

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to
Consider Alternative-Fueled Vehicle
Programs, Tariffs, and Policies.

Rulemaking 13-11-007
(Filed November 22, 2013)

**REPLY COMMENTS OF SOUTHERN CALIFORNIA GAS COMPANY (U904G) TO
COMMENTS ON THE ORDER INSTITUTING RULEMAKING TO CONSIDER
ALTERNATIVE-FUELED VEHICLE PROGRAMS, TARIFFS, AND POLICIES**

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**I.
INTRODUCTION**

Southern California Gas Company (“SoCalGas”) respectfully submits its Reply to Comments to the Commission Order Instituting Rulemaking to Consider Alternative-Fueled Vehicle Programs, Tariffs, and Policies (“AFV OIR”) filed on November 22, 2013.

SoCalGas is pleased with the level of stakeholder participation in the opening comments for this proceeding, looks forward to working with all AFV stakeholders and continues to support the leadership of the Commission in growing the AFV market as a means to reach the state’s ambitious GHG reduction goals. In furtherance of this support, SoCalGas finds it must reply to the comments submitted by Clean Energy Fuels Corp. (“Clean Energy”) to clarify the record.

**II.
REPLY**

In recognizing the Commission’s leadership in AFV-based GHG reduction, SoCalGas urges the Commission to continue to exercise its oversight role to encourage

utilities, as regulated entities, to help accelerate the growth in the overall AFV market by allowing them to create more options for customers to provide the means to expand their customers' alternate fueling delivery capabilities as the Commission did in approving SoCalGas' Compression Services Tariff ("CST") in D. 12-12-037 ("Decision")

In this Decision the Commission approved SoCalGas' application (A.11-11-011) for a tariff service to provide compressed natural gas to any non-residential customer which needs compression above standard line pressure for customer end-use applications. Businesses that require compressed natural gas include power plants and Combined Heat and Power ("CHP") facilities,¹ as well as natural gas vehicle ("NGV") refueling operations. In approving the CST, the Commission determined that SoCalGas would not be providing natural gas refueling service to its own customers, but would be providing a service that enables third parties greater choice in obtaining the means necessary to compress natural gas for a customers' use, which use can include vehicle refueling.

In its comments, Clean Energy cites its agreement with D.95-11-035, which articulated Commission policy at that time with regard to utility-owned retail alternate refueling stations, effectively claiming that the Commission is bound irrevocably to the terms of that nearly 20 year old policy decision *as Clean Energy now interprets it*. Fortunately, such is simply not the case.

Clean Energy raised each of the policy arguments set forth in its opening comments in this proceeding in A.11-11-011 and lost on the merits on each its arguments in D.12-12-037 and again upon its Application for Rehearing, denied on October 17, 2013. (D. 13-10-042). ("Decisions")

The reality is that Clean Energy has exhausted its administrative remedies before the Commission, and is seeking now to mount an impermissible collateral attack on the

¹ CHP is an approach to generating electric power and thermal energy from a single fuel source.

merits of the Commission’s CST decision and the denial of its Application for Rehearing by seeking to modify the effect of the Decisions in this proceeding.

In an effort to achieve that goal, Clean Energy collaterally attacks the Decisions approving the CST as fostering unfair competition by the utility and lacking evidentiary support. But, in so asserting, Clean Energy is simply rearguing the issues it raised throughout proceeding A.11-11-011 – issues that were considered and rejected based on ample record evidence before the Commission. It also fails to acknowledge the mitigation measures the Commission imposes to ensure a level playing field.

Clean Energy also argues that the Commission’s failure to make findings regarding the relative merits of the so-called affiliate option was wrong. Again, here and as determined in the Decisions, Clean Energy’s argument falls flat. The Commission considered the merits of Clean Energy’s arguments and found it was not required to address the affiliate option because it was not material to the question properly before the Commission; nevertheless, the Commission did address the issue and correctly concluded that offering the compression service through an affiliate was unnecessary given the adopted ratepayer protections and rules to ensure fair competition.

Finally, Clean Energy claims that the Commission violated a “traditional boundary” prohibiting utility ownership of facilities on the customer’s side of the meter. As above, the Commission considered this argument, and found there is no such “traditional boundary” much less such a prohibition.

Clean Energy’s impermissible collateral attack on the fully litigated Decisions reached in A.11-11-011 should be recognized for what it is and given no weight in this proceeding.

III. CONCLUSION

SoCalGas respectfully submits its Reply for the Commission’s consideration and looks forward to further dialogue with the Commission and all stakeholders.

Dated at Los Angeles, California, on this 20th day of December, 2013.

Respectfully submitted,

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