

Decision 24-12-032 December 19, 2024

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN CALIFORNIA GAS COMPANY (U904G) Proposing Approval of Woody Biomass Pilot Project.

Application 23-06-024

DECISION GRANTING SOUTHERN CALIFORNIA GAS COMPANY'S REQUEST FOR VOLUNTARY DISMISSAL OF APPLICATION PROPOSING APPROVAL OF WOODY BIOMASS PILOT PROJECT

Summary

This decision grants, with conditions, Southern California Gas Company's request for voluntary dismissal of Application 23-06-024 proposing approval of a woody biomass pilot project. By October 15, 2025, Southern California Gas Company is directed to either use the Tier 2 Annual Regulatory Account Balance Update for Rates Effective January 1, 2026 advice letter returning the \$19.704 million of Cap-and-Trade funds, including interest, to ratepayers through the California Climate Credit in 2026 or file a new woody biomass pilot project application as directed in Decision 22-02-025.

This proceeding is closed.

1. Background

On June 30, 2023, Southern California Gas Company (SoCalGas) filed Application (A.) 23-06-024 (the Application) seeking Commission approval of its woody biomass pilot project (the Project). SoCalGas filed the Application

pursuant to Commission Decision (D.) 22-02-025, which required SoCalGas to propose at least one woody biomass gasification project focused on converting woody biomass to biomethane.¹ The Project was being developed by San Joaquin Renewables (SJR). On August 11, 2023, protests to the Application were filed by Wild Tree Foundation (Wild Tree), The Public Advocates Office at the California Public Utilities Commission (Cal Advocates), and jointly by Sierra Club and The Center for Biological Diversity. SoCalGas filed its response to the protests on August 21, 2023.

A Prehearing Conference was held on October 23, 2023, and the Scoping Memo and Ruling setting the scope and schedule for this proceeding was issued on February 22, 2024.

On April 22, 2024, SoCalGas filed a Motion for Voluntary Dismissal of the Application (the Motion). On April 26, 2024, Wild Tree filed a response to the Motion. Cal Advocates filed a response to the Motion on April 29, 2024.

SoCalGas requested permission to reply to responses to the Motion. Its request was granted via ALJ ruling on May 3, 2024, and SoCalGas filed its reply on May 13, 2024.

On May 6, 2024, the assigned Administrative Law Judge issued a ruling suspending the proceeding schedule.

2. Jurisdiction

Pursuant to Article XII, Sections 1 through 6 of the California Constitution, the Commission “has broad authority to regulate utilities.”² The California Legislature enacted the Public Utilities Act which authorized the Commission to

¹ D.22-02-025, Ordering Paragraph 43, at 67 – 68.

² *Ford v. Pacific Gas and Electric Company* (1997) 60 Cal. App. 4th 696, 700, citing to *San Diego Gas & Electric Company v. Superior Court*, (1996) 13 Cal. 4th 893, 914 – 915.

supervise and regulate every public utility in California and to do all things which are “necessary and convenient in the exercise of such power and jurisdiction.”³ Specifically, Article XII, Section 3 of the California Constitution provides that “the production, generation, transmission, or furnishing of heat, light, water, power” fall under the jurisdiction of the legislature. California Public Utilities Code statutes are enforced by the Commission.⁴

The Commission’s Rules of Practice and Procedure (Rules) govern the parameters for motions, and a motion to dismiss. Rule 11.1(b) states that a motion may be made at any time during the pendency of a proceeding by any party to the proceeding. Rule 11.2 states that a motion to dismiss a proceeding based on the pleadings (other than a motion based on lack of jurisdiction) shall be made no later than five days prior to the first day of hearing.

3. SoCalGas’ Motion for Voluntary Dismissal of Application

In the Motion, SoCalGas informed the Commission that SJR suspended the Project due to “contractual, regulatory, and other hurdles.”⁵ Due to “circumstances beyond its control, SoCalGas [was] unable to proceed with the Application as currently framed”⁶ and filed the Motion to voluntarily dismiss the Application without prejudice. SoCalGas proposes to continue reserving the \$19.704 million set aside in D.22-02-025 (the Funds) for the Project for a future

³ Public Utilities Code Section 701. All references to “Section” herein are to the California Public Utilities Code unless otherwise noted.

⁴ Article XII, Section 5.

⁵ April 12, 2024 Motion of Southern California Gas Company for Voluntary Dismissal of Application at 2.

⁶ *Ibid.*

pilot project application and to return these funds to ratepayers if it does not file a new application.

In their respective responses to the Motion, both Wild Tree and Cal Advocates are generally supportive of the Motion but oppose SoCalGas' plan to keep the Funds instead of returning these funds to ratepayers. Wild Tree argues that the application should be dismissed with prejudice and that the Funds should be returned to ratepayers because D.22-02-025 did not leave the application period for the pilot projects open indefinitely but did provide a mechanism for the return of unspent funds.⁷ Cal Advocates argues that California Air Resources Board (CARB) regulations do not allow SoCalGas to reserve the Funds for a future pilot project, noting that SoCalGas has not described any active efforts or timelines to develop another project proposal.⁸ Cal Advocates argues that, while CARB regulations require the Funds held by SoCalGas to be returned to ratepayers by December 31, 2032, if they are unused, this does not allow SoCalGas to hold on to the Funds until that date without a specific purpose or Commission authorization.⁹ Cal Advocates recommends that if the Commission does allow SoCalGas to reserve Funds, SoCalGas should be required to hold the Funds in an interest-bearing account.¹⁰

In its reply to the responses to the Motion, SoCalGas argues that it should be allowed to retain the Funds by citing to Assembly Bill (AB) 1900 (Gatto, 2012), AB 3187 (Grayson, 2018), and Senate Bill (SB) 1440 (Hueso, 2018) which SoCalGas claims provide "strong public policy mandates for the Commission to adopt

⁷ Wild Tree Response to Motion to Dismiss at 2.

⁸ Cal Advocates Response to Motion to Dismiss at 5.

⁹ *Id.* at 6.

¹⁰ *Id.* at 7.

policies and programs that support biomethane projects.”¹¹ SoCalGas also argues that it should be allowed to retain the Funds because the Commission contemplated using Cap-and-Trade funds to promote the future expansion of woody biomass projects when the Commission included pipeline extensions to the pilot facilities in D.22-02-025.¹² In response to Cal Advocates, SoCalGas notes that the Funds are already in an interest-bearing account and argues that, because of this, ratepayers will not be adversely affected by the Funds continuing to be held in reserve.¹³ SoCalGas proposes to continue setting aside the Funds not later than two years from the time that a final decision is issued on the Motion.

4. Discussion

The Motion raises two distinct issues. First, should the request to dismiss the Application be granted? Second, should SoCalGas be allowed to retain the Funds for a future woody biomass pilot project?

On the first issue, the Commission agrees with all parties that the Application should be dismissed. The Project has not been assessed on its merits and the dismissal is the result of circumstances beyond SoCalGas’ control. No party disputes this.

On the second issue, we agree with Cal Advocates that CARB regulations do not allow SoCalGas to retain the Funds without a specific purpose or Commission authorization. In particular, California Code of Regulations (CCR) Title 17 § 95893(d)(3) requires that Cap-and-Trade funds allocated to natural gas suppliers must be used to reduce greenhouse gas (GHG) emissions and CCR 17 §

¹¹ SoCalGas Reply to Responses to Motion to Dismiss at 2.

¹² *Id.* at 3.

¹³ *Id.* at 4-5.

95893(e)(4)(B) requires annual reporting on these GHG emissions. If the Funds are being held without a specific purpose or Commission authorization, as would be the case if SoCalGas were allowed to simply retain the Funds as they propose in the Motion, both CCR 17 § 95893(d)(3) and CCR 17 § 95893(e)(4)(B) would be violated. The Funds cannot reduce GHG emissions if they are simply being held and, consequently, no annual reporting could be completed to estimate GHG emissions reductions.

We therefore find it reasonable to provide that purpose and authorization here. The Commission directed SoCalGas to file a woody biomass pilot project application but has been unable to assess the Project on its merits due to circumstances outside of SoCalGas' control. The rationale and context of the Commission direction provided in D.22-02-025 has not changed substantially since that decision was issued. As such, we find it reasonable to direct SoCalGas to, by October 15, 2025, either:

- a. Use SoCalGas' existing Annual Regulatory Account Balance Update for Rates Effective January 1, 2026 Tier 2 advice letter¹⁴ filed by October 15, 2025 to return the Funds, including interest, to ratepayers; OR
- b. File an application proposing at least one woody biomass gasification project focused on conversion of woody biomass to biomethane as directed in Ordering Paragraph 43 of D.22-02-025.

Consistent with the direction provided in D.22-02-025, if SoCalGas opts to file an application proposing at least one woody biomass gasification pilot project focused on conversion of woody biomass to biomethane, the project:

¹⁴ This advice letter process was established in D.15-10-032 as the mechanism through which SoCalGas reconciles its natural gas GHG compliance costs and allowance proceeds.

- May focus on either forest or agricultural waste, as best serves its interests and the interests of its customers;
- Should have its procurement efforts and strategic placement coordinated with local and state authorities, including the Department of Conservation;
- Must include costs for pipeline extensions to the pilot facilities in the project costs;
- Should facilitate future potential extensions for additional projects;
- Should propose methods for using carbon dioxide in carbon capture and storage or use projects rather than venting carbon dioxide to the atmosphere;
- Should test technologies that are capable of extension and have significant potential to increase the renewable natural gas supply in the long term; and
- Must study and report fugitive methane, pollutant, and particulate matter emissions and emissions reduction or elimination methods in the gasification or pyrolysis process, the methanation process, and pipeline infrastructure.

If SoCalGas chooses to file a new woody biomass pilot project application, any interest gained on the Funds through October 15, 2025, must be returned to ratepayers via the Tier 2 Annual Regulatory Account Balance Update for Rates Effective January 1, 2026 advice letter filed by October 15, 2025.

5. Submission Date

This matter was submitted on May 13, 2024, upon receipt of SoCalGas' reply to responses to its motion for voluntary dismissal of A.23-06-024.

6. 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. There are no public comments on the Docket Card for this application.

7. Conclusion

This decision grants, with conditions, SoCalGas' Motion for voluntary dismissal of A.23-06-024. By October 15, 2025, SoCalGas is directed to either use the Tier 2 Annual Regulatory Account Balance Update for Rates Effective January 1, 2026 advice letter returning the \$19.704 million of Cap-and-Trade funds, including interest, to ratepayers through the California Climate Credit in 2026 or file a new woody biomass pilot project application as directed in D.22-02-025.

8. Procedural Matters

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

9. Comments on Proposed Decision

The proposed decision of ALJ in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on December 3, 2024, and reply comments were filed on December 9, 2024, by SoCalGas and Cal Advocates. Changes have been made throughout the decision in response to these comments.

10. Assignment of Proceeding

Commissioner John Reynolds is the assigned Commissioner and Jonathan Lakey is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. On April 22, 2024, SoCalGas filed the Motion seeking voluntary dismissal of the Application indicating that SoCalGas is unable to proceed with its proposed woody biomass pilot project due to circumstances outside of SoCalGas' control and that SJR was suspending the Project due to "contractual, regulatory, and other hurdles."

2. In their respective responses to the Motion, both Wild Tree and Cal Advocates are generally supportive of the Motion.

3. CARB regulations do not allow SoCalGas to retain the Funds without a specific purpose or Commission authorization.

4. California Code of Regulations (CCR) Title 17 § 95893(d)(3) requires that Cap-and-Trade funds allocated to natural gas suppliers must be used to reduce greenhouse gas (GHG) emissions and CCR 17 § 95893(e)(4)(B) requires annual reporting on these GHG emissions.

5. If the Funds are being held without a specific purpose or Commission authorization, as would be the case if SoCalGas were allowed to simply retain the Funds as they propose in the Motion, both CCR 17 § 95893(d)(3) and CCR 17 § 95893(e)(4)(B) would be violated.

Conclusions of Law

1. Motion should be granted.

2. The Application should be dismissed.

3. It is reasonable to direct SoCalGas to, by October 15, 2025, either use the existing Annual Regulatory Account Balance Update for Rates Effective January 1, 2026 Tier 2 advice letter returning the Funds, including interest, to ratepayers or file a new application proposing at least one woody biomass pilot project, as directed in this decision.

4. All rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding should be affirmed.
5. All motions not ruled on should be denied.
6. The proceeding should be closed.

O R D E R

IT IS ORDERED that:

1. Southern California Gas Company's April 22, 2024 Motion for Voluntary Dismissal of the Application 23-06-024 is granted.
2. By October 15, 2025, Southern California Gas Company shall either:
 - (a) Use the existing Annual Regulatory Account Balance Update for Rates Effective January 1, 2026 Tier 2 advice letter to return the \$19.704 million of Cap-and-Trade funds, including interest, to ratepayers; OR
 - (b) File an application proposing at least one woody biomass gasification project focused on conversion of woody biomass to biomethane. This project may include the procurement of biosynthetic natural gas from forest, agricultural, and urban wood waste pyrolysis and gasification projects using methanation. Southern California Gas Company may decide whether its pilot project will focus on forest or agricultural waste based on what best serves its interests and the interests of its customers. Southern California Gas Company should coordinate such gasification projects and strategic placement with local and state authorities, including the Department of Conservation. The project cost shall include pipeline extensions to the pilot facilities. Pipeline extensions should facilitate future potential extensions for additional projects. The pilot must propose methods for using carbon dioxide in carbon capture and storage or use projects rather than venting it to the atmosphere and must provide a detailed plan for how these methods will be implemented for the pilot project. The pilot proposed should test technologies that are capable of expansion and

that have significant potential to increase the renewable natural gas supply in the long term. The pilot shall study and report fugitive methane, pollutant, and particulate matter emissions and emissions reductions or elimination methods in the gasification or pyrolysis process, the methanation process, and the pipeline infrastructure.

3. If Southern California Gas Company chooses to file a new woody biomass pilot project application by or before October 15, 2025, any interest gained on the Funds through October 15, 2025, shall be returned to ratepayers using the existing Annual Regulatory Account Balance Update for Rates Effective January 1, 2026 Tier 2 advice letter filed by October 15, 2025.

4. Application 23-06-024 is dismissed and closed.

This order is effective today.

Dated December 19, 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.