

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

In the Matter of the Application of Southern California  
Gas Company (U904G) to Establish a Distributed  
Energy Resources Services Tariff.

Application 14-08-007  
(Filed August 8, 2014)

**COMMENTS OF THE INDEPENDENT ENERGY  
PRODUCERS ASSOCIATION ON THE PROPOSED  
SETTLEMENT**

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The Independent Energy Producers Association (IEP) respectfully submits its comments contesting the Settlement between Southern California Gas Company (SoCalGas) and the Office of Ratepayer Advocates (ORA), which proposes to resolve all issues raised by SoCalGas' application for approval to implement a Distributed Energy Resources (DER) Services Tariff.

Although the Settlement purports to resolve all the issues raised by SoCalGas' proposed DER Service Tariff, the only change to the tariff that the Settlement makes is to define the costs that must be recovered in the negotiated rates and to allow SoCalGas to recover its unrecovered ownership and removal costs in the event of an early termination. Because IEP opposes the essential premise of the DER program--that a regulated gas utility should be allowed to own and operate electric generation equipment in its role as a regulated utility, rather than through an affiliate--IEP opposes the entire Settlement. The Settlement fails to meet the standards the Commission has established for approval of settlements.

**I. THE SETTLEMENT FAILS TO MEET THE MINIMUM STANDARDS FOR APPROVAL**

In its opening brief filed concurrently with these comments, IEP discusses the concerns that arise when a regulated utility attempts to enter competitive markets. In short, SoCalGas' proposed DER program raises the following concerns:

- Unfair competition
- Subsidies by ratepayers for the benefit of shareholders
- Unfair access to customers
- Unfair access to customer information
- Inconsistency with the Commission's "competitive markets first" policy
- Inconsistency with the Combined Heat and Power (CHP)/Qualifying Facility (QF) Settlement Agreement
- Evasion of the Affiliate Transaction Rules

The Settlement is an unsuccessful attempt to address one of these issues, the potential subsidies from ratepayers, but the other issues are ignored by the Settlement. In addition, as discussed below, the Settlement does not meet the Commission's minimum requirements.

**A. The Settlement Is Not Reasonable in Light of the Whole Record**

The effect of the Settlement is limited to the insertion of one paragraph into SoCalGas' proposed DER Services Tariff. The record, however, raises a number of issues that are not addressed by the Settlement. As discussed in more detail in the opening briefs of IEP and other parties, the whole of the record does not support SoCalGas' proposal.

**B. The Settlement Is Not Consistent with Law**

As discussed in IEP's opening brief, the Settlement conflicts with at least two decisions that announced the Commission's policies.

First, Decision (D.) 10-12-035, which approved the CHP/QF Settlement Agreement, set up a competitive process for CHP facilities like the ones that SoCalGas proposes to own and operate under the DER Service Tariff. Rather than promoting the competitive process described in the CHP/QF settlement, SoCalGas proposes an arrangement that will disadvantage rivals that might compete with SoCalGas in this market segment.

Second, D.07-12-052 announced and applied the Commission's "competitive markets first" policy and reiterated the policy of relying on private entities in competitive markets to provide products and services unless the attributes of a regulated utility were needed. SoCalGas has flipped this policy to one in which the regulated utility exploits the advantages it has with its customers because of its role as the regulated provider of natural gas, to the distinct competitive disadvantage of private, non-utility competitors.

In addition, it appears that SoCalGas is attempting to skirt the requirements of the Affiliate Transaction Rules by proposing to provide new products and services in its role as the regulated gas utility in the form of a tariff that bears little resemblance to more typical tariffs. As IEP stated in its opening brief, if SoCalGas or its parent wants to compete in the market to provide DER services, they are free to do so through an unregulated affiliate, subject to the provisions of the Affiliate Transaction Rules.

**C. The Settlement Is Not in the Public Interest**

As discussed in IEP's opening brief, the Commission has followed a policy of allowing competitive entities compete to provide energy-related service whenever it was not necessary to rely on the attributes of a regulated utility to provide the service or to stimulate the

growth of a new market. That “competitive markets first” policy has allowed the Commission to keep rates as low as feasible while pursuing the State’s ambitious goals and policies.

SoCalGas’ proposal would disrupt that policy and displace reliance on competition in favor of a “tariff” that amounts to a take-it-or-leave-it agreement that heavily favors the utility. As the Commission has long recognized, the public interest is served when numerous rivals compete to provide the best service at the lowest cost, not when a regulated utility injects itself into an existing competitive market without substantial justification.

## **II. CONCLUSION**

For all these reasons, IEP respectfully urges the Commission to reject the SoCalGas-ORA Settlement and to instead base its decision on the record developed in this proceeding.

Respectfully submitted March 30, 2015 at San Francisco, California.

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