BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

R. 13-02-008
(Filed February 15, 2013)

JOINT REBUTTAL BRIEF OF

WASTE MANAGEMENT, BIOENERGY ASSOCIATION OF CALIFORNIA, AND CALIFORNIA ASSOCIATION OF SANITATION AGENCIES WITH REGARD TO ORDER INSTITUTING RULEMAKING INTO BIOMETHANE ISSUES, PIPELINE OPEN ACCESS, AND RELATED ENFORCEMENT PROVISIONS

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I. INTRODUCTION

Waste Management (WM), the Bioenergy Association of California (BAC) and
the California Association of Sanitation Agencies (CASA) respectfully submit this
Joint Rebuttal Brief with regard to the Order Instituting Rulemaking into
Biomethane Issues, Open Access and Related Enforcement Provisions. We are in
agreement with the Opening Briefs of Southern California Generation Coalition
(SCGC), the Green Power Institute (GPI), and Shell Energy North America (US) L.P.
(Shell Energy). We support in part and object in part to positions taken in the
Renewable Natural Gas Coalition (RNGC) Opening Brief and the Joint Opening Brief
of Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E), Pacific Gas & Electric Company (PG&E), and Southwest Gas Corporation (the “Utilities”). In doing so, we focus our rebuttal largely on the positions taken by the RNGC and the Utilities. We take no position on the arguments presented by the Independent Storage Providers. Furthermore, we reserve our right to address and rebut arguments made in the Opening Brief of the Division of Ratepayer Advocates (DAR) as pertaining to cost issues that are not under consideration in the immediate Proceeding at this time, but we ask the Commission to quickly take up the issue of cost of interconnection given that the cost imposes a potentially impossible hurdle for producers, particularly public agencies, to overcome. We will more fully address such cost issues when directed by the Commission.¹

In our Joint Rebuttal, we reiterate our position that the Commission should adopt reasonable standards that protect human health, safety and pipeline integrity while promoting the use of biomethane as a fuel for injection into common carrier pipelines as directed by AB 1900. Over-burdensome testing and monitoring requirements that provide little or no more protection for the pipeline than those standards recommended by the California Air Resources Board (ARB) and the Office of Environmental Health Hazard Assessment (OEHHA) in their joint report

¹ In an email ruling attached to an email from Administrative Law Judge ("ALJ") John Wong served on July 12, 2013, the ALJ directed that “the issue of who should bear what costs, and the expected costs of complying with such standards and requirements will not be entertained in the August 19-22 hearings and will be considered at a later date.” This was confirmed on August 27, 2013, in the Administrative Law Judge’s ruling Confirming Prior E-Mail Rulings and the List of Exhibits to be Considered in Phase I.
(ARB/OEHHA Report)\(^2\) are contrary to the intent of AB 1900. Furthermore, making no provision in open access rules that incorporates consideration of biomethane’s heating value results in closing the pipeline system to biomethane and circumventing the goals of AB 1900.

In our Joint Rebuttal, we ask that the Commission issue the following decision:

- Adopt a heating value for biomethane injected into the pipeline of 950 Btu per standard cubic feet (Btu/scf).
- With slight modifications for copper and arsenic, adopt for the purpose of protecting health, safety and pipeline integrity only those Constituents of Concern (COC) and Risk Management Levels, including the Trigger, Lower Action and Upper Action levels,\(^3\) and only the testing, monitoring, reporting and recordkeeping requirements for biomethane recommended in the ARB/OEHHA Report\(^4\) with minor modifications agreed to by the parties for retesting and the use of


\(^3\) Id. at page 4.

\(^4\) Id. at pages 61-72. See especially Figure V-1: Flowchart of ARB Staff Recommended Monitoring of Constituents of Concern at page 69.
independent laboratories.\(^5\) In the course of adopting the Report’s recommendations, the Commission should affirmatively restrict the Utilities from independently or jointly requiring additional constituents beyond those recommended by the ARB/OEHHA Report and additional testing and monitoring in IOU tariffs or guidelines.

- Immediately take up issues related to interconnection costs and the adoption of standards required for the injection of biomethane processed from other biogas sources including agricultural waste and other organic wastes.

II. THE COMMISSION HAS THE AUTHORITY AND AB 1900 PROVIDES THAT THE COMMISSION ESTABLISH A REASONABLE HEATING VALUE SPECIFICATION FOR BIOMETHANE.

The Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge was issued on May 2, 2013,\(^6\) and describes the scope of this proceeding, including its intent to answer the following questions:

\(^5\) Joint Rebuttal Testimony of Southern California Gas Company, San Diego Gas & Electric Company, Pacific Gas & Electric Company, and Southwest Gas Corporation (the “Utilities”), R13-02-008, August 5, 2013, at page 13: “The Utilities do not oppose implementation of a retesting or verification process if there are any Quality Assurance/Quality Control issues, discrepancies, or qualifiers indicated by the certified laboratory testing results.”

\(^6\) Scoping Memo and Ruling of the Assigned Commissioner and Administrative Law Judge, issued May 2, 2013, at page 5.
- What tariff requirements should the Commission adopt for gas corporation tariffs so that the tariffs condition access to common carrier pipelines on the applicable customer meeting the Commission-adopted standards and requirements and safety procedures?

- *What rules should the Commission adopt to ensure that each gas corporation provides non-discriminatory open access to its gas pipeline system* to any party for the purposes of physically interconnecting with the gas pipeline system and effectuating the safe delivery of gas?\(^7\)

The Utilities argue that the issue of heating value falls “outside the scope of AB 1900.”\(^8\) They claim the Scoping Memo directed no evaluation or consideration of heating value. Facts do not support their contention. There is no issue more central to the non-discriminatory open access to a natural gas pipeline system than the heating value of a fuel. The very characteristic that determines whether something is a “fuel” is its heating value. The cost, purpose and usefulness of a fuel are determined in large part by its heating value. To dismiss heating value as “outside the scope” of an evaluation of whether standards discriminate against biomethane or any other fuel is simply illogical.

It is also contrary to the plain language of the law. Heating value and purity requirements for biomethane are specifically listed as topics to be considered by the

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\(^7\) *Id.* (emphasis added.)

\(^8\) Utilities’ Joint Rebuttal Testimony, R13-02-008, August 5, 2013, at page 4.
Commission in devising nondiscriminatory open access rules,⁹ which the Commission can adopt using its existing authority.¹⁰

SoCalGas and SDG&E’s current tariffs as they relate to heating value¹¹ provide open access and do not discriminate against fossil fuel-derived natural gas. The 990 Btu/scf heating value was developed for fossil fuel-derived gas. However, the resulting heating value does discriminate against biomethane. It therefore must be changed to take into consideration landfill and other sources of biomethane, as directed by AB 1900. Should the Utilities argue that prior proceedings heard by this Commission settled issues of heating value,¹² they would be ignoring the fact that these prior proceedings were intended to consider existing and new sources of natural gas at a time when landfill biomethane was banned by law and, therefore, could not have been considered by the Commission as a then-existing existing

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⁹ AB 1900, preamble ¶ 4. AB 1900, in its Preamble, acknowledges that “[e]xisting law allows the PUC to set heating and purity requirements for biomethane injected into a gas pipeline” and further directs in the same section that the Commission “adopt pipeline access rules that ensure that each gas corporation provides nondiscriminatory open access to its gas pipeline system.”

¹⁰ See id.; General Order No. 58A.

¹¹ SoCalGas Rule No. 30.I.3.a (Sheet 16); SDG&E Rule No. 30.I.3.a (Sheet 12). Both SoCalGas and SDG&E have specifically provided for a heating value of 990 Btu/scf. PG&E and Southwest Gas do not provide specific single minimum heating values for gas, although they argue for one in the immediate proceeding as it relates to biomethane. In effect, both PG&E and Southwest Gas request a specific heating value for biomethane, while retaining flexibility to accept, at their sole discretion, other fuels at lower heating values. See PG&E Gas Rule No. 21.C.12 (Sheet 17) (no provision) and Southwest Gas Rule No. 21.B.3 (Sheet 250) (no provision).

source, or even a potential new source, of natural gas. While we agree that such prior proceedings conducted an evaluation of heating value for fossil fuel natural gas, \textit{landfill biomethane was not a fuel source acceptable for pipeline distribution at that time and therefore landfill biomethane was not within the scope of any proceeding at other times when the heating value of natural gas was determined}. The Utilities have not presented evidence that any sources of biomethane were considered in that proceeding.

We expect the Utilities to continue their argument that acceptance of a fuel with a lower heating value will be detrimental to their pipeline system. But we find this argument transparently discriminatory because both PG&E and Southwest Gas retain flexibility to accept lower heating value fuel at their discretion and do not propose to give up their flexibility.\footnote{See note 10, supra, citing PG\&E Gas Rule No. 21.C.12 and Southwest Gas Rule No. 21.B.3.} Furthermore, the heating value of 950 Btu/scf proposed by WM is only 4\% less than the 990 Btu/scf proposed by the Utilities. As SCGC correctly points out in its opening statement, the Utilities have agreed with WM that 950 Btu/scf is representative of heating value specifications accepted by utilities in other states.

In fact, in SoCalGas Application 11-09-004 which is currently pending before ALJ Wong, SoCalGas specifically agrees that a minimum heating value of 950 Btu/scf is “representative.” SoCalGas pointed out in its Application that the Gas Processing Association conducted a study “which found 950 to 1150 Btu/scf heating value limits representative.”\footnote{Southern California Generation Coalition Opening Brief, R.13-02-008, September 5, 2013, at page 9 quoting the Application of Southern California Gas Company to Retain Its Current

\textit{Joint Rebuttal Brief of Waste Management, Bioenergy Association of California, and California Association of Sanitation Agencies on R. 13-02-008}
The RNGC, in its Opening Brief, argues for “[a]doption of a heating value requirement minimum that is not lower than 950 Btu/scf or that does not exceed 970 Btu/scf of gas.”¹⁵ We do not agree with the higher heating value specification of 970 Btu/scf. While there may be some developers willing to risk guaranteeing a heating value of 970 Btu/scf for biomethane, there are few experienced operators of landfill biomethane-to-pipeline facilities who would take such a risk. We are as willing as RNGC and other interveners to this Proceeding to reach agreement with the Utilities, particularly on the most important issue of heating value specification, but we cannot support standards that will hinder and not promote development of biomethane in California. Evidence supports, experience dictates and other states agree that promotion of biomethane requires establishment of a 950 Btu/scf heating value specification.

The Commission should adopt and direct the Utilities to amend their respective Biomethane Guidance Documents, their tariffs and rules¹⁶ and establish new rules as appropriate, that promote and do not deny open access to biomethane, including a fair and appropriate heating value of 950 Btu/scf of gas. A minimum heating value requirement of 990 Btu/scf will effectively shut out biomethane

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¹⁵ Opening Brief of Coalition for Renewable Natural Gas, R13-02-008, September 5, 2013, at page 41.

¹⁶ Including, but not limited to SoCalGas Rules 30, 39; PG&E Rules 1, 14, 21; Southwest Gas Rules 2, 21.
injection into California’s natural gas pipelines, and a lesser but still unacceptable heating value of 970 Btu/scf will risk project failure and shutdown for those few who accept the risk of continually meeting the higher heating value.

Furthermore, we object to the tariff provision proposed by Southwest Gas Company that would limit the percentage of biomethane that would be injected into the pipeline at no more than 25% as wholly discriminatory. The explanation offered for the discriminatory treatment is contrary to the evidence they present in footnote 165 to their Opening Statement.⁷ According to the press release offered in the footnote as evidence, “the chemical composition of the gas that supplies the affected areas of Prince George’s County is the key contributing factor that precipitated the deterioration of rubber seals” and that the offending gas was supplied by “natural gas from the Cove Point liquefied natural gas (LNG) terminal in southern Maryland.” According to Cove Point public information supplied on their website, “the facility receives natural gas from vessels transporting LNG from various locations in the world, including Trinidad, Nigeria, Norway, Venezuela and Algeria.”⁸ Biomethane is not mentioned in the proffered press release as a cause for the degradation of the pipeline’s rubber seals.

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⁷ Joint Opening Brief of Southern California Gas Company (U 904 G), San Diego Gas & Electric Company (U 902 G), Pacific Gas & Electric Company (U 39 G), and Southwest Gas Corporation (U 905 G), R.13-02-008, September 5, 2013 (the "Utilities’ Joint Opening Brief"), at page 29, footnote 165, referencing a press release of Washington Gas.

III. THE COMMISSION SHOULD ADOPT ONLY THOSE CONSTITUENTS OF CONCERN (COC) AND RISK MANAGEMENT LEVELS, WITH SLIGHT ADJUSTMENT FOR COPPER AND ARSENIC, AND ONLY THE TESTING, MONITORING, REPORTING AND RECORDKEEPING REQUIREMENTS FOR BIOMETHANE RECOMMENDED IN THE ARB/OEHHA REPORT WITH MINOR MODIFICATIONS AGREED TO BY ALL PARTIES.

The Commission is mandated by AB 1900 to set standards that protect human health and safety, and pipeline integrity and safety, including THE establishment of constituents of concern (COCs) and monitoring, testing, reporting and recordkeeping requirements to ensure that levels of COCs are not exceeded.\textsuperscript{19} In developing these requirements, AB 1900 directs the Commission to give “due deference” to ARB’s determinations with regard to the COCs recommended to protect health and safety, and the monitoring and testing for those constituents.\textsuperscript{20}

In developing standards for pipeline integrity, the Commission is charged with developing standards for biomethane that are “reasonably necessary” to ensure the protection and integrity and safety of pipelines and pipeline facilities.\textsuperscript{21}

As we explained in our Opening Statement, the Commission’s standard-setting authority under AB 1900 is limited to biomethane. The Commission does not have authority to consider biogas or sources of biogas, which are to be

\textsuperscript{19} AB 1900, Section 3, amendment to Cal. Health & Safety Code Section 25421(d).

\textsuperscript{20} Id.

\textsuperscript{21} Id. at Section 25421(c).
considered only by OEHHA and ARB in their recommendations for standards that protect human health and safety. The Commission must give deference to the determinations of ARB when adopting monitoring, testing and reporting requirements. Therefore, where ARB has identified “reasonable and prudent” monitoring and testing requirements, the Commission lacks the authority to adopt additional requirements without compelling justification.

The Utilities have provided no such compelling justification for the adoption of their list of additional COCs and overly burdensome testing, monitoring and recordkeeping requirements. Therefore, the Utilities’ proposals for adoption of additional COCs and accompanying testing, monitoring and recordkeeping should be rejected.

Shell Energy succinctly states in its Opening Brief a fundamental position we share.

In view of the ARB/OEHHA’s finding – that the health risks associated with biomethane are no greater than the health risks associated with natural gas – the Commission should impose gas quality specifications for biomethane that are the same as the gas quality specifications that apply to natural gas. No evidence has been presented that supports imposing greater – more burdensome – gas quality specifications on deliveries of biomethane to the utilities’ systems. The gas quality specifications for biomethane, as well as the testing and monitoring protocols for biomethane, should be the same as the standards that apply to natural gas.22

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The Commission is directed to establish “non-discriminatory” standards for biomethane. A discriminated class is one that has additional burdens placed upon it that are absent from requirements imposed on the larger category in which it is a part. In this Proceeding, therefore, any requirements imposed on biomethane that are over and above those required of natural gas producers must have a compelling reason. Furthermore, the burden of proof for imposing additional burdens rests on the party seeking to discriminate. In this case, we believe the ARB/OEHHA Report has met the burden of showing that additional COCs and the attendant testing, monitoring and recordkeeping standards are appropriate for biomethane injected into the pipeline. We continue to take exception and ask for consideration only to change the recommendation of the ARB/OEHHA Report pertaining to two constituents, copper and arsenic.

The Utilities must make a similar and no less compelling case than ARB/OEHHA to impose their substantial list of COCs and testing and monitoring requirements for biomethane that are in addition to those additive standards.

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23 AB 1900, preamble ¶ 4.

24 As provided in evidence in our supplemental testimony of July 26, 2013, it appears that the inclusion of copper in the list of COCs is the result of a QA/QC failure. It is interesting to take note that copper also was found unexpectedly in test results of fossil fuel natural gas as reported in the Guidance Document for the Introduction of Landfill-Derived Renewable Gas into Natural Gas Pipelines, Gas Technology Institute, FINAL REPORT # GTI-12/0007, GTI PROJECT NUMBER 20792, Issued May 2, 2012, at page 24. We also find fault with arsenic’s Trigger Level (for quarterly testing from annual) that is at the limits of instrument detection and may not be quantifiable. The Trigger Level for arsenic should be set at a realistic level considering the methods of testing.
recommended by ARB/OEHHA to current standards for injection of natural gas into the pipeline. The Utilities have not met that burden of proof.

a. Evidence Is Lacking to Substantiate Imposition of Additional COCs Proposed by Utilities and Their Request for “Flexibility” to Impose Additional, Unarticulated Limits If Unidentified Constituents Are Discovered.

We join the GPI, and Shell Energy in urging rejection of the list of COCs that are proposed by Utilities that are in addition to those recommended by the ARB/OEHHA Report. These COCs include siloxane, ammonia, biologicals, hydrogen, and mercury.25 Furthermore, we ask that the Commission reject the Utilities’ request for “flexibility” to test for biogas constituents prior to startup for the purpose of finding and setting additional, as yet unidentified constituents, limits and testing procedures for biogas constituents. The Utilities base their request on the following reasoning:

The standards adopted in this rulemaking, however, need to maintain flexibility to allow the Utilities to test for, and respond to, a range of constituents which may be found at the varying biogas sources. As such, in addition to CARB and OEHHA’s recommended testing, the Utilities propose: (1) pre-interconnection testing of raw biogas and additional biomethane analysis to determine biogas constituent levels, confirm biomethane constituent consistency, and allow for the design of interconnection facilities and testing and monitoring protocols specific to that biogas source; (2) annual comprehensive constituent analysis to determine the absence or presence of known or additional constituents of

concern; and (3) enhanced testing procedures in the event the biomethane supply contains biomethane constituent levels above the proposed trigger levels.\textsuperscript{26}

Although the ARB/OEHHA Report indicated that there may be different levels of COCs in biomethane from different source categories – that is, biomethane from landfills, dairies, or sewage treatment plants (POTWs) – the Report does not support the Utilities’ assertion that COC levels vary between individual sources within each category. In other words, while the Report may have found that biomethane from landfills contains certain COCs not present in biomethane from dairies (e.g., antimony), the Report did not find that biomethane from one landfill contains COCs not present in biomethane from another landfill.\textsuperscript{27} Therefore, the Utilities’ position that they need flexibility in order to test for and respond to a “range of constituents which may be found at the varying biogas sources” is unsupported by the ARB/OEHHA Report to the extent that the Utilities’ position is based on nonexistent differences between individual sources of biomethane.

Moreover, as we explained in our Opening Brief, OEHHA and ARB are tasked with compiling a list of constituents of concern that are found in biogas, determining health protective levels of those constituents, identifying potential health risks associated with exposure to those constituents, and determining the appropriate

\textsuperscript{26} Id. at page 7-8.

\textsuperscript{27} See ARB/OEHHA Report, Table V-3, page 64.
concentrations of constituents of concern in biogas.\textsuperscript{28} Contrary to the authority provided ARB and OEHHA, the clear language of AB 1900 provides that the Commission holds standard-setting authority only for “biomethane that is to be injected into a common carrier.”\textsuperscript{29} The Commission is instructed by the statute to “adopt policies and programs that promote the in-state production and distribution of biomethane” and “facilitate the development of a variety of sources of in-state biomethane.”\textsuperscript{30} This delineation of authority is proper, as it is biomethane and not biogas that will be injected into the common carrier pipeline over which the Commission has responsibility.

Standards, therefore, must be established based on the characteristics of biomethane with regard to pipeline integrity. Furthermore, additional standards than those contained in existing tariffs for natural gas constitute discrimination and, if imposed, must be based on solid evidence that justifies the discrimination.

Instead, evidence reveals that testing biomethane for siloxane, ammonia, biologicals, hydrogen, and mercury as proposed by the Utilities is unnecessary and contrary to industry practice.\textsuperscript{31} In the “Guidance Document for the Introduction of

\textsuperscript{28} AB 1900, Section 3, amendment to Cal. Health & Safety Code Section 25421(a).

\textsuperscript{29} Id.

\textsuperscript{30} AB 1900, preamble ¶ 3.

\textsuperscript{31} Guidance Document for the Introduction of Landfill- Derived Renewable Gas into Natural Gas Pipelines, Gas Technology Institute, FINAL REPORT # GTI-12/0007, GTI PROJECT NUMBER 20792, Issued May 2, 2012, Table 2: Parameters for Performance Consideration and their Testing Frequency, page 31. The Guidance is referencing ”Report No. 4A AGA
Landfill-Derived Renewable Gas into Natural Gas Pipelines” submitted into evidence in this Proceeding, testing results revealed:

- “No ammonia was found in any of the 27 high-BTU landfill-derived renewable gas samples collected for this project” and “AGA Report 4A does not report any tariff ranges or maximum limits for ammonia in delivered gas.”
- “AGA Report 4A does not report any tariff ranges or maximum limits for siloxanes in delivered [high-BTU landfill-derived] gas.
- “Biologicals were examined as part of this project and levels in the 27 high-BTU landfill-derived renewable gas samples were found to be similar to those found in the natural gas samples collected as a comparator data set.”
- “Hydrogen is not a typical constituent of natural gas, but some raw natural gas wells or storage fields may contain hydrogen; it may also be present in high-BTU landfill-derived renewable gas.” The Guidance explains “most companies (209 out of 224 respondents) do not

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32 Id. at page 25.

33 Id. at page 26.

34 Id. at 23 (emphasis added).
specify a tariff. Hydrogen is a parameter that is not routinely analyzed.”

- “AGA Report 4A does not report any tariff ranges or maximum limits for volatile metals in delivered gas” including mercury. While mercury was found at very low levels in some landfill biomethane gas samples, four natural gas samples were collected and tested in which similarly low levels of mercury were found.

An analysis of the test results of biomethane do not support the Utilities’ contention that tariff limits should be established for siloxane, ammonia, biologicals, hydrogen and mercury. In the case of hydrogen, mercury and biologicals, testing reveals that any trace amounts in landfill-derived natural gas are similar to amounts found from testing fossil fuel natural gas.

The Utilities ignore this evidence, and instead proposed to “design interconnection facilities and testing and monitoring protocols unique to each biogas source, while continuing to allow for sufficient flexibility to respond to differing site conditions or changes to the biomethane.” But this Proceeding was not intended to authorize that the Utilities go on a fishing expedition. To the contrary and as reasoned earlier in this Rebuttal, AB 1900 was passed into law to

35 Id. at page 23.
36 Id. at page 27.
37 Utilities’ Opening Brief, at page 15.
promote biomethane use and protect against discrimination in the setting of standards. Absent compelling evidence of potential harm, the law requires the Commission to set non-discriminatory standards that are no more burdensome to biomethane-to-pipeline operations than those imposed on fossil-fuel derived natural gas.38

b. The Commission Should Adopt Only the ARB/OEHHA Testing, Monitoring and Recordkeeping Recommendations.

The acceptance by all parties of the testing, monitoring and recordkeeping protocol recommended in the ARB/OEHHA Report should not be construed as a call to adopt lesser standards. It is instead recognition of the comprehensive analysis and reasonableness of ARB/OEHHA’s recommendations. Furthermore, it is important to keep in mind that biomethane producers will meet all existing testing and monitoring protocols as currently required of natural gas suppliers and additional start-up and periodic testing and monitoring requirements described in the ARB/OEHHA Report.39 We join with other parties to this Proceeding, including the Utilities, in requesting additional provisions providing for third-party, independent and certified laboratory performance of all testing, the opportunity to retest, and opportunity to verify and validate results before action is taken.

38 See pages 7-10, 14-15 of this Rebuttal Brief.

39 ARB/OEHHA Report, at pages 61-72. See especially Figure V-1: Flowchart of ARB Staff Recommended Monitoring of Constituents of Concern at page 69.
We take issue, however, with the extensive testing and monitoring proposed by the Utilities, which would include a risk-based approach to testing of all constituents regardless of their health impact. Furthermore, the Utilities propose testing of biogas for unspecified purposes and, once in operation, the Utilities require comprehensive annual and/or quarterly testing, and unspecified action if trigger levels for a constituent are reached. “[T]he trigger level is a level signifying the need for additional action. This may include an increase in utility testing frequency, the installation of additional monitoring equipment at the interconnection, a warning to the supplier of the constituent levels, and/or the establishment of a supplier-specific constituent shut-off limit.” The choice of action appears left solely to the Utilities’ discretion. We ask the Commission to make clear that testing and monitoring provisions are not a “make it up as you go” proposition.

We agree with ARB/OEHHA that “two tests be conducted over a 2-4 week period once the production facility is operational and prior to when the biomethane is first injected into the pipeline to ensure the stability and performance of the upgrading system.”40 However, we object to a tariff provision that would require testing of raw biogas. The Utilities’ proposal is particularly troublesome given that biogas testing is for purposes of “identification of trace constituents in the biogas source that may adversely impact human health or pipeline facility integrity” and to “determine the constituents that are present in the biogas before processing, and

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40 Id. at page 65.
develop a testing and monitoring regimen specific to that biogas source ..." The provision is vague, open-ended and burdens the biomethane producer with significant and unnecessary risk. Biomethane and not biogas will be injected into the pipeline, and it is biomethane that should be tested and found acceptable.

We also question the discriminatory nature of comprehensive annual testing in relation to testing required of other natural gas suppliers, including testing of 15 constituents as detailed in Appendix A of the Utilities’ Supplemental Testimony and the Utilities’ proposal for a provision granting them the right to “discretionary testing” as vague in its practice and its potential outcome.

We do not object to provisions that place responsibility with biomethane producers for testing done prior to interconnection and responsibility for testing at interconnection with the Utilities as proposed in the Utilities’ Opening Brief.

IV. THE COMMISSION SHOULD ACT IMMEDIATELY TO ADOPT STANDARDS FOR BIOMETHANE FROM OTHER SOURCES OF ORGANIC WASTE.

We urge the Commission to act immediately and fulfill AB 1900’s directive to adopt monitoring, testing and other requirements for each source of biogas including agricultural waste and diverted municipal organic waste, including green waste, food processing and other food waste, fats, oils, grease, urban wood waste, and other organic waste. We believe it would be appropriate to adopt interim

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41 Joint Utilities’ Opening Brief, at page 23.

42 Utilities’ Supplemental Testimony, R13-02-008, July 8, 2013, Appendix A.

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standards for biomethane from these other organic waste sources that are equivalent to the biomethane requirements for wastewater treatment plants until sufficient information is available about the biogas from other organic sources such as food and agricultural waste. An interim standard equal to the standards for biomethane from wastewater treatment facilities would be appropriate for other organic sources such as food waste, fats/oils/grease and other diverted municipal organic waste since many wastewater treatment facilities also co-digest with these types of waste sources so data for wastewater treatment gas would include some amount of these other waste sources.

Although the ARB/OEHHA Report states that it will address other sources of biogas at a later date, the Commission is required to adopt standards for biomethane that is to be injected into common carrier pipelines and that biomethane is likely to come from other biogas sources in addition to landfills, dairies and wastewater treatment plants. In addition, bioenergy facilities are currently in operation, under construction or permitting now that will produce biogas from other organic waste sources and the treated biogas, or biomethane, from those sources should not be prohibited from injection into common carrier pipelines.
IV. CONCLUSION

In summary, we ask that the Commission take the following actions:

- Adopt a heating value for biomethane injected into the pipeline of 950 Btu/scf.

- Adopt the recommendations of the ARB/OEHHA Report, with slight modifications for copper and arsenic, and determine that the recommendations constitute the complete list of COCs for the protection of health, safety and pipeline integrity.

- Adopt the recommendations of the ARB/OEHHA Report with regard to testing, monitoring and recordkeeping required for the injection of biomethane into common carrier pipelines, provided the recommendations are amended to include third-party verification and retesting provisions.

- Immediately take up issues related to interconnection costs and the adoption of standards required for the injection of biomethane processed from other biogas sources, including agricultural waste and other organic wastes.

We wish to thank the Commission and its staff for the work being done in the proceeding.
Respectfully submitted,

\[s/\ Charles White\]

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\[s/\ Julia A. Levin\]

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\[s/\ Greg Kester\]

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VERIFICATION

I am an employee of Waste Management and am authorized to make this verification on its behalf. I have read the foregoing Joint Rebuttal Brief of Waste Management, the Bioenergy Association of California, and the California Association of Sanitation Agencies dated September 19, 2013. The statements in the foregoing documents are true of my own knowledge, except as to matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 19th of September, 2013, at Sacramento, California.

/s/ Charles White

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VERIFICATION

I am a representative of the Bioenergy Association of California, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 19th day of September, 2013, at Kensington, California.

/s/ Julia A. Levin

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VERIFICATION

I am a representative of the non-profit organization herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 19th day of September, 2013, at Sacramento, California.

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