

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



**FILED**

09/03/24

04:59 PM

A2209006

Application of Southern California Gas Company (U904G), San Diego Gas & Electric Company (U902), Pacific Gas and Electric Company (U39G) and Southwest Gas Corporation (U905G) to Establish Hydrogen Blending Demonstration Projects'

Application 22-09-006  
(Filed September 8, 2022)

**RESPONSE OF THE UTILITY CONSUMERS' ACTION NETWORK TO  
APPLICANTS' JOINT MOTION TO ESTABLISH BALANCING ACCOUNTS TO  
TRACK COSTS RELATED TO HYDROGEN COMPENDIUM REPORT**



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Date: September 3, 2024

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Pursuant to California Public Utilities Commission's (CPUC or "Commission") Rules of Practice and Procedure ("Rules"), Rule 11.1(e), the Utility Consumers' Action Network ("UCAN") respectfully submits this response to the Joint Motion of Southern California Gas Company (U 904 G), San Diego Gas & Electric Company (U 902 G), Pacific Gas and Electric Company (U 39 G), and Southwest Gas Corporation (U 905 G) to Establish Balancing Accounts to Track Costs Related to Hydrogen Compendium Report ("Motion").<sup>1</sup>

**I. BACKGROUND**

Commission Decision ("D.") 22-12-057 requires the Southern California Gas Company, San Diego Gas & Electric Company, Pacific Gas and Electric Company, and Southwest Gas Corporation ("IOUs") to file a "Hydrogen Blending Compendium Report" by December 19, 2024, two years after the issuance of D.22-12-057.<sup>2</sup> The IOUs' Motion requests authority to

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<sup>1</sup> Joint Motion of Southern California Gas Company (U 904 G), San Diego Gas & Electric Company (U 902 G), Pacific Gas and Electric Company (U 39 G), and Southwest Gas Corporation (U 905 G) to Establish Balancing Accounts to Track Costs Related to Hydrogen Compendium Report (hereafter "Motion") (August 19, 2024), <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M538/K140/538140974.PDF>.

<sup>2</sup> D.22-12-057, OP 10, p. 71, ("Pacific Gas and Electric Company, Southwest Gas Corporation, Southern California Gas Company, and San Diego Gas & Electric Company shall jointly file a Hydrogen Blending Compendium Report, with cost recovery to be determined pursuant to the utility budgeting requests for the pilot projects ordered by this decision, within two years from the issuance date of this decision to identify existing studies and regulatory proceedings that are complete and underway." The Commission issued the D.22-12-057 on December 19, 2022.).

establish balancing accounts to record costs relating to the hydrogen compendium report (“Compendium Report”).<sup>3</sup>

The IOUs’ Amended Application proposes completion of the Compendium Report “within one year of the Amended Application’s approval....,” which would violate the Commission’s order by exceeding the Commission-ordered filing deadline.<sup>4</sup> The IOUs have not updated the Amended Application to change their request.

The IOUs have now submitted to the Commission two competing requests for tracking Compendium Report accounting, one for a balancing account and one for a memorandum account. The Amended Application states that “[t]he cost for the Compendium Report will be tracked through sub-memorandum accounts,”<sup>5</sup> and the Motion requests that the Commission authorize a balancing account “to record and recover costs to prepare the Compendium Report...”<sup>6</sup>

The Amended Application had proposed the IOUs would “issue an RFP to solicit competitive bids for a third-party to complete the Compendium Report.”<sup>7</sup> The Motion names UC Riverside, a contractor on PG&E’s proposed pilot project,<sup>8</sup> as the entity that will prepare the Compendium Report on behalf of the IOUs.<sup>9</sup>

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<sup>3</sup> Motion, p. 1.

<sup>4</sup> Amended Application, p. 19.

<sup>5</sup> Amended Application, p. 19.

<sup>6</sup> Motion, p. 1

<sup>7</sup> Amended Application, p. 19.

<sup>8</sup> Amended Application, p. 16, (“PG&E is also partnering with UC Riverside’s Center for Environmental Research and Technology (CE-CERT), which will take an advisory role to ensure consistency with their rigorous testing protocols.”).

<sup>9</sup> Motion, pp. 3-4.

## **II. A REPORT MANAGED BY THE IOUs WILL REFLECT “BIAS”**

The IOUs’ Motion to for a balancing account is inappropriate because the Compendium Report will be authored by an IOU-selected entity and the report preparation will be managed by the IOUs. The IOUs will also approve or deny payments to the report’s author. UCAN is concerned this will “bias” the process and report because, by definition, the IOUs’ leaderships are required to act in the best interest of their corporation and shareholders.<sup>10</sup> IOU-oversight of the report will likely result in benefits to the IOUs’ shareholders, not ratepayers. And a report paid for by ratepayers that benefits IOU shareholders would fail to meet the statutory requirements, established in Section 451, for just and reasonable charges.<sup>11</sup> Accordingly, under the IOUs’ proposed Compendium Report framework, shareholders should pay for the report.

If the Commission allows the IOUs to track the cost of the report, then the Commission must ensure that the report benefits ratepayers rather than shareholders. Section IV, below, makes recommendations on how to ensure that the Compendium Report serves ratepayers.

## **III. THE COMPENDIUM REPORT IS REQUIRED BY SECTION 740.1 AND MUST BE COMPLETED PRIOR TO EVALUATION OF THE AMENDED APPLICATION**

Public Utilities Code Section 740.1(d) requires that the Commission avoid research duplication by evaluating “research currently, previously, or imminently undertaken by other electrical or gas corporations or research organizations” when considering the approval of

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<sup>10</sup> See, e.g., Sempra Energy, Corporate Governance Guidelines (November 18, 2020), p. 1, (“In performing their duties, directors adhere to duties of loyalty and care. They fulfill the duty of loyalty by acting in good faith and in a manner free from self-dealing and which they believe to be in the best interests of the corporation and its shareholders.”), <https://www.sempra.com/sites/default/files/content/files/node-media-document/2020/3.1%202020%20Nov%2018%20SE%20Corporate%20Governance%20Guidelines.pdf>.

<sup>11</sup> Pub. Util. Code, Section 451, (“All charges demanded or received by any public utility... shall be just and reasonable.”).

research funded by ratepayers.<sup>12</sup> The Compendium Report will catalogue and evaluate the scope and findings of other hydrogen blending research. For that reason, the Compendium Report must be completed and evaluated before the Commission turns to the task of reviewing the Amended Application. If research like the Amended Application is planned or ongoing elsewhere, then statutory language directs the Commission to reject the Amended Application.<sup>13</sup>

For the Compendium Report to serve the Commission's needs related to 740.1(d), the Commission should require a reliable report and should request intervenors' comments on that report to ensure a complete record for Commission decision making.

#### **IV. AS PROPOSED BY THE IOUS, THE COMPENDIUM REPORT WOULD NOT BE NEUTRAL OR DEPENDABLE AND WOULD NOT ENABLE THE IOUS TO REQUEST RATEPAYER REIMERSMENT OF THE REPORT'S COSTS**

According to the IOUs' governing documents, the IOUs act in the best interests of their shareholders, not ratepayers.<sup>14</sup> Thus, the IOUs' actions, including the administration of the Compendium Report, will be conducted in a way that serves shareholders. Yet, Section 451 requires that "[a]ll charges demanded or received by any public utility... shall be just and reasonable."<sup>15</sup> Charges to ratepayers for the Compendium Report are not just and reasonable if the report serves shareholders.

The only way to ensure that the Compendium Report serves ratepayers' interests would be for the Commission to order the IOUs to transfer all control of the report to a ratepayer

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<sup>12</sup> Section 740.1(d), [https://leginfo.legislature.ca.gov/faces/codes\\_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=4.&article=2](https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=PUC&division=1.&title=&part=1.&chapter=4.&article=2)

<sup>13</sup> Section 740.1(d), ("The commission shall consider the following guidelines in evaluating the research, development, and demonstration programs proposed by electrical and gas corporations: ... (d) Projects should not unnecessarily duplicate research currently, previously, or imminently undertaken by other electrical or gas corporations or research organizations.").

<sup>14</sup> See footnote 10.

<sup>15</sup> Pub. Util. Code § 451.

advocacy organization. Consequently, if a ratepayer advocate controls the Compendium Report process, then it would be reasonable for ratepayers to pay for the report.

**A. The IOUs have compromised UC Riverside’s neutrality regarding hydrogen blending and the proposed hydrogen blending pilots.**

UCAN appreciates the work of researchers at California universities. California universities’ staff and researchers are a valuable resource that should be leveraged by the Commission to enable informed and data-based decision-making. Because California universities represent an excellent resource for the Commission, the Commission should take care to ensure that it does not enable the IOUs to undermine those universities’ credibility or research findings. To ensure that the Commission receives accurate and unbiased research, the Commission should deny all IOU requests to use ratepayer funds to hire university researchers. Instead, all funding of university research should be directed through California agencies – like the Commission itself – or through ratepayer advocates. For example, a neutral university research department engaged by the Commission to complete the Compendium Report would be reasonable. However, any research directed by the IOUs – including research by university researchers – should be assumed to be biased in favor of the IOUs’ shareholders. The IOUs’ Motion and Amended Application demonstrate how the IOUs undermine the neutrality of researchers as discussed below.

The Motion states that UC Riverside will be the contractor responsible for researching and writing the Compendium Report and asserts that “[h]aving the H2 Blending Study prepared by UC Riverside would address all... [intervenor concerns].” Intervenors have expressed the following concerns, “the IOUs’ Compendium Report may overlook or fail to include relevant studies, may characterize the studies inaccurately, may discuss studies too broadly, may exclude

important details of the studies, and/or may exclude relevant findings.”<sup>16</sup> And the IOUs’ motion fails to address those concerns.

In addition to the Motion, UC Riverside is also named in the Amended Application as a contractor on PG&E’s proposed pilot.<sup>17</sup> Thus, the IOUs’ Motion proposes to sole-source the report’s preparation to one of the IOUs’ contractors for one of the proposed pilots. It is puzzling how the IOUs can claim a pilot project contractor is a neutral third-party. Research institutions themselves have documented how funding from private companies compromises universities’ research findings.<sup>18</sup> If the Commission allows the IOUs to select UC Riverside to prepare the Compendium Report, UC Riverside researchers will need to be vigilant in guarding against the IOU-created conflict of interest and the Commission and parties will need to spend substantial time evaluating the Compendium Report with that conflict in mind.

For the reasons stated above the IOUs’ selection of UC Riverside as the author of the Compendium Report does little to address parties’ concerns about the Compendium Report. Even if the IOUs’ were not proposing a contractor on one of their proposed pilots as the author of the Compendium Report, as long as the IOUs are directing work, overseeing progress, and distributing funds to the author of the Compendium Report, the report remains subject to potential interference by the IOUs.

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<sup>16</sup> Motion, p. 4.

<sup>17</sup> Amended Application, p. 16.

<sup>18</sup> Almond, D., Du, X., & Papp, A. (2022). Favourability towards natural gas relates to funding source of university energy centres. *Nature Climate Change*, 12(12), 1122–1128. <https://doi.org/10.1038/s41558-022-01521-3>, (“fossil-funded centres are more favourable in their reports towards natural gas than towards renewable energy, and tweets are more favourable when they mention funders by name. Centres less dependent on fossil funding show a reversed pattern with more neutral sentiment towards gas, and favour solar and hydro power.”).



**B. The IOUs’ proposed framework for the creation of the Compendium Report will serve the needs of shareholders instead of ratepayers.**

The Motion and the Amended Application appear to anticipate that the preparation of the Compendium Report will be directed by the IOUs. As UCAN previously documented, the IOUs act in the best interests of their shareholders.<sup>19</sup> Further, in both the Amended Joint Prehearing Conference Statement (“Amended Joint PHC Statement”) and again in the Motion, the IOUs voiced opposition to the Commission allowing parties’ comments on the Compendium Report.<sup>20</sup> Because the IOUs’ have a responsibility to their shareholders and because the IOUs oppose parties’ comments on the Compendium Report, the Commission should anticipate that the IOUs will direct the author of the report in a way that best serves shareholders, not ratepayers.

**C. The Commission could structure the creation of the Compendium Report’s administration so that it serves ratepayers.**

The Commission should put in place a process for creating the Compendium Report that benefits ratepayers. If the Compendium Report does not benefit ratepayers, then the IOUs cannot charge ratepayers for the report because those charges would be unjust and unreasonable. Unjust and unreasonable charges are “unlawful” according to Section 451.<sup>21</sup>

A common method used by the Commission to ensure that ratepayers benefit from a given report is for a California Agency to author or contract for a report’s preparation. For example, the Commission has worked jointly with the CEC and/or CARB on numerous reports including the SB 100 Joint Agency Report<sup>22</sup> and the Joint Agency Staff Gas Transition White

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<sup>19</sup> See footnote 10.

<sup>20</sup> Amended Joint PHC Statement, p. 2 and p. 8 fn 10; Motion, p. 4.

<sup>21</sup> Pub. Util. Code, Section 451, (“All charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge demanded or received for such product or commodity or service is unlawful.”).

<sup>22</sup> SB 100 Joint Agency Report (March 15, 2021), <https://www.energy.ca.gov/publications/2021/2021-sb-100-joint-agency-report-achieving-100-percent-clean-electricity>.

Paper.<sup>23</sup> Alternatively the Commission’s Energy Division, either on its own, with the help of a contractor, or by contracting of a consultant, regularly prepares research reports. Contractors also complete modeling exercises at the direction of the Energy Division.<sup>24</sup> When the Commission or another California Agency prepares or contracts for a report, ratepayers are likely to benefit.

Moreover, Commission-contracted reports are also a prime example of an opportunity for the Commission to engage California universities and researchers on behalf of ratepayers. When the Commission hires university researchers, it has the dual benefit of benefiting researchers with funding sources and protecting the researchers from conflicts of interest.

Lastly, when Energy Division or a Joint Agency Report is issued, the Commission issues the report through a Ruling that requests comments and reply comments on the report. It is unusual for any report to become part of a proceeding’s record without a round of comments. Parties’ comments benefit ratepayers and the Commission.

## **V. THE COMMISSION SHOULD NOT APPROVE A MEMORANDUM ACCOUNT OR A BALANCING ACCCOUNT FOR THE COSTS OF THE COMPENDIUM REPORT**

The Motion requests a balancing account.<sup>25</sup> The Amended Application requested a memorandum account.<sup>26</sup> Neither are appropriate under the IOU’s Compendium Report proposal. Ratepayers should not pay for the Compendium Report unless the report benefits ratepayers. UCAN, as noted in Section IV above, identified “bias” which cannot be remedied under the IOU Compendium Report approach; the IOUs have proposed a framework for Compendium Report

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<sup>23</sup> Joint Agency Staff Gas Transition White Paper (February 2022), <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M525/K660/525660391.PDF>.

<sup>24</sup> See reports prepared in R.20-03-005, I.17-02-002, I.23-03-008; An excellent example of a Commission-contracted report is the CPUC Energy Storage Procurement Study (May 31, 2023), [https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/energy-storage/2023-05-31\\_lumen\\_energy-storage-procurement-study-report.pdf](https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/energy-division/documents/energy-storage/2023-05-31_lumen_energy-storage-procurement-study-report.pdf).

<sup>25</sup> Motion, pp. 3-4.

<sup>26</sup> Amended Application, p. 19.

preparation that would benefit IOU shareholders. Allowing the IOUs to charge ratepayers for a report that would benefit IOU shareholders would be unjust, unreasonable, and would conflict with statutory requirements.<sup>27</sup>

If the IOUs oversee the writing of the Compendium Report, then the Commission should not approve any tracking of costs. The IOUs' shareholders should pay for the report. However, if the Commission allows the IOUs to track the report costs, then a memorandum account is the more appropriate account type. A memorandum account will enable the Commission to evaluate the cost reasonableness of the memorandum account after the Commission reviews the report.

## **VI. THE COMMISSION MUST INVITE PARTIES' COMMENTS ON THE COMPENDIUM REPORT**

Despite the Motion's primary request for account authorization, the IOUs also use the Motion as an opportunity to argue against parties' comments on the Compendium Report.<sup>28</sup> Regardless of who oversees the creation of the Compendium Report, the Commission should allow for comments and reply comments on the report.

The IOUs' Motion objects to parties reviewing the Compendium Report and filing comments on the record.<sup>29</sup> This is the second time that the IOUs have demonstrated their concern with the Commission developing a complete record on the topic of the Compendium Report. The IOUs also objected to parties' comments in the Amended Joint PHC Statement.<sup>30</sup> The IOUs'

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<sup>27</sup> Pub. Util. Code, Section 451, ("All charges demanded or received by any public utility... shall be just and reasonable.").

<sup>28</sup> It is possible that the intent of the Motion was simply to make another attempt to restrict parties' comments on the report because the IOUs themselves characterize the report's cost as "nominal." *See* Motion fn. 1, p. 1, ("Although Southwest Gas joins the instant Joint Motion, Southwest Gas is not requesting to establish a balancing account given the anticipated nominal cost associated with Southwest Gas' portion of the Compendium Report costs.").

<sup>29</sup> Motion, p. 4.

<sup>30</sup> Amended Joint PHC Statement, p. 2 and p. 8 fn 10; The Joint Intervenors objected to the IOUs' opposition to comments on the IOU's Compendium Report at p. 8, footnote 11, ("The fact that the Joint Applicants oppose review of the Compendium Report reinforces these concerns. To ensure an accurate accounting and characterization of the current and planned hydrogen studies, as required by the Commission, and to allow intervenors adequate opportunity to incorporate the information contained in the Compendium Report into their

objections to comments on the Compendium Report undermine the IOUs' attempts to characterize their proposed report framework as neutral. The IOUs' proposal for the Compendium Report is not neutral because the IOUs retain control over all aspects of the report and all interactions with the report's authors.

Parties' comments on the Compendium Report will aid the Commission in determining if the report's costs are just and reasonable and whether the Commission should allow any costs to be recovered from ratepayers. Parties' comments remain a critical input for the Commission's evaluation of the Compendium Report and evaluation of the Amended Application.

Other than the IOUs and their proxies (i.e., hydrogen advocacy organizations whose membership includes the IOUs), all parties have all opposed the hydrogen blending application.<sup>31</sup> The objections to the applications have been broad in scope and technically detailed. Through participation in the proceeding, parties have already demonstrated their ability to aid the Commission as it considers the merits of the Amended Application.

When the Commission considers the body of research on hydrogen blending, as required by 740.1, it needs to have insight into the analyses and research of parties – parties that represent ratepayers and the environment. The IOUs' repeated objections to parties' on-the-record review of the Compendium Report undermine the report's credibility before work on the report has even begun.

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analysis of the Amended Application, time should be scheduled for stakeholders to review and comment on the Compendium Report prior to the submission of testimony.”).

<sup>31</sup> A.22-09-006, Commission Docket, [https://apps.cpuc.ca.gov/apex/f?p=401:56:0::NO:RP,57,RIR:P5\\_PROCEEDING\\_SELECT:A2209006](https://apps.cpuc.ca.gov/apex/f?p=401:56:0::NO:RP,57,RIR:P5_PROCEEDING_SELECT:A2209006).

## VII. CONCLUSION

For the reasons stated above, the Commission should reject the IOUs' motion to establish a balancing account unless the format for creating the report could benefit ratepayers. If the Commission approves a tracking account, however, the correct account type remains a memorandum account as the IOUs requested in the Amended Application, not a balancing account.

Regardless of who pays for the report and who is tasked with report administration, the Commission should request parties' comments and reply comments on the report to ensure that the Commission has a complete record on which to base its decisions. The report author should then submit a final report with updates and corrections to reflect parties' comments.

Dated: September 3, 2024

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