

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Southern California Gas Company with Respect to the Aliso Canyon storage facility and the release of natural gas, and Order to Show Cause Why Southern California Gas Company Should Not Be Sanctioned for Allowing the Uncontrolled Release of Natural Gas from its Aliso Canyon Storage Facility. (U904G)

Investigation 19-06-016

MOTION OF THE PUBLIC ADVOCATES OFFICE TO COMPEL SOUTHERN CALIFORNIA GAS COMPANY TO DO ALL THINGS NECESSARY (1) TO PRODUCE BOOTS & COOTS WITNESSES AND DATA RESPONSES, (2) TO PROVIDE ALL INFORMATION REGARDING THOSE EFFORTS, AND (3) TO RESPOND TO OUTSTANDING AND FUTURE DATA REQUESTS UNTIL THE RECORD IN THIS PROCEEDING IS CLOSED; [PROPOSED] ORDER

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I. INTRODUCTION

Pursuant to Public Utilities Code Sections 309.5(e) and 314, and Rules 11.1 and 11.3 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure, the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) moves this Commission to compel Southern California Gas Company (SoCalGas) to do all things necessary to:

- (1) Produce Boots & Coots' witnesses and data responses;
- (2) Provide all information regarding its efforts to produce the Boots & Coots witnesses and data responses to the parties in this proceeding without need for data requests and other discovery; and
- (3) Respond to all outstanding and future data requests until the record of this proceeding is closed.

As set forth in the concurrently-filed motion for shortened time to respond, Cal Advocates also requests prompt action on this Motion to Compel and a shortened response time for responses because Boots & Coots is currently seeking a protective order to quash Cal Advocates' data requests from the Harris County Texas District Court¹ and a hearing on that motion is set for Thursday, September 2, 2021.² Cal Advocates proposes, among other things, that SoCalGas be immediately ordered to take all good faith actions necessary and appropriate to address Boots & Coots' motion for a protective order, including, without limitation, whatever is necessary before both the California and Texas authorities. A Commission determination in favor of Cal Advocates' Motion to Compel could be relevant to SoCalGas' participation in the Texas proceeding. Thus,

¹ See Motion to Compel (MTC) Exhibit 23 – Boots & Coots Motion For Protection 7-30-21, in the District Court of Harris County, Texas, 281st Judicial District, Cause No. 2021-23367.

² In the event this motion to compel cannot not be acted on in time to address Boots & Coots Motion for Protection scheduled for hearing before the Texas District Court on September 2, 2021, and SoCalGas has not committed to address that motion for protection, Cal Advocates may seek to move that hearing to a later date to ensure the Commission's interests are properly represented at any such hearing.

immediate action is urged and a shortened response time is appropriate as set forth in the concurrently filed motion for shortened time to respond.

In sum, Cal Advocates urges the Commission to reject SoCalGas' efforts to throw up its hands and claim it has no authority or ability to require its contractor to answer data requests and appear as witnesses in the instant proceedings before this Commission.

II. STATEMENT OF RELEVANT FACTS

The following facts are relevant to this motion:

- (1) Boots & Coots became a subsidiary of Halliburton Energy Services, Inc. (Halliburton) on April 9, 2010.³
- (2) On September 19, 2013, Halliburton pled guilty to “unauthorized destruction” of well kill modeling evidence during a U.S. Attorney investigation.⁴
- (3) SoCalGas entered into a contract with Boots & Coots on October 27, 2015⁵ to kill the gas leak from well SS-25 at SoCalGas' Aliso Canyon Natural Gas Facility.⁶
- (4) As part of its Standard Services Agreement for Boots & Coots to kill the gas leak from well SS-25, SoCalGas could have contracted with Boots & Coots to cooperate with any Commission investigation of the Aliso Canyon incident, but it did not.⁷
- (5) Boots & Coots alleged in its March 20, 2020 testimony that it performed transient well kill modeling on a laptop computer between November and December 2015 as part of its response to the Aliso Canyon incident.⁸
- (6) Boots & Coots alleges that the laptop containing the transient well kill modeling was subsequently stolen on December 26, 2015 and

³ See, e.g., <https://www.dmlawfirm.com/halliburton-guilty/>.

⁴ MTC Exhibit 1 - Halliburton Form Plea Agreement, p. 1. See also MTC Exhibit 2 - Joint Memorandum in Support of Halliburton Guilty Plea.

⁵ Ex. SED 201, Bates numbers 00619-21, SoCalGas Standard Services Agreement 5660044243, signature pages.

⁶ Ex. SED 201, Bates numbers 00614-5, SoCalGas Standard Services Agreement 5660044243, scope of work pages.

⁷ Ex. SED 201, Bates numbers 00614-634, SoCalGas Standard Services Agreement 5660044243.

⁸ Hearing Exhibit SoCalGas-33 – Prepared Reply Testimony of Danny Walzel and Dr. Arash Haghshenas, p. 3 (Bates number 33.0005).

that the transient modeling “was not saved anywhere else, nor was it sent to anyone else.”²

- (7) On February 12, 2018, the Commission’s Safety and Enforcement Division (SED) issued a data request to SoCalGas asking for its communications with Boots & Coots. SoCalGas refused to answer any of the questions in the data request, asserting attorney-client privilege. A decision on SED’s September 15, 2020 Motion to Compel is still pending.
- (8) SoCalGas’ attorneys allege that the utility first learned of the alleged laptop theft on February 21, 2020, during a civil plaintiffs’ deposition of Daniel Walzel.¹⁰
- (9) SoCalGas informed parties of the laptop theft through Boots & Coots’ prepared testimony served March 20, 2020.¹¹
- (10) The Blade Report, dated May 16, 2019, concludes that a “direct cause” of the release of gas for 111 days from SS-25 was the failure to perform transient modeling for the first six well kill attempts.¹²
- (11) Upon learning from SoCalGas’ June 14, 2021 email update– that Boots & Coots’ witnesses might not appear for cross examination¹³ – coupled with the discovery that Halliburton had previously destroyed similar well kill modeling records – Cal Advocates issued

² Hearing Exhibit SoCalGas-33 – Prepared Reply Testimony of Danny Walzel and Dr. Arash Haghshenas, p. 3 (Bates number 33.0005).

¹⁰ Hearing Exhibit SED - 215 pp. 001626-001653: SoCalGas May 7, 2020 Response to Data Request SED-SCG-57, Q. 4 at p. 001630. The Walzel deposition transcript (available at Hearing Exhibit SoCalGas-09 - Ex. III-4, Able Reply Testimony - Walzel 2-21-20 Depo Transcript) reflects that Morgan Lewis attorneys, including Lotterman, Stoddard, and Moshfegh, attended the deposition.

¹¹ Hearing Exhibit SoCalGas-33 – Prepared Reply Testimony of Danny Walzel and Dr. Arash Haghshenas, p. 3 (Bates number 33.0005) (“Danny Walzel had conducted the transient modeling for well kills prior to December 22, 2015. However, the transient modeling was done on his laptop. This laptop was stolen from him, along with other personal items, in late December 2015. Mr. Walzel report the theft to the police. Mr. Walzel’s transient modeling was not saved anywhere else, nor was it sent to anyone else.”)

¹² Main Blade Report, p. 4.

¹³ MTC Exhibit 3 - 6-14-21 Procedural Emails re Update on B&C Witness Availability. Note that it was not clear from Mr. Stoddard’s email that the issue was finally resolved and Boots & Coots would not be made available for cross examination at hearing.

two data requests to SoCalGas and one data request to Boots & Coots between June 23 and 24, 2021.¹⁴

- (12) Those three Cal Advocates' data requests sought information related to interactions and communications between SoCalGas and Boots & Coots, as well as information regarding both companies' procedures to preserve evidence and to recover missing evidence.¹⁵
- (13) SoCalGas refuses to answer these Cal Advocates data requests, and also certain SED data requests, on the basis that there is a moratorium on all further discovery in this proceeding.¹⁶
- (14) SoCalGas will not commit to obtain Boots & Coots' answers to Cal Advocates' data request to Boots & Coots.¹⁷
- (15) SoCalGas will not provide its communications with Halliburton and/or Boots & Coots related to the utility's efforts to obtain the appearance of witnesses Walzel and Haghshenas in the instant proceedings because it claims they are not relevant to the proceedings.¹⁸

Based on the foregoing facts, which are documented in the attached exhibits or in exhibits already in the evidentiary record, it is clear that Cal Advocates and SoCalGas are at an impasse regarding the utility's obligations to: (1) respond to Data Requests; (2) provide information that could resolve whether the utility has acted in good faith to produce Boots & Coots for these hearings; and (3) obtain data responses from Boots & Coots. Consequently, these matters are ripe for review by the Commission and, consistent with the facts and law set forth herein, should result in an order requiring

¹⁴ Those data requests are attached hereto as MTC Exhibit 4- I.19-06-016 - CalAdvocates-SCG-51 issued June 23, 2021; MTC Exhibit 5 - I.19-06-016 – CalAdvocates-B&C-DR-001 issued June 23, 2021; and MTC Exhibit 6 - I.19-06-016 - CalAdvocates-SCG-52 issued June 24, 2021.

¹⁵ *Id.*

¹⁶ *See, e.g.* MTC Exhibit 7 - SoCalGas Response to Cal Advocates SCG - DR 51; MTC Exhibit 8 - SoCalGas Response to Cal Advocates SCG - DR 52; and MTC Exhibit 22 -SoCalGas Response to SED DR 158.

¹⁷ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 1-3, August 5, 2021, 11:46 a.m. email.

¹⁸ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 3-4, August 4, 2021, 10:57 a.m. email, enumerated item 2 (“There is no apparent reason or basis for why Cal Advocates needs this information. The communications are not relevant to any issue within the scope of the proceeding and are not likely to lead to the discovery of admissible evidence.”).

SoCalGas to *do all things necessary – including court actions in California and/or Texas* to:

- (1) Produce Boots & Coots as witnesses in these proceedings;
- (2) Obtain data responses from Boots & Coots;
- (3) Provide all information to the parties in this proceeding regarding the utility's efforts to produce Boots & Coots as witnesses and to obtain data responses from them without the need for data requests and/or other discovery; and
- (4) Respond to all outstanding and future data requests until the record of this proceeding is closed.

III. ARGUMENTS

A. There Is No Longer A Discovery Moratorium In This Proceeding

SoCalGas has refused to respond to Cal Advocates' Data Requests 51 and 52, and SED Data Request 158, based on the claim that there is a discovery moratorium in this proceeding, which only permits 3 types of discovery going forward. Consequently, the utility has provided the following "stock" response to each question posed in Cal Advocates' Data Requests 51 and 52, as well as SED Data Request 158:

SoCalGas objects to this request on the grounds that it conflicts with the April 7, 2021 Ruling granting the motion of the CPUC – Safety and Enforcement Division limiting further discovery in I.19-06-016 with the exception of the following issues:

1. Discovery regarding the real-time transcription issue
2. Data requests on third-party witnesses
3. Discovery from SoCalGas to CalPA to further address meeting with Blade identified in cross examination.

During the meet and confer email exchange between Cal Advocates and SoCalGas on July 13 and 14, 2021, SoCalGas stated that "there may be some ambiguity as to the

discovery cut off that the ALJs imposed during hearings” but the utility nevertheless concludes that the ALJs “did not end the moratorium on discovery.”¹⁹

Though there was a temporary discovery moratorium, contrary to SoCalGas’ claim, there is no ambiguity about the fact that there is currently no discovery moratorium in this proceeding. The Record Transcript makes clear that the discovery moratorium was only in effect “during the break, between hearings today, *and when hearings restart May 3rd ...*” The ALJ subsequently confirmed the duration of the moratorium on the record, stating that:

[I]n terms of the data requests, there was a request made for *no new data requests during this break until hearings*. We are going to grant that in part with several exceptions.”²⁰

Thus, the discovery moratorium was only in effect between April 7, 2021 (the last day of the second round of hearings) and the resumption of the last round of hearings on May 3, 2021.

The transcript of the proceeding clearly shows that the discovery moratorium was for a limited time. Nonetheless, SoCalGas has chosen to blatantly ignore the ALJ’s direction that the discovery moratorium was of limited duration, and on that basis refuses to cooperate with discovery. The Commission should therefore direct SoCalGas to immediately provide full and complete responses to all pending and future discovery until the record in this proceeding is closed.

B. Discovery Related To The Missing Well Kill Modeling Is Highly Relevant

Cal Advocates’ Data Requests 51 and 52 to SoCalGas and its Data Request to Boots & Coots seek to understand how all evidence of the well kill modeling performed for kills 2 through 6 during the Aliso Canyon incident could be retained on only one laptop and then “lost” on December 26, 2015 with no admission of this loss for years, and

¹⁹ MTC Exhibit 10 - Meet & Confer re SED 158 & CalPA 51 and 52 - July 13-14, 2021, p. 1.

²⁰ Record Transcript, Vol. 12, p. 1665 lines 2-3 (SED/Gruen) and p. 1723 lines 7-11 (ALJ Poirier) (all emphases added).

with no effort made to recover or recreate the information in the immediate aftermath of the theft. This chain of events is entirely perplexing given that SoCalGas claims that it “appropriately oversaw” Boots & Coots’ “well control operations...”²¹ Cal Advocates’ data requests seek to shed light on this claim, including whether any precautions were taken to back up Boots & Coots’ modeling. This is relevant in light of the fact that SoCalGas knew or should have known of Halliburton’s documented criminal history of destroying evidence related to similar well kill models.²² This is especially so in light of the fact that Sempra’s CEO at the time of the Aliso Canyon leak also sat on the Haliburton Board.²³

In order to prevent further inquiry into these issues, SoCalGas argues that Cal Advocates is not entitled to this discovery because: (1) there is a discovery moratorium in place;²⁴ (2) the burden of answering the data requests outweighs the relevance of the questions;²⁵ (3) the answers to Cal Advocates’ questions “have already been provided to both SED and Cal Advocates, or is otherwise available in the record of this proceeding”;²⁶ (4) Cal Advocates discovery is too late;²⁷ and (5) in any event Cal

²¹ Hearing Exhibit SoCalGas-2 - Prepared Opening Testimony of Rodger Schwecke, p. 3. See also Hearing Exhibit SoCalGas-8 – Prepared Reply Testimony of L. William Abel, pp. 2-3.

²² MTC Exhibit 1 - Halliburton Form Plea Agreement and MTC Exhibit 2 - Joint Memorandum in Support of Halliburton Guilty Plea.

²³ Debra Reed Reed-Klages served as Sempra’s CEO from 2011 to 2018 and was a member of the Halliburton board from 2001 to 2018 – during both Halliburton’s plea agreement for destruction of evidence and the Aliso Canyon leak. Prior to serving as Sempra’s CEO, she was president and CEO of San Diego Gas & Electric (SDG&E) and SoCalGas from 2006 to 2010. *See, e.g.*, <https://www.chevron.com/stories/debra-reed-klages-elected-to-chevrons-board-of-directors/>.

²⁴ *See* discussion in § III.A above.

²⁵ *See, e.g.*, MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 3-4, August 4, 2021, 10:57 a.m. email, enumerated item 2 (“There is no apparent reason or basis for why Cal Advocates needs this information. The communications are not relevant to any issue within the scope of the proceeding and are not likely to lead to the discovery of admissible evidence.”) and MTC Exhibit 10 - Meet & Confer re SED 158 & CalPA 51 and 52 - July 13-14, 2021, p. 1 (“SoCalGas stands on its other objections as to relevance, burden, and the timing of this discovery.”).

²⁶ MTC Exhibit 10 - Meet & Confer re SED 158 & CalPA 51 and 52 - July 13-14, 2021, p. 2.

²⁷ MTC Exhibit 10 - Meet & Confer re SED 158 & CalPA 51 and 52 - July 13-14, 2021, p. 2

Advocates chose not to sponsor any testimony regarding Boots & Coots' well kill operations.²⁸ SoCalGas' arguments have no merit.

As an initial matter, Cal Advocates is entitled to the information pursuant to Public Utilities Code § 309.5(e).²⁹ Further, the information sought by Cal Advocates is *directly related* to the highly relevant issue of SoCalGas' and Boots & Coots' performance during the Aliso Canyon leak. This includes both entities' failure to properly maintain evidence, SoCalGas' failure to hire competent well kill contractors, and SoCalGas' failure to properly manage those well kill contractors. Given the fact that Boots & Coots' parent company has previously admitted to destroying well kill modeling evidence, this discovery is also relevant to the issue of whether Boots & Coots may have intentionally destroyed the well kill modeling evidence, and if so, whether it was done with SoCalGas' expectation, knowledge, or even endorsement.

In addition to issuing Data Requests 51 and 52 to SoCalGas, Cal Advocates has sought information directly from Boots & Coots regarding its well kill efforts and the missing laptop. However, counsel representing Boots & Coots have declined to accept service of Cal Advocates' data requests,³⁰ and Boots & Coots have sought a protective order from this data request in the Texas District Court.³¹

Given the likelihood that Boots & Coots will not appear to be cross-examined in these proceedings, and that SoCalGas may need to make other witnesses available in lieu of Boots & Coots' appearance, it is entirely appropriate for Cal Advocates to seek data responses from SoCalGas regarding its relationship and communications with Boots & Coots, what SoCalGas knew about the allegedly stolen laptop, and whether the utility

²⁸ MTC Exhibit 10 - Meet & Confer re SED 158 & CalPA 51 and 52 - July 13-14, 2021, p. 2

²⁹ Cal. Pub. Utils. Code § 309.5(e) allows Cal Advocates to compel "production or disclosure of any information it deems necessary to perform its duties from any entity regulated by the commission."

³⁰ MTC Exhibit 11 - Kelsi White - Will Not Take Receipt of DR and MTC Exhibit 12 - Michael Helsley - Will Not Take Receipt of DR.

³¹ See MTC Exhibit 23 – Boots & Coots Motion For Protection 7-30-21.

made any attempts to recover the evidence of the transient modeling that SoCalGas claims was performed.

Finally, the fact that Cal Advocates did not provide testimony regarding the Boots & Coots' well kill efforts is a *non sequitur*. Nothing prevents Cal Advocates from cross examining witnesses on these issues or from briefing the issues.

For the reasons set forth herein, it is necessary and appropriate for the Commission to order SoCalGas to fully respond to outstanding Cal Advocates' Data Requests 51 and 52 and all further data requests issued by parties to this proceeding, including SED Data Request 158.

C. SoCalGas Has An Obligation To Manage Boots & Coots

On July 20, 2021, after two Boots & Coots attorneys declined to accept service of Cal Advocates' Data Request 1 to Boots & Coots,³² Cal Advocates requested – pursuant to Public Utilities Code § 702 - that SoCalGas “take action to ensure Cal Advocates obtains substantive responses to [Boots & Coots Data Request 1] no later than August 3, 2021.³³ Public Utilities Code § 702 provides:³⁴

Every public utility shall obey and comply with every order, decision, direction, or rule made or prescribed by the commission in the matters specified in this part, or any other matter in any way relating to or affecting its business as a public utility, *and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.*³⁵

After not receiving a response from SoCalGas for seven days,³⁶ Cal Advocates reminded SoCalGas to raise any objections before close of business on July 27, 2021 so

³² MTC Exhibit 11 - Kelsi White - Will Not Take Receipt of DR and MTC Exhibit 12 - Michael Helsley - Will Not Take Receipt of DR.

³³ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 13, July 20, 2021 1:43 p.m. email.

³⁴ Unless otherwise expressly stated, all section references are to the California Public Utilities Code.

³⁵ § 702 (emphasis added).

³⁶ SoCalGas did not respond to that July 20, 2021 email, even though Cal Advocates expressly requested acknowledgement of receipt and that SoCalGas schedule a meet and confer no later than July 27, 2021 if the utility intended not to object. See MTC Exhibit 9 - Emails between

that Cal Advocates could pursue a motion to compel, if needed. SoCalGas responded that evening stating that it “does not dispute” that § 702 “requires that it ‘obey and comply’ with Commission directives and ‘do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.’”³⁷ However, SoCalGas argued that § 702 “does not require that SoCalGas undertake actions that are beyond its legal ability and control.”³⁸ SoCalGas stated that it “has made serious efforts, to no avail, to compel Boots & Coots’ cooperation in this proceeding” and that neither § 702, nor *Snyder v. Southern Cal. Edison Co.* “stand for the proposition that a utility can compel an independent third-party company to respond to discovery from a division of the Commission.”³⁹ Thus, SoCalGas seeks to wash its hands of Boots & Coots and Halliburton, and walk away from whatever obligations the contractor may owe to the utility.

However, the question here is not whether SoCalGas can compel responses from Boots & Coots but whether SoCalGas has done “everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.”⁴⁰ The answer is that it has not, because SoCalGas has improperly declined to take responsibility for obtaining Boots & Coots’ answers to Cal Advocates’ data request.

As the Commission explained in Decision No. 89-07-019:

PU Code § 702 requires the utilities to secure compliance of their agents with Commission rules and orders. Although the utilities may delegate certain operational duties to agents, they may not delegate their obligations as public utilities (*Snyder v. Southern Cal.*

SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 12-13, July 20, 2021 1:43 p.m. and July 27, 2021 2:28 p.m. emails.

³⁷ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 12, July 27, 2021, 5:31 p.m. email.

³⁸ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 12, July 27, 2021, 5:31 p.m. email.

³⁹ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 12, July 27, 2021, 5:31 p.m. email.

⁴⁰ Pub. Utils. Code § 702 (emphasis added).

Edison Co., (1955) 44 Cal.2d 793). Under PU Code § 702, we must consider the actions of a utility agent to be the actions of the utility.⁴¹

In other words, a utility is responsible for the acts of its contractor. Contrary to SoCalGas' attempt to dismiss *Snyder*, that case and its Commission progeny hold that a utility may not “*evade the duty by the independent contractor device or limit the scope of its duties thereby.*”⁴² The *Snyder* court observed: “The effectiveness of safety regulations is necessarily impaired if a carrier conducts its business by engaging independent contractors over whom it exercises no control. ... Accordingly, both to protect the public from financially irresponsible contractors and to strengthen safety regulations, *it is necessary to treat the carrier's duties as nondelegable.*”⁴³

To the extent participation in the Texas proceedings is necessary to ensure that Boots & Coots answers Cal Advocates' data request, SoCalGas is obligated to undertake those actions in good faith. To the extent the contractor refuses to cooperate, § 702 and *Snyder* require that the contractor's actions be considered to be those of the utility,⁴⁴ and that the utility be held liable for the contractor's refusal to perform.⁴⁵ In other words, to the extent Boots & Coots fails to appear for cross examination or to answer data requests, SoCalGas is liable and the remedies for failure to produce the evidence requested – such

⁴¹ Decision 89-07-019, 1989 Cal. PUC LEXIS 766. See also Decision 02-08-074, Order Denying Rehearing Of Decision 01-09-017 (addressing liability for actions of independent contractors with citations to *Snyder v. Southern California Edison Co.* (1955) 44 Cal.2d 793, 801-802; *Eli v. Murphy* (1952) 39 Cal.2d 598, 600; see also *Gamboa v. Conti Trucking* (1993) 19 Cal.App.4th 663, 666; *Klein v. Leatherman* (1969) 270 Cal.App.2d 792, 796; *Lehman v. Robertson Truck-A-Way* (1953) 122 Cal.App.2d 82, 86-87); *California Assn. of Health Facilities v. Department of Health Services* (1997) 16 Cal.4th 284, 294; *Bonner v. Work. Comp. App. Bd.* (1990) 225 Cal.App.3d 1023, 1035.)

⁴² *Snyder v. Southern California Edison Co.*, 44 Cal.2d 793, 801-802 (1955).

⁴³ *Snyder v. Southern California Edison Co.*, 44 Cal.2d 793, 798 (1955) (emphasis added) quoting *Eli v. Murphy*, 39 Cal.2d 598, 599-600.

⁴⁴ D. 89-07-019 (“Under PU Code § 702, we must consider the actions of a utility agent to be the actions of the utility.”).

⁴⁵ *Snyder v. Southern California Edison Co.*, 44 Cal.2d 793, 798 (1955) (emphasis added) quoting *Eli v. Murphy*, 39 Cal.2d 598, 599-600 (“both to protect the public from financially irresponsible contractors and to strengthen safety regulations, *it is necessary to treat the carrier's duties as nondelegable.*”).

as witnesses for cross examination, or data responses – shall be applied, including sanctions and adverse inferences.

Finally, Cal Advocates notes that this issue only exists because of SoCalGas’ failure to properly contract with Halliburton. It was entirely foreseeable early in the Aliso Canyon leak that the Commission would investigate the reasons for the leak and that this investigation would require the participation of SoCalGas’ contractors who worked on the leak. Despite this foreseeability, there doesn’t appear to be any provision in the initial contract – or any of the many amendments – that require Halliburton and its subsidiaries to cooperate with the Commission’s investigation.⁴⁶ Such a provision was well within the utility’s “legal ability and control”⁴⁷ to require, and SoCalGas’ failure to insist on such a provision is untenable, particularly in light of what SoCalGas knew or should have known about Halliburton’s practice of suppressing damaging evidence.

D. Evidence Of SoCalGas’ Sharp Litigation Practices Reflects That We Cannot Assume That The Utility Has Used Good Faith Efforts To Produce Boots & Coots

As described in Section III.C above, SoCalGas has an obligation to undertake good faith efforts to produce Boots & Coots to be cross examined in these hearings and to obtain answers from Boots & Coots to data requests. As described above and in further detail below, Cal Advocates has significant concerns about SoCalGas’ preservation of evidence in this proceeding. Indeed, there is evidence of a pattern and practice of sharp litigation tactics related to Aliso Canyon proceedings before both this Commission and the Los Angeles County Superior Court that suggests SoCalGas has not and will not pursue these obligations in good faith.

⁴⁶ See Hearing Exhibit SED 201 - Bates numbers 00614-634, SoCalGas Standard Services Agreement 5660044243.

⁴⁷ Pub. Utils. Code § 702.

1. SoCalGas has demonstrated a serious lack of candor regarding the Texas proceedings to produce the Boots & Coots witnesses

SoCalGas has demonstrated a serious lack of candor regarding the Texas proceedings and its efforts to produce the Boots & Coots witnesses through those proceedings. As an initial matter, even though the Texas hearing occurred on June 3, 2021, SoCalGas only reported on the status of that hearing after being ordered to provide an update by ALJ Hecht on June 14, 2021 – almost two weeks after the hearing occurred.⁴⁸ SoCalGas reported the following:

The hearing regarding Boots & Coots motion for protective order took place on June 3. *We were waiting to provide this update until we received the final order of the court. We have inquired with the court twice as to status of the final order but have not received it yet.* At the hearing, after hearing from SoCalGas and Boots & Coots, the presiding judge indicated that she was inclined to grant Boots & Coots’ motion for protective order. The judge explained that while there is a procedure for compelling appearance for out-of-state depositions, there is no comparable procedure under Texas law to compel appearance of witnesses for out-of-state remote hearings. *As noted above, we are awaiting a formal order of the court and will provide a copy of the order once we receive it.*⁴⁹

Notwithstanding the ALJs’ and parties’ clear interest in the Texas proceedings – as evidenced by the June 14, 2021 ALJ Ruling – SoCalGas has provided no status reports to the service list since that time. Indeed, it was only after repeated queries from Cal Advocates that, on August 3, 2021, SoCalGas admitted that the Texas judge may *never* issue a written ruling in the matter.⁵⁰ This is information that SoCalGas should have – at a minimum – provided in its June 14, 2021 status report. Instead, in that update SoCalGas disingenuously referred to the pending “final order of the court,” and stated

⁴⁸ MTC Exhibit 3 - 6-14-21 Procedural Emails re Update on B&C Witness Availability.

⁴⁹ MTC Exhibit 3 - 6-14-21 Procedural Emails re Update on B&C Witness Availability (emphases added).

⁵⁰ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 8, August 3, 2021, 1:45 p.m. email.

that it would “provide a copy of the order once we receive it.”⁵¹ Given that SoCalGas only admitted that a final order may never issue in response to Cal Advocates’ *repeated* requests for the order,⁵² it is fair to ask whether SoCalGas ever intended to share this information with the ALJs and parties to this proceeding and correct its prior representations.

2. SoCalGas’ representations regarding what the Texas court ruled have changed over time

SoCalGas represented in its June 14, 2021 update to the ALJs and the parties that “the presiding judge indicated that she was inclined to grant Boots & Coots’ motion for a protective order.”⁵³ SoCalGas did not suggest there was a definitive ruling at that time; instead, it explained that it would “provide a copy of the order once we receive it.”⁵⁴ However, since that time, SoCalGas has repeatedly insisted that the ruling was final. For example, on July 27, 2021, SoCalGas stated: “Boots & Coots moved for and secured a protective order, effectively quashing its obligation to appear at evidentiary hearings in this proceeding.”⁵⁵ Similarly, on August 3, 2021, SoCalGas stated: “At the hearing on SoCalGas’ motion to compel the judge ruled that Texas procedure provides no mechanism for ordering witnesses to appear for live testimony before the CPUC. Thus,

⁵¹ MTC Exhibit 3 - 6-14-21 Procedural Emails re Update on B&C Witness Availability, p. 1.

⁵² Only after Cal Advocates’ repeated insistence that the utility produce evidence to substantiate SoCalGas claims that “Boots & Coots ... secured a protective order, effectively quashing its obligation to appear at evidentiary hearings in this proceeding” did the utility explain on August 3, 2021 that it was unlikely the Texas court would issue a written ruling: “We have called the court clerk repeatedly to request issuance of a written order but have not received a response. We will inquire again but at this point we are doubtful that we will get a written ruling. *Under Texas procedural rules, the judge is not required to issue an order granting Boots & Coots’ motion for a protective order.*” See MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 9 & 11 – Cal Advocates requests for the court order: July 28, 2021, 5:57 p.m. email, July 30, 2021, 9:41 a.m. email, and August 3, 2021, 9:10 a.m. email; and SoCalGas’ eventual response, p. 8, August 3, 2021, 1:45 email (emphasis added).

⁵³ MTC Exhibit 3 - 6-14-21 Procedural Emails re Update on B&C Witness Availability, p. 1.

⁵⁴ MTC Exhibit 3- 6-14-21 Procedural Emails re Update on B&C Witness Availability, p. 1.

⁵⁵ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 11, July 27, 2021, 5:31 p.m. email.

the court orally denied SoCalGas' motion to compel and orally granted the Texas witnesses' motion for protective order."^{56,57} Finally, on August 5, 2021, SoCalGas stated: "At the hearing on the motion to compel ... the judge ruled that Texas procedure provides no mechanism for ordering witnesses to appear and provide live testimony in out-of-state evidentiary hearings."⁵⁸

SoCalGas' claim that the June 3, 2021 hearing on the matter was final is inconsistent with its June 14, 2021 status report claim that the judge only "indicated that she was inclined to grant Boots & Coots' motion for a protective order."⁵⁹ SoCalGas' lack of candor with the ALJs and the parties, and its reticence - requiring numerous email exchanges before the facts are disclosed - cannot be ignored.

3. SoCalGas chose not to have the Texas hearings transcribed

In addition to learning from SoCalGas on August 3, 2021 that there was unlikely to be a written order issued by the Texas court, Cal Advocates was also informed by the utility that it was "typical" not to have transcriptions "for routine hearings in Texas state court."⁶⁰ Presumably well-aware of this fact at the time of the June 3, 2021 hearing, SoCalGas insists that the Texas-based Morgan Lewis attorneys representing SoCalGas in that hearing nevertheless declined to obtain Court authorization to have a reporter present to record the judge's ruling. This decision – to the extent it was made – ensured that the ALJs and parties to this proceeding would have to rely solely on SoCalGas'

⁵⁶ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 8, August 3, 2021, 1:45 p.m. email.

⁵⁷ The August 3, 2021, email also included a procedural discussion reflecting that a person contesting a subpoena is only required to comply with the subpoena if ordered to do so by the court, which, if accurate, demonstrates that SoCalGas knew or should have known on June 3, 2021 – the date of the Texas hearing – that Boots & Coots would not be appearing as witnesses in the instant proceedings. See MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 8, August 3, 2021, 1:45 p.m. email.

⁵⁸ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 1, August 5, 2021, 11:46 a.m. email.

⁵⁹ MTC Exhibit 3 - 6-14-21 Procedural Emails re Update on B&C Witness Availability, p. 1.

⁶⁰ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 1, August 3, 2021, 1:45 p.m. email.

representations that “the judge ruled that Texas procedure provides no mechanism for ordering witnesses to appear and provide live testimony in out-of-state evidentiary hearings.”⁶¹

Cal Advocates is understandably concerned by this outcome given the facts that (1) Halliburton has offices in California and, therefore, is presumably reachable,⁶² and that (2) Boots & Coots argued that SoCalGas had committed procedural error by failing to obtain a ruling from a California court prior to the proceeding in Texas.⁶³ Given this Boots & Coots argument, there is a possibility that the judge reached her determination on procedural grounds that could be corrected.⁶⁴ However, because there is neither a transcript of the Texas proceedings nor a substantive order from the Texas court,⁶⁵ we cannot know for sure the basis for the Court’s ruling, or how to correct any errors that may have been made. The only thing that is certain is that Morgan Lewis – the same law firm that hired the unauthorized court reporter for these hearings and who represented SoCalGas in the Texas hearing – ironically chose not to have a reporter at the Texas

⁶¹ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 1, August 5, 2021, 11:46 a.m. email.

⁶² The Halliburton offices are located at 34722 7th Standard Rd., Bakersfield, CA 93314 and Cal Advocates confirmed that the office was open by calling (661) 393-8111.

⁶³ MTC Exhibit 13 - Motion for Protection by Haghshenas and Walzel 5-14-21. The Motion for Protection before the Texas court argues at pages 6-7 that the Commission is not a “court of record” and that the Commission’s subpoena must first be enforced through a California court. It also explains that Texas rules of procedure for compelling witnesses requires: (1) a “court of record” in another jurisdiction must issue a mandate, writ, or commission, which (2) requires testimony for an oral deposition or by written questions.

⁶⁴ MTC Exhibit 13 - Motion for Protection by Haghshenas and Walzel 5-14-21. The Motion for Protection before the Texas court argues at pages 6-7 that the Commission is not a “court of record” and that the Commission’s subpoena must first be enforced through a California court. It also explains that Texas rules of procedure for compelling witnesses requires: (1) a “court of record” in another jurisdiction must issue a mandate, writ, or commission, which (2) requires testimony for an oral deposition or by written questions.

⁶⁵ The Court’s order issued August 4, 2021 simply adopted the generic language of the Boots & Coots proposed procedural order and provided no insight into the legal basis for the decision. Compare MTC Exhibit 14 - Proposed Order for Texas Court Signature *against* MTC Exhibit 15 - Texas Court Protective Order issued 8-4-21.

hearing, and so we will never know what grounds the judge relied on to allow the Boots & Coots' witnesses to ignore the Commission's subpoena.⁶⁶

4. SoCalGas has refused to provide attorney declarations that no transcripts of the Texas hearing exist

In response to the new information from SoCalGas' attorneys that no court order would likely be forthcoming and that it was likely that a transcript of the order did not exist, Cal Advocates asked "[i]n the event the court did not create a transcript of the proceedings, we ask that you provide a declaration under penalty of perjury from you that neither SoCalGas nor any of its attorneys – including those who represented SoCalGas in the Texas litigation - are aware of the existence of any official or unofficial transcript of the hearing."⁶⁷

Cal Advocates contends that such a declaration is justified given SoCalGas' lack of candor in the instant proceedings as well as the Aliso Canyon Plaintiffs' proceedings before the Los Angeles Superior Court, which are described in detail in the SED/Cal Advocates Reply Brief filed on August 20, 2021 in this proceeding. Indeed, that Court has required SoCalGas to provide similar declarations to ensure that SoCalGas' attorneys make only good faith claims of attorney client privilege.⁶⁸

Notwithstanding the precedent for such a request, the facts show that SoCalGas had withheld information from the ALJs and the parties regarding the status of the Texas proceedings regarding Boot & Coots for two months, and the facts show that the same law firm is representing SoCalGas in all three proceedings – Los Angeles County Court, this investigation, and the Texas hearing – SoCalGas declined to provide such a

⁶⁶ Significant regarding Cal Advocates B&C Data Request, the Motion for Protection from the Commission subpoenas does not dispute that Boots & Coots *may be compelled to answer questions* since it acknowledges that the rule can "require[] testimony ... by written questions." MTC Exhibit 13 - Motion for Protection by Haghshenas and Walzel 5-14-21, p. 4. However, based on the arguments in that pleading, it appears that SoCalGas must first seek a "mandate, writ, or commission" from a "court of record." *Id.*

⁶⁷ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 5-6, August 3, 2021 5:15 p.m. email.

⁶⁸ See discussion at § III.D.8.

declaration, asserting that “Cal Advocates has no basis to make such a demand.”⁶⁹ Given the facts in evidence, such a declaration is appropriate, and SoCalGas’ claims to the contrary do not withstand scrutiny.

5. SoCalGas refuses to respond to Cal Advocates’ data requests by relying on wholly baseless objections

As described in Sections III.A and B above, SoCalGas refuses to respond to Cal Advocates’ Data Requests 51 and 52 on wholly baseless objections. The utility claims that there is currently a moratorium on discovery – which the Record Transcripts expressly refute. This claim, like the others made by SoCalGas, have no basis in law or fact. Yet, to overcome these meritless arguments, SoCalGas forces Cal Advocates to file the instant motion to compel.

6. The circumstances regarding Boots & Coots’ refusal to provide its witnesses are suspect

The circumstances regarding Boots & Coots’ refusal to provide its witnesses are suspect. During hearings in this proceeding, SoCalGas represented that:

... what we've been told is there's been a change of general counsel at Halliburton, and that the new general counsel does not wish to have -- you know, to appear voluntarily in an out-of-state regulatory proceeding, which is why they moved for a protective order relative to our subpoena, and we are filing a response in the form of basically a motion to compel in Texas today. Their motion for protective order was filed on Friday. We're filing our response today. We have a June 1 hearing date in Texas. All of that is just to say we are continuing to attempt to enforce the subpoena.⁷⁰

However, in response to a Cal Advocates’ request, SoCalGas identified Van Beckwith as the “new” Halliburton general counsel referred to in those hearings.⁷¹ Mr. Van Beckwith

⁶⁹ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 3-4, August 4, 2021, 10:57 a.m. email.

⁷⁰ See I.19-06-016 Hearing Transcript, Vol. 19, p. 2625, lines 5-18 (Stoddard/SCG) (emphasis added).

⁷¹ MTC Exhibit 16 - Stoddard 7-30-21 email Identifying Van Beckwith as New Halliburton GC.

became Halliburton’s general counsel on January 1, 2019 and was hardly “new” to Halliburton; he had been the Halliburton General Counsel for well over a year and four months at the time of the representation made in the hearings.⁷² Further, Mr. Beckwith was Halliburton’s general counsel when Boots & Coots employees Danny Walzel and Arash Haghshenas submitted testimony on behalf of SoCalGas for this proceeding. SoCalGas fails to explain why Mr. Beckwith permitted Boots & Coots to submit testimony for this proceeding, but then opposed their appearance to defend that testimony.

7. SoCalGas has violated § 702, Rule 1.1, and its duty to control its contractors

As the following discussion demonstrates, SoCalGas has violated § 702 and its duty to control its contractors by declining to obtain Boots & Coots’ answers to Cal Advocates’ data request. In addition, throughout the parties’ discussions on these issues, SoCalGas has also compromised the Commission’s ability to perform its legal obligations, in violation of Rule 1.1, by refusing to respond to Cal Advocates’ requests for information and by requiring Cal Advocates to pursue the utility regarding its intentions.

On July 20, 2021, Cal Advocates advised SoCalGas of its non-delegable duty under § 702 and *Snyder* “to do everything necessary to secure compliance from contractors such as Halliburton Energy Services Inc.—the parent company of subsidiary Boots & Coots.”⁷³ Cal Advocates asked that SoCalGas confirm receipt of that email and obtain substantive responses to the Cal Advocates’ Data Request directed to Boots & Coots no later than August 3, 2021, or to meet and confer with Cal Advocates by no later than July 27, 2021.⁷⁴ SoCalGas did not confirm receipt of that email, requiring Cal

⁷² See <https://www.smu.edu/Law/News-Events/2019/December/Van-Beckwith-named-Halliburton-GC>.

⁷³ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 13, July 20, 2021, 1:43 p.m. email.

⁷⁴ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 13, July 20, 2021, 1:43 p.m. email.

Advocates to follow up with the utility so that Cal Advocates could move forward with any motion to compel SoCalGas to obtain answers from Boots & Coots.⁷⁵ SoCalGas eventually responded that the legal authority cited by Cal Advocates did not apply, that Cal Advocates was asking SoCalGas to “undertake actions that are beyond its legal ability and control” and that it “has made serious efforts, to no avail, to compel Boot & Coots’ cooperation in this proceeding.”⁷⁶

Given SoCalGas’ assertions regarding its “serious efforts ... to compel Boots & Coots’ cooperation in this proceeding,” Cal Advocates asked that SoCalGas provide “all documents showing communications with Halliburton and/or Boots & Coots related to SoCalGas’ attempts to obtain the appearance of Walzel and Haghshenas.”⁷⁷ Only on August 4, 2021 - seven days later and after four additional follow up requests⁷⁸ - did SoCalGas state that it would not produce “all communications with Halliburton and/or Boots & Coots related to SoCalGas’ attempt to obtain the appearance of Walzel and Haghshenas.” The utility argues that “[t]here is no apparent reason or basis for why Cal Advocates needs this information. The communications are not relevant to any issue within the scope of the proceeding and are not likely to lead to the discovery of admissible evidence.”⁷⁹

In response, Cal Advocates explained, among other things, that it fully expected SoCalGas to “appropriately address the current Boots & Coots Motion for Protection from Cal Advocates’ data request ‘B&C-DR001’ pending in the Texas courts.” Cal Advocates observed that the “Motion for Protection is scheduled for hearings before the

⁷⁵ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 12, July 27, 2021, 2:28 p.m. email.

⁷⁶ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 11-12, July 27, 2021, 5:31 p.m. email.

⁷⁷ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 11, July 28, 2021, email, enumerated item 2.

⁷⁸ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 8-12, Emails of July 27, 2021, 2:28 p.m., July 28, 2021, 5:57 p.m., July 30, 2021, 9:41 a.m., and August 3, 2021, 9:10 a.m.

⁷⁹ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, p. 4, August 4, 2021, 10:57 a.m. email.

Harris County Court at 8:30 a.m. C.T. on August 19, 2021.” Cal Advocates concluded by requesting a response by no later than noon the next day “regarding SoCalGas’ willingness to (1) provide the communications requests [between SoCalGas, Boots & Coots and Halliburton]; and (2) to comply in good faith with its obligation to ensure that its contractors appear in these proceedings, and answer data requests posed to them.” Cal Advocates was clear that failure to meet these obligations would result in a motion to compel.⁸⁰

SoCalGas’ answer the next day was unresponsive; the utility did not commit to provide the documents requested or to address the issue of Boots & Coots’ Motion for Protection from the Cal Advocates’ data request.⁸¹ Thus, it appears that SoCalGas has little interest in ensuring that Boots & Coots cooperate with the Commission, or in communicating its intentions to Cal Advocates.

8. SoCalGas’ frivolous objections and tardy/non responsive answers are part of a pattern and practice undertaken to forestall discovery and defeat judicial process

SoCalGas’ sharp litigation tactics are not limited to this proceeding, and evidence of the same law firm’s behavior in the Los Angeles County Plaintiffs’ litigation cannot be ignored. In that litigation, SoCalGas and its Morgan Lewis attorneys engaged in extensive discovery improprieties, intended to stonewall and extend the litigation.⁸² As described in the SED/Cal Advocates Reply Brief filed August 20, 2021, the Los Angeles Superior Court has found that SoCalGas and Morgan Lewis engaged in: “(1) abusive misconduct in discovery; (2) repeated failure to provide opposing counsel and the court with legally required information to permit opposing counsel and the court to evaluate

⁸⁰ All quotations here are from MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 2-3, August 4, 2021, 2:30 p.m. email.

⁸¹ MTC Exhibit 9 - Emails between SCG & CalAds re Boots & Coots - July 20-August 5, 2021, pp. 1-3, August 5, 2021, 11:46 a.m. email.

⁸² See *Gandsey v. Southern California Gas Company*, Superior Court of California, Los Angeles County, Civil Division, Central District, JCCP4861, Southern California Leak Cases (“*Gandsey*”).

Defendants' claims of privilege; and (3) willful violation of court orders addressing these issues...⁸³ After months of such behavior, the Los Angeles County Superior Court concluded: "A court cannot take that dissembling lightly."⁸⁴ Similarly here, the Commission should not tolerate SoCalGas' behavior.

9. The evidence shows that SoCalGas violated its duty to preserve evidence and misled SED

SoCalGas was on notice as early as December 7, 2015 (and potentially sooner) that it had an obligation to ensure that evidence of the Aliso Canyon well kill operations were preserved.⁸⁵ Nonetheless, at no point did it make any effort to ensure or obtain duplicate copies, require its consultants to attest to the veracity of their work, or understand the circumstances of the theft of the laptop containing the only copies of this work. In response to an SED data request asking for "the police report of the theft that Mr. Walzel reported to the police,"⁸⁶ SoCalGas responded:

SoCalGas objects to this request on the grounds it is vague and ambiguous, particularly with respect to the term "police report." SoCalGas further objects to this request as it seeks documents not in SoCalGas' possession. Subject to and without waiving the foregoing objections, SoCalGas responds as follows. The Houston Police Department provided Mr. Walzel with a document regarding the reported theft of Mr. Walzel's laptop and other belongings, provided here bearing the following bates number: AC_CPUC_SED_DR_57_0000001."⁸⁷

⁸³ MTC Exhibit 17 - *Gandsey* February 20, 2020 Minute Order, p. 10.

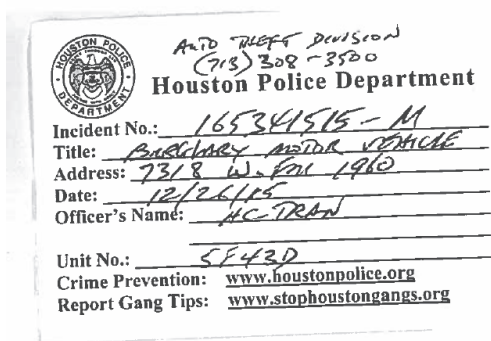
⁸⁴ MTC Exhibit 18 - *Gandsey* August 3, 2020 Minute Order, pp. 11-12, quoting March 20, 2020 Minute Order at 3-4.

⁸⁵ MTC Exhibit 19 - City of Los Angeles Complaint filed December 7, 2015. *See also* Hearing Exhibit SED-215, Chap. 4 Exhibits, PDF page 1802: Legal Hold Order issued November 12, 2015 by Latham Watkins ("Because the incident may lead to legal or regulatory proceedings, on behalf of SoCalGas we request, that B&C take steps to preserve all documents and other evidence that relates to well SS-25 and to SoCalGas' and its consultants' response to the leak").

⁸⁶ Ex. SED 215, SED Sur_Reply_001629, SoCalGas Response to SED Data Request 57, Question 2, referencing AC_CPUC_SED_DR_57_0000001 (Bates number SED Sur_Reply_001652).

⁸⁷ See Hearing Exhibit SED-215: SoCalGas Response to DR 57, Q. 3, pp. 001629 and 001653.

The “evidence” SoCalGas provided in support of its response was the sticky note shown below, which does not even identify the name of the victim, the items stolen, the VIN number for the vehicle that the items were allegedly stolen from, or the vehicle owner’s name:



Given the self-evident deficiencies in SoCalGas’ inquiry into the laptop theft, and its failure to provide the actual police report to SED – notwithstanding SED’s clearly stated request – Cal Advocates pursued its own inquiry. In contrast to SoCalGas’ and Morgan Lewis’s lackluster efforts, the Houston Police Department Criminal Justice Liaison provided Cal Advocates with the formal police report within four days of Cal Advocates’ request.⁸⁸ Indeed, in response to Cal Advocates’ request for the names of any other individuals or entities that had requested this police report since the theft occurred, the Houston Police Department reported that Cal Advocates was the only entity to ever request the report.⁸⁹ This evidence demonstrates that neither Boots & Coats, Haliburton, Morgan Lewis, nor SoCalGas performed any meaningful inquiry into the circumstances of the laptop theft, in violation of their obligation to preserve evidence..

⁸⁸ MTC Exhibit 20 - Houston Police Department Police Report, Incident No. 165341515-M.

⁸⁹ MTC Exhibit 21 - Houston Police Department Verification of No Other Inquiries re 165341515-M - July 13, 2021.

10. Halliburton's guilty plea for destroying well kill modeling performed for the Deepwater Horizon case cannot be ignored

The circumstances of SoCalGas' failure to maintain the well kill modeling performed at Aliso Canyon are particularly troubling given that: (1) SoCalGas knew or should have known about Halliburton's prior record in this regard and should have taken steps to ensure the same thing did not happen at Aliso Canyon; (2) SoCalGas was legally obligated to retain the Aliso Canyon well kill modeling evidence, but did not; (3) SoCalGas refuses to answer questions about the loss of the Aliso Canyon well kill evidence; and (4) SoCalGas refuses to provide communications between itself and Halliburton/Boots & Coots regarding the well kill modeling evidence. In light of Halliburton's having previously admitted to intentionally destroying well kill modeling evidence, Cal Advocates' questions are entirely appropriate and relevant, and should be answered.

IV. CONCLUSION

For all of the reasons set forth above, SoCalGas should be compelled to do all things necessary to:

- (1) Produce Boots & Coots as witnesses in this proceeding;
- (2) Obtain data responses from Boots & Coots;
- (3) Provide all information to the parties in this proceeding regarding the utility's efforts to produce Boots & Coots as witnesses and to obtain responses from the utility without need for data requests and other discovery; and
- (4) Respond to all outstanding and future data requests until the record of this proceeding is closed.

In addition, Cal Advocates' concurrently filed motion for shortened response time to this Motion to Compel should be granted.

Respectfully submitted,

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CARYN MANDELBAUM

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August 25, 2021

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Operations and Practices of Southern California Gas Company with Respect to the Aliso Canyon storage facility and the release of natural gas, and Order to Show Cause Why Southern California Gas Company Should Not Be Sanctioned for Allowing the Uncontrolled Release of Natural Gas from its Aliso Canyon Storage Facility. (U904G)

Investigation 19-06-016

[PROPOSED] ORDER

In accordance with the Rules of Practice and Procedure, the assigned Administrative Law Judges have considered the Public Advocates Office at the California Public Utilities Commission's (Cal Advocates) *Motion Of The Public Advocates Office At The California Public Utilities Commission To Compel Southern California Gas Company To Do All Things Necessary (1) To Produce Boots & Coots Witnesses And Data Responses, (2) To Provide All Information Regarding Those Efforts, and (3) To Respond To Outstanding And Future Data Requests Until The Record In This Proceeding Is Closed* (Motion to Compel).

The Administrative Law Judges rule as follows:

Southern California Gas Company shall do all things necessary to:

- (1) Produce Boots & Coots' witnesses and data responses;
- (2) Provide all information regarding its efforts to produce the Boots & Coots witnesses and data responses to the parties in this proceeding without need for data requests and other discovery;
and
- (3) Respond to all outstanding and future data requests until the record of this proceeding is closed.

Dated: _____

by _____
Administrative Law Judge