

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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

Not In A Proceeding

Application For Rehearing of Resolution
ALJ-391.

Application 20-12-011

**PUBLIC ADVOCATES OFFICE MOTION TO COMPEL
SOUTHERN CALIFORNIA GAS COMPANY
TO PROVIDE REMOTE ACCESS TO SAP DATABASE TO AUDIT RATEPAYER
ACCOUNTS; [PROPOSED] ORDER**

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I. INTRODUCTION AND OVERVIEW

Pursuant to Public Utilities Code Sections 309.5(e) and 314, and Rules 11.1 and 11.3 of the California Public Utilities Commission’s (Commission) Rules of Practice and Procedure (Rules),¹ the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) moves the Commission to compel Southern California Gas Company (SoCalGas) to do all things necessary to provide full and complete remote access to the utility’s SAP (System Application and Product in Processing) database so that Cal Advocates may audit Federal Energy Regulatory Commission (FERC) Uniform System of Accounts (USOA) numbers 901 through 935 for the period January 1, 2010 to the present. All of these accounts are ratepayer funded accounts consistent with the provisions of the USOA.²

Cal Advocates originally sought more limited access to the same accounts (referred to as the “900 series accounts”) pursuant to a data request issued April 1, 2021.³

¹ While reliance on Commission Rules is not required to enforce Cal Advocates’ “not in a proceeding” authority, we reference such Rules here because this proceeding has evolved into a formal proceeding related to Resolution ALJ-391 and SoCalGas’ appeal of the Commission’s determinations in that Resolution, which is pending at *Southern California Gas Company v. Public Utilities Commission of the State of California*, Court of Appeal for the Second Appellate District, Division One, Case No. B310811.

² The FERC USOA is codified at 18 CFR Subchapter C – Accounts, Federal Power Act. Understanding from data request responses that SoCalGas has routinely booked political advocacy costs to accounts in the 900 series – which are considered to be “ratepayer-funded” accounts – Cal Advocates sought to audit those accounts to determine whether costs in those accounts were properly booked to ratepayers. *See* 18 CFR Pt. 201, § 901 *et seq.* to see the types of costs properly allocated to these 900 series accounts. This is in contrast to 18 CFR Pt. 201, §§ 426.1-426.5 which specifies accounts for booking donations, executive life insurance, penalties, expenses for certain civic, political and related activities, and other deductions which are not typically recovered in rates.

³ *See* MTC Exhibit 1 - Data Request - CalAdvocates-TB-SCG-2021-04 - 900 Series Audit. That data request sought access for the 900 Series of Accounts for the period January 1, 2017 to the March 15, 2021. Given that SoCalGas had previously represented that it was prepared to provide remote access to similar accounts, Cal Advocates requested that “[p]reparations shall be such that the audit may commence no later than Monday, April 12, 2021.” Cal Advocates has confirmed through meet and confer communications with SoCalGas between October 5 and October 20, 2021 that the utility continues to refuse to provide Cal Advocates the remote SAP

SoCalGas has refused to provide Cal Advocates access to those accounts on three grounds:

- (1) That allowing Cal Advocates to audit its accounts would violate the Commission Executive Director’s March 19, 2021 temporary stay of Resolution ALJ-391⁴ and the “Temporary Stay Order” issued by the Court of Appeal for the Second Appellate District, Division One (Court of Appeal), in Case No. B310811- Southern California Gas Company v. Public Utilities Commission of the State of California.^{5 6}
- (2) That the audit request improperly sought to “prematurely litigate SoCalGas’s next GRC, is inconsistent with the Commission approved GRC Rate Case Plan, and to the extent it purports to require SoCalGas to create documents or compile information in a format that it does not maintain or as not yet created in the ordinary course of business.”⁷
- (3) That the audit request is vague and ambiguous as to “remote access...to all information contained in FERC Uniform System of Account Nos. 901 through 935 and their subsidiary accounts” and that the deadline for the request was “unreasonable and unduly burdensome.”⁸

access it has requested to audit these ratepayer accounts. *See* MTC Exhibit 2 - Meet & Confer re Access To Audit RP Accounts. Instead, the utility proposes to provide documents in a “Microsoft Access database” that it will prepare for Cal Advocates’ review. Those databases will be provided through a staggered process over the next month or so at the utility’s discretion and timing.

⁴ The Executive Director’s March 19, 2021 letter granting SoCalGas an extension of time to comply with ALJ-391 is attached hereto a MTC-Exhibit 3 - Executive Director Letter – March 19, 2021.

⁵ The Court of Appeals issued a temporary stay order on March 16, 2021 (*see* MTC-Exhibit 4 – Court of Appeal Order, March 22, 2021), but that stay was vacated on March 22, 2021 in response to the Commission Executive Director’s extension of time for SoCalGas’ to comply with Resolution ALJ-391.

⁶ SoCalGas’ response to Cal Advocates’ data request for audit access is attached hereto as MTC Exhibit 5 - SoCalGas Response to CalAdvocates-TB-SCG-2021-04 - 900 Series Audit.

⁷ MTC Exhibit 5 - SoCalGas Response to CalAdvocates-TB-SCG-2021-04 - 900 Series Audit.

⁸ MTC Exhibit 5 - SoCalGas Response to CalAdvocates-TB-SCG-2021-04 - 900 Series Audit.

SoCalGas' arguments have no merit and are, in fact, contrary to express representations the utility's counsel made to the Court of Appeal. On July 16, 2021 – three months after denying Cal Advocates' request to audit the utility's ratepayer accounts – SoCalGas told the Court of Appeal that it was more than willing to make its ratepayer accounts available to Cal Advocates, including via remote access to its SAP database:

“...SoCalGas has not taken, and still does *not* take, issue with CalPA inspecting its ratepayer (i.e., above-the-line) accounts to determine whether any of those funds have been improperly allocated to support SoCalGas's political and public-policy efforts.”²

“... SoCalGas has repeatedly offered to produce through live access to its SAP database (and CalPA has tellingly declined): *access to ratepayer accounts.*”¹⁰

“... SoCalGas has repeatedly offered to make [the ratepayer accounts] available to [Cal Advocates]”¹¹

“SoCalGas has ... repeatedly offered to provide [Cal Advocates] with complete access to all of SoCalGas's ratepayer and shareholder accounts ...”¹²

“... SoCalGas has already produced or offered to produce all the information needed for CalPA to verify that the cost of its advocacy activities are not in ratepayer accounts.”¹³

² *Southern California Gas Company v. Public Utilities Commission of the State of California*, Court of Appeal for the Second Appellate District, Division One, Case No. B310811, *Southern California Gas Company's Reply In Support of Its Petition for Writ of Review, Mandate, and/or Other appropriate Relief; and Declaration of Michael H. Dore, July 16, 2021*, p. 21 (emphasis in original).

¹⁰ *Id.*, p. 44 (emphasis in original).

¹¹ *Id.*, p. 8.

¹² *Id.*, p. 13.

¹³ *Id.*, p. 24.

“In any event, if CalPA or the Commission want to ‘verify the utility’s assertions’ [of shareholder funding] instead of ‘tak[ing] SoCalGas’ word on these matters’ (Ans. at pp. 52–53), they are welcome to do so.”¹⁴

“By offering to provide CalPA with live, read-only access to all above-the-line accounts—category 1 of the data sought by CalPA—SoCalGas has offered to let CalPA see for itself. (App. 992–993.)”¹⁵

The fact is, contrary to what it has told the Court of Appeal, SoCalGas has *not* provided access to its ratepayer accounts, does in fact take issue with Cal Advocates inspecting its ratepayer accounts, and has withheld access to audit those accounts based on false claims, including arguments that allowing access would violate the Commission’s extension of SoCalGas’ compliance with Resolution ALJ-391. On their own, these SoCalGas misrepresentations to the Court of Appeals justify granting this Motion to Compel. SoCalGas cannot have it both ways. It cannot deny Cal Advocates access to the ratepayer accounts in its SAP database and then tell the Court of Appeals that it has been willing to provide Cal Advocates access to those accounts all along. In addition to ordering SoCalGas to provide Cal Advocates immediate access to those accounts, the Commission should bring these SoCalGas misrepresentations to the attention of both the Court of Appeals and the State Bar of California,¹⁶ and should take

¹⁴ *Id.*, p. 46.

¹⁵ *Id.*, p. 47.

¹⁶ SoCalGas Counsel’s misrepresentations to the appellate court violate the California Rules of Professional Conduct, Rule 3.3 – Candor Toward the Tribunal, which provides in relevant part at (a)(1) that a lawyer shall not “knowingly* make a false statement of fact or law to a tribunal* or fail to correct a false statement of material fact or law previously made to the tribunal* by the lawyer...” The terms “knowingly” and “tribunal” are defined at Rule 1.0.1 and confirm that SoCalGas knowingly made false statements to the Court of Appeals. Note that the reference to Rule 3.3 is not intended to be comprehensive. SoCalGas may have violated other provisions of the California Rules of Professional Conduct or the State Bar Act, which is codified at Bus. & Prof. Code § 6000 *et seq.* See also California Code of Civil Procedure §§ 128.7. The Commission could file a motion alleging prejudicial error pursuant to CCP §128.7, which is similar to FRCP Rule 11, on the basis that the facts as presented by SCE are erroneous and/or have no evidentiary support. See CCP §128.7(b)(3). The Commission could also ask SoCalGas

steps to fine SoCalGas for its ongoing refusal to permit Cal Advocates to audit the utility's accounts – which is a violation of law.¹⁷ Such decisive action is needed to convince SoCalGas that withholding of access to audit its records, in violation of statutory obligations, will not be tolerated.

II. SOCALGAS' WITHHOLDING OF ACCOUNT ACCESS IS AN UNLAWFUL AND ONGOING THREAT TO THE COMMISSION'S REGULATORY AUTHORITY

A. California Law Requires A Utility's Books To Be Open For Inspection "At Any Time"

SoCalGas has no right to withhold access from Cal Advocates to the utility's ratepayer accounts *for any length of time*.¹⁸ California law makes clear that a regulated utility's books must be open for inspection "*at any time*" by any Commission employee. Public Utilities Code § 314(a)¹⁹ expressly provides:

The commission, each commissioner, and each officer and person employed by the commission may, *at any time*, inspect the accounts, books, papers, and documents of any public utility.²⁰

The law goes further. To ensure against cross subsidies or other opportunities for inappropriate accounting treatment among related entities, subsection (b) of Public Utilities Code § 314 provides that the same obligation to allow Commission staff to

to correct its pleading, and file a motion to strike pursuant to CCP §§ 435-437 if the utility refuses to do so. Once the pleading is corrected, the Commission could pursue court sanctions pursuant to CCP §128.7.

¹⁷ See Public Utilities Code § 314.

¹⁸ Indeed, SoCalGas has no lawful authority to withhold access to *any* of its accounts from the Commission or its staff. However, SoCalGas' claims that it may withhold information regarding shareholder-funded accounts from the Commission and/or Cal Advocates on First Amendment grounds is pending in the California Court of Appeals (*see* FN 1 above) and its compliance with this requirement is subject to an extension granted by the Commission's Executive Director on March 19, 2021. See MTC-Exhibit 3 - Executive Director Letter – March 19, 2021.

¹⁹ Unless otherwise noted, all section references are to the California Public Utilities Code.

²⁰ Public Utilities Code § 314(a) (*emphasis added*).

inspect the accounts, books, papers, and documents of any public utility also applies to a utility's subsidiaries or affiliates.²¹

Only through such unfettered access to a public utility's books and records, and those of its affiliates and subsidiaries, can Commission staff ensure that a utility is not abusing its captive ratepayers through expenditures unrelated to the provision of utility service. Consequently, a utility's refusal to make its books and records available to the Commission or its employees is a significant breach of the regulatory compact and must not be tolerated.²²

B. The Commission's Extension To Comply With Resolution ALJ-391 Does Not Apply To An Audit Of Ratepayer Accounts

SoCalGas refuses to provide Cal Advocates access that would allow an audit of its ratepayer accounts based on the three arguments summarized in Section I above.

SoCalGas' first argument – that allowing Cal Advocates to audit its accounts would violate the stays established by the Commission and the Court of Appeal – ignores two obvious facts: (1) the Court of Appeals' temporary stay was vacated on March 22, 2021²³ – well before Cal Advocates requested to audit SoCalGas' 900 series ratepayer accounts on April 1, 2021; and (2) the Commission's extension of time for the utility to comply with Resolution ALJ-391 only applies to the *shareholder-funded* accounts at issue in the utility's appeal.²⁴ The scope of Resolution ALJ-391 is limited to SoCalGas' claims that Cal Advocates may not access accounts that the utility claims are "100% shareholder

²¹ See Public Utilities Code § 314(b).

²² The history and legal origins of the "Regulatory Compact" are discussed in the Commission's "Decision Modifying The Commission's Rate Case Plan For Energy Utilities," D.20-01-002 (January 2020). See also *Munn v. Illinois*, 94 U.S. 113, 125-132 (1877) (when someone "devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use; but, so long as he maintains the use, he must submit to the control."); and *Savage v. PG&E* (regarding obligation to submit to regulation).

²³ See MTC-Exhibit 4 – Court of Appeal Order - March 22, 2021.

²⁴ See MTC-Exhibit 3 - Executive Director Letter – March 19, 2021.

funded.”²⁵ In other words, SoCalGas never challenged Cal Advocates’ right to review ratepayer-funded accounts and therefore, Resolution ALJ-391 does not address those accounts. Indeed, finding otherwise would not only be contrary to Resolution ALJ-391, but also constitute an improper abridgement of Cal Advocates’ statutory discovery rights. Consequently, nothing in the Commission’s extension of time for SoCalGas to comply with Resolution ALJ-391 prevents Cal Advocates from auditing the utility’s ratepayer-funded accounts – such as the 900 series accounts at issue here. In addition, contrary to SoCalGas’ claim that granting Cal Advocates’ access to perform its audit of ratepayer accounts would somehow “violate” the Commission’s grant of extension or the appellate court’s temporary (and now vacated) order – nothing in either of those orders *prohibits* SoCalGas from allowing an audit of *any* of its accounts.

C. Commission Staffs’ Audit Rights And Obligations Are Not Limited To Preparation For GRCs And May Be Exercised At Any Time

As set forth above, Public Utilities Code § 314 is clear that Commission staff may inspect a utility’s books “at any time.” Consequently, SoCalGas’ novel argument that Cal Advocates may not audit its ratepayer accounts because that would result in premature litigation of the utility’s next general rate case (GRC) has no merit. Indeed, the utility points to nothing in the Commission approved GRC Rate Case Plan, or any

²⁵ See, e.g., Resolution ALJ-391, p. 3 (SoCalGas objected “that the requested production of its 100% shareholder-funded contracts related to C4BES fell outside the scope of Cal Advocates’ statutory authority set forth in Public Utilities Code (Pub. Util. Code) §§ 309.5(a) and 314.”); p. 4 (“SoCalGas again argued that because the information sought was 100% shareholder funded, it fell beyond Cal Advocates’ statutory purview.”); p. 6 (“SoCalGas argues that Cal Advocates’ Statutory Authority to inspect SoCalGas’s books and records – including the confidential material in question - is limited by the First Amendment. Information includes: 100% shareholder-funded political activities.”); p. 15 (“SoCalGas claims that because DR No. CalAdvocates-SC-SCG-2019-05 seeks information about political activities and activities that are “100% shareholder-funded,” the information does not need to be disclosed because such activities are not subject to Cal Advocates’ oversight.”); p. 29, Finding 5 (“SoCalGas’ statement describing certain activities as ‘100% shareholder-funded’ does not, in and of itself, deprive Cal Advocates of its statutory authority to obtain, review, and make its own determinations regarding documents and financial information from a regulated utility, such as SoCalGas.”).

other source, that supports such a claim. It is time for the Commission to expressly and definitively lay this specious objection to rest and penalize SoCalGas for its efforts to stall, mislead the Commission, and undermine the regulatory process through the use of meritless objections.

D. The Commission Can Require A Utility To Provide Information In A Specific Form And Level Of Detail

SoCalGas also objects to allowing any audit of its accounts “to the extent it purports to require SoCalGas to create documents or compile information in a format that it does not maintain or has not yet created in the ordinary course of business.” SoCalGas argues that “[s]uch an obligation exceeds the requirements under the CPUC’s Discovery Custom and Practice Guidelines and California Code of Civil Procedure Section 2031.230 (proper response stating inability to comply with discovery request includes a statement that ‘the particular item or category [of records] has never existed’).” In support of these claims, SoCalGas cites to administrative law judge rulings from two 2005 telecommunications cases.²⁶

Like the other objections SoCalGas has made in response to Cal Advocates’ request for audit access, these utility objections have no merit. First, nothing in Cal Advocates’ request for audit access requires SoCalGas “to create documents or compile information in a format that it does not maintain or has not yet created in the ordinary course of business.” Rather, Cal Advocates sought access to SoCalGas’ accounting system to the same extent that it is provided to SoCalGas employees who routinely access that same system.²⁷ Second, Public Utilities Code § 581 specifically addresses this issue where it provides:

²⁶ See MTC Exhibit 5 - SoCalGas Response to CalAdvocates-TB-SCG-2021-04 - 900 Series Audit.

²⁷ SoCalGas represented to the Court of Appeals that it “has repeatedly offered to produce through live access to its SAP database...” *Southern California Gas Company v. Public Utilities Commission of the State of California*, Court of Appeal for the Second Appellate District, Division One, Case No. B310811, *Southern California Gas Company’s Reply In Support of Its*

Every public utility shall furnish to the commission in such form and detail as the commission prescribes all tabulations, computations, and all other information required by it to carry into effect any of the provisions of this part, and shall make specific answers to all questions submitted by the commission.

Every public utility receiving from the commission any blanks with directions to fill them shall answer fully and correctly each question propounded therein, and if it is unable to answer any question, it shall give a good and sufficient reason for such failure.

Thus, while Cal Advocates has not asked for SoCalGas to provide anything in a format that is not already available to its own staff, SoCalGas would nevertheless be obligated to comply with a Cal Advocates' request to provide information "in such form and detail as the commission prescribes..."

E. The Commission Should Be Clear That Ratepayer Account Information May Not Be Redacted Or Otherwise Withheld

As described in footnote 3 above, SoCalGas proposed during the meet and confer process to provide Cal Advocates ratepayer account information in a "Microsoft Access database" that it will curate for Cal Advocates' review. SoCalGas proposed that those

Petition for Writ of Review, Mandate, and/or Other appropriate Relief; and Declaration of Michael H. Dore, July 16, 2021, p. 44 (emphasis in original). In addition, SoCalGas has previously confirmed that its accounting staff have remote access to the system, and has offered that same access to Cal Advocates. See Cal Advocates' June 23, 2020 *Motion To Find Southern California Gas Company In Contempt Of This Commission In Violation Of Commission Rule 1.1 For Failure To Comply With A Commission Subpoena Issued May 5, 2020, And Fined For Those Violations From The Effective Date Of The Subpoena* (Motion for Contempt), pp. 7-8 which explains that SoCalGas confirmed that all of its accounting staff are working remotely and have remote access to its accounts and records, including the SAP system. Motion for Contempt, Exhibit 4, Declaration of Stephen Castello, ¶¶ 10 & 11. SoCalGas also confirmed that a third-party consultant was granted full remote access to its systems. *Id.* SoCalGas has also previously offered remote access to Cal Advocates, but only with certain accounts "excluded" and conditioned upon Cal Advocates' execution of a non-disclosure agreement. Motion for Contempt, Exhibit 6, J.Wilson & T.Bone Emails to ALJ May 29-June 3 Re Access to Accounts and Records. In sum, Cal Advocates is entitled to that same access, with the exception that Cal Advocates staff should not be required to execute a non-disclosure agreement and should not have the ability to make changes to SoCalGas' accounting system.

databases would be provided through a staggered process over the next month or so at the utility's discretion and timing. While the law does not sanction a limited review of documents curated by the utility with no ability to perform an audit of the actual SAP system, Cal Advocates has accepted this proposal as a way to move forward incrementally, and because the utility was already preparing to provide such information to Cal Advocates in preparation for its next GRC.

There are a number of problems associated with this SoCalGas proposal. Among them, the law does not provide for the utility to curate what it will share with its regulator, and provide the information to its regulator on a schedule unilaterally determined by the utility. In addition, SoCalGas has retained the right to redact vendor names included in its ratepayer accounts on the basis of any First Amendment claims.²⁸ This is wholly unacceptable as any vendor costs booked to ratepayer accounts must be publicly available, as those costs may only be for activities that benefit ratepayers. The fact that SoCalGas is belatedly claiming it will move those costs to shareholder accounts in preparation for its GRC only proves that SoCalGas has been caught with its hands in the cookie jar, and is only now – two years later and after numerous false claims that it was booking such costs to shareholders all along – trying to correct its improper accounting practices. The Commission must find that in providing access to any ratepayer accounts, no redactions or other methods of hiding information shall be permitted. If a cost was booked to a ratepayer account – even if later transferred elsewhere – all accounting must be made visible, consistent with the functionality of the SAP database.

III. CONCLUSION

For the reasons set forth above, Cal Advocates moves for this Commission to: (1) expressly reject each of SoCalGas' objections to providing Cal Advocates with remote

²⁸ See MTC Exhibit 2 - Meet & Confer re Access To Audit RP Accounts, email from Jason Wilson, October 18, 2021 (“To the extent any of SoCalGas’s 1st Amendment protected vendors are contained in the database, SoCalGas will redact the 1st Amendment protected information as those costs will not be included in SoCalGas’ upcoming GRC.”)

access to its SAP database to audit ratepayer accounts; (2) compel SoCalGas to do all things necessary to provide full and complete remote access to its SAP database within three business days²⁹ so that Cal Advocates may audit all information contained in the utility's USOA numbers 901 through 935 and all of their subsidiary accounts, for the period January 1, 2010 to the present; (3) order that in providing access to any ratepayer accounts, no redactions or other methods of hiding information shall be permitted. If a cost was booked to a ratepayer account – even if later transferred elsewhere – all accounting must be made visible, consistent with the functionality of the SAP database; and (4) clarify that if remote access cannot be made available, that SoCalGas make on-site access available as requested by Cal Advocates.

Cal Advocates also requests that the Commission take all necessary actions to definitively convey to SoCalGas that Public Utilities Code § 314 obligates the utility to make its accounts, books, papers, and documents available for inspection “at any time” and that further delays in providing account access to Commission staff when it is requested will not be tolerated.

Respectfully submitted,

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October 21, 2021

²⁹ As described in FN 27 above, SoCalGas has previously claimed that it was prepared to provide such remote access so that there should be no delay at this time.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

In The Matter Of The Public Advocates
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California Gas Company's Accounting
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Policies, And Related Matters.

Not In A Proceeding

Application For Rehearing of Resolution
ALJ-391.

Application 20-12-011

**[PROPOSED] ORDER GRANTING MOTION TO COMPEL
SOUTHERN CALIFORNIA GAS COMPANY
TO PROVIDE REMOTE ACCESS TO RATEPAYER ACCOUNTS**

In accordance with the Rules of Practice and Procedure, the assigned
Administrative Law Judge has considered *Public Advocates Office Motion To Compel
Southern California Gas Company To Provide Remote Access To Ratepayer Accounts*.

The Administrative Law Judge rules as follows:

1. *The Public Advocates Office Motion To Compel Southern California Gas Company To Provide Remote Access To Ratepayer Accounts* is granted.
2. SoCalGas shall, within three business days, do all things necessary to provide full and complete remote access to its SAP database for the Public Advocates Office to audit all information contained in the utility's Uniform System of Account numbers 901 through 935, and any subsidiary accounts, for the period January 1, 2010 to the present.
3. In providing access to any ratepayer accounts, no redactions or other methods of hiding information shall be permitted. If a cost was booked to a ratepayer account – even if later transferred elsewhere – all accounting must be made visible, consistent with the functionality of the SAP database.

4. If remote access to the SAP database cannot be made available, SoCalGas shall make on-site access available as requested by Cal Advocates.
5. Public Utilities Code § 314 obligates the utility to make its accounts, books, papers, and documents available for inspection “at any time.” Further SoCalGas delays in in complying with this statutory obligation will not be tolerated.

Dated: _____

by _____

Administrative Law Judge

EXHIBIT 1

Data Request - CalAdvocates-TB-SCG-2021-04 - 900 Series Audit



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PUBLIC ADVOCATES OFFICE DATA REQUEST
No. CalAdvocates-TB-SCG-2021-04
24th In A Series

Not In A Proceeding

Date Issued: April 1, 2021

Date Due: April 12, 2021

To: **Corinne Sierzant** Phone: (213) 244-5354
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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

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.

calculations, provide a copy of the supporting electronic files that were used to derive such calculations, such as Excel-compatible spreadsheets or

computer programs, with data and formulas intact and functioning. Documents produced in response to the data requests should be Bates-numbered, and indexed if voluminous.

Requests for Clarification:

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

Objections:

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

Assertions of Privilege:

If you assert any privilege for documents responsive to this data request, please 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,” and activities intended to influence legislative or administrative actions at the state or local government level, 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), the training materials related to the Policy, and the California Political Reform Act .²

DATA REQUEST

Please arrange for remote access for Cal Advocates to audit all information contained in FERC Uniform System of Account Nos. 901 through 935 and their subsidiary accounts, for the period January 1, 2017 to the March 15, 2021. Preparations shall be such that the audit may commence no later than Monday, April 12, 2021.

END OF REQUEST

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.” The California Political Reform Act has a similarly broad definition. See, e.g., Gov’t Code § 82032.

EXHIBIT 2

MTC Ex 2 - Meet & Confer re Access To Audit RP Accounts

From: [Bone, Traci](#)
To: [Jason Wilson](#); [Sherin Varghese](#); [Castello, Stephen](#); [Ward, Alec](#); [Sierzant, Corinne M](#)
Subject: RE: [EXTERNAL] RE: SoCalGas Response - CalAdvocates-TB-SCG-2021-04
Date: Wednesday, October 20, 2021 3:04:00 PM

Jason: Thank you for your response. Cal Advocates has the statutory right to access SoCalGas' SAP system in the same manner that it is available to SoCalGas "at any time." What you have offered does not meet that standard. We expect this should not be a problem, since SoCalGas has repeatedly represented that it was willing to make access to its SAP database available to us, so we see no reason why this is not the case today.

As to your suggestion that vendor names in the 900 series of accounts would be redacted based on 1st Amendment claims, that is unacceptable given that the 900 series accounts are ratepayer accounts and should not contain vendor charges that should be booked to shareholders. There is no basis for such redactions – and this would undermine our ability to meaningfully review the utility's accounting directly "at any time".

In conclusion, we will also move forward with a motion to compel SAP access to the ratepayer accounts – including onsite access as necessary - and clarification that none of the information in the ratepayer accounts should be redacted.

Traci Bone
Attorney for the Public Advocates Office at the
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505 Van Ness Avenue
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tbo@cpuc.ca.gov

From: Jason Wilson <jwilson@willenken.com>
Sent: Monday, October 18, 2021 4:32 PM
To: Bone, Traci <traci.bone@cpuc.ca.gov>; Sherin Varghese <svarghese@willenken.com>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>; Ward, Alec <Alec.Ward@cpuc.ca.gov>; Sierzant, Corinne M <CSierzant@socalgas.com>
Subject: RE: [EXTERNAL] RE: SoCalGas Response - CalAdvocates-TB-SCG-2021-04

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Traci,

Thank you for your response below. We welcome a collaborative working relationship with Cal Advocates whereby we can provide you with the appropriate information you need while at the same time allowing SoCalGas to prioritize its finite resources to meet its various regulatory and reporting requirements, including our ongoing GRC preparation in accordance with the CPUC-approved Rate Case Plan cycle (see attached SoCalGas's April 12, 2021 letter to the CPUC). As explained below, the information sought in your data request is not available in the manner requested. Therefore, we believe it would be productive to have a conversation about what specific issues Cal Advocates is investigating and what specific data may inform that inquiry. This will allow us to focus on producing what is reasonably available, while respecting both parties' rights and avoiding unnecessary burdens or disputes.

SoCalGas's accounting system is vast and complex. Accounting information is not contained in any one single location. There is not a single database that can provide Cal Advocates with the various functionalities requested in your email (as explained further below). As such, SoCalGas does not have an accounting system that accommodates "remote access" to all of the information you are requesting. Regarding your suggestion that SoCalGas is required to have such a system for FERC compliance, there may be a misunderstanding as to FERC's jurisdiction over SoCalGas and what is provided to other regulators/auditors. SoCalGas is not regulated by FERC in the same manner as some other California investor-owned utilities and, as such, SoCalGas does not submit its accounts to FERC, but SoCalGas does provide the FERC Form 2 to the Commission on an annual basis. Moreover, SoCalGas understands that when FERC conducts its audits of utilities, those utilities would typically provide the same sort of information and in a similar format to what SoCalGas has offered Cal Advocates here.

SoCalGas responds to your questions on functionality of the Microsoft Access database as follows (your original questions are reflected in blue font):

- The ability to see all costs and accounting treatment associated with an account over time – when it was commenced and how it evolved over time;
 - The Microsoft Access database will allow for this functionality over the period requested.
- Not just a listing of costs associated with a specific account, but the ability to see where costs are coming from, including vendor names, invoices, amounts paid to the vendor over time, whether a unique charge is a credit or debit, and dates for all charges;
 - The Microsoft Access database will contain costs, including debits, credits, and dates associated with each transaction. Vendor names may be available for some transaction after 2017. To the extent any of SoCalGas's 1st Amendment protected vendors are contained in the database, SoCalGas will redact the 1st Amendment protected information as those costs will not be included in SoCalGas's upcoming GRC. Vendor invoices are not available in the Microsoft Access database (see below re follow up questions).
- Access to documents that created an account, including Work Order Authorizations (WOAs);
 - WOAs are not contained in the Microsoft Access database. They are also not included in SAP.
- Access to all accounting instructions associated with an account;
 - SoCalGas understands "accounting instructions" to mean its accounting policies and procedures. SoCalGas's accounting policies and procedures are not included in the Microsoft Access database. They are also not available in SAP.
- For each unique charge, an entry showing whether the charge is a credit or debit and the dates for all entries; and
 - The Microsoft Access database contains this information.
- Access to accounting instructions associated with specific Journal Entries, including Journal Entry Request Forms or the entirety of the information contained within.
 - As explained above, "accounting instructions" are not available in the Microsoft Access database or in SAP. Although the underlying support for journal entries are not contained in the Microsoft Access database, the related support can be provided to Cal Advocates upon request. Whether or not such information appears in SAP would depend on the specific transaction involved.

As the above explanation reflects, regardless of whether you obtain the Microsoft Access database or remote access to SAP, you will not be able to obtain all the functionalities you request. Therefore, additional follow-ups will likely be needed, which will require additional costs and resources from both parties. We believe that some further clarification on Cal Advocates' objectives, scope and timing will help both parties prioritize their resources. We do not believe that the information in the Microsoft Access database would be "meaningless," but some further discussion between the parties should help us provide what is available without compromising either party's rights. SoCalGas welcomes a discussion on a workable solution on a regular interval for follow-up questions in order to set realistic timelines on responses and deliverables.

To the extent the instant data request is focused on "remote access" to SoCalGas's accounting system, SoCalGas asserts that the request is inconsistent with the stay imposed by the Executive Director's letter, dated March 19, 2021, granting SoCalGas's Rule 16.6 request (attached). The Executive Director's stay was based on the Court of Appeal's March 16, 2021 Temporary Stay Order (TSO) which ordered:

Compliance by petitioner Southern California Gas Company with the Public Utilities

Commission's order for production of documents in accordance with Resolution ALJ-391, as modified by order dated March 2, 2021, and all related orders is hereby stayed pending completion of a hearing regarding petitioner's application for stay or further order of this Court.

The TSO stayed SoCalGas's obligations under Resolution ALJ-391 which required SoCalGas, among other things, to comply with the subpoena and provide "access [both on-site and remote access] to all databases associated in any manner with the company's accounting systems." In reliance on the Executive Director's stay, SoCalGas withdrew its request for emergency stay and requested the hearing on a longer stay be taken off calendar.

Regardless of the parties' positions on the proper scope of discovery here, SoCalGas believes that the Microsoft Access database solution is a viable path forward supported by the SoCalGas's track record of successfully being reviewed or audited over the years without providing any regulator or outside auditor remote access into its accounting systems. If you are agreeable to the Microsoft Access database in lieu of remote access into SoCalGas's accounting systems, SoCalGas can provide the Microsoft Access database as follows:

- For 2010-2016, within two days of your confirmation (we'll need a couple of days from your confirmation in order to package up the information and do final QA/QC);
- For 2017-2019, in approximately a week;
- For 2020, in approximately a month; and
- For 2021, sometime in 2022. We can provide you with a more definite timeline as we work through our processes in getting the information ready for our upcoming GRC.

Jason



Jason H. Wilson

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

Sent: Thursday, October 14, 2021 2:01 PM

To: Jason Wilson <jwilson@willenken.com>; Sherin Varghese <svarghese@willenken.com>; Sierzant, Corinne M <CSierzant@socalgas.com>; Ward, Alec <Alec.Ward@cpuc.ca.gov>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>

Subject: RE: [EXTERNAL] RE: SoCalGas Response - CalAdvocates-TB-SCG-2021-04

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Jason:

Thank you for responding to Cal Advocates' meet and confer request. Based on your response, we understand that SoCalGas will not provide Cal Advocates with remote access to audit the utility's 900 series of accounts - which should all be ratepayer funded accounts. Instead, SoCalGas is proposing to provide a "Microsoft Access database" similar in format to what would be provided during a general rate case (GRC). SoCalGas would provide some of this information this Friday, an additional installment in two weeks, and more current information for 2020 and 2021 would not be available for approximately a month.

To be clear, for purposes of the outstanding data request for remote access, Cal Advocates does not intend to limit its inquiry to a GRC type of review. Rather, Cal Advocates also requires information on SoCalGas' *accounting practices* to, among other things, determine whether costs are being booked appropriately, and consistent with SoCalGas' accounting rules. We will be considering whether there are appropriate controls on the utility's accounts, appropriate internal oversight, and related things. Our concern is that what SoCalGas is offering in lieu of account access will not provide the functionality we require to perform such a review.

To this end, please confirm whether the Microsoft Access database SoCalGas has offered to provide Cal Advocates in lieu of SAP access will include the following functionality:

- The ability to see all costs and accounting treatment associated with an account over time – when it was commenced and how it evolved over time;
- Not just a listing of costs associated with a specific account, but the ability to see where costs are coming from, including vendor names, invoices, amounts paid to the vendor over time, whether a unique charge is a credit or debit, and dates for all charges;
- Access to documents that created an account, including Work Order Authorizations (WOAs);
- Access to all accounting instructions associated with an account;
- For each unique charge, an entry showing whether the charge is a credit or debit and the dates for all entries; and
- Access to accounting instructions associated with specific Journal Entries, including Journal Entry Request Forms or the entirety of the information contained within.

Cal Advocates requires this functionality, which we understand is available in the utility's SAP system. Consequently, if SoCalGas' proposal does not provide this functionality, it would be meaningless for purposes of the current inquiry.

Last, Cal Advocates is perplexed by your claims that "SoCalGas does not have an accounting system that you can 'remote access' into in order to obtain the requested information broken down by FERC account." SoCalGas has previously confirmed that its accounting team has remote access and has been using that functionality to perform their work for over a year. In addition, SoCalGas should have a chart of accounts that tracks its accounts to the FERC Uniform System of Accounts. Indeed, such functionality would be required for SoCalGas to submit its accounts to FERC, which it is required to do.

To the extent that SoCalGas cannot provide access solely to the FERC 900 series of accounts, and is concerned that Cal Advocates might look at other accounts, for the purposes of this data request and only this data request, Cal Advocates is willing to allow a "minder" to monitor our activity on the SAP system to ensure that our focus is limited to ratepayer accounts.

As we have reiterated many times, Public Utilities Code § 314 is clear that Cal Advocates has the right to audit the utility's accounts *at any time*. None of the objections set forth in your most recent response have any basis in either fact or law. We must insist that SoCalGas provide access that allows us the same functionality as any other accountants reviewing SoCalGas' books.

Please respond to our questions regarding the functionality provided by the Microsoft Access database no later than close of business, Monday, October 18, 2021.

Traci Bone
Attorney for the Public Advocates Office at the

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From: Jason Wilson <jwilson@willenken.com>

Sent: Monday, October 11, 2021 4:56 PM

To: Bone, Traci <traci.bone@cpuc.ca.gov>; Sherin Varghese <svarghese@willenken.com>; Sierzant, Corinne M <CSierzant@socalgas.com>; Ward, Alec <Alec.Ward@cpuc.ca.gov>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>

Subject: RE: [EXTERNAL] RE: SoCalGas Response - CalAdvocates-TB-SCG-2021-04

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Traci,

I was able to confer with my client and can provide you with the following information. As an initial matter, I want to point out that your request is a broad demand for information, and your email further expands the scope of the request from four (4) years to eleven (11) years—which in effect makes this a new request. As a result, this was not a simple “yes” or “no” question as you make it out to seem. While SoCalGas is willing to provide CalPA, in good faith, with the information identified below in the manner and timing provided below, SoCalGas is standing by all its prior objections to your request and the response will be conditioned on a full reservation of rights as to those objections.

Particularly, CalPA’s demand for “remote access...to all information contained in FERC Uniform System of Account Nos. 901 through 935 and their subsidiary accounts” is vague and ambiguous. To the extent CalPA is seeking remote access to SoCalGas’s accounting database, the request is contrary to the Commission’s directive, as expressed in the Executive Director’s March 19, 2021 letter granting SoCalGas’s Rule 16.6 extension. In addition, SoCalGas does not have an accounting system that you can “remote access” into in order to obtain the requested information broken down by FERC account. SoCalGas will have to pull this information from various accounting sources and compile it for your review. This necessarily takes time, and while SoCalGas typically undertakes this exercise as part of its General Rate Case (GRC) process, SoCalGas’s preparation for its upcoming GRC (to be filed May 2022) is still ongoing and has not been completed. Especially as viewed in that context, the request is burdensome, cumulative, and oppressive.

As to your expansion of scope from 4 years to 11 years of information, SoCalGas objects to the request as to the time period of 2010-2016 on the grounds that it is overly broad and to the extent it seeks to relitigate prior GRCs. This information was available to Cal Advocates in prior GRC cycles in which CalPA was an active party and in fact SoCalGas has already provided some of this information to CalPA as part of those GRCs. Had CalPA wanted to litigate issues related to those periods in prior GRCs, it could have done so as part of those GRCs. Further, SoCalGas objects on the grounds that information from 2010-2016 is irrelevant to and not probative of the issues in SoCalGas’s upcoming GRC.

Regarding your expansion of scope from March 15, 2021 to present, SoCalGas reiterates its objections that CalPA is seeking to prematurely litigate SoCalGas’s upcoming GRC, is inconsistent with the Commission approved GRC Rate Case Plan, and to the extent it purports to require SoCalGas to create documents or compile information in a format that it does not maintain or has not yet created in the ordinary course of

business. Such an obligation exceeds the requirements under the CPUC's Discovery Custom and Practice Guidelines and California Code of Civil Procedure Section 2031.230 (proper response stating inability to comply with discovery request includes a statement that "the particular item or category [of records] has never existed"). See also A.05-04-020, In the Matter of the Joint Application of Verizon Communications Inc. and MCI, Inc., Administrative Law Judge's Ruling Addressing Motion of Qwest to Compel Responses, Aug. 5, 2005, at p. 7 (regarding motion to compel, emphasizing that "Verizon is not required to create new documents responsive to the data request") (also available at 2005 WL 1866062); A.05-02-027, In the Matter of the Joint Application of SBC Communications Inc. and AT&T Corp., Administrative Law Judge's Ruling Regarding ORA's Second Motion to Compel, June 8, 2005, at p.23 (on motion to compel, stressing that SBC Communications "shall not be required to produce new studies specifically in response to this DR") (also available at 2005 WL 1660395).

In addition, the Commission approved a structured, formal process for GRCs for each and every utility, which this non-proceeding data request inefficiently avoids by effectively auditing the five-year historical period that informs the GRC forecast before it has been prepared and submitted. In SoCalGas's upcoming GRC, it will present estimates for expenses and will provide supporting analyses for years 2017 through 2021. The individuals handling this non-proceeding request from CalPA are the same individuals preparing the accounting information that will be used to support SoCalGas's GRC filing next year.

Subject to and without waiving these and prior objections and SoCalGas's April 12, 2021 letter to the Commission, SoCalGas is agreeable to providing CalPA with the following information:

- SoCalGas is agreeable to providing the requested information for 2010-2016 in a Microsoft Access database—a similar format to what CalPA would typically receive as part of its Master Data Request in GRCs in one week.
- SoCalGas is agreeable to providing you with the requested information for 2017-2019 in a Microsoft Access database when it is complete as part of our GRC process in approximately two weeks.
- For 2020 and 2021, the information is not currently available in the format requested. SoCalGas is agreeable to providing you with the requested information for 2020 and 2021 in a Microsoft Access database when they become available as part of our GRC process. SoCalGas estimates that 2020 will be completed in approximately one month and 2021 will be available sometime in 2022.

Please confirm whether this offer is agreeable to you. If you have an alternative suggestion, please provide it and I will discuss with my client. Lastly, I have not yet heard back from you as to the sudden urgency of this request which has been idle for six months. Please let us know the reason you need this information and in which proceeding you plan on using this information, which can facilitate a workable solution via a meet and confer process to avoid unnecessary motion practice and inefficient use of the Commission's and parties' resources and to avoid interfering with our ongoing GRC preparations in accordance with the CPUC-approved Rate Case Plan cycle.

Jason



Jason H. Wilson

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

Sent: Wednesday, October 6, 2021 4:49 PM

To: Sherin Varghese <svarghese@willenken.com>; Sierzant, Corinne M <CSierzant@socalgas.com>; Ward, Alec <Alec.Ward@cpuc.ca.gov>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>
Cc: Jason Wilson <jwilson@willenken.com>
Subject: RE: [EXTERNAL] RE: SoCalGas Response - CalAdvocates-TB-SCG-2021-04

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Jason: Any lawyer at SoCalGas understands that the utility has an obligation to make the utility's accounts available to Commission staff "at any time." See Public Utilities Code Section 314. Notwithstanding the clear law on these issues, SoCalGas has refused to provide even access to ratepayer accounts to Cal Advocates, based on meritless objections.

At this time, Cal Advocates seeks to move forward expeditiously to have this matter resolved by the Commission. While we believe that any SoCalGas attorney should be able to respond, we will wait to file our motion to compel provided you respond back to us via email before close of business on Monday, October 11. We expect a clear answer at that time – whether SoCalGas will continue to withhold access, and if not, a specific date when such access will be provided.

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From: Sherin Varghese <svarghese@willenken.com>
Sent: Wednesday, October 06, 2021 4:37 PM
To: Bone, Traci <traci.bone@cpuc.ca.gov>; Sierzant, Corinne M <CSierzant@socalgas.com>; Ward, Alec <Alec.Ward@cpuc.ca.gov>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>
Cc: Jason Wilson <jwilson@willenken.com>
Subject: RE: [EXTERNAL] RE: SoCalGas Response - CalAdvocates-TB-SCG-2021-04

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SENT ON BEHALF OF JASON WILSON

Traci,

As I am currently on vacation and traveling to multiple cities over the next few days for various events, one day of notice is not sufficient for a good faith meet and confer. In particular, you have propounded a new request for data which appears to include an additional time frame beyond the original request. As I've been unable to consult with the client, we have not had sufficient time to determine what is available and how quickly we could make such information accessible to you on such short notice. I am lead counsel on this matter and I cannot assign a new attorney to this matter and get them up to speed on this turnaround.

If there is a reason for the urgency that this issue, which you have not raised for months, needs to be resolved

today and cannot wait until I return to the office in a few days, please let me know. I will call you on Monday afternoon to further discuss.

Jason



Sherin S. Varghese

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From: Bone, Traci <traci.bone@cpuc.ca.gov>
Sent: Wednesday, October 6, 2021 10:56 AM
To: Sherin Varghese <svarghese@willenken.com>; Sierzant, Corinne M <CSierzant@socalgas.com>; Ward, Alec <Alec.Ward@cpuc.ca.gov>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>
Cc: Jason Wilson <jwilson@willenken.com>
Subject: RE: [EXTERNAL] RE: SoCalGas Response - CalAdvocates-TB-SCG-2021-04

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Sherin: We thank you for getting back to us, but it is not acceptable to wait a week for a meet and confer given the number of attorneys SoCalGas has working on these issues. The issue presented here is very simple. SoCalGas either will or will not provide the audit access Cal Advocates requests, which is required under state law. As explained below, SoCalGas' objections have no merit.

Please arrange to have another attorney respond on behalf of SoCalGas letting us know whether or not the utility will grant the requested access no later than close of business today.

Traci Bone
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Cell: (415) 713-3599
tbo@cpuc.ca.gov

From: Sherin Varghese <svarghese@willenken.com>
Sent: Wednesday, October 06, 2021 9:56 AM
To: Bone, Traci <traci.bone@cpuc.ca.gov>; Sierzant, Corinne M <CSierzant@socalgas.com>; Ward, Alec <Alec.Ward@cpuc.ca.gov>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>
Cc: Jason Wilson <jwilson@willenken.com>
Subject: RE: [EXTERNAL] RE: SoCalGas Response - CalAdvocates-TB-SCG-2021-04

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Traci,

Thank you for your email. Jason Wilson is on vacation this week but would appreciate the opportunity to meet and confer next week after he returns and is able to discuss with the client. He'll reach out to you next week.

Best regards,
Sherin Varghese



Sherin S. Varghese

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

Sent: Tuesday, October 5, 2021 2:58 PM

To: Sierzant, Corinne M <CSierzant@socalgas.com>; Ward, Alec <Alec.Ward@cpuc.ca.gov>; Castello, Stephen <Stephen.Castello@cpuc.ca.gov>

Cc: Jason Wilson <jwilson@willenken.com>; Sherin Varghese <svarghese@willenken.com>

Subject: [EXTERNAL] RE: SoCalGas Response - CalAdvocates-TB-SCG-2021-04

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Cal Advocates would like to meet and confer via email with SoCalGas regarding the SoCalGas' attached data response to Cal Advocates' request to audit the 900 series of ratepayer accounts.

The objections raised in SoCalGas' response have no merit. Among other things, nothing in the Rate Case Plan or the Commission's stay prevents SoCalGas from allowing Cal Advocates to audit ratepayer accounts.

Given its statutory rights to audit SoCalGas' accounts, Cal Advocates requests access to those same accounts set forth in the April 1, 2021 data request, but for the period starting January 1, 2010 to the present.

Please let us know no later than close of business tomorrow, October 6, 2021, when SoCalGas will make access to the accounts available to Cal Advocates as set forth above, or whether SoCalGas intends to stand on its objections.

Thanks, in advance, for your prompt attention to this matter.

Traci Bone
Attorney for the Public Advocates Office at the
California Public Utilities Commission
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From: Sierzant, Corinne M <CSierzant@socalgas.com>

Sent: Monday, April 12, 2021 3:03 PM

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

Cc: Jason Wilson <jwilson@willenken.com>; Sherin Varghese <svarghese@willenken.com>

Subject: SoCalGas Response - CalAdvocates-TB-SCG-2021-04

Good Afternoon,

Attached is SoCalGas' response to data request CalAdvocates-TB-SCG-2021-04.

Sincerely,

Corinne Sierzant, Regulatory Affairs
213-244-5354 (Office); 215-290-3144 (Cell)
csierzant@socalgas.com

EXHIBIT 3

Executive Director Letter – March 19, 2021

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



March 19, 2021

VIA EMAIL: JMock@socalgas.com

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

RE: March 18, 2021 Request of Southern California Gas Company for Extension of Time to Comply with Resolution ALJ-391

Dear Mr. Mock:

This letter responds to your March 18, 2021 request for an extension of time for Southern California Gas Company (SoCalGas) to comply with Commission Resolution ALJ-391 (Resolution) pending the resolution of the litigation currently on file in *Southern California Gas Company v. California Public Utilities Commission*, Case No. B310811, California Court of Appeal, Second Appellate District, Division One. Public Advocates Office objects to SoCalGas' extension request.

This letter extends SoCalGas' time to comply with the Resolution until twenty-one (21) days following the Court of Appeal's final disposition of SoCalGas's Petition for Writ of Review and Request for Stay currently pending before the California Court of Appeal (Case No. B310811). As noted at page 2 of SoCalGas' March 18, 2021 request for extension of time, "[g]ranted the requested extension would avoid the need for further stay proceedings in the Court of Appeal."

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

Sincerely,

A handwritten signature in cursive script that reads "Rachel Peterson".

Rachel Peterson
Executive Director

EXHIBIT 4

Court of Appeal Order, March 22, 2021

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

COURT OF APPEAL – SECOND DIST.

FILED

Mar 22, 2021

DANIEL P. POTTER, Clerk

JLozano Deputy Clerk

SOUTHERN CALIFORNIA GAS
COMPANY,

Petitioner,

v.

PUBLIC UTILITIES COMMISSION,

Respondent.

B310811

Commission Decision No. D.21-03-00
Resolution ALJ-391

ORDER

Pursuant to petitioner's March 19, 2021 request, and in light of respondent's agreement to grant petitioner an extension of time in which to comply with Resolution ALJ-391, as modified, until 21 days after this Court's disposition of the petition, our March 16, 2021 temporary stay order is hereby vacated and the hearing set for March 25, 2021 in this Court is taken off calendar.



ROTHSCHILD, P. J.

EXHIBIT 5

SoCalGas Response - CalAdvocates-TB-SCG-2021-04

SOUTHERN CALIFORNIA GAS COMPANY

(DATA REQUEST CALADVOCATES-TB-SCG-2021-04)

Date Received: April 1, 2021

Date Submitted: April 12, 2021

GENERAL OBJECTIONS AND OBJECTIONS TO “INSTRUCTIONS”

1. SoCalGas objects to the Instructions and Definitions submitted by Cal Advocates on the grounds that they are overbroad and unduly burdensome. Special interrogatory instructions of this nature are expressly prohibited by California Code of Civil Procedure Section 2030.060(d). SoCalGas further objects to the Instructions to the extent they purport to impose requirements exceeding that required by CPUC General Order 66-D or the Discovery Custom and Practice Guidelines provided by the CPUC.
2. SoCalGas objects to the Data Request’s on the grounds that the deadline is contradictory. Cal Advocates says in the instructions that the response is due within ten business days, which would be April 15, 2021. But it sets a deadline of April 12, 2021, which is the seventh business day.
3. The highlighted sentence in the second paragraph under “General” states that if SoCalGas “acquire[s] additional information after providing an answer to any request, [it] must supplement [its] response following the receipt of such additional information.” SoCalGas objects to this instruction on the grounds that it is a continuing interrogatory expressly prohibited by Code of Civil Procedure § 2030.060(g), has no basis in the Commission’s Rules of Practice and Procedure, and exceeds that required by the Discovery Custom and Practice Guidelines provided by the CPUC.
4. The highlighted paragraph under “Responses” purports to require SoCalGas identify “the person providing the answer to each question and his/her contact information.” SoCalGas objects to this instruction because it has no basis in the Commission’s Rules of Practice and Procedure and exceeds that required by the Discovery Custom and Practice Guidelines provided by the CPUC.
5. The highlighted portion of the paragraph under “Requests for Clarification” purports to require SoCalGas to notify Cal Advocates “within five (5) business days” if “a request, definition, or an instruction is unclear”; the highlighted paragraph under “Objections” purports to require SoCalGas to “submit specific objections, including the specific legal basis to the objection . . . within five (5) business days”; and the highlighted portion of the paragraph under “Assertions of Privilege” in the “Instructions” section of this Request further purports to require SoCalGas to “assert any privilege for documents responsive to this data request . . . within five (5) business days.” SoCalGas objects to these requirements as unduly burdensome and unreasonable as SoCalGas cannot determine which aspects of the Request need clarification, formulate objections or identify privileged information and documents until SoCalGas has otherwise completed its investigation and prepared its response to the Request.
6. The highlighted paragraph under “Assertions of Confidentiality” purports to require SoCalGas, “[i]f it assert[s] confidentiality for any of the information provided,” to “please identify the information that is confidential with highlights and provide a

SOUTHERN CALIFORNIA GAS COMPANY

(DATA REQUEST CALADVOCATES-TB-SCG-2021-04)

Date Received: April 1, 2021

Date Submitted: April 12, 2021

specific explanation of the basis for each such assertion.” SoCalGas objects to this request the extent it purports to impose requirements exceeding the process for submitting confidential information to the Commission outlined in GO 66-D § 3, has no basis in the Code of Civil Procedure or the Commission’s Rules of Practice and Procedure, exceeds that required by the Discovery Custom and Practice Guidelines provided by the CPUC, and is inconsistent with the requirements of Resolution ALJ-391.

7. The first highlighted paragraph under “Signed Declaration” purports to require SoCalGas to provide “a signed declaration from a responsible officer or an attorney under penalty of perjury that [SoCalGas has] used all reasonable diligence in preparation of the data response, and that to the best of [his or her] knowledge, it is true and complete.” SoCalGas objects to this instruction because it has no basis in the Code of Civil Procedure or the Commission’s Rules of Practice and Procedure, and exceeds that required by the Discovery Custom and Practice Guidelines provided by the CPUC. SoCalGas further objects to the extent it purports to limit SoCalGas from amending its responses should additional information be later discovered. SoCalGas reserves its right to amend its responses to these requests should additional information relevant to SoCalGas’s responses is discovered at a later date.
8. SoCalGas objects to the second highlighted paragraph under “Signed Declaration” to the extent it purports to impose requirements exceeding the process for submitting confidential information to the Commission outlined in GO 66-D § 3, has no basis in the Code of Civil Procedure or the Commission’s Rules of Practice and Procedure, and exceeds that required by the Discovery Custom and Practice Guidelines provided by the CPUC. SoCalGas further objects to this paragraph as unduly interfering with the attorney-client relationship and forcing waiver of the attorney-client privilege and attorney work product doctrines and is inconsistent with the requirements of Resolution ALJ-391. This violates Evidence Code sections 954, 955, 915, and 912, and exceeds the power of the Commission by seeking to modify the legislatively mandated privilege. It further violates Cal. Code Civ. Pro. sections 128.7, 2018.030(a), and 2031.250(a), and as such exceeds the power of the Commission by setting rules in conflict with statute.
9. SoCalGas will produce responses only to the extent that such response is based upon personal knowledge or documents in the possession, custody, or control of SoCalGas, as set forth in the California Public Utilities Commission (“Commission or CPUC”) Rules of Practice and Procedure. SoCalGas’s possession, custody, or control does not include any constructive possession that may be conferred by SoCalGas’s right or power to compel the production of documents or information from third parties or to request their production from other divisions of the Commission.

SOUTHERN CALIFORNIA GAS COMPANY

(DATA REQUEST CALADVOCATES-TB-SCG-2021-04)

Date Received: April 1, 2021

Date Submitted: April 12, 2021

10. SoCalGas objects to the definition of “you,” “your(s),” “Company,” “SCG,” and “SoCalGas” to the extent it seeks information from Sempra Energy. The responses below are made on behalf of SoCalGas only.

QUESTION 1:

Please arrange for remote access for Cal Advocates to audit all information contained in FERC Uniform System of Account Nos. 901 through 935 and their subsidiary accounts, for the period January 1, 2017 to the March 15, 2021. Preparations shall be such that the audit may commence no later than Monday, April 12, 2021.

RESPONSE 1:

SoCalGas objects to this request on the grounds that it violates the Executive Director’s March 19, 2021 Rule 16.6 stay of Resolution ALJ-391 and the Temporary Stay Order issued by the Court of Appeal for the Second Appellate District, Division One, in Case No. B310811 on March 16, 2021. SoCalGas also objects on the grounds that the request is vague and ambiguous as to “remote access...to all information contained in FERC Uniform System of Account Nos. 901 through 935 and their subsidiary accounts.” SoCalGas further objects to Cal Advocates deadline of April 12, 2021 as unreasonable and unduly burdensome.

In addition, SoCalGas objects to the request on the grounds that it seeks to prematurely litigate SoCalGas’s next GRC, is inconsistent with the Commission approved GRC Rate Case Plan, and to the extent it purports to require SoCalGas to create documents or compile information in a format that it does not maintain or has not yet created in the ordinary course of business. Such an obligation exceeds the requirements under the CPUC’s Discovery Custom and Practice Guidelines and California Code of Civil Procedure Section 2031.230 (proper response stating inability to comply with discovery request includes a statement that “the particular item or category [of records] has never existed”). See also A.05-04-020, In the Matter of the Joint Application of Verizon Communications Inc. and MCI, Inc., Administrative Law Judge’s Ruling Addressing Motion of Qwest to Compel Responses, Aug. 5, 2005, at p. 7 (regarding motion to compel, emphasizing that “Verizon is not required to create new documents responsive to the data request”) (also available at 2005 WL 1866062); A.05-02-027, In the Matter of the Joint Application of SBC Communications Inc. and AT&T Corp., Administrative Law Judge’s Ruling Regarding ORA’s Second Motion to Compel, June 8, 2005, at p.23 (on motion to compel, stressing that SBC Communications “shall not be required to produce new studies specifically in response to this DR”) (also available at 2005 WL 1660395).