

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking Regarding
Policies, Procedures and Rules for the Self-
Generation Incentive Program and Related
Issues.

Rulemaking 20-05-012
(Filed on May 28, 2020)

**SOUTHERN CALIFORNIA GAS COMPANY'S (U 904 G) MOTION TO STRIKE
CERTAIN SECTIONS OF SIERRA CLUB AND NATURAL RESOURCE DEFENSE
COUNCIL'S REPLY COMMENTS ON THE ORDER INSTITUTING RULEMAKING
REGARDING POLICIES, PROCEDURES AND RULES FOR THE SELF-
GENERATION INCENTIVE PROGRAM AND RELATED ISSUES**

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SOUTHERN CALIFORNIA GAS COMPANY’S (U 904 G) MOTION TO STRIKE CERTAIN SECTIONS OF SIERRA CLUB AND NATURAL RESOURCE DEFENSE COUNCIL’S REPLY COMMENTS ON THE ORDER INSTITUTING RULEMAKING REGARDING POLICIES, PROCEDURES AND RULES FOR THE SELF-GENERATION INCENTIVE PROGRAM AND RELATED ISSUES

Pursuant to Rule 11.1(e) of the Rules of Practice and Procedure (Rules) of the California Public Utilities Commission (Commission or CPUC), Southern California Gas Company (SoCalGas) moves for an order striking portions of Sierra Club and Natural Resource Defense Council’s (SC/NRDC) Reply Comments on the Order Instituting Rulemaking Regarding Policies, Procedures and Rules for the Self-Generation Incentive Program (SGIP) and Related Issues (OIR or rulemaking).

I. INTRODUCTION

SC/NRDC seeks to prohibit SoCalGas from providing its prudent Program Administrator’s (PA) perspective on the applicability of existing program rules relating to Heat Pump Water Heaters (HPWHs) as a thermal energy storage (TES) resource by presenting irrelevant and inflammatory information into this proceeding. SC/NRDC’s reply comments to the SGIP OIR is effectively a collateral attack on the legitimate issues SoCalGas has raised including seeking clarification from the Commission regarding the treatment of HPWHs as an SGIP-incentivized technology. Specifically, SoCalGas requests that the Commission clarify whether HPWHs are subject to the same program baseline used to evaluate greenhouse gas

(GHG) emission reductions of all SGIP-incentivized technologies, or if a different baseline is necessary to evaluate HPWH GHG emission reductions. This will provide clarity to the PAs, stakeholders, and participants on the assessment of HPWH in SGIP and support administration of SGIP for HPWHs.

By failing to address the merits of SoCalGas's request regarding applicability of existing program baseline standards for HPWHs as a TES technology like all other SGIP-incentivized technologies, SC/NRDC's reply was procedurally deficient and inappropriately introduced information that should be stricken because it: (1) is irrelevant, inflammatory, and outside the scope of this proceeding; (2) improperly attacks SoCalGas's conduct as a prudent SGIP Program Administrator (PA) for SGIP; and (3) seeks to effectively prohibit SoCalGas's speech, which is protected under the First Amendment.¹

II. DISCUSSION

A. SC/NRDC Seeks to Improperly Introduce Information that is Not Relevant, Inflammatory, and Outside the Scope of This Proceeding

SC/NRDC's efforts to bring forth information that is taken out of context and irrelevant to this proceeding must be rejected. SoCalGas seeks to strike SC/NRDC arguments relating to allegations of efforts to obstruct progress on electrification of gas appliances relating to SoCalGas's involvement with Californians for Balanced Energy Solutions, including Attachment B of SC/NRDC's Reply Comments in its entirety.² Those issues are being addressed in other venues and simply have no place within this SGIP proceeding other than to act to unfairly

¹ SoCalGas respectfully requests that the sections of SC/NRDC's Reply Comments be stricken as shown in Attachment A.

² Attachment A at Nos 1-5.

prejudice SoCalGas.³ SC/NRDC delves into a significant amount of detail regarding matters that are clearly outside this proceeding. SC/NRDC apparently seeks to discredit and discount SoCalGas's valid concerns that it has raised in the SGIP proceeding regarding assessing HPWH GHG emissions.

Similarly, SoCalGas seeks to strike sections of SC/NRDC's reply that also seek to improperly inject information obtained from proceedings outside the scope of the SGIP relating to Title 24 to allege that SoCalGas has a conflict that will prevent it from appropriately administering SGIP, including Attachment A of SC/NRDC's Reply Comments in its entirety.⁴ The information and resulting allegations in SC/NRDC's reply are taken out of context from a separate proceeding and are not relevant to this proceeding and therefore should be stricken. Furthermore, those matters are being addressed in other venues and should not be injected into the record here.⁵ As discussed further below, the information is irrelevant and only seeks to collaterally discredit SoCalGas's comments in this proceeding and relies on speculation instead of focusing on the merits of the actual issues at hand and SoCalGas's conduct as an SGIP PA.

These specific comments should be stricken because SC/NRDC is trying to introduce irrelevant information to muddy the waters on the substantive issue SoCalGas is trying to address. The Commission has already determined that HPWHs are categorically eligible as a

³ Administrative Law Judge's Ruling Disposing of Various Motions Related to Californians for Balanced Energy Solutions and Southern California Gas Company, issued June 25, 2020 in Rulemaking (R.) 19-01-011, at 6 ("In order to address whether the funding of C4BES is eligible for cost recovery from ratepayers, the Commission will need additional information.").

⁴ Attachment A at Nos. 6-13.

⁵ See Order to Show Cause Directing SoCalGas to Address Shareholder Incentives for Codes and Standards Advocacy Expenditures, issued December 17, 2019 in R.13-11-005; Assigned Commissioner's Ruling Setting the Scope and Schedule for the Order to Show Cause Against Southern California Gas Company, issued March 2, 2010 in R.13-11-005 (included in scope of the OSC are issues relating to whether SoCalGas's used ratepayer funds to advocate against stricter codes and standards or adoption of reach codes); and March 23, 2020 Email Ruling Clarifying Scope of Order to Show Cause and Providing Further Instructions for Hearing in R.13-11-005.

TES technology.⁶ SoCalGas does not challenge the eligibility of HPWHs. SoCalGas believes the Commission should, however, clarify the appropriate baseline for the assessment of GHG emissions of HPWHs. SC/NRDC constructs irrelevant and argumentative information from matters completely outside of this proceeding to imply generalized inappropriate conduct by SoCalGas in its position as a PA. This belies SC/NRDC's strategy to impugn SoCalGas's credibility by providing 135 pages of irrelevant information and speculation in reply comments rather than addressing the requested clarification for HPWHs as a TES technology.

SC/NRDC also improperly seeks through its reply and request to have the Commission effectively chill or prohibit SoCalGas's speech that is protected under the First Amendment. SC/NRDC in effect argues for specific content-based restrictions on SoCalGas's speech with regards to HPWH in its position as a SGIP PA. As SoCalGas explains further below (and in filed comments), the appropriate baseline to evaluate HPWH GHG emission reductions as a TES technology has a direct nexus to appropriately administering SGIP incentives that are paid for by ratepayers and therefore clearly implicates an issue of public interest.

SC/NRDC's diversion in submitting a 135-page document in reply comments fails to abide by the requirement that reply comments address opening comments. In this case, SC/NRDC raises new issues for the first time in reply comments by producing information clearly outside the scope of opening comments. SC/NRDC introduces content at the last minute that can lead to significant policy changes or decisions. Moreover, it is particularly challenging when such a tactic has the effect of preventing SoCalGas from making legitimate requests of the Commission and detracts from an important program clarification.

⁶ Decision (D.) 19-09-027 at 68.

B. Clarification of the Baseline Standards for HPWHs as an SGIP-Incentivized TES Technology is Needed and Would be Beneficial so PAs, Stakeholders and Participants

SC/NRDC's reply relies on speculation and innuendo to allege that it has conclusively established a conflict of interest that would prevent SoCalGas from objectively establishing standards for SGIP. The record in SGIP proves otherwise. SoCalGas has been justified in raising the question about what the appropriate standard HPWHs will be measured against as a TES technology. SC/NRDC provide a table, which addresses the GHG emissions from fuel switching and appliance replacement, however, it does not contain information on the GHG emission reductions or avoided emissions from the electric grid.⁷ To date, *all SGIP-incentivized technologies have had their GHG emission reduction benefits measured against the electric grid.* This ostensibly is because the Commission has sought to support the underlying intent of SGIP to reduce GHG emissions from the electric grid.⁸

SoCalGas requests that the Commission consider this issue within the scope proceeding so that there is clear Commission guidance on whether HPWH technologies will be measured against a baseline that *diverges from all other SGIP technologies, including other TES technologies.*⁹ Moreover, SoCalGas has actively participated and raised the same issue in its work on the HPWH working group. SoCalGas believes the discussion in the working group has been informative and had sought clarity as a prudent SGIP PA for the appropriate evaluation methodology for the performance of HPWH as an SGIP-incentivized technology. Moreover, contrary to SC/NRDC's discrediting narrative, SoCalGas has stated that this clarification could be considered within the proposed schedule so that there would be no delay.¹⁰

⁷ SC/NRDC Reply Comments at 3.

⁸ SoCalGas Reply Comments at 2.

⁹ SoCalGas Reply Comments at 2.

¹⁰ SoCalGas Reply Comments at 3.

C. SC/NRDC’s Argumentative Information is Contrary to SoCalGas’s Conduct as a Prudent SGIP PA

SoCalGas has a long and proven track record as a prudent SGIP PA and takes its responsibilities as a SGIP program administrator seriously. SC/NRDC’s suggestion that the inclusion of HPWHs into SGIP would create a conflict of interest is speculation and completely ignores SoCalGas’s performance as a SGIP PA. Since 2011, the majority of SoCalGas’s SGIP applications have been for energy storage technologies. Since 2017, SoCalGas has managed over 1,400 reservations for energy storage projects.¹¹ This is important to note because as a program measurement and evaluation requirement, SGIP completes regular assessments of PA performance. In the 2017 PA Evaluation, a significant proportion of respondents reported extremely high levels of satisfaction with SoCalGas. This is underscored by the fact that 97% of these respondents were energy storage participants,¹² where HPWHs are an energy storage technology, this highlights that SoCalGas does not have a conflict. These assessments conducted by third parties directly refute SC/NRDC’s speculative claims or inferences of improper conduct or bias. The Commission should grant SoCalGas’s motion rather than allow the introduction of irrelevant and inflammatory information that is clearly outside the scope of this proceeding to detract from the substantive issues at hand.

III. CONCLUSION

Based on the foregoing, SoCalGas respectfully requests the Commission grant SoCalGas’s motion to strike information that has arisen completely outside this proceeding solely to discredit SoCalGas in this proceeding. This information has no bearing whatsoever on SoCalGas’s performance as a prudent PA for SGIP, fails to address SoCalGas’s request for

¹¹ SGIP Weekly Statewide Report_07_24_2020.

¹² 2017 SGIP PA Evaluation, TABLE 3-10: SCG HOST CUSTOMER STRATA QUOTA.

ATTACHMENT A

No.	Statement (and Related References) to be Stricken	Location in Reply	Basis for Striking
1.	SoCalGas efforts to obstruct progress on electrification of gas appliances continue to this day. SoCalGas organized and funded the front group Californians for Balanced Energy Solutions to create the perception of public opposition to building electrification.	Reply at 6.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.
2.	In a further investigation by the Public Advocates Office (“PAO”), evidence adduced thus far “goes to among, other things, whether SoCalGas paid people to appear to speak during the public comment portion of Commission voting meetings, without disclosing that they were acting on behalf of SoCalGas.”	Reply at 6.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.
3.	The depths of SoCalGas’ anti-electrification campaign has yet to be fully known due to its continued obstruction of PAO’s investigation. This includes its refusal to respond to discovery by claiming a “First Amendment right to protect its ability to ‘associate’ with paid lobbyists, and other consultants and vendors in order to develop a grass roots campaign that will communicate SoCalGas’ message to legislators and the public.”	Reply at 6.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.
4.	As PAO notes, this “turns the law on its head in an effort to keep secret the full extent of the money it is spending on hired lobbyists and communications companies.” PAO has now had to resort to a Motion to Find SoCalGas in	Reply at 6.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being

	Contempt for its refusal to comply with a Commission subpoena.		introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.
5.	As a gas-only utility with a track record of duplicitous conduct intended to obstruct critically needed progress on electrification of gas end uses,	Reply at 6.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.
6.	In D.18-05-041, the Commission stripped SoCalGas of its “role in statewide code and standards advocacy” due to the “potential for SoCalGas to misuse ratepayer funds” following the discovery of “internal emails among SoCalGas managers discussing the potential for the proposed standards to raise the cost of some gas furnaces and thereby encourage fuel switching away from natural gas.”	Reply at 3-4.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.
7.	With SGIP now encompassing gas to electric fuel switching technologies, the same conflict of interest is present here.	Reply at 4.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.
8.	SoCalGas has a long history of working to undermine measures that would lead to	Reply at 4.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in

	<p>increased deployment of HPWHs. Internal emails show that from at least 2014, SoCalGas actively campaigned against proposed increases in water heating efficiency standards under Title 24 because they posed “a significant threat” to SoCalGas’ residential new construction load, which “constitutes at least 30% of [the Company’s] residential load, or around \$800m in revenues per year.” Once SoCalGas determined the change would be “detrimental” to the SoCalGas’ business, only then did it move forward “with developing our position from an evidentiary perspective.”</p> <p>In other words, SoCalGas’ business interests come first, the rationalizations for its positions to oppose deployment of electric water heating come second.</p>		<p>other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.</p>
9.	<p>In a 2014 Powerpoint presentation for a SoCalGas Senior Management Meeting concerning 2016 updates to Title 24, the first slides mention SoCalGas’ “aggressive steps” to address proposed code changes, and concerns that increased efficiency standards for water heating in new construction would result in increased adoption of HPWHs.</p>	Reply at 4.	<p>Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.</p>
10.	<p>Diagram titled: Title 24 is a Critical Driver of Our Long Term Business</p>	Reply at 5.	<p>Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.</p>

11.	SoCalGas expressed concerns that “left unchecked,” “as gas water heating erodes in new construction, space heating, cooking, clothes drying, etc., are all put at risk due to the dominant role of water heating in justifying the gas houseline.”	Reply at 5.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.
12.	Document titled: The Longer Term Business Impact Would be Significant.	Reply at 5.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.
13.	To avoid this outcome from being realized, SoCalGas then embarked on a “Title 24 Code Change Campaign,” with the goal of “postpon[ing] the efforts of the California Energy Commission” to heighten efficiency standards for instantaneous water heaters. The SoCalGas “campaign,” included media messaging, expanding “SoCalGas’s presence in the academic community to increase knowledge and bolster support of natural gas from non-biased third parties,” and philanthropy/charitable institution to “influence policy discussions through active participation in non-profit organizations. In coordination with corporate-wide effort, place [SoCalGas] policy managers on non-profit boards and provide resource support for key	Reply at 6.	Not relevant, inflammatory, speculative, and outside the scope of this proceeding. This information is being addressed in other proceedings and venues. This information is being introduced to collaterally attack a legitimate issue raised by SoCalGas and would also have the effect of prohibiting speech protected under the First Amendment.

	<p>organizations.” Starting at least six years ago, SoCalGas fought against measures that could result in increased HPWH deployment. Due to this demonstrated conflict of interest, allowing SoCalGas to administer a HPWH incentive program is untenable.</p>		
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