

A2504006

Application No. 25-04-006
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Application of Southern California Gas Company)
 (U 904 G) for Adoption of a Microgrid Optional) Application No. 25-04-006
 Tariff.) (Filed April 16, 2025)
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In accordance with Rule 2.6 of the Rules of Practice and Procedure of the Public Utilities Commission of the State of California (“**Commission**”), the First Public Hydrogen Authority, a California joint powers authority (“**First Public H2**”), hereby submits this protest to Southern California Gas Company’s (“**SoCal Gas**”) application for adoption of a microgrid optional tariff (“**Microgrid Application**”).¹ Notice of the Microgrid Application first appeared in the Daily Calendar on April 18, 2025. Therefore, in accordance with Rules 1.15 and 2.6(a), this protest is timely filed.

¹ Application (“A.”)25-04-006.

Commission’s rules and provide the service through an affiliate subject to well-established affiliate-transaction rules.

During this time of infancy for the hydrogen industry, First Public H2, and competitive clean-fuel providers, must have an opportunity to showcase and advance their innovative products and services without having to compete against the ratepayer-funded, anticompetitive influence of a monopoly “utility serving over 21 million customers...for over 150 years....”² First Public H2 invites SoCal Gas to withdraw its proposal, and to instead pursue a path by which SoCal Gas expands upon its efforts to facilitate and advance clean hydrogen production and deployment, and support third-party competitive market activity, similar to efforts by Pacific Gas and Electric Company (“**PG&E**”) to develop a Clean Substation Microgrid pilot project.³ As a fellow partner in the Alliance for Renewable Clean Hydrogen Energy Systems (“**ARCHES**”), First Public H2 looks forward to working collaboratively with SoCal Gas to promote the use of clean hydrogen and an expanded competitive hydrogen market in the mobility and power sectors of California’s economy.

I. INTRODUCTION AND SUMMARY

A. First Public H2 Has Been Organized To, Among Other Things, Promote And Develop Clean-Energy Microgrid Systems

First Public H2 is the country’s first municipal-based, public hydrogen utility, formed as a California joint power authority between the cities of Lancaster and Industry with opportunities for expansion to include other public agencies. First Public H2 is uniquely positioned to drive momentum for expanded hydrogen adoption and new technology innovation, while promoting zero emission solutions that push clean air, clean energy and improved public health. Lancaster,

² Microgrid Application at 2.

³ See PG&E Advice Letter 6808-E (implementing Commission Resolution E-5261).

Industry and First Public H2's additional municipal-based members embrace a governance structure that blends public oversight with public-sector agility, ensuring efficient, market-driven growth that attracts investment and drives economic and environmental benefits.

Hydrogen (particularly, new clean hydrogen supply) is a key part of a diverse energy future, supporting industry, transportation, and local communities while increasing energy diversity and security.⁴ First Public H2's mission is to scale new local clean hydrogen supply, create economic opportunities and environmental benefits, and bridge supply chain gaps between hydrogen producers and end-users.

First Public H2 is a key partner in ARCHES, the state's public-private hydrogen hub consortium created to accelerate the development and deployment of clean hydrogen projects and infrastructure. In fact, Lancaster was the first city to join ARCHES. With backing from state agencies, research institutions, and private industry, ARCHES plays a pivotal role in developing hydrogen supply and infrastructure, securing federal funding and state support, and enabling clean hydrogen deployment into non-traditional hydrogen end uses.

As related to the Microgrid Application, First Public H2 plans to actively support clean hydrogen supplied for fuel cell installations and other hydrogen technologies providing onsite electric generation under a microgrid structure. Stationary fuel-cell applications using clean hydrogen is a key competitive clean energy industry solution that is best deployed by unregulated energy sector solution providers.

The hydrogen fuel cell and microgrid industry is an infant industry. Efforts by large, incumbent energy utilities could easily frustrate and unfairly compete within this industry. The

⁴ See D.22-12-055 at 9, note 2 (defining “clean hydrogen” as “hydrogen produced with a carbon intensity equal to or less than two kilograms of carbon dioxide-equivalent produced at the site of production per kilogram of hydrogen produced. See 42 USC 16166.”). See also D.22-12-055 at 66; Finding of Fact 44.

Commission has already signaled its intent to avoid this outcome. For example, in D.24-12-074, relating to SoCal Gas' and San Diego Gas & Electric Company's ("**SDG&E**") (collectively, the "**Sempra Utilities**") general rate case, the Commission rejected the Sempra Utilities' request to utilize gas ratepayer-funded programs and assets to enter the hydrogen market.⁵ In describing the hydrogen energy industry as "burgeoning," the Commission also addressed "the clean fuel sector's rapid acceleration," putting the onus on the Sempra Utilities, as part of any future request, to "demonstrate that...projects are not duplicative of efforts elsewhere" and to "leverage all available funding opportunities, including public-private partnerships."⁶

The Microgrid Application is an attempt by the Sempra Utilities to enter the hydrogen ecosystem leveraging SoCal Gas to gain an unfair advantage. Instead, SoCal Gas should take cues from the Commission and direct its efforts toward fostering "partnerships" to pursue hydrogen solutions.⁷

B. First Public H2 Supports And Affirms The Environmental, Reliability And Public Policy Attributes Associated With Microgrids – Particularly Clean Hydrogen Fuel Cell Microgrids

In the Microgrid Application and supporting testimony, SoCal Gas espouses many policy goals associated with microgrids that are worthy of pursuit. First Public H2 supports these statements and affirms SoCal Gas' foresight. Where First Public H2 diverges from SoCal Gas is in SoCal Gas' belief that these goals are best pursued by introducing a monopoly utility-tariffed

⁵ See, e.g., D.24-12-074 at 1006; Finding of Fact 291 ("Producing, delivering, and storing hydrogen for public access is not a core utility business for Southern California Gas Company, and the benefits to ratepayers are unknown.").

⁶ D.24-12-074 at 931.

⁷ See, e.g., D.24-12-074 at 938 ("We acknowledge the potential contributions hydrogen can add to California's clean energy transition, but also recognize its current limitations in terms of cost effectiveness and infrastructure. To bridge this gap and expedite the adoption of hydrogen technology, we support public-private partnerships as a means to share the risks and rewards of developing and deploying hydrogen solutions.")

program into a newly developing, competitive market. To the contrary, the goals identified in the Microgrid Application are best pursued and achieved by means of innovative, market-transformative efforts, like those being pursued in the California market today by competitive unregulated companies.

In the Microgrid Application, SoCal Gas properly identifies “energy challenges,” but fails to identify the best “solution to address these challenges faced by customers today.”⁸ The challenges identified by SoCal Gas are (1) a “critical need for uninterrupted energy, while power outages, including public safety power shutoffs (PSPS), continue to occur,” (2) “companies that are electrifying their transportation fleets, and those that are increasing their electric needs, fac[ing] years-long delays for energizing new electric load” and (3) companies “seeking more price certainty for their energy needs... to avoid price fluctuations that can come with potential spikes in electric rates.”⁹ First Public H2 agrees.

The Microgrid Application also rightly identifies key state goals that are supported by the use of microgrids, including “provid[ing] near-term solutions to support [decarbonization] needs without waiting for expansions of the electric grid,” supporting “California’s decarbonization goals...by [providing] the option to have [microgrid] facilities use renewable energy,” “provid[ing] the reliability and resilience needed by critical facilities and other businesses providing essential services to the local community,” and “keeping [critical] facilities running during power outages.”¹⁰ In sum, SoCal Gas states that, “most simply, state laws explicitly support the adoption of microgrids.”¹¹ First Public H2 agrees.

⁸ Microgrid Application at 2.

⁹ Microgrid Application at 2.

¹⁰ Microgrid Application at 3.

¹¹ Microgrid Application at 3.

Finally, SoCal Gas correctly identifies “clean renewable hydrogen” as a key way by which microgrids can lead to reduction of greenhouse gas (“**GHG**”) emissions.¹² First Public agrees.

The issue before the Commission is *not* whether microgrids, in particular hydrogen fuel cell microgrids, are worthy of pursuit in order to support state goals. On this issue, all parties agree. Rather, the key issue before the Commission in this proceeding is whether the development and deployment of microgrids by the largest natural gas utility in the country is the most appropriate way to increase the use of microgrids. On this issue, First Public H2 disagrees with SoCal Gas.

C. As A Monopoly Gas Utility (the Largest In The Country), SoCal Gas Bears The Burden Of Showing Why Its Provision Of A New Competitive Service Should Not Be Provided By An Affiliate

As further described below, the Commission and the Legislature have established a strong presumption in favor of *non*-utilities offering new competitive services. In the context of utility involvement in competitive markets, the Commission’s affiliate transaction rules state that, as a general matter, “new products and services shall be offered through affiliates.”¹³ Nowhere in the Microgrid Application (or the supporting testimony) does SoCal Gas seek to address this presumption.

The strong presumption in favor of non-utilities offering competitive services is grounded in undeniable public policy interests. Interestingly, in previous pronouncements on competitive services, the Commission has highlighted SoCal Gas as a monopoly utility with significant market power:

¹² See Microgrid Application at 7.

¹³ D.97-12-088; Appendix A, Section VII.A..

“By the very nature of SoCal’s monopoly position in the energy and energy services market, its access to comprehensive customer records, its access to an established billing system, and its ‘name brand’ recognition, it may be that SoCal enjoys significant market power with respect to any new product or service in the energy field.”¹⁴

In a similar context (namely, utilities leveraging their monopoly status), the Commission restated the Legislature’s perspective: “[Senate Bill] 790 finds that ‘[e]lectrical corporations have inherent market power derived from, among other things, name recognition among customers, long-standing relationships with customers, ... [and] access to competitive customer information.’”¹⁵ As noted, the Legislature has found that market power is “inherent,” in other words, this market power simply exists by virtue of the fact that the utility may in some cases have a century-old relationship with customers, something SoCal Gas readily acknowledges.¹⁶

While so-called new “tariffed” services are occasionally permitted by the Commission, these offerings are extremely limited and are subject to a balancing test that heavily weighs against the new services unless there is an overriding public policy interest or legislative mandate counterbalancing the presumption against new utility services.

SoCal Gas’ previous tariff offering (to establish a Compression Services Tariff (“**CST**”)) was actually found to not be a “**new**” service at all, but rather “a version of a service already offered by SoCalGas under Tariff 2...”¹⁷ As a result, the Commission concluded that the “Commission’s affiliate transaction rules do not preclude this tariff.”¹⁸ Nevertheless, even in the context of an existing service, SoCal Gas, as a monopoly utility, was required to provide

¹⁴ D.97-12-088 (Affiliate Transaction Decision) at 10 (citing D.97-07-054 at 63).

¹⁵ D.12-12-036 at 8.

¹⁶ See Microgrid Application at 2 (describing SoCal Gas as a “utility serving over 21 million customers...for over 150 years....”).

¹⁷ D.12-12-037 at 64 (Conclusion of Law 11).

¹⁸ D.12-12-037 at 64 (Conclusion of Law 11).

extensive support and justification for the anti-competitive impacts that likely would ensue. Moreover, SoCal Gas' previous tariff offering, CST, was subjected to numerous conditions that sought to address and mitigate SoCal Gas' unfair competitive advantage.¹⁹

Again, nowhere in the Microgrid Application or the supporting testimony does SoCal Gas address the Commission's posture and presumption with respect to utilities offering new services, or does SoCal Gas provide justification for why SoCal Gas is not advancing its new service through an affiliate. Likewise, SoCal Gas does not substantively address the full range of potentially unfair competitive advantages it has as the monopoly utility.²⁰ The absence of support and justification with respect to SoCal Gas' provision of a new competitive service through the utility, instead of an affiliate, is sufficient grounds for the Commission to summarily reject the Microgrid Application.

II. PROTEST

A. SoCal Gas' Proposal Violates Strong Public Policy Disfavoring Monopoly Utilities From Entering Competitive Markets With New Services

As noted above, the Commission has stated, as a general rule, that "new products and services shall be offered through affiliates."²¹ In the context of D.97-12-088, relating to (among other things) the provision of competitive services through "Separate Entities," the Commission heard arguments that "the Commission should not prohibit utilities from directly marketing

¹⁹ See, e.g., D.12-12-037 at 64 (Conclusion of Law 18).

²⁰ The only reference in the entirety of SoCal Gas' material mentioning "unfair competition" is the following: "SoCal Gas will develop and use competitively neutral scripts in answering inquiries concerning the MOT. The neutral will provide information regarding other service options and protect against SoCalGas gaining an unfair competitive advantage." (Exhibit SCG-02 at 23.)

²¹ D.97-12-088; Appendix A, Section VII.A.

energy and energy-related products and services.”²² In response, the Commission firmly held that it is the Commission’s “desire to ensure separate operations to the extent practicable.”²³

Regarding “Utility Products and Services,” in D.97-12-088 the Commission broadly addressed “[t]he question of whether energy utilities, generically, should be required to conduct unregulated or potentially competitive activities, like the marketing of new products and services...through affiliate companies and if so, under what rules and criteria....”²⁴ The Commission was mindful, in particular, of the impact the utility’s product or service offering might have upon competitive or developing markets. In this regard, the Commission set forth two overarching observations. First, the Commission did “not wish to adopt a mechanism by which the utility can circumvent these rules by offering the products or services itself instead of through an affiliate, especially when the utility’s offering is for a competitive or potentially competitive service and might interfere with the development of a competitive market.”²⁵

Second, the Commission affirmed a rule that “recognizes the potential harm to both ratepayers and competitive markets if monopoly utilities have unfettered discretion to pursue unregulated activities.”²⁶ In light of this, while not outright banning utilities from offering new competitive services, the Commission expressed its disfavor for new competitive offerings by utilities, and instead expressed a preference for “products and services which a utility can market with minimal or no incremental capital, business risk, and management control.”²⁷

²² D.97-12-088 at 75.

²³ D.97-12-088 at 75.

²⁴ D.97-12-088 at 80.

²⁵ D.97-12-088 at 89.

²⁶ D.97-12-088 at 85.

²⁷ D.97-12-088 at 85.

While disfavored, a utility is allowed in certain circumstances to offer new competitive services. For a utility to offer new competitive services, (1) the utility must provide the service on a tariffed basis and (2) the utility must set forth specific detail and accounting treatment about its proposal.

Regarding the first requirement, in D.97-12-088 the Commission adopted a proposed rule that allows a utility to “offer for sale... (3) new products and services offered *on a tariffed basis*....”²⁸ Again, as noted above, the Commission did not intend *utility* products and services to be broad or cutting edge, but rather “products and services which a utility can market with minimal or no incremental capital, business risk, and management control.”²⁹ The microgrid services proposed by SoCal Gas are a far cry from services that SoCal Gas can “market with minimal or no incremental capital, business risk, and management control.” To the contrary, SoCal Gas’ proposed services require significant capital and other costs (although, oddly, nowhere in the Microgrid Application or supporting material does SoCal Gas describe the amount of costs that would be involved).³⁰

Regarding the second requirement, in D.97-12-088 the Commission reiterated “that the level of detail that we would expect of a proposal to offer new products and services is equivalent to that set forth when [the Commission] adopted the three categories of services for telecommunication products and accompanying safeguards.”³¹ In fleshing out the expected level

²⁸ D.97-12-088 at 85 (*emphasis* added).

²⁹ D.97-12-088 at 85.

³⁰ See Exhibit SCG-02 at 2 (describing cost responsibility, but not costs: “The MOT project costs would be recovered from the specific tariff customer with no subsidy from or business risk borne by other ratepayers. Costs of activities specific to the MOT will be charged to specific MOT internal orders.”)

³¹ D.97-12-088 at 81 (referencing D.89-10-031). See also D.97-12-088 at 83 (“We do not adopt this proposal because it...does not contain the level of detail set forth when we adopted the three categories of services for telecommunications products and accompanying accounting safeguards in D.89-10-031.”).

of detail, and in reliance on D.89-10-031, the Commission reiterated that “[i]n D.89-10-031, 33 CPUC2d 43 at 125-126, the Commission adopted three detailed categories of services for telecommunications products based on how competitive the services were, and categorized of numerous existing services.”³² Among other things, specific accounting safeguards and use of a detailed cost methodology were required to protect against cross-subsidization. Similar requirements were imposed in the context of SoCal Gas’ CST, even though (as noted above) the CST was not considered a new service.³³

Nowhere in the Microgrid Application does SoCal Gas address these necessary requirements or conditions. Therefore, as presented by SoCal Gas, it is impossible for the Commission to reach a conclusion that SoCal Gas’ provision of the new microgrid service is in the public interest.

B. Affirmative Commission Action Is Needed To Support Clean Hydrogen Deployment As An Infant Industry

As an industry, clean hydrogen is in its infancy. The promise of clean hydrogen can only be realized if supportive policies are put in place, and undue impediments are removed. First Public H2 is appreciative of the Commission’s expression on intent in this regard, namely, that the Commission “is committed to promoting a level-playing field in the emerging clean renewable hydrogen market.”³⁴ With respect to SoCal Gas, First Public H2 is also appreciative of SoCal Gas’ focus on and interest in advancing clean hydrogen through its Microgrid Optional

³² D.97-12-088 at 86-87.

³³ See, e.g., D.12-12-037 at 60-62; Conclusions of Law 11, 12, 13, 14, 17, 18, 23 and 27 (prescribing various conditions and requirements on SoCal Gas’ provision of services under the CST).

³⁴ D.22-12-055 at 36.

Tariff,³⁵ but First Public H2 views SoCal Gas' position in the market to be too dominant in a way that has a greater potential to thwart innovation and entrepreneurship than it does to promote clean hydrogen deployment.

As further described below, First Public H2 believes that SoCal Gas should pursue its microgrid service through an affiliate or encourage SDG&E to pursue a solicitation for competitive solutions for microgrid support, similar to PG&E's Clean Substation Microgrid pilot project.³⁶ Pursuing microgrid service through an affiliate and supporting a competitive marketplace, instead of through a monopoly utility subject to various rules, is consistent with the Commission's preference for utility involvement in other infant industries.³⁷ The Commission reiterated this preference, in particular, for markets that are competitive or "potentially competitive."³⁸

First Public H2 calls upon the Commission to formally consider additional policies that would promote clean hydrogen use. The International Renewable Energy Agency ("**IRENA**") succinctly describes the potential impact of such additional policies:

Supportive policies have been widely used in the energy sector to promote the deployment of renewable electricity through support schemes, and these can offer many lessons for green hydrogen. Transitioning green hydrogen from a niche player to a widespread energy carrier will require an integrated policy

³⁵ See Microgrid Application at 7 (describing SoCal Gas' "experience in overseeing the construction and operation of a microgrid that incorporates solar energy and clean renewable hydrogen with its Hydrogen Innovation Experience (H2IE)").

³⁶ PG&E's Clean Substation Microgrid pilot project is referenced above in note 3.

³⁷ See, e.g., D.97-12-088 at 11 ("Therefore, at the infancy of implementation of electric industry restructuring, we choose to adopt rules that generally require more separation between a utility and its affiliate, rather than rules that rely almost exclusively on tracking costs.").

³⁸ D.97-12-088 at 11 ("We do not wish to adopt a mechanism by which the utility can circumvent these rules by offering the products or services itself instead of through an affiliate, especially when the utility's offering is for a competitive or potentially competitive service and might interfere with the development of a competitive market.").

approach to overcome initial resistance and reach a minimum threshold for market penetration.³⁹

C. SoCal Gas Should Pursue This Competitive Venture Through An Affiliate Or Under A Model Similar To PG&E's Clean Substation Microgrid Pilot Project

For the reasons described above, SoCal Gas should pursue microgrid service through an affiliate. Alternatively, SDG&E could review previous Commission authority given to PG&E, and SDG&E could develop and advance a clean hydrogen fuel cell grid solution pilot.⁴⁰ These options are superior to the Microgrid Application, and allow emerging competitive markets to develop. These options are also similar to the well-established and balanced procurement framework used for renewable resource development over the last twenty years.

III. PROCEDURAL MATTERS

Pursuant to Rule 2.6(d), First Public H2 provides the following procedural comments:

A. Proposed Category

The instant proceeding is appropriately categorized as “ratesetting.”

B. Need for Hearing

If the Microgrid Application is not summarily rejected by the Commission, as requested by First Public H2, evidentiary hearings will be necessary to address factual matters associated with the Microgrid Application.

C. Issues to be Considered

First Public H2 is still evaluating the Microgrid Application and issues associated with SoCal Gas' proposal. As stated above, First Public H2 believes that the Commission should summarily reject the Microgrid Application. If, instead, this proceeding remains active to

³⁹ See *Policies for Green Hydrogen*, available at www.irena.org.

⁴⁰ See note 3, above (describing PG&E's Clean Substation Microgrid pilot project).

consider SoCal Gas' proposal, the Commission should address the various issues identified herein.

D. Proposed Schedule

First Public H2 has no comments on the proceeding's schedule at this time.

IV. PARTY STATUS

Pursuant to Rule 1.4(a)(2), First Public H2 hereby requests party status in this proceeding. As described herein, First Public H2 has a material interest in the matters being addressed in this proceeding. First Public H2 designates the following person as the "interested party" in this proceeding:

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V. CONCLUSION

First Public H2 appreciates the Commission's consideration of the matters addressed herein.

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Respectfully submitted,

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