

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

DOCKET	
04-DIST-GEN-1	
DATE	FEB 16 2005
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Order Instituting Rulemaking Regarding Policies,)
Procedures and Incentives for Distributed)
Generation and Distributed Energy Resources.)

RULEMAKING 04-03-017
(Filed March 16, 2004)

CEC Docket No. 04-DIST-GEN-1
and 03-IEP-1

JOINT RESPONSE OF THE SGIP WORKING GROUP TO THE PETITION OF THE
CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION TO MODIFY
DECISION 04-12-045

MICHAEL D. MONTOYA
AMBER E. DEAN

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-6961
Facsimile: (626) 302-7740
E-mail: Amber.Dean@SCE.com

Dated: February 16, 2005

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I.

INTRODUCTION

Pursuant to Rule 47(f) of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, Southern California Edison Company, Southern California Gas Company, Pacific Gas and Electric Company, San Diego Gas & Electric Company, and the San Diego Regional Energy Office,¹ (hereafter referred to as the Working Group) respectfully submit these comments in response to the Petition of the California Independent Petroleum Association (CIPA) to Modify Decision 04-12-045. The Working Group has authorized SCE to make this filing on its behalf.

¹ The responding parties are the members of the Self-Generation Incentive Program (SGIP) Working Group formed by the Commission in D.01-03-073 (Ordering Paragraph 16).

CIPA claims that the Commission has failed, as required by law, to implement the provisions of Assembly Bill 1684, Chapter 675, Stats. 2004 (AB 1684). Specifically, CIPA believes that the SGIP program should classify stranded gas in oilfields as a renewable energy technology that qualifies for the Level 1 incentive. Yet CIPA does not identify how Waste Gas that is a byproduct from petroleum production fits within the Commission's definition of a renewable fuel, or why it is entitled to an incentive reserved for "clean" sources of energy. Moreover, CIPA fails to reconcile its recommendation for Level 1 benefits with the fact that the Legislature expressly provided for only Level 3 benefits in AB 1684.

The Working Group recommends that the Petition to Modify Decision 04-12-045 should be rejected because:

- AB 1684 was noted by the SGIP Working Group in program year 2004 and is fully implemented as documented in the 2005 SGIP Handbook;
- Waste Gas is a fossil fuel and not a renewable fuel and is therefore only eligible for Level 3-N incentives; and
- The plain language of AB 1684 indicates that Waste Gas fueled systems should be eligible for Level 3 incentives only.

II.

DISCUSSION

Contrary to CIPA's petition, AB 1684 has been fully implemented. Although the CPUC did not mention AB 1684 specifically in D.04-12-045, the requirements of AB 1684 were reviewed and noted in program year 2004 as Interim Change No. 12 (September 22, 2004). Further, the requirements of AB 1684 have been fully incorporated in the recently issued 2005 SGIP Handbook, Section 2.10.3 on Waste Gas Fuels, pages 2-19 and 20.

As noted in the 2005 SGIP Handbook, Waste Gas Fuels are eligible for Level 3-N incentives. Waste Gas is not a renewable fuel, and as such, it is not eligible for a Level 1 or

Level 3-R incentive. In Decision 02-09-051, the Commission provided a definition of renewable fuel as “*a non-fossil fuel resource . . . that can be categorized as one of the following: solar, wind, biomass, digester gas, or landfill gas.*” Public Utilities Code section 2806 defines a fossil fuel as “a mixture of hydrocarbons including coal, petroleum, or natural gas, occurring in and extracted from underground deposits.” AB 1684 defines Waste Gas as “*natural gas that is generated as a byproduct of petroleum production operations* and is not eligible for delivery to the utility pipeline system.” (Emphases added.) Thus, Waste Gas, by definition, is not a renewable fuel and is therefore not eligible for a Level 1 incentive.

The source of Waste Gas cannot be ignored in order to “reclassify” Waste Gas as a renewable fuel source and “create extra incentives in oilfield projects.”² In D.03-01-006, the Commission ruled that it is necessary to consider total energy inputs in determining SGIP eligibility. In that opinion, the Commission examined the eligibility of systems which used waste heat from fossil fuel inputs to produce electrical power. Mafi Trench, the manufacturer of the systems in question, argued that its technology was “super clean” because no emissions resulted from recovering the energy that would otherwise be wasted.³ The Commission rejected that argument, and ruled that technology which cannot operate in isolation of fossil fuel inputs is neither super clean nor renewable, and thus such technology is ineligible for a Level 1 incentive.⁴ Further, the Commission reiterated that incentive levels are based on capital costs, and there was no information in the record reflecting installed system costs. The Commission ruled that the Mafi Trench technology might be eligible for a Level 3 incentive – at most.⁵

² Petition, p. 4.

³ D.03-01-006, p. 3.

⁴ D.03-01-006, p. 6.

⁵ The Commission remained open to considering whether the Mafi Trench system would be eligible for Level 3-N incentives only, so long as Mafi Trench could provide additional information on the Commission’s unanswered questions and concerns, including information on system costs and efficiency. D.03-01-006, p. 6. Mafi Trench did not provide the requisite information, and the Commission ultimately ruled that Mafi Trench’s system was ineligible for any SGIP incentive. D.03-12-036, p. 7.

The Working Group does not dispute that utilizing Waste Gas self generation will “reduce the burden on the grid” as argued by CIPA,⁶ but that is not the question here. All self generation will reduce grid strain to some extent. The appropriate question is what incentive level is proper for the self generation technology utilized. Here, as in D.03-01-006, there is no information in the record justifying a Level 1 incentive for Waste Gas technology. Waste Gas does not exist in isolation of fossil fuel inputs, and as such, it is neither super clean nor renewable.⁷ Further, there is nothing in the record indicating that a Level 1 incentive would offset the appropriate portion of installed costs.

More importantly, the California Legislature has already determined the appropriate incentive level for Waste Gas systems. The plain language of AB 1684 indicates that Waste Gas-fueled systems should be eligible for Level 3 incentives, although exempt from the program’s NOx emission requirements:

Section 379.6 of the Public Utilities Code is amended to read:

(b) Eligibility for the self-generation incentive program's Level 3 incentive category shall be subject to the following conditions . . . :

(4) Notwithstanding paragraphs (1) and (2), a project that does not meet the applicable NOx emission standard is eligible if it meets both of the following requirements:

(A) *The project operates solely on waste gas.*

(B) The air quality management district or air pollution control district, in issuing a permit to operate the project, determines that operation of the project will produce an onsite net air emissions benefit

⁶ Petition, p. 5.

⁷ D.03-01-006, p. 6.

AB 1684 (emphasis added). Thus, AB 1684 sets forth, in no uncertain terms, that Waste Gas is eligible for a Level 3 incentive only. Indeed, it would make no sense for AB 1684 to except Waste Gas from NOx emission requirements if AB 1684 intended Waste Gas to be eligible for any other incentive level, because Levels 1 and 2 have no emissions requirements. As AB 1684 specifically identifies Waste Gas as eligible for a Level 3 incentive, providing a higher incentive reserved solely for “clean” renewable energy sources would be contrary to the plain language and clear intent of the statute.

III.

CONCLUSION

The changes called for by AB 1684 have been fully implemented in the 2004 and 2005 SGIP programs. Waste Gas is not, by definition, a renewable fuel, and as such, it does not qualify for a Level 1 incentive. Waste Gas systems cannot operate in isolation of fossil fuel inputs, and as such, those systems are neither super clean nor renewable. AB 1684 specifically provides that Waste Gas fuel is eligible for a Level 3 incentive, and the Working Group has classified Waste Gas fuels

accordingly. For these reasons, CIPA's Petition to Modify Decision 04-12-045 should be denied.

Respectfully submitted,

MICHAEL D. MONTTOYA
AMBER E. DEAN

By: Amber E. Dean

Attorneys for
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770
Telephone: (626) 302-6961
Facsimile: (626) 302-7740
E-mail:Amber.Dean@SCE.com

February 16, 2005

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of the **JOINT RESPONSE OF THE SGIP WORKING GROUP TO THE PETITION OF THE CALIFORNIA INDEPENDENT PETROLEUM ASSOCIATION TO MODIFY DECISION 04-12-045** on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

- ☐ Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.
- ☐ Placing the copies in sealed envelopes and causing such envelopes to be delivered by hand or by overnight courier to the offices of the Commission or other addressee(s).
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- ☐ Directing Prographics to place the copies in properly addressed sealed envelopes and to deposit such envelopes in the United States mail with first-class postage prepaid to all parties.

Executed this February 16, 2005, at Rosemead, California.

Vicki Carr-Donerson
Case Analyst
SOUTHERN CALIFORNIA EDISON COMPANY

2244 Walnut Grove Avenue
Post Office Box 800
Rosemead, California 91770

From: <Vicki.Carr-Donerson@sce.com>
To: <docket@energy.state.ca.us>
Date: Wed, Feb 16, 2005 4:04 PM
Subject: R.04-03-017 DER OIR (DG OIR): SGIP Working Group's Joint Response to CIPA's Petition to Modify Decision 04-12-045

To all parties of record on the official service list for CPUC Docket No. R.04-03-017 & CEC Docket No. 04-DIST-GEN-1 and 03-IEP-1:

The attached .PDF file below includes the Joint Response of the SGIP Working Group to the Petition of the California Independent Petroleum Association to Modify Decision 04-12-045. This document was filed at the California Energy Commission's and the California Public Utilities Commission's Los Angeles Docket Offices today, February 16, 2005.

(See attached file: 05-02-16 R.04-03-017 SGIP WG Joint Response to CIPA Petition.pdf)

Hard copies are being sent via Overnight Courier Service to President Michael R. Peevey, ALJ Kim Malcolm, CEC Docket Office/Officers of the CEC, and served via First Class Mail to all other parties.

Regards.

Case Administration
Southern California Edison Company
Telephone (626) 302-4875
Fax (626) 302-3119
Case.Admin@SCE.com

Document Management Form (Revised 4/29/04)

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