

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

Application For Rehearing of Resolution  
ALJ-391.

Application 20-12-011

**PUBLIC ADVOCATES OFFICE  
APPLICATION FOR REHEARING OF RESOLUTION ALJ-391**

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## I. INTRODUCTION<sup>1</sup>

Pursuant to Commission Rule of Practice and Procedure (Rule) 16.1, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) files this *Application for Rehearing of Resolution ALJ-391* (Application).

Resolution ALJ-391 (ALJ-391) was issued and mailed December 21, 2020, and therefore this Application is timely filed. Further, while Cal Advocates believes that the legal errors identified below are preserved in its January 11, 2021 Response to *Southern California Gas Company's Application For Rehearing of Resolution ALJ-391 and Request for Oral Argument*, Cal Advocates files this Application out of an abundance of caution in order to preserve its rights on appeal as a real party in interest to these matters.

## II. OVERVIEW

Southern California Gas Company (SoCalGas) has intentionally withheld discovery from Cal Advocates – including access to audit its System Applications Products (SAP) accounting system – for over eight months based on frivolous First Amendment claims. Contrary to SoCalGas' arguments, the law is clear that as the utility's regulators the Commission and Cal Advocates have a broad statutory right to investigate the utility, including the right to obtain from the utility the information necessary to determine whether SoCalGas is properly booking costs associated with activities that should not be funded by ratepayers. Pursuant to this well-settled law, the Commission and Cal Advocates are entitled to investigate and review the utility's records even if such review infringes on SoCalGas' First Amendment rights.<sup>2</sup> The only

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<sup>1</sup> 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>.

<sup>2</sup> *Brock v. Local 375, Plumbers Int'l Union*, 860 F.2d 346, 348 (9<sup>th</sup> 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”); *Federal Election Com. v. Machinists Non-Partisan Political League*, 655 F. 2d 380, 387-388 (D.C. Cir. 1981) (explaining that while the Federal Election Commission has no right to the requested discovery, agencies such as the Federal Trade Commission and Securities and Exchange Commission, which have

(continued on next page)

requirement is that the discovery be “*rationally related to a compelling government interest and the ‘least restrictive means’* of obtaining the desired information.”<sup>3, 4</sup>

As a secondary – but equally important – matter, the utility has also suspended Cal Advocates’ review of its SAP system based on claims that its accounts contain attorney/client communications or attorney work product information. On this basis, SoCalGas claims the right to “wall off” from Commission review those portions of its accounts that may contain such information. While ALJ-391 proposes to resolve this issue by requiring the utility to provide a privilege log – this solution is practicably unworkable and legally flawed. Among other things, giving credence to such claims gives SoCalGas the power to frustrate the Commission’s ability to review its books “at any time.”<sup>5</sup> Instead, the Commission must find that a utility may not include privileged information in its accounts, and that if it does, it has waived any claim of privilege.

ALJ-391 correctly determined that there was no merit to any of SoCalGas’ arguments and ordered SoCalGas to respond to Cal Advocates’ discovery requests no later than January 20, 2021.<sup>6</sup> However, ALJ-391 errs because it:

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“roving statutory functions” may seek discovery based on “mere ‘official curiosity’” and explaining at 385 “The Morton Salt rule has been applied by this court repeatedly in business contexts to limit the scope of issues which may be litigated in a subpoena enforcement proceeding. In so doing we have repeatedly shown our awareness that the ‘very backbone of an administrative agency’s effectiveness in carrying out the congressionally mandated duties of industry regulation is the rapid exercise of the power to investigate ...’”; *see also McLaughlin v. Service Employees Union, Local 280*, 880 F.2d 170, 175 (9<sup>th</sup> Cir. 1989); and *see e.g., United States v. Morton Salt Co.*, 338 U.S. 632, 642-643 (1950) (*Morton Salt*).

<sup>3</sup> *Perry v. Schwarzenegger*, 591 F.3d 1126, 1140 (9<sup>th</sup> Cir. 2009) (*Perry*) quoting *Brock*, 349-350 which was quoting *United States v. Trader’s State Bank*, 695 F.2d 1132, 1133 (9<sup>th</sup> Cir. 1983).

<sup>4</sup> The only real First Amendment 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. That issue, raised by an Earthjustice Public Records Act (PRA) request pending before the Commission since January 30, 2020, has not been resolved. However, footnote 12 of *Perry* is instructive.

<sup>5</sup> Cal. Pub. Util. Code § 314(a).

<sup>6</sup> 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.”

- (1) Fails to recognize the black letter law that unequivocally demonstrates that Cal Advocates is entitled to the discovery it seeks from SoCalGas and that SoCalGas has received more due process than is required by the law;<sup>7</sup>
- (2) Fails to recognize that even if SoCalGas had established a *prima facie* case of First Amendment infringement – which it did not – that the standard for discovery is not that it be “narrowly tailored” but that it be “*rationally related to a compelling government interest and the ‘least restrictive means’* of obtaining the desired information”;<sup>8</sup>
- (3) Fails to recognize black letter law regarding due process that clearly reflects that SoCalGas is not entitled to a trial-type hearing regarding the imposition of sanctions;<sup>9</sup>
- (4) Fails to recognize that Cal Advocates, as a real party in interest, is entitled to the confidential declarations SoCalGas has submitted in support of its *prima facie* case of First Amendment infringement and that the utility’s failure to provide these declarations to Cal Advocates merits an adverse inference against their credibility; and
- (5) Fails to dismiss SoCalGas’ attorney/client and work product privilege claims for information contained in its SAP system based on waiver of those claims.

The following discussion addresses each of these legal errors in turn.

### III. LEGAL ANALYSIS

#### A. **ALJ-391 Errs By Failing To Recognize The Black Letter Case Law Affirming The Commission’s Rights To Fully Investigate The Utilities It Regulates**

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

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<sup>7</sup> See footnote 2 above.

<sup>8</sup> See footnote 3 above (*emphases added*).

<sup>9</sup> See *Mathews v. Eldridge*, 424 U.S. 319 (1976).

public utilities.”<sup>10</sup> ALJ-391 also properly recognizes that 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.<sup>11</sup> Indeed, that same code 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 here.<sup>12</sup>

Notwithstanding these accurate findings, ALJ-391 errs by failing to point to the black letter case law establishing an administrative agency’s right and obligation to investigate the entities that it regulates, regardless of First Amendment claims,<sup>13</sup> and that the Commission need not show more than its statutory framework to establish a compelling government interest in such investigations.<sup>14</sup> Indeed, that regulatory framework speaks for itself.

As the pre-eminent court addressing administrative law cases, the District of Columbia Circuit’s decision in *Federal Election Commission v. Machinists* is instructive in this regard. That case recognizes that an agency, like the Commission, that is “vested with broad duties to gather and compile information and to conduct periodic

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<sup>10</sup> Resolution ALJ-391, Finding ¶ 10.

<sup>11</sup> See, e.g., Cal. Pub. Util. Code §§ 309.5(e), 311(a), 314, 314.5(a), 581, 582, 584, 701 and 702.

<sup>12</sup> 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.” *Emphasis added.*

<sup>13</sup> *Federal Election Com. v. Machinists Non-Partisan Political League*, 655 F. 2d 380, 385-390 (D.C. Cir. 1981) and *Brock v. Local 375, Plumbers Int’l Union*, 860 F.2d 346, 348-349 (9<sup>th</sup> Cir. 1988) (*Brock*) 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 (9<sup>th</sup> Cir. 1983); *Casey v. Federal Trade Comm’n*, 578 F.2d 793, 799 (9<sup>th</sup> Cir. 1978); *Federal Maritime Comm’n v. Port of Seattle*, 521 F.2d 431, 435 (9<sup>th</sup> Cir. 1975); and *EPA v. Alyeska Pipeline Service Co.*, 836 F.2d 443, 446(9<sup>th</sup> Cir. 1988).

<sup>14</sup> See, e.g., *Federal Election Com. v. Machinists Non-Partisan Political League*, 655 F. 2d 380, 389 (D.C. Cir. 1981) (“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. 4<sup>th</sup> 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).



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.”<sup>15</sup> 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’.”<sup>16</sup> Given the Commission’s broad statutory framework to investigate the utilities it regulates, such findings are dispositive here.

The Ninth Circuit reached similar conclusions when considering the First Amendment issues raised in *Brock* noting 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.”<sup>17</sup> The *Brock* court explained: “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.”<sup>18</sup>

Both *Federal Election Commission v. Machinists* and *Brock* – which considered an agency’s right to information protected by the First Amendment, relied upon the U.S. Supreme Court’s determinations in *Morton Salt*, which are highly relevant here, notwithstanding the fact that it did not expressly consider First Amendment claims. The *Morton Salt* Court presciently observed: “[t]he only power that is involved here is the

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<sup>15</sup> *Federal Election Com. v. Machinists Non-Partisan Political League*, 655 F.2d 380, 387 (D.C. Cir. 1981).

<sup>16</sup> *Id.* at 387-388.

<sup>17</sup> *Brock*, p. 348.

<sup>18</sup> *Brock*, pp. 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 (9<sup>th</sup> Cir. 1983); *Casey v. Federal Trade Comm'n*, 578 F.2d 793, 799 (9<sup>th</sup> Cir. 1978); *Federal Maritime Comm'n v. Port of Seattle*, 521 F.2d 431, 435 (9<sup>th</sup> Cir. 1975); and *EPA v. Alyeska Pipeline Service Co.*, 836 F.2d 443, 446(9<sup>th</sup> Cir. 1988).

power to get information from those who best can give it and who are most interested in not doing so.”<sup>19</sup> It explained:

... [A]n administrative agency charged with seeing that the laws are enforced ... *has a power of inquisition, if one chooses to call it that*, which is not derived from the judicial function. It is more analogous to the Grand Jury, which does not depend on a case or controversy for power to get evidence but *can investigate merely on suspicion that the law is being violated, or even just because it wants assurance that it is not*. When investigative and accusatory duties are delegated by statute to an administrative body, it, too, may take steps to inform itself as to whether there is probable violation of the law.<sup>20</sup>

Consistent with *Federal Election Commission v. Machinists* and *Brock*, the same rules apply here, in the First Amendment context. 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. ALJ-391 should be supplemented to reflect the important and dispositive administrative law holdings in these cases.

**B. ALJ-391 Errs By Articulating The Wrong Standard For Permissible Discovery Where A *Prima Facie* Case Is Made**

ALJ-391 errs when it finds that even if SoCalGas had established a *prima facie* case of First Amendment infringement – which it did not – that the standard for discovery is that it be “narrowly tailored.”<sup>21</sup> Discovery need not be “narrowly tailored” in such an

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<sup>19</sup> *United States v. Morton Salt Co.*, 338 U.S. 632, 642 (1950) (*emphasis added*).

<sup>20</sup> *Morton Salt*, pp. 642-643 (*emphases added*).

<sup>21</sup> Resolution ALJ-391, p. 16, errs by reading the “narrowly tailored” requirement for statutes into *Perry*’s standard, stating: “First, the action must be “rationally related to a compelling governmental interest” and second, **the action must be narrowly tailored**, such “that the least restrictive means of obtaining the desired information” have been used.” (Emphasis added). This statement is incorrect. *Perry* does not require that discovery be “narrowly tailored.” See also Resolution ALJ-391, pp. 18-19 analyzing whether Cal Advocates’ discovery meets the “narrowly tailored” standard. Note that the case law relied upon in that discussion (footnote 57) applies to statutes and regulations, not discovery. See also Findings 15 & 21. All of these provisions must be corrected.

instance. Rather, pursuant to *Perry v. Schwarzenegger (Perry)* – the primary case relied on by both ALJ-391 and SoCalGas – discovery is subject to the less restrictive standard that it be “rationally related to a compelling government interest and the ‘least restrictive means’ of obtaining the desired information.”<sup>22</sup> The “narrowly tailored” standard is not the same, and Resolution ALJ-391 must be modified to correct this error.<sup>23</sup>

In applying the standard for discovery set forth in *Perry*, the court considers whether the information can be obtained in another manner that does not intrude on protected activities,<sup>24</sup> 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.”<sup>25</sup> *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.<sup>26</sup>

Given the rule for discovery as articulated in *Perry*, Cal Advocates is clearly entitled to the information it seeks. The extensive statutory framework allowing the Commission and Cal Advocates to engage in all manner of discovery against both the utilities it regulates as well as their unregulated subsidiaries and affiliates, establishes the compelling government interest here. Obtaining the information from SoCalGas is the “least restrictive means” available. SoCalGas and/or its subsidiaries and affiliates hold all of the information Cal Advocates seeks. Other entities may hold some of the information, but not all of it, and the majority of those entities are not regulated by the Commission. Finally, Cal Advocates’ interest in ensuring SoCalGas is not using

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<sup>22</sup> *Perry*, p. 1140 (*emphases added; citations omitted*).

<sup>23</sup> See footnote 21 listing the places where ALJ-391 should be corrected.

<sup>24</sup> *Perry*, p. 1144.

<sup>25</sup> *Perry*, p. 1140 (*citations and punctuation omitted*).

<sup>26</sup> *Perry*, p. 1140-1141 *also citing Dole*.

ratepayer monies to fund its pro-gas advocacy is significant so that the interest in disclosure to the Commission and Cal Advocates outweighs any harm.

**C. ALJ-391 Errs By Failing To Recognize The Due Process Principles Set Forth In *Mathews v. Eldridge* Regarding The Limited Applicability Of Trial-Type Hearings**

ALJ-391 properly finds that SoCalGas' due process arguments have no merit.<sup>27</sup> However, ALJ-391 errs by failing to acknowledge *Mathews v. Eldridge* and the law that it stands for.<sup>28</sup> *Mathews v. Eldridge* not only establishes without any doubt that SoCalGas' current due process arguments have no merit, it also addresses arguments that SoCalGas will likely make when faced with proceedings to sanction it for withholding discovery from Cal Advocates.

While ALJ-391 – over Cal Advocates' objections – puts off to another day proceedings to sanction SoCalGas for its discovery abuses, it should, at a minimum, acknowledge the holdings in *Mathews* that make clear that the Commission need not engage in trial-type hearings to impose sanctions when that day comes. *Mathews* explains that the sufficiency of due process is case-specific and rarely requires trial-type hearings: “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.”<sup>29</sup> 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 home<sup>30</sup> – should be recognized as dispositive of any SoCalGas due process claim to a trial-type hearing regarding the imposition of sanctions. As the *Mathews* Supreme Court observed: “*Only in Goldberg* has the Court held that due process requires an evidentiary hearing prior to a temporary deprivation. It was

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<sup>27</sup> Resolution ALJ-391, p. 31, Ordering ¶ 26.

<sup>28</sup> *Mathews v. Eldridge*, 424 U.S. 319 (1976).

<sup>29</sup> *Mathews v. Eldridge*, p. 334 (*citations and punctuation omitted*).

<sup>30</sup> *Mathews v. Eldridge*, p. 350.

emphasized there that welfare assistance is given to persons on the very margin of subsistence.”<sup>31</sup> In other words, due process almost *never* requires a trial-type hearing, and 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, and it should clarify that trial-type hearings are not necessary to consideration and imposition of those sanctions.

**D. ALJ-391 Errs By Failing To Recognize All Of The Factors Showing That The Confidential Declarations Offered In Support Of SoCalGas’ *Prima Facie* Case Are Insufficient**

While ALJ-391 properly finds that SoCalGas fails to make a *prima facie* case of First Amendment infringement because its supporting confidential declarations are unacceptably conclusory, ALJ-391 commits legal error by failing to go further and acknowledge that: (1) SoCalGas’ refusal to provide its confidential declarations to Cal Advocates, as a real party in interest, requires an adverse inference regarding the contents of those declarations, which is dispositive to its First Amendment infringement claims; and (2) there is additional evidence that SoCalGas’ confidential declarations cannot be taken at face value.

**1. ALJ-391 Errs By Failing To Recognize That SoCalGas’ Refusal To Provide The Confidential Declarations To Cal Advocates Requires An Adverse Inference**

There is no question that Cal Advocates is the real party in interest in this proceeding: Cal Advocates initiated the investigation into SoCalGas’ pro-gas advocacy, it

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<sup>31</sup> *Mathews v. Eldridge*, p. 340 (emphasis added) citing to *Goldberg v. Kelly*, 397 U.S. 254 (1970).

is the subject matter expert on the facts regarding this investigation, and it will be the primary beneficiary of proper resolution of the issues raised here. Indeed, SoCalGas expressly singles out Cal Advocates as its adversary, arguing that Cal Advocates, not the rest of the Commission, may not view discovery that the utility asserts is protected by the First Amendment. Based on its argument that Cal Advocates is somehow different from the rest of the Commission, SoCalGas provided the confidential declarations to the Commission on December 2, 2019 – more than a year ago – yet has refused to provide those same declarations to Cal Advocates, notwithstanding Cal Advocates’ multiple efforts to obtain them.<sup>32</sup>

Cal Advocates is in a unique position to identify discrepancies in the confidential declarations purported to support SoCalGas’ *prima facie* case, and is entitled to those confidential declarations. ALJ-391 errs by failing to acknowledge this fundamental flaw in SoCalGas’ First Amendment claims – that Cal Advocates has been prejudiced by SoCalGas’ withholding of the confidential declarations from it. Further, given Cal Advocates’ inability to address the claims made in the confidential declarations, ALJ-391 errs by taking those declarations at face value.

To address this legal error, ALJ-391 must be supplemented to acknowledge that SoCalGas is intentionally withholding the confidential declarations from Cal Advocates thereby preventing Cal Advocates – the party best positioned to determine the validity of the claims made in those declarations – from analyzing and responding to SoCalGas’ “evidence” in support of its First Amendment claims. On this basis, ALJ-391 should

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<sup>32</sup> 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).

adopt an adverse inference that there is no legitimate basis for SoCalGas' *prima facie* case of First Amendment infringement.

California Evidence Code § 413 permits courts to make such inferences. It provides:

In determining what inferences to draw from the evidence or facts in the case against a party, the trier of fact may consider, among other things, the party's failure to explain or to deny by his testimony such evidence or facts in the case against him, or his willful suppression of evidence relating thereto, if such be the case.

Imposing an adverse inference here is consistent with Commission precedent. In the San Bruno investigations, the Commission imposed a finding of an adverse inference against Pacific Gas and Electric Company based on the utility's failure to retain certain records.<sup>33</sup> The Federal Energy Regulatory Commission has also employed adverse inferences for the withholding or destruction of evidence.<sup>34</sup> For similarly compelling

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<sup>33</sup> See D.15-04-024, *Decision On Fines And Remedies To Be Imposed On Pacific Gas And Electric Company For Specific Violations In Connection With The Operation And Practices Of Its Natural Gas Transmission System Pipelines*, in Investigations 11-11-009, 11-02-016, and 12-01-007, pp. 211-212 (2015) citing *Cedars-Sinai Medical Center v. Superior Court*, 18 Cal.4th 1, 11-13 (1998) (listing remedies for spoliation of evidence).

<sup>34</sup> See, e.g., FERC's Initial Decision in the California Market Manipulation cases making the following findings at paragraphs 129 and 255, respectively:

129. ... [A] discovery sanction for Shell's failure to produce requested audiotapes has been imposed in this case in the form of an adverse factual inference. It has been deemed to be a fact that on every day that an audiotape was missing on which Shell made sales to CDWR (*i.e.*, May 18-24 and May 30-31, 2001), Shell engaged in unspecified unlawful activity, and each such unlawful activity had a price effect in [the] spot market.

and

255. Complainants filed a motion against Iberdrola to compel production of the audiotapes and for sanctions in view of Iberdrola's loss of those tapes, despite their acknowledged existence at one time and a litigation hold on them against evidentiary spoliation. The motion was granted and a sanction was imposed on Iberdrola in the form of an adverse factual inference. Specifically, it is deemed to be a fact that PacifiCorp's unlawful activities in the spot market during the Crisis Period, such as parking and megawatt-laundering, are attributable to Iberdrola.

See 155 FERC ¶ 63,004, *Initial Decision*, FERC Docket No. EL02-60-007 (April 12, 2016).



reasons here – the utility’s intentional withholding of documents in its possession from the party best situated to analyze its claims – an adverse inference is justified.

**2. ALJ-391 Errs By Failing To Recognize That The Declarations Supporting SoCalGas’ *Prima Facie* Case Cannot Be Taken At Face Value**

While Cal Advocates has been unable to fully analyze SoCalGas’ confidential declarations, it has nonetheless identified issues suggesting there is no reason to believe that the declarations were made in good faith, or that the information identified as “confidential” in those declarations is not already in the public domain. 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.”<sup>35</sup> 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 Imprinta Communications Group (Imprinta) – 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,<sup>36</sup> and are publicly available on the FPPC’s website.<sup>37</sup> Notwithstanding these public disclosures (made by SoCalGas), SoCalGas claimed the Marathon and Imprinta 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

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<sup>35</sup> SoCalGas Application, p. 9.

<sup>36</sup> 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.

<sup>37</sup> See Attachment A - Sempra Energy and Affiliates Period 1/1/2018-3/31/2018 Forms 635 and 640 listing Imprinta Communications Group at 9 and Attachment B - Sempra Energy and Affiliates Period 4/1/2019-6/30/2019 Forms 635 and 640 listing Marathon Communications at 8-9.



available.<sup>38</sup> However, this cannot be established without providing Cal Advocates access to the confidential versions of the declarations.

SoCalGas' misrepresentations in the declarations are not limited to the confidential portions, further demonstrating that they are not reliable. For example, the public version of 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."<sup>39</sup> Ms. Tomkins' claim is misleading because while it implies that Cal Advocates has improperly disclosed confidential SoCalGas contracts to the media, it does not specifically identify 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 public<sup>40</sup> – Cal Advocates knows of no instance in this investigation where confidential utility information has been disclosed, and SoCalGas has failed to identify any such disclosure.<sup>41</sup>

Whether or not information is confidential is highly relevant to SoCalGas' *prima facie* case. Indeed, courts have found that the associational privilege is waived where it is made public.<sup>42</sup> Moreover, if the consultant-declarants' identities and employers' names

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<sup>38</sup> 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 proceedings 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.

<sup>39</sup> SoCalGas Motion for Reconsideration Appeal, Declaration 3 – Sharon Tomkins, ¶ 11.

<sup>40</sup> See footnote 4 above.

<sup>41</sup> See *McLaughlin v. Service Employees Union, Local 280*, 880 F.2d 170, 175 (9<sup>th</sup> Cir. 1989): 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."

<sup>42</sup> *Wyoming v. USDA*, 239 F. Supp. 2d 1219 (Wy. Dist. Ct. 2002) citing to *Kisser v. Coalition for Religious Freedom*, 1995 U.S. Dist. LEXIS 9719 \*4 (associational privilege waived by

(continued on next page)

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 because the drop in donations which was the asserted harm “could have as easily been attributed to publicity surrounding the investigation.”<sup>43</sup> 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.<sup>44</sup> 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.

For the reasons set forth above, ALJ-391 should be modified to address the fact that Cal Advocates is the real party in interest here, and 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.

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public disclosure of the information asserted as privileged with citation to *United States v. Salerno*, 505 U.S. 317 (1992)).

<sup>43</sup> See *St. German of Alaska Eastern Orthodox Catholic Church v. United States*, 840 F.2d 1087 (2<sup>nd</sup> Cir. 1988) discussed in *Dole v. Local Union 375, Plumbers Int’l Union*, 921 F.2d 969, 973 (9<sup>th</sup> Cir. 1990) (*Dole*).

<sup>44</sup> 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 C 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.

**E. ALJ-391 Errs By Failing To Recognize That SoCalGas' Attorney/Client And Other Privilege Claims Associated With Its SAP Accounting System Have Been Waived**

ALJ-391 properly ordered SoCalGas to provide a privilege log to Cal Advocates for all of its privilege claims 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.<sup>45</sup> This same requirement – which SoCalGas claims is “illegal” and “unprecedented”<sup>46</sup> – was also required of SoCalGas’ attorneys by the Los Angeles Superior Court overseeing the Aliso Canyon gas leak civil litigation.<sup>47</sup>

Because the utility has routinely refused to provide any privilege log to support its privilege claims, such a Commission order is not only merited, it is essential to Cal Advocates continuing its investigation. However, ALJ-391 errs in failing to provide separate treatment for the utility’s SAP accounting system. With regard to the utility’s accounts, ALJ-391 should be revised to reflect that 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.<sup>48</sup> A presumption of waiver

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<sup>45</sup> Resolution ALJ-391, p. 24 (“To the extent SoCalGas seeks to assert attorney-client or attorney work product privileges, it must prepare and provide to Cal Advocates a privilege log listing the information withheld and comply with all requests from Cal Advocates to provide access to the portions of the documents or other materials not subject to these privileges”); *see also* Finding ¶ 11 and Ordering ¶ 8.

<sup>46</sup> SoCalGas Application, pp. 11 & 42-47.

<sup>47</sup> *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 has repeatedly proposed 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.”

<sup>48</sup> Specifically, the portions of ALJ-391 identified in footnote 45 above should be revised to eliminate the requirement of a privilege log related to privilege claims associated with the May 5, 2020 subpoena. That subpoena, Attachment D hereto, requires SoCalGas to provide Cal Advocates access to the utility’s accounting systems. The Commission should find privilege claims asserted with regard to that subpoena to be waived, consistent with the discussion herein.

is appropriate as a result of (1) SoCalGas' refusal to provide any information, such as a privilege log, that establishes its privilege claims,<sup>49</sup> (2) the long-standing requirement that a utility's accounts shall be available for inspection by its regulator at any time,<sup>50</sup> and (3) the fact that SoCalGas' claim that it included privileged information in its accounts is inconsistent with the rule that privileged information may not be made available to persons who do not have a need to access such information.<sup>51</sup> ALJ-391 should be clear that Cal Advocates must be provided immediate access to the utility's SAP system consistent with these principles.

In addition, because of the regulatory right and need to review a utility's accounts "at any time,"<sup>52</sup> ALJ-391 should be modified to expressly and unequivocally reject any utility proposal to create "custom software solutions" or otherwise "wall off" any part of the utility's accounts. Allowing such "solutions" to shield information in its accounts that a utility claims are "privileged" will create a loophole in the statutory scheme that utilities will systematically exploit. Specifically, it creates a mechanism for a utility to

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<sup>49</sup> Cal Advocates repeatedly requested a privilege log in meet and confer discussions. All of its Data Request Instructions also requested a privilege log to support any claims of privilege. *See, e.g.*, Attachment C - Data Request CalAdvocates-TB-SCG-2020-04, p. 3. SoCalGas routinely objected to this requirement and never produced a privilege log.

<sup>50</sup> Cal. Pub. Util. Code § 314(a).

<sup>51</sup> 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 (1<sup>st</sup> 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).

<sup>52</sup> Cal. Pub. Util. Code § 314(a).

permanently obscure any expenditures it wishes to hide from its regulator, making it impossible for a Commission auditor to know about the expenditures and seek their disclosure. This “solution” is unworkable on its face and would result in irreparable harm to the regulatory powers of the Commission.

For all of these reasons, ALJ-391 should be modified as described herein to recognize SoCalGas’ statutory obligation to make its accounts available *at any time*,<sup>53</sup> to provide privilege logs whenever a claim of privilege is made for information not contained in its accounting systems, and to reject the utility’s efforts to withhold review of its accounting systems pursuant to privilege claims.

#### IV. CONCLUSION

For the reasons set forth above, ALJ-391 errs by failing to recognize several legal principles relevant to these proceedings. Cal Advocates respectfully requests that Resolution ALJ-391 be modified to address the legal issues identified above to ensure the Commission is properly prepared for any appeal and to provide clarity that will facilitate Cal Advocates' continued pursuit of its investigation of SoCalGas’ use of ratepayer monies to fund pro-gas advocacy.

Respectfully submitted,

/s/ TRACI BONE

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January 20, 2021

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<sup>53</sup> Cal. Pub. Util. Code § 314(a).

**TABLE OF CONTENTS**

<b>Attachment</b>	<b>Description</b>
A	FPPC Forms 635 & 640, Q1 2018
B	FPPC Forms 635 & 640, Q2 2019
C	Data Request CalAdvocates-TB-SCG-2020-04
D	May 5, 2020 Commission Subpoena

**Attachment A**

FPPC Forms 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.

<b>C. ACTIVITY EXPENSES</b> (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	Meal  Other 42.56	\$ 978.80
	Eurest Dining  San Diego CA 92117	Carla Peterman  CPUC Commissioner	Meal  Other 42.56	
	Eurest Dining  San Diego CA 92117	David Hochschild  CEC Commissioner	Meal  Other 42.56	
	Eurest Dining  San Diego CA 92117	Mary Nichols  CARB Chair	Meal  Other 42.56	
	Eurest Dining  San Diego CA 92117	Janea Scott  CEC Commissioner	Meal  Other 42.56	
<input type="checkbox"/> If more space is needed, check box and attach continuation sheets. <span style="float: right; text-align: right;"> <b>TOTAL SECTION C (Activity Expenses)</b>                      Also enter the total of Section C on Line C of the Summary of Payments section on page 1.                 </span>				\$ 978.80
<b>D. OTHER PAYMENTS TO INFLUENCE LEGISLATIVE OR ADMINISTRATIVE ACTION</b> <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	
<b>TOTAL SECTION D (1 + 2)</b> Also enter the total of Section D on Line D of the Summary of Payments section on page 1.				\$ 0.00
<b>E. PAYMENTS IN CONNECTION WITH ADMINISTRATIVE TESTIMONY IN RATEMAKING PROCEEDINGS BEFORE THE CALIFORNIA PUBLIC UTILITIES COMMISSION</b> 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	<b>\$ 78413.43</b>	

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

**Attachment Form 640**

(Continuation Sheet)

CALIFORNIA 1993 FORM	<b>640</b>
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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

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Subtotal of all payments itemized above	\$ 10446.83	
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# TEXT ANNOTATION

PAGE 1

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**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 B**

FPPC Forms 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 06/30/2019

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 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

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.

<b>C. ACTIVITY EXPENSES</b> (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	
<input checked="" 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.	\$ 6946.66
<b>D. OTHER PAYMENTS TO INFLUENCE LEGISLATIVE OR ADMINISTRATIVE ACTION</b> <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			\$ 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
<b>E. PAYMENTS IN CONNECTION WITH ADMINISTRATIVE TESTIMONY IN RATEMAKING PROCEEDINGS BEFORE THE CALIFORNIA PUBLIC UTILITIES COMMISSION</b> 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 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 Has Filed A Campaign Disclosure Statement: Sempra Energy Identification Number if Recipient Committee: 488235

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
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$
			\$

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: 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.

<b>C. ACTIVITY EXPENSES</b> (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 06/30/2019NAME 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
	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**

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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> ..... (Form 630 must be attached)	\$ 0.00
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	<u>\$ 44619.93</u>	

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

**Attachment Form 640**

(Continuation Sheet)

CALIFORNIA 1993 FORM	<b>640</b>
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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

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**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 C**

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](mailto: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

## INSTRUCTIONS<sup>1</sup>

### **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.

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<sup>1</sup> 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 1<sup>st</sup> of January and the 31<sup>st</sup> of January. Likewise, phrases such as “since January 1” and “from January 1 to the present” should be understood to include January 1<sup>st</sup>, and phrases such as “until January 31,” “through January 31,” and “up to January 31” should also be understood to include the 31<sup>st</sup>.
- 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.<sup>2</sup>

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<sup>2</sup> 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.<sup>3</sup>

## **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;

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<sup>3</sup> 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 29<sup>th</sup> 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](http://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 Reconsideration<sup>4</sup>) 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.

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<sup>4</sup> 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.

### **IMPRENDA COMMUNICATIONS GROUP**

25. SoCalGas’ April 24, 2020, response to Question 3 of Data Request CalAdvocates-SC-SCG-2019-11 states that Imprensa 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**

**Attachment D**

May 5, 2020 Commission Subpoena

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

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

IN THE MATTER OF THE PUBLIC  
ADVOCATES OFFICE INVESTIGATION  
PERTAINING TO SOUTHERN CALIFORNIA  
GAS COMPANY'S ACCOUNTING  
PRACTICES, USE OF RATEPAYER  
MONIES TO FUND ACTIVITIES RELATED  
TO THE ADOPTION OF ANTI-  
DECARBONIZATION AND GAS  
THROUGHPUT POLICIES, AND OTHER  
ACTIVITIES POTENTIALLY CONTRARY  
TO STATE POLICIES

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

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

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

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

Name: Traci Bone

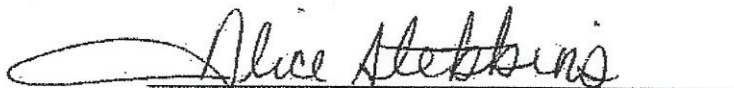
E-Mail: [tbo@cpuc.ca.gov](mailto:tbo@cpuc.ca.gov)

Telephone: 415-703-2048

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

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

Dated this 4<sup>th</sup> day of May, 2020.



By: Alice Stebbins  
Title: Executive Director

## DECLARATION IN SUPPORT OF SUBPOENA

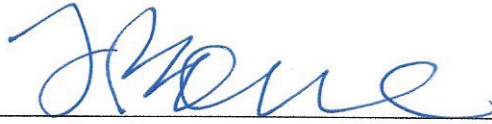
I, TRACI BONE, declare as follows:

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



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

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



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Traci Lynn Bone  
Staff Counsel

## PROOF OF SERVICE

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

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

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

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



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Traci Lynn Bone