

Decision 13-12-040 December 19, 2013

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

In the Matter of the Application of  
Southern California Gas Company  
(U904G) to Establish a Biogas  
Conditioning & Upgrading Services Tariff.

Application 12-04-024  
(Filed April 25, 2012)

**DECISION ADOPTING JOINT SETTLEMENT AGREEMENT AND GRANTING  
SOUTHERN CALIFORNIA GAS COMPANY'S APPLICATION TO ESTABLISH  
A BIOGAS CONDITIONING AND UPGRADING SERVICES TARIFF**

## TABLE OF CONTENTS

Title	Page
DECISION ADOPTING JOINT SETTLEMENT AGREEMENT AND GRANTING SOUTHERN CALIFORNIA GAS COMPANY’S APPLICATION TO ESTABLISH A BIOGAS CONDITIONING AND UPGRADING SERVICES TARIFF .....	1
1. Summary .....	2
2. Background .....	2
2.1. The Application.....	2
2.2. The Protest by Division of Ratepayer Advocates (DRA).....	3
2.3. The Response and Request for Clarification from Southern California Generation Coalition (SCGC).....	4
2.4. Agricultural Energy Consumers Association’s (AECA) Motion for Party Status.....	4
3. Scope of the Proceeding .....	4
3.1. Issues arising from the Application .....	4
3.2. Impact of Assembly Bill 1900.....	5
3.3. Distinguishing the Instant Application From Facially-Similar Other SoCalGas Proceedings Before the Commission.....	5
3.4. California Environmental Quality Act (CEQA).....	6
4. Service of Testimony and Settlement Discussions .....	6
5. Joint Motion for Adoption of Settlement Agreement.....	7
6. Components of the Settlement Agreement .....	8
6.1. Competitive Market: Address Unfair Competition Concerns.....	8
6.1.1. Full-Cost Ratemaking .....	8
6.1.2. BCS Tariff Promotion and Reporting Requirements .....	9
6.1.3. Non-Discriminatory Service Provision.....	10
6.2. Ratepayer Protections .....	11
6.2.1. Ratepayer Benefits.....	11
6.2.2. Ratepayer Risk .....	11
6.2.3. Tracking and Balancing Accounts .....	11
6.3. SoCalGas Tariff Rule 30 Responsibilities .....	12
7. Standard of Review for Settlements.....	13
8. Application of the Standard of Review to the Facts .....	14
8.1. The Settlement is Reasonable in Light of the Whole Record .....	14

**TABLE OF CONTENTS (CONT'D)**

<b>Title</b>	<b>Page</b>
8.1.1. The Settlement is not Duplicative of Other SoCalGas Matters and Proceedings before the Commission.....	14
8.1.2. The Potential Impact of AB 1900.....	16
8.2. The Settlement is Consistent with the Law.....	17
8.2.1. The BCS Tariff Has the Potential to Further California’s Goal of Reducing Greenhouse Gas Emissions by Promoting the Development of Renewable Energy Resources.....	17
8.2.2. The BCS Tariff is Consistent with California’s Bioenergy Action Plan.....	19
8.3. The Settlement is in the Public Interest.....	20
8.3.1. The Settlement Provides the Public with Economic and Environmental Benefits.....	20
8.3.2. The Settlement Addresses DRA’s Concerns regarding Unfair Market Competition.....	21
8.4. The Settlement has the Unanimous Sponsorship of all Active Parties to the Proceeding.....	22
8.5. The Settling Parties are Fairly Reflective of the Affected Interests.....	22
8.6. The Settlement Conveys Sufficient Information to allow the Commission to Discharge its Regulatory Obligations with Respect to the Settling Parties and their Interests.....	23
9. SoCalGas’ Application Should be Granted.....	23
9.1. Standards for Evaluating Application.....	23
9.2. SoCalGas’s Application Meets the Operative Standards.....	25
9.2.1. The Statutory Requirements.....	25
9.2.2. The Commission’s Rules of Practice and Procedure.....	26
9.2.2.1. Corporate Information and Correspondence.....	26
9.2.2.2. Organization and Qualification to Transact Business.....	26
9.2.2.3. Balance Sheet and Income Statement.....	26
9.2.2.4. Rates.....	26
9.2.2.5. Property and Equipment.....	27
9.2.2.6. Summary of Earnings.....	27

**TABLE OF CONTENTS (CONT'D)**

<b>Title</b>	<b>Page</b>
9.2.2.7. Depreciation .....	27
9.2.2.8. Proxy Statement.....	27
9.2.2.9. Pass Through Costs .....	27
10. Other Issues and Modifications to the Motion for Settlement Agreement.....	28
10.1.Modifications to Joint Supplemental Exhibits.....	28
10.2.Submission of executed Feasibility Analysis Agreements and BCS Services Agreements .....	29
10.3.Reauthorization of BCS Tariff.....	30
11. Safety Requirements for the BCS Tariff .....	31
12. Categorization and Need for Hearing .....	32
13. Comments on Proposed Decision .....	33
14. Assignment of Proceeding.....	34
Findings of Fact .....	34
Conclusions of Law .....	35
ORDER .....	37

**DECISION ADOPTING JOINT SETTLEMENT AGREEMENT AND GRANTING SOUTHERN CALIFORNIA GAS COMPANY'S APPLICATION TO ESTABLISH A BIOGAS CONDITIONING AND UPGRADING SERVICES TARIFF**

**1. Summary**

This decision (1) adopts the joint settlement agreement entered into between Southern California Gas Company, Division of Ratepayer Advocates, Southern California Generation Coalition, and Agricultural Energy Consumers Association; and (2) grants Southern California Gas Company's Application to establish a biogas conditioning and upgrading services tariff by which Southern California Gas Company will offer biogas conditioning and upgrading services, subject to the terms and conditions set forth below. Southern California Gas Company is authorized to offer biogas conditioning and upgrading services for a ten-year period commencing on the date this decision is issued. Biogas conditioning and upgrading services agreements executed within this timeframe may remain in effect for the duration of their contractual term. Prior to the expiration of the ten-year period from the date this decision is issued, Southern California Gas Company may file an application requesting continuation of its authority to offer biogas conditioning and upgrading services.

This proceeding is closed.

**2. Background**

**2.1. The Application**

On April 25, 2012, Southern California Gas Company (SoCalGas) filed an Application (Application) to establish a tariff to provide biogas conditioning<sup>1</sup> and

---

<sup>1</sup> The conditioning process purifies biogas by removing chemical impurities.

upgrading<sup>2</sup> services (Application). SoCalGas asserts that it needs a new biogas conditioning and upgrading services tariff (BCS Tariff or tariff service) to meet the current and future needs of BCS customers (sometimes referred to as biogas producers) seeking to upgrade their biogas for pipeline injection, onsite power generation, or compressed natural gas vehicle fueling stations. While SoCalGas claims that its proposed BCS Tariff is not limited to any particular biogas producer or end-use application, SoCalGas asserts that the greatest initial potential demand for the tariff service will be from the landfill diversion of organic waste, wastewater treatment, dairy-ranch operations, and food and green waste processing. The biogas conditioning and upgrading service will be limited to SoCalGas service territory and will be provided to BCS customers under a long-term biogas conditioning and upgrading service agreement.

## **2.2. The Protest by Division of Ratepayer Advocates (DRA)**

On June 1, 2012, DRA<sup>3</sup> filed a protest to this Application, and alleged it is unclear from SoCalGas testimony how ratepayers will be credited for any embedded costs expended to implement the biogas conditioning and upgrading service. DRA also identified 13 issues that it believes are material to the Commission's resolution of the Application, and some of these issues were listed in the Scope of Proceeding section of the December 28, 2012 Scoping Memo and Ruling.

---

<sup>2</sup> Conditioning involves the separation of methane and carbon dioxide from the biogas.

<sup>3</sup> On September 26, 2013, Governor Brown signed Senate Bill 96 which changed DRA's name to the Office of Ratepayer Advocates. In this decision, we will continue to use the DRA acronym.

### **2.3. The Response and Request for Clarification from Southern California Generation Coalition (SCGC)**

On May 31, 2012, SCGC filed a response to SoCalGas' Application and sought clarification regarding how ratepayers will be credited for any embedded costs already included in general rates.

### **2.4. Agricultural Energy Consumers Association's (AECA) Motion for Party Status**

The assigned Administrative Law Judge (ALJ) granted AECA's Motion for Party Status.

## **3. Scope of the Proceeding**

Based on what is set forth in the parties' joint Prehearing Conference (PHC) statement, the Scoping Memo and Ruling identified the factual and legal issues for resolution as follows:

### **3.1. Issues arising from the Application**

- Should the Commission grant approval to SoCalGas to establish a BCS Tariff?
- Should an unregulated affiliate subject to the Commission's adopted affiliate transaction rule be approved to establish a BCS Tariff?
- How does SoCalGas's proposed BCS Tariff affect market competition?
- Is it beneficial and useful for SoCalGas to provide biogas conditioning and upgrading services to its customers?
- Are there any environmental benefits and environmental costs attendant to providing biogas conditioning and upgrading services?
- Are any of these environmental benefits unique to SoCalGas's biogas conditioning and upgrading services?

- Will the BCS aid in meeting California environmental goals, including its Renewables Portfolio Standard (RPS) goals?
- What will be the risks to ratepayers if the instant Application is granted?
- What will be the benefits to ratepayers if the instant Application is granted?
- What will be the risks to shareholders if the instant Application is granted?
- What will be the benefits to shareholders if the instant Application is granted?

### **3.2. Impact of Assembly Bill 1900**

Following the PHC, the parties were advised to address the impact, if any, of the September 27, 2012 passage of Assembly Bill (AB) 1900 (Gatto) (Stats. 2012, Ch 602) on this proceeding going forward. While the parties did both opine that in their view AB 1900 was not an impediment to the instant Application proceeding to decision, it was the view of the assigned Commissioner and the assigned ALJ that the impact of AB 1900 would be part of the scope of this proceeding. Therefore, the parties were directed to address in their testimony and/or briefs the impact of AB 1900 on this Application.

### **3.3. Distinguishing the Instant Application From Facially-Similar Other SoCalGas Proceedings Before the Commission**

The following additional questions from DRA's protest were also included within the scope of this proceeding:

- What is the impact on this Application of the Commission's alleged rejection of SoCalGas' request in Advice Letter (AL) 4172 to provide biogas conditioning?
- Are there any differences between the instant Application and the biogas conditioning program that SoCalGas has

before the Commission in the San Diego Gas & Electric Company (SDG&E) and SoCalGas General Rate Case Test Year 2012 (Applications (A.) 10-12-005 and 10-12-006)?

- Is the instant Application related to the SoCalGas Application A.11-11-011 (Gas Compression Service Tariff) and the SoCalGas AL 4337 (Gas Compression Services Agreement with Los Angeles Unified School District)? If so, how will the decisions in these related cases affect the outcome of the instant Application?

### **3.4. California Environmental Quality Act (CEQA)**

Finally, SoCalGas does not appear to seek, nor does the Commission intend to approve, any authority to construct or build any physical facilities associated with or related to the new tariffed services requested herein. As such, we do not believe a review of the Application is necessary under CEQA as any direct or indirect impacts to the physical environment are speculative at this time. However, SoCalGas is put on notice that the future implementation of the tariffed services contemplated in A.12-04-024 may result in permit requirements at the state, federal or local level that are discretionary and may trigger environmental review pursuant to either CEQA or the National Environmental Policy Act.

## **4. Service of Testimony and Settlement Discussions**

SoCalGas served testimony on April 25, 2012. SoCalGas served supplemental testimony on January 18, 2013 that addressed the additional issues raised in the Scoping Memo and Ruling.

DRA and SCGC served intervenor testimony on February 22, 2013. DRA focused on four main arguments:

- The BCS should be provided through a non-utility Sempra affiliate.

- As a monopoly utility, SoCalGas should not be allowed to enter into an unregulated competitive market by offering biogas conditioning and upgrading services.
- The BCS Tariff should not be approved because it exposes SoCalGas ratepayers to substantial additional liability.
- If the Commission allows SoCalGas to enter into the biogas market, the biogas conditioning and upgrading services should be subject to certain ratepayer protections.

SCGC's testimony focused on ratepayer risk, and proposed the same ratemaking imposed in the biogas compression services decision<sup>4</sup> be used for the provision of the BCS Tariff.

SoCalGas served rebuttal testimony on March 8, 2013 and addressed the issues raised by the intervenors.

Commencing in March of 2013, SoCalGas, DRA, AECA, and SCGC (referred to collectively as the Settling Parties) entered into settlement discussions and reached a settlement in principle on March 20, 2013. While evidentiary hearing dates had been scheduled in the Scoping Memo and Ruling, those dates were continued to allow the parties to focus their full attention to finalizing and memorializing their settlement.

## **5. Joint Motion for Adoption of Settlement Agreement**

On May 3, 2013, the Settling Parties filed their Joint Motion for Adoption of Settlement Agreement (Joint Motion). A copy of the Joint Motion is attached hereto as Exhibit A.

On July 29, 2013, the assigned ALJ wrote to the parties via e-mail and requested that the Settling Parties clarify certain aspects of the Joint Motion.

---

<sup>4</sup> Decision (D.) 12-12-037.

On September 6, 2013, after receiving extensions of time and instructions from the assigned ALJ, the Settling Parties filed their Joint Supplemental Exhibits for Adoption of the Settlement Agreement (Joint Supplemental Exhibits), which contained the following:

Supplemental Exhibit Title	Purpose
The Exemplary Tariff	Sets forth the terms by which the BCS Tariff services will be offered
The BCS Services Agreement	Sets forth the terms by which the BCS Tariff services will be provided to a particular customer
The Feasibility Analysis Agreement	Sets forth the terms by which the feasibility of providing BCS Tariff services will be examined
The Preliminary Statements for the Balancing and Tracking Accounts	These interest bearing balancing accounts will record the ratepayer's allocation of the general rate case embedded costs used in providing biogas conditioning and upgrading services

A copy of the Joint Supplemental Exhibits is attached hereto as Exhibit B.

## 6. Components of the Settlement Agreement

The Settlement Agreement (Settlement) has three main components which we summarize below.

### 6.1. Competitive Market: Address Unfair Competition Concerns

#### 6.1.1. Full-Cost Ratemaking

To address DRA's concerns that the BCS Tariff would promote unfair market competition, the Settlement proposes full-cost ratemaking. The BCS Tariff rate charged to the customer shall be fully compensatory (*e.g.*, corporate

overhead, employee benefits, etc.) and cost based, but not otherwise restricted. The tariff rate shall be established through negotiation between the BCS Tariff customer and SoCalGas based on a cost-of-service formulation. The formulation will employ full overhead loaders and indirect charges using a capital charge rate no lower than the utility authorized weighted average cost of capital<sup>5</sup> to ensure that the price charged for the provision of the biogas conditioning and upgrading services is fully compensatory.

### **6.1.2. BCS Tariff Promotion and Reporting Requirements**

The BCS Tariff will be promoted on a competitively neutral basis through SoCalGas' website, the use of competitively neutral scripts, bill inserts, and customer certifications. The website information (appended to the Joint Motion as Attachment1) shall be included as part of SoCalGas' Tier 2 advice letter.<sup>6</sup>

---

<sup>5</sup> Weighted average cost of capital is a calculation by which each category of capital is proportionately weighted. A firm's cost of capital is weighted by the amount of debt, preferred stock, and equity the company has in its capital structure.

<sup>6</sup> Pursuant to General Order 96-B, Part 5.2, matters that are appropriate for Tier 2 advice letters include: (1) A change in a rate or charge pursuant to an index or formula that the Commission has approved for use in an advice letter by the Utility submitting the advice letter but that the Utility has not used previously for this purpose. This Industry Rule does not cover a change pursuant to a methodology, such as a methodology approved by the Commission for use by a Utility for performance-based ratemaking; (2) A tariff change that is consistent with authority the Commission previously has granted to the Utility submitting the advice letter, such as a rate change within a price floor and ceiling previously approved by the Commission for that Utility; (3) A refund program to comply with a Commission order requiring the refund; (4) A request relating to a substation or power line under Section III.B.1 of General Order 131; (5) A rate or revenue requirement update for performance-based ratemaking as approved by the Commission for the Utility submitting the update; (6) Amortization of a balance in a balancing account if the Commission has specified both (i) the amortization period, and (ii) the rate component by which the balance will be

*Footnote continued on next page*

Information on the website and other promotional materials (appended to the Joint Motion as Attachment 2) shall state that the BCS Tariff is fully optional and not tied to other utility services, and that other providers may provide the same or similar biogas conditioning and upgrading services. BCS Tariff customers will be required to certify that they are aware that the biogas conditioning and upgrading services are optional, not tied to other utility services, and may be provided by other entities.

SoCalGas shall submit the reporting information identified as Attachment 4 to the Proposed Settlement semi-annually. SoCalGas shall also include in these reports the names and location of each BCS Tariff customer and the type of facility associated with each BCS Tariff customer, the volume of biogas conditioned and upgraded at each BCS Tariff customer's facility and the use of the treated biogas, and the term of each BCS Tariff customer's biogas conditioning and upgrading service agreement.

### **6.1.3. Non-Discriminatory Service Provision**

SoCalGas shall not tie the provision of the BCS Tariff to any other SoCalGas-provided service. SoCalGas shall provide the Commission with periodic reporting of the BCS customer certifications to validate the non-discriminatory provision of tariff services. SoCalGas shall also apply its Rule 30 gas quality standards and Rule 39 interconnection procedures on a non-discriminatory basis for BCS and non-BCS projects.

---

amortized; (7) An advice letter otherwise appropriate to Tier 1 but for which the Utility submitting the advice letter requests review and disposition under Tier 2.

## **6.2. Ratepayer Protections**

### **6.2.1. Ratepayer Benefits**

The Settling Parties agree that the state of California and the Commission have established policies emphasizing the importance of biogas as a renewable energy resource and to reduce greenhouse gas emissions. The proposed BCS Tariff has the potential to advance these goals and create environmental benefits.

### **6.2.2. Ratepayer Risk**

SoCalGas shareholders shall bear the risk associated with providing the BCS Tariff. SoCalGas ratepayers not participating in BCS projects shall bear no costs or risks from the provision of the biogas conditioning and upgrading services. Incremental costs and revenues associated with providing the BCS Tariff shall be excluded from base rates determined in SoCalGas' general rate case proceedings. BCS Tariff costs shall be excluded from future rate cases and costs associated with the provision of the BCS Tariff shall be recovered only from BCS Tariff customers or SoCal Gas shareholders.

### **6.2.3. Tracking and Balancing Accounts**

SoCalGas shall establish balancing and tracking accounts to track the BCS Tariff project costs so that costs for any ratepayer-funded resources used in promotion or delivery of biogas conditioning or upgrading services are fully reimbursed to ratepayers. BCS Tariff costs not recovered from BCS Tariff customers shall be borne by SoCalGas shareholders. SoCalGas shall establish procedures to accurately identify all ratepayer funded resources used to support the BCS Tariff and their associated costs. SoCalGas shall retain all records and documentation that are related to this function.

### **6.3. SoCalGas Tariff Rule 30 Responsibilities**

SoCalGas's Tariff Rule 30 sets forth the applicable general terms and conditions for the transportation of customer-owned gas.<sup>7</sup> This section of the Settlement should also apply to any changes to Tariff Rule 30 or to any new rule that covers the same subject matter.

For those customers wishing to interconnect to the utility pipeline system, SoCalGas must condition and upgrade biogas consistent with the applicable gas quality tariff rules; structure the service agreement so SoCalGas will not own the biogas entering a BCS Tariff facility or the processed biomethane leaving the biogas conditioning and upgrading facility; and structure the service agreement so SoCalGas will not be the "customer" under SoCalGas Tariff Rule 30. Rather, the BCS Tariff customer (or another party designated by the BCS Tariff customer) is considered the customer under SoCalGas' Tariff Rule 30 and is the liable party (per Section L.2 of Tariff Rule 30) to meet Tariff Rule 30's pipeline delivery specifications. In other words, SoCalGas will own the upgrading and conditioning facilities and the BCS customer will own the renewable natural gas.

SoCalGas must state in the BCS Tariff Agreement that the owner of the renewable natural gas is liable for any damage to pipeline integrity and safety, or human health resulting from the pipeline injection of improperly treated gas. SoCalGas is precluded from seeking cost recovery from ratepayers for any liability damage costs associated with damage to pipeline integrity, safety, environmental damage or human health resulting from pipeline injection of improperly treated gas associated with the BCS Tariff. The Settlement does not

---

<sup>7</sup> Revised Cal. P.U.C. Sheet No. 47193-G, canceling Revised Cal. P.U.C. Sheet No. 43369-G.

preclude a settling party from arguing its position relative to biogas and biomethane standards, or the utility's role, in any other proceeding, providing that no party shall argue positions in contravention of the terms of this Settlement. We note that these Settlement provisions do not relieve SoCalGas from its responsibility under Pub. Util. Code § 451 to provide service under the BCS Tariff safely and to observe all applicable Commission decisions, rules, and regulations.

The Settling Parties contend that the Settlement is reasonable in light of the whole record, is consistent with the law, and is in the public interest.

## **7. Standard of Review for Settlements**

Rule 12.1(d) of the Commission's Rules of Practice and Procedure provides that the "Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest." The proponents of a settlement have the burden of demonstrating that the settlement satisfies Rule 12.1(d).

The Commission favors the settlement of disputes. (D.11-05-018; D.07-05-060; and D.88-12-083, 30.) This policy supports many goals, including reducing the expense of litigation, conserving scarce Commission resources, and allowing parties to reduce the risk that litigation will produce unacceptable results. As long as a settlement is reasonable in light of the whole record, consistent with the law, and in the public interest, it should normally be adopted without alteration. (D.06-06-014; and D.90-08-068.)

Finally, if the moving parties assert that Settlement is supported by all parties, then the Commission must confirm that the Settlement:

- a. commands the unanimous sponsorship of all active parties to the instant proceeding;
- b. that the sponsoring parties are fairly reflective of the affected interests;
- c. that no term of the settlement contravenes statutory provision or prior Commission decisions; and
- d. that the settlement conveys to the Commission sufficient information to permit us to discharge our future regulatory obligations with respect of the parties and their interests.<sup>8</sup>

## **8. Application of the Standard of Review to the Facts**

### **8.1. The Settlement is Reasonable in Light of the Whole Record**

The Settling Parties' evaluation of the issues leading to the proposed settlement is based on the Application, Protest, DRA's Report on SoCalGas' Application, SoCalGas' direct and rebuttal testimony, SCGC's direct testimony, the stipulated facts set forth in the executed Settlement Agreement, and the time spent by the counsel for the Settling Parties in drafting this Settlement. These sources provide sufficient information to enable the Commission to (1) approve the Settlement as reasonable; (2) implement its provisions, terms, and conditions; and (3) discharge its future regulatory obligations with respect to SoCalGas.

#### **8.1.1. The Settlement is not Duplicative of Other SoCalGas Matters and Proceedings before the Commission**

Of particular importance in determining the reasonableness of the Settlement is that SoCalGas has provided a sufficiently clear record that distinguishes the Application from the SoCalGas Advice Letter No. 4172 (AL 4172) that was rejected by the Commission on August 9, 2011. First,

---

<sup>8</sup> D.92-12-019; and D.90-08-068, 37.

SoCalGas explained that in the Application, it is not proposing to design, own, operate, and maintain biogas production facilities. Second, the Application is proposing the biogas conditioning and upgrading services as a BCS Tariff and not as non-tariffed products and services as was proposed in AL 4172.<sup>9</sup>

Next, to allay concerns that the Application was potentially duplicative of other SoCalGas proceedings, SoCalGas distinguished the Application from the Sustainable SoCalGas Program presented as part of its General Rate Case.

SoCalGas explained that while the Application seeks approval to offer potential customers biogas volumes greater than 1.5 million cubic feet per day, which is the equivalent of approximately 1,040 standard cubic feet per minute (scfm), the Sustainable SoCal program seeks to install four biogas conditioning/upgrading systems at wastewater treatment plants having biogas volumes in the range of 200 to 600 scfm.<sup>10</sup> Ratepayers will be responsible for all costs and risks associated with the Sustainable SoCal Program and will receive all benefits from the program.<sup>11</sup>

SoCalGas also distinguished the Application from its Compression Services Tariff Application (CS Tariff) that was recently approved.<sup>12</sup> The fundamental difference lies in the nature of the service being provided. As stated above, the purpose for the BCS Tariff is to provide a means for the removal of moisture and other contaminants from the biogas. In contrast, the purpose for the CS Tariff is to provide compressed natural gas. Specifically, the

---

<sup>9</sup> Prepared Supplemental Testimony of Jim Lucas at 1-3.

<sup>10</sup> *Id* at 4.

<sup>11</sup> *Id.*

<sup>12</sup> D.12-12-037.

CS Tariff Application states that SoCalGas wants authority to “meet the current and future needs of non-residential customers requiring natural gas compression above the standard line pressure for customer end-use applications.”<sup>13</sup>

### **8.1.2. The Potential Impact of AB 1900**

SoCalGas explained the lack of any substantive impact of AB 1900 on its Application. By way of background, AB 1900 requires the Commission to adopt standards by December 31, 2013 for biomethane injected into the common carrier pipeline that: (1) protect public health; and (2) ensure pipeline integrity and safety. AB 1900 prohibits a gas producer from knowingly selling, supplying, transporting, or purchasing gas collected from a hazardous waste landfill and requires the Commission to give due deference to the report of other agencies to:

- Identify all constituents that may be found in biogas that is to be injected into a common carrier pipeline and that could adversely impact the health and safety of the public, and to specify the maximum amount of those constituents that may be found in that biogas; and
- Develop reasonable and prudent monitoring, testing, reporting, and recordkeeping requirements, separately for each source of biogas, that are sufficient to ensure compliance with the health protective standards.<sup>14</sup>

SoCalGas asserts there is no direct connection between the matters being addressed under AB 1900 and the Application because once the BCS Tariff is approved, SoCalGas will provide the service in accordance with the prevailing

---

<sup>13</sup> A.11-11-011 at 1, quoted in D.12-12-037.

<sup>14</sup> AB 1900, Gatto, 2012.

standards and requirements which may evolve as new sources of raw biogas are developed.<sup>15</sup>

Finally, we reviewed the Joint Supplemental Exhibits to determine if they caused us to reconsider our earlier determination that the Application would not, at present, require a CEQA review. They do not. Thus, there is nothing in the present record that would trigger a review of the Application under CEQA. Nevertheless, we reserve the right to revisit this determination should the facts regarding the Application change.

In sum, we find that the Settlement is reasonable in light of the whole record.

## **8.2. The Settlement is Consistent with the Law**

### **8.2.1. The BCS Tariff Has the Potential to Further California's Goal of Reducing Greenhouse Gas Emissions by Promoting the Development of Renewable Energy Resources**

The Settlement is consistent with the law as it furthers the statutory mandate promoting the development of renewable energy resources. Pub. Util. Code § 399.20(f)(2)(D), which was added to Article 16 (California Renewables Portfolio Standard Program), states:

The commission shall encourage gas and electrical corporations to develop and offer programs and services to facilitate development of in-state biogas for a broad range of purposes.

In response to SB 2 (IX), which directed investor owned utilities to increase their share of renewable energy in their portfolios to 33% by 2020, the Legislature

---

<sup>15</sup> Supplemental Testimony of Jeffrey Reed at 1-3.

enacted Pub. Util. Code § 399.11(b), which directed the Commission to implement the Renewables Portfolio Standard Program, reasoning that:

Increasing California's reliance on renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

These legislative enactments are part of California's comprehensive plan for reducing greenhouse gas (GHG) emissions. In September of 2006, then Governor Schwarzenegger signed AB 32 (Stats. 2006, Ch. 488), which required the California Air Resources Board to develop regulations and market mechanisms to reduce California's GHG emissions to their 1990 levels by 2020.

The BCS Tariff is an opportunity to help meet California's environmental goals. SoCalGas estimates that the amount of renewable natural gas that can be produced by twenty BCS systems is approximately 15.4 million cubic feet per day. Injecting this renewable natural gas into the utility pipeline network would provide enough fuel to generate approximately 100 megawatts of renewable power. SoCalGas further asserts that one renewable natural gas injection project can result in annual emissions reductions of 56,250 metric tons of carbon dioxide equivalent based on 411 tons per day of landfill diverted organic waste that is anaerobically digested. This is the equivalent of taking approximately 11,000 passenger vehicles off the road.<sup>16</sup> As such the BCS Tariff has the potential to promote the use of renewable energy and would support California GHG emission reduction policies.

---

<sup>16</sup> Direct Testimony of Jeffrey Reed at 5-7.

### **8.2.2. The BCS Tariff is Consistent with California's Bioenergy Action Plan**

In April of 2006, Governor Schwarzenegger signed Executive Order S-06-06 which directed state agencies to promote in-state bioenergy production and use.<sup>17</sup> In doing so, the Governor recognized that biogas (or biomethane) captured from the anaerobic decomposition of manure, food processing wastes, landfills, and wastewater treatments plants is underutilized in California. Biogas can be used directly to produce electricity or converted to biomethane to replace conventional natural gas in homes and industries. As such, Executive Order S-06-06 committed California to expanding the sustainable use of bioenergy by setting the following state targets:

- The state should produce a minimum of 20 percent of its biofuels within California by 2010, 40 percent by 2020, and 75 percent by 2050; and
- The state should meet a 20 percent procurement target for biopower within the established state goals for renewable generation for 2010 and continuing through 2020.

In response to Executive Order S-06-06, the California Energy Commission (CEC) issued documents entitled *2009 Progress to Plan – Bioenergy Action Plan for California*, and the *2011 Bioenergy Action Plan*, in which the CEC recommended the implementation of programs such as biofuel feedstock supply, collection, and processing, among others, to help develop biofuel resources in California. Since then, the Bioenergy Interagency Working Group<sup>18</sup> issued the *2012 Bioenergy*

---

<sup>17</sup> Bioenergy is energy produced from biomass in the form of electricity (biopower), renewable gas (biogas, biomethane, or synthetic natural gas), or liquid transportation fuels (biofuels).

<sup>18</sup> An organization comprised of representatives from the following agencies: California Natural Resource Agency; CEC; Department of Food and Agriculture;

*Footnote continued on next page*

*Action Plan*, which outlined the strategies, goals, objectives, and actions that California state agencies will take to increase bioenergy development in California. Specifically, the 2012 *Bioenergy Action Plan* articulated strategies to achieve the following goals:

- Increase environmentally and economically sustainable energy production from organic waste;
- Encourage development of diverse bioenergy technologies that increase local electricity generation, combined heat and power facilities, renewable natural gas, and renewable liquid fuels for transportation and fuel cell applications;
- Create jobs and stimulate economic development, especially in rural regions of the state; and
- Reduce fire danger, improve air and water quality, and reduce waste.

We find that the BCS Tariff is within the scope of these programs and that granting this Application will assist in meeting California’s objective of promoting reliance on renewable energy sources.

### **8.3. The Settlement is in the Public Interest**

#### **8.3.1. The Settlement Provides the Public with Economic and Environmental Benefits**

As part of its mission statement, the California Public Utilities Commission states that it “serves the public interest by protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure at reasonable rates, with a commitment to environmental enhancement and a healthy California

---

California Environmental Protection Agency; California Air Resources Board; California Public Utilities Commission; Department of Forestry and Fire Protection; Department of Resources Recycling and Recovery; Central Valley Regional Water Quality Control Board; and California Biomass Collaborative.

economy.”<sup>19</sup> In the foregoing discussion, we have addressed several public interest benefits of the Settlement, which we restate briefly here.

First, the Settlement resolves the disputes arising from SoCalGas’ Application. Settlements of regulatory disputes benefit the public by reducing the costs and expense of litigation and conserving Commission resources.

Second, the BCS Tariff has the potential to further California’s renewable energy goals pursuant to Senate Bill 2 (IX) and GHG emissions reductions goals pursuant to AB 32.

Third, the BCS Tariff is consistent with California’s Bioenergy Action Plan. The *2012 Bioenergy Action Plan* notes the following environment benefits from the promotion of bioenergy:

- Locally sourced renewable energy;
- Improved air and water quality and other ecosystem benefits;
- Less waste buried in landfills;
- Reduction of California’s dependence on fossil fuels and vulnerability to wildfire; and
- Reduction in net GHG emissions.

Accordingly, we find that approving the Settlement will have multiple public interest benefits.

### **8.3.2. The Settlement Addresses DRA’s Concerns regarding Unfair Market Competition**

In both its Protest and its Report on SoCalGas’s Application, DRA raised the concern that granting the Application would violate the Commission’s affiliate rules set forth in D.97-12-088. But the Settling Parties are satisfied that

---

<sup>19</sup> [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

through the Settlement's requirement of full-cost ratemaking, tariff promoting and reporting requirements, and non-discriminatory service provisions, that concern has been satisfied.

**8.4. The Settlement has the Unanimous Sponsorship of all Active Parties to the Proceeding**

The Joint Motion has been executed by the Settling Parties, who constitute all active parties to this proceeding.

**8.5. The Settling Parties are Fairly Reflective of the Affected Interests**

SoCalGas' positions reflect those of our regulated investor-owned utilities, who are required to provide safe, reliable service to their customers at just and reasonable rates. DRA reflects the views of California ratepayers, and its mission is to ensure that ratepayers are charged fair, reasonable, and legal rates for their services. SCGC is an association of gas-fired electrical generators located throughout California. The purpose of the association is to promote the interests of the electrical generators before the Commission and other governmental bodies and agencies. AECA is a non-profit agricultural consumer advocacy association which represents the energy interests of California growers, the state's leading agricultural associations, and over 45 agricultural water districts. AECA's mission is to provide a voice for agricultural energy consumers before the California Public Utilities Commission and the State Legislature, as well as educate the farm community on energy options in today's constantly evolving energy markets. Given the varying interests of the Settling Parties, we believe that their agreement to this Settlement is fairly reflective of the affected interests.

**8.6. The Settlement Conveys Sufficient Information to allow the Commission to Discharge its Regulatory Obligations with Respect to the Settling Parties and their Interests**

The Settlement, when combined with the supplemental exhibits, has sufficient factual information to allow this Commission to determine if the both the Settlement and the Application should be granted.

In sum, we find that the Settlement should be approved, subject to SoCalGas's compliance with the Ordering Paragraphs of this decision.

**9. SoCalGas's Application Should be Granted**

**9.1. Standards for Evaluating Application**

Having found that the Proposed Settlement meets the standards for approval set forth in rule 12.1(d), we must also determine if the Application itself satisfies the operative standards for approval. While the Commission's jurisdiction over this tariff filing is broad, it is guided by specific statutory provisions.

First, Pub. Util. Code § 701 gives the Commission broad regulatory jurisdiction over public utilities:

The commission may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction.

This broad authority is refined through additional statutes. The jurisdiction of the Commission over the offering of new tariffed service by a regulated gas corporation is very clear. Under Pub. Util. Code § 454:

(a) Except as provided in Section 455, no public utility shall change any rate or so alter any classification, contract, practice, or rule as to result in any new rate, except upon a

showing before the commission and a finding by the commission that the new rate is justified.

Second, as noted, *supra*, the Commission may evaluate the BCS Tariff in consideration of the public interest set forth in the Commission's Mission Statement, as well as the comparable ratepayer interests specified in Pub. Util. Code Section 740.8. These interests include health and environmental benefits, greenhouse gas emission reductions, and increased use of alternative fuel.

Taken together, these statutory provisions require the Commission to balance among the goals of promoting the development of alternative renewable energy sources, reducing air pollution, and preventing unfair competition by utilities with non-utility enterprises.

Most importantly, we must take into consideration the safety of the BCS Tariff. Pub. Util. Code § 963(b)(3) states:

It is the policy of the state that the commission and each gas corporation place safety of the public and gas employees as the top priority. The commission shall take all reasonable and appropriate actions necessary to carry out the safety priority policy of this paragraph consistent with the principles of just and reasonable cost-based rates.

Further, Pub. Util. Code Section 451 states, in part:

Every public utility shall furnish and maintain such adequate, efficient, just and reasonable service instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees and the public.

These statutes require every public utility to operate safely and that the Commission must actively protect the public and gas employees from harm.

Finally, we must also determine if the Application satisfies the requirements of Articles 2 and 3 of the Commission's Rules of Practice and Procedure.

## **9.2. SoCalGas's Application Meets the Operative Standards**

### **9.2.1. The Statutory Requirements**

As we have discussed the foregoing standards in connection with whether the Proposed Settlement should be granted, we need not repeat that analysis. Instead, we will set forth our conclusions from above which we believe satisfy the criteria set forth in Pub. Util. Code § 701 and 740.8.

First, the Application is consistent with policies adopted by the Commission and California law to reduce GHG emissions through the promotion of renewable energy sources. (*See Discussion, supra*, at Sections 8.2.1. and 8.2.2. of this decision.)

Second, the Application has sufficient protections to guard against the unfair competition concerns that DRA raised. (*See Discussion, supra*, at Section 8.3.2. of this decision.)

Third, with respect to rates, we are not in a position to determine their reasonableness at this time since under the terms of the exemplary tariff, SoCalGas and the biogas producer will negotiate a rate based on the biogas producer's unique circumstances. The negotiated services fee will be set forth in the parties' biogas conditioning and upgrading services agreement.

Fourth, the Application describes SoCalGas's experience in processing gas and how it will monitor the biogas conditioning and upgrading services. These factors indicate that SoCalGas can provide service under the BCS Tariff safely and meet its obligations under Pub. Util. Code § 451. To further minimize any

safety risks, we have included additional safety requirements in Section 11 of this decision.

**9.2.2. The Commission's Rules of Practice and Procedure**

**9.2.2.1. Corporate Information and Correspondence**

The Application satisfies Rules 2.1(a) and 2.1(b) by providing the SoCalGas' legal name and designated address for correspondence.<sup>20</sup>

**9.2.2.2. Organization and Qualification to Transact Business**

The Application satisfies Rule 2.2 by providing SoCalGas's Restated Articles of Incorporation that have been certified by the California Secretary of State, and were filed with the Commission on October 1, 1998.<sup>21</sup>

**9.2.2.3. Balance Sheet and Income Statement**

The Application satisfies Rule 3.2(a)(1) by attaching SoCalGas's balance sheet as of September 30, 2011, as well as SoCalGas's income statement for the nine-month period ending September 30, 2011.<sup>22</sup>

**9.2.2.4. Rates**

With respect to Rules 3.2(a)(2) and 3.2(a)(3), SoCalGas asserts that no rate changes will result from granting this Application.<sup>23</sup>

---

<sup>20</sup> Application at 5.

<sup>21</sup> *Id.* at 6.

<sup>22</sup> *Id.*, Attachments A and B.

<sup>23</sup> *Id.* at 6.

**9.2.2.5. Property and Equipment**

The Application satisfies Rule 3.2(a)(4) by providing a statement of the original cost and depreciation reserve attributable to SoCalGas' property and equipment.<sup>24</sup>

**9.2.2.6. Summary of Earnings**

The Application satisfies Rules 3.2(a)(5) and (6) by providing a summary of SoCalGas's earnings for the nine months ending on September 30, 2011.<sup>25</sup>

**9.2.2.7. Depreciation**

The Application satisfies Rule 3.2(a)(7) by providing an explanation of the optional methods provided in the Internal Revenue Code that SoCalGas has elected to employ.

**9.2.2.8. Proxy Statement**

The Application satisfies Rule 3.2(a)(8) by providing a copy of SoCalGas's most recent proxy statement, dated April 27, 2011, that was mailed to the Commission on May 4, 2011.<sup>26</sup>

**9.2.2.9. Pass Through Costs**

The Application satisfies Rule 3.2(a)(10) as the new tariff is forecasted to be rate neutral as tariff customers, not ratepayers, are funding the biogas project.

In sum, SoCalGas's Application should be granted, subject to SoCalGas's compliance with Section 9 of this decision.

---

<sup>24</sup> *Id.*, Attachment C.

<sup>25</sup> *Id.* at Attachment D.

<sup>26</sup> *Id.* at 7.

## **10. Other Issues and Modifications to the Motion for Settlement Agreement**

While we are granting the Settling Parties Joint Motion and approving the Application, there are a few matters that we will require SoCalGas to address as additional conditions for proceeding with its BCS Tariff.

### **10.1. Modifications to Joint Supplemental Exhibits**

The Joint Supplemental Exhibits, attached as Exhibit B, contain the exemplary tariff (BCS Tariff), BCS Services Agreement (Services Agreement), Feasibility Analysis Agreement, and Balancing and Tracking Account Preliminary statements. In order for these documents to fully reflect the terms of the Settlement, SoCalGas shall make the following revisions:

- 1) The Services Agreement shall include this sentence:

The owner of the renewable natural gas is liable for any damage to pipeline integrity and safety or human health resulting from pipeline injection of improperly treated gas.”

The source for this sentence is Settlement, Section C.2. SoCalGas shall eliminate any terms of the Services Agreement, BCS Tariff, or Feasibility Analysis Agreement that are inconsistent with this provision.

- 2) The Services Agreement shall include this sentence:

Southern California Gas Company is not the “customer” under Tariff Rule 30. The BCS Tariff customer, or other party designated by the BCS Tariff customer, will be considered the customer under Southern California Gas Company’s Rule 30 and is the liable party (per section L.2 of Rule 2 of Rule 30) to meet Rule 30 pipeline delivery specifications.

The sources for these sentences are Settlement, Section C.1. third bullet point and Joint Motion at 18. SoCalGas shall eliminate any terms of the Services

Agreement, BCS Tariff, or Feasibility Analysis Agreement that are inconsistent with this provision.

- 3) The Rates section in the BCS Tariff shall include this sentence:

The rate charged to the customer shall be fully compensatory and cost based using a cost-of-service formulation.”

The source for this sentence is Proposed Settlement Section A. i.

Consistent with this decision, the BCS Tariff shall also include this sentence:

The BCS Tariff will remain open to new customers ten years from the issuance date of the Commission’s approval decision, unless this date is extended by order of the Commission. Service Agreements executed within this timeframe may remain in effect for the duration of their term.

- 4) The Disposition section of Preliminary Statement Part V shall include the following sentence:

In the event that a BCS customer is not a SoCalGas core or noncore customer, the refund of the costs associated with the use of embedded resources in providing biogas conditioning services will be allocated to core and noncore customers on an Equal Percent Authorized Margin (EPAM) basis.

SoCalGas shall file the documents in Exhibit B as revised herein by a Tier 2 advice letter not later than 30 days from the date of this decision.

### **10.2. Submission of executed Feasibility Analysis Agreements and BCS Services Agreements**

Upon execution, SoCalGas shall promptly submit complete, unredacted copies of all executed Feasibility Analysis Agreements and BCS Services Agreements and the exhibits thereto to the Director of the Commission’s Energy

Division. These documents will further serve the Commission's oversight of the BCS Tariff.

### **10.3. Reauthorization of BCS Tariff**

Our approval of the BCS Tariff is based on its potential to realize significant environmental benefits and SoCalGas' assertion that the utility would provide financial resources and expertise needed to further develop the biogas conditioning market. To determine the extent that these objectives are achieved, we shall require SoCalGas to submit a program review and market report (Report) to the Commission that includes the following information:

- 1) the ratepayer benefits, greenhouse gas emission reductions and other environmental gains the BCS Tariff has achieved;
- 2) the utility's efforts to further develop the biogas conditioning and upgrading market and to compete fairly with nonutility enterprises for customers;
- 3) SoCalGas's market share of the southern California biogas conditioning and upgrading market;
- 4) an assessment of the level of competition in the southern California biogas conditioning and upgrading market, and
- 5) the prospects for developing future biogas sources in southern California.

This comprehensive review would be most informative both early in the implementation of the tariff and after the utility has had sufficient time to offer the BCS Tariff and solicit customers. Therefore, the time period to be covered by the Report is the first four and then eight years that the BCS Tariff has been in effect. These Reports are due 90 days after the four year and eight-year period have lapsed.

In order to provide the Commission with an opportunity to review the public interest impacts of the BCS Tariff and to help ensure that SoCalGas's share

in the conditioning services market does not unduly affect competition with third party entities, we shall limit SoCalGas' authority under this decision for a ten-year period beginning from the issuance date of this decision. BCS service agreements the utility has executed during this ten year period may remain in effect for the term of the agreement.

SoCalGas may file an application requesting to continue to offer the BCS tariff to new customers beyond this ten-year period. The application shall be filed on the date that the second Report is due as described above. The Report shall be appended to the application as it will help inform us as to whether SoCalGas's request should be granted. This proceeding to reauthorize the BCS Tariff provides us with an opportunity to review SoCalGas's impact on the market and assess if the utility's continued market presence is in the public interest.

#### **11. Safety Requirements for the BCS Tariff**

SoCalGas explained that it will have gas quality monitors to analyze both the gas entering the BCS facility and the biomethane leaving the BCS facility. In addition, SoCalGas will have valves with controls to divert biomethane from reaching its pipelines if the gas does not meet its Tariff Rule 30 gas quality specifications.<sup>27</sup>

The steps that SoCalGas said it will take to minimize the hazards posed by producing noncompliant biomethane are important for the protection of the

---

<sup>27</sup> Prepared Direct Rebuttal Testimony of Jim Lucas, March 8, 2013, at 3.

public and pipeline integrity.<sup>28</sup> To ensure that SoCalGas meets their commitments, we will require that the utility install this monitoring equipment at each BCS facility and the control valves at those BCS facilities that inject biomethane into the utility's pipelines. Consistent with the Settlement, the costs of all such equipment will be borne by BCS Tariff customers or SoCalGas shareholders.<sup>29</sup> SoCalGas shall list in its semi-annual reports all instances where a control valve was activated because non-compliant biomethane was produced and shall describe how the problem was corrected. The Commission may investigate these operations if it appears that there are an inordinate number of shut-off occurrences.

SoCalGas shall also ensure that its employees and contractors are adequately trained to safely operate the biogas conditioning and upgrading equipment and to effectively respond to any malfunction.

In addition to these specific requirements, SoCalGas must also observe all applicable laws, Commission decisions, rules and regulations in providing service under the BCS Tariff.

## **12. Categorization and Need for Hearing**

In Resolution ALJ 176-3293 dated May 10, 2012, the Commission preliminary categorized this application as Ratesetting, and preliminary determined that hearings were necessary. The parties reached a settlement

---

<sup>28</sup> DRA's Report on the Application of Southern California Gas Company to Establish a Biogas Conditioning and Upgrading Services Tariff, February 22, 2013, at 23-4 describes the risks of impure gas entering the gas pipeline system.

<sup>29</sup> See also SoCalGas Tariff Rule 39, Section A.3.

agreement. Therefore, the hearing determination is changed to state that no evidentiary hearings are necessary.

### **13. Comments on Proposed Decision**

The proposed decision of the ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were timely filed by DRA, SCGC and SoCalGas on December 9, 2013. Reply comments were timely filed by DRA, SCGC, SoCalGas and AECA on December 16, 2013.

Comments from all the parties broadly support the proposed decision. SCGC recommended clarifications to the Conclusions of Law to ensure that executed contracts will stay in effect through the term of the contract, regardless of any pending reauthorization of the program. SoCalGas recommended that the Commission eliminate the proposed five-year term of the program and instead either (a) require an advice letter filing in five-years with the BCS tariff continuing in operation unless and until the Commission takes action to terminate the BCS tariff or (b) authorize the program for 10 years. In reply comments, SCGC and AECA support the recommendations from SoCalGas.

All comments and reply comments were considered. The Commission is supportive of development of the biogas market and understands that sufficient time is needed to analyze the market impact of BCS tariff. The Commission also has sufficient authority to limit the authorization of the tariff "to ensure that SoCalGas's program continues to serve the public interest," as stated in reply comments from ORA.

That said, we are persuaded by SoCalGas that a 5-year termination date may not yield substantive new market information and may provide uncertainty

to new customers making longer-term business decisions. In order to address this potential uncertainty, we have modified the decision to order SoCalGas to submit a program review and market report after 4 and 8 years, and to extend authorization of the tariff for 10 years from the issuance date of this decision. In addition, the proposed decision has been modified where appropriate to address the clarifications that SCGC proposed. In making the modifications to the Settlement, the Commission is exercising its authority pursuant to Rule 12.4 of the Commission's Rules of Practice and Procedure, and Pub. Util. Code § 1701.

#### **14. Assignment of Proceeding**

Carla J. Peterman is the assigned Commissioner and Robert M. Mason III is the assigned ALJ in the proceeding.

#### **Findings of Fact**

1. SoCalGas is a public utility corporation organized and existing under the laws of the state of California. Its principal place of business and mailing address is 555 West Fifth Street, Los Angeles, California, 90013.
2. SoCalGas's Restated Articles of Incorporation have been certified by the California Secretary of State. The Restated Articles of Incorporation were filed with the Commission on October 1, 1998.
3. In this Application, SoCalGas proposes to establish a tariff to provide biogas conditioning and upgrading services.
4. On June 1, 2012, DRA filed a protest to this Application.
5. On May 31, 2012, SCGC filed a response to SoCalGas's Application.
6. On May 3, 2013, the Settling Parties filed their Joint Motion.
7. On July 29, 2013, the assigned ALJ wrote to the Settling Parties and requested they clarify certain aspects of the Joint Motion.

8. On September 6, 2013, the Settling Parties filed their Joint Supplemental Exhibits for Adoption of the Settlement Agreement. The Joint Supplemental Exhibits are the exemplary tariff, the BCS services agreement, the feasibility analysis agreement, and the preliminary statements for the balancing and tracking accounts.

### **Conclusions of Law**

1. Pursuant to Pub. Util. Code § 701, the Commission has broad regulatory jurisdiction over public utilities and the services that they offer.

2. Pursuant to Pub. Util. Code § 454, the Commission reviews the pricing of all tariff services to ensure that the new rate is justified.

3. The Proposed Settlement addressed and resolved the concerns raised by DRA and SCGC.

4. The Proposed Settlement commands the unanimous sponsorship of all active parties to the instant proceeding.

5. The Settling Parties are fairly reflective of the affected interests.

6. The Proposed Settlement, along with the Supplemental Exhibits, convey sufficient information to permit the Commission to discharge its regulatory obligations with respect to the parties and their interests.

7. The Proposed Settlement addressed and resolved the factual and legal issues for resolution that were identified in the December 28, 2012 Scoping Memo and Ruling.

8. The Proposed Settlement filed in this proceeding, including all of its terms and conditions, is reasonable in light of the whole record, is consistent with the applicable law, and its adoption would be in the public interest. As such, the Proposed Settlement should be adopted.

9. The Proposed Settlement contains sufficient guidelines and rules to guard against unfair competition in the provision of the BCS Tariff.

10. The Proposed Settlement contains sufficient protections for ratepayers in the form of ratepayer benefits and the elimination of ratepayer risks.

11. The Proposed Settlement will allow SoCalGas to fulfill its responsibilities under SoCalGas's Tariff Rule 30.

12. The Commission has the authority to modify the terms of a Settlement pursuant to Rule 12.4 of the Commission's Rules of Practice and Procedure, and Pub. Util. Code Section 1701.

13. SoCalGas's Application to Establish a Biogas Conditioning & Upgrading Services Tariff should be granted, as modified.

14. The Application is consistent with the policies adopted by the Commission and California law to reduce GHG emissions through the promotion of renewable energy sources.

15. The Application has sufficient protections to guard against unfair competition.

16. SoCalGas has provided the necessary corporation information and correspondence required by Rules 2.1(a) and 2.1(b) of the Commission's Rules of Practice and Procedure.

17. SoCalGas has provided the necessary organization and qualifications required by Rule 2.2 of the Commission's Rules of Practice and Procedure.

18. SoCal Gas has provided the necessary balance sheet and income statement required by Rule 3.2(a)(1) of the Commission's Rules of Practice and Procedure.

19. SoCalGas has provided the necessary statement of the original cost and depreciation reserve attributable to SoCalGas's property required by Rule 3.2(a)(4) of the Commission's Rules of Practice and Procedure.

20. SoCalGas has provided the necessary summary of earnings required by Rules 3.2(a)(5) and (6) of the Commission's Rules of Practice and Procedure.

21. SoCalGas has provided the necessary explanation of depreciation method required by Rule 3.2(a)(7) of the Commission's Rules of Practice and Procedure.

22. SoCalGas has provided the necessary proxy statement required by Rule 3.2(a)(8) of the Commission's Rules of Practice and Procedure.

23. No rate changes will result from the granting of SoCalGas's Application.

24. The new BCS Tariff will be rate neutral as tariff customers, rather than ratepayers, will be funding the biogas project.

25. Hearings are not necessary.

26. Application 12-04-024 should be closed.

## **O R D E R**

### **IT IS ORDERED** that:

1. The Settlement Agreement between Southern California Gas Company, Division of Ratepayer Advocates, Southern California Generation Coalition, and Agricultural Energy Consumers Association, is approved.

2. Southern California Gas Company's application to establish a biogas conditioning & upgrading services tariff is granted subject to the conditions set forth herein.

3. The tariff rate charged to the customer shall be fully compensatory (*e.g.*, corporate overhead, employee benefits, etc.) and cost based, but not otherwise restricted except for the fully-compensatory provision provisions.

4. The tariff rate shall be established through negotiation between the Biogas Conditioning & Upgrading Services Tariff (BCS Tariff) customer and Southern

California Gas Company based on a cost-of-service formulation. The formulation will employ full overhead loaders and indirect charges using a capital charge rate no lower than the utility authorized weighted average cost of capital to ensure that the price charged for the provision of the BCS Tariff is fully compensatory.

5. The Biogas Conditioning & Upgrading Services Tariff will be promoted on a competitively neutral basis through Southern California Gas Company's website, the use of competitively neutral scripts, bill inserts, and customer certifications. The website information (appended to the Joint Motion for Adoption of Settlement Agreement as Attachment 1) shall be included as part of Southern California Gas Company's Tier 2 advice letter. Information on the website and other promotional materials (appended to the Joint Motion for Adoption of Settlement Agreement as Attachment 2) shall state the tariff is fully optional and not tied to other utility services, and that other providers may provide the same or similar services.

6. Southern California Gas Company (SoCalGas) shall not tie the provision of the biogas conditioning and upgrading services to any other SoCalGas-provided service. SoCalGas shall provide the Commission with periodic reporting of the BCS customer certifications to validate the non-discriminatory provision of biogas conditioning and upgrading services.

7. Southern California Gas Company (SoCalGas) shareholders shall bear the risk associated with providing the biogas conditioning and upgrading services. SoCalGas ratepayers not participating in the Biogas Conditioning & Upgrading Services (BCS) projects shall bear no costs or risks from the provision of this service. Incremental costs and revenues associated with providing the Biogas Conditioning & Upgrading Services Tariff (BCS Tariff) shall be excluded from

base rates determined in Southern California Gas Company's general rate case proceedings. BCS Tariff costs shall be excluded from future rate cases and costs associated with the provision of the biogas conditioning and upgrading services shall be recovered only from BCS Tariff customers or Southern California Gas Company shareholders.

8. Southern California Gas Company shall establish balancing and tracking accounts to track the Biogas Conditioning & Upgrading Services Tariff (BCS Tariff) project costs so that costs for any ratepayer-funded resources used in promotion or delivery of biogas conditioning or upgrading services are fully reimbursed to ratepayers. BCS Tariff costs not recovered from BCS Tariff customers shall be borne by Southern California Gas Company shareholders. Southern California Gas Company shall establish procedures to accurately identify all ratepayer funded resources used to support the BCS Tariff and their associated costs. Southern California Gas Company shall retain all records and documentation that are related to this function.

9. For those customers wishing to interconnect to the utility pipeline system, Southern California Gas Company must condition or upgrade biogas consistent with the applicable gas quality tariff rules; structure the service agreement so Southern California Gas Company will not own the biogas entering a biogas conditioning and upgrading services facility or the processed biomethane leaving the biogas conditioning and upgrading services facility; and structure the service agreement so Southern California Gas Company will not be the "customer" under Southern California Gas Company's Tariff Rule 30.

10. Southern California Gas Company must state in the biogas conditioning and upgrading services agreement that the owner of the renewable natural gas is liable for any damage to pipeline integrity and safety or human health

resulting from pipeline injection of improperly treated gas. Southern California Gas Company is precluded from seeking cost recovery from ratepayers through rates for any liability damage costs associated with damage to pipeline integrity, safety, environmental damage or human health resulting from pipeline injection of improperly treated gas associate with the Biogas Conditioning & Upgrading Services Tariff.

11. The Settlement does not preclude a settling party from arguing its position relative to biogas and biomethane standards, or the utility's role, in any other proceeding, providing that no party shall argue positions in contravention of the terms of this Settlement.

12. The biogas conditioning and upgrading services agreement shall include these sentences:

The owner of the renewable natural gas is liable for any damage to pipeline integrity and safety or human health resulting from pipeline injection of improperly treated gas.

Southern California Gas Company (SoCalGas) is not the "customer" under Tariff Rule 30. The BCS Tariff customer, or other party designated by the BCS Tariff customer, will be considered the customer under SoCalGas' Rule 30 and is the liable party (per section L.2 of Rule 2 of Rule 30) to meet Rule 30 pipeline delivery specifications.

Southern California Gas Company shall eliminate any terms of the biogas conditioning services agreement, BCS Tariff, or Feasibility Analysis Agreement that are inconsistent with these provisions.

13. The Rates section in the BCS Tariff shall include this sentence:

The rate charged to the customer shall be fully compensatory and cost based using a cost-of-service formulation.

14. The Biogas Conditioning and Upgrading Services Tariff (BCS Tariff) shall include this sentence:

The BCS Tariff will remain open to new customers 10 years from the issuance date of the Commission's decision, unless this date is extended by order of the Commission. Service Agreements executed within this timeframe may remain in effect for the duration of their term.

15. The Disposition section of Preliminary Statement Part V shall include the following sentence:

In the event that a Biogas Conditioning and Upgrading Services Tariff (BCS Tariff) customer is not a Southern California Gas Company Southern California Gas Company core or noncore customer, the refund of the costs associated with the use of embedded resources in providing biogas conditioning services will be allocated to core and noncore customers on an Equal Percent Authorized Margin basis.

16. Southern California Gas Company shall submit a report with the following information:

- a. the ratepayer benefits, greenhouse gas emission reductions and other environmental gains the Biogas Conditioning and Upgrading Services Tariff has achieved;
- b. the utility's efforts to further develop the biogas conditioning and upgrading market and to compete fairly with nonutility enterprises for customers;
- c. Southern California Gas Company's market share of the Southern California biogas conditioning and upgrading market;
- d. an assessment of the level of competition in the southern California biogas conditioning and upgrading market, and
- e. the prospects for developing future biogas sources in Southern California.

The report shall be submitted to the Commission's Director of the Energy Division four years and 90 days and 8 years and 90 days after the issuance date of this decision.

17. Upon execution, Southern California Gas Company shall promptly submit complete, unredacted executed copies of all biogas conditioning and upgrading services agreements and Feasibility Services Agreements and the exhibits thereto to the Commission's Director of the Energy Division.

18. The authority for Southern California Gas Company to offer the Biogas Conditioning & Upgrading Services Tariff to new customers will terminate 10 years from the issuance date of this decision. Service Agreements executed within this timeframe may remain in effect for the duration of their term. Southern California Gas Company may file an application requesting continuation of the service as provided for herein.

19. Southern California Gas Company shall file a Tier 2 advice letter with the Biogas Conditioning & Upgrading Services Tariff, the biogas conditioning and upgrading services agreement, Feasibility Analysis Agreement, and Balancing and Tracking Account Preliminary Statements as modified herein and the website information referred to in Ordering Paragraph 5 no later than 30 days following the date of this decision.

20. Southern California Gas Company shall submit the semi-annual reports with the required information to the Commission's Director of the Energy Division. The first report is due six months from the date of this decision and every six months thereafter for the duration of the biogas conditioning and upgrading services program.

21. Southern California Gas Company shall install monitoring equipment at each biogas conditioning and upgrading services facility, and control valves at each biogas conditioning and upgrading services facility that injects biomethane into the utility's pipelines. Southern California Gas Company shall list in its semi-annual reports all instances where a control valve was activated because

non-compliant biomethane was produced and shall describe how the problem was corrected.

22. Southern California Gas Company shall ensure that its employees and contractors are adequately trained to safely operate the biogas conditioning and upgrading equipment and to effectively respond to any malfunction.

23. The hearing determination is changed to no hearings necessary.

24. Application 12-04-024 is closed.

This order is effective today.

Dated December 19, 2013, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
MICHEL PETER FLORIO  
CATHERINE J.K. SANDOVAL  
MARK J. FERRON  
CARLA J. PETERMAN  
Commissioners