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The Honorable Michael Dembrow
Chair, Senate Committee on Environment and Natural Resources
900 Court St. NE,
Salem Oregon 97301

February 4, 2019

RE: OPPOSE UNLESS AMENDED: SB 98

Dear Senator Dembrow:

While we appreciate the spirit in which SB 98 is intended, on behalf of Clean Energy, we must take an "OPPOSE UNLESS AMENDED" position for several reasons, with the most serious being that the gas utilities can use ratepayer funds to "produce" renewable natural gas.

We are open to amendments, as we proposed to the gas utility, but to date they have not been accepted. As North America's largest provider of renewable natural gas (also known as biomethane) transportation fuel with over twenty-two years of leading industry experience, Clean Energy provides construction, operation and maintenance services for refueling stations. We have a deep understanding of the growing marketplace, with our portfolio including 533 stations in 43 states. Many of these stations provide renewable natural gas (RNG) as compressed natural gas (CNG) or liquefied natural gas (LNG) vehicle fuel.

WHY WE ARE OPPOSED

We appreciate the intention for the bill, but it has entered a policy area steeped in complexity, and many years of policy and regulatory rulemaking. We believe it needs much more development before it can be considered. **The bill in print is a give-away to the gas utilities at the expense of private developers of RNG who have invested hundreds of millions of dollars in biomethane production assets which has yielded a robust market for RNG and significant reduction in both GHG emissions and short-lived climate pollutants.**

There should be a clear separation of two separate and distinct policy goals: 1) providing just and reasonable investments necessary to connect biomethane production facilities with the central natural gas distribution system in Oregon and, 2) a policy goal to decarbonize the pipeline. The bill would be less complex and provide much needed direction if it addresses and guides the Oregon Public Utility Commission (PUC) to only authorize full rate basing of pipeline extensions to connect new Oregon biomethane projects to the distribution system thereby encouraging new production instead of allowing investor owned utilities to use rate payer funds to invest in RNG production assets.

Please consider our positions:

1. LIMIT QUALIFIED INVESTMENTS TO PIPELINE EXTENSIONS ONLY – ONE PROPOSED AMENDMENT CONCEPT

We strongly believe the bill should be amended to limit the definition of "Qualified Investment" to utility investments in pipeline extensions to facilitate broad and rapid development of Oregon-based

biomethane projects and exclude any mention of investments used for the purpose of producing RNG. These pipeline interconnects to the main natural gas distribution system can be cost prohibitive and represent a critical hurdle limiting the development of many types of renewable natural gas projects, and gas utilities need PUC direction in order to facilitate a solution that will incentivize in-state development while promoting a competitive market structure.

Allowing utilities to invest ratepayer dollars in RNG production assets gives the utilities an unfair competitive market advantage against private developers who do not have the certainty of rate base and must secure private and costly investment capital for RNG production assets. Promoting such utility investment in RNG production opens the possibility for utility monopolization of the RNG production market which has been established and accelerated to this point by private development. The utilities should be incentivized for pipeline extension projects, and we would even support a longer extended interconnect requirement if necessary. Our goal is to encourage an interconnect incentive program to partner utilities with private developers.

Utility investment in pipeline extensions should be considered as an allowance based on expected revenue from the proposed interconnect over a pre-determined period of time. The producer receiving the subsidy will fund the balance of interconnect cost after accounting for the utility expected revenue. Ideally, an allowance for investment in pipeline extensions based on revenue would minimize possible ratepayer subsidies of the projects and still provide an incentive to develop projects, as producers pay all the cost of extensions now. This ensures that other ratepayers are not subsidizing the shortfall to the utility's return on rate base for the investment made that cannot be covered by throughput revenues.

Providing pipeline extensions to promote biomethane capture and production should not be confused with the utility procurement and resale of the fuel. Simply put, the extension should not be construed as the utility being required to purchase or have a market advantage to secure this fuel. While that might be the outcome, **we believe a clear separation of pipeline extension and procurement of the producers' fuel must occur to enable the existing competitive market to flourish.**

If this proposed amendment is not acceptable, we strongly suggest holding the bill until the next legislative year so stakeholders have the time to work with you, discuss amongst themselves, provide input, and explore internally within respective organizations the best bill possible. What is clearly required at this juncture is to enable the utilities to rate base and provide the pipeline extensions to enable biomethane development in Oregon, thereby stimulating what is today an underserved market.

2. ENABLING GAS UTILITIES TO PURCHASE AND COMPETE BY PROVIDING BIOMETHANE SPECIFICALLY INTO AN ALREADY COMPETITIVE MARKETPLACE FOR TRANSPORTATION FUELS

The bill in print allows the utilities to possibly deliver biomethane under a procurement mandate to natural gas vehicle (NGV) customers, which we support, but only if the gas utilities do not unfairly compete with private market participants. In other words, the gas utilities cannot use rate base protection to offer "better than market" pricing to individual NGV customers. This bill should not provide competitive advantages to any entity, especially the gas utilities, but rather encourage further development of RNG assets and pipeline decarbonization in Oregon.

3. **DECARBONIZING THE GAS UTILITY PIPELINE: RNG PROCUREMENT PROGRAM NEEDS REALISTIC AND ATTAINABLE VOLUME TARGETS WITH APPROPRIATE COST CONTAINMENT PROVISIONS FOR RATEPAYER PROTECTION**

Clean Energy understands and agrees with the interest to decarbonize the gas utility pipeline system through an effective RNG procurement program but we are concerned that the RNG procurement targets proposed in the bill are unattainable. If accepted, the proposed RNG volume targets could not only negatively impact the existing RNG market for transportation fuel established by the EPA Renewable Fuel Standard (RFS) and Oregon's Clean Fuels Program (CFP) but also could have significant negative financial impacts to Oregon ratepayers.

Such an ambitious volume mandate for Oregon pipeline decarbonization has the potential to disrupt current RNG market conditions established through the EPA's Renewable Fuels Standard (RFS). The RFS program has been pivotal in driving investment in RNG production. Despite exponential growth over the past 6 years, the market produced and delivered roughly 25 BCF of RNG as transportation fuel nationwide in 2018. The first year of implementation (in SB 98) sets a goal of 5% of total system volume or 5.5 BCF which represents 22% of the total RNG delivered to transportation fuel in 2018 alone. It is important to note that as of 2018 there is only 2.8MM diesel gallon equivalents (DGE) of NGV fuel demand in Oregon representing only 7% of the first-year procurement volume goal. Implementing an aggressive decarbonization allowance in Oregon without adequate cost containment or relief mechanisms can potentially divert RNG production away from transportation fuel, which is the application where RNG achieves the greatest GHG reduction, to stationary end use at the expense of the Oregon ratepayers.

4. ESTABLISHING A GUARANTEED SECONDARY MARKET FOR RNG

We understand and agree with the interest to decarbonize the pipeline gas supply by the utilities, but an effort to decarbonize the pipelines in Oregon through a utility RNG procurement program should serve to partner gas utilities and private developers in the interest of optimizing potential Oregon RNG production as well as attracting outside sources of RNG for Oregon ratepayer benefit.

This is accomplished through a guaranteed secondary market for RNG. Nearly all the RNG produced in the market today is delivered as transportation fuel with value derived from the EPA RFS program as well as state level Low Carbon Fuels Standard (LCFS) programs. Producers rely on the environmental credit value from the RIN and LCFS programs to earn a return on RNG production. There are limited opportunities to sell RNG to a non-transportation fuel market because the only viable environmental credits are in the transportation fuel space. RNG sold for stationary end use generates no supplemental revenue from environmental credits which means that producers must sell the RNG above marginal cost which can be upwards of 3 to 4 times the cost of fossil natural gas.

Securing financing for an RNG project is the biggest barrier for RNG development. Although the RIN and LCFS markets are lucrative, financiers are reluctant to undertake investment in such projects due to regulatory uncertainty within the RFS and LCFS programs. Establishing a guaranteed market for stationary end use through a utility provides a much-needed solution for producers looking to develop local RNG assets. To develop this secondary market, Oregon gas utilities would have to establish an effective floor price for RNG through an RNG procurement program. The floor price also serves as a cost containment mechanism (not to exceed) for the ratepayer who is really guaranteeing the price for RNG. The gas utility would then partner with RNG developers and marketers to bring domestic (Oregon) and imported (out-of-state) RNG into the Oregon resulting in significant GHG and short-lived climate pollutant reductions.

Oregon RNG production will be derived from projects that reduce short-lived climate pollutants (SLCP). This includes RNG derived from agriculture waste, forest waste, and organics diversion projects etc. all of which achieve highly negative life cycle carbon intensity rates. The environmental and economic value already established in the Oregon transportation fuel market will drive demand for this ultra-low carbon fuel across the current natural gas transportation fuel demand, effectively transitioning the

market away from non-Oregon sources of RNG. Putting highly valued and clean biomethane from Oregon sources to their highest and best use, i.e., transportation, will then potentially free up non-Oregon sources that can also support decarbonization efforts.

RNG achieves the greatest reduction in greenhouse gas emissions and generates the highest economic value when it is delivered as a transportation fuel. Private RNG producers, marketers, and NGV station owners have developed a robust market for RNG as a transportation fuel and this bill should seek to promote growth in that market. Clean Energy and other stakeholder groups are actively pursuing the conversion of heavy emitting diesel fleets in Oregon to near zero natural gas engine technology that has been certified to reduce NOx and PM emissions 90% below the current ARB standard.

Fueling these near zero natural gas engines with ultra-low (negative) carbon intensity Oregon RNG generates the greatest environmental benefit, even more so than an electric vehicle applications. These efforts seek to increase the current natural gas transportation fuel demand well above current levels providing even more market certainty for Oregon RNG production. But as previously stated, a robust market for RNG as a transportation fuel has already been developed and the utility should be able to leverage that success. As such, a relief mechanism should be instituted into the RNG procurement bill that absolves the gas utility from its procurement obligation for any RNG delivered to any end user by a non-utility entity (such as a marketer to NGV customer).

CONCLUSION

Clean Energy agrees that the utilities should be enabled to invest in infrastructure necessary to bring more RNG into the Oregon market, but these investments need to be limited to pipeline interconnects that connect the RNG production facility at the utility owned receipt point meter to the main gas utility distribution system. The utilities cannot use ratepayer funds to invest in the RNG production business as this would create a monopolistic competitive advantage in the marketplace for gas utilities. Furthermore, we agree with the concept for a gas utility RNG procurement program so long as the volume targets are sensible, and ratepayers are adequately protected. This is best achieved by allowing the gas utilities to partner with private RNG developers, marketers, and end users in the establishment of a secondary guaranteed market for RNG. However, gas utilities cannot disrupt the competitive marketplace and no single entity can be given any competitive advantage.

For these reasons we view this bill as another way for utilities to gain a competitive advantage over other market participants via a cost recovery method.

Thank you for considering our concerns.

Sincerely,

Ryan Kenny
Senior Public Policy & Regulatory Affairs Advisor – Western U.S.
Clean Energy