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**FILED**  
10/03/19  
12:31 PM

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

Order Instituting Rulemaking  
Concerning Energy Efficiency Rolling  
Portfolios, Policies, Programs,  
Evaluation, and Related Issues.

Rulemaking 13-11-005

**ADMINISTRATIVE LAW JUDGE'S RULING GRANTING THE MOTION OF THE  
PUBLIC ADVOCATE'S OFFICE OF THE PUBLIC UTILITIES COMMISSION  
AND DIRECTING SOUTHERN CALIFORNIA GAS COMPANY TO SHOW  
CAUSE WHY IT SHOULD NOT BE SANCTIONED BY THE COMMISSION FOR  
VIOLATION OF CALIFORNIA PUBLIC UTILITIES CODE SECTIONS 702, 2107  
OR 2108 OR RULE 1.1 OF THE COMMISSION'S RULES OF PRACTICE AND  
PROCEDURE**

**Summary**

This ruling grants the motion of the Public Advocate's Office of the Public Utilities Commission (Cal Advocates) to direct Southern California Gas Company (SoCalGas or Respondent) to show cause why Respondent should not be:

- fined, penalized or have other sanctions imposed for failing to comply with Decision (D.) 18-05-041; and/or
- fined, penalized, or have other sanctions imposed for failing to comply with Rule 1.1 of the Commission's Rules of Practice and Procedure (Rule 1.1).

The Respondent is ordered to address the following authorities:  
California Public Utilities Code Sections 701, 702, 2107, 2108 and 2113 and  
Rule 1.1.

## 1. Background

D.18-05-041 prohibits Respondent from using ratepayer funds for any codes and standards advocacy activities.

On July 15, 2019, Cal Advocates filed a motion for an order to show cause why Respondent should not be sanctioned for violating a Commission order and Rule 1.1. The motion alleges:

1. Respondent continued to charge ratepayers for energy efficiency codes and standards advocacy for nearly a month after the Commission ordered Respondent to cease such advocacy; and
2. Respondent submitted misleading and inaccurate information that minimized the full extent of its codes and standards advocacy after the Commission ordered Respondent to cease its ratepayer-funded advocacy.

The motion further states “the Public Advocates Office is not confident that SoCalGas has disclosed all of its charges to ratepayers for EE codes and standards advocacy that occurred after the effective date of D.18-05-041,” suggesting Respondent may have continued, and continues currently, to charge such activities to its ratepayer funded balancing account.

On July 30, 2019, Respondent filed a response to Cal Advocates’ motion, stating “SoCalGas and its consultant have not engaged in any advocacy under the statewide Energy Efficiency (EE) Codes & Standards programs (federal or statewide) since July 10, 2018. This was just over a month after the June 5, 2018 issuance of” D.18-05-041. The response describes the activities Respondent undertook between June 5, 2018 and July 30, 2018 as either related to federal codes and standards advocacy, which Respondent considered to be admissible; “purely transitional in nature;” or a continuation of ongoing activities. In response to the suggestion that it continued to conduct codes and standards

advocacy after July 30, 2018, Respondent states it has already conducted a full review of all entries in its ratepayer funded balancing account that could potentially be related to codes and standards advocacy from June 1, 2018 to the present.

On August 9, 2019, Cal Advocates filed a reply to Respondent's response, asserting Respondent should have filed a petition for modification of D.18-05-041 to seek clarification from the Commission on whether federal codes and standards advocacy was permissible. The reply also disputes Respondent's claim that most of its codes and standards advocacy activities, after D.18-05-041, were "purely transitional in nature." The reply also claims Respondent "makes no effort to defend most of its omissions or false statements," and instead claims its inaccurate responses involve "relatively minor" issues and "differences in interpretations and expectations."

## **2. Discussion**

Public Utilities Code Section 702 requires public utilities to obey and comply with the Commission's orders, decisions, directions, or rules "relating to or affecting its business as a public utility," and requires public utilities to take all reasonable steps to "to secure compliance therewith by all of its officers, agents, and employees."

Public Utilities Code Section 2107 provides for a penalty of not less than five hundred dollars and not more than one hundred thousand dollars for a utility's failure or neglect to comply with "any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the [C]ommission."

Public Utilities Code Section 2108 provides that every violation of any order, decision, decree, rule, direction, demand or requirement of the

Commission “is a separate and distinct offense, and in case of a continuing violation each day’s continuance thereof shall be a separate and distinct offense.”

Public Utilities Code Section 2113 states that a utility, corporation, or person which fails to comply with any part of any order, decision, rule, regulation, direction, demand, or requirement of the Commission or any Commissioner is “in contempt of the [C]ommission,” and may be punished by the Commission “in the same manner and to the same extent as contempt is punished by courts of record.” The Commission reserves the right to consider whether any of Respondent’s alleged conduct, if found to be true, merits a finding of contempt.

In addition, pursuant to Rule 1.1, any person who transacts business with the Commission may never “mislead the Commission or its staff by an artifice or false statement of fact or law.” A person who violates Rule 1.1 may be sanctioned in accordance with Public Utilities Code Section 2107.

Moreover, in addition to imposing monetary fines, penalties, and holding a utility in contempt, the Commission can do all things necessary and convenient in the exercise of its power and jurisdiction. (Public Utilities Code Section 701.) With respect to the specific conduct alleged by Cal Advocates, the Commission may consider whether and how to adjust SoCalGas’s Energy Savings Performance Incentive award for program years 2018 or 2019, if the Commission finds that SoCalGas used ratepayer funds to engage in codes and standards advocacy.

In sum, the Commission may impose fines, penalties, hold Respondent in contempt, and/or impose any other punishments consistent with the foregoing Public Utilities Code Sections 701, 702, 2107, 2108 and 2113 and Rule 1.1 if found to be supported by the record.

### **3. Prehearing Conference for Order to Show Cause**

Respondent and Cal Advocates are directed, and other parties are invited, to appear at a prehearing conference (PHC) to discuss the scope and schedule of this order to show cause portion of the proceeding. Respondent and Cal Advocates shall meet and confer in advance of the PHC and be prepared to address the need for evidentiary hearing, amenability to alternative dispute resolution options, proceeding schedule, and any other necessary procedural matters at the prehearing conference.

### **4. Ex Parte Prohibition**

As provided in Rule 1.3(a) and 8.2(b) of the Commission's Rules of Practice and Procedure, the order to show cause portion of this proceeding is categorized as adjudicatory and *ex parte* communications are prohibited. The determination as to category is appealable pursuant to Rule 7.6 of the Commission's Rules of Practice and Procedure.

**IT IS RULED** that:

1. The motion of the Public Advocates Office of the Public Utilities Commission (Cal Advocates), for an order to show cause why Southern California Gas Company (SoCalGas or Respondent) should not be penalized for failing to comply with a Commission order and Rule 1.1 of the Commission's Rules of Practice and Procedure, is granted.

2. Respondent and Cal Advocates are directed to appear at prehearing conference to be scheduled as described below, and there to address the scope and schedule for this order to show cause portion of the proceeding:

October 22, 2019  
2:30 p.m.  
Commission Hearing Room  
505 Van Ness Avenue  
San Francisco, CA 94102

3. Respondent and Cal Advocates shall meet and confer in advance of the prehearing conference and be prepared to address the need for evidentiary hearing, amenability to alternative dispute resolution options, proceeding schedule, and any other necessary procedural matters at the prehearing conference.

4. This order to show cause portion of the proceeding is categorized as adjudicatory and *ex parte* contacts are prohibited. The determination as to category is appealable pursuant to Rule 7.6 of the Commission's Rules of Practice and Procedure.

5. This Ruling is effective today.

Dated October 3, 2019, at San Francisco, California.

/s/ VALERIE U. KAO  
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Valerie U. Kao  
Administrative Law Judge