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05-21-12

04:59 PM

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

In the Matter of the Application of
Southern California Gas Company (U
904 G) to Establish a Compression
Services Tariff

A.11-11-011
(Filed November 3, 2011)

NOTICE OF EX PARTE COMMUNICATION

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May 21, 2012

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Pursuant to Rule 8.4 of the California Public Utilities Commission's Rules of Practice and Procedure, the Clean Energy Fuels Corp. (Clean Energy), hereby gives notice of the following ex parte communications.

On May 17, 2012, Warren I. Mitchell, Clean Energy's Chairman of the Board, Todd Campbell, Clean Energy's Vice President of Public Policy and Regulatory Affairs, and Mark Sweeney, a consultant to Clean Energy, met with Colette Kersten, advisor to Commissioner Sandoval, from approximately 9:00 am to 9:30 am. The meeting was held in the Commission's office in San Francisco and was initiated by Clean Energy.

Mr. Mitchell relayed his concerns regarding the Southern California Gas Company (SoCalGas) application seeking approval of a new compression service. This service, if approved, would interfere with the operation of the natural gas vehicle refueling market. Messrs. Mitchell, Campbell and Sweeney also requested that the Commission reject SoCalGas Advice Letter 4337, which proposes to provide these compression services to the Los Angeles Unified

School District without authority. A handout, which explains Clean Energy Fuels' position, is attached.

Respectfully submitted,

A handwritten signature in cursive script that reads "Evelyn Kahl".

Evelyn Kahl

Counsel for Clean Energy Fuels Corp.

May 21, 2012

5/7/12

Talking Points for the May 17th Meeting with Ms. Collette Kersten
Regarding SoCalGas' Advice Letter 4337

- In late February, 2012, SoCalGas filed Advice Letter 4337 in which it announced that it had previously entered into an agreement with the Los Angeles Unified School District (LAUSD) to upgrade and own the upgraded CNG refueling infrastructure at the District's Sun Valley refueling station;
- In early November, 2011, SoCalGas had filed an Application (A.11-11-011) requesting Commission approval of a proposed new compression services tariff, now precluded by long standing Commission policy, under which it would be able to own, operate and maintain NGV refueling infrastructure located on the customer's side of the meter in direct competition with non-utility enterprises that offer the same services;
- The compression services SoCalGas agreed to provide the LAUSD are precisely the same services that SoCalGas is requesting the authorization to provide in A.11-11-011;
- In its Advice Letter, SoCalGas asserted that it had a right to construct and own compression facilities for NGV refueling for "government agencies," without prior Commission authorization citing the provisions of Section 8.2.3 of GO 96-B, and that its only obligation was to notify the Commission that it had entered into such an agreement;
- SoCalGas' Advice Letter was protested by Clean Energy Fuels Corp, Integrys and DRA ;
- Clean Energy and Integrys recommended that the Advice Letter be rejected on the grounds that Section 8.2.3 does not justify SoCalGas having entered into the agreement; that the subject matter of the

- Advice Letter is now under consideration in another proceeding (A.11-11-011); and that the agreement is otherwise precluded by existing Commission policy. DRA also argued that Section 8.2.3 does not authorize the agreement and that the subject matter of the LAUSD agreement was being considered in A.11-11-011. DRA recommended that consideration of the Advice Letter be suspended until a decision in A.11-11-011 is issued;**
- **On March 28th, the Energy Division suspended consideration of the Advice Letter on the grounds that it required further staff review;**
 - **D.95-11-035, page 82, precludes SoCalGas from owning and operating ratepayer funded natural gas refueling infrastructure located on customer property;**
 - **D.93-07-054 requires SoCalGas “...to demonstrate that *each* element of its LEV program is not unfairly competitive with nonutility enterprises...” (D.93-07-054, pages 27 and 30, emphasis added) In its Advice Letter, SoCalGas made no effort to comply with this provision of D.93-07-054;**
 - **In D.95-11-035, the Commission said: “Any future utility station program must be designed to avoid giving the utility *any* advantage, based on its monopoly status.” (D.95-11-035, pages 87-88, emphasis added);**
 - **As Clean Energy noted in considerable detail in its Protest of A.11-11-011 and summarized in its Protest of AL 4377, the provision of compression services on customer property by the utility capitalizes on a number of competitive advantages which arise entirely from its monopoly status;**
 - **The last sentence of the first paragraph of Section 7.6.1 of GO 96-B says: “In addition, the Energy Division will (1) reject any advice letter where the advice letter or the workpapers are clearly erroneous, including without limitation where there are clear inconsistencies with statute or Commission order...”;**

- **Clean Energy was shocked that SoCalGas had the temerity and audacity to enter into its Agreement with the LAUSD while it had yet to receive authorization to provide compression services for NGV refueling to government agencies and other non-residential customers in A.11-11-011;**
- **On March 16th, Clean Energy filed the Motion Of Clean Energy Fuels Corp. for Order Instituting Investigation And Order To Show Cause Why Southern California Gas Company Should Not Be Enjoined From Entering Into Compression Services Agreements Without Prior Commission Authorization;**
- **Clean Energy is concerned that SoCalGas might negotiate agreements similar to the one with the LAUSD with other supposed or actual “government agencies” pending Commission determination of whether SoCalGas would be authorized to provide such services in A.11-11-011;**
- **For the reasons summarized above, Clean Energy strongly recommends that SoCalGas’ Advice Letter 4377 be rejected and its Motion for an injunction and an investigation be granted.**