

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

Order Instituting Rulemaking to  
Address Biomethane Procurement  
Cost Allocation.

FILED  
PUBLIC UTILITIES COMMISSION  
December 15, 2022  
SAN FRANCISCO, CALIFORNIA  
RULEMAKING 22-12-011

**ORDER INSTITUTING RULEMAKING TO ADDRESS  
BIOMETHANE PROCUREMENT COST ALLOCATION**

**Summary**

The Commission opens this rulemaking to consider cost allocation for biomethane procurement, pursuant to Decision (D.) 22-02-025, which established biomethane procurement targets to reduce short-lived climate pollutant emissions. We plan to consider cost allocation between core and noncore customer classes for biomethane procured under D.22-02-025.

**1. Jurisdiction**

Commission jurisdiction over natural gas corporations, public health, public safety, and the Renewables Portfolio Standard (RPS) program is provided by, but not limited to, Health and Safety (H&S) Code §§ 25420, 25421; Public Utilities (Pub. Util.) Code §§ 216, 222, 228, 399.11 through 399.31, 451, 761 784, 950 through 969; and General Orders (GOs) 58-A, 58-B, and 112-E.

Public utilities have a fundamental duty to ensure:

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.  
(Pub. Util. Code § 451.)

## **2. Background**

California has adopted numerous regulations to promote short-lived climate pollutant (SLCP) reduction, responsible use of organic waste, and additional environmental and economic goals including but not limited to clean air, job development, energy independence, and resource diversity. In accordance with these regulations, the Commission opened Rulemaking (R.) 13-02-008 to consider implementation of standards for injection of biomethane into gas utilities' pipelines under Assembly Bill (AB) 1900.

AB 1900 (Gatto, 2012, Ch. 602) involved significant work by, and consultation between and among, several state agencies, including the Office of Environmental Health Hazard Assessment (OEHHA), California Air Resources Board (CARB), Department of Resources Recycling and Recovery (CalRecycle), Department of Toxic Substances Control (DTSC), California Energy Commission (CEC), California Environmental Protection Agency (CalEPA), and the Commission.

The November 21, 2019 Scoping Ruling expanded the scope of R.13-02-008 to include other issues related to renewable gas, including implementation of Senate Bill (SB) 1440 (Hueso, 2018, Ch. 739). SB 1440 tasked the Commission with setting targets and goals for biomethane procurement if it finds that biomethane is a cost-effective means of reducing SLCP emissions.

The assigned commissioner issued a proposed decision setting biomethane procurement targets on January 3, 2022. Nineteen parties filed opening comments on the proposed decision and nine parties filed reply comments. After reviewing the comments and consulting with other state agencies,

including CARB, the Commission adopted Decision (D.) 22-02-025 to implement SB 1440.

D.22-02-025 adopted short- and medium-term biomethane procurement targets for its four large investor-owned utilities (IOUs) Pacific Gas & Electric Company (PG&E), Southern California Gas Company (SoCalGas), San Diego Gas and Electric Company (SDG&E), and Southwest Gas Corporation (SWG) (collectively, Joint Utilities). The biomethane procurement targets for the medium-term range will be an estimated 12 percent of core gas customer demand in 2020, or approximately four percent of noncore gas customer demand in 2020.<sup>1</sup>

The Joint Utilities' procurement costs for biomethane are expected to be greater than their procurement costs for fossil natural gas.<sup>2</sup> While D.22-02-025 authorizes the Joint Utilities to recover biomethane procurement costs from their bundled core gas customers, the environmental benefit of decreasing SLCP emissions from organic waste streams is shared by all customers.

Additionally, in D.22-02-025, the Commission committed to initiate a ratesetting proceeding "to consider distributing above market biomethane procurement costs to noncore customers."<sup>3</sup> Further, the Commission noted that: "The Office of Governmental Affairs shall work with the Legislature and

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<sup>1</sup> See D.22-02-025.

<sup>2</sup> See SB 1440 Staff Proposal at 30.  
<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M386/K579/386579735.PDF>.

<sup>3</sup> D.22-02-025 Ordering Paragraph 53.

stakeholders for legislation requiring core transport agents<sup>4</sup> to procure biomethane at the same rate as the Joint Utilities.”<sup>5</sup>

### **3. Types of Gas Customers and Gas Procurement Costs**

For the purposes of this Order Instituting Rulemaking (OIR), we briefly describe the types of gas customers and the various costs associated with gas procurement.

#### **3.1. Core Customers**

Core customers are primarily residential and small commercial and industrial customers. Residential customers, regardless of the amount of gas used, fall under this category. Core commercial customers are customers with annual gas use below 250,000 therms (or 20,800 therms per active month during any 12 contiguous months within the most recent 24-month period).<sup>6</sup>

Core customers have the choice to receive uninterruptible service that is either bundled or unbundled.<sup>7</sup>

Bundled core customers receive all of the necessary functions from their incumbent IOU. These functions include gas procurement, transmission, distribution, storage, metering and billing.

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<sup>4</sup> Core Transport Agents (CTAs) are non-utility, non-regulated suppliers of natural gas.

<sup>5</sup> *Id.*, Ordering Paragraph 55.

<sup>6</sup> D.86-12-009 and D.02-08-065.

<sup>7</sup> Uninterruptible service is also called firm service. (See “Natural Gas Customer Choice in California” for more information on utility bundled service and non-utility suppliers providing unbundled service (also known as “core transport agents”) <https://www.cpuc.ca.gov/-/media/cpuc-website/files/legacyfiles/c/6406-cta-program-01282021.pdf>. See Energy Division Staff White Paper “California Gas Utility Reliability: Definition, Standards, and Measures” for more definitions:

<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M347/K809/347809684.PDF>.)

### **3.2. Unbundled Core Customers**

Unbundled core customers receive their gas supply from a CTA. The CTA purchases gas on behalf of these unbundled customers, and the IOU provides gas delivery service on an IOU owned pipeline. The CTA may provide separate billing for the gas purchased for the customer with the transportation services billed separately by the IOU. However, in most cases customers receive a consolidated bill including the CTA's commodity charge and a separate transportation charge.

### **3.3. Noncore Customers**

Noncore customers include large commercial, industrial, cogeneration, utility electric generation, and wholesale customers. They have interruptible service and have the option to procure their supplies and any needed storage and backbone transmission capacity from third-party marketers who buy and sell gas on a spot-market. Those spot market prices include transportation prices.

### **3.4. Costs**

Some of the costs incorporated into a customer's bill include procurement costs, above market costs, transmission and distribution costs, and non-bypassable charges.

*Procurement costs* are the cost of the gas itself (also known as "commodity cost") plus the costs related to procuring that gas. The Commission has established incentive mechanisms to ensure that the IOUs' procurement costs are

as low as possible, such as the PG&E Core Procurement Incentive Mechanism (CPIM)<sup>8</sup> and the SoCalGas Gas Cost Incentive Mechanism (GCIM).<sup>9</sup>

*Above market costs* are costs that are higher than market average costs. CPIM and GCIM help prevent above-market fossil gas procurement costs. However, above market costs are authorized for biomethane procurement under D.22-02-025, because the commodity cost for biomethane is generally higher than the commodity cost for fossil gas. Accordingly, all biomethane procurement costs above the market cost of procured fossil gas are above-market costs.

*Transmission and distribution costs* are the costs to move the natural gas through either a transmission or distribution pipeline from where it is produced or stored to a customer.

*Non-bypassable charges* are unavoidable fees paid by all core and noncore gas customers, including fees for state-mandated programs such as the public purpose program (PPP) surcharge. The PPP surcharge is used to fund various state-approved programs, including programs for low-income customers, energy efficiency programs, and public-interest research and development.<sup>10</sup>

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<sup>8</sup> CPIM was established in D.97-08-055 to serve as a “performance-based ratemaking mechanism for PG&E’s core gas procurement portfolio. It compares PG&E’s annual gas costs to an aggregate market-based benchmark, formed from a weighted average of published natural gas price indices at PG&E’s purchase points, plus other costs such as pipeline transportation and storage.” (See PG&E Advice Letter (AL) 4100-G.)

<sup>9</sup> GCIM was established in D.94-03-076, creating a benchmark against which to measure the price SoCalGas pays for core and core subscription gas supply for reasonableness of gas purchases and gas storage decisions. (See A.20-06-005.)

<sup>10</sup> AB 1002 (Wright, 2000) gas PPP was implemented by D.04-08-010, creating a gas PPP surcharge and balancing account to recover CPUC-authorized gas funding “for, among other things, Energy Efficiency Funds (EE), Low Income EE (now know[n] as Energy Savings Assistance Program, or ESAP), and California Alternate Rates for Energy (CARE) administrative program costs through a separate surcharge.” (See D.11-10-014.)

#### **4. Preliminary Scoping Memo and Issues**

The Commission will conduct this rulemaking in accordance with Article 6 of the Commission's Rules of Practice and Procedure (Rules). As required by Rule 7.1(d), this OIR includes a preliminary scoping memo as set forth below, and preliminarily determines the category of this proceeding and the need for hearing.

D.22-02-025 established biomethane procurement targets for California's gas IOUs. Parties expressed different views on how these costs should be allocated. The Commission also has the responsibility to determine the appropriate cost allocation for this procurement.

In comments as part of R.13-02-008, The Utility Reform Network (TURN), a ratepayer advocate, argues that above market biomethane procurement costs should be borne by all gas customers because substituting biomethane for fossil gas provides an environmental benefit to everyone.<sup>11</sup> TURN asserts that, much like the requirements under the PPP program, biomethane procurement will confer a broadly based public and environmental benefit, such that its above-market costs should be distributed and recovered as a non-bypassable charge on all customers.

In contrast, California Manufacturers and Technology Association (CMTA) and Indicated Shippers state that the large volume of gas they and CTAs use would result in a burdensome cost allocation to noncore customers.<sup>12</sup> This surcharge may also be unfair if noncore customers do not also acquire the

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<sup>11</sup> See TURN opening comments for D.22-02-025  
<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M444/K123/444123936.PDF>.

<sup>12</sup> See CMTA and Indicated Shippers opening comments for D.22-02-025  
<https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M445/K599/445599661.PDF>.

environmental benefits associated with the use of renewable gas in lieu of fossil gas, noting that D.22-02-025 decided that the gas IOUs “shall maintain exclusive ownership of all environmental attributes from contracted biomethane sources and may not sell, trade, or transfer any of these attributes.”<sup>13</sup>

This proceeding will also consider the transportation and distribution charges avoided by procuring biomethane produced in California in place of fossil gas produced out-of-state. These avoided costs, as well as any avoided Cap-and Trade costs that result from biomethane procurement, should be considered in determining the customer cost allocation for biomethane procurement.

Another issue to consider is potential allocation of a portion of the Joint Utilities’ above-market biomethane procurement costs to CTA customers, unless or until the legislature imposes a similar biomethane procurement obligation on CTAs.<sup>14</sup>

With that backdrop, we begin our examination with this preliminary set of issues:

1. How should above market biomethane procurement costs be allocated between core and non-core customers?
2. What costs, in addition to the commodity cost of biomethane, should be included in the biomethane procurement costs? For example, should biomethane procurement costs include the costs of transmitting and delivering biomethane to a utility pipeline or storage terminal?
3. How should the associated environmental benefits of biomethane substitution for fossil gas be shared between core and noncore customers? How might such sharing

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<sup>13</sup> D.22-02-025 Ordering Paragraph 50.

<sup>14</sup> D.22-02-025 Ordering Paragraph 55.



affect the obligations of noncore customers and CTAs under Cap-and-Trade?

4. How should we account for avoided costs of upstream interstate and intrastate transmission? Should those avoided costs be deducted from otherwise allocable above-market biomethane procurement costs?
5. Are there other costs besides above market costs that may be allocated between core and noncore customers? If so, how should those costs be allocated?
6. Should some portion of above market costs be allocated to CTAs' customers and third-party marketers who buy and sell for noncore customers?
7. Other: Any party may raise issues reasonably necessary for just, efficient, and equitable cost allocation requirements and rules.

## **5. Respondents**

Joint Utilities shall be respondents in this proceeding. Within 15 days of mailing of this rulemaking, each respondent shall inform the Commission's Process Office of the contact information for a single representative, although other representatives and persons affiliated with the respondents may be placed on the Information Only service list.

## **6. Preliminary Schedule**

The preliminary schedule is set forth below. A final schedule will be adopted in the assigned Commissioner's Scoping Memo and Ruling issued in this case. The schedule may be modified by written ruling by the assigned Administrative Law Judge (ALJ) or the assigned Commissioner.

Item	Date Due
Comments on the OIR filed and served	60 days after issuance of the OIR by the Commission
Reply Comments filed and served	20 days after the due date for comments
Prehearing Conference	30 days after the due date for reply comments
Scoping Memo	30 days after prehearing conference
Submission Date	To Be Determined

Pursuant to the authorization conferred by Pub. Util. Code § 1701.5(a), this proceeding should be resolved within 18 months of the date this OIR is adopted.

**6.1. Comments on the OIR**

All comments on this OIR shall be filed and served within 60 days of the date this OIR is issued. As named respondents, Joint Utilities are ordered to file responsive comments to the foregoing preliminarily scoped issues and questions, identified above in Section 4, in their comments to the OIR. Other interested parties may also file comments. Potential parties may also identify in their comments and reply comments other issues they believe to be relevant to above market biomethane procurement cost allocation.

Comments shall state any objections to the preliminary scoping memo regarding category, need for hearing, issues to be considered, or schedule.

(Rule 6.2.)

Any comments recommending changes to the proposed schedule must be consistent with the proposed category, including a deadline for adopting new standards and requirements in sufficient time to and resolve the proceeding within the time allowed under Pub. Util. Code § 1701.5(a). All comments which

contain factual assertions must be verified. Unverified factual assertions will be given only the weight of argument. (Rule 6.2; Pub. Util. Code § 1701.5(a).)

## **6.2. Prehearing Conference**

The assigned Commissioner or ALJ shall set a PHC in accordance with the above schedule. The ruling setting the PHC may also set a date for PHC statements. (Rule 7.2.) PHC statements, if any, should state with specificity the party's recommendations for anything necessary to complete the assigned Commissioner's Scoping Memo and Ruling, plus anything else necessary to reasonably proceed with this proceeding. Parties should employ their best efforts to prepare joint PHC Statement reflecting agreement on issues, schedule and other matters for the Scoping Memo. If unable to reach complete agreement on all matters, parties may file joint PHC Statement reflecting partial agreements and remaining differences.

## **7. Party Status**

Anyone interested in participating in this OIR may file comments in response to this OIR and the preliminary scope, schedule and need for hearing determination within 60 days of the issuance of this OIR by the Commission. Entities that file comments or reply comments will be granted party status.

## **8. Filing and Service of Comments and Other Documents**

Filing and service of comments and other documents in the proceeding are governed by the Commission's Rules of Practice and Procedure. This proceeding will follow the electronic service protocol set forth in Rule 1.10. All parties to this proceeding shall serve documents and pleadings using electronic mail, whenever possible, transmitted no later than 5:00 p.m., on the date scheduled for service to occur.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must not send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

If you have questions about the Commission's filing and service procedures, contact the Docket Office (Docket\_Office@cpuc.ca.gov) or check the Practitioner's Page on our website at [www.cpuc.ca.gov](http://www.cpuc.ca.gov).

### **9. Preliminary Categorization and Ex Parte Communications**

Pursuant to Rule 7.1(d), this proceeding is preliminarily categorized as ratesetting. A final determination on categorization will be made in the assigned Commissioner's Scoping Memo.

Ex parte communications in this rulemaking are governed by Public Utilities Code Section 1701.1 et seq. and Article 8 of the Commission's Rules of Practice and Procedure. Communications with the assigned ALJ shall occur either through formal filing or via e-mail written and directed to the entire service list of this proceeding.

### **10. Need for Hearings**

Pursuant to Rule 7.1(d), it is preliminarily determined that hearings will not be needed in this proceeding. A final determination on the need for hearings will be made in the assigned Commissioner's Scoping Memo.

### **11. Notice and Distribution of OIR**

In the interest of broad notice, this OIR will be served on the official service lists for the following dockets:

R.20-01-007 – Long-Term Gas Planning Proceeding

R.13-02-008 – Biomethane and Hydrogen

A.19-08-015 – Southwest Gas General Rate Case

A.21-06-021 – PG&E General Rate Case

A.22-05-015 – SoCalGas General Rate Case

A.22-05-016 – SDG&E General Rate Case

Service of this OIR does not confer party status or place a person or organization that has received such service on the Official Service List for this proceeding, except as otherwise noted. To be placed on the service list, persons or entities should follow the instructions in Section 12, below.

## **12. Additions to the Official Service List**

Additions to the official service list are governed by Rule 1.9(f).

Persons who file responsive comments to the OIR will become parties to this proceeding and will be added to the “Parties” category of the official service list upon such filing.

Additionally, persons who appear at the PHC may request party status to become parties to the proceeding and be added to the “Parties” category of the official service list.

Any person can be added to the “Information Only” category of the official service list upon request and will receive electronic service of all documents in the proceeding. Interested entities should request to be added to the service list promptly to ensure timely service of comments and other documents and correspondence in the proceeding. (*See Rule 1.9(f).*)

*To assure service of comments and other documents and correspondence in advance of obtaining party status, persons should promptly request addition to the “Information Only” category as described below. They will be removed from that category upon obtaining party status.*

The request to be added to the “Information Only” category must be sent to the Process Office by e-mail ([process\\_office@cpuc.ca.gov](mailto:process_office@cpuc.ca.gov)) or letter (Process

Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, California 94102). Please include the Docket number of this rulemaking in the request.

### **13. Subscription Service**

Persons may monitor the proceeding by subscribing to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the official service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission's website at <http://subscribecpuc.cpuc.ca.gov/>.

### **14. Public Advisor**

Any person or entity interested in participating in this Rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov). The TYY number is (866) 836-7825.

### **15. Intervenor Compensation**

Any party that expects to claim intervenor compensation for its participation in this rulemaking must file its notice of intent to claim intervenor compensation within 30 days of the filing of a response to the OIR, except that notice may also be filed within 30 days of the prehearing conference. Intervenor compensation rules are governed by § 1801 et seq. of the Public Utilities Code. Parties new to participating in Commission proceedings may contact the Public Advisor's office for assistance. Contact information is set forth in Section 14 above.

**O R D E R**

**IT IS ORDERED** that:

1. This Order Instituting Rulemaking is adopted pursuant to Decision 20-02-025; Health and Safety Code Sections 25420 and 25421; Public Utilities Code Sections 216, 222, 228, 451, 701, 761, 784, 950 through 969; new Public Utilities Code Section 784; and Rule 6.1 of the Commission's Rules of Practice and Procedure.
2. The preliminary categorization is ratesetting.
3. The preliminary determination is that a hearing is not needed.
4. The preliminary scope for the proceeding is as set forth above and is adopted.
5. The preliminary schedule for the proceeding is as set forth above and is adopted.
6. Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southwest Gas Corporation are named as respondents and are parties to this proceeding pursuant to Rule 1.4(d) of the Commission's Rules of Practice and Procedure.
7. Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, and Southwest Gas Corporation shall, and any other person may, serve on the service list of this proceeding and file comments on the preliminary scope and schedule for this Order Instituting Rulemaking (OIR) no later than 60 days following the issuance of this OIR. Reply comments shall be served on the service list of this proceeding and filed no later than 20 days following the comment due date.

8. Interested persons must follow the directions of this Order Instituting Rulemaking to become a party or to be placed on the official service list as information-only.

9. Any party that expects to claim intervenor compensation for its participation in this Rulemaking must timely file its notice of intent to claim intervenor compensation pursuant to Rule 17.1(a)(2).

10. The assigned Commissioner or the assigned Administrative Law Judge(s) will have on-going oversight of the service list and may institute changes to the list or the rules governing it, as needed.

11. The assigned Commissioner and the assigned Administrative Law Judge(s) may modify the activities and schedule established in this Order Instituting Rulemaking as necessary for the efficient conduct of this proceeding.

12. Parties serving documents in this proceeding must comply with Rule 1.10 of the Commission's Rules of Practice and Procedure regarding electronic mail (e-mail) service.

13. The Executive Director shall cause this Order Instituting Rulemaking to be served on the following service lists: Rulemaking (R.) 20-01-007 – Long-Term Gas Planning Proceeding, R.13-02-008 – Biomethane and Hydrogen, Application (A.) 19-08-015 – Southwest Gas Corporation general rate case (GRC), A.21-06-021 – Pacific Gas & Electric Company GRC, A.22-05-015– Southern California Gas Company GRC, A.22-05-016 – San Diego Gas and Electric Company GRC.



14. Ex parte communications in this rulemaking are governed by Public Utilities Code Section 1701.1 et seq. and Article 8 of the Commission's Rules of Practice and Procedure. Communications with the assigned Administrative Law Judge shall occur either through formal filing or via e-mail written to the entire service list in this proceeding.

This order is effective today.

Dated December 15, 2022, at San Francisco, California

ALICE REYNOLDS  
President  
CLIFFORD RECHTSCHAFFEN  
GENEVIEVE SHIROMA  
DARCIE L. HOUCK  
JOHN REYNOLDS  
Commissioners

**ATTACHMENT A**

Acronyms & Abbreviations

A.	Application
AB	Assembly Bill
ALJ	Administrative Law Judge
Commission	California Public Utilities Commission
CPUC	California Public Utilities Commission
D.	Decision
R./OIR	Order Instituting Rulemaking
PG&E	Pacific Gas & Electric Company
Rules	Commission's Rules of Practice and Procedure
SB	Senate Bill
SDG&E	San Diego Gas and Electric Company
SoCalGas	Southern California Gas Company
SWG	Southwest Gas Corporation

**END ATTACHMENT A**