditures necessary "to make potential beneficiaries aware of the activity and its benefits" – such as information describing the benefits of a rebate and how the customer can participate.[9] These types of communications are necessary to notify customers that a program exists and to encourage their participation, which, to state the obvious, is necessary to achieve the intended reductions in greenhouse gases. These types of acceptable communications differ markedly from general outreach and education activities that are unrelated to programs available to the customer, do not encourage customers to take any actions to reduce gas use, and therefore will do nothing to reduce greenhouse gas emissions. In fact, the opposite may be true.

General outreach or educational activities that are not specific to particular programs can present one-sided perspectives on complicated and controversial topics, and foster complacency with the continued combustion of fossil fuels. For example, SoCalGas has circulated outreach materials that generally describe "renewable gas" to residential or commercial customers who have no options to purchase this product for their own use, an example of which is attached as Attachment A.[10] The flyer does not encourage the recipients to take any action that would benefit them, such as using gas more efficiently. The flyer also will not result in reductions in greenhouse gas emissions because there is no action the customer can take upon receiving it; SoCalGas does not sell biomethane to these customers. Instead, the flyer describes the positive aspects of the fuel while neglecting to mention its flaws – such as the fact that its combustion releases harmful criteria pollutants like NO_x and particulate matter, that leakage of this fuel from pipelines has the same serious climate impacts as fossil natural gas, or that its viability as a climate solution is limited due to its extremely low potential supply. In this light, the flyer's statement that "SoCalGas is working diligently to bring cost-effective sources of RNG to its customers" can be seen as an attempt to make customers feel more positively about the utility, build its corporate image as a company that cares about greenhouse gas emissions, and provide a false sense that reliance on natural gas can continue because biomethane will someday be available as a climate-friendly substitute fuel.

Because these types of outreach materials deviate greatly from the cap and trade regulation's clear and targeted objectives of benefitting customers and reducing greenhouse gases, they are a highly inappropriate use of program funds. Earthjustice and Sierra Club California strongly support the regulation's current language limiting spending to administrative and outreach costs that are strictly necessary for program implementation. In order to make this intent more clear, Subsection (d)(4) of Section 95893 should be revised as follows:

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[7] Proposed Amendments § 95892(d)(4).

[8] California Air Resources Board, Staff Report: Initial Statement of Reasons (Sept. 4, 2018) at 114 ("For example, for an energy efficiency rebate program allowable outreach costs may include materials sent to ratepayers to promote awareness of the rebate and its energy, environmental and costs savings benefits.").

[9] *Id.*

[10] Attachment A, SoCalGas, "Renewable Natural Gas: Part of California's Renewable Energy Future."

(4) Administrative and Outreach Costs. Allocated allowance auction proceeds may be used for administrative costs only in so far as those costs are solely limited to necessary costs for the implementation of sections 95893(d)(3)(A)-(C). Allocated allowance auction proceeds may be used for outreach that ~~supports~~ is needed for the implementation of the approaches described in sections 95893(d)(3)(A)-~~(C)~~(B).

Thank you for your consideration of these comments.

Respectfully,

/s/ *Matthew Vespa*

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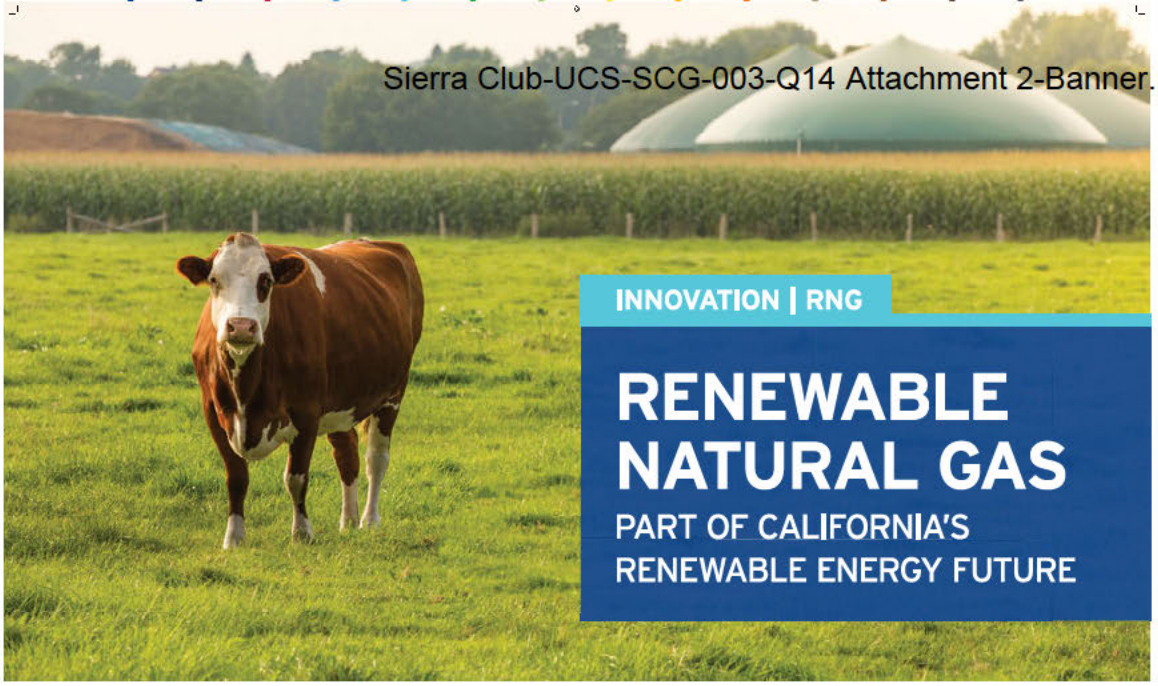
ATTACHMENT A

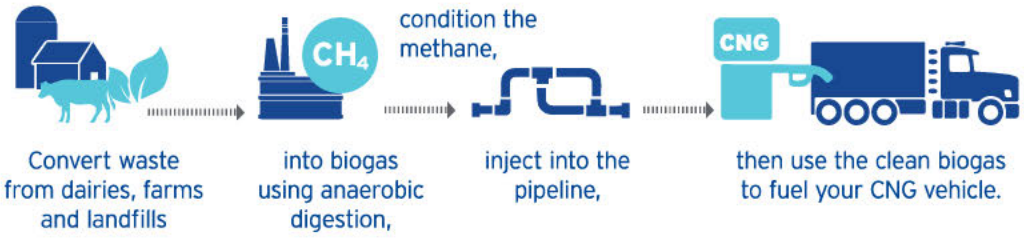


Similar to solar and wind technologies, natural gas can also come from renewable sources.

Renewable natural gas (RNG) can be used anywhere traditional natural gas is used to generate electricity when the sun isn't shining or the wind isn't blowing.

CAPTURING METHANE

RENEWABLE FUEL PRODUCTION AND REDUCED GREENHOUSE GAS EMISSIONS

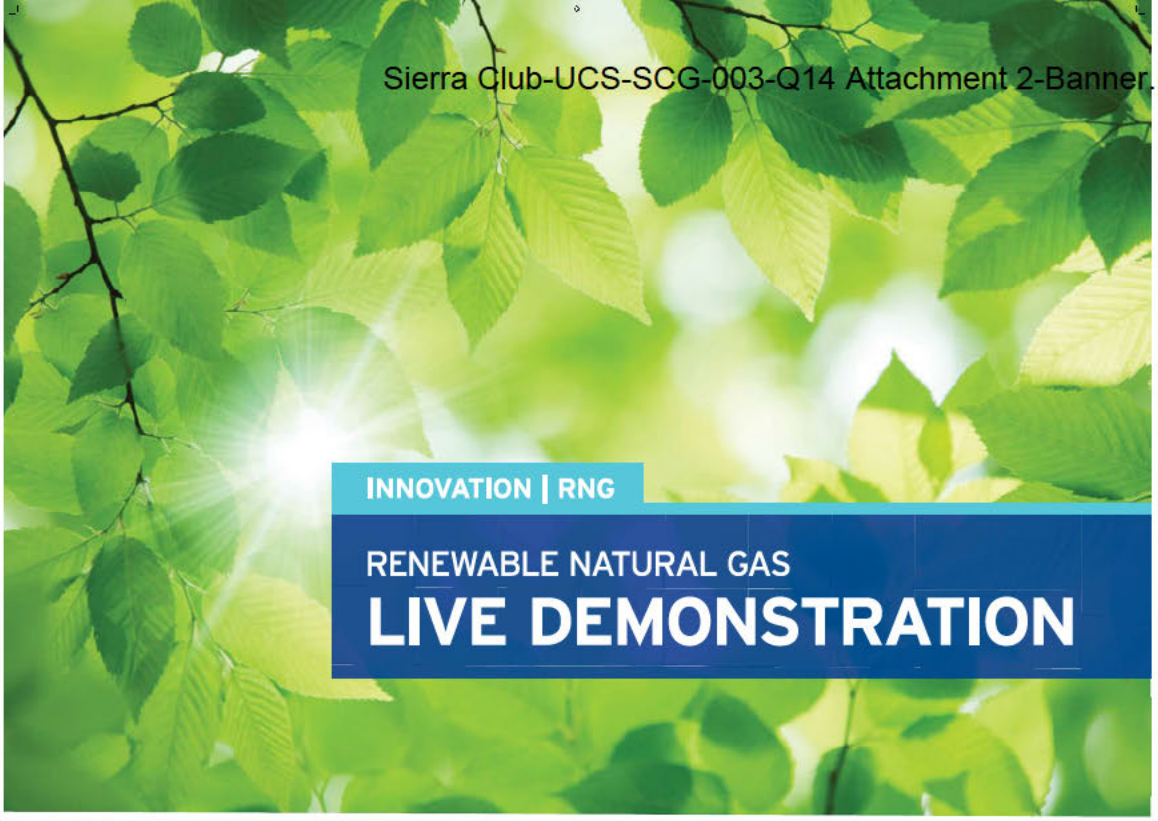


Methane is captured rather than released into our atmosphere. This helps minimize climate change.

RNG currently is most valuable when it's used to fuel vehicles, like compressed natural gas (CNG) heavy-duty trucks, which can produce up to 90% fewer tailpipe emissions and up to 80%* less greenhouse gas emissions than their diesel alternatives. SoCalGas® is working diligently to bring cost-effective sources of RNG to its customers.

SoCalGas
A Sempra Energy utility®

*Gladstein Neandross Associates Gamechanger White Paper, 2016.



Renewable Natural Gas (RNG) is made from biogenic methane, which can be produced from all kinds of organic waste:


Dairies


Wastewater treatment plants


Landfills


Food and green waste

THIS DEMONSTRATION SHOWS METHANE BEING PRODUCED FROM ACTUAL MANURE.

This methane can become RNG, which can then be transported via pipelines to homes and businesses for cooking, heating and more.

METHANE THAT IS CAPTURED IS NOT RELEASED INTO THE ATMOSPHERE.

Because this RNG is coming from organic waste, it is also carbon-neutral. By using it in place of traditional fuels, it reduces greenhouse gas emissions, which is good for the environment.

SoCalGas

A Sempra Energy utility®

*Gladstein Neandross Associates Gamechanger White Paper, 2016.