

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In The Matter Of The Public Advocates
Office Investigation Pertaining To Southern
California Gas Company's Accounting
Practices, Use Of Ratepayer Monies To
Fund Activities Related To Anti-
Decarbonization And Gas Throughput
Policies, And Related Matters

Not In A Proceeding

**PUBLIC ADVOCATES OFFICE MOTION TO FIND SOUTHERN CALIFORNIA
GAS COMPANY IN CONTEMPT OF THIS COMMISSION IN VIOLATION OF
COMMISSION RULE 1.1 FOR FAILURE TO COMPLY WITH A COMMISSION
SUBPOENA ISSUED MAY 5, 2020, AND FINED FOR THOSE VIOLATIONS
FROM THE EFFECTIVE DATE OF THE SUBPOENA**

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June 23, 2020

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I. INTRODUCTION

Pursuant to Public Utilities Code §§ 309.5(e), 311(a), 314, 314.5(a), 581, 582, 584, 701 and 702,¹ the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) moves for the California Public Utilities Commission (Commission) to find Southern California Gas Company (SoCalGas) in contempt of this Commission, and therefore in violation of Rule 1.1 of the Commission's Rules of Practice and Procedure (Rules), for its refusal to comply with a subpoena issued May 5, 2020 by this Commission (Commission Subpoena).² Cal Advocates' also moves for imposition of daily penalties for these SoCalGas violations.

A. This Motion is Timely and Appropriate

This Motion is both timely and appropriately filed. Because this Commission has no obligation to rule on either SoCalGas' December 2, 2019 Motion for Reconsideration³ or its late-filed May 22, 2020 Motion to Quash the Commission Subpoena,⁴ the fact that

¹ All section references are to the California Public Utilities Code unless otherwise stated.

² Five days before service of the subpoena, Cal Advocates' issued a data request seeking the same access to SoCalGas' accounts and records as required by the subpoena. As Cal Advocates explained to SoCalGas when the subpoena was issued: "The subpoena is consistent with the data request we served on Friday, May 1, 2020. While a subpoena is not a prerequisite to obtaining access to a utility's accounts, given our history with SoCalGas on this investigation, the Public Advocates Office (Cal Advocates) opted for the additional authority provided by a subpoena." See Exhibit 1, T.Bone 5-5-20 EMail serving subpoena on SoCalGas and Exhibit 2, Data Request CalAdvocates-TB-SCG-2020-03.

³ The SoCalGas December 2, 2019 Motion for Reconsideration is entitled: "*Southern California Gas Company's (U 904 G) Motion For Reconsideration/Appeal To The Full Commission Regarding Administrative Law Judge's Ruling In The Discovery Dispute Between Public Advocates Office And Southern California Gas Company, October 7, 2019 (Not In A Proceeding).*"

⁴ The SoCalGas May 22, 2020 Motion to Quash is entitled: "*Southern California Gas Company's (U 904 G) Motion to Quash Portion of the Subpoena To Produce Access to Certain Materials in Accounting Databases and to Stay Compliance until the May 29th Completion of Software Solution to Exclude Those Protected Materials in the Databases (Not in a Proceeding).*" It was originally served on May 19, 2020 with redacted declarations. When Administrative Law Judge DeAngelis ordered SoCalGas to provide confidential electronic versions of the declarations to the Commission and Cal Advocates, SoCalGas elected to instead

these filings have been made does not stay SoCalGas' obligation to comply with the subpoena. SoCalGas' inability to identify any statute or Commission Rule permitting it to file a motion with the Commission for reconsideration of an Administrative Law Judge discovery ruling not in a proceeding, or to file a motion to quash a validly issued Commission subpoena, emphasizes this point.⁵ In contrast, multiple statutes grant Cal Advocates the right to obtain discovery from SoCalGas without delay.⁶ Consistent with these statutes, the Commission must now act in support of Cal Advocates' and its own discovery rights, and make clear that SoCalGas' continued willful violation of the May 5, 2020 Commission Subpoena, and other contempt of the Commission, violates Rule 1.1.

As set forth below, the Public Utilities Code and Commission precedent support the imposition of daily fines for violation of a subpoena. In light of SoCalGas' prior willful violation of a Commission subpoena – described in Section I.C below – this Motion seeks:

- (1) A Commission determination that SoCalGas is in contempt of this Commission for its willful and continuing refusal to comply with the Commission Subpoena;
- (2) Imposition of fines of \$100,000 per day pursuant to Public Utilities Code §§ 2107 and 2113, and Commission Rule 1.1 for each day that SoCalGas' violates the Commission Subpoena;⁷
- (3) An order that SoCalGas comply immediately with the Commission Subpoena as set forth in the Conclusion below; and

file a “substituted” version of the Motion to Quash on May 22, 2020.

⁵ SoCalGas asserts that Commission “precedent” permitted it to move for reconsideration (see Motion for Reconsideration, Footnotes 1 and 2) and pursuant to Rules 11.1 and 11.3, which only apply to open proceedings, to quash the Commission Subpoena.

⁶ See, e.g., Public Utilities Code §§ 309.5(e), 311(a), 314, 314.5(a), 581, 582, 584, 701 and 702.

⁷ Rule 10.2(f) states: Anyone who disobeys a subpoena issued pursuant to this rule may be found to be in contempt of superior court and punished accordingly, as provided in Public Utilities Code Sections 1792 and 1793. In appropriate circumstances, such disobedience may be found to be a violation of Rule 1.1, punishable as contempt of the Commission under Public Utilities Code Section 2113.

- (4) Resolution of outstanding discovery disputes through the adoption of the going-forward procedures proposed in the Conclusion below.^{8, 2}

B. Cal Advocates' Investigation and the Commission's Issuance of the Subpoena

Since May 2019, Cal Advocates has been investigating SoCalGas' use of ratepayer monies to fund anti-decarbonization campaigns through "astroturf" organizations,¹⁰ including efforts to both promote the use of natural and renewable gas, and to defeat state and local laws and ordinances proposed to limit the use of these resources. Cal Advocates has pursued this investigation pursuant to its statutory authority and obligation under Public Utilities Code § 309.5 to represent the interests of public utility customers.

As a result of SoCalGas' systematic failure to comply with discovery requests, on May 5, 2020, Cal Advocates served on SoCalGas a subpoena signed by the Commission's Executive Director. The Commission Subpoena orders SoCalGas to make available to Cal Advocates no later than May 8, 2020 "access to all databases associated in any manner with the company's accounting system."¹¹ The Commission Subpoena is consistent with the Commission's statutory authority to review *at any time* a utility's books and records.¹²

⁸ Note that the fines sought in this Motion are limited to SoCalGas violations of the Commission Subpoena. Cal Advocates reserves the right to seek further sanctions, including monetary penalties, for SoCalGas' other (numerous) violations of state laws and Commission requirements revealed by Cal Advocates' investigation.

² If the Commission desires to first issue rulings on SoCalGas' Motion for Reconsideration and/or Motion to Quash prior to granting the sanctions Cal Advocates requests here, it may stay action on this Motion for Contempt until those rulings have issued.

¹⁰ "Astroturfing" is the practice of masking the sponsors of a message or organization to make it appear as though it originates from and is supported by grassroots participants. For a comedic explanation of what astroturfing is and why it is problematic, see John Oliver, Last Week Tonight, at <https://www.youtube.com/watch?v=Fmh4RdIwswE>

¹¹ Exhibit 3, Commission Subpoena served May 5, 2020.

¹² See, e.g., Public Utilities Code §§ 309.5(e), 311(a), 314, 314.5(a), 581, 582, 584, 701 and 702.

In lieu of compliance with the Commission Subpoena, SoCalGas delayed its response to the Commission Subpoena and ultimately filed an untimely Motion to Quash the Commission Subpoena. At this point, SoCalGas has willfully disobeyed the Commission Subpoena for more than six weeks.

C. SoCalGas' Practice Of Openly Defying Commission Orders Requires A Swift And Meaningful Response

SoCalGas has demonstrated that it is willing to disregard Commission subpoenas on multiple occasions, in clear disregard of the Commission's regulatory authority. On October 22, 2019, the Commission issued a subpoena on behalf of the Commission's Safety and Enforcement Division (SED) in the Order Instituting Investigation (OII) regarding SoCalGas' operations and practices with respect to the Aliso Canyon Storage Facility. SoCalGas refused to comply with that subpoena, and, in spite of being advised of the need to act timely, late filed a motion to quash. SoCalGas' motion to quash was denied.¹³ SED then requested an order to show cause why SoCalGas should not be sanctioned for contempt and monetary penalties for SoCalGas' refusal to comply with the subpoena.¹⁴ That motion was denied on procedural grounds.¹⁵

SoCalGas' refusal to comply with the Commission Subpoena in this investigation is perhaps understandable given its prior unpunished defiance of a Commission subpoena in the Aliso Canyon investigation. Why should SoCalGas comply with Commission orders when there are no consequences for violations?

¹³ See *Administrative Law Judges' Ruling Denying Southern California Gas Company's Motion for an Order to Quash the Subpoena of the Safety and Enforcement Division*, filed December 30, 2019 in I.19-06-016.

¹⁴ See *Motion Of The Safety And Enforcement Division Requesting The Commission Issue An Order To Show Cause Against Southern California Gas Company As To Why It Should Not Be Sanctioned For Being In Contempt Of A Commission Subpoena And Violating Rule 1.1 Of The Commission's Rules Of Practice And Procedure*, filed February, 21, 2020 in I.19-06-016.

¹⁵ *E-Mail Ruling Denying, Without Prejudice, the Motion of The Safety and Enforcement Division For an Order to Show Cause*, filed April 28, 2020.

II. BACKGROUND REGARDING ISSUANCE OF THE SUBPOENA AND SOCALGAS' DEFIANCE OF THAT SUBPOENA

On May 5, 2020, Cal Advocates served a Commission Subpoena signed by the Commission's Executive Director on SoCalGas ordering the utility to "make available to the Public Advocates Office at the California Public Utilities Commission (Cal Advocates), and staff and consultants working on its behalf, access to all databases associated in any manner with the company's accounting system no later than three business days after service of this subpoena."¹⁶ The Commission Subpoena also provided that "[s]uch access shall include both on-site and remote access..."¹⁷

After unilaterally determining that on-site access was not appropriate given the COVID-19 situation, SoCalGas obtained several extensions from Cal Advocates to provide remote access. Cal Advocates participated in four meet and confers with SoCalGas to facilitate its compliance with the Commission Subpoena, and to obtain complete responses to other outstanding data requests. In response to Cal Advocates' questions during the last meet and confer, SoCalGas represented that it was: (1) "taking its obligations under the subpoena extremely seriously,"¹⁸ and (2) prioritizing compliance with the Commission Subpoena so that it was unable to provide other information that was long overdue.¹⁹ The next day, SoCalGas filed a 27 page Motion to Quash the Commission Subpoena, along with over 150 pages of exhibits and declarations.²⁰

¹⁶ Exhibit 3, Commission Subpoena served May 5, 2020.

¹⁷ Exhibit 3, Commission Subpoena served May 5, 2020.

¹⁸ See, e.g. SoCalGas Motion to Quash, p. 2 and Exhibit 8, J.Wilson Letter to T.Bone 5-18-20.

¹⁹ Exhibit 4, Declaration of Stephen Castello, ¶ 23.

²⁰ That Motion to Quash is entitled: "Southern California Gas Company's (U 904 G) Motion to Quash Portion of the Subpoena To Produce Access to Certain Materials in Accounting Databases and to Stay Compliance until the May 29th Completion of Software Solution to Exclude Those Protected Materials in the Databases (Not in a Proceeding)." It was originally served on May 19, 2020 with redacted declarations. When Administrative Law Judge DeAngelis ordered SoCalGas to provide confidential electronic versions of the declarations to the Commission and Cal Advocates, SoCalGas elected to instead file a "substituted" version of the Motion to Quash on May 22, 2020.

In response to SoCalGas' late-filed (and unanticipated) Motion to Quash, Cal Advocates served a formal response on June 1, 2020.²¹ However, Cal Advocates' first action, upon service of the Motion to Quash, was to demand immediate read-only access to all of SoCalGas' accounts and records. Cal Advocates also demanded that "SoCalGas provide all outstanding discovery that has been the subject of the prior conference calls."²² SoCalGas has ignored these demands.

Instead, on the afternoon of May 29, 2020, SoCalGas notified Cal Advocates that "SAP Access is live for the users that you've requested" but that it was limited "[t]o protect our privileged information and First Amendment rights, information and transaction details (invoice transactions and accounting journal entries) pertaining to our outside counsel firms and also vendors performing 100% shareholder activities have been programmatically excluded from the display list."²³

SoCalGas remains in willful violation of the Commission Subpoena based on the fact that it has – by its own admission – "programmatically excluded" accounts related to law firms and vendors performing 100% shareholder activities.²⁴ It is unreasonable for a regulated utility to unilaterally determine what portion of its financial records are available for inspection by Commission staff. Approval of such a mechanism would effectively render SoCalGas unregulated because it would be able to shield any expenses from review by Commission.

²¹ That Cal Advocates Response to the SoCalGas Motion to Quash is entitled: "Response Of Public Advocates Office To Southern California Gas Company Motion To Quash Portion Of Subpoena, For An Extension, And To Stay Compliance."

²² Exhibit 5, T.Bone 5-22-20 Email to SoCalGas demanding immediate access to accounts and records.

²³ Exhibit 6, J.Wilson & T.Bone Emails to ALJ May 29-June 3 2020 Re Access to Accounts and Records.

²⁴ Exhibit 6, J.Wilson & T.Bone Emails to ALJ May 29-June 3 Re Access to Accounts and Records.

III. DISCUSSION

A. SoCalGas Is In Contempt of The Commission

Public Utilities Code § 2113 is explicit regarding the Commission's authority to punish contempt. It provides:

Every public utility, corporation, or person which fails to comply with any part of any order, decision, rule, regulation, direction, demand, or requirement of the commission or any commissioner is in contempt of the commission, and is punishable by the commission for contempt in the same manner and to the same extent as contempt is punished by courts of record. The remedy prescribed in this section does not bar or affect any other remedy prescribed in this part, but is cumulative and in addition thereto.

To find a respondent in contempt, Commission decisions require the following:

- The person's conduct must have been willful in the sense that the conduct was inexcusable; or
- That the person accused of the contempt had an indifferent disregard of the duty to comply; and
- Proof must be established beyond a reasonable doubt.²⁵

A review of the record here shows that the factors for a finding of contempt against SoCalGas have been established beyond a reasonable doubt.

It is undisputed that SoCalGas received the Commission Subpoena on May 5, 2020 – so that it had knowledge of the Commission Subpoena and what it required. It is also undisputed that SoCalGas has the ability to comply with the Commission Subpoena. SoCalGas confirmed that all of its accounting staff are working remotely and have remote access to its accounts and records, including the SAP system.²⁶ SoCalGas also confirmed that a third-party consultant was also granted full remote access to its

²⁵ D.15-08-032, *Modified Presiding Officer's Decision Finding The San Francisco Municipal Transportation Agency in Contempt, in Violation of Rule 1.1 of the Commission's Rules of Practice and Procedures*, mimeo p. 10 citing *Re Facilities-based Cellular Carriers and Their Practices, Operations and Conduct in connection with Their Siting of Towers*, D.94-11-018, 57 CPUC2d 176 at 205, citing *Little v. Superior Court* (1968) 260 Cal.App.2d 311, 317; *In Re Burns* (1958) 161 Cal.App.2d 137, 141-142; 68 CPUC 245; 63 CPUC 76; 80 CPUC 318; and D.87-10-059.

²⁶ Exhibit 4, Declaration of Stephen Castello, ¶¶ 10 & 11.

systems.²⁷ More recently, SoCalGas has offered remote access to Cal Advocates, but only with certain accounts “excluded.”²⁸

The Commission Subpoena explicitly required SoCalGas to provide Cal Advocates “access to all databases associated in any manner with the company’s accounting systems.”²⁹ In response, SoCalGas has shown a willful disregard for the Commission Subpoena through: (1) its misrepresentations to Cal Advocates staff regarding its efforts to comply with the Commission Subpoena;³⁰ and (2) its programmatic exclusion of accounts related to law firms and vendors performing 100% shareholder activities.³¹

SoCalGas’ willfulness is magnified by the fact that it has ignored Cal Advocates’ demands, promptly issued after SoCalGas’ service of its Motion to Quash, to provide immediate and unfettered remote read-only access to its accounts and records.³² Instead of compliance, SoCalGas has demanded that Cal Advocates execute a non-disclosure agreement to access the subset of accounts and records it has offered to make available to Cal Advocates, even though there is no legal basis for requiring such an agreement from the Commission or any of its divisions or offices.³³

²⁷ Exhibit 4, Declaration of Stephen Castello, ¶¶ 10 & 11.

²⁸ Exhibit 6, J.Wilson & T.Bone Emails to ALJ May 29-June 3 Re Access to Accounts and Records.

²⁹ Exhibit 3, Commission Subpoena served May 5, 2020.

³⁰ Exhibit 4, Declaration of Stephen Castello, ¶ 23.

³¹ Exhibit 67, J.Wilson & T.Bone Emails to ALJ May 29-June 3 Re Access to Accounts and Records.

³² Exhibit 5, T.Bone 5-22-20 Email to SoCalGas demanding immediate access to accounts and records and Exhibit 6, J.Wilson & T.Bone Emails to ALJ May 29-June 3 Re Access to Accounts and Records.

³³ Exhibit 6, J.Wilson & T.Bone Emails to ALJ May 29-June 3 Re Access to Accounts and Records.

B. SoCalGas’ Disagreement With A Commission Order Does Not Allow It To Disobey The Order

1. Cal Advocates Has A Statutory Right To Investigate SoCalGas

Cal Advocates has a statutory right to “compel the production or disclosure of any information it deems necessary to perform its duties from any entity regulated by the commission.”³⁴ This authority exists to support the Cal Advocates mandate to “represent and advocate on behalf of the interest of public utility customers and subscribers within the jurisdiction of the commission” and to “obtain the lowest possible rate for service consistent with reliable and safe service levels.”³⁵

Numerous other statutes provide the Commission and its staff, including Cal Advocates, similarly broad authority to review regulated utilities’ accounts and records, including those of their unregulated subsidiaries and affiliates.³⁶ SoCalGas’ challenges these statutes and decisions by insisting that it can unilaterally and indefinitely “wall off” from its regulator information in its accounts and records regarding “100% shareholder-funded activities” based on claims of a First Amendment right of association, or law firm invoices that *might* contain attorney-client communications or attorney work product, even though the law already provides meaningful protections against a regulator’s unauthorized disclosure of a utility’s – and its subsidiaries’ and affiliates’ – confidential information.³⁷

2. SoCalGas Has Unilaterally And Improperly Determined To Withhold Information From The Commission

Nothing in the law allows SoCalGas, as a regulated utility, to unilaterally and indefinitely disobey a Commission order simply by serving a motion disagreeing with

³⁴ Public Utilities Code § 309.5(e) (emphasis added).

³⁵ Public Utilities Code § 309.5(a).

³⁶ See, e.g., Public Utilities Code §§ 311, 314, 314.5, 314.6, 581, 582, 584, 701, and 702.

³⁷ See, e.g., Public Utilities Code § 583.

that order.³⁸ Indeed, Commission decisions are almost always effective immediately, and Public Utilities Code § 1735 provides that filing an application for rehearing of a decision does not excuse compliance with any order or decision of the Commission. Decision (D.) 15-08-032 took a similar position when the San Francisco Municipal Transportation Authority (SFMTA) failed to comply with a Commission subpoena issued at the Safety and Enforcement Divisions (SED) request.

In that investigation, SFMTA withheld certain employee records requested by the Commission, claiming those records were protected by the employee’s constitutional right to privacy.³⁹ The Presiding Officer’s decision in that investigation, which was subsequently and unanimously ratified by the Commission, was comprehensive and is instructive here. Among other things, similar to the situation presented here, it found that SFMTA willfully disobeyed the Commission subpoena issued in that case by asserting legally untenable arguments.⁴⁰ Specifically, that decision found that:

- (1) SFMTA did not have the legal option to only make the records available for inspection rather than producing them in full to the Commission;⁴¹

³⁸ SoCalGas may assert attorney/client communications and work product privileges, but must provide a privilege log to support such assertions, which it has not done here. Regarding SoCalGas’ constitutional claims, see the California Court of Appeal’s rejection of Pacific Gas and Electric Company’s efforts to “repackage in constitutional wrapping” arguments already rejected. *Pacific Gas & Electric Co. v. Public Utilities Com.*, 237 Cal. App. 4th 812, 865 (2015) (“PG&E will not prevail in its attempt to repackage in constitutional wrapping the same intent-based arguments we have already rejected.”).

³⁹ The difference in D.15-08-032 was that SFMTA was willing to make the records available to Commission staff, but only at SFMTA’s office; it would not permit Commission staff to copy or otherwise take possession of those records. Here, SoCalGas insists on complete withholding of the records it claims are entitled to constitutional protection, or other privilege, by implementing a “custom software solution” to prevent Cal Advocates from accessing this information that it has unilaterally determined should not be made available to Cal Advocates. SoCalGas May 22, 2020 Motion to Quash, p. 2.

⁴⁰ D.15-08-032, *mimeo* at 15.

⁴¹ *Id.*

- (2) The claimed constitutional privacy rights of the employee did not outweigh the Commission's right to the employee's training, accident, and drug testing records;⁴²
- (3) The employee did not have an objectively reasonable expectation of privacy;⁴³
- (4) The production of the records did not constitute a serious invasion of a privacy interest;⁴⁴
- (5) The employee's rights to privacy cannot overcome the Commission's statutory duty to obtain and analyze the records;⁴⁵
- (6) Alleged prior practices of Commission staff in reviewing such records at SFMTA's offices did not excuse SFMTA's disobedience of the subpoena;⁴⁶
- (7) Because the Commission had a statutory obligation to pursue the investigation, it would be redundant for the Commission to have to establish a compelling need for the records;⁴⁷
- (8) The SFMTA's alleged fear of tort liability to the employee was not justification for disobeying the subpoena;⁴⁸
- (9) SFMTA's violation of the subpoena violated Rule 1.1;⁴⁹ and
- (10) By violating the subpoena, SFMTA was subject to fines under Public Utilities Code § 2107.⁵⁰ —

Many of the same observations can be made here:

⁴² Id. at 18.

⁴³ Id. at 21.

⁴⁴ Id. at 23.

⁴⁵ Id. at 27.

⁴⁶ Id. at 28.

⁴⁷ Id. at 29.

⁴⁸ Id. at 31.

⁴⁹ Id. at 35.

⁵⁰ Id. at 37.

- (1) SoCalGas did not have the legal option to unilaterally design and impose a “custom software solution” to limit Cal Advocates’ review of its accounts and records;
- (2) Existing law requires SoCalGas to make its accounts and records fully available to the Commission and its staff at any time;
- (3) Prior practices of Commission staff in reviewing SoCalGas’ accounts and records do not excuse SoCalGas’s disobedience of the subpoena;
- (4) Because the Commission has a statutory right and obligation to review SoCalGas’ accounts and records, it would be redundant for the Commission to have to establish a compelling need for access to those accounts and records;
- (5) SoCalGas’ violation of the subpoena violates Rule 1.1; and
- (6) By violating the subpoena, SoCalGas is subject to fines under Public Utilities Code § 2107.

Thus, consistent with the determinations in D.15-08-032, while SoCalGas may timely assert valid legal arguments, it may not unilaterally or indefinitely withhold information pending resolution of those arguments, nor assert frivolous claims that frustrate Commission oversight.⁵¹

C. SoCalGas Should Be Penalized For Disobeying The Subpoena

1. The Commission Has Clear Authority To Punish SoCalGas For Contempt

As a public utility regulated by the Commission, Public Utilities Code § 2113 permits the Commission to find SoCalGas in contempt and to punish it for contempt “in the same manner and to the same extent as contempt is punished by courts of record.”⁵²

⁵¹ Cal Advocates has fully briefed the reasons why SoCalGas’ constitutional arguments have no merit in Cal Advocates’ December 17, 2019 response to SoCalGas’ Motion for Reconsideration and Cal Advocates’ June 1, 2020 response to the SoCalGas Motion to Quash, pp. 22-29.

⁵² Public Utilities Code § 2113 provides in full:

While the civil punishment for contempt is \$1,000, § 2113 also provides that “[t]he remedy prescribed in this section does not bar or affect any other remedy prescribed in this part, but is cumulative and in addition thereto.” To this end, the Commission has determined that where it finds a jurisdictional entity in contempt, it can impose additional fines for violating Rule 1.1.⁵³ The Commission can and has found Rule 1.1 violations where there has been a “lack of candor, withholding of information, or failure to correct information or respond fully to data requests.”⁵⁴

Section 2107 provides that any utility that fails to comply with a direction, demand, or requirement of the Commission is subject to a penalty of not less than \$500 nor more than \$100,000 for each offense.⁵⁵ Section 2108 provides that in the case of a continuing violation, such as SoCalGas’ ongoing refusal to comply with the Commission Subpoena, “each day's continuance thereof shall be a separate and distinct offense.”⁵⁶

Every public utility, corporation, or person which fails to comply with any part of any order, decision, rule, regulation, direction, demand, or requirement of the commission or any commissioner is in contempt of the commission, and is punishable by the commission for contempt in the same manner and to the same extent as contempt is punished by courts of record. The remedy prescribed in this section does not bar or affect any other remedy prescribed in this part, but is cumulative and in addition thereto.

⁵³ D.15-08-032 *mimeo* pp. 34-36.

⁵⁴ D.15-08-032 *mimeo* p. 38, quoting from D.13-12-053 *mimeo* p. 21.

⁵⁵ Public Utilities Code § 2107 provides in full:

Any public utility that violates or fails to comply with any provision of the Constitution of this state or of this part, or that fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission, in a case in which a penalty has not otherwise been provided, is subject to a penalty of not less than five hundred dollars (\$500), nor more than one hundred thousand dollars (\$100,000), for each offense.

⁵⁶ See, e.g. D.15-08-032, *mimeo*, p. 39.

2. Burden of Proof

The burden of proof for establishing a Rule 1.1 violation is not as stringent as the burden of proof for establishing contempt. The party claiming the violation must establish a Rule 1.1 violation “by a preponderance of the evidence.”⁵⁷

That standard is easily met here, based on the facts set forth in Sections II and III.A above:

- (1) It is undisputed that the Commission Subpoena explicitly required SoCalGas to provide Cal Advocates “access to all databases associated in any manner with the company’s accounting systems.”⁵⁸
- (2) It is undisputed that SoCalGas received the Commission Subpoena on May 5, 2020 – so that it had knowledge of the Commission Subpoena and what it required.
- (3) It is undisputed that SoCalGas had and has the ability to comply with the Commission Subpoena.⁵⁹
- (4) It is undisputed that SoCalGas has offered to provide only limited access to its databases associated with its accounting system, rather than the complete access required by the Commission Subpoena, and that it has demanded that Cal Advocates sign a non-disclosure agreement to obtain even this limited access.⁶⁰
- (5) As shown by the facts set forth in Sections II and III.A, SoCalGas has shown a willful disregard for the Commission through its

⁵⁷ D.15-08-032 *mimeo*, pp. 35-36. See also, D.90-07-026, D.94-11-018, D.16-01-014, and D.19-12-041.

⁵⁸ Exhibit 3, Commission Subpoena served May 5, 2020.

⁵⁹ As described in Section III.A above, SoCalGas has confirmed that all of its accounting staff are working remotely and have remote access to its accounts and records, including the SAP system. SoCalGas also confirmed that a third-party consultant was also granted full remote access to its systems. More recently, SoCalGas has offered remote access to Cal Advocates, but only with certain accounts “excluded.” See Exhibit 4, Declaration of Stephen Castello, ¶¶ 10 and 11 and Exhibit 6, J.Wilson T.Bone Emails to ALJ May 29-June 3 Re Access to Accounts and Records.

⁶⁰ Exhibit 6, J.Wilson T.Bone Emails to ALJ May 29-June 3 Re Access to Accounts and Records.

misrepresentations to Cal Advocates staff during meet and confers regarding its compliance with the Commission Subpoena;

- (6) As shown by the facts set forth in Sections II and III.A, SoCalGas has shown a willful disregard for the Commission Subpoena through its unilateral exclusion of accounts related to law firms and vendors performing 100% shareholder activities.⁶¹
- (7) As shown by the facts set forth in Sections II and III.A, SoCalGas has shown a willful disregard for the Commission Subpoena through its demand that Cal Advocates execute a non-disclosure agreement before it can access the subset of accounts and records it has offered to make available to Cal Advocates.⁶²

SoCalGas' willful disregard is also evidenced by the fact that it has failed to provide any information identifying the specific accounts that it has "walled off" from Cal Advocates review.

3. Criteria Considered When Setting The Fine

Commission Decision 98-12-075⁶³ and Public Utilities Code §§ 2107 and 2108 provide guidance on the application of fines. Two general factors are considered in setting fines: (1) the severity of the offense and (2) the conduct of the utility.⁶⁴ In addition, the Commission considers the financial resources of the utility, the totality of the circumstances in furtherance of the public interest, and the role of precedent.⁶⁵ The Commission also considers the sophistication, experience and size of the utility; the

⁶¹ Exhibit 6, J.Wilson T.Bone Emails to ALJ May 29-June 3 Re Access to Accounts and Records.

⁶² Exhibit 6, J.Wilson T.Bone Emails to ALJ May 29-June 3 Re Access to Accounts and Records.

⁶³ D.98-12-075, 1998 Cal. PUC LEXIS 1016 distills the essence of numerous Commission decisions concerning penalties in a wide range of cases, and states that the Commission expects to look to these principles as precedent in determining the level of penalty in a full range of Commission enforcement proceedings. See D.98-12-075, 1998 Cal. PUC LEXIS 1016 at *52-*53.

⁶⁴ D.98-12-075, 1998 Cal. PUC LEXIS 1016 at *54-*60.

⁶⁵ Id.

number of victims and economic benefit received from the unlawful acts; and the continuing nature of the offense.⁶⁶ The following discussion addresses each of these specific criteria and their applicability to SoCalGas' willful and continuing violation of the Commission Subpoena.

a) Criterion 1: Severity of the Offense

In D.98-12-075, the Commission held that the size of a fine should be proportionate to the severity of the offense. To determine the severity of the offense, the Commission stated that it would consider the following factors.

- **Physical harm**: The most severe violations are those that cause physical harm to people or property, with violations that threatened such harm closely following.
- **Economic harm**: The severity of a violation increases with (i) the level of costs imposed upon the victims of the violation, and (ii) the unlawful benefits gained by the public utility. Generally, the greater of these two amounts will be used in setting the fine. The fact that economic harm may be hard to quantify does not diminish the severity of the offense or the need for sanctions.
- **Harm to the regulatory process**: A high level of severity will be accorded to violations of statutory or Commission directives, including violations of reporting or compliance requirements.
- **The number and scope of the violations**: A single violation is less severe than multiple offenses. A widespread violation that affects a large number of consumers is a more severe offense than one that is limited in scope.⁶⁷

SoCalGas' willful refusal to comply with the Commission Subpoena – especially in light of the fact that this is SoCalGas' second refusal to comply with a Commission subpoena in less than eight months – has significantly harmed the regulatory process. Such harms cannot be taken lightly. The California Court of Appeal recognized that the Commission “takes a very dim view of denying it information, treating it as a factor in

⁶⁶ Id. at *73-*77.

⁶⁷ Id.

aggravation when it comes to fixing penalty.”⁶⁸ The Court of Appeal cited the Commission’s own words to support this conclusion: “The withholding of relevant information causes substantial harm to the regulatory process, which cannot function effectively unless participants act with integrity at all times. ... [T]his criterion weighs in favor of a significant fine.”⁶⁹

SoCalGas has disrespected the Commission and its staff in violation of Rule 1.1. It has also acted in conscious violation of the law, which clearly requires – Commission Subpoena or not – that the Commission and its staff, including Cal Advocates, must have the ability to inspect *all* of the accounts and records of a utility *at any time*.⁷⁰ This requirement is critical to, among other things, prevent a utility’s ability to destroy or otherwise tamper with evidence.

SoCalGas’ unilateral and continuing withholding of access to its accounts and records for over a month based on untenable legal claims, combined with its refusal to comply with a Commission subpoena issued in October 2019 for SED’s Aliso Canyon investigation, and its pattern and practice of filing frivolous motions in this investigation, cannot be countenanced. SoCalGas has consciously and systematically wasted limited Commission resources with these antics, and has unquestionably harmed the regulatory process, the Commission, Cal Advocates, and the ratepayers it serves. As San Luis Obispo Mayor Heidi Harmon accurately observed in a recent editorial, the Commission’s failure to sanction SoCalGas for its May 2019 activities in the Building Decarbonization proceeding “allowed my city to continue to be bullied.”⁷¹ She called on “state leadership to be part of [the] vision for a prosperous California by ensuring that SoCalGas leaves

⁶⁸ *Pacific Gas & Electric Co. v. Public Utilities Com.*, 237 Cal. App. 4th 812, 865 (2015).

⁶⁹ *Pacific Gas & Electric Co. v. Public Utilities Com.*, 237 Cal. App. 4th 812, 865 (2015), quoting D.13-09-028, 2013 Cal.P.U.C. Lexis 514 at pp. *51-*52.

⁷⁰ Public Utilities Code § 314.

⁷¹ Exhibit 7, Mayor Harmon CalMatters Commentary, p. 3.

their schoolyard bullying behind and joins us in creating a better world where – in times of crisis – we turn toward each other and not on each other.”⁷²

These factors compel the highest sanctions that can be imposed on SoCalGas.

b) Criterion 2: The Utility’s Conduct

In D.98-12-075, the Commission held that the size of a fine should reflect the conduct of the utility. When assessing the conduct of the utility, the Commission stated that it would consider the following factors:⁷³

- **The Utility’s Actions to Prevent a Violation:** Utilities are expected to take reasonable steps to ensure compliance with applicable laws and regulations. The utility’s past record of compliance may be considered in assessing any penalty.
- **The Utility’s Actions to Detect a Violation:** Utilities are expected to diligently monitor their activities. Deliberate, as opposed to inadvertent wrongdoing, will be considered an aggravating factor. The level and extent of management’s involvement in, or tolerance of, the offense will be considered in determining the amount of any penalty.
- **The Utility’s Actions to Disclose and Rectify a Violation:** Utilities are expected to promptly bring a violation to the Commission’s attention. What constitutes “prompt” will depend on circumstances. Steps taken by a utility to promptly and cooperatively report and correct violations may be considered in assessing any penalty.

Here, SoCalGas had the ability to comply with the Commission Subpoena yet engaged in a calculated decision not to comply for as long as possible by engaging in numerous meet and confers to defer compliance, filing an untimely Motion to Quash,⁷⁴ and conditioning Cal Advocates’ access to that information it was willing to provide on Cal Advocates’ execution of a non-disclosure agreement. These behaviors were calculated and deliberate. In addition, SoCalGas’ refusal to comply with the Commission

⁷² Exhibit 7, Mayor Harmon CalMatters Commentary, p. 4.

⁷³ D.98-12-075, 1998 Cal. PUC LEXIS 1016 at *73-*75.

⁷⁴ See Cal Advocates June 1, 2020 Response to SoCalGas Motion to Quash at § II.B.

Subpoena is ongoing, and is consistent with a pattern and practice of behavior that disrespects the Commission, Commission staff, and the regulatory process.⁷⁵

c) Criterion 3: The Utility's Financial Resources

In D.98-12-075, the Commission held that the size of a fine should reflect the financial resources of the utility. When assessing the financial resources of the utility, the Commission stated that it would consider the following factors:⁷⁶

- **Need for Deterrence:** Fines should be set at a level that deters future violations. Effective deterrence requires that the Commission recognize the financial resources of the utility in setting a fine.
- **Constitutional Limitations on Excessive Fines:** The Commission will adjust the size of fines to achieve the objective of deterrence, without becoming excessive, based on each utility's financial resources.

The need for deterrence is one of the primary factors driving this Motion for Sanctions. SoCalGas has determined to violate state laws and Commission requirements to achieve its objectives, whether related to the Commission's investigation of its Aliso Canyon activities, or its astroturfing activities that undermine state and local decarbonization efforts. Only substantial fines imposed for each day of its failure to comply with the Commission Subpoena will have the deterrent effect needed to curb SoCalGas' determination to disregard state laws and Commission requirements.

SoCalGas is a large company with the resources to pay a substantial fine. Sempra Energy Company's most recently filed Form 10-K reflects that SoCalGas supplies natural gas to approximately 22 million people over a 24,000 square mile service territory in Southern California. SoCalGas' operating revenues have increased every year for the

⁷⁵ SoCalGas' practice of slow rolling or otherwise withholding responses to data requests is described in the Cal Advocates June 1, 2020 Response to SoCalGas' Motion to Quash at § III.C.3. SoCalGas' prior refusal to comply with the Commission subpoena is described in § I.C above.

⁷⁶ D.98-12-075, 1998 Cal. PUC LEXIS 1016, *75-*76.

past five years from \$3.489 billion in 2015 to \$4.525 billion in 2019. Its assets have increased in value over the past five years from \$12.104 billion in 2015 to \$17.077 billion in 2019. It had earnings of \$641 million in 2019, an increase of \$216 million from the prior year.⁷⁷

Given SoCalGas' significant resources and prior violation of a Commission subpoena, anything less than imposition of the highest fine possible would not have any deterrent effect. Consequently, fining SoCalGas \$100,000 for each day of its violation of the Commission Subpoena is both necessary and appropriate.

Finally, this Commission needs to unequivocally communicate to SoCalGas that this is just the beginning, and that the Commission will take swift and decisive action for every violation that SoCalGas commits.⁷⁸ No other strategy will get SoCalGas' attention.

d) Criterion 4: Totality of the Circumstances

In D.98-12-075, the Commission held that a fine should be tailored to the unique facts of each case considering the following factors:⁷⁹

- **The Degree of Wrongdoing**: The Commission will review facts that tend to mitigate the degree of wrongdoing as well as facts that exacerbate the wrongdoing.
- **The Public Interest**: In all cases, the harm will be evaluated from the perspective of the public interest.

As described in the sections above, SoCalGas' has willfully and remorselessly engaged in a pattern and practice of violations of state laws and Commission rules and orders. In the process, these actions have disrespected the Commission and its regulatory process, have wasted the Commission's limited resources, and have prevented the Commission from meeting its obligations to protect the public interest. In considering

⁷⁷ SoCalGas is a subsidiary of Sempra Energy Company (Sempra). Sempra's most recent Form 10-K, filed February 27, 2020, is available at <https://investor.sempra.com/financial-information>

⁷⁸ In his book *The Tipping Point – How Little Things Can Make a Big Difference*, Malcolm Gladwell describes in Chapter 4 how a similar strategy was used to significantly diminish years of unchecked graffiti and fare evasions on New York City subways.

⁷⁹ D.98-12-075, 1998 Cal. PUC LEXIS 1016, *76.

the totality of circumstances and degree of wrongdoing, a daily fine of \$100,000 for the entirety of the time that SoCalGas has violated the Commission Subpoena is justified. Indeed, the totality of the circumstances suggest that an even larger amount – if permitted by law – would be appropriate.

e) Criterion 5: The Role of Precedent in Setting the Fine Amount

In D.98-12-075, the Commission held that any decision that imposes a fine should (1) address previous decisions that involve reasonably comparable factual circumstances, and (2) explain any substantial differences in outcome.⁸⁰

As precedent for considering the level of fines against SoCalGas, the Commission should consider past Commission decisions involving Rule 1.1 violations that occurred over multiple days, including D.15-08-032 – the SFMTA sanctions cases – given its comparable factual circumstances.

In considering the amount of the fine against SFMTA, D.15-08-032 considered the City of San Francisco’s budget situation, the surplus available, and the amount necessary to serve as an incentive to deter future violations:

The SFMTA is a part of the City and County of San Francisco. Its Mayor, Edwin M. Lee, presented proposed balanced budgets for the fiscal years 2013-2014, 2014-2015, and 2016. Additionally, San Francisco revealed a surplus of nearly \$22 million. We conclude that the fine we establish of \$210,500 is significant enough to serve as an incentive to deter future violations. Yet, the amount of the fine is conservative enough not to be excessive in view of the financial health that the City and County of San Francisco currently enjoys.⁸¹

The SFMTA fine is admittedly modest in comparison to fines assessed against utilities, presumedly because of SFMTA’s more limited resources, its public agency status, and the determination that the amount was a sufficient deterrent. In contrast, the fines assessed against utilities are typically far more significant.

⁸⁰ D.98-12-075, 1998 Cal. PUC LEXIS 1016, *77.

⁸¹ D.15-08-032, *mimeo* at 44-45 (citations omitted).

- In D.08-09-038 the Commission imposed a \$30 million penalty on Southern California Edison Company (SCE) for Rule 1.1 and other violations associated with seven years of false reporting of data in connection with its performance based ratemaking mechanism, *taking into consideration SCE’s good faith cooperation with the CPUC once the violations were identified*;
- In D.02-10-059 the Commission imposed a \$20.34 million penalty on Qwest Communications Corporation for slamming and unauthorized billings that occurred over approximately a year; and
- In D.04-09-062 the Commission imposed a \$12.14 million penalty on Cingular Wireless for collecting early termination fees over a period of more than two years.⁸²

Here, given SoCalGas’ significant financial resources, the totality of the circumstances, prior Commission decisions, and what “is significant enough to serve as an incentive to deter future violations,” a daily fine of \$100,000 for a total of more than \$4.5 million is appropriate.⁸³ To the extent the Commission is concerned that SoCalGas’ First Amendment arguments will be upheld – which is unlikely – the Commission can require that the funds be sequestered until such time as a final ruling resolves those issues.

IV. CONCLUSION

For all of the reasons set forth above, Cal Advocates request that the Commission:

- (1) Find SoCalGas in contempt of this Commission for its willful and continuing refusal to comply with the Commission Subpoena;
- (2) Impose a fine of \$100,000 per day pursuant to Public Utilities Code §§ 2107 and 2113, and Commission Rule 1.1 for each day that SoCalGas’ violates the Commission Subpoena;
- (3) Order SoCalGas to, within 24 hours, provide remote read-only access to Cal Advocates with no filters or walls and no requirements

⁸² In each of these cases, restitution to consumers was addressed separately and was not a component of the penalty described here. In addition, none of these cases involved loss of life, which can result in significantly higher penalties.

⁸³ The total grows each day that SoCalGas fails to comply with the subpoena.

such as execution of a non-disclosure agreement.⁸⁴ Such an order should also require SoCalGas to:

- a. Provide a chart of its accounts that shows how they are tracked to the FERC Uniform System of Accounts;
- b. Identify by account number every 100% shareholder-funded account;
- c. Identify by account number every account where costs associated with the activities that are the subject of its First Amendment arguments are booked;
- d. Identify by name and vendor number all vendors associated with the activities that are the subject of its First Amendment arguments;
- e. Identify by name and vendor number all vendors performing 100% shareholder-funded activities, including those activities that are the subject of its First Amendment arguments;
- f. Provide full access to all Work Orders and identify all of the Work Orders associated with the activities that are the subject of its First Amendment arguments;
- g. Provide any other information related to its accounts and records that Cal Advocates requests within five business days; and
- h. Provide a declaration under penalty of perjury from SoCalGas' Chief Financial Officer that the read-only remote access provided to Cal Advocates does not contain any modifications to exclude information from Cal Advocates' review.

(4) Resolve ongoing discovery disputes by ordering SoCalGas to:

- a. Respond clearly and completely to all outstanding discovery in the next ten business days;
- b. Respond in no more than five business days with objections to the publication of any documents obtained through

⁸⁴ While Cal Advocates had previously discussed signing a Non-Disclosure Agreement (NDA) with SoCalGas in order to speed its release of information, such an NDA is unnecessary given the statutory protections provided and Cal Advocates no longer proposes to sign one given that the purpose of the NDA was defeated by SoCalGas' May 22, 2020 Substitute Motion to Quash.

discovery in this investigation based on privilege or confidentiality claims; and

- c. In addition to complying with GO-66 to support any privilege or confidentiality claim, provide a declaration under penalty of perjury from a SoCalGas attorney that the attorney has reviewed the materials associated with the privilege or confidentiality claims and that such claims have a good faith basis in the law.

Only by granting these requests will Cal Advocates be able to pursue its investigation. And only by granting these requests will SoCalGas understand that its willful disrespect of the Commission and its requirements must end.

Respectfully submitted,

/s/ TRACI BONE

Traci Bone

Attorney for the
Public Advocates Office

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102
Telephone: (415) 703-2048
Email: traci.bone@cpuc.ca.gov

June 23, 2020

CERTIFICATE OF SERVICE

I hereby certify that i have on this date served a copy of “Public Advocates Office Motion To Find Southern California Gas Company In Contempt For Failure To Comply With A Commission Subpoena Issued May 5, 2020 In Violation Of Commission Rule 1.1, Imposition Of Monetary Penalties For Those Violations, And Other Relief To Address Outstanding Discovery Disputes (Not In A Proceeding)” to the following by electronic mail:

rmd@cpuc.ca.gov
MHovsepian@socalgas.com
TCarman@socalgas.com
Marybel.Batjer@cpuc.ca.gov
Alec.Ward@cpuc.ca.gov
Stephen.Castello@cpuc.ca.gov
CSierzant@socalgas.com
JQTran@socalgas.com
BCPrusne@socalgas.com
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Michael.Campbell@cpuc.ca.gov
traci.bone@cpuc.ca.gov
Shannon.O'Rourke@cpuc.ca.gov
Mariam.Sleiman@cpuc.ca.gov

Executed on **June 23, 2020** at San Francisco, California.

/s/ TRACI BONE

TRACI BONE

EXHIBIT 1

T.Bone 5-5-20 EMail Serving Subpoena on SoCalGas

Proposed Agenda for Cal Advocates / SoCalGas 11:00 Conference Call on Wednesday, May 6, 2020

Bone, Traci <traci.bone@cpuc.ca.gov>

Tue 5/5/2020 1:48 PM

To: Jason H. Wilson (jwilson@willenken.com) <jwilson@willenken.com>

Cc: Ward, Alec <Alec.Ward@cpuc.ca.gov>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>; JQTran@socalgas.com <JQTran@socalgas.com>; EHenry@socalgas.com <EHenry@socalgas.com>; CSierzant@socalgas.com <CSierzant@socalgas.com>; AHolland@socalgas.com <AHolland@socalgas.com>; Campbell, Michael <Michael.Campbell@cpuc.ca.gov>; Sherin Varghese <svarghese@willenken.com>

📎 1 attachments (3 MB)

Subpoena to SoCalGas for Accounting Database Access - Service Copy.pdf;

Jason:

In preparation for our call tomorrow, please find attached hereto a Subpoena to Produce Access To Company Accounting Databases signed by the Commission's Executive Director. The subpoena is consistent with the data request we served on Friday, May 1, 2020. While a subpoena is not a prerequisite to obtaining access to a utility's accounts, given our history with SoCalGas on this investigation, the Public Advocates Office (Cal Advocates) opted for the additional authority provided by a subpoena.

Consistent with Friday's data request and our goal to obtain access to SoCalGas' accounts as soon as practicable, we propose to focus our discussion at tomorrow's scheduled meeting on how and when our staff will be able to access SoCalGas' accounting systems both remotely and on-site. As the Friday data request explained:

At a minimum, SoCalGas should be prepared to identify the following information on the conference call:

- The date remote access to the SAP system will be provided, and if not feasible, the specific reasons why it is not feasible, including confirmation of whether or not any SoCalGas employees or auditors have remote access to the SAP system.
- If remote access is not available, the date and location for a site visit so that the auditor can access the SAP system.
- At least two primary points of contact to ensure that the Cal Advocates auditor is able to access the SAP system and any accounts the auditor seeks to review. These contacts must be highly knowledgeable about SoCalGas' SAP system and available to answer questions that will facilitate Cal Advocates' inquiry.
- An afterhours contact to resolve SAP issues if such a contact exists for SoCalGas employees or auditors.
- Any other SAP resources available to SoCalGas employees or auditors.

In addition, while I had committed to provide a list of questions related to the SoCalGas/Sempra "Lobbying Activity Tracking System" or "LATS" on the same call, it appears that many of the documents provided by SoCalGas regarding LATS training, which would inform that discussion, have been redacted, and several appear to be missing pages of information that would have been in the original version. In addition, as communicated to

you yesterday, the list of LATS data fields provided in response to DR #13, Question 2 appears to be incomplete. Consequently, we should plan to address those issues – is data missing and why are there redactions?

Regarding the redactions, we understand that these documents were provided by Sempra, but that does not excuse the failure to properly mark information claimed to be confidential with highlights – rather than blackouts – or the failure to provide declarations identifying the legal basis for any confidentiality claims pursuant to General Order (GO) 66. Further, to the extent this information has been redacted because of assertions of privilege, SoCalGas/Sempra should provide a privilege log.

For context, you should understand that these are all issues that were raised in Cal Advocates' first Motion to Compel, which was granted. Consequently, Cal Advocates is understandably troubled by the fact that we are revisiting these issues now.

Given these concerns, we propose to address the LATS issues as follows:

- That SoCalGas and/or Sempra provide no later than this Friday, May 8, 2020, full and complete copies of all of the LATS training materials (including Appendices) with no redactions unless you or a SoCalGas attorney is willing to provide a declaration that there is a good faith basis for any claims or privilege or confidentiality asserted. In that case, any confidential information should be highlighted as provided in previous data requests, rather than redacted.
 - We note that SoCalGas and/or Sempra clearly have ready access to these documents and so producing them without the unjustified redactions should be easily accomplished.
 - We also note that the current black outs appear to be names of Sempra or SoCalGas employees. Please be advised that such information is not confidential absent other personal identifying information such as a social security number, bank account number, or medical information – in which case that personal identifying information (but not the employee's name) should be redacted consistent with the instructions in DR #13.
- That SoCalGas answer the question I posed yesterday, which is whether the list of LATS data fields provided in response to DR #13, Question 2 is complete and lists all LATS data fields, as requested.
- That, consistent with yesterday's request, a SoCalGas and/or Sempra employee knowledgeable about the LATS system, including how it works, what it contains, and when it is required to be used, be available for the Wednesday, May 6, 2020 scheduled conference call. These are the basic questions that need to be answered. In addition, employees should be available to explain the reasons for the redactions and whether information is missing from the LATS training documents. If such a person (or persons) is not available on Wednesday, they should be made available for the conference call we currently have scheduled for this Friday, May 8.

We look forward to SoCalGas' prompt resolution of these matters on tomorrow's conference call.

Traci Bone, Attorney
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Work: (415) 703-2048
Cell: (415) 713-3599
tbo@cpuc.ca.gov

EXHIBIT 2

Data Request CalAdvocates-TB-2020-03



Public Advocates Office
California Public Utilities Commission

505 Van Ness Avenue
San Francisco, CA 94102
Phone: (415) 703-2544
Fax: (415) 703-2057

<http://publicadvocates.cpuc.ca.gov>

PUBLIC ADVOCATES OFFICE DATA REQUEST
No. CalAdvocates-TB-SCG-2020-03

Date: May 1, 2020

Conference Call: No later than May 6, 2020

Access to Accounts: No later than May 8, 2020 for remote access; if remote access is not available, no later than May 11, 2020 for physical access

To: **Corinne Sierzant**
Regulatory Affairs for SoCalGas
CSierzant@semprautilities.com

Phone: (213) 244-5354
Email:

Johnny Q. Tran
Attorney for SoCalGas

Phone: (213) 244-2981
Email: JQTran@semprautilities.com

Shawane Lee
Attorney for SoCalGas

Phone: (213) 244-8499
Email: SLee5@socalgas.com

Stacy Van Goor
Sempra Energy

Email: SVanGoor@sempra.com

From: **Traci Bone**
Attorney for the
Public Advocates Office

Phone: (415) 713-3599
Email: Traci.Bone@cpuc.ca.gov

James Wuehler
Accountant for the
Public Advocates Office

Phone: (415) 703-2671
Email: James.Wuehler@cpuc.ca.gov

INSTRUCTIONS

General:

You are instructed to answer the following Data Requests in the above-captioned proceeding, with written, verified responses pursuant to Public Utilities Code §§ 309.5

and 314, and Rules 1.1 and 10.1 of the California Public Utilities Commission's Rules of Practice and Procedure within ten (10) business days.

Each Data Request is continuing in nature. Provide your response as it becomes available, but no later than the due date noted above. If you are unable to provide a response by the due date, notify the Public Advocates Office within five (5) business days, with a written explanation as to why the response date cannot be met and a best estimate of when the information can be provided. If you acquire additional information after providing an answer to any request, you must supplement your response following the receipt of such additional information.

This data request does not diminish or excuse any pending written or oral data requests to you.

The Public Advocates Offices expects you to respond to this data request in a timely manner and with the highest level of candor

Responses:

Responses shall restate the text of each question prior to providing the response, identify the person providing the answer to each question and his/her contact information, identify all documents provided in response to the question, and clearly mark such documents with the data request and question number they are responsive to.

Responses should be provided both in the original electronic format, if available, and in hard copy. (If available in Word format, send the Word document and do not send the information as a PDF file.) All electronic documents submitted in response to this data request should be in readable, downloadable, printable, and searchable formats, unless use of such formats is infeasible. Each page should be numbered. If any of your answers refer to or reflect calculations, provide a copy of the supporting electronic files that were used to derive such calculations, such as Excel-compatible spreadsheets or computer programs, with data and formulas intact and functioning. Documents produced in response to the data requests should be Bates-numbered, and indexed if voluminous.

Requests for Clarification:

If a request, definition, or an instruction, is unclear, notify the people listed above in writing within five (5) business days, including a specific description of what you find unclear and why, and a proposal for resolving the issue. In any event, unless directly otherwise by the people listed above, answer the request to the fullest extent possible, explain why you are unable to answer in full, and describe the limitations of your response.

Objections:

If you object to any of portion of this Data Request, please submit specific objections, including the specific legal basis for the objection, to the people listed above within five (5) business days.

Assertions of Privilege:

If you assert any privilege for documents responsive to this data request, please provide within five (5) business days to the people listed above a privilege log identifying each withheld document, and: (a) a summary description of the document; (b) the date of the document; (c) the name of each author or preparer; (d) the name of each person who received the document; and (e) the legal basis for withholding the document.

Assertions of Confidentiality:

If you assert confidentiality for any of the information provided, please identify the information that is confidential with highlights and provide a specific explanation of the basis for each such assertion. Assertions of confidentiality will be carefully scrutinized and are likely to be challenged absent a strong showing of the need for confidentiality, with the exception of the confidentiality for sensitive personal identifying information as described below.

Sensitive Personal Identifying Information:

Any sensitive personal identifying information other than an employee's name shall be fully redacted unless otherwise directed. Sensitive personal identifying information includes, without limitation:

- Social security numbers.
- Bank account numbers.
- Passport information.
- Healthcare related information.
- Medical insurance information.
- Student information.
- Credit and debit card numbers.
- Drivers license and State ID information.

Signed Declaration:

The data response shall include a signed declaration from a responsible officer or an attorney under penalty of perjury that you have used all reasonable diligence in preparation of the data response, and that to the best of their knowledge, it is true and complete.

In addition, any claim of confidentiality or privilege shall be supported by a declaration from your attorney stating that your attorney is familiar with the relevant case law and statutes pertaining to claims of confidentiality and privilege such that there is a good faith basis for the claim.

DEFINITIONS

- A. As used herein, the terms “you,” “your(s),” “Company,” “SCG,” and “SoCalGas” mean Southern California Gas Company and any and all of its respective present and former employees, agents, consultants, attorneys, officials, and any and all other persons acting on its behalf.
- B. The terms “and” and “or” shall be construed either disjunctively or conjunctively whenever appropriate in order to bring within the scope of these Data Requests any information or documents which might otherwise be considered to be beyond their scope.
- C. Date ranges shall be construed to include the beginning and end dates named. For example, the phrases “from January 1 to January 31,” “January 1-31,” “January 1 to 31,” and “January 1 through January 31” should be understood to include both the 1st of January and the 31st of January. Likewise, phrases such as “since January 1” and “from January 1 to the present” should be understood to include January 1st, and phrases such as “until January 31,” “through January 31,” and “up to January 31” should also be understood to include the 31st.
- D. The singular form of a word shall be interpreted as plural, and the plural form of a word shall be interpreted as singular whenever appropriate in order to bring within the scope of these Data Requests any information or documents which might otherwise be considered to be beyond their scope.
- E. The term “communications” includes all verbal and written communications of every kind, including but not limited to telephone calls, conferences, notes, correspondence, and all memoranda concerning the requested communications. Where communications are not in writing, provide copies of all memoranda and documents made relating to the requested communication and describe in full the substance of the communication to the extent that the substance is not reflected in the memoranda and documents provided.
- F. The term “document” shall include, without limitation, all writings and records of every type in your possession, control, or custody, whether printed or reproduced by

any process, including documents sent and received by electronic mail, or written or produced by hand.

- G. “Relate to,” “concern,” and similar terms and phrases shall mean consist of, refer to, reflect, comprise, discuss, underlie, comment upon, form the basis for, analyze, mention, or be connected with, in any way, the subject of these Data Requests.
- H. When requested to “state the basis” for any analysis (including studies and workpapers), proposal, assertion, assumption, description, quantification, or conclusion, please describe every fact, statistic, inference, supposition, estimate, consideration, conclusion, study, and analysis known to you which you believe to support the analysis, proposal, assertion, assumption, description, quantification, or conclusion, or which you contend to be evidence of the truth or accuracy thereof.
- I. Terms related in any way to “lobbying,” lobbyist,” “lobbying firm” and “lobbyist employer” shall, without limitation, be construed broadly and, without limitation, to be inclusive of how those terms are used in the Sempra Energy Political Activities Policy (Policy) and the California Political Reform Act (Act). For purposes of this data request, the Act’s definitions shall be understood to include all manner of state, regional, and local governments or agencies.¹

DATA REQUEST

Public Advocates Office (Cal Advocates) requests a conference call with SoCalGas by no later than Wednesday, May 6, 2020 to arrange for SoCalGas’ provision of the following to Cal Advocates:

1. Remote access to the SoCalGas SAP system to a Cal Advocates auditor no later than May 8, and sooner if possible. If remote access is not possible, identify a time and place where the auditor may access the SoCalGas SAP system that is no later than May 11, 2020.
2. Access to SoCalGas’ SAP system, whether remote or physical, equivalent to the highest quality and functionality available to SoCalGas accountants and auditors – whether employees or contractors.

¹ The Sempra Energy Political Activities Policy defines lobbying broadly on page 3 as: “any action intended to influence legislative or administrative action, including activities to influence government officials, political parties, or ballot measures. Lobbyists can be individual employees or the company that employees them, referred to as a Lobbyist-Employer.”

3. Training and assistance for the auditor to allow the auditor to determine the following in SAP related to adjustments to the Marathon Communications contract referred to in the SoCalGas July 12, 2019 amended response to Data Request (DR) CALPA-SCG-051719.
 - a. The date those adjustments were made, if it is different from the June 14, 2019 date reported in the August 13, 2019 response to Question 5 of DR CAL ADVOCATES SCG-2019-03.
 - b. The dollar amounts of adjustments made and the time period over which those dollars were incurred.
 - c. All subsequent entries in SAP related to the Marathon Communications contract up to the present time that demonstrate that those costs will not be mingled with ratepayer funded accounts.
 - d. Access to the "...separate invoice/order that is not ratepayer funded accounts for all work done by Marathon to found and support Californians for Balanced Energy Solutions" as referred to in response to Data Request CalAdvocates-SC-SCG-2019-02, Question 6(b).
 - e. The Modified Submission dated August 13, 2019 to Data Request CALPA-SCG-051719, Question 3 states "...that all of George Minter's and Ken Chawkins's time from May 1, 2018 through the present would be shareholder funded (i.e., this time is booked to a distinct invoice (I/O) that is not ratepayer funded)." Please provide the auditor with the amounts actually recorded from May 1, 2018 to present and access to SAP to verify that those amounts are recorded in a distinct SAP account that is not ratepayer funded.
 - f. Please also provide access to all of George Minter's and Ken Chawkins's time entries for accounting purposes from January 1, 2017 to the present.
4. Training and assistance for the auditor to access all SoCalGas accounts, including FERC accounts.
5. Training and assistance for the auditor to access information regarding all contracts, invoices, and payments made to third parties.
6. Training and assistance for the auditor to access and identify the allocation of a specific employee's labor expenses for every activity that they support and access to relevant cost centers, internal orders, and expense types or cost elements. See SoCalGas Response to CALADVOCATES-TB-SCG-2020-02, Question 6 which refers to these same terms.

7. Training and assistance for the auditor to be able to determine whether an account is intended to be shareholder costs or ratepayer costs, or a combination of the two, and how to determine which specific internal orders will be excluded from SoCalGas' General Rate Case.
8. Training and assistance so that the auditor can record their findings, including downloading, and screen shot applications.

At a minimum, SoCalGas should be prepared to identify the following information on the conference call:

- The date remote access to the SAP system will be provided, and if not feasible, the specific reasons why it is not feasible, including confirmation of whether or not any SoCalGas employees or auditors have remote access to the SAP system.
- If remote access is not available, the date and location for a site visit so that the auditor can access the SAP system.
- At least two primary points of contact to ensure that the Cal Advocates auditor is able to access the SAP system and any accounts the auditor seeks to review. These contacts must be highly knowledgeable about SoCalGas' SAP system and available to answer questions that will facilitate Cal Advocates' inquiry.
- An afterhours contact to resolve SAP issues if such a contact exists for SoCalGas employees or auditors.
- Any other SAP resources available to SoCalGas employees or auditors.

END OF REQUEST

EXHIBIT 3

Commission Subpoena Served May 5, 2020

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE PUBLIC
ADVOCATES OFFICE INVESTIGATION
PERTAINING TO SOUTHERN CALIFORNIA
GAS COMPANY'S ACCOUNTING

**SUBPOENA TO PRODUCE ACCESS TO
COMPANY ACCOUNTING DATABASES**

PRACTICES, USE OF RATEPAYER
MONIES TO FUND ACTIVITIES RELATED
TO THE ADOPTION OF ANTI-
DECARBONIZATION AND GAS
THROUGHPUT POLICIES, AND OTHER
ACTIVITIES POTENTIALLY CONTRARY
TO STATE POLICIES

**Public Utilities Code Sections 311, 314, 314.5,
314.6, 581, 582, 584, 701, 702, and 771**

THE PEOPLE OF THE STATE OF CALIFORNIA,
TO: **SOUTHERN CALIFORNIA GAS COMPANY**

1. Pursuant to sections 311(a), 314, 314.5, 314.6, 581, 582, 584, 701, 702, and 771 *et seq.* of the California Public Utilities Code, you are ordered to make available to the Public Advocates Office at the California Public Utilities Commission (Cal Advocates), and staff and consultants working on its behalf, access to all databases associated in any manner with the company's accounting systems no later than three business days after service of this Subpoena.
2. Such access shall include both on-site and remote access; on-site access shall be provided at the times and locations requested by Cal Advocates.
3. Both on-site and remote access shall be as near to identical in quality as the access provided to the company's own employees and/or auditors, including, without limitation, any instructional materials or access to persons knowledgeable about the databases, including knowledge about both on-site and remote access to those databases.
4. IF YOU HAVE ANY QUESTIONS ABOUT THIS SUBPOENA, CONTACT THE FOLLOWING PERSON:

Name: Traci Bone

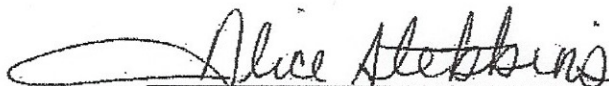
E-Mail: tbo@cpuc.ca.gov

Telephone: 415-703-2048

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COMMISSION.

By order of the Public Utilities Commission of the State of California.

Dated this 4th day of May, 2020.



By: Alice Stebbins

Title: Executive Director

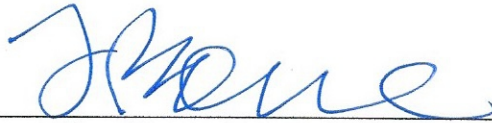
DECLARATION IN SUPPORT OF SUBPOENA

I, TRACI BONE, declare as follows:

1. I am an attorney duly licensed to practice before all courts of the State of California and am employed as a staff attorney for the California Public Utilities Commission (Commission). My business address is 505 Van Ness Avenue, San Francisco, California, 94102.
2. The California Constitution and the Public Utilities Code confer jurisdiction on the Commission to regulate public utilities in California in a number of areas, including, without limitation, cost, safety and maintenance of facilities.
3. The Public Utilities Code provides for an independent Public Advocate's Office to represent and advocate on behalf of the interests of public utility customers and subscribers within the jurisdiction of the Commission.
4. The Commission's Public Advocates Office is currently conducting an investigation of Southern California Gas Company's (SoCalGas') accounting practices, use of ratepayer monies to fund activities related to the adoption of anti-decarbonization and gas throughput policies, and other activities potentially contrary to state policies.
3. Section 314(a) of the Public Utilities Code, and others, authorize the Commission and persons employed by the Commission to inspect the accounts, books, papers and documents of any public utility. Section 311 authorizes the Commission, each Commissioner, the executive director, and the assistant executive directors to issue subpoenas for, among other things, accounts and documents in any investigation in any part of the state.
4. SoCalGas' responses to data requests in the investigation have been incomplete and untimely. Consequently, good cause exists for SoCalGas to be ordered to produce both

remote and on-site access to its accounting databases so that the Public Advocates Office, its staff and/or consultants may conduct their own examination of the utility's records.

Executed under penalty of perjury under the laws of the State of California, on this 5th day of May, 2020, at San Francisco, California.



Traci Lynn Bone
Staff Counsel

PROOF OF SERVICE

I am employed with the California Public Utilities Commission and I am over 18 years of age. My business address is 505 Van Ness Ave., San Francisco, CA 94102

On May 5th, 2020, I electronically served the attached **SUBPOENA TO PRODUCE ACCESS TO COMPANY ACCOUNTING DATABASES** on the following representatives for Southern California Gas Company:

Johnny Tran - JQTran@socalgas.com
Corinne Sierzant - CSierzant@socalgas.com
Brooke Holland - AHolland@socalgas.com
Elliot Henry - EHenry@socalgas.com
Jason Wilson – jwilson@willenken.com
Sherin Varghese – svarghese@willenken.com

Executed under penalty of perjury of perjury under the laws of the State of California,
on this 5th day of May 2020, at San Francisco, California.



Traci Lynn Bone

EXHIBIT 4

Declaration of Stephen Castello May 28, 2020

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

DECLARATION OF STEPHEN CASTELLO

I, Stephen Castello, hereby declare:

1. I am a Public Utilities Regulatory Analyst II in the Electricity Pricing and Customer Programs Branch of the Public Advocates Office at the California Public Utilities Commission. If called as a witness, I could and would competently testify as to the matters stated herein from my own personal knowledge, except as to any matters that I state upon information and belief, and, as to those matters, I am informed and believe them to be true.
2. I have been assigned to the Public Advocates Office investigation – not in any proceeding – of Southern California Gas Company’s (SoCalGas’) funding and other activities related to promoting the use of natural and renewable gas and to defeating state and local efforts to achieve greenhouse gas reductions (Investigation).
3. In my work on the Public Advocates Office Investigation, I have attempted to identify, among other things, whether and to what extent ratepayer money has been used to fund these efforts, including SoCalGas’ creation and funding of Californians for Balanced Energy Solutions (C4BES), an issue that came to light in Rulemaking (R.) 19-01-011.
4. I am familiar with SoCalGas’ Motion for an Emergency Stay which was served March 25, 2020, and the ALJ Ruling of April 6, 2020 that denied that motion.
5. After the motion was denied, SoCalGas was unable to meet and confer regarding a re-start of discovery in the Investigation, until April 16, 2020 – more than a week after the ALJ’s ruling was issued.
6. I am familiar with the subpoena issued to SoCalGas on May 5, 2020.
7. I have reviewed the SoCalGas “Motion To Quash Portion Of The Subpoena To Produce Access To Certain Materials In Accounting Databases And To Stay

Compliance Until The May 29th Completion Of Software Solution To Exclude Those Protected Materials In The Databases” served on May 19, 2020.

8. I have attended multiple meet and confer discussions with SoCalGas to advance Public Advocates Office discovery related to the Investigation, including meetings on the following dates: June 4, 2019, July 25, 2019, August 12, 2019, September 16, 2019, September 27, 2019, October 18, 2019, January 9, 2020, January 21, 2020, March 19, 2020, April 16, 2020, April 24, 2020, May 1, 2020, May 6, 2020, May 8, 2020, May 13, 2020, and May 19, 2020.
9. After service of the subpoena on May 5, 2020, SoCalGas and Public Advocates Office participated in four conference calls related to the details of SoCalGas providing access under the subpoena, and identifying dates SoCalGas would provide responses to data requests issued in December, February, and March.
10. During those calls, SoCalGas confirmed that all SoCalGas accounting staff were working from home and had remote access to the utility’s accounts and records through its SAP system. SoCalGas also confirmed that it had previously made full remote access available to an auditor.
11. By the last conference call on May 18, 2020, it was evident that SoCalGas could provide nearly immediate remote access to the Public Advocates Office auditors, but that it would continue to withhold remote access from Public Advocates Office based on its First Amendment claims, and concerns regarding the disclosure of attorney/client communications or attorney work product.
12. At no time did SoCalGas suggest on any of the calls following issuance of the subpoena that it sought an extension of its right to quash the subpoena
13. While Public Advocates Office readily acknowledged that it had no desire to review any privileged information in the SAP database, at no time did Public Advocates Office concede during those calls that attorney/client communications or attorney work product would actually exist in SoCalGas’ SAP database, or that it could only review SoCalGas’ SAP database once such material was “walled off.”

14. During the last call on these matters, on Monday, May 18, 2020, SoCalGas requested that Public Advocates Office give it an extension to comply with the subpoena until May 29, 2020, so that it could implement a form of “custom” computer program to wall off its law firm invoices and information it asserts is “protected” by the First Amendment. Public Advocates Office did not refuse to provide the extension; rather, it replied that such an extension would need to be considered by its management.
15. During that conversation, the Public Advocates Office observed, among other things, that had its auditors appeared at SoCalGas’ offices to review its accounts and records, SoCalGas would have been obligated under the law to provide the auditors immediate on-site access to all of these materials. Consequently, SoCalGas’ proposal to withhold remote access in order to build a “custom software solution” to exclude information from auditor review was troubling to Public Advocates Office.
16. The Public Advocates Office was also clear on May 18, 2020 call that it would not accept any “wall” for access to accounts associated with vendors and consultants that SoCalGas claimed were “protected” by the First Amendment because such information was not “privileged” and SoCalGas’ had no valid legal claims for precluding Public Advocates Office’s access to those accounts.
17. I believe SoCalGas clearly understood that those were precisely the types of accounts, among others, that Public Advocates Office intended to audit.
18. Public Advocates Office has received copies of several SoCalGas contracts, invoices, and other materials related to the vendors it is working with to pursue the activities that are the subject of the Investigation. Those materials include the type of information which SoCalGas proposes to “wall off” from Public Advocates Office review in its Motion to Quash.
19. Discovery requests issued in December, February, and March have not been fully and accurately responded to. For example, SoCalGas has declined to provide complete responses to CALADVOCATES SC-SCG-2019-11, which was issued

on December 11, 2019. Among other things, SoCalGas' responses failed to include all costs associated with influencing public opinion on the type of buses the Los Angeles County Metropolitan Authority should procure, failed to break down those costs by year, failed to disaggregate those costs by requested categories, and failed to identify the accounts where those costs were charged. It appears that much of this information should have been recorded in SoCalGas' Lobbying Activities Tracking System (LATS) consistent with the training manuals SoCalGas has provided. However, none of this information appears to be available in that system.

20. SoCalGas has delayed its responses to the Public Advocates Office data request issued February 14, 2020. Notwithstanding numerous discussions regarding this data request – the utility insisted on using its own definition of lobbying to answer the questions – the Public Advocates Offices has been waiting more than three months for complete responses.
21. The Public Advocates Office has participated in at least seven conference calls with SoCalGas since the ALJ's April 6 denial of SoCalGas' emergency motion for a stay of discovery. SoCalGas initially represented its desire to “reset” the relationship with the Public Advocates Office. However, in retrospect, it is evident that SoCalGas made a number of misrepresentations to the Public Advocates Office during those calls in an effort to continue to delay its discovery responses.
22. This was not the first time that SoCalGas had proposed to “reset” the relationship with Public Advocates Office. The first time occurred during a meet and confer on October 18, 2019. SoCalGas attorneys Shawane Lee and Johnny Tran, both new to the case at the time, used the same words stating a desire to “reset” the relationship with Public Advocates Office.
23. On the last call on May 18, 2020, when directly asked whether SoCalGas was “slow rolling” responses to the Public Advocates Office's outstanding requests, SoCalGas representatives assured Public Advocates Office that SoCalGas *was not*

slow rolling its responses. Rather, SoCalGas explained that it was working hard to respond to the data requests and that many things that seemed simple were much more time consuming and were absorbing staff's time. SoCalGas also represented that it was prioritizing compliance with the subpoena so that it was unable to provide other information at the same time, such as the removal of unsupported confidentiality designations that the Public Advocates Offices had requested more than two months ago, on March 10, 2020.

Dated this 28 of May, 2020, at Berkeley, California.

A handwritten signature in black ink, appearing to read "Stephen D. Castello", written over a horizontal line.

Stephen Castello
Public Utilities Regulatory Analyst II
Public Advocates Office
California Public Utilities Commission

EXHIBIT 5

**T.Bone 5-22-20 Email to SoCalGas Demanding Immediate Access
To Accounts And Records**

From: [Bone, Traci](#)
To: [Sierzant, Corinne M](#); [Ward, Alec](#); [Castello, Stephen](#); [Henry, Elliott S](#); [Holland, Brooke](#); [Jason Wilson](#); [Sherin Varghese](#)
Subject: RE: Meet & Confer
Date: Friday, May 22, 2020 7:59:00 AM

Please cancel today's scheduled conference call.

In lieu of a conference call, Cal Advocates demands that SoCalGas to provide full read-only remote access to all of its accounts and records today. Any specifics that need to be addressed to facilitate the provision of that access should be set forth in writing to the Cal Advocates Team.

Cal Advocates also demands that SoCalGas provide all outstanding discovery that has been the subject of the prior conference calls.

Traci Bone, Attorney
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Work: (415) 703-2048
Cell: (415) 713-3599
tbo@cpuc.ca.gov

-----Original Appointment-----

From: Sierzant, Corinne M <CSierzant@socalgas.com>
Sent: Wednesday, May 13, 2020 2:07 PM
To: Sierzant, Corinne M; Ward, Alec; Bone, Traci; Castello, Stephen; Henry, Elliott S; Holland, Brooke; Jason Wilson; Sherin Varghese
Subject: Meet & Confer
When: Friday, May 22, 2020 11:30 AM-1:00 PM (UTC-08:00) Pacific Time (US & Canada).
Where: Skype Meeting

[Join Skype Meeting](#)

Trouble Joining? [Try Skype Web App](#)

Join by phone

Toll number: +1 (858) 284-1506,,641365348# (Dial-in Number)

English (United States)

[Find a local number](#)

Conference ID: 641365348

[Forgot your dial-in PIN?](#) | [Help](#)

EXHIBIT 6

J.Wilson & T.Bone Emails to ALJ May 29 through June 3, 2020

Re Access to Accounts and Records

From: Bone, Traci
Sent: Wednesday, June 3, 2020 2:31 PM
To: Jason Wilson; DeAngelis, Regina
Cc: DeAngelis, Regina; Hovsepian, Melissa A; Carman, Teresa A; Batjer, Marybel; Ward, Alec; Castello, Stephen; Sleiman, Mariam (Intern); Sierzant, Corinne M; Tran, Johnny Q; Prusnek, Brian C; Henry, Elliott S; Farrar, Darwin; Serizawa, Linda; Campbell, Michael; O'Rourke, Shannon
Subject: RE: SoCalGas (U 904 G) Motion to Quash in Part Cal Advocates' May 5, 2020 Subpoena

Judge DeAngelis:

In response to Mr. Wilson's email below, Cal Advocates reiterates its request that SoCalGas immediately provide Cal Advocates full access to its accounts and records consistent with the subpoena issued May 5, 2020.

In addition, consistent with footnote 131 of Cal Advocates' Response to SoCalGas' May 22, 2020 Motion to Quash, Cal Advocates will not sign a non-disclosure agreement in order to obtain access to SoCalGas' accounts and records. Footnote 131 explains: While Cal Advocates has previously discussed signing a Non-Disclosure Agreement (NDA) with SoCalGas in order to speed its release of information, such an NDA is unnecessary given the statutory protections provided and Cal Advocates no longer proposes to sign one given that the purpose of the NDA has been defeated by the instant Motion to Quash.

Lastly, please add Mariam Sleiman to the service list for this proceeding: mariam.sleiman@cpuc.ca.gov

Thank you for your attention to these matters,

Traci Bone, Attorney
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Work: (415) 703-2048
Cell: (415) 713-3599
tbo@cpuc.ca.gov

From: Jason Wilson <jwilson@willenken.com>
Sent: Monday, June 01, 2020 4:07 PM
To: DeAngelis, Regina <regina.deangelis@cpuc.ca.gov>
Cc: DeAngelis, Regina <regina.deangelis@cpuc.ca.gov>; Hovsepian, Melissa A <MHovsepian@socalgas.com>; Carman, Teresa A <TCarman@socalgas.com>; Batjer, Marybel <Marybel.Batjer@cpuc.ca.gov>; Ward, Alec <Alec.Ward@cpuc.ca.gov>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>; Sierzant, Corinne M <CSierzant@socalgas.com>; Tran, Johnny Q <JQTran@socalgas.com>; Prusnek, Brian C <BCPrusne@socalgas.com>; Henry, Elliott S <EHenry@socalgas.com>; Jason Wilson <jwilson@willenken.com>; Farrar, Darwin <darwin.farrar@cpuc.ca.gov>; Serizawa, Linda <linda.serizawa@cpuc.ca.gov>; Campbell, Michael <Michael.Campbell@cpuc.ca.gov>; Bone, Traci <traci.bone@cpuc.ca.gov>; O'Rourke, Shannon <Shannon.O'Rourke@cpuc.ca.gov>
Subject: SoCalGas (U 904 G) Motion to Quash in Part Cal Advocates' May 5, 2020 Subpoena

Judge DeAngelis:

In its Motion to Quash in part Cal Advocates' May 5, 2020 subpoena, SoCalGas represented that it would make available remote access to its SAP system with limitations in place to block access to confidential attorney-client matters and information related to its 100% shareholder activities protected by the First Amendment by May 29, 2020. As it promised, (as evident by the email below) SoCalGas offered such access to Cal Advocates on May 29, 2020. However, Cal Advocates suggested, and SoCalGas agreed, that the parties use a NDA to help deal with confidentiality issues. Furthermore, Cal Advocates agreed that the NDA would be in place before it accessed the SAP System. Unfortunately, as the date of this email, SoCalGas has not received any NDA documentation from Cal Advocates. Finally, as of the time of this email, Cal Advocates has not yet responded to SoCalGas's May 29, 2020 email. As such, while SoCalGas stands ready to provide Cal Advocates with SAP access, it cannot do so until Cal Advocates enters into the NDA with SoCalGas.

Jason Wilson
Counsel for Southern California Gas Company



Jason H. Wilson

Direct: 213.955.8020 | Fax: 213.955.9250 | jwilson@willenken.com | www.linkedin.com/in/jason-h-wilson

WILLENKEN LLP | 707 Wilshire Blvd. | Suite 3850 | Los Angeles, CA 90017 | willenken.com

Service List for SoCalGas/Cal Advocates Not In A Proceeding

rmd@cpuc.ca.gov; Hovsepian, Melissa A <MHovsepian@socalgas.com>; Carman, Teresa A <TCarman@socalgas.com>; Prusnek, Brian C <BCPrusne@socalgas.com>; Henry, Elliott S <EHenry@socalgas.com>; jwilson@willenken.com; Fa <Shannon.O'Rourke@cpuc.ca.gov>

From: Jason Wilson

Sent: Friday, May 29, 2020 4:18 PM

To: Bone, Traci <traci.bone@cpuc.ca.gov>; Ward, Alec <Alec.Ward@cpuc.ca.gov>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>

Cc: Holland, Brooke <AHolland@socalgas.com>; Sierzant, Corinne M <CSierzant@socalgas.com>; Willenken-CalPA <willenken-calpa@willenken.com>

Subject: Remote Access to SAP

Traci,

As promised, SAP Access is live for the users that you've requested. Corinne Sierzant will send credentials as soon as Cal Advocates signs the NDA and provides us with the users' non-disclosure certificates. (As you know, the parties agreed to having an NDA in place and the draft NDA was sent to you on May 18, 2020). If we do not receive the NDA documents by 5 pm today, then access will have to be delayed until Monday morning. Please note that the network will be unavailable for system updates from 10 PM on Saturday, 5/30 through 5 AM on Sunday, 5/31.

We have looked into the support available to our users. Standard support is available Monday to Friday from 8 AM to 5 PM. Only emergency support is available outside of that time. Accordingly, we will provide Cal Advocates' SAP users access assistance Monday to Friday during from 8 AM to 5PM. However, the remote access to SAP should be available after hours and during weekends/holidays unless there is an outage or maintenance.

Ping Ng (PNg@socalgas.com, 213-231-8850) will be your contact for questions related to SAP. You can email Corinne (CSierzant@socalgas.com, 215-290-3144) for IT questions, and she'll direct them to the appropriate team member for resolution.

To protect our privileged information and First Amendment rights, information and transaction details (invoice transactions and accounting journal entries) pertaining to our outside counsel firms and also vendors performing 100% shareholder activities have been programmatically excluded from the display list.

There is one accounting journal entry referencing 100% shareholder work, but which also references non-shareholder work. This has likewise been excluded from the display list. However, we will provide a PDF of this journal entry redacting the identity of the 100% shareholder-funded entity by early next week.

As a matter of routine, and to support the production of our monthly financial statements that present fairly our financial position and results of operations in all material respects, a series of procedures, processes, and controls are followed each month for the previous fiscal month. Until those procedures, processes, and controls for the fiscal month are completed, all transactions for that fiscal month will also be excluded from the display list. As such, these activities will not be displayed until the end of the following month. This process also allows time to protect information in the two categories we are restricting access to where there may be new vendors/firms to protect or other potential complications with related entries. Further, it should be noted that while certain costs are currently recorded to certain cost centers in SAP, it does not mean that the costs will be requested for recovery from ratepayers, as noted in the TY2019 GRC workpapers. During the development of the GRC forecasts, it is sometimes necessary to remove incurred costs to further ensure that ratepayers are not funding activities that should be borne by shareholders.

If you have any questions, please feel free to contact me.

Jason



Jason H. Wilson

Direct: 213.955.8020 | Fax: 213.955.9250 | jwilson@willenken.com | www.linkedin.com/in/jason-h-wilson

WILLENKEN LLP | 707 Wilshire Blvd. | Suite 3850 | Los Angeles, CA 90017 | willenken.com

EXHIBIT 7

**CalMatters, “*California Officials Should Look Into SoCalGas Threat
Of A COVID-19 Protest Against San Luis Obispo,*” by San Luis
Obispo Mayor Heidi Harmon, May 22, 2020**

CAL MATTERS

MY TURN

COMMENTARY

ENVIRONMENT

California officials should look into SoCalGas threat of a COVID-19 protest against San Luis Obispo

BY GUEST COMMENTARY 

PUBLISHED: MAY 22, 2020



The chairman of Californians for Balanced Energy Solutions, a group created and funded by SoCalGas Co., threatened to bring hundreds of protesters who would add to the COVID-19 pandemic in San Luis Obispo, if the city council voted on an ordinance to encourage construction of all-electric buildings that would not use gas appliances. Photo via iStock



By Heidi Harmon, Special to CalMatters

The COVID-19 pandemic invites us to grapple with our interconnectedness as we rely on each other to keep ourselves safe and supported. Yet amid efforts to collaborate and creatively solve problems, Southern California Gas Co. is capitalizing on this crisis to bully and to sow division.

That was the case when the city of San Luis Obispo, where I lead as mayor, received an unusual threat from the chairman of Californians for Balanced Energy Solutions, a group that SoCalGas created and funds. The chairman **threatened a protest** with “no social distancing” as he planned to bus in “hundreds and hundreds of pissed off people potentially adding to this pandemic,” if the city council voted on an ordinance to encourage construction of all-electric buildings that would not use gas appliances.



We took the threat seriously – we care about the health of our community and those workers – and removed the agenda item. But this situation was a continuation of a series of bullying tactics and misinformation that has been deployed by SoCalGas and other fossil fuel interests since August.

They want to divide our community over our efforts to address climate change and improve public health – and it’s something we simply won’t stand for, especially right now.

Fossil fuel executives have cultivated a toxic culture in which they fight progress by any means necessary – at the cost of public health, public dollars, their own workers and the precious time we have left to transition to clean energy and cut climate pollution before it’s too late.

I am as concerned about the future of SoCalGas workers as I am about the climate crisis. And I look forward to working with them to create a world where their jobs are as safe as our future. These two issues are intimately linked. That’s why California is already engaged in a [long-term transition off of gas](#) – which will help us plan for a just transition for gas utility workers over this decades-long process.

Yet SoCalGas has chosen to fight rather than participate, and instead has become one of California’s primary obstacles to local and statewide efforts to plan for the future of their workers as we move to a clean-energy economy powered by zero-emission technologies.

And unfortunately, California’s Public Utility Commission, which is tasked with overseeing the behavior of regulated utilities like SoCalGas, has not stopped them. Last summer it was revealed that SoCalGas and Californians for Balanced Energy Solutions [had violated a number of laws](#) in their efforts to fight building electrification. It’s now been nine months, and still the utility has not been held to account. That inaction allowed my city to continue to be bullied.

We are living through a terribly difficult time. People are frightened for their health. More than 30 million people have lost their jobs since March. Wildfire season is coming. We must address these compounding crises with compassionate, proactive solutions – protecting public health, putting people back to work in the clean economy and phasing out fossil fuels to combat the climate crisis.

We need to show workers that the people of California will not allow them to be sacrificed. With a Green New Deal, they won’t be. Clean technologies like offshore wind require some of the same skills in use by oil and gas workers. There can be a rich future for the fossil fuel workforce so long as we aren’t prevented from planning for their transition by corporate executives’ obstruction.

Coronavirus has proven we can afford the Green New Deal that puts workers first, and that we cannot afford to delay action any longer. It’s proven that people, when tested, can band together for the good of all. This is the spirit we need to carry forward. Workers, CEOs, activists, rate payers, elected officials – our fates are woven together. By supporting climate policies that lower emissions while supporting workers to move into careers in clean energy sectors that will exist for decades to come, we can thrive.

I call on state leadership to be part of this vision for a prosperous California by ensuring that SoCalGas leaves their schoolyard bullying behind and joins us in creating a better world where – in times of crisis – we turn toward each other and not on each other.

Heidi Harmon is the mayor of San Luis Obispo, Hharmon@slocity.org. She wrote this commentary for CalMatters.



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EXHIBIT 8

J.Wilson Letter to T.Bone 5-18-20

May 18, 2020

VIA E-MAIL ONLY

Traci Bone
Public Advocates Office
505 Van Ness Ave.
San Francisco, CA 94102
Email: tbo@cpuc.ca.gov

Re: *Meet and Confer re Cal Advocates' Data Request and Subpoena for SAP Access*

Dear Traci:

I am writing to confirm our meet and confer of Wednesday, May 13, 2020 and to update you on our efforts to provide you with remote access. We once again want to affirm, as we did on our call that we are taking our obligations under the subpoena extremely seriously. We are working diligently to obtain both Copy, or Fixed, Access to the SAP database as well as Remote Access.

We provided updates on our progress in providing the Copy Access, in that we would be rolling out to you fixed copies of the accounts as we had done previously during the GRC process. We further explained that this process had been slowed significantly due to remote work forcing onsite processes to take place over VPN. As noted in an email from SoCalGas late Friday, that information should be available Monday.

We further explained that we had undertaken the process of providing remote access to the live SAP database. As we've explained previously, our team has no previous experience providing remote access to the live database to Cal Advocates, or to any party where doing so would waive privilege. As we began to prepare live access, we encountered two obstacles that we are diligently working to resolve: the ability to access privileged information in the form of bills from outside counsel and access to materials currently subject to an appeal in front of the Commission related to its political associations for 100% shareholder-funded contracts.

On Wednesday's call, SoCalGas proposed a solution in consultation with its SAP and IT teams whereby access to attachments and invoices would be shut off but could be requested by Cal Advocates' auditor. SoCalGas indicated this might not be the entire solution, but a substantial piece of it. An attorney would then be able to quickly review requested invoices and provide nonprivileged and non-appeal-related materials to the auditor. You stated this was not a workable solution and that the auditor needed instantaneous access to all attachments and invoices. We therefore stopped pursuing such a solution.

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The solution that SoCalGas proposed Wednesday was based upon the existing functions in the SAP software. After our call Wednesday, we learned that we might be able to create custom software written that gives Cal Advocates remote access while at the same time restricting access to material protected by attorney-client privilege and the 1st Amendment.

Realizing that providing Cal Advocates' remote access is critical, we worked on this issue over the weekend. After speaking with IT specialists, we believe that we can provide Cal Advocates with remote access by May 29, 2020. A special program will be written which will prevent access to attorney-client information and 1st Amendment protected information. SoCalGas has assigned two people from their IT team to work on this custom software until it is completed. The custom software will prevent Cal Advocates from having access on the SAP system to information from the approximately 40 law firms and the 10 consulting shops¹ that have 100% shareholder contracts. We understand that SoCalGas deals with over 2000 vendors a year. Hence, this software fix will be a narrowly targeted one which will affect a tiny fraction of SoCalGas's vendors.

We will maintain close contact with the software development team and let you know if anything happens that negatively affects our target date on May 29, 2020.

In the meantime, we will continue to make available in a fixed format other information from the SAP system.

Over the weekend, we learned the for the first time that it might be possible to access the social security numbers and bank account information of our employees. We are exploring this issue to see if it will have any impact on our target date of May 29, 2020.

As part of our efforts to work cooperatively with Cal Advocates, we will provide an IT expert with knowledge of the SAP System on Monday's meet and confer.

We will also provide an NDA on Monday related to the confidential materials located in SAP. Because this situation is unique, the NDA is not a typical one used by SoCalGas, and we are happy to answer questions and consider revisions you may have for it.

Very truly yours,



Jason H. Wilson

¹ These are initial numbers and may vary. We are providing them to give a sense of the limited amount of protected information within the vendor population.