

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



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Order Instituting Investigation on the Commission's Own Motion to Determine Whether the Aliso Canyon Natural Gas Storage Facility has Remained Out of Service for Nine or More Consecutive Months Pursuant to Public Utilities Code Section 455.5(a) and Whether any Expenses Associated with the Out of Service Plant Should be Disallowed from Southern California Gas Company's Rates.

Investigation 17-03-002
(Filed March 2, 2017)

**REPLY OF IMPERIAL IRRIGATION DISTRICT TO
SOUTHERN CALIFORNIA GAS COMPANY'S RESPONSE
TO ITS MOTION FOR CONSOLIDATION OF
INVESTIGATIONS 17-02-002 AND 17-03-002**

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I. INTRODUCTION

Pursuant to Rule 11.1(f) of the Commission's Rules of Practice and Procedure and the permission of Administrative Law Judge (ALJ) Kelly by e-mail message to all parties on 7 July 2017, the Imperial Irrigation District ("IID") respectfully submits the following reply to the response of Southern California Gas Company ("SoCalGas") to IID's Motion for Consolidation of Investigations 17-02-002 and 17-03-002.

Nothing in SoCalGas' response changes the basic reality supporting IID's Motion: the time has come for determining who at SoCalGas was responsible for the Aliso

¹ This reply is being filed in both I.17-02-002 and I.17-03-002.

Canyon disaster. The proceeding in which all parties have an opportunity to gather facts, organize their evidence, and present that evidence at an evidentiary hearing is the only way a just resolution of the issue can be achieved. Respectfully, the California Public Utilities Commission (“CPUC”) needs to put the public interest in resolving responsibility questions ahead of the need to serve SoCalGas’ private profit-making agenda. A catastrophe of this dimension and far-reaching impact should jolt the Commission into taking the necessary steps to ensure justice.

By its Motion for Consolidation, IID requested the CPUC consolidate and refocus the Aliso Canyon proceedings to prioritize the investigations into the cause and parties responsible for the 23 October 2015 natural gas blowout at Standard Sesnon 25 (“SS-25”) *before* pursuing ancillary issues in both I.17-02-002 and I.17-03-002, the CPUC is evaluating the operational status of the same gas field. In order to properly perform either inquiry, the causation and responsibility for the gas leak must be completely understood. The public and interested parties have a right to know what happened, who was responsible, and what is being done to make sure another disaster of this magnitude will not happen again.

The SS-25 blowout occurred on 23 October 2015. Lasting over 112 days, the worst methane leak in history was unleashed upon Porter Ranch. Thousands of residents were forced to evacuate their homes and thousands more suffered health issues. Without a hearing or open proceeding, the CPUC relieved SoCalGas from being subject to an investigation into who at the company was responsible. Instead, Blade Energy Partners

(“Blade Energy”) was contracted to perform the root cause analysis.² Blade Energy, a private Texas firm, was chosen from “no less than three” third parties provided by SoCalGas.³

A root cause analysis contracted out to a private company does not provide due process to the parties in Aliso Canyon proceedings. The investigation in to who is responsible and how they should be held accountable cannot be privatized. Blade Energy does not report to SoCalGas’ customers, the public, or the interested parties. Instead, the firm is paid by SoCalGas and reports only to the CPUC and the Department of Conservation’s Division of Oil, Gas and Geothermal Resources (“DOGGR”). The Blade Energy root cause analysis has shifted from what should be an open evidentiary hearing into an arrangement of secrecy. Nearly two years after the worst methane leak in history, what happened and who is responsible is unknown while the CPUC has opened proceedings that rely upon causation and culpability.

The Aliso Canyon parties should not be bound by the secret Blade Energy root cause analysis. The interested parties do not know who at Blade Energy is drafting the root cause reports, what is being revised, what information is being included, what information is being redacted, the analytical process, or the progress of the root cause analysis. All the parties are told is that Blade Energy is conducting the root cause analysis with an expected completion date of 2018, at the earliest. This failure of transparency

² Letter from Elizaveta Malashenko to Jimmie Choo SUBJECT: CPUC / DOGGR Selection of RCA firm (22 January 2016).

³ Letter from Elizaveta Malashenko to Jimmie Choo SUBJECT: Directive to Southern California Gas Company (SoCalGas) to Initiate Independent Root Cause Analysis Re: 10/23/15 Aliso Canyon Incident (14 December 2015).

comes at a time the CPUC is working “through a slew of controversies and long-running criticism that its commissioners are too cozy with the utility companies they are charged to oversee.”⁴

The interested parties need an evidentiary hearing to build their respective cases. Investigations 17-02-002 and 17-03-02 involve questions reliant upon causation and culpability. How and why did the gas leak occur? Can Aliso Canyon be safely reopened? Who was responsible for the well failure? Are those responsible still operating Aliso Canyon? What has SoCalGas done to ensure a similar disaster will not happen again? Has SoCalGas held those responsible accountable? Has SoCalGas changed its practices to ensure safety and reliability? How will SoCalGas reimburse customers for Aliso Canyon? Can Aliso Canyon be a planned future asset if it is not safe?

Without an evidentiary hearing, the interested parties do not have access to evidence needed to protect their interests, evaluate the Blade Energy analysis, or hold those responsible accountable. The private root cause analysis approach deprives the interested parties adequate access to procedure and violates their due process rights protected by Article I Section 7 of the California Constitution.

The Commission is supposed to serve “the public interest by protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure.”⁵ Before I.17-02-002 or I.17-03-002 were ever opened, there should have been an investigation and open evidentiary procedure to hold SoCalGas accountable. The CPUC’s private SS-25 well investigation further damages the already low public confidence in the

⁴ <http://www.sandiegouniontribune.com/business/energy-green/sd-fi-cpuc-changes-20161229-story.html>

⁵ CPUC Mission Statement.

Commission. The CPUC has been subject to criminal investigation for favoritism to Pacific Gas & Electric in proceedings involving the San Bruno Pipeline explosion that killed eight people⁶ and secret ex-parte meetings between Southern California Edison and former CPUC President Peevey settling the San Onofre Nuclear Plant shutdown assessing \$3.3 billion against ratepayers.⁷ It has also been heavily criticized by State auditing for non-transparency and improper contracting practices.⁸ The CPUC, by denying the interested parties access to an evidentiary hearing, is advocating SoCalGas' interests and repeating the mistakes of the past.

SoCalGas was the only party to oppose IID's Motion for Consolidation, presumably to avoid an investigation in to causation and culpability that would hold them accountable. SoCalGas has abused its political influence to turn the Aliso Canyon proceedings into a "race' to get Aliso Canyon back online."⁹ IID urges the Commission to rescind the causation and culpability gag order and restore the Aliso Canyon investigations to their proper form. Accordingly, IID respectfully requests the Commission grant its motion to consolidate and refocus the Aliso Canyon investigations.

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⁶ <http://www.sandiegouniontribune.com/news/watchdog/sd-me-watchdog-nb-20161202-story.html>

⁷ <http://www.sandiegouniontribune.com/news/watchdog/sdut-cpuc-warsaw-hotel-bristol-peevey-edison-2015feb09-htmlstory.html>

⁸ <http://www.sandiegouniontribune.com/news/watchdog/sd-me-watchdog-cpuc-audit-20160922-story.html>

⁹ <http://www.dailynews.com/environment-and-nature/20170206/will-aliso-canyon-open-again-feinstein-backs-bill-to-keep-it-closed-for-now>

II. IID’S MOTION TO CONSOLIDATE AND REFOCUS THE ALISO CANYON INVESTIGATIONS SHOULD BE GRANTED

A. I.17-02-002, I.17-03-002, and the Causation and Responsibility for the SS-25 Well Failure Involve Related Questions of Law and Fact

According to Rule 7.4 of the Commission’s Rules of Practice and Procedure, “[p]roceedings involving related questions of law or fact may be consolidated.” I.17-02-002 and I.17-03-002 contain related questions of law and fact and rely upon the causation and responsibility for the Aliso Canyon gas leak. I.17-02-002 and I.17-03-002 should be consolidated and refocused so the causation and responsibility for the SS-25 failure can be properly investigated and all other ancillary issues can follow.

1. I.17-02-002 and I.17-03-002 Involve Related Questions of Law and Fact Regarding the Status of Aliso Canyon

I.17-02-002 “determine[s] the feasibility of minimizing or eliminating the use of the Aliso Canyon Natural Gas Storage Facility.”¹⁰ Evaluating the feasibility of permanently closing or minimizing Aliso Canyon also inherently determines whether the gas field should be reopened. I.17-03-002 is investigating whether Aliso Canyon has “remained out of service for nine consecutive months.”¹¹ Despite being “precluded from injecting natural gas at the Aliso Canyon facility since [DOGGR] issued Order Number 1106 on December 10, 2015,” SoCalGas claims Aliso Canyon “has remained in service.”¹²

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¹⁰ OII 17-02-002, p. 1.

¹¹ OII 17-03-002, p. 1.

¹² Letter from Sharon Tomkins to Arocles Aguilar Re: Notice Pursuant to Utilities Code Section 455.5, p. 2 (13 January 2017) (“Notification Letter”).

The Aliso Canyon investigations relate, yet inconsistently ask the same question: I.17-02-002 asks whether Aliso Canyon *should* be reopened, while I.17-03-002 asks whether Aliso Canyon *has been* open. Consolidation would ensure the related questions of law and fact are efficiently adjudicated in one proceeding. For example, permanently closing Aliso Canyon in I.17-02-002 would impact the gas field’s status as a Public Utilities Code § 455.5(c) “plant held for future use” in I.17-03-002.

SoCalGas misconstrues the purpose of the Aliso Canyon investigations to undermine their related questions of law and fact. SoCalGas claims I.17-02-002 is only “forecasting gas electric demand” and “evaluating the feasibility of reducing or eliminating the use of Aliso Canyon while maintaining reasonable rates.”¹³ However, SoCalGas omits the Commission will also consider if the Aliso Canyon storage facility “[s]hould...[be] reduce[d] or eliminate[d].”¹⁴ SoCalGas ignores an investigation of *should* Aliso Canyon *be closed* (based on reliability) includes an analysis of whether Aliso Canyon *should be reopened* (based on reliability). The fact utility rates are a consideration does not change the investigation from evaluating whether to close or possibly reopen Aliso Canyon. SoCalGas’ interpretation of I.17-02-002 is, therefore, misleading and incomplete.

For I.17-03-002, SoCalGas unhelpfully quibbles over the meaning of Aliso Canyon being “open” and whether it “was and continues to be used and useful.” Both terms refer to the gas field as a functioning asset that can be justified to ratepayers as a

¹³ SoCalGas’ Response to IID’s Motion for Consolidation, p. 9.

¹⁴ OII 17-02-002, p. 8.

cost.¹⁵ Regardless of the word following “has Aliso Canyon been....,” I.17-03-002’s primary question remains the same: *Has* the Aliso Canyon gas field *been* open or should ratepayers be reimbursed for a closed gas field? SoCalGas’ narrow focus does not change the purpose of I.17-03-002 nor remove the related questions of law and fact.

2. I.17-02-002 and I.17-03-002 Rely Upon the Causation and Responsibility for the SS-25 Well Failure

I.17-02-002 and I.17-03-002 both require an understanding of causation and responsibility for the Aliso Canyon gas leak. The SS-25 well failure directly correlates to the feasibility of permanently closing or reopening that same utility. An asset too dangerous to continue operating because of flawed designs or corroded materials is not a reliable source of energy, and thus should be eliminated.

Causation, culpability, and decisions to permanently close or reopen Aliso Canyon will affect questions in 17-03-002. Aliso Canyon could be excepted from reimbursement if it is a Public Utilities Code § 455.5(c) “plant held for future use.” However, Aliso Canyon cannot be held for future use if it is deemed best to eliminate. Hence, there are related questions of law and fact between the investigations; the SS-25 causation and responsibility require both consolidating and refocusing the Aliso Canyon investigations.

SoCalGas fails to acknowledge the necessity of this full investigation. SoCalGas misstates “the root cause analysis must conclude before...open[ing] an investigation into the cause of the leak” as reason for ignoring the proceedings *rely on* causation and culpability.¹⁶ SoCalGas ignores I.17-02-002 and I.17-03-002 have questions that can only

¹⁵ SoCalGas’ Response to IID’s Motion for Consolidation, p. 9.

¹⁶ SoCalGas’ Response to IID’s Motion for Consolidation, p. 10.

be adequately answered by determining causation and responsibility.

SoCalGas fails to justify its request to keep the proceedings separate. Therefore, IID's Motion to Consolidate should be granted.

B. Consolidating and Refocusing the Aliso Canyon Investigations Promotes Judicial Efficiency

Consolidating the Aliso Canyon proceedings minimizes duplicative litigation and resulting conflicting decisions. Both I.17-02-002 and I.17-03-002 rely upon the related open/closed status questions of the Aliso Canyon gas field. Witnesses, testimony, and other procedural matters shared between the investigations would not be repeated under consolidation. Hence, consolidation promotes efficiency by adjudicating all Aliso Canyon matters in one proceeding.

Additionally, both proceedings rely upon the causation and culpability of the SS-25 blowout. For example, understanding the risk of reopening Aliso Canyon requires knowing how and why the worst methane leak in history happened. Accordingly, judicial efficiency is maximized when the root cause analysis is completed first, and ancillary issues that rely on the root cause properly follow.

SoCalGas claims the proceedings “are not related...and there is no risk of inconsistent decisions.”¹⁷ However, SoCalGas' claims are belied by its responses to the investigations. SoCalGas argues in I.17-02-002 Aliso Canyon must be reopened for “southern California's energy reliability.”¹⁸ Yet SoCalGas also claims Aliso Canyon has

¹⁷ SoCalGas' Response to IID's Motion for Consolidation, p. 9.

¹⁸ SoCalGas' Response to OII 17-02-002, p. 4.

been open “to provide customers with a valuable and reliable source of energy”¹⁹ in I.17-03-002. It is difficult to reconcile how a gas field precluded from injecting can still be an open and fully functioning asset. SoCalGas’ inconsistent positions demonstrate how keeping both investigations separate incentivizes paradoxical arguments.

SoCalGas fails to address how Aliso Canyon can be a plant held for future use if the Commission decides the gas field should be “reduce[d] or eliminate[d]” in I.17-02-002.²⁰ One investigation could decide Aliso Canyon should be eliminated, while SoCalGas argues in the other investigation an eliminated asset is ready to be used again soon. SoCalGas ignores this inconsistency, but is willing to “request the Commission designate...the Aliso Canyon facility as a ‘plant held for future use.’”²¹

Therefore, consolidating and refocusing the Aliso Canyon investigations promotes judicial efficiency.

C. Public Utilities Code §§ 714 and 455.5 Support Consolidation and Refocusing

Consolidating and refocusing the Aliso Canyon investigations is consistent with Senate Bill (“SB”) 380 for I.17-02-002 (codified as Public Utilities Code §§ 714, 715) and Public Utilities Code §455.5 for I.17-03-002. Public Utilities Code § 714(a) states in pertinent part:

The commission, no later than July 1, 2017, shall open a proceeding to determine the feasibility of minimizing or eliminating the use of the Aliso Canyon natural gas storage facility located in the County of Los Angeles while still maintaining energy and electric reliability for the region. This determination shall be consistent with the Clean Energy and Pollution

¹⁹ SoCalGas’ Response to OII 17-03-002, p. 2.

²⁰ OII 17-02-002, p. 8.

²¹ Notification Letter, p. 3.

Reduction Act of 2015 (Ch. 547, Stats. 2015) and Executive Order B-30-2015.

SB 380 requires the Commission *open* a proceeding to determine the feasibility of minimizing or eliminating Aliso Canyon. This has already been done. As previously stated, knowing the causation and responsibility for the SS-25 well failure is required to properly evaluate the feasibility of *not* closing Aliso Canyon. No time limit was established by SB 380 or § 714 other than opening a proceeding and the expiration of § 714. Thus, I.17-02-002 can remain open while the necessary fact-gathering is being completed.

Public Utilities Code § 455.5(c) states in pertinent part:

[T]he commission shall institute an investigation to determine whether to reduce the rates of the corporation to reflect the portion of the electric, gas, heat, or water generation or production facility which is out of service... The commission's order shall require that rates associated with that facility are subject to refund from the date the order instituting the investigation was issued. The commission shall consolidate the hearing on the investigation with the next general rate proceeding instituted for the corporation.

Section 455.5 requires an investigation be *instituted*, and the hearing on the investigation be consolidated with the next general rate proceeding. I.17-03-002 has already been established. Like § 714, § 455.5 does not require the proceedings to be unnecessarily accelerated while the necessary fact gathering is incomplete. Moreover, the memorandum account required by Decision 16-03-031 could rectify ratepayer relief until all necessary information is gathered. Due process is satisfied because SoCalGas was already a party to the decision that stated “[t]he Commission will determine at a later time whether, and to what extent, the tracked authorized revenue requirement and

revenues should be refunded to SoCalGas's customers with interest."²²

SoCalGas' argument that consolidation and refocusing would delay proceedings is unpersuasive. SoCalGas ignores that separation of proceedings would cause further delay because related questions of law and fact would be unnecessarily relitigated. For example, the root cause analysis could provide information that substantially changes the decisions reached in I.17-02-002. Rehearing these issues would create unnecessary delay and waste.

III. CONCLUSION

IID respectfully urges the Commission to grant the motion to consolidate and refocus I.17-02-002 and I.17-03-002 on causation and culpability. The public and interested parties require, by due process, access to an open evidentiary proceeding to hold SoCalGas accountable for its role in the worst methane leak in history.

Consolidation is warranted under Rule 7.4 because of the related questions of law and fact involved in the proceedings. Consolidating and refocusing the investigations also promotes judicial efficiency. Finally, consolidation and refocusing will restore the Aliso Canyon investigations to their proper form and serve the public interest and protect

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²² Application 15-07-014, p. 4.

consumers. For these reasons, IID respectfully requests the Commission grant its motion to consolidate and refocus the Aliso Canyon investigations.

Respectfully Submitted,

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