BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues.	Rulemaking 13-11-005 (Filed November 14, 2013)

REPLY BRIEF OF SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) ON ITS FIRST AMENDMENT RIGHTS IN THE ORDER TO SHOW CAUSE REGARDING ALLEGED VIOLATION OF DECISION AND RULE 1 OF THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE

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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 (Filed November 14, 2013)

REPLY BRIEF OF SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) ON ITS FIRST AMENDMENT RIGHTS IN THE ORDER TO SHOW CAUSE REGARDING ALLEGED VIOLATION OF DECISION AND RULE 1 OF THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE

Pursuant to Rule 13.11 of the California Public Utilities Commission's ("CPUC" or "Commission") Rules of Practice and Procedure and directives of the Assigned Administrative Law Judge ("ALJ") Valerie Kao, [1] Southern California Gas Company ("SoCalGas") respectfully provides this reply brief regarding SoCalGas's First Amendment rights in the Order to Show Cause why it should not be sanctioned by the Commission for violation of California Public Utilities Code Sections 702 or Rule 1.1 of the Commission's Rules of Practice and Procedure ("OSC") (issued October 3, 2019) in the above-captioned proceeding**.**

I. INTRODUCTION

The Ruling Directing Further Briefing was specific in its request from the parties. It asked the parties to focus on SoCalGas's First Amendment rights with respect to its current engagement in the CEC's Title 24 docket as related to the questions posed by ALJ Kao. Instead of following this directive, both the Public Advocates Office ("Cal Advocates") and Sierra Club seek to obfuscate the actual argument made by SoCalGas that resulted in the Ruling Directing Further Briefing, neglect to address the authorities applicable to SoCalGas's current Title 24 engagement, and seek to limit the matters that are relevant to a utility's operations as narrowly as possible. In addition, Cal Advocates inappropriately spends *pages* of its brief addressing issues that are clearly out of scope for this OSC in a blatant attempt to confuse the issues and smear

[1] ALJ Kao email ruling directing further briefing in order to show cause regarding alleged violation of decision and of Rule 1 (June 28, 2021) ("Ruling Directing Further Briefing").

SoCalGas. The Commission should ignore these efforts and instead focus on the actual issues raised by the Ruling Directing Further Briefing. Namely, whether imposing penalties or enacting further prohibitions on SoCalGas's rulemaking advocacy based on SoCalGas's current Title 24 engagement (as requested by Sierra Club and Cal Advocates) has implications for SoCalGas's First Amendment Rights. Sierra Club and Cal Advocates argue that SoCalGas should be assessed $124 million in penalties and should face a long term, or even permanent, prohibition on future engagement in rulemakings that concern energy efficiency codes and standards. It remains clear that what Cal Advocates and Sierra Club are really after is to silence and punish SoCalGas for expressing viewpoints before one of its regulators that are different than Cal Advocates' and Sierra Club's. To the extent the Commission does as Cal Advocates and Sierra Club request this will violate SoCalGas's First Amendment and due process rights.

Cal Advocates incorrectly argues that SoCalGas is initiating a collateral attack on D.18-05-041. This argument is premised on the assumption that the prohibition in D.18-05-041 covers SoCalGas's current Title 24 engagement. SoCalGas's current Title 24 engagement, however, does not violate D.18-05-041 and thus cannot be a collateral attack on that decision. Sierra Club and Cal Advocates both accuse SoCalGas of being too narrow in its interpretation of D.18-05-041, despite the numerous factors that support SoCalGas's interpretation, including: the context in which D.18-05-041 was issued, including the at-issue allegations from Cal Advocates; the scope of that proceeding, which was limited to the approval of energy efficiency business plans; the stated purpose behind the prohibition, which was specific to energy efficiency; the use of the term "statewide" in the prohibition, which was a reference to SoCalGas's Statewide EE C&S advocacy programs; and the prohibition's timing, which was tied to SoCalGas's EE business plan and only concerned SoCalGas's use of EE funds. Rather, it is Sierra Club and Cal Advocates that improperly seek to have that decision interpreted too broadly to include activity being undertaken outside of SoCalGas's EE portfolio and subject to different Commission and statutory authority, including SoCalGas's most recent General Rate Case ("GRC") decision in D.19-09-051, which was issued well after D.18-05-041. Sierra Club and Cal Advocates would have the prohibition in D.18-05-041 include any activity related to energy efficiency codes and standards, even where that activity concerns broader policy issues, operating concerns, or customer interests and is before one of SoCalGas's regulators.

However, SoCalGas's current Title 24 engagement is rulemaking advocacy and is subject to different authorities than those relied on by Cal Advocates and Sierra Club. Cal Advocates tellingly selectively cites to accounting guidance from the Federal Energy Regulatory Commission ("FERC") that supports its position, but omits language from that very same account that is directly on point for the conduct at issue and supports SoCalGas's position.[2] In addition, all of the parties agree that the ratepayer benefit test is the proper test to use in assessing SoCalGas's current Title 24 engagement. But, in applying the ratepayer benefit test, the Commission is not allowed to use discriminatory and biased enforcement to restrict or punish SoCalGas's views before its regulator simply because it may not agree with those views. Given that the other Investor Owned Utilities ("IOUs") are allowed to use ratepayer funds to engage in the very same activity that SoCalGas is being asked to justify here (and under the threat of penalty) it is obvious that the only difference is in the viewpoints that SoCalGas has expressed.

II. SOCALGAS IS NOT CHALLENGING THE PROHIBITION IN D.18-05-041, WHICH APPLIED TO ITS TWO STATEWIDE EE C&S ADVOCACY PROGRAMS

Both Cal Advocates and Sierra Club mischaracterize SoCalGas's paragraph in its final briefing regarding its First Amendment rights, which was quoted by ALJ Kao in the Ruling Directing Further Briefing,[3] to argue that SoCalGas is challenging the Commission's decision in D.18-05-041.[4] As is clear from the context of SoCalGas's paragraph,[5] however, and from SoCalGas's final briefing,[6] SoCalGas is not challenging the prohibition in D.18-05-041, which

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[2] *See* 18 CFR § 367.4264(b).

[3] Ruling Directing Further Briefing (quoting from Opening Brief of SoCalGas to the OSC Directing SoCalGas to Show Cause Why It Should Not be Sanctioned by the Commission for Violation of CPUC Sections 702, 2107 or 2108 or Rule 1.1 of the Commission's Rules of Practice and Procedure (December 11, 2020) ("SoCalGas Opening Brief"), pp. 38-39).

[4] *See* Opening Brief of Sierra Club in Response to Email Ruling Issued June 28, 2021, Directing Further Briefing in OSC Regarding Alleged Violation of Decision and Rule 1 (July 30, 2021) ("Sierra Club First Amendment Opening Brief"), p. 1; Amended Brief of the Public Advocates Office in Response to June 28, 2021 ALJ Ruling in the Commission's October 3, 2019 OSC (August 5, 2021) ("Cal Advocates Amended First Amendment Opening Brief"), p. 9.

[5] SoCalGas Opening Brief, pp. 35-39 (discussing SoCalGas's participation in the CEC's current Title 24 rulemaking, which is undertaken outside of SoCalGas's EE portfolio).

[6] Reply Brief of SoCalGas to the OSC Directing SoCalGas to Show Cause Why It Should Not be Sanctioned by the Commission for Violation of CPUC Sections 702, 2107 or 2108 or Rule 1.1 of the Commission's Rules of Practice and Procedure (January 15, 2021) ("SoCalGas Reply Brief"), pp. 31-33 (addressing why SoCalGas did not need to seek modification of D.18-05-041).

was specific to the two Statewide EE C&S advocacy programs that were part of SoCalGas's EE portfolio.[7] Rather, Cal Advocates and Sierra Club both improperly seek an overbroad interpretation of the prohibition in D.18-05-041 and would extend it to cover activity undertaken outside of SoCalGas's EE portfolio, namely rulemaking advocacy by SoCalGas's policy team in a public process before its regulator. That activity is indistinguishable from what other IOUs are free to do without threat of penalty for their participation. It is Cal Advocates' and Sierra Club's overbroad interpretation of the prohibition that SoCalGas opposes, as well as Sierra Club's and Cal Advocates' demand for excessive fines and penalties against SoCalGas.

Cal Advocates relies on its mischaracterization of SoCalGas's position to argue that there is an "impermissible collateral attack" on D.18-05-041.[8] Cal Advocates' argument must be rejected. Although Cal Advocates makes much of the fact that SoCalGas did not file a petition to modify ("PFM") D.18-05-041 or an application for rehearing ("AFR"), SoCalGas already addressed in its final briefing why a PFM was not necessary,[9] and that same reasoning applies to an AFR. In short, SoCalGas believes that D.18-05-041 is already clear in that it covers the two Statewide EE C&S advocacy programs that were part of SoCalGas's EE portfolio, and not activity undertaken outside of SoCalGas's EE portfolio. Further, this issue has been brought within the scope of this OSC, and thus, although the decision is already clear, to the extent the Commission determines that further guidance is necessary, the appropriate place for that guidance is now this OSC.[10]

Cal Advocates' argument also relies on its broad interpretation of the prohibition in D.18-05-041 to cover SoCalGas's current Title 24 engagement. Notably, Cal Advocates contradicts itself in discussing the right way to interpret the prohibition in D.18-05-041. First, Cal Advocates acknowledges that "[a]lthough Ordering Paragraph 53 did not include the words 'energy efficiency' in front of 'codes and standards advocacy activities,' *it is clear from the context of D.18-05-041* that the prohibition does not apply to regulations that govern the safety

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[7] The quoted paragraph does not challenge the prohibition as applied to SoCalGas's EE portfolio.
[8] Cal Advocates Amended First Amendment Opening Brief, pp. 2, 8-11.
[9] SoCalGas Reply Brief, pp. 31-33.
[10] Although Cal Advocates originally claimed that SoCalGas only raised its First Amendment argument in its final briefing, it later amended its own brief to recognize that SoCalGas first raised this issue with the submittal of the testimony of Deanna R. Haines, where the issue of SoCalGas's current Title 24 engagement was addressed. *See* Cal Advocates Amended First Amendment Opening Brief, pp. 2, 8, and 9.

and operations of SoCalGas's gas infrastructure, including its pipeline and storage facilities."[11] On this point, Cal Advocates is correct and all parties understand that although the ordering paragraph uses the term "codes and standards," the prohibition in D.18-05-041 is limited to *energy efficiency* codes and standards given the context of the decision. Cal Advocates then does an about face. It argues that because D.18-05-041 did not use the term "EE ratepayer funds"[12] when enacting the prohibition and instead used "ratepayer funds," the prohibition applies broadly to include all ratepayer funded activities related to energy efficiency codes and standards even if not in scope for that EE proceeding[13] and if covered by other proceedings, such as the GRC. However, similar to the way the parties all understand "codes and standards" to mean "energy efficiency codes and standards," SoCalGas understands the prohibition's use of the term "ratepayer funds" to mean ratepayer funds the Commission has approved for use in its energy efficiency portfolio. Specifically, the context behind the decision, as well as the language used throughout that decision, as discussed in SoCalGas's final briefing,[14] makes clear that the prohibition was not intended to apply outside of SoCalGas's approved EE portfolio. It is well understood by the Commission and practitioners that practice before it, and based on the Rate Case Plan and GRC proceedings generally, that GRC and EE proceedings have separate funding mechanisms and scopes.

In support of its argument, Cal Advocates also quotes from SoCalGas's comments on the proposed decision for D.18-05-041, where SoCalGas argued against the proposed decision's "'complete elimination' of SoCalGas from the *codes and standards advocacy programs*[.]"[15] Cal Advocates thus seems to recognize that SoCalGas understood, and continues to understand, D.18-05-041 as applying to the two Statewide EE C&S advocacy programs that were part of SoCalGas's EE portfolio. Cal Advocates argues that applying the prohibition as it was intended to apply "would eviscerate the prohibition," but provides no real evidence to support its exaggerated claim. Rather, SoCalGas's two Statewide EE C&S advocacy programs were distinct programs within SoCalGas's EE portfolio, and SoCalGas has disengaged from those

[11] Cal Advocates Amended First Amendment Opening Brief, p. 1, no. 4 (emphasis added).
[12] *Id.* at p. 10, n. 43.
[13] D.18-05-041 approved the EE business plans of SoCalGas and other program administrators.
[14] *See*, *e.g.*, SoCalGas Opening Brief, pp. 25-29; SoCalGas Reply Brief, pp. 32-33.
[15] Cal Advocates Amended First Amendment Opening Brief, p. 10 (emphasis added).

programs, including activity that was not advocacy, such as attendance at informational meetings. These EE programs have not been replicated at SoCalGas through some other funding source, as Cal Advocates and Sierra Club appear to suggest. Further, SoCalGas's current activity in the CEC's Title 24 docket is still subject to Commission oversight and is appropriately considered in non-EE proceedings, such as the GRC.

Cal Advocates further argues that "SoCalGas is obliged to adhere to the Commission's requirements for the administration of its *energy efficiency programs*" and "is subject to the Commission's oversight of ratepayer-funded *energy efficiency programs*."[16] SoCalGas agrees, but that is not the subject of this briefing.[17] Rather, regarding SoCalGas's participation in the CEC's Title 24 docket, SoCalGas's policy team, which is separate from its EE team, should be able to participate openly in a policy debate before one of its regulators, the very purpose of a public process that encourages participation. SoCalGas's comments there have focused on issues that have broader implications than just energy efficiency codes and standards. Southern California Edison Company ("SCE") and Pacific Gas & Electric Company ("PG&E") have done the same, both submitting separate comments outside of the EE Statewide Codes and Standards Enhancement ("CASE") team to the CEC.[18]

Lastly, Cal Advocates' statement that "SoCalGas's distinction between two separate sources of ratepayer funding has no bearing on the scope of the prohibition and no impact on

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[16] *Id.* at 13 (emphasis added).

[17] Although not the subject of this briefing, SoCalGas's compliance with D.18-05-041 with regard to its EE programs is an issue that is subject to this OSC. As addressed at hearings and in briefing, SoCalGas is adhering to the prohibition in D.18-05-041 and no longer engages in statewide or federal EE C&S advocacy as part of its EE portfolio.

[18] *See* SCE Comments on the CEC Docket No. 21-BTSD-01 (August 10, 2021) *available at* TN239221_20210810T071242_SCE Support Letter for 2022 Title 24 (1).pdf; SCE Comments for 2022 Energy Code Changes CEC Docket 21-BSTD-01 (June 21, 2021), *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=238340&DocumentContentId=71635; SCE Letter to CEC - Energy Code July 2020, CEC Docket 19-BTSD-03 (July 2, 2020), *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=233725&DocumentContentId=66367; PG&E Comments on Proposed 2022 Energy Code – Solar PV and Storage Proposals, CEC Docket 19-BSTD-03 (December 23, 2020), *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=236154&DocumentContentId=69138; PG&E Comments on the Revised JA13 - HPWH Demand Management Specification, CEC Docket 19-BTSD-03 (July 6, 2020), *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=233781&DocumentContentId=66426; PG&E Comments on 2022 Pre-Rulemaking, CEC Docket 19-BTSD-03 (November 13, 2019), *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=230667&DocumentContentId=62279.

SoCalGas's First Amendment rights"[19] is an oversimplification. As SoCalGas has maintained since this OSC was issued, there are many differences between SoCalGas's EE portfolio and its GRC funded departments, including different mandates, applicable Commission and statutory authority, and purposes behind funding. Although the Commission in D.18-05-041 enacted a prohibition on SoCalGas's EE C&S advocacy based on the specific purposes behind EE funding for codes and standards,[20] it did not purport to modify any GRC decisions or to encompass all activity related to energy efficiency codes and standards. Further, after the issuance of that decision, the Commission subsequently approved the funding for SoCalGas's policy group in D.19-09-051, where evidence showed the policy group had engaged in similar activity to that being challenged here.[21] Sierra Club unsuccessfully challenged that activity in SoCalGas's last GRC and should be aware that the Commission approved funding. To the extent SoCalGas is penalized where Commission guidance was unclear and even contrary, SoCalGas's due process rights will have been violated. In addition, there is a clear impact to SoCalGas's First Amendment rights where it is the only IOU facing the threat of sanctions and an increasingly broad prohibition on its rulemaking advocacy. To the extent a broadened prohibition or the levy of fines is based only on SoCalGas's particular viewpoint, which is apparent in Sierra Club's and Cal Advocates' requests, this amounts to unconstitutional viewpoint discrimination.[22]

[19] Cal Advocates Amended First Amendment Opening Brief, p. 16.
[20] The Commission most recently clarified those purposes in the Presiding Officer's Decision Ordering Remedies for SoCalGas Activities that Misaligned with Commission Intent for Codes and Standards Advocacy (April 21, 2021) ("POD").
[21] *See* D.19-09-051, p. 379-380; *see also Id.* n. 301 (citing Exhibit 139 Appendix A to E. Appendix C identified and included several comment letters from SoCalGas to the CEC).
[22] Cal Advocates urges the Commission to not even entertain SoCalGas's First Amendment claim and argues that it would be too burdensome for the Commission to distinguish between activity undertaken as part of its EE portfolio and activity undertaken outside of its EE portfolio. However, this would be as easy as sending a data request and would not amount to any undue burden. Further, Sierra Club had no problem raising issues in SoCalGas's last GRC regarding SoCalGas activity undertaken outside of its EE portfolio. *See* Opening Brief of SoCalGas on its First Amendment Rights in the OSC Regarding Alleged Violation of Decision and Rule 1 of the Commission's Rules of Practice and Procedure (July 30, 2021) ("SoCalGas First Amendment Opening Brief"), pp. 9-11 (discussing Sierra Club's unsuccessful challenge to SoCalGas's engagement before the CEC).

III. CAL ADVOCATES AND SIERRA CLUB NEGLECT THE AUTHORITIES APPLICABLE TO SOCALGAS'S TITLE 24 ENGAGEMENT AND WOULD HAVE THE COMMISSION ENGAGE IN VIEWPOINT DISCRIMINATION

Cal Advocates and Sierra Club continue to argue that D.18-05-041 governs SoCalGas's current Title 24 engagement despite that decision being applicable to SoCalGas's EE portfolio and also neglect to acknowledge the authorities that do apply to SoCalGas's engagement. Sierra Club and Cal Advocates also encourage the Commission to apply the ratepayer benefit test in a way that would treat SoCalGas differently than the other IOUs based solely on its particular viewpoint. This would amount to a violation of the First Amendment.

A. The Parties Agree on the Ratepayer Benefit Test and the Commission Did Not Previously Prohibit SoCalGas's Current Title 24 Engagement

All of the parties agree that the correct test to be applied to SoCalGas's Title 24 Engagement for the CEC's current cycle is the ratepayer benefit test.[23] Under the ratepayer benefit test, the Commission allows advocacy costs to be charged to ratepayers when the utility demonstrates that "such activities are clearly in the interest of its customers."[24] SoCalGas's Title 24 engagement has primarily been undertaken by SoCalGas's policy group. Activities conducted by SoCalGas's policy group were addressed and approved for authorization of revenue requirement in the test year 2019 and 2020-2023 attrition years in SoCalGas's last GRC decision.[25] Further, costs associated with SoCalGas's current Title 24 engagement are historical costs that form the basis for SoCalGas's upcoming GRC forecasts for its Test Year 24 GRC that has not yet been filed, and accounting can be subject to future adjustment for the purpose of seeking cost recovery during that cycle. Thus, the appropriate place to review this activity is the GRC.

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[23] SoCalGas First Amendment Opening Brief, p. 11; Cal Advocates Amended First Amendment Opening Brief, p. 3 ("A fundamental premise of regulatory law is that a utility may not use ratepayer funds to engage in activities that do not benefit ratepayers"); Sierra Club First Amendment Opening Brief, p. 5 ("The Commission routinely and properly polices utilities' spending of ratepayer funds on advocacy and public communications to ensure that such spending is in the ratepayers' interest.").

[24] Decision No. 86281, App. of *PG&E*, 80 Cal. P.U.C. 396 (1976D.92-12-057, Re PG&E Co., 47 C.P.U.C. 2d 143, (Dec. 16, 1992 (noting that "[s]uch benefits need not always be quantifiable, but they must be tangible" and agreeing that payment for research into the "efficient and effective operation of the utility industry" could be borne by ratepayers).

[25] D.19-09-051 and as amended by D.21-05-003.

Cal Advocates and Sierra Club, however, argue that "in this instance, the Commission has already determined that SoCalGas's use of ratepayer funds for codes and standards advocacy poses an ongoing risk to ratepayers and should be prohibited through 2025."[26] Sierra Club and Cal Advocates get to this position by interpreting the prohibition on EE C&S advocacy in D.18-05-041 too broadly to cover activity that was not contemplated by that decision. The prohibition in D.18-05-041 was specific to the two Statewide EE C&S advocacy programs that were part of SoCalGas's EE portfolio. The two Statewide EE C&S programs no longer exist at SoCalGas either within its EE department or anywhere else in the company, aside from transferring funding for these programs to the lead IOU – PG&E. In the case of the CEC's Title 24 dockets, this cycle's Title 24 proceedings, although still focused on updating the State's energy efficiency building codes, has also concerned issues broader than just C&S, including issues surrounding indoor air quality. Indoor air quality is an important issue affecting SoCalGas's operations and its customers, as addressed more fully below. SoCalGas believes it was entirely appropriate and to the benefit of its ratepayers for its policy team, which is primarily GRC funded,[27] to submit public comments in that proceeding and to otherwise participate.

B. SoCalGas's Title 24 Engagement is Rulemaking Advocacy and is Governed by Different Authorities Then Those Relied on by Cal Advocates and Sierra Club

Cal Advocates and Sierra Club fail to consider the authorities that apply to SoCalGas's engagement in the CEC's current Title 24 cycle. The standards and authorities used in assessing SoCalGas's GRC funded activities, including its Title 24 engagement for the current cycle, should be evaluated in accordance with SoCalGas's GRC decisions, and not with the standards and authorities applicable to SoCalGas's EE portfolio. SoCalGas's last GRC decision, which was issued after D.18-05-041, allowed ratepayer funding for activity that is very similar to the policy group's engagement in the CEC's Title 24 dockets.[28] Neither Cal Advocates nor Sierra Club dispute this finding, but instead point to decisions issued in EE proceedings that are applicable to SoCalGas's EE portfolio. Given the myriad differences between SoCalGas's EE

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[26] Cal Advocates Amended First Amendment Opening Brief, pp. 14-15 (citing D.18-05-041, p. 193, OP 53); *see also* Sierra Club First Amendment Opening Brief, p. 9.
[27] As addressed in Ms. Haines' testimony, costs associated with SoCalGas's Title 24 activity have been charged to a mix of BTL and ATL accounts.
[28] D.19-09-051, pp. 379-380.

portfolio and its other departments, including the different mandates, decisional authority (including D.18-05-041), and funding mechanisms, the EE authorities that Cal Advocates and Sierra Club rely on are not applicable here.

Notably, Cal Advocates also points to FERC account 426.4 guidance and states that SoCalGas's "advocacy expenses are properly recorded" there,[29] while omitting any discussion of the exception to FERC account 426.4 which is directly on point for the conduct at issue. Subpart (b) of 426.4 provides an important and relevant exception to the accounting direction to record advocacy expenses in FERC account 426.4:

> This account must *not* include expenditures that are directly related to appearances before regulatory or other governmental bodies in connection with an associate utility company's existing or proposed operations.[30]

Thus, while activities which fall within the definition of Account 426.4(a) are below the line and thus generally not recoverable from ratepayers, activities within the exception of 426.4(b) are above the line and presumed recoverable from ratepayers. As discussed in SoCalGas's First Amendment opening brief,[31] the exception found in 426.4(b) provides a basis which allows SoCalGas's use of ratepayer funding to conduct rulemaking advocacy on issues affecting its customers and matters of operating concerns, such as future load on the natural gas system and electricity and natural gas rate forecasts.[32] In addition, pursuant to statutory authority, electric and gas utilities, in consultation with the CEC, are required to "provide support for building standards and other regulations . . . including appropriate research development, and training to

[29] Cal Advocates Amended First Amendment Opening Brief, p. 14.
[30] 18 CFR § 367.4264(b) (emphasis added).
[31] SoCalGas First Amendment Opening Brief, pp. 16-18.
[32] FERC accounting regulations recognize above the line accounting for advocacy to regulators and that rate recovery has historically been available for advocacy that is in ratepayers' interests. *See*, *e.g.*, Expenditures for Pol. Purposes-Amend. of Acct. 426, Other Income Deductions, Unif. Sys. Of Accts., & Report Forms Prescribed for Elec. Utilities & Licensees & Nat. Gas Companies-Fpc Forms Nos. 1 & 2, 30 F.P.C. 1539, 1542 (1963) (identifying operating expenses excluded from Account 426.4 and including appearances with governmental bodies and officials).

implement those standards and other regulations."[33] Along with SoCalGas's GRC decisions, these are the guidance and authorities that apply to SoCalGas's current Title 24 engagement.[34]

Sierra Club and Cal Advocates also cite to authority applying to "promotional or political advertising"[35] in an attempt to analogize those authorities to SoCalGas's rulemaking advocacy in the CEC's Title 24 docket.[36] But as even Sierra Club appears to recognize, SoCalGas's conduct here, namely participation in a public process before its regulator on policy issues affecting its customers and operations, is not the same as promotional or political advertising.[37] For example, SoCalGas's comments to the CEC have pointed out the potential problems in the indoor air quality studies relied on by some of the other stakeholders: "The UCLA report appreciably over-estimated changes in air quality resulting from the use of natural gas appliances and thus the resulting calculated health benefits of electrification due to (1) overestimates of natural gas space and water heaters and (2) neglection of emissions from electric generation."[38]

Cal Advocates, on the other hand, paints the undisputable historical approval of ratepayer funding for utilities' rulemaking advocacy before regulators as a "narrow exception to the general rule that ratepayers should not fund the cost of utility advocacy."[39] Cal Advocates' cited

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[33] Cal. Pub. Res. Code § 25402.7. That statute also provides that the electric and gas utilities "shall provide support pursuant to subdivision (a) only to the extent that funds are made available for that purpose." The Commission has generally approved ratepayer funding for rulemaking advocacy subject to review in the appropriate proceeding, here the GRC. To the extent the Commission applies discriminatory treatment among the IOUs and disallows ratepayer funding for one utility based solely on the viewpoint expressed by that utility, the First Amendment is implicated.

[34] However, these are not all of the potentially applicable guidance and authorities that would support above the line accounting for SoCalGas engagement with the CEC. For example, FERC account 928 indicates that "This account must include all expenses… incurred by the service company in connection with formal cases before regulatory commissions, or other regulatory bodies, on its own behalf or on behalf of associate companies…."

[35] *See* Cal Advocates Amended First Amendment Opening Brief, p. 3, n. 9; Sierra Club First Amendment Opening Brief, p. 7.

[36] Tellingly, Sierra Club and Cal Advocates would not apply these same authorities to the other IOUs who under their view are allowed to engage in the very same conduct as SoCalGas without the same scrutiny or threat of punishment.

[37] Sierra Club First Amendment Opening Brief, pp. 8 (distinguishing the authorities applying to "promotional or political advertising" as a prohibition covering "far more expressive activities").

[38] Sierra Club Ex. 21, SoCalGas Comments on September 30, 2020 IAQ Workshop, Appendix A (October 16, 2020), p. 12. Compare SCE Comments on the CEC Docket No. 21-BTSD-01 (August 10, 2021) ("SCE looks forward to a 2025 Energy Code that will fully electrify new construction in order to accelerate efforts needed to be on a path to achieve California's 2030 decarbonization target.") *available at* TN239221_20210810T071242_SCE Support Letter for 2022 Title 24 (1).pdf.

[39] Cal Advocates Amended First Amendment Opening Brief, p. 13.

authority for this proposition, however, does not support its contention that the Commission has created some "narrow exception." That is because rather than there being a "narrow exception," it is recognized that a utility's rulemaking advocacy before a regulator on matters affecting a utility's customers or operations is different than "promotional or political advertising." The distinction in treatment is supported by the different accounting subsections in FERC 426.4, one for expenditures for typical lobbying expenses, which are recorded below the line, and one for "appearances before regulatory or other governmental bodies in connection with an associate utility company's existing or proposed operations,"[40] which are recorded above the line.

C. Cal Advocates and Sierra Club Would Have the Commission Engage in Unconstitutional Viewpoint Discrimination

Cal Advocates and Sierra Club do not dispute that the other IOUs are free to use ratepayer funds to participate in a public process before their regulators on policy issues affecting their customers and operations, the very same conduct that SoCalGas has engaged in. But, Cal Advocates and Sierra Club ask the Commission to single out SoCalGas for treatment different than the other IOUs, and not only prohibit SoCalGas from using ratepayer funds for its rulemaking advocacy, but also subject SoCalGas to excessive fines and penalties. To do so, however, would be to engage in unconstitutional viewpoint discrimination.

Cal Advocates justifies its argument for disparate treatment of SoCalGas by arguing that "[t]here is no evidence that any other utility has undermined codes and standards to the extent that SoCalGas has."[41] As an initial matter, SoCalGas strongly disagrees that it has undermined codes and standards. Rather, SoCalGas has supported numerous codes and standards over many years.[42] Second, it is clear that SoCalGas is not the only utility to either not join joint comments or submit separate comments on a proposed code or standard. Even within the CEC's current Title 24 docket, it appears that other IOUs have been engaging outside of the EE Statewide Codes and Standards Advocacy program and submitting separate comments.[43] To SoCalGas's

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[40] 18 CFR § 367.4264(b).
[41] Cal Advocates Amended First Amendment Opening Brief, p. 22.
[42] *See, e.g.*, POD, p. 22 (acknowledging that SoCalGas has co-funded and led a number of Codes and Standards Enhancement ("CASE") Studies).
[43] *See* SCE Comments on the CEC Docket No. 21-BTSD-01 (August 10, 2021) *available at* TN239221_20210810T071242_SCE Support Letter for 2022 Title 24 (1).pdf; SCE Comments for

knowledge, neither Sierra Club or Cal Advocates is questioning PG&E or SCE about the funding source behind their separate comments or challenging their ability to participate in a public process before a regulator. Presumably, this is because Sierra Club and Cal Advocates do not disagree with the positions advocated by SCE and PG&E, and thus, Cal Advocates and Sierra Club do not have the same motivation to shut down their positions as they do for the viewpoints expressed by SoCalGas.

It is clear that the only difference between SoCalGas's at issue conduct and that of the other IOUs is that SoCalGas is the sole large gas-only utility in California and has expressed viewpoints before one of its regulators that are different than Cal Advocates' and Sierra Club's, including on issues such as cost-effectiveness, customer affordability, and opportunities for the State to meet its longer-term decarbonization goals.[44] As discussed in SoCalGas's First Amendment opening brief, the Commission is not allowed to use discriminatory and biased enforcement of the ratepayer benefit test to restrict or punish SoCalGas's views before its regulator simply because it may not agree with those views.[45] "A regulation engages in viewpoint discrimination when it regulates speech based on the specific motivating ideology or

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2022 Energy Code Changes CEC Docket 21-BSTD-01 (June 21, 2021), *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=238340&DocumentContentId=71635; SCE Letter to CEC - Energy Code July 2020, CEC Docket 19-BTSD-03 (July 2, 2020), *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=233725&DocumentContentId=66367; PG&E Comments on Proposed 2022 Energy Code – Solar PV and Storage Proposals, CEC Docket 19-BSTD-03 (December 23, 2020), *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=236154&DocumentContentId=69138; PG&E Comments on the Revised JA13 - HPWH Demand Management Specification, CEC Docket 19-BTSD-03 (July 6, 2020), *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=233781&DocumentContentId=66426; PG&E Comments on 2022 Pre-Rulemaking, CEC Docket 19-BTSD-03 (November 13, 2019), *available at* https://efiling.energy.ca.gov/GetDocument.aspx?tn=230667&DocumentContentId=62279.

[44] *See*, *e.g.*, Sierra Club Ex. 22, SoCalGas's Technical Comments Regarding Pre-Rulemaking for the California 2022 Energy Code Compliance Metrics (August 21, 2020), p. 1 ("SoCalGas appreciates the State's bold attempts to address climate change and wants to be a key partner to reduce greenhouse gas (GHG) emissions from the building sector. SoCalGas believes that a portfolio approach, utilizing all energy sources and technologies to meet our climate goals, will best serve Californians and those that follow our lead. Natural gas and renewable natural gas (such as hydrogen, synthetic natural gas, and biomethane/renewable natural gas) are clean, reliable, affordable, and resilient sources of energy that play a critical part of the *solution* to California's energy concerns.).

[45] SoCalGas First Amendment Opening Brief, pp. 11-15. It is well-established that viewpoint discrimination can come in the form of selective enforcement of a facially neutral policy. *See*, *e.g.*, *Foti v. City of Menlo Park*, 146 F.3d 629, 635 (9th Cir. 1998), as amended on denial of reh'g (July 29, 1998).

perspective of the speaker."[46] By attempting to quash one particular perspective, "the violation of the First Amendment is all the more blatant."[47] Yet, Cal Advocates and Sierra Club ask that the Commission levy substantial fines against SoCalGas, as well as impose additional limits (limits not imposed on any of the other IOUs) on SoCalGas's use of ratepayer funding because of the *content* of SoCalGas's advocacy in proceedings before its regulators and SoCalGas's particular *viewpoint*. This is straightforward viewpoint discrimination squarely prohibited by the First Amendment.[48]

Sierra Club suggests that as part of the ratepayer benefit test, a utility's speech must align with "state policy."[49] As an initial matter, this is not part of the ratepayer benefit test. More importantly, 100% electrification, which is the only viewpoint Sierra Club approves, is not State policy. As recognized by a recent Commission staff report, SoCalGas's gas system is a key component of the State's decarbonization goals.[50] SoCalGas supports electrification measures in conjunction with other measures that will allow the State to succeed in meeting its ambitious climate goals, with a continued focus on reliability and affordability. Further, the State is also concerned with cost impacts to residential housing,[51] which implicates electricity and natural gas rate forecasts, a topic SoCalGas has addressed in its CEC Title 24 comments. Discussion around how to meet the State's decarbonization goals benefits from multiple viewpoints, and shutting down one viewpoint not only amounts to unconstitutional viewpoint discrimination, but is also to the detriment of ratepayers. In addition, shutting down differing viewpoints does not give regulators the information they need to come to well-informed decisions, which is the entire point behind a regulatory process for a proposed rule or regulation. Lastly, to the extent the

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[46] *First Resort, Inc. v. Herrera*, 860 F.3d 1263, 1277 (9th Cir. 2017) (quoting *Reed v. Town of Gilbert*, 576 U.S. 155, 168 (2015).
[47] *Rosenberger v. Rector & Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995).
[48] *Nat'l Inst. of Fam. & Life Advocs. v. Becerra*, 138 S. Ct. 2361, 2371 (2018); *Reed*, 576 U.S. at 169; *Rosenberger*, 515 U.S. at 829; *R.A.V. v. City of St. Paul*, 505 U.S. 377, 386 (1992).
[49] Sierra Club's First Amendment Opening Brief, p. 5-6.
[50] R.20-01-007 Track 1A: Reliability Standards and Track 1B: Market Structure and Regulations – Workshop Report and Staff Recommendations, dated Oct. 2, 2020, *available at* https://www.cpuc.ca.gov/gasplanningoir (Workshop Report). For example, CPUC Staff's recommendations expressly "call[] attention . . . to the two rotating power outages of August 2020" as a "cautionary tale" noting that "[t]he role of California's natural gas infrastructure is especially important during times of low renewable generation." Workshop Report at 8.
[51] *See*, *e.g.*, Cal. Health & Safety Code § 18930(a); Cal. Public Res. Code § 25402(b).

Commission punishes SoCalGas, this establishes an incentive for utilities to not be prudent operators pursuant to the regulatory compact by meaningfully participating in proceedings before regulators, like the CEC, despite knowledge of impacts to customers, including impacts to affordability, because of the threat of penalties and other punishment for expressing viewpoints, even if they benefit ratepayers.

IV. SOCALGAS'S TITLE 24 ENGAGEMENT IS IN CONNECTION WITH ITS OPERATIONS AND BENEFITS ITS RATEPAYERS

As discussed, SoCalGas's Title 24 engagement falls squarely within the exception to FERC account 426.4, making it appropriate to book associated costs above the line. In an attempt to get around this clear FERC guidance, Sierra Club and Cal Advocates both question whether SoCalGas has any operating concern related to the Title 24 proceeding.[52] In doing so, Cal Advocates and Sierra Club both seek to limit as narrowly as possible a utility's operating concern to only safety concerns to infrastructure.[53] FERC guidance is not so narrow, nor do any other California IOUs that conduct frequent regulatory advocacy before the CEC or the CPUC experience such a narrow construction in their appearances. Subpart (b) of FERC account 426.4 provides:

> This account must not include expenditures that are directly related to appearances before regulatory or other governmental bodies *in connection with an associate utility company's existing or proposed operations*.[54]

In addition, per statute, electric and gas utilities, in consultation with the CEC, are required to "provide support for building standards and other regulations . . . including appropriate research development, and training to implement those standards and other regulations."[55] The very purpose of the Title 24 docket is to have stakeholders, including the electric and gas utilities, engage and participate in the proceeding to best inform the CEC's

[52] Cal Advocates Amended First Amendment Opening Brief, p. 21; Sierra Club First Amendment Opening Brief, p.13.
[53] Cal Advocates Amended First Amendment Opening Brief, p. 21; Sierra Club First Amendment Opening Brief, p.14.
[54] 18 CFR § 367.4264(b) (emphasis added).
[55] Cal. Pub. Res. Code § 25402.7

ultimate decision-making.[56] These are formal proceedings before the CEC, and as FERC accounting guidance has recognized, when formal proceedings exist, above the line accounting treatment is appropriate.[57] Utilities are responsible for helping to implement energy efficiency codes and standards and energy efficiency codes and standards can also impact future load on the natural gas system and electricity and natural gas rate forecasts. These are clear operating concerns.

Sierra Club and Cal Advocates both accuse SoCalGas of only participating in the CEC's Title 24 docket in an attempt to benefit its "own bottom line."[58] Notably, neither party cites to any evidence in the record for this OSC to support this baseless accusation. Further, SoCalGas's engagement in the CEC's Title 24 dockets is a clear ratepayer benefit. SoCalGas's engagement has included participating in discussion around issues of indoor air quality, which is a broader issue and not only relevant to energy efficiency codes and standards, as well as underlying appliance costs and electricity and natural gas rate forecasts. It is in the public's interest, including SoCalGas's ratepayers,[59] to have accurate and complete information on indoor air quality and the CEC values having a range of information and viewpoints, as well as participation from various stakeholders. It is also in the public's interest, including SoCalGas's ratepayers, to have accurate and complete information to inform the electric and natural gas rates (including commodity prices for renewable natural gas, hydrogen, and synthetic gases). Cost effectiveness margins of some energy efficiency and electrification measures are extremely narrow and susceptible to slight rate changes. SoCalGas's comments to the CEC have included recommendations for determining a more reasonable natural gas price forecast.

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[56] *See* D.12-12-036, pp. 10-11 ("not allowing utilities to . . . provide factual information to government agencies . . . could interfere with the ability of government agencies to explore" certain policies).
[57] *See*, *e.g.*, 18 CFR § 367.9280.
[58] Sierra Club First Amendment Opening Brief, p. 12; Cal Advocates Amendment First Amendment Opening Brief, p. 22.
[59] *See* D.19-09-051, pp. 357-358 (approving "incremental expenses [] driven by additional spending on climate change education and informing customers of resources available to support how to cope with and address the effect of climate change"); *Id.* at pp. 374-376 (approving funding for groups "collectively responsible for policy analysis, engagement, outreach, and customer support related to existing and proposed state and federal policies, including laws and regulations related to natural gas and renewable natural gas utilization, environmental policy, air quality, and climate change policy."); *Id.* at pp. 379-380 ("We review each letter and find that each letter, as a whole, and when read in its entirety, does not constitute a means to block measures to replace natural gas with electric options. Instead, the comment-letters in question . . . are generally informational.").

V. CAL ADVOCATES ATTEMPTS TO CONFUSE THE ISSUES BY ARGUING THAT THE CPUC IS SOCALGAS'S SOLE REGULATOR

In another attempt to get around the clear FERC guidance, Cal Advocates claims that the CEC is not a regulator of SoCalGas. As an initial matter, this is just another attempt to obfuscate the issues the parties were directed to address. At issue here is that Cal Advocates is pursuing severe penalties and punishment against SoCalGas for SoCalGas's reasonable interpretation that the Commission's order in D.18-05-041, which was in an energy efficiency proceeding, applies to programs and funds previously authorized as part of SoCalGas's EE portfolio. Cal Advocates (and Sierra Club) have always had the option to argue in SoCalGas's GRCs that SoCalGas should use a different accounting approach for the costs of certain advocacy before the CEC and/or that, regardless of the accounting, SoCalGas should not be able to include the costs of this advocacy in rates. Rather than take this approach, Cal Advocates has aggressively and discriminatorily sought to punish SoCalGas. It is clear that Cal Advocates' efforts are really about the content of SoCalGas's speech, which is unlawful and a dangerous threat to SoCalGas's First Amendment rights.

Cal Advocates argues that SoCalGas "incorrectly characterizes the CEC (and presumably the DOE) as its 'regulators.'"[60] In fact, Cal Advocates seems to claim that the CPUC is SoCalGas's *sole* regulator.[61] The CPUC is certainly one of SoCalGas's core regulators and has the authority to regulate under both the California Constitution and statutes.[62] However, SoCalGas is regulated by many other governmental bodies and its obligation to engage with those bodies in rulemaking and otherwise is often not "voluntary"[63] and an important part of conducting SoCalGas's operations.[64] For Cal Advocates to suggest otherwise is remarkable.

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[60] Cal Advocates Amended First Amendment Opening Brief, p. 19. Elsewhere, Cal Advocates engages in verbal gymnastics when it argues that SoCalGas's "compliance with the CEC'syip [sic] or DOE's adopted codes and standards is mandatory" but concludes that the CEC and DOE are not SoCalGas's regulators. *Id.*, p. 20. Cal Advocates offers no explanation how the CEC and DOE can mandate SoCalGas's compliance, but are not SoCalGas's regulators.

[61] *Id.*, p. 20 ("Unlike the CEC or DOE, the Commission has the authority and obligation to regulate monopoly utilities such as SoCalGas").

[62] *Id.* at p. 20.

[63] *Id.* ("Participation in CEC and DOE rulemakings is voluntary").

[64] SoCalGas is regularly invited to participate in proceedings or workshops at the CEC and at times receives requests for information from the CEC. On the federal level, the DOE and FERC (an independent regulatory commission within the DOE) both regulate SoCalGas in certain respects.

In addition, application of FERC account 426.4's exception is not limited to just "regulators," regardless of Cal Advocates' focus on that term and its claim that the CPUC is SoCalGas's sole regulator. Instead, the text of FERC account 426.4's exception includes regulators and "other governmental bodies" that utilities appear before. Thus, even if Cal Advocates were correct and SoCalGas's exclusive regulator were the CPUC, Cal Advocates cannot dispute that the other governmental entities that SoCalGas appears before fall within the ratepayer-funded exception of FERC account 426.4.[65]

VI. CAL ADVOCATES IMPROPERLY DISCUSSES MATTERS NOT ON THE RECORD FOR THIS PROCEEDING AND IRRELEVANT TO THE SPECIFIC QUESTIONS ASKED BY THE ALJ

Cal Advocates acknowledges the questions presented in the Ruling Directing Further Briefing and seemingly understood the scope of the briefing sought.[66] Yet, throughout its brief, Cal Advocates strays far from the questions presented in the ruling. Cal Advocates uses its brief to bring up a wholly unrelated Order Instituting Investigation,[67] to present evidence and arguments that are part of a separate OSC that the Commission declined to consolidate with this OSC,[68] and to seek new relief from the Commission. These extraneous arguments should be rejected because they have no bearing on the specific questions raised in the Ruling Directing Further Briefing and thus are procedurally inappropriate.

Most egregiously, Cal Advocates puts forward extensive arguments and factual references to the December 17, 2019 Order to Show Cause, despite acknowledging that it is a separate proceeding[69] and that "the December 17, 2019 Order to Show Cause portion of this rulemaking *has no bearing*" on the issues that are subject to the Ruling Directing Further

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SoCalGas is also regulated by a diverse assemblage of other agencies, including, but not limited to: Pipeline and Hazardous Materials Safety Administration ("PHMSA"); California Geologic Energy Management Division ("CalGEM"); California Air Resources Board ("CARB"); Department of Toxic Substances Control; South Coast Air Quality Management District; Santa Barbara County Air Pollution Control District; Ventura County Air Pollution Control District; Mojave Desert Air Quality Management District; San Joaquin Valley Unified Air Pollution Control District; Los Angeles Regional Water Quality Control Board; and, Central Coast Regional Water Quality Control District.

[65] *See also* 18 CFR § 367.9280.

[66] Cal Advocates Amended First Amendment Opening Brief, p. 1.

[67] *See Id.* at pp. 21-22.

[68] *Id.* at pp. 15-22.

[69] *Id.* at p. 6, n. 23.

Briefing.[70] Despite this acknowledgment, Cal Advocates spends pages discussing the other OSC, despite the Commission's previous rejection of Sierra Club's and Cal Advocates' attempt to consolidate that OSC with this one,[71] the record for the other OSC being closed,[72] and a presiding officer's decision already having been issued for that OSC.[73] In fact, Cal Advocates cites to its opening brief in the December 17, 2019 OSC eight times and to Sierra Club's opening brief six times.[74] Although Cal Advocates is quick to accuse SoCalGas of engaging in a collateral attack of D.18-05-041, its extensive arguments regarding evidence presented in the other OSC seemingly seeks to relitigate its denied motion to consolidate the two OSCs and to confuse the issues in this OSC. Cal Advocates' actions are also an inappropriate attempt to submit sur-reply comments on its own appeal of the POD for the December 17, 2019 OSC. This is wholly inappropriate and these sections of Cal Advocates' brief should be disregarded.

In addition, Cal Advocates debuts a new request for relief which would require SoCalGas "to record all costs of codes and standards advocacy in FERC account 426.4."[75] Cal Advocates further asks the Commission to "take this opportunity to affirm the standard rules of utility accounting and order SoCalGas to book all advocacy costs [. . .] to FERC account 426.4"[76] This is patently improper. The Ruling Directing Further Briefing sought briefing from the parties regarding SoCalGas's First Amendment arguments. No reading of that ruling supports Cal Advocates request for new relief or that the ruling presented an "opportunity to affirm the standard rules of utility accounting." Cal Advocates cannot be permitted to commandeer the scope of the Ruling Directing Further Briefing to address new grievances it may have with SoCalGas or to offer up recommendations that were not previously part of this proceeding.

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[70] *Id.* at p. 15 (emphasis added).
[71] *See* ALJ Kao Email Ruling denying motion to consolidate orders to show cause (November 30, 2020).
[72] Email Ruling of ALJ Valerie Kao Revising Schedules for Orders to Show Cause (October 6, 2020); *see also* Assigned Commissioner's Amended Scoping Memo and Ruling for Order to Show Cause Against SoCalGas (December 2, 2019), pp. 3-4.
[73] POD.
[74] Cal Advocates Amended First Amendment Opening Brief, pp. 17, 18, 20, 21, 22.
[75] *Id.* at p. 23.
[76] *Id.* at p. 4. Elsewhere, Cal Advocates suggests that advocacy costs booked to FERC account 426.4 "shall be subject to audit by Commission staff." *Id.*, p. iv (Summary of Recommendations). However, nowhere else in its brief is its audit demand mentioned. Even if this new demand were addressed in the brief, it would be improper.

VII. CONCLUSION

The Commission should reject Sierra Club's and Cal Advocates' attempt to broaden the prohibition in D.18-05-041. Assessing fines and penalties against SoCalGas based on its Title 24 engagement or further restricting SoCalGas's ability to participate in rulemakings before its regulator will violate SoCalGas's First Amendment and due process rights. The Commission should find that SoCalGas's Title 24 engagement does not amount to a violation of D.18-05-041 and that no fines or other penalties or restrictions are appropriate.

Respectfully submitted on behalf of SoCalGas,

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