

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application For Rehearing of Resolution
ALJ-391.

Application 20-12-011

**PUBLIC ADVOCATES OFFICE RESPONSE
TO SOUTHERN CALIFORNIA GAS COMPANY'S APPLICATION FOR REHEARING
OF RESOLUTION ALJ-391 AND RESPONSE TO REQUEST FOR ORAL ARGUMENT**

TRACI BONE
Attorney

Public Advocates Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-2048
E-mail: Traci.Bone@cpuc.ca.gov

January 11, 2021

TABLE OF CONTENTS

| | <u>Page</u> |
|--|--------------------|
| TABLE OF AUTHORITIES | iii |
| I. OVERVIEW | 1 |
| II. LEGAL ANALYSIS | 8 |
| A. ALJ-391 Properly Concludes That SoCalGas Has Not Made A <i>Prima Facie</i> Case of First Amendment Infringement, But Should Be Clarified To More Fully Address The Multiple Deficiencies In The Supporting Declarations’ | 8 |
| 1. Parrotting The Declarations In Perry Does Not Establish A <i>Prima Facie</i> Case – The Law Requires Significantly More..... | 9 |
| 2. The Declarations Supporting SoCalGas’ <i>Prima Facie</i> Case Cannot Be Taken At Face Value, Further Undermining Its Showing..... | 10 |
| 3. The Declarations Supporting SoCalGas’ <i>Prima Facie</i> Case Must Be Provided To Cal Advocates And If They Are Not, An Adverse Inference Should Be Applied..... | 14 |
| B. Cal Advocates Is Entitled To The Discovery Requested Even if SoCalGas Could Make A <i>Prima Facie</i> Case Of First Amendment Infringement And The Discovery Need Not Be “Narrowly Tailored” | 15 |
| 1. The Commission’s – And Cal Advocates’ – Compelling Interest In Obtaining Information From Regulated Utilities Is Established By California’s Extensive Statutory Framework Requiring Utility Regulation And Affirming Doctrines Of Administrative Law | 16 |
| 2. Even If SoCalGas Were Able to Make A <i>Prima Facie</i> Case, Cal Advocates’ Discovery Need Not Be “Narrowly Tailored” – Rather, It Is Subject To A Balancing Test..... | 18 |
| C. A Regulated Utility May Not Withhold Discovery From The Commission Or Staff Pending A Ruling From The Full Commission On Its Request For Reconsideration/Appeal Of Any Discovery Dispute..... | 20 |
| D. Requiring An Attorney Declaration To Validate Claims Made In A Privilege Log Is Neither “Illegal” or “Unprecedented” | 21 |
| E. Utility Accounts Should Not Contain Privileged Information | 23 |
| F. Mathews v. Eldridge Is Clear That SoCalGas Has Received Far More Process Than The Law Requires And Trial-Type Hearings Are Not Required To Impose Sanctions On The Utility | 25 |
| G. Request For Oral Argument | 26 |

III. CONCLUSION26

ATTACHMENTS A-E

Attachment A - Balanced Energy WOA, September 12, 2019..... A-1

Attachment B - Executive Director Letter Granting Extension,
January 6, 2021..... A-2

Attachment C - Form 635 640, Q1 2018 A-3

Attachment D - Form 635 640, Q2 2019 A-13

Attachment E - Data Request - CalAdvocates-TB-SCG-2020-04,
Issued June 30, 2020 A-23

TABLE OF AUTHORITIES

Pages

Court Cases

Brock v. Local 375, Plumbers Int’l Union, 860 F.2d 346 (9th Cir. 1988).....7, 10

Casey v. Federal Trade Comm’n, 578 F.2d 793 (9th Cir. 1978)17

Dole v. Local Union 375, Plumbers Int’l Union, 921 F.2d 969 (9th Cir. 1990)9

Dole v. Serv. Employees Union, AFL–CIO, Local 280, 950 F.2d 1456
(9th Cir. 1991).....7, 15

EEOC v. Children's Hosp. Med. Ctr. of N. Cal., 719 F.2d 1426 (9th Cir. 1983)17

EPA v. Alyeska Pipeline Service Co., 836 F.2d 443 (9th Cir. 1988)17

Federal Election Com. v. Machinists Non-Partisan Political League, 655 F.2d 380
(D.C. Cir. 1981)3, 7, 15, 17

Federal Maritime Comm'n v. Port of Seattle, 521 F.2d 431 (9th Cir. 1975).....17

F.T.C. v. GlaxoSmithKline, 294 F.3d 141 (D.C. Cir. 2002)24

Gandsey v. Southern California Gas Company, Superior Court of California,
Los Angeles County, Civil Division, Central District, JCCP486122

Goldberg v. Kelly, 397 U.S. 254 (1970)26

Griset v. Fair Political Practices Com., 8 Cal. App. 4th 851 (1994)17, 19

Insurance Co. of North America v. Superior Court, 108 Cal. App. 3d 758 (1980).....24

Kisser v. Coalition for Religious Freedom, 1995 U.S. Dist. LEXIS 9719 (1995)13

Lacefield v. United States, 1993 U.S. Dist. LEXIS 4521, No. 92-N-1680
(D. Colo. March 10, 1993).....24

Mathews v. Eldridge, 424 U.S. 319 (1976).....8, 25, 26

Maine v. D.O.I., 298 F.3d 60, 71-72 (1st Cir. 2002)24

McLaughlin v. Service Employees Union, AFL-CIO Local 280,
880 F.2d 170 (9th Cir. 1989)7, 9

Munn v. Illinois, 94 U.S. 113 (1877)2

Pacific Gas & Electric Co. v. Public Utilities Com., 237 Cal. App. 4th 812 (2015)21

Perry v. Schwarzenegger, 591 F.3d 1126 (2009) passim

Savage v. Pacific Gas & Electric Co., 21 Cal. App. 4th 434 (1993).....2

St. German of Alaska Eastern Orthodox Catholic Church v. United States
840 F.2d 1087 (2nd Cir. 1988).....13

United States v. Salerno, 505 U.S. 317 (1992)13

| | |
|---|----|
| <i>Wyoming v. USDA</i> , 239 F. Supp. 2d 1219 (2002) | 13 |
| <i>Zurich American Ins. Co. v. Superior Court</i> , 155 Cal. App. 4th 1485 (2007) | 24 |

California Evidence Code

| | |
|------------|----|
| § 912..... | 21 |
| § 915..... | 21 |
| § 954..... | 21 |
| § 955..... | 21 |

California Government Code

| | |
|---|----|
| §§ 81000 – 91014 (Political Reform Act of 1974) | 11 |
| § 86115..... | 11 |
| § 86116..... | 11 |

California Public Utilities Code

| | |
|--------------|--------------|
| § 309.5..... | passim |
| § 311..... | 3, 16 |
| § 314..... | 2, 3, 16, 27 |
| § 314.5..... | 2, 3, 16, 24 |
| § 453..... | 3, 16 |
| § 581..... | 3, 16 |
| § 582..... | 3, 16 |
| § 584..... | 3, 16 |
| § 701..... | 3, 16 |
| § 702..... | 3, 16 |
| § 1701..... | 23 |
| § 1761..... | 20 |

Commission Decisions

| | |
|------------------|----|
| D.13-09-028..... | 21 |
|------------------|----|

Commission Rules of Practice and Procedure

1.1.....23
13.6.....23
16.1(d).....1
16.6.....20

Pursuant to Commission Rule of Practice and Procedure (Rule) 16.1(d), and the December 22, 2020 ruling of Administrative Law Judge Regina DeAngelis, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) files this Response to *Southern California Gas Company's Application For Rehearing of Resolution ALJ-391 and Request for Oral Argument* (Application) served December 18, 2020.

I. OVERVIEW¹

Southern California Gas Company (SoCalGas) is engaged in a battle for its life. Faced with growing demands to eliminate the use of natural gas to meet carbon reduction goals, the utility is spending millions of dollars on misinformation campaigns to slow decarbonization efforts.

Recognizing the potential for SoCalGas to leverage nearly unlimited ratepayer resources to fund these campaigns, Cal Advocates began to investigate where the money for the utility's pro-gas campaigns was coming from. Cal Advocates found that SoCalGas had allocated over \$27 million to operations and maintenance in an "above-the-line"² ratepayer account to fund its advocacy organization, Californians for Balanced Energy Solutions (C4BES).³ While SoCalGas subsequently asserts that this was an accounting "mistake" that has been "corrected," Cal Advocates has a legitimate concern that this is not the case, and a statutory right and obligation to investigate.⁴

In response to Cal Advocates' discovery seeking information regarding SoCalGas' pro-gas campaigns, and how they are being funded, SoCalGas refuses to allow Cal Advocates to audit its accounts based on frivolous arguments that serve only to stall the investigation. What

¹ Note that all relevant pleadings submitted for Commission review in the "not in a proceeding" investigation are available on Cal Advocates' website at <https://www.publicadvocates.cpuc.ca.gov/general.aspx?id=4444>.

² Traditionally, costs recorded in "above-the-line" accounts are intended to be recovered from ratepayers. Costs recorded in "below-the-line" accounts are intended to be paid for by shareholders.

³ See Attachment A hereto, which is SoCalGas' Work Order Authorization allocating over \$27 million to "Balanced Energy" for the Energy Policy and Strategy Team. Note that the Work Order Authorization does not reflect a "keystone" mistake by SoCalGas' accounting department. The spending authorization was approved by a SoCalGas Vice President, with explicit direction stating that the costs should be recorded to an Operations and Maintenance account.

⁴ Cal. Pub. Utils. Code § 309.5(e) provides that Cal Advocates "may compel the production or disclosure of any information it deems necessary to perform its duties from any entity regulated by the commission."

SoCalGas' arguments and rhetoric deliberately ignore is that the utility is *not* the same as any other corporation. SoCalGas is a *regulated utility* whose revenues are derived from *captive ratepayers*, and whose business is *dedicated to the public interest pursuant to law*.⁵ In exchange for the right to sell gas to captive ratepayers, SoCalGas is legally obligated to make *all* of its accounts and records – including those of its unregulated subsidiaries and affiliates – available to its regulator *at any time*.⁶ SoCalGas' First Amendment claims fail because even if its rights were infringed – which they are not – the Commission and its staff, including Cal Advocates, have the right to investigate the utility at any time, which includes the right to audit the utility's accounts,⁷ and to obtain information from the utility necessary to perform that audit. Indeed, this right extends to the utility's unregulated affiliates and subsidiaries because the law recognizes the ability of the utility to manipulate the finances of these various entities to cross-subsidize its activities.⁸

Here, SoCalGas tries to carve out its allegedly “100% shareholder-funded” accounts from review by repeatedly claiming that Cal Advocates' request to access those accounts has no “nexus” or “rational relationship” to its investigation.⁹ For the same reasons the Commission and its staff have access to unregulated affiliate and subsidiary accounts, SoCalGas well understands that access to its “100% shareholder-funded” accounts is key to any audit.¹⁰ Among other things, a review of SoCalGas' below-the-line, i.e. "100% shareholder-funded," accounts,

⁵ *Munn v. Illinois*, 94 U.S. 113, 125-132 (1877) (*Munn*) (public utility property “affected with a public interest” and “when private property is devoted to a public use, it is subject to public regulation); *Savage v. Pacific Gas & Electric Co.*, 21 Cal. App. 4th 434 (1993) (*Savage v. PG&E*) (Non-discrimination provisions of Cal. Pub. Util. Code § 453(a) draws upon the well-established common law doctrine that a monopoly is not free to exercise its power arbitrarily. This doctrine places numerous obligations, including an obligation to avoid discriminatory conduct, upon enterprises said to be *affected with a public interest*).

⁶ Cal. Pub. Util. Code §§ 314(a) & (b). *See also Munn and Savage v. PG&E regarding obligation to submit to regulation.*

⁷ Cal. Pub. Util. Code §§ 309.5 and 314(a).

⁸ *See* Cal. Pub. Util. Code § 314(b). Cal Advocates' need to access SoCalGas' "100% shareholder-funded" accounts is related to this statutory recognition of the ability of utilities to make mischief with their accounts. Among other things, a review of SoCalGas' below-the-line accounts, combined with access to the invoices for its activities may quickly establish whether or not SoCalGas is actually booking the costs of its pro-gas campaigns to those accounts.

⁹ SoCalGas Application, pp. 4, 6, 10, 17, 24, 28, 30, 32, 34, 41 & 49.

¹⁰ *See* footnote 8 above.

combined with access to the contracts and invoices for its activities is one of the most expedient ways for Cal Advocates to confirm the utility's claim that it is actually booking all of the costs of its pro-gas campaigns to those accounts.

Instead, SoCalGas disingenuously proposes that Cal Advocates search for a needle in a haystack by looking for “any inappropriate lobbying or political activities mischarged to above-the-line accounts.”¹¹ Of course, the utility fails to explain how this can be done without knowing which work orders and vendor invoices to look for, and what type of work was performed under the invoices – all items requested in Cal Advocates’ discovery, and that the utility claims are protected by the First Amendment.

Also, contrary to SoCalGas' claims that Resolution ALJ-391 fails to establish a compelling governmental interest in the discovery requested, the multiple statutes establishing the Commission staff’s discovery powers establish that interest by law.¹² SoCalGas well knows that neither the Commission nor Cal Advocates is required to make any further showing of a “compelling interest” to overcome any potential infringement of the utility’s First Amendment rights. The need to perform audits, and the need for the information to perform those audits, is unquestioned in regulatory law. Like all of SoCalGas’s other meritless arguments, its First Amendment claims serve only to delay Cal Advocates’ investigation.

Finally, as SoCalGas also knows, Cal Advocates has not sought sanctions against the utility “in retaliation for SoCalGas asserting its First Amendment rights and its attorney-client and work product privileges.”¹³ Rather, Cal Advocates has sought these sanctions for the utility’s intentional refusal to comply with two fundamental discovery requests: (1) a request to audit the utility’s accounts, which was affirmed by a validly-issued Commission subpoena;¹⁴ and (2) a request for the confidential declarations the utility provided to the Commission on

¹¹ SoCalGas Application, p. 30.

¹² See, e.g., Cal. Pub. Util. Code §§ 309.5(e), 311(a), 314, 314.5(a), 581, 582, 584, 701 and 702; and *Federal Election Com. v. Machinists Non-Partisan Political League*, 655 F. 2d 380, 387 (D.C. Cir. 1981) (similar to the Federal Trade Commission and the Securities and Exchange Commission, the Commission and Cal Advocates have “broad duties to gather and compile information and to conduct periodic investigations concerning business practices”).

¹³ SoCalGas Application, pp. 19-20.

¹⁴ Cal Advocates June 23, 2020 Motion for Contempt and Sanctions, available on Cal Advocates’ website. See footnote 1.

December 2, 2019 in support of its First Amendment claims,¹⁵ but that it refuses to provide to Cal Advocates. SoCalGas understands that its refusal to comply with both of these discovery requests has no basis in the law, but as the plaintiff’s attorney in the Aliso Canyon civil litigation against the utility observed: “They’re not incentivized [to comply with court orders] because they have nothing to lose.”¹⁶

The fundamental question here is not, as SoCalGas claims, whether a regulated utility “has the same First Amendment rights to freedom of association and freedom [of] speech as any other entity.”¹⁷ Rather, the fundamental question is a simple one: whether the Commission and Cal Advocates have the right to information necessary to determine whether a regulated utility is properly booking costs associated with activities that should not be funded by ratepayers. The answer to this question is clearly “yes.” Indeed, the Commission and its staff have not only a statutory right, but a statutory *obligation*, to engage in such discovery. The only real issue – which is not before the Commission here – is how much of that information must be retained as confidential, and what can be disclosed as public.¹⁸

In Resolution ALJ-391 (ALJ-391), adopted December 17, 2020, the Commission correctly determined that there was no merit to any of SoCalGas’ arguments and ordered SoCalGas to respond to Cal Advocates’ discovery requests – including the audit of the utility’s accounts – no later than January 20, 2021. The Commission also properly ordered SoCalGas to provide a privilege log supporting any of the utility’s privilege claims to Cal Advocates, and required the utility to provide a declaration under penalty of perjury from a SoCalGas attorney affirming, among other things, that the privilege claims have a good faith basis in the law. This same requirement – which SoCalGas claims is “illegal” and “unprecedented”¹⁹ – was also

¹⁵ Cal Advocates July 9, 2020 Motion to Compel Production of Confidential Declarations and Sanctions, , available on Cal Advocates’ website. See footnote 1.

¹⁶ See the June 25, 2020 Reporter’s Transcript of Proceedings in the Aliso Canyon civil litigation before the Los Angeles Superior Court, p. 17, lines 5-6, available on Cal Advocates’ website at <https://www.publicadvocates.cpuc.ca.gov/general.aspx?id=4446> under “Additional Items of Interest.”

¹⁷ SoCalGas Application, p. 1.

¹⁸ That issue, raised by an Earthjustice Public Records Act (PRA) request pending before the Commission since January 30, 2020, has not been resolved.

¹⁹ SoCalGas Application, pp. 11 & 42-47.

required of SoCalGas' attorneys by the Los Angeles Superior Court overseeing the Aliso Canyon gas leak civil litigation.

In its November 19, 2020 Comments on ALJ-391, Cal Advocates requested that a privilege log and supporting declarations be provided within five business days of the effective date of ALJ-391 in reliance on the fact that draft ALJ-391 required all outstanding discovery to be provided within 15 days of its effective date.²⁰ Cal Advocates had hoped to resume its investigation within this time frame. However, the final version of ALJ-391 granted SoCalGas 30 days to comply with the resolution, and on January 6, 2021, the Commission's Executive Director, over Cal Advocates' objection, granted the utility a further extension to comply with these requirements "until 15 days from the date the Commission issues its decision disposing of the rehearing request, which is currently anticipated to be brought for a vote on February 11, 2021."²¹ As a result, once again, Cal Advocates cannot move forward with its audit of SoCalGas' accounts and it is not permitted to review the confidential declarations the utility submitted in support of its First Amendment claims. Neither of these outcomes is supported by law.

In its continued efforts to indefinitely delay its discovery obligations to Cal Advocates, SoCalGas challenges ALJ-391 based on nearly identical, and similarly meritless arguments that were considered and rejected in that resolution less than a month ago:

- (1) In opposition to the determination made in ALJ-391, SoCalGas argues it has clearly made a *prima facie* case of First Amendment infringement because its supporting declarations are nearly identical to those found to establish a *prima facie* case in *Perry v. Schwarzenegger*,²² and "disclosure alone of individuals' organizational affiliations" will cause First Amendment harm.²³
- (2) The utility then argues that because it has made a *prima facie* case of First Amendment infringement, Cal Advocates' discovery is unlawful because it has not been "narrowly tailored" to limit unnecessary infringement on the utility's First Amendment rights of association.

²⁰ Cal Advocates' Nov. 19, 2020 Draft ALJ-391 Comments, p. 19.

²¹ Attachment B – Jan. 6, 2021 Executive Director Letter Granting Extension.

²² SoCalGas Application, pp. 9 & 22-24 referring to *Perry v. Schwarzenegger*, 591 F.3d 1126 (2009) (*Perry*) (SoCalGas explains that the Ninth Circuit found *Perry* declarations to be "self-evident" so they should be treated similarly here).

²³ SoCalGas Application, p. 9.

Specifically, the utility argues there is no need for Cal Advocates to review its shareholder-funded accounts, notwithstanding the fact that the law explicitly permits review of all of the utility's accounts – including those of its unregulated affiliates and subsidiaries - because of the opportunities disparate accounts provide for a utility to engage in mischief.²⁴

- (3) Ignoring the fact that the declaration required by ALJ-391 to validate the utility's privilege claims is based on the model imposed by the Los Angeles superior court in the Aliso Canyon civil litigation, SoCalGas disingenuously claims that the required declaration is "illegal" and "unprecedented";²⁵ and
- (4) SoCalGas continues to suggest, without any statutory support, that Cal Advocates does not have the same discovery rights as the Commission.²⁶

When the Commission considers sanctions against the utility, it should address the numerous meritless arguments raised in the Application, that serve only to further confound Cal Advocates' access to the utility's information.

Turning to the utility's Application at issue here, the facts and law are clear that SoCalGas has the burden to establish a *prima facie* case of First Amendment infringement, and that it has failed to do so for at least two reasons not recognized in ALJ-391:

- (1) SoCalGas' efforts to establish a *prima facie* case of infringement fail because they rely solely on "confidential" declarations that the utility admits copy word for word the declarations offered in *Perry v. Schwarzenegger* with little more. Such efforts epitomize a "conclusory" affidavit that demonstrates SoCalGas has no legitimate claim here.
- (2) The claims made in the confidential declarations cannot be taken at face value. Among other things, the identities of the declarants and their employers, and the advocacy activities they have undertaken on the utility's behalf are potentially public information, so that there is no nexus between disclosure to Cal Advocates and any infringement

²⁴ SoCalGas Application, pp. 29-32; *see also* footnote 9 above. As explained above, among other things, a review of SoCalGas' below-the-line, i.e. "100% shareholder-funded," accounts, combined with access to the contracts and invoices for its activities, is one of the most expedient ways for Cal Advocates to confirm the utility's claim that it is actually booking all of the costs of its pro-gas campaigns to those accounts.

²⁵ SoCalGas Application, pp. 11 & 42-46.

²⁶ SoCalGas Application, pp. 36-39.

that SoCalGas claims. There is also evidence that the declarations misrepresent critical facts. Because Cal Advocates is in the unique position of identifying such discrepancies, the confidential declarations should have been made available to Cal Advocates. In addition, given the possibility that information marked as confidential by the utility may be publicly available, the Commission should reconsider ALJ-391's grant of SoCalGas' motion for confidentiality.

Further, even if SoCalGas *could* articulate a legitimate First Amendment claim – which it cannot – the law is clear that the Commission, including Cal Advocates, would nevertheless be entitled to obtain the information at issue here because of the agency's "broad duties to gather and compile information and to conduct periodic investigations concerning business practices."²⁷ And contrary to the rule set forth in ALJ-391, the agency's discovery need not be "narrowly tailored." Rather, *Perry v. Schwarzenegger* confirms that if a *prima facie* case is made, a balancing test is applied to determine whether "the discovery is *rationally related to a compelling government interest* and the '*least restrictive means*' of obtaining the desired information."²⁸ This standard that applies for *discovery* is not the same as the "narrowly tailored" standard required for *statutes* that may infringe First Amendment rights. For all of these reasons, a regulated utility – like SoCalGas – whose business is dedicated to the public interest pursuant to an extensive statutory framework requiring access to its accounts and records,²⁹ cannot rely on the First Amendment to avoid its regulatory obligations.

In addition to incorporating these legal observations in any response to SoCalGas' Application, the Commission should also address the following issues presented by SoCalGas' Application:

²⁷ *Federal Election Com. v. Machinists Non-Partisan Political League*, 655 F. 2d 380, 387 (D.C. Cir. 1981). See also *McLaughlin v. Service Employees Union, AFL-CIO Local 280*, 880 F.2d 170, 174-175 (9th Cir. 1989) (*McLaughlin*) ("Congress intended that the Secretary exercise broad authority in investigating labor unions" and "[b]are allegations of possible first amendment violations are insufficient to justify judicial intervention into a pending investigation. The record must contain objective and articulable facts, which go beyond broad allegations or subjective fears"), *punctuation and citations omitted*; and *Brock v. Local 375, Plumbers Int'l Union*, 860 F.2d 346, 348-349 (9th Cir. 1988) (*Brock*) ("[t]he investigatory powers of administrative agencies are analogous to the grand jury, and an agency can investigate on the mere suspicion the law is being violated).

²⁸ *Perry v. Schwarzenegger*, 591 F. 3d 1126, 1140 (2009) *citing to Dole v. Serv. Employees Union, AFL-CIO, Local 280*, 950 F.2d 1456, 1459–61 (9th Cir. 1991) (*Dole*) *for the same rule of law, emphases added and punctuation omitted*.

²⁹ See footnotes 5, 12, and 27 above.

- (1) A regulated utility may not withhold discovery – as SoCalGas has done here – pending a ruling from the Commission on its request for reconsideration/appeal of any discovery dispute;
- (2) SoCalGas’ claims that the privilege log declaration required by ALJ-391 to validate the utility’s privilege claims is “illegal” and “unprecedented” have no basis in fact or law;
- (3) Consistent with Due Process, SoCalGas cannot rely on confidential declarations that it refuses to provide to Cal Advocates, a real party in interest, to make its *prima facie* showing;
- (4) There is a presumption that SoCalGas’ claims of attorney/client or work product privilege for invoices and other information contained in its System Applications Products (SAP) accounting system have been waived to the extent such information has been made available to a universe of employees and/or third party auditors with no need to access the information;³⁰ and
- (5) Supreme Court law established in *Mathews v. Eldridge* is clear that SoCalGas has received far more process than the law requires, and that trial-type evidentiary hearings are not needed to impose sanctions.³¹

The discussion below addresses each of these issues in turn.

II. LEGAL ANALYSIS

A. **ALJ-391 Properly Concludes That SoCalGas Has Not Made A *Prima Facie* Case of First Amendment Infringement, But Should Be Clarified To More Fully Address The Multiple Deficiencies In The Supporting Declarations’**

The fundamental - and easily answered - question posed by SoCalGas’ Application for Rehearing (Application) is whether information regarding the consultants a regulated utility pays to engage in advocacy activities on its behalf is “protected” from regulatory review pursuant to the First Amendment right to association. ALJ-391 properly concludes that SoCalGas failed to make a *prima facie* showing of First Amendment infringement,³² and that to the extent the information provided is confidential, it is adequately protected by Public Utilities Code § 583

³⁰ See footnote 100 below.

³¹ *Mathews v. Eldridge*, 424 U.S. 319 (1976).

³² Resolution ALJ-391, Finding ¶ 17.

and General Order 66-D.³³ And SoCalGas has made no showing that “these regulations have failed or would fail to protect documents produced ... from improper disclosure.”³⁴

In response to SoCalGas’ Application, the Commission should (1) explain that parroting the declarations offered in *Perry v. Schwarzenegger* epitomizes the type of conclusory affidavit rejected in *Dole* and *McLaughlin*;³⁵ (2) recognize that the confidential declarations supporting SoCalGas’ *prima facie* case cannot be taken at face value; and (3) rule that the confidential declarations must be provided to Cal Advocates and if they are not, an adverse inference will apply.

1. Parroting The Declarations In Perry Does Not Establish A Prima Facie Case – The Law Requires Significantly More

SoCalGas’ First Amendment infringement claims are based on four declarations: one from Sharon Tomkins, the utility’s Vice President of Strategy and Engagement and its Chief Environmental Officer, and three nearly identical declarations from consultants working under contract to SoCalGas and specializing in government relations and public affairs.³⁶ SoCalGas argues that it has unquestionably established a *prima facie* case of First Amendment infringement because its supporting declarations “were almost identically worded to the declarations in *Perry v. Schwarzenegger*, which the Ninth Circuit found to be ‘self-evident.’”³⁷ Specifically, SoCalGas notes that the Ninth Circuit found in *Perry v. Schwarzenegger* that “[a]lthough the evidence presented is lacking in particularity, it is consistent with the self-evident conclusion that important First Amendment interests are implicated by the plaintiff’s discovery

³³ Resolution ALJ-391, Finding ¶ 9.

³⁴ *McLaughlin* at 175.

³⁵ *Dole v. Local Union 375, Plumbers Int’l Union*, 921 F.2d 969, 972-973 (9th Cir. 1990) (*Dole*); *McLaughlin v. Service Employees Union, AFL-CIO Local 280*, 880 F.2d 170, 175 (9th Cir. 1989) (*McLaughlin*).

³⁶ See SoCalGas Dec. 2, 2019 Motion for Reconsideration/Appeal, Declarations 3 through 6. SoCalGas has withheld the names of the consultants submitting declarations 4, 5, and 6 from Cal Advocates based on claims that the consultants’ names are protected by the First Amendment right to association and unsubstantiated allegations that Cal Advocates will publicly disclose the names of the consultants. ALJ-391 granted SoCalGas’ Dec. 2, 2019 motion to keep those declarations confidential, and SoCalGas’ May 22, 2020 motion to supplement those declarations with additional declarations attached to that May 2020 motion.

³⁷ Application, p. 22.

request.”³⁸ SoCalGas then spends two more pages exactly demonstrating how its declarations are “nearly word-for-word equivalent to those in *Perry*.”³⁹

Rather than helping its cause, SoCalGas’ attempts to establish a *prima facie* case by parroting the language of the *Perry v. Schwarzenegger* declarations is the epitome of a “conclusory” affidavit that demonstrates SoCalGas has no legitimate claim here. If a party could simply recite declarations from other cases, it would swallow the nexus rule established by the Ninth Circuit in the *Brock* and *Dole* cases.⁴⁰ In addition, the circumstances of *Perry* – where private citizen plaintiffs sought discovery from the official proponents of a ballot proposition – are hardly comparable to the situation presented here, where a regulatory agency seeks information from a regulated utility pursuant to an explicit statutory scheme requiring the utility to provide such discovery to its regulator.

The Ninth Circuit has been clear that to sustain a claim of infringement, an organization must make a **concrete** showing that the specific disclosure in question “is itself inherently damaging to the organization or will incite other consequences that objectively could dissuade persons from affiliating with the organization.”⁴¹ In the face of the extensive statutory scheme requiring SoCalGas to provide the discovery requested, parroting the declarations made in *Perry* will not suffice. ALJ-391 correctly determined that SoCalGas failed to make a *prima facie* showing.

2. The Declarations Supporting SoCalGas’ *Prima Facie* Case Cannot Be Taken At Face Value, Further Undermining Its Showing

In addition to being unacceptably conclusory, the claims made in the declarations supporting SoCalGas’ *prima facie* case cannot be taken at face value. Most significantly,

³⁸ Application, p. 22 *quoting Perry* at 1163.

³⁹ Application, pp. 23-24.

⁴⁰ *See Dole*, pp. 972-973; and *Brock v. Local 375, Plumbers Int’l Union*, 860 F.2d 346, 349-350 (9th Cir. 1988) (*Brock*).

⁴¹ *Dole*, 921 F.2d 969, 974 (explaining that the Supreme Court has “consistently required more than an argument that disclosure leads to exposure” when recognizing a threat to associational rights); and *McLaughlin* at 175 (“[b]are allegations of possible first amendment violations are insufficient to justify judicial intervention into a pending investigation. The record must contain objective and articulable facts, which go beyond broad allegations or subjective fears”), *punctuation and citations omitted*.

notwithstanding Cal Advocates' attempts to obtain the declarations for the last six months,⁴² SoCalGas has intentionally refused to provide those declarations to Cal Advocates. Cal Advocates, the only other party to the proceeding at this time, is a real party in interest, and indeed, the party best situated to identify any misrepresentations and other deficiencies in those declarations which would undermine SoCalGas' *prima facie* case, as well as its claims for confidential treatment. For example, SoCalGas has asserted confidentiality for the identities and employer names of all of its consultant-declarants arguing that "disclosure alone of individuals' organizational affiliations would cause First Amendment harm."⁴³ However, Cal Advocates recently learned that the identities of certain consultants that SoCalGas has variously claimed are confidential – including, without limitation, Marathon Communications (Marathon) and Imprenta Communications Group (Imprenta) – have been publicly available since before the declarations were signed. Indeed, the identities of these consultants, and many others, were provided in forms SoCalGas filed with the Fair Political Practices Commission (FPPC) in 2018 and 2019 pursuant to the Political Reform Act,⁴⁴ and are publicly available on the FPPC's website.⁴⁵ Notwithstanding these public disclosures (made by SoCalGas), SoCalGas claimed the Marathon and Imprenta consultants' identities were confidential long after the FPPC filings were made. It is possible that the declarants' identities – which SoCalGas also claims are confidential – are similarly publicly available.⁴⁶ However, this cannot be established without providing Cal Advocates access to the confidential versions of the declarations.

⁴² See footnote 50 below identifying Cal Advocates' efforts to obtain the confidential versions of the declarations.

⁴³ SoCalGas Application, p. 9.

⁴⁴ The Political Reform Act of 1974 is codified at Cal. Gov't Code §§ 81000 - 91014. *See, e.g.*, §§ 86115 and 86116 regarding reporting of payments made to influence legislative or administrative action.

⁴⁵ See Attachment C - Sempra Energy and Affiliates Period 1/1/2018-3/31/2018 Forms 635 and 640 listing Imprenta Communications Group at 9 and Attachment D - Sempra Energy and Affiliates Period 4/1/2019-6/30/2019 Forms 635 and 640 listing Marathon Communications at 8-9.

⁴⁶ SoCalGas argues in its Jan. 4, 2021 *Opposition* to Cal Advocates' Dec. 30, 2020 *Motion For An Expedited Ruling* in A.20-12-011) that the record of these proceeding is closed so that Cal Advocates cannot "inappropriately introduce new information into the record..." As an initial matter, there is no formal proceeding here and there has been no closing of the "record." Further, it is hardly credible that the Commission cannot consider in its deliberations on these issues relevant, publicly-available information that the utility itself submitted to another state agency.

Misrepresentations in the declarations are not limited to the confidential portions, further demonstrating the that they are no reliable. For example, Ms. Tomkins' declaration asserts: "[w]e know that information received from SoCalGas in response to data requests has been disclosed to the Los Angeles Times. Sharing SoCalGas' contracts with the media has further compounded the chilling effect on SoCalGas' right to political expression and association."⁴⁷ Ms. Tomkins' claim is misleading because while it implies that Cal Advocates has improperly disclosed confidential SoCalGas contracts to the media, it does not actually speak to any confidential, privileged, or otherwise protected information. While non-confidential information from SoCalGas data responses has been made public – indeed a Public Records Act request required that it be made public⁴⁸ – Cal Advocates knows of no instance in this investigation where confidential utility information has been disclosed, and SoCalGas has failed to identify any.⁴⁹

Cal Advocates' ability to identify other inaccuracies in SoCalGas' declarations is significantly compromised by the fact that the utility has steadfastly refused to provide the confidential portions of the declarations to Cal Advocates, despite repeated Cal Advocates' efforts to obtain them.⁵⁰

Whether or not information is confidential is highly relevant to SoCalGas' *prima facie* case. For example, if the consultant-declarants' identities and employers' names are already public, any First Amendment "harm" they might experience may not be the result of disclosure to Cal Advocates. As the Ninth Circuit observed with approval in *Dole*, a church failed to present a *prima facie* case of first amendment infringement based on an IRS investigation

⁴⁷ SoCalGas Motion for Reconsideration Appeal, Declaration 3 – Sharon Tomkins, ¶ 11.

⁴⁸ See footnote 18 above.

⁴⁹ See *McLaughlin* at 175: SoCalGas has made no showing that Pub. Utils. Code 583 or General Order 77-D "have failed or would fail to protect documents produced ... from improper disclosure."

⁵⁰ Cal Advocates issued a data request for the confidential declarations, which SoCalGas did not comply with. Cal Advocates has submitted two motions to compel production of the confidential declarations since that time: (1) Cal Advocates' July 9, 2020 Motion to Compel Confidential Declarations and for Sanctions on Cal Advocates website and (2) Cal Advocates' Dec. 30, 2020, *Motion For An Expedited Ruling (1) Ordering Southern California Gas Company To Produce Confidential Declarations No Later Than January 6, 2021 And For An Extension To Respond To The Utility's Application For Rehearing Or In The Alternative To Grant An Adverse Presumption Against The Utility Or For The Commission To Provide The Confidential Declarations And (2) To Shorten Time To Respond To Motion* (A.20-12-011).

because the drop in donations which was the asserted harm “could have as easily been attributed to publicity surrounding the investigation.”⁵¹ Here, any harm experienced by SoCalGas or its consultants could well be attributed not to Cal Advocates having the information, but to the information already being in the public domain.⁵² As such, SoCalGas fails to make the case that disclosure to Cal Advocates will result in infringement. This is especially true since SoCalGas has yet to produce any evidence that Cal Advocates will treat its confidential information any differently than the Commission.

Contrary to SoCalGas claims in its January 4, 2021 response⁵³ to Cal Advocates’ December 30, 2020 motion seeking, once again, access to the confidential declarations, courts have found that the associational privilege is waived where it is made public.⁵⁴ *Wyoming v. USDA*, 239 F. Supp. 2d 1219 citing to *Kisser v. Coalition for Religious Freedom*, 1995 U.S. Dist. LEXIS 9719 *4 (associational privilege waived by public disclosure of the information asserted as privileged with citation to *United States v. Salerno*, 505 U.S. 317 (1992)).

For the reasons set forth above, any order addressing SoCalGas’ Application should address the fact that SoCalGas’ *prima facie* case of First Amendment infringement is undermined because its supporting declarations cannot be taken at face value: they have been intentionally withheld from the one party situated to identify their deficiencies; they contain unsupported allegations of fact; and there is reason to believe they contain other misrepresentations. For these reasons, they cannot be relied upon to support the utility’s *prima facie* showing.

⁵¹ See *St. German of Alaska Eastern Orthodox Catholic Church v. United States*, 840 F.2d 1087 (2nd Cir. 1988) discussed in *Dole* at 973

⁵² There is extensive information regarding SoCalGas’ pro-gas advocacy in the public domain. Data Request CalAdvocates-TB-SCG-2020-04 at questions 4 and 5 (Attachment E hereto) seeks information on a list of consultants that third parties have identified as working for SoCalGas on pro-gas advocacy. As the data request reflects, Cal Advocates’ interest is in gathering information to understand how SoCalGas is funding the work of those consultants.

⁵³ SoCalGas Jan. 4, 2021 Opposition to Public Advocates Motion For An Expedited Ruling, p. 2 (Cal Advocates’ Dec. 30, 2020 motion to compel the production of the confidential declarations “claims that the public disclosure of certain lobbyist names under California’s Political Reform Act is dispositive to the First Amendment issue in this case. It does not cite a single case for this proposition – and indeed, it cannot, because it is substantively incorrect”).

⁵⁴ *Wyoming v. USDA*, 239 F. Supp. 2d 1219 citing to *Kisser v. Coalition for Religious Freedom*, 1995 U.S. Dist. LEXIS 9719 *4 (associational privilege waived by public disclosure of the information asserted as privileged with citation to *United States v. Salerno*, 505 U.S. 317 (1992)).

3. The Declarations Supporting SoCalGas' *Prima Facie* Case Must Be Provided To Cal Advocates And If They Are Not, An Adverse Inference Should Be Applied

For the reasons set forth in the discussion above, both Cal Advocates' investigation and ability to respond to SoCalGas' Application for Rehearing, have been significantly prejudiced by the fact that Cal Advocates does not have the confidential declarations supporting SoCalGas' First Amendment claims.⁵⁵ While past prejudice cannot be corrected, to mitigate further injury to Cal Advocates' investigation, the Commission should proactively ensure Cal Advocates has access to these declarations by either ordering the utility to provide them to Cal Advocates as soon as possible or by the Commission providing them to Cal Advocates itself. Among other things, the claims in the declarations will be highly relevant to the Commission's proposed proceeding to consider sanctions against the utility. To the extent Cal Advocates can confirm that those declarations contain misrepresentations, sanctions should be imposed.

In addition, for purposes of addressing SoCalGas' Application, the Commission should find that SoCalGas' refusal to provide the confidential declarations to Cal Advocates for over a year is grounds for a finding of adverse inference under the law. In such a situation, a court finds that if the information were produced, it would be adverse to the defendant. Applied here, the adverse inference would be that the information contained in the confidential declarations is not credible, and cannot be relied upon to establish a *prima facie* case of First Amendment infringement.

⁵⁵ See Cal Advocates' Dec. 30, 2020, *Motion For An Expedited Ruling (1) Ordering Southern California Gas Company To Produce Confidential Declarations No Later Than January 6, 2021 And For An Extension To Respond To The Utility's Application For Rehearing Or In The Alternative To Grant An Adverse Presumption Against The Utility Or For The Commission To Provide The Confidential Declarations And (2) To Shorten Time To Respond To Motion* (A.20-12-011). As of January 10, 2021, this motion has not been acted on.

B. Cal Advocates Is Entitled To The Discovery Requested Even if SoCalGas Could Make A *Prima Facie* Case Of First Amendment Infringement And The Discovery Need Not Be “Narrowly Tailored”

The law provides that when a party makes a *prima facie* case of infringement of First Amendment association, the burden shifts to the government to show that the information sought is "rationally related to a compelling government interest and the 'least restrictive means' of obtaining the desired information."⁵⁶ Contrary to SoCalGas' assertions, a statutory framework is sufficient to establish the requisite compelling governmental interest in the information⁵⁷ and the law does not require the discovery to be “narrowly tailored.”⁵⁸

ALJ-391 properly finds that even if SoCalGas had made a case for infringement, “a compelling government interest exists in fulfilling the Commission’s mandate to regulate and oversee utilities in SoCalGas’ disclosure of the information”⁵⁹ and that “Cal Advocates’ requests for information from SoCalGas ... do not place a burden on more First Amendment rights of associational privileges than necessary to achieve its interest.”⁶⁰ To further support these findings, ALJ-391 should be clarified to reflect that:

- (1) The law recognizes that an administrative agency like the Commission, which has been granted “roving statutory functions” and “broad duties to gather and compile information and to conduct periodic investigations concerning business practices”⁶¹ is entitled to obtain the information at issue here; and
- (2) Commission or staff discovery need not be “narrowly tailored.”⁶² Rather, *Perry v. Schwarzenegger* – which SoCalGas substantially relies upon to make its case – requires the government to show that

⁵⁶ *Perry v. Schwarzenegger*, 591 F. 3d 1126, 1140 (2009) *citing to Dole v. Serv. Employees Union, AFL–CIO, Local 280*, 950 F.2d 1456, 1459–61 (9th Cir. 1991) *for the same rule of law, emphases added and punctuation omitted*.

⁵⁷ See footnote 70 below.

⁵⁸ See *Perry v. Schwarzenegger*, 591 F. 3d 1126, 1140 (2009) *citing to Dole v. Serv. Employees Union, AFL–CIO, Local 280*, 950 F.2d 1456, 1459–61 (9th Cir. 1991) (neither case articulates a “narrowly tailored” standard).

⁵⁹ Resolution ALJ-391, Finding 18.

⁶⁰ Resolution ALJ-391, Finding 20.

⁶¹ See, e.g., *Federal Election Com. v. Machinists Non-Partisan Political League*, 655 F. 2d 380, 387 (D.C. Cir. 1981).

⁶² See footnote 58 above.

the discovery is "rationally related to a compelling government interest and the 'least restrictive means' of obtaining the desired information."⁶³

1. The Commission's – And Cal Advocates' – Compelling Interest In Obtaining Information From Regulated Utilities Is Established By California's Extensive Statutory Framework Requiring Utility Regulation And Affirming Doctrines Of Administrative Law

SoCalGas argues that ALJ-391 fails to establish a compelling government interest here because “the Commission’s broader general mandate to regulate and oversee utilities” does not establish a “compelling government interest” to support Cal Advocates’ investigation.⁶⁴ The utility argues that “the Commission’s mandate to regulate and oversee utilities is not implicated here.”⁶⁵ SoCalGas is wrong.

First, ALJ-391 properly finds that the statutory scheme for Commission discovery, which has been in effect for over 100 years “represent[s] a clear legislative determination that the exercise of the authority to review materials by the Commission staff, including Cal Advocates, is an integral part of California’s scheme to regulate investor-owned public utilities.”⁶⁶ On this basis it finds that “a compelling government interest exists in fulfilling the Commission’s mandate to regulate and oversee utilities in SoCalGas’ disclosure of the information requested by DR No. CalAdvocates-SC-SCG-2019-05 and the May 5, 2020 subpoena to the Commission.”⁶⁷

To be clear, SoCalGas’ suggestion – which lacking any support can be deemed nothing more than a suggestion – that Cal Advocates’ discovery authority is somehow something less than that of the Commission’s has no legal basis. The statutory framework of the Public Utilities Code grants broad authority to Commission staff, including Cal Advocates, to inspect the books and records of investor-owned utilities.⁶⁸ Indeed, it expressly establishes that Cal Advocates has the right to engage in investigations of its own, outside of a proceeding, such as the one at issue

⁶³ *Perry* at 1140.

⁶⁴ SoCalGas Application, p. 9.

⁶⁵ SoCalGas Application, p. 26.

⁶⁶ Resolution ALJ-391, Finding ¶ 10.

⁶⁷ Resolution ALJ-391, Finding ¶ 18.

⁶⁸ *See, e.g.*, Cal. Pub. Util. Code §§ 309.5(e), 311(a), 314, 314.5(a), 581, 582, 584, 701 and 702.

here.⁶⁹ The Commission need not show more to establish a compelling government interest;⁷⁰ the regulatory framework speaks for itself.

Second, as the pre-eminent court addressing administrative law cases, the District of Columbia Circuit's decision in *Federal Election Commission v. Machinists* is instructive. That case recognizes that an agency, like the Commission, that is "vested with broad duties to gather and compile information and to conduct periodic investigations concerning business practices" has more expansive authority to gather information that may infringe First Amendment rights than other agencies lacking "such roving statutory functions."⁷¹ It observes that while the Federal Election Commission could not issue a "sweeping" subpoena due to lack of jurisdiction, that agencies such as the Federal Trade Commission and the Securities and Exchange Commission could pursue an investigation based on "mere 'official curiosity'."⁷²

Similarly, the Ninth Circuit in *Brock* notes that "[t]he investigatory powers of administrative agencies are analogous to the grand jury, and an agency can investigate on the mere suspicion the law is being violated. The Ninth Circuit standard of judicial scrutiny in an agency subpoena enforcement proceeding focuses on: (1) whether Congress has granted the authority to investigate; (2) whether procedural requirements have been followed; and (3) whether the information sought is relevant and material to the investigation."⁷³

⁶⁹ Cal. Pub. Utils. Code § 309.5(e) provides that Cal Advocates "may compel the production or disclosure of any information it deems necessary to perform its duties from any entity regulated by the commission."

⁷⁰ See, e.g., *Federal Election Com. v. Machinists Non-Partisan Political League*, 655 F. 2d 380, 389 ("We do not here demand of the FEC that it show a compelling interest before it may obtain the information it seeks. Instead, we may assume arguendo that if the FEC has statutory jurisdiction to conduct this investigation, then a compelling interest for the subpoenaed information can be shown."); and *Griset v. Fair Political Practices Com.*, 8 Cal. 4th 851, 861-862 (1994) (finding that provisions of the Political Reform Act intended to inform the electorate and prevent corruption in the electoral process are sufficient to find the governmental interest compelling).

⁷¹ *Federal Election Com. v. Machinists Non-Partisan Political League*, 655 F. 2d 380, 387 (D.C. Cir. 1981).

⁷² *Id.* at 387-388.

⁷³ *Brock* at 348-349 citing *United States v. Morton Salt Co.*, 338 U.S. 632 (1950); *EEOC v. Children's Hosp. Med. Ctr. of N. Cal.*, 719 F.2d 1426, 1428-1429 (9th Cir. 1983); *Casey v. Federal Trade Comm'n*, 578 F.2d 793, 799 (9th Cir. 1978); *Federal Maritime Comm'n v. Port of Seattle*, 521 F.2d 431, 435 (9th Cir. 1975); and *EPA v. Alyeska Pipeline Service Co.*, 836 F.2d 443, 446(9th Cir. 1988).

The same rules apply here. Both the Commission and Cal Advocates operate under a broad statutory framework giving them expansive authority to investigate the activities of regulated utilities like SoCalGas.

2. Even If SoCalGas Were Able to Make A *Prima Facie* Case, Cal Advocates' Discovery Need Not Be "Narrowly Tailored" – Rather, It Is Subject To A Balancing Test

Contrary to the language of ALJ-391, where a *prima facie* case of infringement is shown – which is not the case here – an agency's discovery need not be "narrowly tailored."⁷⁴ Indeed, that requirement does not appear in *Perry v. Schwarzenegger*, the primary case SoCalGas relies on here to try to make its *prima facie* case. Rather, *Perry* holds that where a *prima facie* case is made, the government must then show that "the discovery is *rationally related to a compelling government interest and the 'least restrictive means'* of obtaining the desired information."⁷⁵ In applying this standard, the court considers whether the information can be obtained in another manner that does not intrude on protected activities,⁷⁶ and it balances "the burdens imposed on individuals and associations against the significance of the interest in disclosure to determine whether the interest in disclosure outweighs the harm."⁷⁷ *Perry* explains that this balancing may take into account the importance of the litigation, observing, for example, that there is "little doubt" of a compelling government interest in investigating possible criminal violations.⁷⁸

Significantly, *Perry* is also clear that its holdings are limited to only "*private, internal campaign communications concerning the formulation of campaign strategy and messages.*"⁷⁹ It explains:

Our holding is therefore limited to communications among the core group of *persons* engaged in the formulation of campaign strategy and messages.

...

Our holding is also limited to *private, internal communications regarding formulation of strategy and messages*. It certainly does not apply to

⁷⁴ See, e.g., *Brock and Dole* applying the same standard as *Perry*.

⁷⁵ *Perry*, p. 1140 citing to *Dole* for the same rule of law, *emphases added and punctuation omitted*.

⁷⁶ *Perry*, p. 1144.

⁷⁷ *Perry*, p. 1140, *citations and punctuation omitted*.

⁷⁸ *Id.*, p. 1140-1141 *also citing Dole*.

⁷⁹ *Perry* at footnote 12 (*emphasis in original*).

documents or messages conveyed to the electorate at large, discrete groups of voters or individual voters for purposes such as persuasion, recruitment or motivation—activities beyond the formulation of strategy and messages. Similarly, communications soliciting active support from actual or potential Proposition 8 supporters are unrelated to the formulation of strategy and messages. The district court may require the parties to redact the names of individuals with respect to these sorts of communications, but the contents of such communications are not privileged under our holding.

By way of illustration, plaintiffs produced at oral argument a letter from Bill Tam, one of Proposition 8’s official proponents, urging “friends” to “really work to pass Prop 8.” A copy of the letter is appended to this opinion. Mr. Tam’s letter is plainly not a private, internal formulation of strategy or message and is thus far afield from the kinds of communications the First Amendment privilege protects.⁸⁰

Acknowledging the significant limitations identified in *Perry*, the Commission and Cal Advocates’ extensive regulatory authority to investigate regulated utilities, and the balancing test articulated by *Perry*, Cal Advocates is clearly entitled to the information it seeks. As set forth above, SoCalGas’ supporting declarations cannot be taken at face value. Among other things, it is possible the identities of some of the consultants are already in the public domain, so that SoCalGas cannot establish that the utility or its consultants will be harmed by being required to provide the requested information to Cal Advocates. Further, to the extent SoCalGas and its consultants have conspired to disseminate false or deceptive information, those activities are not protected by the First Amendment.⁸¹ And even if First Amendment rights might be infringed, the state’s interest in protecting ratepayers by investigating whether SoCalGas is financing its pro-gas advocacy through ratepayer-funded accounts, and the general interest in identifying any other accounting irregularities, or deceptive messaging, clearly outweighs the harms presented and is squarely within the Commission’s (and Cal Advocates’) jurisdiction. Further, there is no less restrictive way for Cal Advocates to pursue its investigation; only auditing the utility’s accounts will answer the questions presented. Finally, the discovery of criminal violations cannot be dismissed; it is within the realm of possibility given the scope of the utility’s intentional malfeasance to date.

⁸⁰ *Perry* at footnote 12.

⁸¹ See, e.g., *Griset v. Fair Political Practices Com.*, 8 Cal. 4th 851, 862-863 (1994).

For all of these reasons, a regulated utility – like SoCalGas – whose business is dedicated to the public interest pursuant to an extensive statutory framework requiring access to its accounts and records, cannot rely on the First Amendment to avoid its regulatory obligations.⁸²

C. A Regulated Utility May Not Withhold Discovery From The Commission Or Staff Pending A Ruling From The Full Commission On Its Request For Reconsideration/Appeal Of Any Discovery Dispute

As Cal Advocates explained in detail in its November 19, 2020 comments on ALJ-391,⁸³ SoCalGas unlawfully granted itself a stay from certain Cal Advocates’ discovery - including Cal Advocates’ audit of its SAP accounting system – for over eight months pending formal Commission action on its First Amendment claims. It is a fundamental rule that absent a stay, a utility must comply with the existing Commission rule or order. The rules requiring compliance absent a stay, and requiring a showing of “great or irreparable damage” to obtain a stay of a regulatory decision, are critical components of the regulatory scheme that applies to SoCalGas.⁸⁴

Any Commission response to SoCalGas’ Application should be clear that self-granted stays will not be sanctioned by the Commission. Absent a clear statement from the Commission that a utility must comply with state law, ALJ rulings, and Commission orders pending any appeal, the Commission invites other regulated-utilities to make similar frivolous arguments to defer Commission discovery for as long as possible.

Such a clarification is necessary and appropriate given SoCalGas’ documented and increasingly egregious tendency to defy Commission orders and subpoenas,⁸⁵ and the fact that both the Commission and the California Court of Appeals have recognized that a utility’s

⁸² See footnotes 5, 12, and 27 above.

⁸³ Cal Advocates’ Nov. 19, 2020 Draft ALJ-391 Comments, pp. 8-9.

⁸⁴ See, e.g., California Public Utilities Code §§ 1761 et seq. and Commission Rule of Practice and Procedure 16.6.

⁸⁵ See, e.g., *Administrative Law Judges’ Ruling Denying Southern California Gas Company’s Motion for an Order to Quash the Subpoena of the Safety and Enforcement Division*, issued December 30, 2019 in I.19-06-016; and Cal Advocates’ June 23, 2020 Motion for Contempt of Commission Subpoena and July 9, 2020 Motion to Compel Confidential Declarations.

“withholding of relevant information causes substantial harm to the regulatory process, which cannot function effectively unless participants act with integrity at all times.”⁸⁶

D. Requiring An Attorney Declaration To Validate Claims Made In A Privilege Log Is Neither “Illegal” or “Unprecedented”

SoCalGas asserts that requiring it to provide a declaration from a SoCalGas attorney confirming that its privilege claims have a good faith basis in the law⁸⁷ is “illegal” and “unprecedented.”⁸⁸ In support of its claims of illegality, SoCalGas argues that the declaration requirement:

- (1) “[V]iolates the attorney-client privilege and work product doctrines by forcing an attorney to reveal, put at issue, and therefore waive, his or her legal opinions, advice, and client communications regarding the claim of privilege”;
- (2) Violate Evidence Code §§ 954, 955, 915, and 912;
- (3) Exceeds the power of the Commission “by seeking to modify the legislatively mandated privilege” and sets “rules in conflict with statute”; and
- (4) “[F]urther interferes with the attorney’s ethical and legal duties to his or her client, and ability to conduct his or her work in creating the log without interference.”⁸⁹

These SoCalGas claims are false.

As an initial matter, SoCalGas knows full well that the ALJ-391 declaration requirement is not “unprecedented.” It is based on the same practice adopted by the Los Angeles Superior Court overseeing the plaintiffs’ litigation against SoCalGas for the Aliso Canyon gas leak. As Cal Advocates has explained in numerous prior pleadings related to this investigation,⁹⁰ as a

⁸⁶ See *Pacific Gas & Electric Co. v. Public Utilities Com.*, 237 Cal. App. 4th 812, 865 (2015) quoting Commission Decision 13-09-028.

⁸⁷ See Resolution ALJ-391, p. 34, Ordering ¶ 8(3) imposing the declaration requirement.

⁸⁸ SoCalGas Application, pp. 11 & 42-47.

⁸⁹ *Id.*

⁹⁰ See, e.g., *Public Advocates Office Comments On Draft Resolution ALJ-391 Denying Southern California Gas Company’s December 2, 2019 Motion For Reconsideration/Appeal Of The November 1, 2019 Administrative Law Judge’s Ruling And Addressing Other Related Motions*, served November 19, 2020, § II.C.2, available on Cal Advocates’ website at <https://www.publicadvocates.cpuc.ca.gov/general.aspx?id=4444> (Cal Advocates’ Nov. 19, 2020 Draft ALJ-391 Comments).

result of significant discovery abuses by SoCalGas, almost all of them related to unsubstantiated privilege claims, the Los Angeles Superior Court required similar declarations from SoCalGas attorneys.⁹¹ A February 20, 2020 Minute Order from that court explains that “[b]ased on the prior history of this case, . . . [SoCalGas’] initial claims of privilege are unsupported and/or are withdrawn an average of 94 percent of the time.”⁹² The Court observed: “. . . [SoCalGas], through their counsel, stonewalled over an extended period of this litigation by misusing claims of privilege to attempt to throw Plaintiffs’ counsel off the track with respect to documents to which they were entitled. As a result, Plaintiffs’ counsel were delayed in obtaining documents at a time when they could have been used in deposing Defendants’ current and former employees.”⁹³ The February 20, 2020 Minute Order explains that SoCalGas “only asserted good faith objections when threatened with sanctions or when this court required trial counsel to declare under penalty of perjury that there was a good faith basis for the privilege claims asserted.”⁹⁴ The Minute Order reflects that when the declarations were discontinued, SoCalGas renewed its practice of making frivolous privilege claims so that the court had to reinstate the practice going forward.⁹⁵ Clearly, the Los Angeles Superior Court does not agree that this practice is “illegal.” And it is obviously not “unprecedented” because that Court was the inspiration for proposing such a practice here.

The evidence established by Cal Advocates in the “not in a proceeding” motions and exhibits demonstrate that SoCalGas has been using similar tactics regarding unjustified privilege claims to stall Cal Advocates’ investigation here. As such, the Commission properly agreed with Cal Advocates’ proposal to skip the extended learning process described in the *Gandsey* Minute

⁹¹ See *Gandsey v. Southern California Gas Company*, Superior Court of California, Los Angeles County, Civil Division, Central District, JCCP4861, Southern California Leak Cases (“*Gandsey*”). Cal Advocates proposes that, at a minimum, the Commission take notice of the February 20, 2020 and August 3, 2020 Minute Orders in this case, which are available on the Cal Advocates’ website at <https://www.publicadvocates.cpuc.ca.gov/general.aspx?id=4446> under “Additional Items of Interest.”

⁹² *Gandsey* February 20, 2020 Minute Order, pp. 2-3.

⁹³ *Gandsey* February 20, 2020 Minute Order, p. 18.

⁹⁴ *Gandsey* February 20, 2020 Minute Order, pp. 12-13.

⁹⁵ *Gandsey* February 20, 2020 Minute Order, p. 13.

Orders⁹⁶ and order the declarations verifying the utility's privilege claims to ensure compliance from SoCalGas going forward.

SoCalGas' claims of illegality also have no basis. As a practical matter, it is not credible that the Los Angeles Superior Court would adopt, and continue to enforce, an "illegal" requirement. In addition, it is well-settled that the Commission has no obligation to comply with technical rules of evidence, and that it establishes its own rules of procedure, so that SoCalGas' statutory references have no basis here.⁹⁷ Finally, SoCalGas' arguments fly in the face of Commission Rule 1.1, which makes attorneys, and others, responsible for the case they present to the Commission. It provides that:

Any person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of this State; to maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges; and never to mislead the Commission or its staff by an artifice or false statement of fact or law.

It makes no sense, and SoCalGas fails to explain, how requiring an attorney to acknowledge in writing, under penalty of perjury, that the representations made to the Commission – in this case claims of privilege – have a good faith basis in the law, would be illegal, or would somehow "waive" the attorney/client communication or work product privileges. Such a declaration simply requires the attorney to confirm that they have reviewed the materials and agree with the claim that they are, in fact, privileged under the law.

Given the utility's documented history of over-designating information as privileged, and claims here that it has no obligation to provide Cal Advocates a log to support its privilege claims as to its SAP accounting system, the requirement is necessary and appropriate.

E. Utility Accounts Should Not Contain Privileged Information

In response to unsubstantiated SoCalGas claims that its SAP accounting system contains privileged information, ALJ-391 properly orders SoCalGas to provide a privilege log to Cal

⁹⁶ See footnote 91 above.

⁹⁷ See Pub. Util. Code § 1701 and Commission Rule of Practice and Procedure 13.6.

Advocates for all information it claims is privileged.⁹⁸ However, in order to address SoCalGas claims that information in its SAP system is privileged and must be “walled off” from Cal Advocates – which would make a proper audit unworkable – the Commission should adopt the following principles for proposes of responding to SoCalGas privilege claims:

- (1) Given the long-established statutory rule – and fundamental regulatory principle – that the Commission and its employees may access a utility’s accounts at any time,⁹⁹ and that third party auditors also routinely access utility accounts, a utility’s accounts should not contain privileged information as the utility has no reasonable expectation of privacy for those accounts;
- (2) To the extent any privileged information is contained in the utility’s SAP accounting system, the Commission’s presumption is that such privilege claims have been waived as a result of both the long-standing requirement that a utility’s accounts shall be available at any time to its regulator and that including such information in its accounts is inconsistent with the rule that privilege information may not be made available people who do not have a need to access such information.¹⁰⁰ The utility will need to explain, in detail, why this presumption should not stand.
- (3) Creating “custom software solutions” or otherwise “walling off” any part of the utility’s accounts is not an acceptable “solution” to protect privileged information from the Commission or Cal Advocates. Doing so would create a mechanism for a utility to permanently obscure any expenditures it wished to hide from its regulator and would make it impossible for a Commission auditor to know about the expenditures and seek their disclosure. This “solution” is

⁹⁸ Resolution ALJ-391, pp. 33-34, Ordering ¶ 8.

⁹⁹ Cal. Pub. Util. Code § 314(a).

¹⁰⁰ As the California Court of Appeals has explained: “Evidence Code section 952 extends the privilege to confidential communications shared with ‘those who are present to further the interest of the client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which the lawyer is consulted’ ... ‘The key concept here is need to know. While involvement of an *unnecessary* third person in attorney/client communications destroys confidentiality, involvement of third persons to whom disclosure is reasonably *necessary* to further the purpose of the legal consultation preserves confidentiality of communication’.” *Zurich American Ins. Co. v. Superior Court*, 155 Cal. App. 4th 1485, 1503 (2007) quoting *Insurance Co. of North America v. Superior Court*, 108 Cal. App. 3d 758 (1980) and *F.T.C. v. GlaxoSmithKline*, 294 F.3d 141 (D.C. Cir. 2002). Similar rules apply to federal agencies. See *Maine v. D.O.I.*, 298 F.3d 60, 71-72 (1st Cir. 2002) (holding DOI was not entitled to attorney-client privilege because its documents were not maintained in a confidential manner); *Lacefield v. United States*, 1993 U.S. Dist. LEXIS 4521, *9, No. 92-N-1680 (D. Colo. March 10, 1993) (if circulated to a larger group of individuals, the privilege does not apply because the agency did not maintain the confidentiality of the information).

unworkable on its face and would result in irreparable harm to the regulatory powers of the Commission.

Adopting such principles here is consistent with SoCalGas' statutory obligation to make its accounts available *at any time* and will provide guidance to Commission staff tasked with addressing such issues going forward.

F. Mathews v. Eldridge Is Clear That SoCalGas Has Received Far More Process Than The Law Requires And Trial-Type Hearings Are Not Required To Impose Sanctions On The Utility

ALJ-391 properly finds that SoCalGas' due process arguments have no merit.¹⁰¹ While certainly correct, ALJ-391's analysis overlooks well-settled U.S. Supreme Court law regarding due process set forth in *Mathews v. Eldridge*. Significant here, the *Mathews* Court explained that the sufficiency of due process is case-specific: "due process, unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place, and circumstances. Due process is flexible and calls for such procedural protections as the particular situation demands."¹⁰² That Mr. Eldridge was not entitled to an evidentiary hearing prior to his loss of disability benefits – a loss which resulted in foreclosure of his home¹⁰³ – appears to be dispositive of SoCalGas' due process claims.

As an initial matter, ALJ-391 does not sanction SoCalGas for its intentional withholding of discovery from Cal Advocates. Instead, it leaves the matter of sanctions for another day. As the record reflects, SoCalGas has received extensive process here, including the right to rehearing, which it has exercised, and a right to appeal. However, when the Commission does consider sanctions, *Mathews v. Eldridge* is clear that trial-type evidentiary hearing are not required. Imposition of even \$50 million in fines on SoCalGas – a company worth over \$4.5 billion in annual revenues – does not merit an evidentiary hearing. As the U.S. Supreme Court observed: "*Only in Goldberg* has the Court held that due process requires an evidentiary hearing prior to a temporary deprivation. It was emphasized there that welfare assistance is given to

¹⁰¹ Resolution ALJ-391, p. 31, Ordering ¶ 26.

¹⁰² *Mathews v. Eldridge*, p. 334, citations and punctuation omitted.

¹⁰³ *Mathews v. Eldridge*, p. 350.

persons on the very margin of subsistence.”¹⁰⁴ In other words, due process almost *never* requires a trial-type hearing, and such is certainly not required here to impose sanctions on SoCalGas. Fines of even \$50 million on a company earning over \$4.5 billion a year would not have the impact that deprivation of welfare assistance would have for a person “on the very margin of subsistence.”

ALJ-391 should be clarified to recognize the black letter law established in *Mathews v. Eldridge* in anticipation of the Commission’s consideration of sanctions against SoCalGas going forward.

G. Request For Oral Argument

Cal Advocates supports SoCalGas' request for oral argument provided that Cal Advocates is provided the confidential declarations at least a week in advance of any oral argument and is allocated equal time to respond. In addition, Cal Advocates proposes that SoCalGas be required to explain during oral argument:

- (1) The utility's and its affiliates' roles in creating and funding C4BES;
- (2) Why costs for C4BES were previously booked to an above-the-line O&M account traditional charged to ratepayers; and
- (3) How C4BES was able to obtain phone numbers of Santa Barbara residents for purposes of texting them to oppose the City's reach code and whether SoCalGas or any of its affiliates had any role in C4BES' acquisition of those phone numbers.

III. CONCLUSION

Cal Advocates respectfully requests that Resolution ALJ-391 be modified to address the legal issues identified above to provide needed clarity to facilitate Cal Advocates' continued pursuit of its investigation of SoCalGas' use of ratepayer monies to fund pro-gas advocacy.

¹⁰⁴ *Mathews v. Eldridge*, p. 340 (emphasis added) citing to *Goldberg v. Kelly*, 397 U.S. 254 (1970).

Respectfully submitted,

/s/ TRACI BONE

Traci Bone
Attorney for

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

January 11, 2021

Attachment A

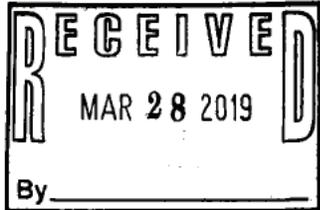
Balanced Energy WOA

September 12, 2019

200794601

20222.000

| WORK ORDER AUTHORIZATION FOR SEMPRA ENERGY UTILITIES | | | | | COMPANY CODE | Work Order No: | | | | | | | | | | | | | | | | | | | | | |
|--|---|-----------------|--------------|--------------|--|--|------------------------------|----------|-----|--------|----|---|--|--|--|--|--|--|--|--|--|--|--|--|--|--|--|
| Field names with ALL CAPITAL letters are required. | | | | | 2200 | CAPITAL <input type="checkbox"/> O&M <input checked="" type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | |
| TITLE BALANCED ENERGY | | | | | Thomas Bros. | WR/DPS Number: | | | | | | | | | | | | | | | | | | | | | |
| DATE PREPARED: 3/21/2019 EST. START DATE: 1/1/2019 EST. COMPLETION DATE: 12/31/2024 | | | | | BUDGET CODE: | | | | | | | | | | | | | | | | | | | | | | |
| RESponsible Cost Center: 2200-2204 | | | | | Phase 1 | Phase 2 | Prelim Eng Survey (Ferc 163) | | | | | | | | | | | | | | | | | | | | |
| Regulatory Prg/UDF: | | | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | |
| ORGANIZATION: Customer Service | | | | | Shared Asset <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | |
| OPERATING AREA/DISTRICT: GCT | | | | | OPERATING REGION: Headquarters (39) | | | | | | | | | | | | | | | | | | | | | | |
| COUNTY: Los Angeles MUNICIPALITY: | | | | | Receiving Order <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | |
| Billable to: Affiliate <input type="checkbox"/> | | | | | Thrd Party <input type="checkbox"/> Sending Order <input type="checkbox"/> Order <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | |
| TECHNICAL/ECONOMIC PROJECT REVIEWS* | | | | | Comments regarding Technical/Economic Project Review: | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Legal By: Date: <input type="checkbox"/> Tax By: Date: <input type="checkbox"/> Accounting By: Date: <input type="checkbox"/> Planning By: Date: | | | | | <input type="checkbox"/> Reference Approval and Commitment Policy: <input type="checkbox"/> CATEGORY 1 Base Business CATEGORY 2 Non-base Bus. | | | | | | | | | | | | | | | | | | | | | | |
| *Required for all base business, non-base business & administrative approval for WOA's or AFE's over \$30, \$15, & \$50 million respectively, prior to review and approval as appropriate. If a contract initially totals \$20 million or more, the reviews must be evidenced by completion of an Internal Reviewer Checklist (IRC). For more details, please refer to the CAU Approval & Commitment Policy in the intranet. | | | | | Bill to Name & Address: | | | | | | | | | | | | | | | | | | | | | | |
| JOB SCOPE SUMMARY This is an IO for tracking purposes, set up to track costs associated with BALANCED ENERGY expenditures within the ENERGY POLICY & STRATEGY team. All costs should be nonrefundable O&M. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| CODE | DETAILED DESCRIPTION OF WORK | | | | FERC ACCOUNT | % | Acctg Dept Use (Enter IOs) | | | | | | | | | | | | | | | | | | | | |
| O | This is an IO for tracking purposes, set up to track costs associated with BALANCED ENERGY expenditures within the ENERGY POLICY & STRATEGY team. All costs should be nonrefundable O&M. | | | | F920000G | | | | | | | | | | | | | | | | | | | | | | |
| Charging Cost Centers to this order | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <thead> <tr> <th>Receiver</th> <th>Co.</th> <th>Amount</th> <th>Or</th> <th>%</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table> | | | | | | | | Receiver | Co. | Amount | Or | % | | | | | | | | | | | | | | | |
| Receiver | Co. | Amount | Or | % | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| APPROVALS | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Project Approved under: (1)(2) [Signature] cc: GT15C1 Date: 3/21/2019 Alan Caldwell [Signature] Mail Loc: GT10A1 Dir - Energy Policy & Strategy Date: 3/21/2019 [Signature] Mail Loc: 02A1 Sharon Tomkins [Signature] Mail Loc: [Blank] VP, SCG Strategy + Eng Date: [Blank] \$30M [Signature] Mail Loc: [Blank] Functional Committee Chair Date: [Blank] Functional V. P. Date: [Blank] Utility President Date: [Blank] Utility C. E. O. Date: [Blank] | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ESTIMATED COSTS | | | | | Accounting Use Only | | | | | | | | | | | | | | | | | | | | | | |
| | Capital Installation | Capital Removal | O&M | Total | Acctg Ops | Date | | | | | | | | | | | | | | | | | | | | | |
| Company Labor | \$ - | \$ - | \$ 3,504,030 | \$ 3,504,030 | Ord Type | Inl P/E | Stat Map % | | | | | | | | | | | | | | | | | | | | |
| Contract Costs | - | - | 21,113,372 | 21,113,372 | OH Key | Cost Sheet | Stat Map % | | | | | | | | | | | | | | | | | | | | |
| Material | - | - | - | - | User Status | FERC Ind. | Stat Map % | | | | | | | | | | | | | | | | | | | | |
| Other Direct Charges | - | - | - | - | Total Commitment Accumulated | | Stat Map % | | | | | | | | | | | | | | | | | | | | |
| Total Direct Cost | - | - | 24,617,401 | 24,617,401 | | | | | | | | | | | | | | | | | | | | | | | |
| Affiliate Transfer In Costs | - | - | - | - | | | | | | | | | | | | | | | | | | | | | | | |
| Labor Indirects | - | - | 2,923,412 | 2,923,412 | | | | | | | | | | | | | | | | | | | | | | | |
| Material Indirects | - | - | - | - | | | | | | | | | | | | | | | | | | | | | | | |
| Other Indirects | - | - | 377,973 | 377,973 | | | | | | | | | | | | | | | | | | | | | | | |
| Ad Valorem Tax (per GRC decision) | - | - | - | - | | | | | | | | | | | | | | | | | | | | | | | |
| AFUDC | - | - | - | - | | | | | | | | | | | | | | | | | | | | | | | |
| Total Indirect Cost | - | - | 3,301,385 | 3,301,385 | | | | | | | | | | | | | | | | | | | | | | | |
| Gross Expenditures | - | - | 27,918,786 | 27,918,786 | | | | | | | | | | | | | | | | | | | | | | | |
| ITCCA (Y or N) | 22.00% | y | - | - | | | | | | | | | | | | | | | | | | | | | | | |
| Less: Billing/Part Contr: | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Net Estimated Costs | | | | 27,918,786 | | | | | | | | | | | | | | | | | | | | | | | |
| Gross Expenditures by year: | 2019 | 2020 | 2021 | 2022 | 2023 | | | | | | | | | | | | | | | | | | | | | | |
| | \$ 4,746,194 | \$ 5,304,569 | \$ 5,662,945 | \$ 5,662,945 | \$ 6,142,133 | | | | | | | | | | | | | | | | | | | | | | |



IO_Form_503.xls 12/01/2016 INSTRUCTIONS ARE LOCATED ON THE "MANUALS & FORMS" PAGE OF THE ACCOUNTING & FINANCE INTRANET WEBSITE

% by Year 17% 19% 21% 21% 22%

Attachment B

Executive Director Letter Granting Extension
January 6, 2021

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



January 6, 2021

Joseph Mock
Business Manager, Regulatory Affairs
Southern California Gas Company
555 W. Fifth Street, GT14D6
Los Angeles, CA 90013-1011

RE: December 30, 2020 Request of Southern California Gas Company for Extension of Time to Comply with Resolution ALJ-391

Dear Mr. Mock:

This is in response to your December 30, 2020 request for an extension of time for Southern California Gas Company (SoCalGas) to comply with Resolution ALJ-391 (Resolution) pending the Commission's disposition of SoCalGas's Application for Rehearing and Motion to Stay.

This letter extends SoCalGas' time to comply with the Resolution until 15 days from the date the Commission issues its decision disposing of the rehearing request, which is currently anticipated to be brought for a vote on February 11, 2021.

Pursuant to Rule 16.6 of the Commission's Rules of Practice and Procedure, SoCalGas shall promptly notify the service list of A.20-12-011 via electronic mail that this request was granted as amended.

Sincerely,

A handwritten signature in black ink that reads "Rachel Peterson".

Rachel Peterson
Executive Director

Attachment C

Form 635 640

Q1 2018

REPORT OF LOBBYIST EMPLOYER

(Government Code Section 86116)

1/10

or

REPORT OF LOBBYING COALITION

(2 Cal. Code of Regs. Section 18616.4)

FORM 635
1993

IMPORTANT: Lobbying Coalitions must attach a completed Form 635-C to this Report.

REPORT COVERS PERIOD FROM 01/01/2018 THROUGH 03/31/2018

CUMULATIVE PERIOD BEGINNING 01/01/2017

FOR OFFICIAL USE ONLY

A

B

TYPE OR PRINT IN INK

For information required to be provided to you pursuant to the Information Practices Act of 1977, see Information Manual on Lobbying Disclosure Provisions of the Political Reform Act.

NAME OF FILER:

Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

BUSINESS ADDRESS: (Number and Street)

(City)

(State)

(Zip Code)

TELEPHONE NUMBER:

San Diego

CA

92101

PART I - LEGISLATIVE OR STATE AGENCY ADMINISTRATIVE ACTIONS ACTIVELY LOBBIED DURING THE PERIOD

(See instructions on reverse.)

See attached TEXT

If more space is needed, check box and attach continuation sheets.

SUMMARY OF PAYMENTS THIS PERIOD

| | | |
|--|----|------------------|
| A. Total Payments to In-House Employee Lobbyists (Part III, Section A, Column 1) | \$ | <u>82913.89</u> |
| B. Total Payments to Lobbying Firms (Part III, Section B, Column 4) | \$ | <u>103000.00</u> |
| C. Total Activity Expenses (Part III, Section C) | \$ | <u>978.80</u> |
| D. Total Other Payments to Influence (Part III, Section D) | \$ | <u>104743.80</u> |

GRAND TOTAL (A + B + C + D above) \$ 291636.49

E. Total Payments in Connection with PUC Activities (Part III, Section E) \$ 4882.68

F. Campaign Contributions: Part IV completed and attached No campaign contributions made this period

VERIFICATION

I have used all reasonable diligence in preparing this Report. I have reviewed the Report and to the best of my knowledge the information contained herein and in the attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on (Date)
04/30/2018

At (City and State)
San Diego, CA

By (Signature of Employer or Responsible Officer)
Mr. Dennis Arriola

Name of Employer or Responsible Officer (Type or Print)
Mr. Dennis Arriola

Title
EVP - External Affairs & South America

PERIOD COVERED: 01/01/2018 03/31/2018

NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

PART II - PARTNERS, OWNERS, AND EMPLOYEES WHOSE "LOBBYIST REPORTS" (FORM 615) ARE ATTACHED TO THIS REPORT (See instructions on reverse.)

| Name and Title | Name and Title |
|--|--|
| Employee Israel Salas Government Affairs Manager | Employee Nicolina Hernandez Government Affairs Manager |
| | |
| | |
| | |
| | |

If more space is needed, check box and attach continuation sheets.

PART III - PAYMENTS MADE IN CONNECTION WITH LOBBYING ACTIVITIES

| A. PAYMENTS TO IN-HOUSE EMPLOYEE LOBBYISTS (See instructions on reverse. Also enter the Amount This Period (Column 1) on Line A of the Summary of Payments section on page 1.) | (1) Amount This Period | (2) Cumulative Total To Date |
|--|------------------------------|------------------------------------|
| | \$ 82913.89 | \$ 605227.00 |

| B. PAYMENTS TO LOBBYING FIRMS (Including Individual Contract Lobbyists) | | | | | |
|---|-------------------------|-----------------------------------|--|--------------------------|---------------------------------|
| Name and Address of Lobbying Firm/Independent Contractor | (1) Fees & Retainers | (2) Reimbursements of Expenses | (3) Advances or Other Payments (attach explanation) | (4) Total This Period | (5) Cumulative Total to Date |
| Campbell Strategy & Advocacy,LLC <u>Sacramento CA 95814</u> | 34000.00 | 0.00 | 0.00 | 34000.00 | 138000.00 |
| CAPITOL STRATEGIES GROUP,INC. <u>Sacramento CA 95814</u> | 36000.00 | 0.00 | 0.00 | 36000.00 | 150000.00 |
| FERNANDEZ GOVERNMENT SOLUTIONS,LLC <u>SACRAMENTO CA 95814</u> | 0.00 | 0.00 | 0.00 | 0.00 | 103500.00 |
| Kester/Pahos <u>Sacramento CA 95814</u> | 0.00 | 0.00 | 0.00 | 0.00 | 80000.00 |
| Mercury Public Affairs <u>Sacramento CA 95814</u> | 33000.00 | 0.00 | 0.00 | 33000.00 | 159000.00 |

If more space is needed, check box and attach continuation sheets

TOTAL THIS PERIOD (Column 4)
Also enter the total of Column 4 on Line B of the Summary of Payments section on page 1.

\$ 103000.00

PERIOD COVERED: 01/01/2018 03/31/2018

NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

| C. ACTIVITY EXPENSES (See instructions on reverse.) | | | | |
|--|---|---|---|--------------------------|
| Date | Name and Address of Payee | Name and Official Position of Reportable Persons and Amount Benefiting Each | Description of Consideration | Total Amount of Activity |
| 03/13/2018 | Eurest Dining San Diego CA 92117 | Mark Ferron California ISO Boardmember | Other 42.56 Meal | \$ 978.80 |
| | Eurest Dining San Diego CA 92117 | Carla Peterman CPUC Commissioner | Other 42.56 Meal | |
| | Eurest Dining San Diego CA 92117 | David Hochschild CEC Commissioner | Other 42.56 Meal | |
| | Eurest Dining San Diego CA 92117 | Mary Nichols CARB Chair | Other 42.56 Meal | |
| | Eurest Dining San Diego CA 92117 | Janea Scott CEC Commissioner | Other 42.56 Meal | |
| <input type="checkbox"/> If more space is needed, check box and attach continuation sheets. | | | TOTAL SECTION C (Activity Expenses) Also enter the total of Section C on Line C of the Summary of Payments section on page 1. | \$ 978.80 |
| D. OTHER PAYMENTS TO INFLUENCE LEGISLATIVE OR ADMINISTRATIVE ACTION <input checked="" type="checkbox"/> NOTE: State and local government agencies do not complete this section. Check box and complete Attachment Form 640 instead. | | | | |
| 1. PAYMENTS TO LOBBYING COALITIONS (NOTE: You must attach a completed Form 630 to this Report.) | | | \$ 0.00 | |
| 2. OTHER PAYMENTS | | | \$ 0.00 | |
| | | | TOTAL SECTION D (1 + 2) Also enter the total of Section D on Line D of the Summary of Payments section on page 1. | \$ 0.00 |
| E. PAYMENTS IN CONNECTION WITH ADMINISTRATIVE TESTIMONY IN RATEMAKING PROCEEDINGS BEFORE THE CALIFORNIA PUBLIC UTILITIES COMMISSION Also, enter the total of Section E on Line E of the Summary of Payments section on page 1. (See instructions on reverse.) | | | | \$ 4882.68 |

PERIOD COVERED: 01/01/2018 03/31/2018NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

PART IV -- CAMPAIGN CONTRIBUTIONS MADE (Monetary and non-monetary campaign contributions of \$100 or more made to or on behalf of state candidates, elected state officers and any of their controlled committees, or committees supporting such candidates or officers must be reported in A or B below.)

- A. If the contributions made by you during the period covered by this report, or by a committee you sponsor, are contained in a campaign disclosure statement which is on file with the Secretary of State, report the name of the committee and its identification number, if any, below.

Name of Major Donor or Recipient Committee Which Identification Number if
 Has Filed A Campaign Disclosure Statement: Recipient Committee: 488235
SEMPRA ENERGY AND ITS AFFILIATES: SOUTHERN CALIFORNIA GAS CO. & SAN DIEGO GAS & ELECTRIC

- B. Contributions of \$100 or more which have not been reported on a campaign disclosure statement, including contributions made by an organization's sponsored committee, must be itemized below.

| Date | Name of Recipient | I.D. Number if Committee | Amount |
|------------|---|--------------------------|------------|
| 02/28/2018 | Cecilia Aguilar-Curry for Assembly 2018 | 1392362 | \$ 2600.00 |
| 03/01/2018 | Dr. Richard Pan for Senate 2018 | 1374058 | \$ 1300.00 |
| 03/01/2018 | Jay Obernolte for Assembly | 1392884 | \$ 1000.00 |
| 03/01/2018 | Friends of Frank Bigelow 2018 | 1392565 | \$ 1400.00 |
| 03/01/2018 | Friends of Frank Bigelow 2018 | 1392565 | \$ 4400.00 |
| 03/01/2018 | O'Donnell for Assembly 2018 | 1393597 | \$ 1500.00 |
| 03/01/2018 | Phillip Chen for Assembly 2018 | 1392379 | \$ 1500.00 |
| 03/02/2018 | Evan Low for Assembly 2018 | 1392357 | \$ 200.00 |
| 03/02/2018 | Patterson for Assembly 2018 | 1393990 | \$ 2000.00 |
| 03/02/2018 | Marc Steinorth for Assembly 2018 | 1392851 | \$ 3300.00 |

If more space is needed, check box and attach continuation sheets.

NOTE: Disclosure in this report does not relieve a filer of any obligation to file the campaign disclosure statements required by Gov. Code Section 84200, et seq.

PERIOD COVERED: 01/01/2018 - 03/31/2018NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

PART IV -- CAMPAIGN CONTRIBUTIONS MADE (Monetary and non-monetary campaign contributions of \$100 or more made to or on behalf of state candidates, elected state officers and any of their controlled committees, or committees supporting such candidates or officers must be reported in A or B below.)

B. Contributions of \$100 or more which have not been reported on a campaign disclosure statement, including contributions made by an organization's sponsored committee, must be itemized below.

| Date | Name of Recipient | I.D. Number if Committee | Amount |
|------------|-------------------------------------|--------------------------|------------|
| 03/02/2018 | Evan Low for Assembly 2018 | 1392357 | \$ 1800.00 |
| 03/02/2018 | Voepel for Assembly 2018 | 1393777 | \$ 2400.00 |
| 03/02/2018 | Jordan Cunningham for Assembly 2018 | 1393016 | \$ 1900.00 |
| 03/02/2018 | Rodriguez for Assembly 2018 | 1392709 | \$ 1400.00 |
| 03/02/2018 | Autumn Burke for Assembly 2018 | 1393348 | \$ 4400.00 |
| 03/02/2018 | Jim Cooper for Assembly 2018 | 1392388 | \$ 4400.00 |
| 03/02/2018 | Melissa Melendez for Assembly 2018 | 1392806 | \$ 1400.00 |
| 03/26/2018 | Blanca Rubio for Assembly 2018 | 1393364 | \$ 2000.00 |
| 03/28/2018 | Piquado for Assembly 2018 | 1401391 | \$ 2500.00 |
| 01/05/2018 | Lorena Gonzalez for Assembly 2018 | 1392494 | \$ 3100.00 |
| 01/05/2018 | Dr. Richard Pan for Senate 2018 | 1374058 | \$ 2200.00 |
| 01/05/2018 | Jim Wood for Assembly 2018 | 1392333 | \$ 2500.00 |
| 01/05/2018 | Marc Berman for Assembly 2018 | 1392758 | \$ 1500.00 |
| 02/22/2018 | Tim Grayson for Assembly 2018 | 1392593 | \$ 1100.00 |

PERIOD COVERED: 01/01/2018 - 03/31/2018NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

PART IV -- CAMPAIGN CONTRIBUTIONS MADE (Monetary and non-monetary campaign contributions of \$100 or more made to or on behalf of state candidates, elected state officers and any of their controlled committees, or committees supporting such candidates or officers must be reported in A or B below.)

B. Contributions of \$100 or more which have not been reported on a campaign disclosure statement, including contributions made by an organization's sponsored committee, must be itemized below.

| Date | Name of Recipient | I.D. Number if Committee | Amount |
|------------|-------------------------------------|--------------------------|------------|
| 02/22/2018 | Marc Berman for Assembly 2018 | 1392758 | \$ 2000.00 |
| 02/26/2018 | Sabrina Cervantes for Assembly 2018 | 1392561 | \$ 1000.00 |
| 02/26/2018 | Rudy Salas for Assembly 2018 | 1393439 | \$ 4400.00 |
| 02/26/2018 | Ian Calderon for Assembly 2018 | 1392684 | \$ 1300.00 |
| 02/26/2018 | Tom Daly for Assembly 2018 | 1393412 | \$ 2900.00 |
| 02/26/2018 | Anthony Rendon for Assembly 2018 | 1393414 | \$ 4400.00 |
| 02/26/2018 | Lorena Gonzalez for Assembly 2018 | 1392494 | \$ 1300.00 |
| 02/26/2018 | Andy Vidak for Senate 2018 | 1373825 | \$ 4400.00 |
| 02/26/2018 | Chris Holden for Assembly 2018 | 1393404 | \$ 2200.00 |
| 02/26/2018 | Adam Gray for Assembly 2018 | 1392612 | \$ 4400.00 |
| 02/28/2018 | Robert Hertzberg for Senate 2018 | 1373423 | \$ 1000.00 |
| 02/28/2018 | Bill Brough for State Assembly 2018 | 1392528 | \$ 4400.00 |
| 02/28/2018 | Janet Nguyen for Senate 2018 | 1373835 | \$ 2800.00 |
| 02/28/2018 | Robert Hertzberg for Senate 2018 | 1373423 | \$ 400.00 |

PERIOD COVERED: 01/01/2018 - 03/31/2018NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

PART IV -- CAMPAIGN CONTRIBUTIONS MADE (Monetary and non-monetary campaign contributions of \$100 or more made to or on behalf of state candidates, elected state officers and any of their controlled committees, or committees supporting such candidates or officers must be reported in A or B below.)

B. Contributions of \$100 or more which have not been reported on a campaign disclosure statement, including contributions made by an organization's sponsored committee, must be itemized below.

| Date | Name of Recipient | I.D. Number if Committee | Amount |
|------------|-------------------------------------|--------------------------|------------|
| 02/28/2018 | Bill Brough for State Assembly 2018 | 1392528 | \$ 150.00 |
| 02/28/2018 | Al Muratsuchi for Assembly 2018 | 1392662 | \$ 1000.00 |
| 02/28/2018 | Brian Dahle for Assembly 2018 | 1393369 | \$ 4400.00 |
| 02/28/2018 | Andreas Borgeas for Senate 2018 | 1394470 | \$ 2500.00 |
| 02/28/2018 | Lackey for Assembly 2018 | 1393205 | \$ 1400.00 |

Attachment Form 640

(Attachment to Form 635 or Form 645)

CALIFORNIA
1993 FORM

640

8/10

PERIOD COVERED: 01/01/2018--03/31/2018

NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

For Use By: A state or local government agency that qualifies as a lobbyist employer or a \$5,000 filer. Refer to the instructions on the cover page before completing this attachment.

Other Payments to Influence Legislative or Administrative Action:

| | |
|--|---------------------|
| 1. Total payments for overhead expenses related to lobbying activity. <u>Report as a lump sum.</u> | \$ 13626.27 |
| 2. Total payments to Lobbying Coalitions. <u>Report as a lump sum.</u> | \$ 0.00 |
| (Form 630 must be attached) | |
| 3. Total payments of less than \$250 during the calendar quarter for lobbying activity (excluding overhead). <u>Report as a lump sum.</u> | \$ 2257.27 |
| 4. Total payments of more than \$250 during the calendar quarter for lobbying activity (excluding overhead). Such payments must be itemized below. | \$ 88860.26 |
| 5. Grand total of "Other Payments to Influence Legislative or Administrative Action." Also enter this total on the appropriate line of the Summary of Payments section on Page 1 of Form 635 or Form 645. | <u>\$ 104743.80</u> |

Itemize below payments of \$250 or more made during the quarter for lobbying activity. Provide the name and address of the payee, the amount paid during the quarter, and the cumulative amount paid to the payee since January 1 of the biennial legislative session covered by the report.

Also itemize dues or similar payments of \$250 or more made to an organization that makes expenditures equal to 10% of its total expenditures or \$15,000 or more in a calendar quarter to influence legislative or administrative action. Provide the organization's name and address, the amount paid to the organization during the quarter, and the cumulative amount paid to the organization since January 1 of the biennial legislative session covered by the report.

| Name & Address of Payee | Amount This Quarter | Cumulative Amount Since January 1 |
|--|---------------------|-----------------------------------|
| [E] - Sempra Expenses Related to Lobbying Activities San Diego CA 92101 | \$ 53565.00 | \$ 125933.00 |
| [S] - Christopher Gilbride Los Angeles CA 90013 | \$ 10086.12 | \$ 36148.20 |
| [P] - Bicker Castillo & Fairbanks Sacramento CA 95814 | \$ 14762.31 | \$ 136637.66 |
| Subtotal of all payments itemized above | \$ 78413.43 | |

If more space is needed, check box and attach continuation sheets.

Attachment Form 640

(Continuation Sheet)

| | |
|-------------------------|------------|
| CALIFORNIA 1993 FORM | 640 |
|-------------------------|------------|

9/10

PERIOD COVERED: 01/01/2018--03/31/2018

NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

| Name & Address of Payee | Amount This Quarter | Cumulative Amount Since January 1 Biennial Legislative Session |
|--|---------------------|--|
| [P] - Imprenta Communications Group San Marino CA 91108 | 3800.00 | 9633.32 |
| [C] - Pete Conaty & Associates Sacramento CA 95814 | 4000.20 | 6666.88 |
| [S] - Kent Kauss Sacramento CA 95814 | 2646.63 | 2646.63 |

| | | |
|--|--|--|
| | | |
|--|--|--|

| | | |
|---|-------------|--|
| Subtotal of all payments itemized above | \$ 10446.83 | |
|---|-------------|--|

TEXT ANNOTATION

PAGE 1

Schedule F635

Reference No:

Assembly Bills: 813,1184,1292,1552,1745,1796,1879,1945,1954,1956,1970,2057,2061,2068,2077,2091,2092,2120,2127,2145,2195,2208 - 2267,2278,2346,2380,2407,2431,2506,2515,2551,2569,2585,2645,2672,2693,2695,2726,2832,2885,2911,3001,3073,3102,3146,3187,3 - 201,3232. Senate Bills: 100,700,819,821,901,1000,1014,1015,1016,1028,1076,1088,1135,1151,1169,1181,1205,1256,1260,1338,1339,1 - 347,1369,1370,1399,1410,1434,1440,1463,1477,1478. Offices Lobbied: Governor's office,California Legislature,CARB,CEC,CISO,CPUC - ,California Resources Agency,California State Water Board.

Attachment D

Form 635 640

Q2 2019

REPORT OF LOBBYIST EMPLOYER

(Government Code Section 86116)

1/10

or

REPORT OF LOBBYING COALITION

(2 Cal. Code of Regs. Section 18616.4)

**FORM 635
1993**

IMPORTANT: Lobbying Coalitions must attach a completed Form 635-C to this Report.

REPORT COVERS PERIOD FROM 04/01/2019 THROUGH 06/30/2019

CUMULATIVE PERIOD BEGINNING 01/01/2019

FOR OFFICIAL USE ONLY

A

B

TYPE OR PRINT IN INK

For information required to be provided to you pursuant to the Information Practices Act of 1977, see Information Manual on Lobbying Disclosure Provisions of the Political Reform Act.

NAME OF FILER:

Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

BUSINESS ADDRESS: (Number and Street)

(City)

(State)

(Zip Code)

TELEPHONE NUMBER:

San Diego

CA

92101

PART I - LEGISLATIVE OR STATE AGENCY ADMINISTRATIVE ACTIONS ACTIVELY LOBBIED DURING THE PERIOD

(See instructions on reverse.)

See attached TEXT

If more space is needed, check box and attach continuation sheets.

SUMMARY OF PAYMENTS THIS PERIOD

| | | |
|--|----|------------------|
| A. Total Payments to In-House Employee Lobbyists (Part III, Section A, Column 1) | \$ | <u>100414.23</u> |
| B. Total Payments to Lobbying Firms (Part III, Section B, Column 4) | \$ | <u>267875.00</u> |
| C. Total Activity Expenses (Part III, Section C) | \$ | <u>6946.66</u> |
| D. Total Other Payments to Influence (Part III, Section D) | \$ | <u>163290.33</u> |

GRAND TOTAL (A + B + C + D above) \$ 538526.22

E. Total Payments in Connection with PUC Activities (Part III, Section E) \$ 23430.06

F. Campaign Contributions: Part IV completed and attached No campaign contributions made this period

VERIFICATION

I have used all reasonable diligence in preparing this Report. I have reviewed the Report and to the best of my knowledge the information contained herein and in the attached schedules is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on (Date)
07/31/2019

At (City and State)
San Diego, CA

By (Signature of Employer or Responsible Officer)
Mr. Dennis Arriola

Name of Employer or Responsible Officer (Type or Print)
Mr. Dennis Arriola

Title
EVP and Group President

PERIOD COVERED: 04/01/2019 06/30/2019NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.**PART II - PARTNERS, OWNERS, AND EMPLOYEES WHOSE "LOBBYIST REPORTS" (FORM 615) ARE ATTACHED TO THIS REPORT** (See instructions on reverse.)

| Name and Title | Name and Title |
|---|--|
| Employee Israel Salas Government Affairs Manager | Employee Ms. Nicolina Hernandez Government Affairs Manager |
| Employee Ms. Lourdes Jimenez Government Affairs Manager | |
| | |
| | |
| | |

 If more space is needed, check box and attach continuation sheets.
PART III - PAYMENTS MADE IN CONNECTION WITH LOBBYING ACTIVITIES

| A. PAYMENTS TO IN-HOUSE EMPLOYEE LOBBYISTS (See instructions on reverse. Also enter the Amount This Period (Column 1) on Line A of the Summary of Payments section on page 1.) | (1) Amount This Period | (2) Cumulative Total To Date |
|---|------------------------------|------------------------------------|
| | \$ 100414.23 | \$ 282613.56 |

| B. PAYMENTS TO LOBBYING FIRMS (Including Individual Contract Lobbyists) | | | | | |
|--|----------------------------|--------------------------------------|--|-----------------------------|------------------------------------|
| Name and Address of Lobbying Firm/Independent Contractor | (1) Fees & Retainers | (2) Reimbursements of Expenses | (3) Advances or Other Payments (attach explanation) | (4) Total This Period | (5) Cumulative Total to Date |
| AJW, Inc. Arlington VA 22201 | 0.00 | 0.00 | 0.00 | 0.00 | 10000.00 |
| California Strategies & Advocacy LLC Sacramento CA 95814 | 30000.00 | 0.00 | 0.00 | 30000.00 | 30000.00 |
| Campbell Strategy & Advocacy, LLC Sacramento CA 95814 | 18000.00 | 0.00 | 0.00 | 18000.00 | 47000.00 |
| CAPITOL STRATEGIES GROUP, INC. Sacramento CA 95814 | 69000.00 | 0.00 | 0.00 | 69000.00 | 81000.00 |
| CRUZ STRATEGIES SACRAMENTO CA 95814 | 44000.00 | 0.00 | 0.00 | 44000.00 | 69453.84 |

TOTAL THIS PERIOD (Column 4)

Also enter the total of Column 4 on Line B of the Summary of Payments section on page 1.

\$ 267875.00

 If more space is needed, check box and attach continuation sheets

PERIOD COVERED: 04/01/2019 06/30/2019

NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

C. ACTIVITY EXPENSES (See instructions on reverse.)

| Date | Name and Address of Payee | Name and Official Position of Reportable Persons and Amount Benefiting Each | Description of Consideration | Total Amount of Activity |
|------------|---|---|--------------------------------|--------------------------|
| 05/06/2019 | Amourath Sacramento CA 98514 | Patsy Ayala Field Rep - Senator Wilk | VISA 11.20 Meal | \$ 34.80 |
| 04/30/2019 | Eurest Dining San Diego CA 92123 | Janea Scott CEC Commissioner | 10.00 MASTER - CARD Meal | 106.30 |
| 05/09/2019 | Eurest Dining San Diego CA 92123 | Tony Mecham CAL Fire Unit Chief | 14.95 Other Meal | 1495.00 |
| 05/22/2019 | Eurest Dining Los Angeles CA 90013 | Lana Wong CEC Senior Analyst | 25.09 Other Meal | 150.56 |
| | Eurest Dining Los Angeles CA 90013 | Rod Walker CEC Consultant | 25.09 Other Meal | |

If more space is needed, check box and attach continuation sheets.

TOTAL SECTION C (Activity Expenses)
Also enter the total of Section C on Line C of the Summary of Payments section on page 1.

\$ 6946.66

D. OTHER PAYMENTS TO INFLUENCE LEGISLATIVE OR ADMINISTRATIVE ACTION

NOTE: State and local government agencies do not complete this section. Check box and complete Attachment Form 640 instead.

1. PAYMENTS TO LOBBYING COALITIONS (NOTE: You must attach a completed Form 630 to this Report.) \$ 0.00

2. OTHER PAYMENTS \$ 163290.33

TOTAL SECTION D (1 + 2) Also enter the total of Section D on Line D of the Summary of Payments section on page 1.

\$ 163290.33

E. PAYMENTS IN CONNECTION WITH ADMINISTRATIVE TESTIMONY IN RATEMAKING PROCEEDINGS BEFORE THE CALIFORNIA PUBLIC UTILITIES COMMISSION Also, enter the total of Section E on Line E of the Summary of Payments section on page 1. (See instructions on reverse.)

\$ 23430.06

PERIOD COVERED: 04/01/2019 06/30/2019

NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

PART III - PAYMENTS MADE IN CONNECTION WITH LOBBYING ACTIVITIES

B. PAYMENTS TO LOBBYING FIRMS (Including Individual Contract Lobbyists)

| Name and Address of Lobbying Firm/Independent Contractor | (1) Fees & Retainers | (2) Reimbursements of Expenses | (3) Advances or Other Payments (attach explanation) | (4) Total This Period | (5) Cumulative Total to Date |
|--|-------------------------|-----------------------------------|---|--------------------------|---------------------------------|
| Mercury Public Affairs Sacramento CA 95814 | 46875.00 | 0.00 | 0.00 | 46875.00 | 67875.00 |
| Kester/Pahos Sacramento CA 95814 | 60000.00 | 0.00 | 0.00 | 60000.00 | 60000.00 |

TOTAL THIS PERIOD (Column 4)
Also enter the total of Column 4 on Line B of the Summary of Payments section on page 1.

\$ 267875.00

PERIOD COVERED: 04/01/2019 06/30/2019NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

| C. ACTIVITY EXPENSES (See instructions on reverse.) | | | | | |
|---|--|---|------------------------------|------------------------------|--------------------------|
| Date | Name and Address of Payee | Name and Official Position of Reportable Persons and Amount Benefiting Each | | Description of Consideration | Total Amount of Activity |
| | Eurest Dining Los Angeles CA 90013 Reference No: | Elexeious Prigett CEC Oil & Gas Advisor | \$ 25.09 Other | Meal | \$ |
| 06/25/2019 | Sutter Club Sacramento CA 95814 Reference No: | Miranda Flores Legislative Director - Assemb - lymember Quirk | \$ 67.01 MASTER - CARD | Meal | \$ 5160.00 |
| | Sutter Club Sacramento CA 95814 Reference No: | Tim Olson Senior Policy Advisor - CEC | \$ 67.01 MASTER - CARD | Meal | \$ |
| | Sutter Club Sacramento CA 95814 Reference No: | Kielan Rathjan Executive Fellow - Governor's office of Business | \$ 67.01 MASTER - CARD | Meal | \$ |
| | Sutter Club Sacramento CA 95814 Reference No: | Prab Sethi Grant Manager - CEC | \$ 67.01 MASTER - CARD | Meal | \$ |
| | Sutter Club Sacramento CA 95814 Reference No: | Dan Sperling Board Member - CARB | \$ 67.01 MASTER - CARD | Meal | \$ |
| | Sutter Club Sacramento CA 95814 Reference No: | Bill Quirk Assemblymember | \$ 67.01 MASTER - CARD | Meal | \$ |
| | Sutter Club Sacramento CA 95814 Reference No: | Tyson Eckerle Deputy Director - Governor's office of Business | \$ 67.01 MASTER - CARD | Meal | \$ |
| TOTAL SECTION C (Activity Expenses) Also enter the total of Section C on Line C of the Summary of Payments section on page 1. | | | | | \$ |

PERIOD COVERED: 04/01/2019 06/30/2019

NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

C. ACTIVITY EXPENSES (See instructions on reverse.)

| Date | Name and Address of Payee | Name and Official Position of Reportable Persons and Amount Benefiting Each | | Description of Consideration | Total Amount of Activity |
|------|---|---|------------------------------|------------------------------|--------------------------|
| | Sutter Club Sacramento CA 95814 Reference No: | Hassan Mohammed Contract Manager - CEC | \$ 67.01 MASTER - CARD | Meal | \$ |

| | | |
|--|---|---------------|
| | TOTAL SECTION C (Activity Expenses) Also enter the total of Section C on Line C of the Summary of Payments section on page 1. | \$ 6946.66 |
|--|---|---------------|

Attachment Form 640

(Attachment to Form 635 or Form 645)

CALIFORNIA
1993 FORM

640

8/10

PERIOD COVERED: 04/01/2019--06/30/2019

NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

For Use By: A state or local government agency that qualifies as a lobbyist employer or a \$5,000 filer. Refer to the instructions on the cover page before completing this attachment.

Other Payments to Influence Legislative or Administrative Action:

| | |
|--|---------------------|
| 1. Total payments for overhead expenses related to lobbying activity. <u>Report as a lump sum.</u> | \$ 7937.99 |
| 2. Total payments to Lobbying Coalitions. <u>Report as a lump sum.</u> | \$ 0.00 |
| (Form 630 must be attached) | |
| 3. Total payments of less than \$250 during the calendar quarter for lobbying activity (excluding overhead). <u>Report as a lump sum.</u> | \$ 2053.10 |
| 4. Total payments of more than \$250 during the calendar quarter for lobbying activity (excluding overhead). Such payments must be itemized below. | \$ 153299.24 |
| 5. Grand total of "Other Payments to Influence Legislative or Administrative Action." Also enter this total on the appropriate line of the Summary of Payments section on Page 1 of Form 635 or Form 645. | <u>\$ 163290.33</u> |

Itemize below payments of \$250 or more made during the quarter for lobbying activity. Provide the name and address of the payee, the amount paid during the quarter, and the cumulative amount paid to the payee since January 1 of the biennial legislative session covered by the report.

Also itemize dues or similar payments of \$250 or more made to an organization that makes expenditures equal to 10% of its total expenditures or \$15,000 or more in a calendar quarter to influence legislative or administrative action. Provide the organization's name and address, the amount paid to the organization during the quarter, and the cumulative amount paid to the organization since January 1 of the biennial legislative session covered by the report.

| Name & Address of Payee | Amount This Quarter | Cumulative Amount Since January 1 |
|--|---------------------|-----------------------------------|
| [E] - Sempra Expenses Related to Lobbying Activities San Diego CA 92101 | \$ 32597.00 | \$ 77593.00 |
| [S] - Loren Logan San Diego CA 92123 | \$ 5736.36 | \$ 9833.76 |
| [S] - Rhiannon Davis San Diego CA 92123 | \$ 6286.57 | \$ 10434.41 |
| Subtotal of all payments itemized above | \$ 44619.93 | |

If more space is needed, check box and attach continuation sheets.

Attachment Form 640

(Continuation Sheet)



9/10

PERIOD COVERED: 04/01/2019--06/30/2019

NAME OF FILER: Sempra Energy and its Affiliates San Diego Gas & Electric and So. Cal. Gas Co.

| Name & Address of Payee | Amount This Quarter | Cumulative Amount Since January 1 Biennial Legislative Session |
|--|---------------------|--|
| [S] - Christopher Gilbride Los Angeles CA 90013 | 10825.32 | 21650.64 |
| [P] - Bicker Castillo & Fairbanks Sacramento CA 95814 | 41343.59 | 41343.59 |
| [S] - Kent Kauss Sacramento CA 95814 | 4709.73 | 7764.69 |
| [P] - Storefront Political Media San Francisco CA 94111 | 28000.00 | 28000.00 |
| [P] - Marathon Communications Los Angeles CA 90036 | 15266.75 | 15266.75 |
| [S] - Scott Drury San Diego 92123 | 8533.92 | 8533.92 |
| | | |
| Subtotal of all payments itemized above | \$ 108679.31 | |

TEXT ANNOTATION

PAGE 1

Schedule F635

Reference No:

Assembly Bills: 25,38,56,74,111,126,157,161,178,235,281,291,491,560,660,684,745,753,784,868,900,915,961,983,1026,1039,1054,1057 - 1083,1100,1124,1143,1144,1156,1166,1195,1232,1293,1323,1328,1347,1362,1363,1371,1406,1424,1463,1516,1584,1690,1693,1751,1789,1799. Senate Bills: 44,49,70,85,130,155,167,169,182,190,199,209,210,216,247,255,290,350,457,463,515,520,524,535,548,549,550,551,561,584,597,632,660,662,676,682,766,772,774. Offices Lobbied: Governor's office, California Legislature, CARB, California Department of Forestry & Fire Protection, CalEPA, CEC, CISO, CPUC, California Resources Agency, California State Water Board.

Attachment E

Data Request - CalAdvocates-TB-SCG-2020-04

Issued June 30, 2020



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-2020-04
Not In A Proceeding

Date Issued: June 30, 2020

Date Due: July 10, 2020

To: Corinne Sierzant Phone: (213) 244-5354
Regulatory Affairs for SoCalGas Email: CSierzant@semprautilities.com

Elliott S. Henry Phone: (213) 244-8234
Attorney for SoCalGas Email: EHenry@socalgas.com

Stacy Van Goor Email: SVanGoor@sempra.com
Sempra Energy

Jason H. Wilson Email: jwilson@willenken.com
Outside Counsel for SoCalGas Phone: 213.955.8020

From: Traci Bone Phone: (415) 713-3599
Attorney for the Email: Traci.Bone@cpuc.ca.gov
Public Advocates Office

Alec Ward Phone: (415) 703-2325
Analyst for the Email: Alec.Ward@cpuc.ca.gov
Public Advocates Office

Stephen Castello Phone: (415) 703-1063
Analyst for the Email: Stephen.Castello@cpuc.ca.gov
Public Advocates Office

INSTRUCTIONS¹

General:

You are instructed to answer the following Data Requests with written, verified responses pursuant to, without limitation, Public Utilities Code §§ 309.5(e), 311(a), 314, 314.5(a), 581, 582, 584, 701 and 702 and Rule 1.1 of the California Public Utilities Commission's Rules of Practice and Procedure within ten (10) business days. Note that Public Utilities Code § 581 requires you to provide the information in the form and detail that we request and failure to do so may result in fines or other penalties.

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.

¹ Because SoCalGas has routinely failed to comply with the Instructions provided in the data requests in this investigation, portions of these Instructions are highlighted to bring your attention to the Instructions. Cal Advocates' expects that you will comply with all of the Instructions, including those that are highlighted.

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 notify Cal Advocates of your intent to make such claims within five (5) business days, and provide a privilege log no later than the due date of this data request, including: (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. No confidential information should be blacked out. Assertions of confidentiality will be carefully scrutinized and are likely to be challenged absent a strong showing of the legal basis and need for confidentiality.

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 under penalty of perjury 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” and 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, including its parent, Sempra Energy Company.
- 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 described in the Sempra Energy Political Activities Policy (Policy) and the training materials related to the Policy.²

² 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.”

DATA REQUEST

1. For every SoCalGas or Sempra Energy Company (Sempra) account identified in response to the questions below, please provide all journal entries and Journal Entry Request Forms from January 1, 2015 to the present. Because this data request is continuing in nature pursuant to the General Instructions above, going forward, as new Journal Entries are made to any of these accounts, or Journal Entry Request Forms are created, they should be provided to Cal Advocates pursuant to this data request within 10 business days of the journal entry being made. To the extent you claim attorney/client communication or attorney work product privilege for the Journal Entries or the Journal Entry Request Forms, please provide a privilege log consistent with the Instructions set forth above and no later than the due date of this data request.
2. Please provide the confidential version of SoCalGas' 2019 GO77-M report, which should have been submitted to the CPUC on or before May 31, 2020. As this was an outstanding data request, please explain why it has not already been provided to Cal Advocates consistent with the continuing nature of data requests in this investigation.
3. Please list all account names and numbers that were excluded from Cal Advocates review of SoCalGas' SAP system through the "custom software solution" described on pages 1 and 2 in SoCalGas' May 22, 2020 substitute Motion to Quash.³

SOCALGAS/SEMPRA FINANCIAL SUPPORT OF THIRD PARTIES

4. Please provide the following information available to Sempra and/or SoCalGas regarding the entity Bracewell LLP - <https://bracewell.com/>
 - a. A narrative of the relationship between or among Sempra, SoCalGas, and the entity;
 - b. The date and amount of any payments or donations made to the entity by Sempra and/or SoCalGas between January 1, 2015 and today.
 - c. The Sempra and/or SoCalGas identification number for the entity;
 - d. All contracts in effect at any time between January 1, 2015 and today between or among Sempra, SoCalGas and the entity, and all amendments and requisition requests;
 - e. All invoices submitted by the entity and/or paid by Sempra and/or SoCalGas at any time between January 1, 2015 and today;

³ 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).*"

- f. All Work Order Authorizations related to payments made to the entity;
 - g. If the entity is/was a subcontractor to any Sempra and/or SoCalGas vendor, provide the name of that vendor and all of the information set forth in subsections (a) through (f) above.
 - h. If the entity is/was a charitable organization, please provide the date and amount of any donations made to the entity by Sempra and/or SoCalGas between January 1, 2015 and today.
 - i. For any payments to the entity:
 - The accounts where the payments were booked;
 - Identification of which portion of the payment is or will be booked to an above-the-line account (i.e. ratepayer funded) and which portion is or will be booked to a below-the-line account (i.e. shareholder funded); and
 - A narrative explanation for why the payments were assigned in the manner identified above.
5. Please provide the same information requested in Question 4 for each of the following entities:
- a. LB Consulting, Inc. – <https://www.lbstrategicconsulting.com/>
 - b. Method Campaign Services - <https://www.methodcampaigns.com/>
 - c. Act Now Los Angeles – previously at the website actnowla.org
 - d. BizFed - <https://bizfedlacounty.org/>
 - e. Willenken LLP - <https://willenken.com/>
 - f. We Expect Clean Air Now (WECAN) – formerly linked to the COFEM website
 - g. Council of Mexican Federations in North America (COFEM) - <https://www.cofem.org/>
 - h. California Community Builders – <https://www.ccbuilders.org/about/>
 - i. The Two Hundred - <https://www.thetwohundred.org/>
 - j. California Natural Gas Vehicle Coalition - <https://cngvc.org/>
 - k. Coalition for Clean Air - <https://www.ccair.org/>
 - l. Clean Energy Fuels - <https://www.cleanenergyfuels.com/>
 - m. Western States Petroleum Association - <https://www.wspa.org/>
 - n. Californians for Affordable and Reliable Energy (CARE) - <https://www.careaboutenergy.org/about-us>
 - o. Californians for Balanced Energy Solutions (C4BES) - <https://c4bes.org/>
 - p. Coalition for Renewable Natural Gas - <http://www.rngcoalition.com/>

ACCOUNTING & ACCOUNTING POLICIES

6. Please provide a chart of all SoCalGas accounts that shows how each account is tracked to the FERC Uniform System of Accounts.

7. Please provide the instructions for IO_Form_503.xls, which prior SoCalGas data responses reflect are located on the SoCalGas and/or Sempra “Manuals & Forms” page of the Accounting and Finance Intranet website.
8. Please provide SoCalGas and/or Sempra documentation, including any policies or procedures, that explains what a Work Order Authorization is, what its purpose is, when one should be requested, and who approves one.
9. Please provide SoCalGas and/or Sempra documentation, including any policies or procedures, that explains what an Internal Order (IO) is, what its purpose is, when one should be requested, who approves one, and how an IO differs from a Work Order Authorization.
10. Explain whether it is common to have a Work Order Authorization effective date on a date before the Work Order Authorization is prepared and authorized, and if so, why.
11. Do SoCalGas and/or Sempra policies permit work to be performed without an approved Work Order Authorization? If so, please provide supporting documentation for this policy.

BALANCED ENERGY WORK ORDER AUTHORIZATION

12. In reference to the attached Balanced Energy Work Order Authorization provided to Cal Advocates, please:
 - a. Explain what the number in the upper left hand corner represents – 300796601.
 - b. Explain what the number in the upper right hand corner represents - 28322.000.
 - c. Explain what the number under “FERC Account” – F920000G – means.
 - d. Provide whatever SoCalGas and/or Sempra employee guidance exists that explains the types of activities or costs that are charged to “nonrefundable O&M.”
 - e. Provide whatever SoCalGas and/or Sempra employee guidance exists that explains the types of activities or costs that are charged to FERC Account F920000G.
 - f. Explain what “Operating Area/District” and the term “GCT” means.
 - g. Explain why the Balanced Energy Work Order Authorization was made effective 1/1/2019 but not created or approved until 3/21/2019.
 - h. Explain how the “Company Labor” of \$3,504,030 was calculated.

- i. Provide any documents that were presented in support of the approval of the Balanced Energy Work Order Authorization.
- j. Provide all updated versions of the Balanced Energy Work Order Authorization or any successors.
- k. Provide all accounting instructions associated with the Balanced Energy Work Order Authorization.
- l. Provide all Journal Entry Request Forms in which the Balanced Energy IO (IO 300796601) appears as either a debit or credit.

13. The “Job Scope Summary” of the attached Balanced Energy Work Order Authorization refers to an “Energy Policy and Strategy team.” Regarding the Energy Policy and Strategy team:

- a. Please provide any SoCalGas or Sempra documentation that describes this team.
- b. Please identify the members of the team by year for each year from January 1, 2015 to the present.
- c. Please identify all budgets allocated to the team by year for each year from January 1, 2015 to the present.
- d. Please identify all cost centers where work performed by or for the team is booked.

100% SHAREHOLDER-FUNDED CONTRACTS AND ACTIVITIES

14. For each “100% shareholder-funded” contract (as that term is used in SoCalGas’ Motion for Reconsideration⁴) please provide:

- a. The contract and any amendments and requisition requests;
- b. The Work Order Authorization;
- c. All account numbers where costs of the contract are booked;
- d. The name and identification number of all vendors whose costs are charged to SoCalGas or Sempra under the contract;
- e. Any other legal agreements between or among SoCalGas and/or Sempra and the vendors who costs are charged to the contract.

⁴ That Motion for Reconsideration was served December 2, 2019 and 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).*”

15. For all 100% shareholder-funded activities that are the subject of SoCalGas First Amendment arguments in its Motion for Reconsideration (Activities) please provide:
- a. Any contract, amendments or requisition requests relating to the Activities;
 - b. The Work Order Authorization;
 - c. If no contract exists, a narrative description of the Activities;
 - d. All account numbers where costs for the Activities are booked;
 - e. The name and identification number of all vendors paid for the activities by either SoCalGas or Sempra;
 - f. Any other legal agreements between or among SoCalGas and/or Sempra and the vendors who perform the Activities.

GEORGE MINTER AND KENNETH CHAWKINS

16. When did George Minter begin working for SoCalGas and/or Sempra and when did his employment terminate?
17. Please identify Mr. Minter's titles and explain his duties while employed for SoCalGas and/or Sempra between January 1, 2015 and his termination.
18. Please provide Mr. Minter's current contact information, including home address, phone number, and email.
19. CalAdvocates-AW-SCG-2020-01 Q21 asked "Has SoCalGas contracted with or begun the process to establish a contract with George Minter or an organization that represents George Minter? If yes, please provide the following:..." SoCalGas responded "No." However, Cal Advocates was advised that Mr. Minter represented himself as a consultant to SoCalGas as recently as May, 2020. Please confirm Mr. Minter's current employment status with SoCalGas.
20. When did Kenneth Chawkins begin working for SoCalGas and/or Sempra and when did his employment terminate?
21. Please identify Mr. Chawkins' titles and explain his duties while employed for SoCalGas and/or Sempra between January 1, 2015 and his termination.
22. Identify all SoCalGas and Sempra employees who were briefed by either George Minter or Ken Chawkins between January 1, 2015 and today on the creation or purpose of Californians For Balanced Energy Solutions (C4BES) or SoCalGas' relationship to C4BES.

23. Please provide the names and titles of the persons who are now performing the work previously performed by George Minter and Ken Chawkins.

BATES STAMPED DOCUMENTS PROVIDED TO SOCALGAS 3/11/20

24. Refer to PAO-0000001 and 0000002, which are the first two pages of the collection of 209 pages of Bates-stamped documents provided to SoCalGas by Cal Advocates on March 11, 2020, for removal of all unsupported confidentiality designations.

Regarding those two pages (referred to as “Document” here), please provide:

- a. A narrative explanation of what the Document represents.
- b. The date that that the Document was created. If a specific date is not available, please provide an approximation.
- c. All versions of the Document that exist from both before and after the date of the version in the 209 pages of Cal Advocates documents.
- d. Explain whether the Document is an excerpt from a larger document. If so, please provide all other information that comprised the entire document.
- e. Define the term “PAM” which is the heading for the second to last column of the Document.
- f. For each SoCalGas employee identified under the "PAM" column in the Document, please provide:
 - The full name of the employee and their title at the time the Document was created;
 - The amount of time the employee spent on activities related to C4BES, including discussion of C4BES with members of the business community and any supporting documentation, such as accounting or time entry documentation.
 - Explain whether work performed by a PAM would be allocated to above-the-line or below-the-line accounts, or a combination, and the rationale for such allocations.
 - Identify if any employee time was recorded to shareholder accounts (at any point) for activities related to C4BES for any of these employee, and if so, the accounts where the time is recorded.

IMPRENTE COMMUNICATIONS GROUP

25. SoCalGas’ April 24, 2020, response to Question 3 of Data Request CalAdvocates-SC-SCG-2019-11 states that Imprenta Communications’ invoices that SoCalGas produced in response to the data request as “Exhibit A” “were not paid by SoCalGas,

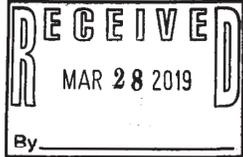
and it is unclear whether or not SoCalGas is even ultimately responsible for payment.” Please:

- a. Explain why SoCalGas believed that it was “unclear whether or not SoCalGas is even ultimately responsible for payment;”
- b. Provide documentation that supports SoCalGas’ claim that it was not responsible for payment of the invoices, including any documentation provided to Imprenta to support SoCalGas’ claim;
- c. Identify who, if anyone, paid these Imprenta Invoices; and
- d. If these invoices were not paid, was Imprenta compensated in any other manner for the work described in the invoices?

END OF REQUEST

20079601

20922.000

| WORK ORDER AUTHORIZATION FOR SEMPRA ENERGY UTILITIES | | | | | COMPANY CODE | Work Order No: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|----------------------|-----------------|------|-------|---|--|-----------------|-----|-------|---------------|------|------|------|------|----------------|--|--|--|--|----------|--|--|--|--|----------------------|--|--|--|--|--------------------------|--|--|--|--|-----------------------------|--|--|--|--|-----------------|--|--|--|--|--------------------|--|--|--|--|-----------------|--|--|--|--|-----------------------------------|--|--|--|--|-------|--|--|--|--|----------------------------|--|--|--|--|---------------------------|--|--|--|--|----------------|--------|---|--|--|---------------------------|--|--|--|--|----------------------------------|--|--|--|--|-----------------------------|------|------|------|------|------|-----------|-----|-----|-----|-----|-----|--|--|
| Field names with ALL CAPITAL letters are required. | | | | | 2200 | CAPITAL <input type="checkbox"/> O&M <input checked="" type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TITLE BALANCED ENERGY | | | | | Thomas Bros. | WR/DPS Number: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| DATE PREPARED: 3/21/2019 EST. START DATE: 1/1/2019 EST. COMPLETION DATE: 12/31/2024 | | | | | BUDGET CODE: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| RESPONSIBLE COST CENTER: 2200-2204 | | | | | Phase 1 | Phase 2 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ORGANIZATION: Customer Service | | | | | Billing Code: NC 0% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| OPERATING AREA/DISTRICT: GCT | | | | | Operating Region: Headquarters (39) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| COUNTY: Los Angeles MUNICIPALITY: | | | | | Third Party <input type="checkbox"/> | Receiving Order <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| TECHNICAL/ECONOMIC PROJECT REVIEWS* <input type="checkbox"/> Legal By: Date: <input type="checkbox"/> Tax By: Date: <input type="checkbox"/> Accounting By: Date: <input type="checkbox"/> Planning By: Date: <small>*Required for all base business, non-base business & administrative approval for WOA's or AFE's over \$30, \$15, & \$50 million respectively, prior to review and approval as appropriate. If a contract initially totals \$20 million or more, the reviews must be evidenced by completion of an Internal Reviewer Checklist (IRC). For more details, please refer to the CAU Approval & Commitment Policy in the intranet.</small> | | | | | Comments regarding Technical/Economic Project Review: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| JOB SCOPE SUMMARY This is an IO for tracking purposes, set up to track costs associated with BALANCED ENERGY expenditures within the ENERGY POLICY & STRATEGY team. All costs should be nonrefundable O&M. | | | | | Reference Approval and Commitment Policy: <input type="checkbox"/> CATEGORY 1 Base Business CATEGORY 2 Non-base Bus. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| DETAILED DESCRIPTION OF WORK This is an IO for tracking purposes, set up to track costs associated with BALANCED ENERGY expenditures within the ENERGY POLICY & STRATEGY team. All costs should be nonrefundable O&M. | | | | | Bill to Name & Address: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|  | | | | | Charging Cost Centers to this order: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ESTIMATED COSTS | | | | | Receiver Co. Amount Or % | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <thead> <tr> <th></th> <th>Capital Installation</th> <th>Capital Removal</th> <th>O&M</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Company Labor</td> <td>\$ -</td> <td>\$ -</td> <td>\$ -</td> <td>\$ -</td> </tr> <tr> <td>Contract Costs</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Material</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Other Direct Charges</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Direct Cost</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Affiliate Transfer In Costs</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Labor Indirects</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Material Indirects</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Other Indirects</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Ad Valorem Tax (per GRC decision)</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>AFUDC</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Indirect Cost</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Gross Expenditures</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>ITCCA (Y or N)</td> <td>22.00%</td> <td>y</td> <td></td> <td></td> </tr> <tr> <td>Less: Billing/Part Contr.</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Total Net Estimated Costs</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Gross Expenditures by year:</td> <td>2019</td> <td>2020</td> <td>2021</td> <td>2022</td> <td>2023</td> </tr> <tr> <td>% by Year</td> <td>17%</td> <td>19%</td> <td>21%</td> <td>21%</td> <td>22%</td> </tr> </tbody> </table> | | | | | | Capital Installation | Capital Removal | O&M | Total | Company Labor | \$ - | \$ - | \$ - | \$ - | Contract Costs | | | | | Material | | | | | Other Direct Charges | | | | | Total Direct Cost | | | | | Affiliate Transfer In Costs | | | | | Labor Indirects | | | | | Material Indirects | | | | | Other Indirects | | | | | Ad Valorem Tax (per GRC decision) | | | | | AFUDC | | | | | Total Indirect Cost | | | | | Gross Expenditures | | | | | ITCCA (Y or N) | 22.00% | y | | | Less: Billing/Part Contr. | | | | | Total Net Estimated Costs | | | | | Gross Expenditures by year: | 2019 | 2020 | 2021 | 2022 | 2023 | % by Year | 17% | 19% | 21% | 21% | 22% | APPROVALS Project Approved upon order Preparer: Alan Catewell Date: 3/21/2019 Dir - Energy Policy: [Signature] Date: 3/21/2019 [Signature] Date: 3/21/2019 Sharon Tomkins VP S&C Strategy + Eng \$30M Functional Committee Chair Functional V. P. Utility President Utility C. E. O. Accounting Use Only: Acctg Ops: [Signature] Date: Ord. Type: [Signature] Date: % CH Key: [Signature] Date: % User Status: [Signature] Date: % Total Commitment Accumulated: [Signature] Date: % [Signature] Date: % | |
| | Capital Installation | Capital Removal | O&M | Total | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Company Labor | \$ - | \$ - | \$ - | \$ - | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Contract Costs | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Material | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Other Direct Charges | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Direct Cost | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Affiliate Transfer In Costs | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Labor Indirects | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Material Indirects | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Other Indirects | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Ad Valorem Tax (per GRC decision) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| AFUDC | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Indirect Cost | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Gross Expenditures | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ITCCA (Y or N) | 22.00% | y | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Less: Billing/Part Contr. | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Total Net Estimated Costs | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Gross Expenditures by year: | 2019 | 2020 | 2021 | 2022 | 2023 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| % by Year | 17% | 19% | 21% | 21% | 22% | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| INSTRUCTIONS ARE LOCATED ON THE "MANUALS & FORMS" PAGE OF THE ACCOUNTING & FINANCE INTRANET WEBSITE | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |