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The Honorable Judge Myra J. Prestidge
Administrative Law Judges Division
DOCKET OFFICE
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Re: Funding of LEV Programs; A. 02-03-047 & A. 02-03-049

Dear Honorable Judge Prestidge:

It has come to our attention that three critical issues impacting natural gas vehicle (NGV) customers may not have received appropriate attention during the LEV program filing. Although ENRG has not been an intervener, we respectfully request that the items in this letter be considered and that this letter serve as a Concurrent Opening Brief.

ENRG owns and operates over 90 Compressed Natural Gas (CNG) and Liquefied Natural Gas (LNG) stations throughout North America. ENRG is located in Seal Beach, California and has the sole business purpose of developing natural gas and hydrogen fueling stations to support customers in their effort to utilize clean burning vehicles.

ISSUE 1:

In reviewing the Scoping Memo and Ruling issued in June 2002, a decision to separate the mandatory Utility operational requirements (i.e., utility fleet EPACT requirements, fueling infrastructure, etc.) from the LEV Program extension was reached. However, it appears that Balancing Account treatment was unaddressed. Of particular concern, in reviewing Southern California Gas Company's (SoCalGas) original filing, it appears that the Utility has Under-collected (\$15.2 million, NGV-OA) from general ratepayers for mandatory Utility operational requirements. In contrast, the Utility has Over-collected (\$13.7 million, NGV-RA) from NGV customers for LEV Program expenses. It does not appear appropriate to co-mingle these Balancing account funds. Rather, NGV customers should be entitled to a partial or complete refund of the Over-collection.

While the information available for PG&E is less clear, reaching clarity on their Balancing Account treatment is of equal concern.

ISSUE 2

Following (D.) 95-11-035, an advice letter was issued providing SoCalGas a special Shareholder Incentive of approximately \$0.024 per Therm conditioned upon continued annual shareholder investment. This additional incentive collection appears to be accounted for in the Over-collected account. ENRG respectfully requests that this Special Incentive not be over-looked and the following be considered:

- (1) The Shareholder participation has been significantly reduced and then eliminated over the past several years which should reduce or eliminate the allowable incentive. Further, it is ENRG's belief that any claimed Shareholder participation has not actually fostered NGV market development and that any collection should be returned to NGV customers.
- (2) The Shareholder incentive should be eliminated from future rate collection as the standard Utility return on ratebase is sufficient incentive.

ISSUE 3

Both SoCalGas and PG&E retail pump prices are offered at the compressed NGV tariff rate. The compressed rates were originally developed in 1991 based upon assumed operational information and have never been inflated or again revisited. ENRG is active throughout the State of California having acquired many of the utility NGV station assets. Based on our experience operating a wide range of stations, the utility retail rates appear to receive a cross subsidy of \$0.30 to \$0.50 per gallon merely to achieve a breakeven station cash flow. This creates unfair competition in the market providing an unrealistic benchmark for retail sales.

As a small corporation working to create and develop the Natural Gas Vehicle industry, the fair and reasonable treatment of rates is of paramount importance. While we are concerned with the issues identified herein, ENRG strongly supports the continued funding of the LEV Program as the utilities represent key and vital partners in supporting the rate-paying NGV customers of California.

Once again, ENRG respectfully requests that these items receive full attention on behalf of the 25,000 NGV customers we serve in the State of California. With your permission, ENRG would appreciate the opportunity to file a Concurrent Reply Brief.

Sincerely,



Andrew J. Littlefair
CEO and President