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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Application of Central Valley Gas Storage, LLC)
for a Certificate of Public Convenience and) A. 09-08-008
Necessity for Construction and Operation of) (Filed August 19, 2009)
Natural Gas Storage Facilities.)
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**PREHEARING CONFERENCE STATEMENT OF
CENTRAL VALLEY GAS STORAGE, LLC**

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**PREHEARING CONFERENCE STATEMENT OF
CENTRAL VALLEY GAS STORAGE, LLC**

Pursuant to the Administrative Law Judge’s (“ALJ”) January 15, 2010 Ruling Setting a Prehearing Conference (PHC), Requiring Written PHC Statements, and Instructing Staff to Report on the Environmental Review, Central Valley Gas Storage, LLC (“Central Valley”) respectfully submits this Prehearing Conference Statement.

The purpose of the Prehearing Conference (“PHC”) is to gather information to determine the scope of and schedule for this proceeding. As such, the ALJ directed parties to file a PHC Statement that (1) identifies issues that should be decided in this proceeding, (2) identifies issues that should be excluded from the scope of this proceeding, (3) identifies the procedures that should be used to resolve those issues, including whether evidentiary hearings are required, and (4) establishes a schedule for the proceeding.¹

I. INTRODUCTION: A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY IS REQUIRED.

On August 19, 2009, Central Valley filed an Application for a Certificate of Public Convenience and Necessity (“Application”) with the Public Utilities Commission of the State of California (“CPUC” or “Commission”) seeking authorization to construct and

operate a natural gas storage facility in Colusa County, California. A Certificate of Public Convenience and Necessity (“CPCN”) for Central Valley is required by the public convenience and necessity because it furthers the State’s goal of expanding natural gas storage options in California. The State has a long-standing policy of promoting the development of storage facilities in the State.² The Commission has taken steps to promote that policy by adopting a “let the market decide” approach in evaluating requests to build new gas storage facilities.³ As part of this approach, the Commission adopted a presumption that there is a need for a new facility if applicant proposing the facility is willing to accept all of the financial risks associated with the project.⁴ As discussed in its Application, Central Valley is bearing all of the financial risks associated with the Project and therefore has satisfied the need requirement. Moreover, no party to this proceeding alleges that the Project fails to meet any of the requirements under Public Utilities Code sections 1001 and 1002 or any other Commission precedent. Thus, no party contests that the Application is required by the public convenience and necessity.

II. CENTRAL VALLEY’S RESPONSES TO SUBSTANTIVE RECOMMENDATIONS

As directed by the ALJ’s Ruling, Central Valley provides the following summary of the substantive recommendations received, along with its response to those recommendations.

¹ *ALJ’s Ruling Setting a Prehearing Conference (PHC), Requiring Written PHC Statements, and Instructing Staff to Report on Environmental Review*, at 3, A.09-08-008 (Jan. 15, 2009).

² See AB 2744 (1992 Statutes, Chapter 1337); *Gas Storage Decision*, D.93-02-013.

³ D.02-07-036 at 8.

A. Southern California Gas Company

1. Southern California Gas Company Recommendations

Southern California Gas Company (“SoCalGas”) is recommending that the Commission extend the posting requirements that are applicable to SoCalGas to all CPUC-regulated natural gas storage facilities in California, including Central Valley. SoCalGas acknowledges that storage facilities play an important role in ensuring a reliable and affordable gas supply in the state, but contends that the natural gas storage market in northern California should have the benefit of SoCalGas’ posting requirements because these requirements are “essential to transparency in California’s natural gas market.”⁵ In particular, SoCalGas states that it is concerned that “the Commission might approve new storage facilities in northern California, such as Central Valley Storage, without requiring key posting requirements that provide for market transparency.”⁶ In short, SoCalGas believes that all CPUC-regulated storage providers in California should be subject to the same posting requirements and market rules regardless of: size; location; whether the provider has market-based rates or cost-based rates; whether the provider is independent or owns transportation facilities; whether the provider has significant market share; or whether the provider voluntarily agreed to restrictions in order to satisfy other market power or antitrust concerns.

Specifically, SoCalGas proposes that Central Valley and all storage providers should be required to post the following information in a timely manner:

“1. Detailed information concerning all primary storage deals it transacts on its electronic bulletin board: Pursuant to new G-TBS tariffs (special condition 16) adopted by the Omnibus Decision (D.07-12-09) [sic].

⁴ *Id.*

⁵ *SoCalGas’ Recommendations for Consideration*, A.09-08-008 (Jan. 25, 2010).

⁶ *Id.*

2. Detailed information on trades and/or assignments of storage rights in the secondary market: Pursuant to new G-SMT tariff (special condition 13) adopted in D.07-12-09 [sic].
3. A weekly summary of volumetric Hub positions: Pursuant to D.07-12-09 (Ordering Paragraph #18) [sic].
4. Total storage inventory levels on a daily basis: Pursuant to D.97-11-070.
5. Index of firm capacity storage rights: Pursuant to Rodger Schwecke's Direct Testimony at page 18 in Omnibus Proceeding (A.06-08-026).
6. Daily contracted firm storage capacity rights: Pursuant to new G-SMT tariff (special condition 6) adopted in D.07-12-009 [sic].
7. Scheduled injections and Withdrawals per cycle: Pursuant to BCAP Phase 2 Settlement, June 2, 2009, Section II.E."⁷

2. Central Valley Response

Central Valley opposes SoCalGas' proposed posting requirements and requests that the Presiding ALJ exclude these recommendations from the scope of this proceeding. At issue in this case is whether Central Valley should be granted a CPCN and, if so, what conditions should be placed on its CPCN based on the specific circumstances applicable to Central Valley.

SoCalGas does not contend that there is any circumstance unique to Central Valley warranting the imposition of the extensive posting requirements. Rather, SoCalGas contends generally that all CPUC-regulated storage should be subjected to these requirements regardless of circumstance. In short, SoCalGas seeks to utilize Central Valley's CPCN proceeding (or another individual storage proceeding in which it can gain traction) to propose industry-wide changes to gas storage rules. The proper vehicle for proposing and reviewing sweeping regulatory changes, however, is through a petition for a rulemaking. Rulemakings, unlike adjudicatory proceedings, offer a greater opportunity to include all interested parties and to develop a comprehensive record through widespread industry participation. Accordingly, Central Valley requests that

SoCalGas' proposed restrictions be excluded from consideration in this proceeding. Of course, SoCalGas is free at any time to petition the Commission for a rulemaking to address these policy issues.

As a preliminary matter, it is important to understand the context of SoCalGas' request. SoCalGas is by far the largest storage provider within California with over 130 Bcf of working gas capacity, representing approximately 44 percent of the working gas capacity in the State. SoCalGas is also a traditional, cost-based utility, controls the transportation system connected to its storage fields, has captive ratepayers, is not fully at-risk for the costs of the operation and development of its storage facilities, faces issues of potential cross-subsidization of costs by its ratepayers, and has extensive affiliate connections throughout the California market. And, importantly, the Commission did not impose the posting requirements on SoCalGas. Rather, SoCalGas voluntarily agreed to the conditions as part of two settlement agreements. The first settlement, known as the Continental Forge Settlement "involves certain class action antitrust and unfair competition claims arising out of the 2000-2001 energy crisis"⁸ and addressed allegations that SoCalGas and its affiliates "conspired to restrict natural gas supplies to California."⁹ The second settlement involved additional conditions SoCalGas agreed to in order to satisfy concerns that Southern California Edison raised with respect to SoCalGas' operation of its system.

On December 4, 2009, SoCalGas filed an intervention in the Sacramento Natural Gas Storage LLC ("SNGS") proceeding raising claims nearly identical to those it raises in this proceeding – that its posting requirements should be imposed on all CPUC-regulated storage

⁷*Id.* Central Valley believes SoCalGas intended to cite to D.07-12-019.

⁸ D.07-12-019 at 2.

⁹*Id.*; see also, *Opening Brief of Coral Energy Resources, LP*, at 40 n.32, A.06-08-026 (filed June 25, 2007) (noting that Richard Morrow, a SoCalGas/SDG&E policy witness, testified that the posting requirements from the

companies regardless of circumstance.¹⁰ On January 5, 2010, the presiding ALJ in the SNGS case denied SoCalGas' motion for party status because it was untimely.¹¹ On December 9, 2009, SoCalGas filed an untimely motion seeking party status in this proceeding raising its industry-wide transparency concerns.¹²

There are numerous substantive reasons why Central Valley believes it would be inappropriate to extend SoCalGas' posting requirements to Central Valley or, for that matter, to any other independent storage operator. With a proposed working gas capacity of only approximately 10 Bcf, Central Valley's facility is tiny in comparison to the capacity in SoCalGas' five storage fields. Central Valley will own no transportation system connected to its field. Central Valley will have no captive ratepayers, will not have cost-based rates, and will be solely at-risk for the costs of constructing and operating its project. Central Valley has no affiliates in California (or neighboring Western States). In short, Central Valley has none of the market power, antitrust, or unfair competition issues that led SoCalGas' s posting requirements.

In addition, contrary to SoCalGas' claims, the conditions SoCalGas seeks to impose will provide a competitive advantage to SoCalGas to the detriment of independent storage operators. For example, the detailed, daily electronic bulletin board ("EBB") posting obligations require both up-front costs as well as ongoing operational costs – costs that are more burdensome for small independent storage providers that lack the economies of scale of large incumbent utilities with captive ratepayers. SoCalGas' proposed requirement that independent storage providers disclose the commercially sensitive details and rates of each storage transaction will also make it more difficult for small independent storage operators to effectively compete against large, well-

settlement agreement would create transparency and that "[t]ransparency goes a long way to address concerns that certain parties had.").

¹⁰ *Motion for Party Status of Southern California Gas Company*, A.07-04-13 (filed Dec 4, 2009).

¹¹ *ALJ's Ruling Denying Party Status to the Southern California Gas Company*, A.07-04014 (issued Jan. 5, 2010).

established incumbent storage providers. Further, adopting SoCalGas' proposal would be contrary to the Commission's longstanding policy of utilizing a light-handed approach to regulating independent storage in order to promote development of additional storage options within the state. SoCalGas' "one size fits all" approach would impose unnecessary regulatory costs with no underlying justification, and may well inhibit further independent storage development.

But irrespective of the merits of SoCalGas' proposal, Central Valley believes its proceeding is not the appropriate forum for examining these industry-wide reform issues. Rather, the broad departures from longstanding Commission policy proposed by SoCalGas are best addressed in the context of a rulemaking proceeding. Rulemaking proceedings are designed to address issues of industry-wide concern by ensuring full participation by all interested parties to develop a comprehensive record.¹³ Here, not all entities that would be impacted by the adoption of SoCalGas' proposal are even parties to this proceeding (and may not even be aware of the issues raised). Moreover, it would be particularly challenging to fully ventilate such industry-wide issues and ensure full participation of all stakeholders without delaying the issuance of a decision in Central Valley's proceeding. Accordingly, Central Valley requests that SoCalGas proposal be excluded from the scope of this proceeding.

Central Valley has discussed the issue with SoCalGas and has not reached agreement on how to resolve the contested issues. However, SoCalGas indicated that it did not believe that evidentiary hearings would be necessary.

¹² Interventions were due on September 21, 2009.

¹³ *See, e.g.*, CPUC Rules of Practice and Procedure 6.3(a) ("Pursuant to this rule, any person may petition the Commission under Public Utilities Code Section 1708.5 to adopt, amend, or repeal a regulation. The proposed

B. Lodi Gas Storage, LLC

1. Lodi Gas Storage, LLC Recommendations

Lodi Gas Storage, LLC (“Lodi”) takes the position that regulatory oversight should be the same for all independent gas storage providers to ensure that there is a level playing field for such providers.¹⁴ Accordingly, Lodi recommends that Central Valley be subject to the same reporting requirements and restrictions that Lodi is subject to, including:

1(a) A requirement to submit true copies of short-term agreements and all long term contracts within 30 days of commencement of service;

1(b) A requirement to provide quarterly summaries of specific sales that include for all tariffed services, the purchaser, the transaction period, the type of service, the rate, the applicable volume, whether there is an affiliate relationship with the customer, and the total charge to the customer;

1(c) A prohibition on engaging in any storage or hub service transactions with parent companies or their affiliates;

2(a) A requirement that Central Valley’s parent companies take all steps necessary to ensure that Central Valley has capital sufficient to provide safe and reliable service;

2(b) A requirement that Central Valley maintain all corporate records at the utility level and make such records available to the Commission upon request;

2(c) A requirement that Central Valley make the books and records of any parent company available to the commission upon request with various procedural presumptions established; and

regulation must apply to an entire class of entities or activities over which the Commission has jurisdiction and must apply to future conduct.”).

¹⁴ *Substantive Recommendations of Lodi Gas Storage, LLC*, A.09-08-008 (Jan. 27, 2010).

2(d) A requirement that Central Valley make semi-annual reports providing detailed information about affiliate actions and ownership anywhere in California or a broadly defined Western North America.¹⁵

According to Lodi, “[b]ecause Central Valley, like LGS or Wild Goose, will be an independent storage provider and is a subsidiary of another company, it would be reasonable to expect that the Commission would impose similar requirements on Central Valley or decide that the requirements are no longer necessary for any independent storage provider.”¹⁶

2. Central Valley Response

Response to 1(a):

As Central Valley stated in its Application,¹⁷ Central Valley agrees to submit true copies of its short and long term agreements within 30 days of commencement of service provided it is permitted to do so under seal. Central Valley discussed this issue with counsel for Lodi and has agreed in principle to comply with Lodi’s request. Central Valley anticipates working out the precise language for this condition with Lodi and submitting it as part of a Settlement. The detailed rates, terms, and conditions contained in Central Valley’s service agreements with its customers contain market and other business information of a sensitive nature the disclosure of which would cause significant competitive harm to both Central Valley and its customers. Indeed, prospective customers of Central Valley have expressed concern about releasing such information to the public where competitors have access. Central Valley is also concerned that release of this information would make it more difficult to compete with incumbent utilities providing storage service.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Central Valley Certificate Application at 43, A.09-08-008 (filed Aug. 19, 2009).

Accordingly, Central Valley believes submitting the information under seal – as is the practice of other independent storage operators – is consistent with General Order 66-C and Public Utilities Code section 583. Central Valley believes that the information should remain under seal until the commercial data becomes stale, *i.e.*, is no longer of value to competitors in the market. This period may vary depending on the market for storage services. At a minimum, Central Valley believes that the information should remain confidential for the longer of five years or the length of the service agreement. It is Central Valley’s understanding that other independent storage providers with this requirement have no established time frame for release of this information.

Response to 1(b):

As Central Valley stated in its Application,¹⁸ Central Valley agrees to provide the Commission with quarterly transaction summaries. Central Valley discussed this issue with counsel for Lodi and has agreed in principle to comply with Lodi’s request. Central Valley anticipates working out the precise language for this condition with Lodi and submitting it as part of a Settlement. Central Valley believes this information should be submitted under seal for the same reasons set forth in response to 1(a), above.

Response to 1(c):

Central Valley opposes Lodi Recommendation 1(c). As a general matter, Central Valley believes that the Commission’s approach to light-handed regulation of independent storage providers has worked well and that, beyond certain basic reporting requirements, additional restrictions should be narrowly tailored and imposed only when specific concerns warrant. In other words, simply because a restriction is proposed, imposed, or adopted for one entity does not mean that it is appropriate for all entities.

Central Valley differs from other independent storage providers currently subject to this restriction in a number of key respects, and therefore Central Valley believes that certain of its affiliates should be permitted to engage in particular transactions with Central Valley. For example, Central Valley's affiliate Nicor Enerchange is a wholesale and retail marketer of natural gas throughout the Midwest and southern producing areas and routinely holds storage capacity as a customer in numerous third party storage facilities as well as in affiliated storage facilities. Central Valley believes that there is no legitimate reason that Nicor Enerchange should be barred from being a customer of Central Valley.

The circumstances surrounding the agreement of Lodi and Wild Goose Storage, LLC ("Wild Goose") to refrain from entering into transactions with their affiliates are quite different. In 2002, the Commission prohibited Wild Goose from engaging in affiliate transactions as a condition of granting its application for a certificate of public convenience and necessity to expand its storage facility.¹⁹ At that time, the Commission was still responding to the California energy crisis that took place just a year prior.²⁰ Accordingly, because the Commission was unable to determine if Wild Goose had the ability to exercise market power based on the record available in the case,²¹ it accepted Wild Goose's proposal to prohibit it from engaging in affiliate transactions as a condition on approving its request for market based rate authority.²² Even though the Commission adopted this condition for Wild Goose, the Commission made clear that it did "not intend for this rule to be precedential for other independent storage operators."²³ Less than a year later in 2003, the Commission imposed the same restriction on Lodi in connection

¹⁸ *Id.*

¹⁹ D.02-07-036 at 18-19.

²⁰ *Id.* at 17 ("The recent electricity crises in California and the gas price-spikes during the winter of 2000/01 have shown us, first-hand, the great public cost of market manipulation.").

²¹ *Id.*

²² *Id.* at 17-18.

²³ *Id.* at 19.

with the approval of Lodi's transfer of control. In that case, there were concerns about ownership ties between Lodi and Wild Goose. In contrast, Central Valley has no affiliates in California. Nor affiliate of Central Valley owns any storage capacity or interest in a storage facility in California or neighboring states.

In any event, Central Valley has not reached agreement with Lodi on this issue, but counsel for Lodi indicated that evidentiary hearings likely would be unnecessary to address this policy issue. In its draft procedural schedule, Central Valley has proposed to include an opportunity for comments/briefs and reply comments to address this issue.

Response to 2(a):

Central Valley opposes Lodi's recommendation that Central Valley's parent company be required to make arrangements to ensure that Central Valley has sufficient capital to operate. Central Valley understands that this recommendation would require Central Valley to maintain a surety bond to ensure its ability to meet its certificate obligations.²⁴ The financial concerns that caused the Commission to impose this requirement on Lodi are inapplicable to Central Valley.

Central Valley understands that the Commission required Lodi to retain a \$20 million surety bond to ensure that Lodi was able to meet its certificate obligations because of local land owner concerns regarding Lodi's financial stability.²⁵ In particular, because Lodi's owner was a development company with limited assets, the land owners were concerned that Lodi would not have sufficient capital to cover the reburial of the pipeline in the event of subsidence or to cover the costs of remediating the area in the event of abandonment or bankruptcy.²⁶ The same concerns, however, do not apply to Central Valley. As a subsidiary of a Fortune 500 Company (Nicor Inc.) Central Valley does not present the same financial concerns as those in Lodi. No

²⁴ D.00-05-048 at 33-34.

²⁵ *Id.*

local landowners have raised concerns about Central Valley’s ability to operate the proposed facility. Accordingly, because this requirement was intended to address an issue that was specific to Lodi (and no similar requirement was imposed on Wild Goose), Central Valley does not believe it should be subject to this requirement.

Central Valley has not reached agreement with Lodi on this matter, but, as noted above, Lodi indicated that it did not think evidentiary hearings likely were necessary. In its draft procedural schedule, Central Valley has proposed to include an opportunity for comments/briefs and reply comments to address this issue.

Response to 2(b):

Central Valley opposes Lodi’s recommendation that Central Valley be required to maintain corporate records at the utility level and to make those records available to the Commission upon request because the concerns that prompted this requirement for Lodi are inapplicable to Central Valley. Specifically, the Commission imposed this recordkeeping requirement on Lodi as part of its approval of the transfer of 100% ownership of Lodi Gas Storage, LLC to Buckeye Gas Storage, LLC.²⁷ This requirement was imposed to resolve specific concerns the Division of Ratepayer Advocates (“DRA”) raised regarding the lack of corporate transparency and the potential for collusive behavior.²⁸ In particular, this requirement addressed the DRA’s concern that sensitive commercial information could be passed from Lodi to Wild Goose through connections between the companies’ corporate parents.²⁹ Because this restriction was meant to address a concern specific to Lodi, as Wild Goose is not subject to the same requirement, Central Valley does not believe it is appropriate to subject it to this condition.

²⁶ *Id.*

²⁷ D.08-01-018 at 16.

²⁸ *Id.* at 3-5, 15-16.

²⁹ *Id.* at 21-22.

Central Valley has not reached agreement with Lodi on this matter, but, as noted above, Lodi indicated that it did not think evidentiary hearings were necessary. In its draft procedural schedule, Central Valley has proposed to include an opportunity for comments/briefs and reply comments to address this issue.

Response to 2(c):

Central Valley's parent, Nicor Inc., is a publicly traded Fortune 500 company. It submits various public documents, including 10-K and 10-Q reports to the Securities Exchange Commission. Central Valley believes that these submissions should satisfy Lodi's concerns, but Central Valley will work to confirm this with Lodi. Central Valley anticipates working out the precise language for this condition with Lodi and submitting it as part of a Settlement.

Response to 2(d):

As Central Valley stated in its Application, Central Valley will make semi-annual reports regarding certain of its affiliate actions. Central Valley discussed this issue with counsel for Lodi and has agreed in principle to comply with Lodi's request. Central Valley anticipates working out the precise language for this condition with Lodi and submitting it as part of a Settlement. Central Valley believes this information should be submitted under seal for the same reasons set forth in response to 1(a), above.

C. DRA

1. DRA Limited Protest

In DRA's Limited Protest, as it has done in other storage proceedings, DRA proposed that Central Valley be required to submit certain reporting requirements to assuage any concerns about Central Valley's exercise of market power. Thus, DRA proposed that Central Valley be required to submit an Annual Report that contains the following information:

1. The capacity of the facilities, *i.e.*, total inventory, injection and withdrawal rights;

2. Average monthly inventory in storage, injections, and withdrawals;
3. Daily operating records;
4. Annual Firm capacity under contract;
5. Annual Interruptible capacity sold; and
6. Annual safety report describing all safety-related incidents.³⁰

DRA states that such reports have been required by other similarly situated applicants, such as Sacramento Natural Gas Storage (“SNGS”) (A. 07-04-013) and LGS (A.07-05-009 by LGS).³¹

2. Central Valley Response

As Central Valley explained in its response to DRA’s Limited Protest, it does not object to DRA’s reporting requests to the extent that they do not go beyond those that have been required of other similarly situated storage providers and Central Valley is permitted to submit those reports under seal. Thus, Central Valley has agreed to this request in principle and expects that it will work out the precise nature of the reporting requirements in subsequent discussions with DRA and include this in a Settlement Agreement.

D. Wild Goose

Wild Goose made no recommendations to Central Valley and does not oppose Central Valley’s Application.

E. Pacific Gas and Electric Company

Pacific Gas and Electric Company (“PG&E”) made four substantive recommendations related to the interconnection of the proposed facility with PG&E’s system:

“1. All costs of the proposed construction and operation of the Central Valley Gas Storage (CV) project fall entirely on CV and its storage customers, not on PG&E and its ratepayers. Such

³⁰ *Limited Protest of the Division of Ratepayer Advocates* at 3, A.09-08-008 (filed Sept. 21, 2009).

³¹ *Id.*

costs include the construction and installation of all facilities for the Line 400/401 and Line 172 interconnections, as well as necessary changes to PG&E's computer and allocation modeling systems.

2. CV is an independent storage provider (ISP) and a gas utility under the regulation of the CPUC, and is subject to the provisions of the ISP Interconnections Agreement as described in Decision 06-09-039 issued on September 21, 2006, as well as other CPUC decisions setting policy for ISPs in California.
3. CV must deliver gas into PG&E's transmission pipeline system in conformance with the specifications described in PG&E's CPUC-approved gas quality tariff, Gas Rule 21.C.
4. CV understands that the temporary interconnection to PG&E's Line 172 will be disconnected at CV cost when the Line 401 interconnection and compressor facilities are completed, and the gas storage facility is placed into service. The Line 172 interconnection is not bi-directional, and CVS will not deliver gas back into Line 172. PG&E's Line 172 has limited capacity and CV will be required to operate its facility within the available parameters and capacity of Line 172 as determined by PG&E to insure that end-use customers served by Line 172 continue to receive reliable gas service."³²

Central Valley communicated with counsel for PG&E regarding these issues and Central Valley has agreed in principle to comply with these requests. Central Valley anticipates working out the precise language for this condition with PG&E and submitting it as part of a Settlement.

III. CPCN ISSUES TO BE CONSIDERED IN THIS PROCEEDING

1. Whether Central Valley should be issued, as a public utility gas corporation, a CPCN authorizing it to construct and operate the project;

³² *PG&E Substantive Recommendations*, A.09-09-008 (Jan. 25, 2010) as modified (Jan. 26, 2010).

2. Whether Central Valley should be authorized to charge market-based rates for firm and interruptible natural gas storage services at the Project;
3. Whether the proposed reporting requirements should be approved;
4. Whether, pursuant to CEQA, a Mitigated Negative Declaration should be adopted and a Notice of Determination issued for the Project;
5. Whether the requested exemptions from Public Utilities Code section 818 and 851 and the Commission's competitive bidding rule should be granted; and
6. Whether the requested exemption from filing the financial reports required of public utilities with traditional cost based rates should be granted.

IV. AN EVIDENTIARY HEARING IS NOT REQUIRED.

Under the Commission's Rules, evidentiary hearings are required to resolve material issues of fact.³³ As described above, Central Valley does not believe that any material disputed factual issues exist with respect to the responses and proposals of the parties. Additionally, during recent communications, each has indicated that it does not expect to seek hearings. The schedule below includes a proposed negotiation schedule, as well as an opportunity to submit written comments/briefs as well as reply comments on any outstanding CPCN issues identified in the Scoping Memo.

Thus, Central Valley respectfully requests that the Commission determine, based on the Application, the responses, protests, and replies, and information developed in recent

³³ CPUC Rule 12.3.

communications among the parties regarding the process, that hearings are not required and expeditiously proceed with its review of Central Valley’s application.

V. SCHEDULE

On February 3, 2010, Presiding ALJ Kenney sent an email to parties requesting that any proposed procedural schedule be revised to assume that the Final MND will not be available until early June 2010. Based on the foregoing, Central Valley proposes the following schedule for this proceeding. The schedule provides for written comments/briefs as well as reply comments to address any unresolved issues that are the subject of the Scoping Memo. Central Valley is in the process of determining whether this schedule is acceptable to the parties and will try and secure agreement of all parties prior to the PHC.

<u>Event</u>	<u>Date</u>
Prehearing Conference	February 10, 2010
Negotiation period begins for contested issues.	February 10, 2010
Scoping Memo	February 24, 2010.
Negotiation status report and submission of stipulation addressing agreed-upon issues.	March 12, 2010
Draft MND Released	End of March
Written Comments/Briefs submitted addressing unresolved issues.	April 2, 2010
Written Reply Comments/Briefs	April 16, 2010
Case Submitted on all CPCN Issues	April 16, 2010
Final MND Complete	Early June, 2010
Proposed Decision Issued	June 25, 2010 (70 days after submission)

Comments on Proposed Decision	July 9, 2010
Reply Comments on Initial Decision	July 16, 2010
Final Decision	July 29, 2010

VI. CATEGORIZATION

No party has taken issue with the preliminary categorization of the proceeding as “rate setting” as defined in Commission Rule 1.3(e).³⁴ Thus, that categorization should be confirmed, as provided in Commission Rule 7.1(a).

VII. CONCLUSION

For the reasons discussed above, Central Valley respectfully requests that the Commission adopt its recommendations regarding the scope of the issues to be considered in this proceeding and the proposed schedule, and expeditiously proceed to complete its review of the CPCN Application, and grant the relief requested herein.

Respectfully submitted,

/s/ Christopher Schindler

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Dated: February 5, 2010

³⁴ Resolution ALJ, 176-3240 (Sept. 10, 2009).

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing:

**PREHEARING CONFERENCE STATEMENT OF CENTRAL VALLEY GAS
STORAGE, LLC**

on each party that provided an e-mail address on the attached Service List for A.09-09-008 by the transmission of an e-mail message with the document attached. I have also sent a paper copy of the foregoing document to the Administrative Law Judge in this proceeding via U.S. Mail.

Dated at Washington, D.C. this 5th day of February, 2010.

/s/ Ruth M. Porter

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Central Valley Gas Storage, LLC Certificate Proceeding

A.09-08-008

(Last updated February 4, 2010)

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