

Decision 24-07-009 July 11, 2024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Gas Company (U904G) and San Diego Gas & Electric Company (U902G) for authority to revise their natural gas rates and implement storage proposals effective January 1, 2024 in this Cost Allocation Proceeding.

Application 22-09-015

**DECISION ADOPTING ALL-PARTY SETTLEMENT AGREEMENT
AND GRANTING SAN DIEGO GAS & ELECTRIC COMPANY
AND SOUTHERN CALIFORNIA GAS COMPANY
AUTHORITY TO REVISE THEIR NATURAL GAS RATES
AND IMPLEMENT STORAGE PROPOSALS**

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Attachment A – Settlement Agreement Amongst Southern California Gas Company, San Diego Gas & Electric Company, The Utility

Reform Network, Indicated Shippers, Southern California Generation Coalition, The Public Advocates Office at The California Public Utilities Commission, Southwest Gas Corporation, California Manufacturers & Technology Association, Shell Energy North America (US), L.P., Long Beach Utilities, Clean Energy, and Western Manufactured Housing Community Association to Resolve Certain Issues in Applicants' Cost Allocation Proceeding

**DECISION ADOPTING ALL-PARTY SETTLEMENT AGREEMENT
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AUTHORITY TO REVISE THEIR NATURAL GAS RATES
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Summary

This decision adopts the all-party settlement agreement filed on December 15, 2023, that resolves a majority of previously disputed issues between the parties in the proceeding and grants San Diego Gas & Electric Company and Southern California Gas Company authority to revise their natural gas rates and implement storage proposals effective January 1, 2024. This decision rejects the limited settlement regarding a fixed customer charge filed on December 1, 2023, and the limited settlement regarding a hydrogen refueling station tariff proposal filed on December 14, 2023. This proceeding is closed.

1. Background

On September 30, 2022, Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) (jointly, Applicants) filed Application (A.) 22-09-015 requesting authority to revise their natural gas rates and implement and implement storage proposals effective January 2024.

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates), Southern California Generation Coalition (SCGC), The Utility Reform Network (TURN) and Indicated Shippers filed timely protests to the application. The Applicants filed a timely reply to the protests. The following parties were granted party status after filing motions: Southwest Gas Corporation (Southwest Gas), the California Manufacturers & Technology Association (CMTA), Shell Energy North America (US), L.P. (Shell Energy), Long Beach Utilities (Long Beach), Clean Energy, Air Products and Chemicals, Inc.

(Air Products), Agricultural Energy Consumers Association (AECA) and Western Manufactured Housing Community Association (WMA).

A prehearing conference was held on December 14, 2022. A scoping memo was issued on February 2, 2023. Evidentiary hearings were scheduled, but suspended after an all-party request to take the evidentiary hearings off-calendar and suspend the briefing schedule due to significant progress in settlement discussions.

On December 1, 2023, the Applicants and Cal Advocates filed a joint motion for approval of a settlement regarding the fixed customer charge issue (Fixed Charge Settlement). On January 2, 2024, TURN filed comments opposing the Fixed Charge Settlement. On January 17, 2024, the Applicants and Cal Advocates filed joint reply comments to TURN's comments.

On December 14, 2023, the Applicants and Clean Energy filed a joint motion for approval of a settlement regarding a hydrogen refueling station rate issue (Hydrogen Refueling Settlement). On January 16, 2024, TURN, SCGC and Air Products filed comments opposing the Hydrogen Refueling Settlement.¹ On January 31, 2024, the Applicants and Clean Energy filed joint reply comments to the comments of TURN, SCGC and Air Products.

On December 15, 2023, the Applicants, SCGC, Cal Advocates, TURN, Indicated Shippers, Southwest Gas, CMTA, Shell Energy, Long Beach, Clean Energy, Air Products, and WMA filed a joint motion for approval of a settlement (Main Settlement). This Main Settlement resolves a majority of previously disputed issues between the parties in the proceeding and is an all-party settlement.

¹ TURN and SCGC filed joint comments. Air Products filed separate comments.

1.1. Submission Date

This matter was submitted on January 31, 2024, the last day to file reply comments on the joint reply comments to the comments on the Hydrogen Refueling Settlement.

2. Issues Before the Commission

The issues before the California Public Utilities Commission (Commission) in this proceeding are whether the Main Settlement, the Fixed Charge Settlement, and the Hydrogen Refueling Settlement each comply with the requirements of Rule 12 of the Commission's Rules of Practice and Procedure (Rules) for approval of a settlement and adequately resolves the issues scoped in this proceeding.

3. Review Standard

In order to approve a settlement under Rule 12.1, the Commission must find that the settlement is reasonable in light of the whole record, consistent with the law, and in the public interest. In reviewing these factors, the Commission evaluates whether: (1) the record of filed documents in the proceeding is sufficient, (2) the settlement was reached after careful analysis of the issues by each party involved, all of whom are knowledgeable and experienced regarding the subject matter of the proceeding and (3) the settlement includes detailed instructions regarding implementation of its terms.² The Commission has found that a proposed settlement is reasonable if it "adopts a result in the range of reasonableness in the context of the allegations and the strength of evidence, and

² Joint Motion for Approval of the Main Settlement at 19; Decision (D.) 17-03-005 at 5-6; D.06-08-024 at 8.

as weighed against the significant risk, expense, complexity, and length of further proceedings.”³

4. Discussion and Analysis

We first address the all-party Main Settlement and then the Fixed Charge Settlement and Hydrogen Refueling Settlement.

4.1. Main Settlement

On December 15, 2023, SoCalGas, SDG&E, SCGC, Cal Advocates, TURN, Indicated Shippers, Southwest Gas, CMTA, Shell Energy, Long Beach, Clean Energy, Air Products, and WMA filed a joint all-party motion for approval of the Main Settlement. The Main Settlement resolves a majority of previously disputed issues between the parties in this proceeding, except for SoCalGas’s fixed customer charge and hydrogen refueling station tariff proposals.

The major terms of the Main Settlement include:⁴

1. Demand Forecasts
 - a. Approves Applicants’ weather design;
 - b. Except for the SoCalGas Natural Gas Vehicle (NGV) market segment, approves Applicants’ proposed demand forecasts for both the core and noncore market segments;
2. NGV Compression Rate Adders
 - a. Approves SoCalGas’ Compression Rate Adder of \$1.02055 per therm;
 - b. Approves SDG&E’s Compression Rate Adder of \$1.02677 per therm;

³ D.19-10-033 at 19.

⁴ Joint Motion for Approval of the Fixed Charge Settlement at 5-6 and Attachment A.

3. Transmission and Storage Embedded Costs
 - a. SoCalGas's 2024 embedded cost of transmission (with Franchise Fees and Uncollectibles (FFU) is \$601.317 million and is functionalized as \$410.135 million backbone transmission and \$191.182 million local transmission;
 - b. SDG&E's 2024 embedded cost of transmission is \$75.347 million and is functionalized entirely as backbone transmission;
 - c. SoCalGas's embedded cost of storage (with FFU) is \$330.849 million and is allocated 38.1 percent to the injection function, 36.3 percent to the withdrawal function, and 25.6 percent to the inventory function;
4. Backbone Transportation Service (BTS)
 - a. Applicants are not required to implement a mechanism to provide reservation charge credits;
 - b. BTS open seasons will remain as three-year terms. The term of the next open season, for capacity contracts effective October 1, 2026, will be extended by one month, to end November 1, 2029;
 - c. For the 2026 BTS open season, Applicants will implement a new rate option, G-BTS5, which will be a firm volumetric rate option equal to 100 percent of the reservation charge rate;
5. Core Brokerage Fee
 - a. Applicants' proposed core brokerage fee of \$0.00299 per therm is approved. This rate will be updated to reflect changes in the FFU factor adopted in the 2024 General Rate Case (GRC) decision.
6. Unaccounted-For Gas Percentages
 - a. Approves 0.787 percent for SoCalGas, allocated 71.1 percent to the core and 28.9 percent to the noncore;

- b. Approves 2.223 percent for SDG&E, allocated 76.71 percent to the core and 23.29 percent to the noncore;
7. Residential Minimum Bill for SDG&E
- a. SDG&E's residential minimum monthly bill remains \$4 per month (\$0.13151 per day) for non-CARE⁵ customers and \$3.20 per month (\$0.10521 per day) for CARE customers.

4.1.1. Reasonableness

As discussed below, we find the Main Settlement is reasonable in light of the whole record of this proceeding. Here, a substantial record was developed since this proceeding commenced in September 2022, consisting of: (1) the application of the Applicants, (2) protests of Cal Advocates, Indicated Shippers, SCGC, TURN, (3) Applicants' reply to the protests, (4) Applicants' testimony and workpapers, and (5) the testimony and workpapers of Cal Advocates, Indicated Shippers, SCGC, TURN, Clean Energy, Long Beach, and WMA.⁶ The settling parties affirm that their testimony and workpapers "were reviewed and analyzed by the parties and vetted through data requests, independent analysis, and discussions between the parties."⁷

The settling parties indicate that they engaged in several settlement calls and "devoted substantial time and effort to working collaboratively to identify and achieve a better common understanding of the range of issues in dispute, the various options for narrowing the number of disputed issues, and opportunities to develop compromise positions that would permit resolution of the disputed

⁵ California Alternate Rates for Energy.

⁶ On November 29, 2023, a joint motion was filed to move testimony and exhibits into the evidentiary record.

⁷ Joint Motion for Approval of the Main Settlement at 19-20.

issues.”⁸ They contend that the Main Settlement is a product of those deliberations and that it represents a “reasonable compromise within the bounds of the parties’ litigation positions, and wholly consistent with the record developed by the parties.”⁹ The settling parties stress that the settlement represents their collective best efforts.

The record in this proceeding is robust and provides a sufficient basis for approval of the settlement. Additionally, the Main Settlement reflects a mutually agreeable compromise of strongly held and well-articulated positions on all contested issues. There is strong Commission precedent to find a settlement reasonable in light of the whole record when parties have made substantial concessions, resulting in a reasonable compromise. Such concessions and reasonable compromises are reflected in the record of this proceeding. Lastly, we find the Main Settlement includes sufficiently detailed instructions regarding the implementation of its terms.

We therefore find the Main Settlement is reasonable in light of the whole record of this proceeding.

4.1.2. Consistency with the Law

We find that the Main Settlement is consistent with the law. The settling parties contend that the Main Settlement is consistent with the law and assert that they are represented by experienced counsel and believe that the terms of the settlement “comply with all applicable statutes and prior Commission decisions, and reasonable interpretations thereof.”¹⁰ The settling parties further state that in agreeing to the terms of the Main Settlement, they considered

⁸ *Id.* at 20.

⁹ *Ibid.*

¹⁰ Joint Motion for Approval of the Main Settlement at 20.

relevant statutes and Commission decisions and believe the settlement is fully consistent with those statutes and prior Commission decisions.¹¹ There are no statutory provisions or prior Commission decisions that would be contravened or compromised by the settlement. Therefore, we find that the Main Settlement is consistent with the law.

4.1.3. Public Interest

The Main Settlement is in the public interest. The Commission has acknowledged that there is a strong public policy favoring the settlement of disputes to avoid costly and protracted litigation if the settlement is fair and reasonable.¹²

The settling parties assert that approval of the Main Settlement is in the public interest and that nothing in settlement would jeopardize the public interest. They contend that the settlement is consistent with prior Commission determinations that a settlement that “commands broad support among participants fairly reflective of the affected interests” and “does not contain terms which contravene statutory provisions or prior Commission decisions” is in the public interest.¹³

The settling parties argue that approval of the Main Settlement avoids the cost of further litigation and allows the Commission and the settling parties to focus their time and resources on other proceedings. They also cite to the Commission’s long standing policy favoring settlements that allows parties reach

¹¹ *Ibid.*

¹² D.10-12-051 at 8-9; D.18-12-002 at 6.

¹³ Joint Motion for Approval of the Main Settlement at 21; D.10-06-015 at 11-12 (citing D.92-12-019 at 11).

outcomes that reduce the risk of unacceptable outcomes if cases are litigated to a final decision.¹⁴

We find that the Main Settlement is in the public interest. The settling parties represent a wide array of interests, including both ratepayer advocates and the Applicants. The process followed in arriving at the settlement led to a series of compromises that are mutually beneficial to the settling parties. Furthermore, the Main Settlement serves the public interest by avoiding the costs of further litigation in this proceeding.

4.1.4. Conclusion

We find that the Main Settlement meets the requirements of Rule 12.1. We find the settlement is reasonable in light of the whole record, consistent with the law, we do find that and in the public interest. Therefore, we grant the motion for approval of the Main Settlement and grant authority to the Applicants to implement the terms of the Main Settlement, which is Attachment A to this decision.

4.2. Fixed Charge Settlement

On December 1, 2023, the Applicants and Cal Advocates filed a joint motion for approval of the Fixed Charge Settlement. The settling parties indicate that the Fixed Charge Settlement, if approved by the Commission, would resolve all disputed issues between the Applicants and Cal Advocates as to the Applicants' fixed customer charge proposals. They indicate that the Fixed Charge Settlement does not address or resolve the outstanding issues raised by non-settling parties. On January 2, 2024, TURN filed comments opposing the

¹⁴ Joint Motion for Approval of the Main Settlement at 21; D.10-06-015; D.10-06-038 at 38 (citation omitted); *see also* D.11-05-018 at 16; D.14-12-040 at 34 (citing D.88-12-083 at 85).

Fixed Charge Settlement. The settling parties filed a joint reply to TURN's comments on January 17, 2024.

The main terms of the Fixed Charge Settlement are:¹⁵

1. SoCalGas's monthly fixed customer charge for CARE customers shall be: \$5 for 2024, \$5 for 2025, and \$7.50 for 2026 (or, \$4 for 2024, \$4 for 2025, and \$6 for 2026, after application of the 20 percent CARE discount);
2. SoCalGas's monthly fixed customer charge for non-CARE customers shall be: \$5 for 2024, \$8 for 2025 and \$12 for 2026;
3. SDG&E's current residential non-CARE minimum bill of \$4 per customer per month to be retained in 2024 through 2026 (the corresponding residential CARE minimum bill would be \$3.20 per month);
4. As is current practice, all monthly fixed customer charges will be converted and assessed as per-meter-per-day charges; and
5. SoCalGas will incorporate the annual change in residential monthly fixed customer charges for 2025 and 2026 as part of the year-end consolidated rate update advice letter submission submitted in December 2024 (for 2025 rates) and December 2025 (for 2026 rates).

4.2.1. Reasonableness

The settling parties assert that the Commission should find the Fixed Charge Settlement reasonable in light of the whole record. They indicate that a substantial record has been developed since this proceeding commenced in September 2022, consisting of: (1) SoCalGas's opening testimony, rebuttal testimony and workpapers on the issue and (2) Cal Advocates testimony on the

¹⁵ Joint Motion for Approval of the Fixed Charge Settlement at 5-6 and Attachment A.

issue.¹⁶ The settling parties contend that their testimony and workpapers “were reviewed and analyzed by the parties and vetted through data requests, independent analysis, and discussions between the parties.”¹⁷ They indicate that after several settlement calls they reached a settlement on the fixed charge issue.

The settling parties argue that the outcome in the Fixed Charge Settlement is a reasonable compromise within the bounds of the parties’ litigation positions, and wholly consistent with the record developed by the parties.¹⁸ They state that the settlement is a product of intensive settlement negotiations, represents the collective best efforts of the settling parties and results in a mutually agreeable outcome to the proceeding.¹⁹

TURN argues that the Fixed Charge Settlement is not reasonable in light of the whole record. TURN asserts that the settling parties ignore the record developed by TURN on SoCalGas’s fixed customer charge proposal and that the Commission cannot determine the reasonableness of the settlement without considering this evidence.²⁰ TURN states that its testimony recommended no change to SoCalGas’s current residential fixed charge and provided extensive analysis to support that recommendation. TURN also asserts that the negotiation efforts of the settling parties do not demonstrate that the Fixed Charge

¹⁶ On November 29, 2023, a joint motion was filed to move testimony and exhibits into the evidentiary record.

¹⁷ Joint Motion for Approval of the Fixed Charge Settlement at 7.

¹⁸ *Ibid.*

¹⁹ *Id.* at 8.

²⁰ TURN Comments on Fixed Charge Settlement at 11.

Settlement is per se reasonable in light of the whole record and that the Commission must consider the whole record.²¹

In their January 17, 2024 reply comments, the settling parties contest TURN's argument that the Fixed Charge Settlement is not reasonable in light of the record. They emphasize that the fixed charge proposal in the settlement reflects a value that is in the middle of the values proposed by Applicants and TURN in their testimony and closer to the proposal in Cal Advocate's testimony. The settling parties assert that since the settlement's fixed charge proposal represents a value within the bounds of various proposal in the parties' testimony, it is reasonable in light of the record.

4.2.2. Consistency with the Law

As to whether the Fixed Charge Settlement is consistent with the law, the settling parties assert that they are represented by experienced counsel and believe that the terms of the Fixed Charge Settlement comply with and are consistent with all applicable statutes and prior Commission decisions, and reasonable interpretations thereof.²²

TURN argues that the Fixed Charge Settlement is not consistent with the law, specifically citing to Public Utilities Code Section 451, which requires the Commission to ensure that all charges demanded or received by any public utility are just and reasonable.²³ TURN contends that since the Fixed Charge Settlement's treatment of the fixed customer charge for SoCalGas's residential customers is not in the public interest, the Commission cannot find that the

²¹ *Ibid.*

²² Joint Motion for Approval of the Fixed Charge Settlement at 8.

²³ TURN Comments on Fixed Charge Settlement at 12-13.

resulting costs and ratemaking mechanisms are just and reasonable pursuant to Section 451 and therefore should reject the settlement.²⁴

In their January 17, 2024 reply comments, the settling parties state that the TURN's argument fails because the Fixed Charge Settlement is in the public interest and therefore consistent with the law.²⁵

4.2.3. Public Interest

The settling parties assert that the Fixed Charge Settlement is in the public interest and supported by the policy underpinning fixed monthly charges. They emphasize that transitions in the gas industry due to residential gas load and customer departure to electrification "require that the Commission address the negative rates and bill impacts in the distant future of not introducing the appropriate level of fixed charge now."²⁶ The settling parties assert that keeping residential fixed charges at the current level will increase affordability issues for customers that continue to receive gas service, including low-income customers.²⁷

The settling parties argue that the gradual revision to the fixed charges agreed to in the settlement "is a sensible step towards meeting the goals of efficiency and equity[.]"²⁸ They indicate that the residential fixed charges proposed in the settlement is less than that proposed by SoCalGas, which results in more modest bill impacts for customers than initially proposed in the application.

²⁴ *Ibid.*

²⁵ Reply to TURN Comments on Fixed Charge Settlement at 2.

²⁶ Joint Motion for Approval the Fixed Charge Settlement at 9.

²⁷ *Id.* at 9-10.

²⁸ *Ibid.*

In support of the adoption of the Fixed Charge Settlement, the settling parties also cite past Commission decisions related to electric service ratemaking that included a higher monthly fixed charge and lower volumetric charges compared to standard rates. They assert that the current reform in California to improve efficient decisions on electrification via increases in the fixed charge is “equally relevant” to the design of natural gas rates.²⁹

In comments filed on January 2, 2024, TURN asserts that the settlement is not in the public interest because the proposed changes to SoCalGas’s residential rate design in anticipation of the gas transition are premature and should not be considered in isolation in this proceeding.³⁰

First, TURN contends that there are no facts in the record to support the settling parties’ claim that a fundamental change to the structure of residential gas rates is needed to address future bill impacts associated with a transition in the gas industry.³¹ TURN asserts that the rationale for the change in rate structure is flawed, emphasizing that the settling parties acknowledge that the “level and timing of that transition is uncertain” and based on a hypothetical partial electrification scenario that is undermined by SoCalGas’s expectation of: (1) an annual average growth rate of 0.68 percent increase in residential gas customers from 2024-2027 and (2) a 1.7 percent decrease per year in gas demand.³² TURN also argues that there are “no facts in the record demonstrating that significant partial electrification by SoCalGas customers is currently happening or will proceed at a pace that will impact equitable cost

²⁹ *Id.* at 10-11.

³⁰ TURN Comments on Fixed Charge Settlement at 4.

³¹ *Id.* at 5.

³² *Ibid.*

recovery during the period of time covered by this Cost Allocation Proceeding (CAP).”³³

While acknowledging serious concerns regarding the impacts increased electrification on low- and moderate-income SoCalGas residential customers, TURN argues that the Commission should not base any change rate design changes on speculation.³⁴ TURN claims such reliance could be counter-productive and lead to problematic outcomes, such as undermining the “economic incentive for partial electrification by increasing gas bills for very small users.”³⁵ TURN asserts that any changes to SoCalGas’s residential rate design should be done in the next Cost Allocation Proceeding “based on actual data showing growth in partial, or full, electrification in its service territory” and not on speculation.³⁶

Second, TURN contends that the Commission should consider any changes in residential rate design in conjunction with other regulatory policies designed to protect ratepayers during the gas transition. TURN indicates that mitigating the impacts of potential changes in gas usage on low- and moderate-income gas customers is complex and will require complementary strategies, including: (1) careful planning by the utilities and the Commission, (2) policy changes impacting the gas industry,³⁷ (3) cost discipline and

³³ *Ibid.*

³⁴ *Id.* at 6.

³⁵ *Id.* at 6-7.

³⁶ *Ibid.*

³⁷ TURN points to the policies being developed in Rulemaking (R.) 20-01- 007 and R.19-01-011.

prioritization by utilities and (4) close scrutiny of all revenue requirement requests by the Commission.³⁸

TURN argues that the Commission should not modify SoCalGas's rate design in isolation and instead consider on an industry-wide basis in the Commission's long-term gas reliability rulemaking, R.20-01-007, where it can "properly consider rate design changes in conjunction with other regulatory policies designed to promote equity and protect ratepayers during the gas transition."³⁹ TURN contends that there is no evidence in the record of an urgent need to consider major rate design changes outside of R.20-01-007.

Lastly, TURN asserts that the Fixed Charge Settlement is not in the public interest because fixed charges for gas service charges are not analogous to fixed electric service charges due to current state public policy goals.⁴⁰ TURN emphasizes that electric vehicle and electrification rates "are intended to encourage greater electricity consumption, specifically, consumption that reduces GHG emissions from gasoline vehicles and fossil fuel burning appliances."⁴¹ TURN contends this distinguishable from gas service because California does not have a policy of encouraging greater gas consumption and the public does not have an interest in promoting higher gas consumption.⁴²

In their January 17, 2024 reply comments, the settling parties contest TURN's arguments that the Fixed Charge Settlement is not in the public interest.

³⁸ TURN Comments on Fixed Charge Settlement at 7.

³⁹ *Id.* at 9.

⁴⁰ *See* R.22-07-005.

⁴¹ TURN Comments on Fixed Charge Settlement at 9-10.

⁴² *Id.* at 10.

The settling parties contend that TURN's characterization of the changes to residential gas rates proposed in the Fixed Charge Settlement as "fundamental" is incorrect, with the changes only modifying an existing charge for SoCalGas customers.⁴³ The settling parties maintain that their testimony supports that the settlement is in the public interest because it is a more equitable rate design than currently in place and will mitigate affordability issues for low- and moderate-income gas customers as electrification increases.

The settling parties contest TURN's argument that the Commission should consider the fixed charge issue in R.20-01-007, arguing that the issue is properly considered in this proceeding based on the Scoping Memo. Additionally, they assert that fixed charge issue merits consideration in this proceeding because the proposal adheres to the same guidelines adopted in the D.17-09-035, "while enhancing the proposal to reflect concerns enumerated in the 2020 Triennial Cost Proceeding (TCAP) decision as well as advancements in ratemaking policy."⁴⁴ The settling parties argue that the Commission previously deferred the issue to R.20-01-007 in the 2020 TCAP decision and while the rulemaking is ongoing, the consideration of that the cost allocation and rate design principles have yet to commence. The settling parties maintain that addressing the fixed charge issue in this proceeding is warranted due to the delay and the uncertainty as to when the Commission will rule on the issue.

The settling parties also contend that their analogies of gas fixed charges to those in electric service are supported by cost causation principles and increasing intraclass equity. They assert an economically efficient outcome cannot be

⁴³ Reply to TURN Comments on Fixed Charge Settlement at 2.

⁴⁴ *Id.* at 4.

achieved under existing SoCalGas residential rates because they will not accurately reflect the true cost impact of changes in usage.⁴⁵

4.2.4. Conclusion

We find that the Fixed Charge Settlement does not meet the requirements of Rule 12.1 and deny the motion for approval of the Fixed Charge Settlement.

We do not find that the Fixed Charge Settlement is reasonable in light of the whole record. We agree with TURN that the negotiation efforts of the settling parties do not demonstrate that the settlement is per se reasonable in light of the whole record and that the Commission must consider the whole record. Although we appreciate that the settling parties have compromised as to the fixed charge with a proposed figure that is between the positions of Cal Advocates and SoCalGas, they have not provided sufficient justification for that specific figure, especially in light of the scant record substantiating Cal Advocate's initial recommendation as well as detailed opposition from TURN. We are not convinced that the changes to SoCalGas's residential rate design proposed in the settlement are sufficiently based on actual cost data as well as data demonstrating the growth in partial, or full, electrification in SoCalGas's territory.

Based on the record of this proceeding, we are also unconvinced that the Fixed Charge Settlement is consistent with the law and in the public interest. We find that the Fixed Charge Settlement is not consistent with Public Utilities Code Section 451, which requires the Commission to ensure that all charges demanded or received by any public utility are just and reasonable. Additionally, the proposed changes to SoCalGas's residential rate design in this application are not

⁴⁵ *Id.* at 6-7.

in the public interest because their implementation would be premature and any changes should be considered on an industry-wide basis in the long-term gas planning rulemaking, R.20-01-007. We find insufficient facts in the record to support that a fundamental change to the structure of residential gas rates is needed prior to a determination of the issue in R.20-01-007. It is important for the Commission to consider such important changes in a wholistic manner rather than in isolation.

4.3. Hydrogen Refueling Settlement

On December 14, 2023, the Applicants filed a joint motion for approval of the Hydrogen Refueling Settlement. The settlement, if approved by the Commission, would resolve all disputed issues between the Applicants and Clean Energy as they relate to SoCalGas's hydrogen fueling tariff proposal and issues related to SoCalGas's Low Carbon Fuel Standard (LCFS) program raised in Clean Energy's testimony.

On January 16, 2024, Air Products, TURN and SCGC filed comments opposing the Hydrogen Refueling Settlement.⁴⁶ On January 31, 2024, the Applicants and Clean Energy filed a joint reply to the comments of Air Products, TURN and SCGC.

The Hydrogen Refueling Settlement consists of the following major terms:

1. It allows SoCalGas to submit a Tier 2 Advice Letter to establish a hydrogen fueling rate, G-FCEV if the Commission authorizes SoCalGas to own and operate hydrogen fueling stations in the 2024 GRC final decision. Hydrogen station operations and maintenance (O&M) costs and revenues associated with the operation of utility-owned hydrogen refueling stations would be

⁴⁶ Air Products filed separate comments. TURN and SCGC filed joint comments.

- recorded in the Hydrogen Refueling Station Balancing Account (HRSBA) or other applicable account;⁴⁷
2. If SoCalGas is granted authorization to own and operate hydrogen fueling stations in the Test Year 2024 GRC, and the G-FCEV hydrogen fueling rate is approved, SoCalGas shall provide a study for a cost-based hydrogen fueling rate in its next cost allocation application based on the actual hydrogen station capital and O&M costs and LCFS revenues associated with the operation of SoCalGas's approved hydrogen refueling stations;⁴⁸
 3. SoCalGas will update its LCFS Program Implementation Plan, subject to Commission approval, to open its LCFS Fuel Card Program to include third-party NGV fueling stations; and
 4. SoCalGas will implement the updated LCFS Fuel Card Program in 2024, and SoCalGas and Clean Energy will work collectively on the 2024 implementation.

4.3.1. Reasonableness

The settling parties assert that the Commission should find the Hydrogen Refueling Settlement reasonable in light of the record. They indicate that a substantial record has been developed since this proceeding commenced in September 2022, consisting of: (1) SoCalGas's opening and rebuttal testimony and (2) Clean Energy's testimony and rebuttal testimony on hydrogen and LCFS related issues.⁴⁹ The settling parties contend that their testimony and workpapers "were reviewed and analyzed by the parties and vetted through data requests, independent analysis, and discussions between the parties."⁵⁰

⁴⁷ Joint Motion for Approval of the Hydrogen Settlement at 6.

⁴⁸ *Ibid.*

⁴⁹ *Id.* at 7.

⁵⁰ *Id.* at 8.

The settling parties indicate that they engaged in several settlement calls and “devoted substantial time and effort to working collaboratively to identify and achieve a better common understanding of the range of issues in dispute, the various options for narrowing the number of disputed issues, and opportunities to develop compromise positions that would permit resolution of the disputed issues.”⁵¹ They contend that the Hydrogen Refueling Settlement represents a compromise on a procedure for SoCalGas to establish a hydrogen rate with the resolution on the LCFS issues identified by Clean Energy. The settling parties claim that the settlement outcome is within the bounds of the parties’ litigation positions, and is wholly consistent with the record developed by the parties. They also note that, consistent with Rule 12.1, the Hydrogen Refueling Settlement results in “a mutually agreeable outcome to the proceeding.”⁵²

Air Products argues the settling parties have failed to meet their burden to show that the Hydrogen Refueling Settlement is fair and reasonable in light of the whole record. They contend that the record demonstrates that, if approved, the tariff would likely result in: (1) ratepayer subsidization of hydrogen fueling services to third parties for which ratepayers do not receive a benefit, (2) undermining the competitive market for fueling services and (3) undercutting the state’s policies supporting zero-emission vehicles.”⁵³ Air Products asserts that the settling parties have failed to cite to record evidence that demonstrates a benefit or need to establish a hydrogen fueling tariff now since the Commission is

⁵¹ *Ibid.*

⁵² *Id.* at 8-9.

⁵³ Air Products Comments on Hydrogen Refueling Settlement at 8.

still considering whether to approve SoCalGas's disputed proposal to construct and operate hydrogen fueling stations.⁵⁴

TURN and SCGC contend that the Hydrogen Refueling Settlement is not reasonable in the light of the whole record, indicating that the settlement does not sufficiently address ratepayer risk and anti-competitive concerns raised in the proceeding.⁵⁵ They argue that the record shows that although "the provision of fueling stations is not inherently a natural monopoly service, the Applicants propose to provide hydrogen fueling services on a subsidized basis."⁵⁶ TURN and SCGC also cite to record evidence concerning ratepayer subsidizations and the risk of SoCalGas ratepayers becoming a "backstop to protect SoCalGas shareholders" if all capital-related costs included in the Test Year 2024 GRC base margin revenue requirement are not covered by surplus revenues from the fueling stations.⁵⁷ TURN and SCGC also raise concerns that ratepayers guaranteeing full cost recovery of the fueling stations costs would also result in anti-competitive effects.

4.3.2. Consistency with the Law

As to whether the Hydrogen Refueling Settlement is consistent with the law, the settling parties assert that they are represented by experienced counsel and believe that the terms of the Hydrogen Refueling Settlement comply with and are consistent with all applicable statutes and prior Commission decisions, and reasonable interpretations thereof.⁵⁸

⁵⁴ *Id.* at 8.

⁵⁵ TURN and SCGC Comments on the Hydrogen Refueling Settlement at 7.

⁵⁶ *Id.* at 8-9.

⁵⁷ *Id.* at 9.

⁵⁸ Joint Motion for Approval of the Hydrogen Refueling Settlement at 9.

Air Products opposes the Hydrogen Refueling Settlement, arguing that the settling parties' assertion of a "belief" that the settlement complies with applicable statutes and prior Commission decisions is insufficient to support that the settlement is consistent with the law. They assert that the Commission "lacks statutory authority to assert jurisdiction over the provision of hydrogen or hydrogen-related services" and that it is "premature" for Commission approval of a hydrogen fueling rate tariff prior to determining "whether it will approve, or even has the jurisdiction to approve, SoCalGas's request to construct those stations."⁵⁹ Air Products further argues that the root issue of jurisdiction requires review and record development in a standalone proceeding – and should not be resolved through a settlement between two of the many parties in this proceeding.⁶⁰

Air Products also disputes the settling parties' citation to state policies advancing the adoption of zero emission vehicles, arguing that the settling parties have not linked "those state policies and a purported need for utilities to requisition ratepayer funds to develop fueling stations for those vehicles."⁶¹ They contend that approval of the Hydrogen Refueling Settlement would "likely significantly undermine" those policies by "adversely impacting the existing competitive market that is currently fostering hydrogen fueling station development." Air Products indicates that a hydrogen fueling market already exists, with over 30 hydrogen fueling stations currently in SoCalGas's service territory and another 20 in development, and that approval of the settlement

⁵⁹ Air Products Comments on Hydrogen Refueling Settlement at 7.

⁶⁰ *Id.* at 8.

⁶¹ *Ibid.*

risks “undermin[ing] the competitive viability as well as the operation and development of independent hydrogen fueling stations.”⁶²

TURN and SCGC note that under the Hydrogen Refueling Settlement, SoCalGas could pass on any shortfall in the HRSBA to ratepayers and that any true-up would occur via SoCalGas’s Annual Regulatory Account Balance Update, which is a Tier 2 Advice Letter process.⁶³ They assert that SoCalGas has not presented a forecast of the hydrogen refueling stations operating costs in this proceeding or in the general rate case, and therefore the Commission is unable to determine a reasonable level of operational costs.⁶⁴ TURN and SCGC argue that a Tier 2 Advice Letter is not an appropriate process to address this cost recovery because the Commission has not had the opportunity to ensure that the costs incurred by SoCalGas are just and reasonable pursuant to Public Utilities Code Section 451.⁶⁵

TURN and SCGC also contend that the Commission cannot delegate its obligation under Public Utilities Code Section 451 to staff, which would occur in the Tier 2 Advice Letter process. They stress that the Tier 2 Advice Letter process is limited to “ministerial” dispositions and therefore an inappropriate process for a “discretionary” determination of whether “hydrogen station operational costs recorded to the HRSBA are reasonable and therefore eligible for rate recovery, and whether such costs should be added to the authorized revenue

⁶² *Ibid.*

⁶³ TURN and SCGC Comments on the Hydrogen Refueling Settlement at 4.

⁶⁴ *Id.* at 5.

⁶⁵ *Ibid.*

requirement[.]”⁶⁶ TURN and SCGC argue that the Tier 2 Advice Letter process is only appropriate when the Commission has already determined a reasonable level of operational costs in an adopted decision, but deferred the recovery of those costs until after revenues and green credits can be accounted for, which does not apply to the “completely new” costs at issue.⁶⁷

4.3.3. Public Interest

The settling parties assert that approval of the Hydrogen Refueling Settlement is in the public interest and that nothing in the settlement would jeopardize the public interest. They state that their negotiations were conducted: (1) in good faith, (2) over an extended time, and (3) at an advanced stage in the litigation.⁶⁸ They also state that the settlement is a result of the application of their expertise and collective judgment to a “fulsome” record after a thorough review of the issues.⁶⁹ They contend that the settled issues are “identified in sufficient detail for the Commission to understand and appreciate their reasonableness, particularly in the context of the substantial record developed in this case.”⁷⁰

The settling parties further contend that the settlement is the “type of acceptable outcome identified by the Commission as a benefit to settlement agreements” and “in line” with some of the arguments raised by several of the parties included in testimony.⁷¹ They argue that TURN’s testimony opposing the

⁶⁶ TURN and SCGC Comments on the Hydrogen Refueling Settlement at 5-6; General Order 96-B, General Rule 7.6.1.

⁶⁷ TURN and SCGC Comments on the Hydrogen Refueling Settlement at 5-6.

⁶⁸ Joint Motion for Approval of the Hydrogen Refueling Settlement at 11.

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*

⁷¹ *Id.* at 9.

hydrogen fueling station rate in this proceeding is premised on TURN's general opposition to SoCalGas building hydrogen fueling stations and not to the specific rate design.⁷² They also argue that the inclusion of a revised rate design and a future cost study requirement in the settlement addresses concerns raised by SCGC in its testimony.⁷³

The settling parties emphasize that the rate schedule will only be established if SoCalGas is granted authority to construct hydrogen refueling stations in the general rate case final decision in A.22-05-015. They argue that the hydrogen fueling tariff in the settlement will provide a "broad ratepayer benefit because the revenues would be credited to the HRSBA, partially offsetting the capital costs embedded in SoCalGas's base margin revenue requirement."⁷⁴

Air Products argues that the Hydrogen Refueling Settlement does not meet the public interest requirements under Rule 12.1 because it does not command broad support among the proceeding's participants that are fairly reflective of the affected interests with itself, SCGC and TURN opposing the settlement.⁷⁵ They emphasize that no party "primarily affected by the proposed hydrogen refueling rate tariff, other than the utility" supports the settlement and that the only independent signatory is Clean Energy, who's primary interests is in NGV fueling stations.⁷⁶ They also assert that no party representing ratepayer interests joined the settlement. Therefore, Air Products contends that no party that "fairly

⁷² *Id.* at 10.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ Air Products Comments on Hydrogen Refueling Settlement at 4.

⁷⁶ *Id.* at 6-7.

reflects the interests of third-party hydrogen fueling station owners, operators, or developers” has joined the settlement.

Additionally, Air Products asserts that neither the settlement or the joint motion for approval of the settlement address the concerns raised in party testimony, including SCGC testimony regarding cost recovery and the competitive viability of independent hydrogen fueling stations.⁷⁷ Air Products also cites to TURN and other parties’ testimony opposing SoCalGas’s GRC request to build hydrogen fueling stations to serve its own fleet and the public, as well as Cal Advocates’ testimony opposing the establishment of a HRSBA.⁷⁸

Air Products also argue that the settlement is not in the public interest due to the lack of Commission approval to build hydrogen fueling stations and the potential for an anti-competitive rate subsidized by ratepayers due uncertainty of the actual costs of the stations.⁷⁹ They question why the approval of a hydrogen fueling rate tariff prior to Commission approval of SoCalGas’s request to build hydrogen fueling stations is in the public interest. Air Products asserts that the settling parties fail “to provide a sufficient reason why the Commission must rush to approve a hydrogen fueling rate tariff for hydrogen fueling stations that may never be approved.”⁸⁰ Air Products further argues that there is no record support for the argument that any delay caused by denial of the tariff in this proceeding would have any significant adverse impacts on SoCalGas’s ability to offer fueling services to third parties.

⁷⁷ *Id.* at 5.

⁷⁸ *Id.* at 5-6.

⁷⁹ *Id.* at 5.

⁸⁰ *Ibid.*

TURN and SCGC argue the settlement is not in the public interest because authorizing SoCalGas to use a Tier 2 Advice Letter process for cost recovery from ratepayers for potential hydrogen fueling station costs prevents the Commission “from satisfying its legal obligation to ensure that all costs recovered from ratepayers were reasonably incurred.”⁸¹ They also contend that it is not in the public interest for ratepayers to assume “100% of the risk of any shortfall in SoCalGas’s recovery of operational and capital costs through the new hydrogen rate, despite the anti-competitive effects of this approach demonstrated in the record.”⁸² Lastly, TURN and SCGC assert that it is not in the public interest for SoCalGas ratepayers to “subsidize the operational costs of public-access hydrogen fueling stations, which are not a natural monopoly service.”⁸³

4.3.4. Conclusion

We find that the Hydrogen Refueling Settlement does not meet the requirements of Rule 12.1 and deny the motion for approval of the Hydrogen Refueling Settlement.

We do not find the Hydrogen Refueling Settlement is reasonable in light of the whole record. The settling parties have not cited to record evidence that adequately demonstrates a benefit or need to establish a hydrogen fueling tariff prior to a Commission determination on SoCalGas’s request for authority to construct and operate hydrogen fueling stations. Additionally, we also find the potential ratepayer risk and anti-competitive concerns with ratepayers guaranteeing full cost recovery for capital and operational costs of the fueling stations unreasonable in the light of the record.

⁸¹ TURN and SCGC Comments on the Hydrogen Refueling Settlement at 10.

⁸² *Ibid.*

⁸³ *Ibid.*

We do not find the Hydrogen Refueling Settlement consistent with the law. It is premature for the Commission to approve a disputed hydrogen fueling rate tariff prior to approval of request to construct those stations. The Tier 2 Advice Letter is not the appropriate process to address the cost recovery associated with the hydrogen refueling stations because the Commission has not had the opportunity to ensure that these costs are just and reasonable pursuant to Public Utilities Code Section 451. The Tier 2 Advice Letter process is only appropriate when the Commission has already determined a reasonable level of operational costs in an adopted decision.

We do not find that the Hydrogen Refueling Settlement is in the public interest. It is not in the public interest for ratepayers to assume the risk of any shortfall in SoCalGas's recovery of costs through the new hydrogen rate. It is not in the public interest for SoCalGas ratepayers to subsidize the costs of facilities that are not a natural monopoly service. The absence of broad support for the settlement, particularly from the parties affected by the proposed hydrogen refueling rate tariff as well as parties representing ratepayer interests, counters that the settlement is in the public interest. Lastly, we find it is not in the public interest to approve a settlement that has the potential to have anti-competitive impacts on the nascent hydrogen refueling market.

For these reasons, we do not approve the Hydrogen Refueling Settlement. We also decline to adopt a hydrogen refueling station rate in this proceeding.

5. Summary of Public Comment

Rule 1.18 allows any member of the public to submit written comment in any Commission proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website. Rule 1.18(b)

requires that relevant written comment submitted in a proceeding be summarized in the final decision issued in that proceeding.

Twenty-nine members of the public submitted comments regarding A.22-09-015. All of the public comments opposed Applicants' requested relief, arguing that authorizing the rate increases would severely impact rate affordability in a time where inflation is already straining ratepayers.

6. Procedural Matters

This decision affirms all rulings made by the Administrative Law Judge (ALJ) and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

7. Comments on Proposed Decision

The proposed decision of ALJ Marcelo Lins Poirier in this matter was mailed to the parties in accordance with Public Utilities Code Section 311 and comments were allowed under Rule 14.3. On June 24, 2024, SoCalGas, SDG&E, Cal Advocates, and Clean Energy filed joint comments and TURN, Indicated Shippers and Air Products each filed individual comments. On July 1, 2024, SoCalGas and SDG&E filed joint reply comments. TURN and SCGC also filed joint reply comments on that date. Air Products and AECA each filed individual reply comments. We have considered the comments and made modifications as appropriate.

8. Assignment of Proceeding

John Reynolds is the assigned Commissioner and Marcelo Lins Poirier is the assigned ALJ in this proceeding.

Findings of Fact

1. On December 15, 2023, the Applicants, TURN, Indicated Shippers, Southwest Gas, CMTA, Shell Energy, Long Beach, Clean Energy, Air Products and WMA filed a joint motion for approval of the Main Settlement.
2. The Main Settlement is an all-party settlement.
3. On December 1, 2023, the Applicants and Cal Advocates filed a joint motion for approval of the Fixed Charge Settlement.
4. The Fixed Charge Settlement is opposed.
5. The Commission is currently considering rate design, including fixed rates, the long-term gas reliability rulemaking, R.20-01-007.
6. There are no facts in the record to support that a fundamental change to the structure of residential gas rates is needed prior to a determination of the issue in R.20-01-007.
7. On December 14, 2023, the Applicants and Clean Energy filed a joint motion for approval of the Hydrogen Refueling Settlement.
8. The Hydrogen Refueling Settlement is opposed.
9. The Commission has not decided on SoCalGas's request for authority to build hydrogen fueling stations included in A.22-05-015.
10. Hydrogen refueling is not a natural monopoly service.
11. Public Utilities Code Section 451 requires the Commission to ensure that all charges demanded or received by any public utility are just and reasonable.
12. The Commission has not had the opportunity to ensure that these costs are just and reasonable pursuant to Public Utilities Code Section 451.
13. The Tier 2 Advice Letter process is only appropriate when the Commission has already determined a reasonable level of operational costs in an adopted decision.

14. The Hydrogen Refueling Settlement exposes ratepayers to a risk of assuming any shortfall in SoCalGas's recovery of costs through the new hydrogen rate.

15. There is insufficient record evidence to demonstrate a benefit or need to establish a hydrogen fueling tariff prior to a Commission determination on SoCalGas's request for authority to construct and operate hydrogen fueling stations in the pending GRC.

16. The Hydrogen Refueling Settlement does not have broad support from the parties affected by the proposed hydrogen refueling rate tariff or parties representing ratepayer interests.

17. The Hydrogen Refueling Settlement could potentially have anti-competitive impacts on the hydrogen refueling market.

Conclusions of Law

1. The Main Settlement is reasonable in light of the whole record.
2. The Main Settlement is consistent with law.
3. The Main Settlement is in the public interest.
4. The Main Settlement meets the criteria for approval of settlements in Rule 12.1(d).
5. The Main Settlement should be approved and adopted, without modification.
6. The joint motion for approval of the Main Settlement filed on December 15, 2023, should be granted.
7. The Commission should consider changes to SoCalGas's residential rate design on an industry-wide basis in the long-term gas reliability rulemaking, R.20-01-007.
8. The Fixed Charge Settlement is not reasonable in light of the whole record.

9. The Fixed Charge Settlement is not consistent with law.
10. The Fixed Charge Settlement is not in the public interest.
11. The Fixed Charge Settlement does not meet the criteria for approval of settlements in Rule 12.1(d).
12. The joint motion for approval of the Fixed Charge Settlement filed on December 14, 2023, should be denied.
13. A Tier 2 Advice Letter is not appropriate to address the cost recovery associated with the hydrogen refueling stations.
14. Hydrogen Refueling Settlement is not reasonable in light of the whole record.
15. The Hydrogen Refueling Settlement is not consistent with law.
16. The Hydrogen Refueling Settlement is not in the public interest.
17. The Hydrogen Refueling Settlement does not meet the criteria for approval of settlements in Rule 12.1(d).
18. The joint motion for approval of the Hydrogen Refueling Settlement filed on December 14, 2023, should be denied.
19. The joint motion filed on November 29, 2023, to enter exhibits into the evidentiary record should be granted.
20. All outstanding motions filed in this proceeding that have not yet been ruled on, should be denied.
21. A.22-09-015 should be closed.

O R D E R

IT IS ORDERED that:

1. The joint motion for approval by the California Public Utilities Commission of the all-party settlement filed on December 15, 2023, is granted.

2. The all-party settlement filed on December 15, 2023, attached to this decision as Attachment A is approved and adopted without modification.

3. Southern California Gas Company and San Diego Gas & Electric Company are authorized to revise their natural gas rates and implement storage proposals consistent with the approved all-party settlement that is attached to this decision as Attachment A.

4. Southern California Gas Company and San Diego Gas & Electric Company are directed to comply with and implement all of the terms of the settlement filed on December 15, 2023, as adopted and set forth in Attachment A of this decision.

5. The joint motion for approval of the settlement regarding a fixed charge proposal filed by Southern California Gas Company, San Diego Gas & Electric Company and the Public Advocates Office at the California Public Utilities Commission on December 1, 2023, is denied.

6. The joint motion for approval of the settlement regarding the hydrogen refueling station tariff filed by Southern California Gas Company, San Diego Gas & Electric Company and Clean Energy on December 14, 2023, is denied.

7. The November 29, 2023 joint motion to enter exhibits into the evidentiary record filed is granted and the exhibits are so admitted.

8. All outstanding motions filed in this proceeding that have not yet been ruled on, are denied.

9. Application 22-09-015 is closed.

This order is effective today.

Dated July 11, 2024, at San Francisco, California.

ALICE REYNOLDS

President

DARCIE L. HOUCK

JOHN REYNOLDS

KAREN DOUGLAS

Commissioners

Commissioner Matthew Baker recused himself from this agenda item and was not part of the quorum in its consideration.

ATTACHMENT A