

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



**FILED**

03/07/22

04:59 PM

R1311005

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

Rulemaking 13-11-005  
(Filed November 14, 2013)

**MOTION OF SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) FOR  
CLARIFICATION OF PRESIDING OFFICER'S DECISION FINDING SOUTHERN  
CALIFORNIA GAS COMPANY IN CONTEMPT, IN VIOLATION OF RULE 1.1 OF  
THE COMMISSION'S RULES OF PRACTICE AND PROCEDURE, AND ORDERING  
REMEDIES FOR FAILURE TO COMPLY WITH COMMISSION DECISION 18-05-041**

HOLLY A. JONES  
ERIC A. GRESSLER

*Attorneys for*

SOUTHERN CALIFORNIA GAS COMPANY  
555 West Fifth Street, Suite 1400  
Los Angeles, California 90013  
Telephone: (213) 244-2232  
Facsimile: (213) 629-9620  
E-mail: [HAJones@socalgas.com](mailto:HAJones@socalgas.com)  
E-mail: [EGressle@socalgas.com](mailto:EGressle@socalgas.com)

March 7, 2022

**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)

**MOTION OF SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) FOR  
CLARIFICATION OF PRESIDING OFFICER’S DECISION FINDING SOUTHERN  
CALIFORNIA GAS COMPANY IN CONTEMPT, IN VIOLATION OF RULE 1.1 OF  
THE COMMISSION’S RULES OF PRACTICE AND PROCEDURE, AND ORDERING  
REMEDIES FOR FAILURE TO COMPLY WITH COMMISSION DECISION 18-05-041**

**I. INTRODUCTION**

Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission or CPUC) and consistent with the direction to seek compliance clarity early and formally as instructed in the February 3, 2022 Presiding Officer’s Decision Finding SoCalGas in Contempt, in Violation of Rule 1.1 of the Commission’s Rules of Practice and Procedure, and Ordering Remedies for Failure to Comply with Commission Decision (D.) 18-05-041 (POD), Southern California Gas Company (SoCalGas) respectfully submits this Motion for Clarification (Motion) of the POD. SoCalGas respects the POD and appreciates the POD’s direction that if SoCalGas has “any need for clarification or guidance,” it should take immediate opportunity to seek such guidance and not “substitute its own judgment for the Commission’s,”<sup>1</sup> including seeking guidance before a decision is final. To facilitate SoCalGas’s understanding in a way that respects the Commission as the entity that decides how a Commission decision should be interpreted,<sup>2</sup> SoCalGas therefore seeks the clarifications below to the POD so that it may immediately implement aspects of the POD.

---

<sup>1</sup> POD, p. 41.

<sup>2</sup> *Id.* at 26.

## II. PROCEDURAL BACKGROUND

On February 3, 2022, the assigned Administrative Law Judge (ALJ) Valerie U. Kao issued the POD. If no appeal or Commissioner requests for review are filed within 30 days of the date of issuance of the POD, the decision shall become the decision of the Commission.<sup>3</sup> Throughout the POD, ALJ Kao identifies actions SoCalGas should have taken prior to and upon the issuance of D.18-05-041 in order to seek guidance regarding issues of interpretation. For example, the POD states that SoCalGas “had notice and opportunity to seek guidance on ‘what activities were affected’ as early as April 4, 2018, when the Commission issued the proposed decision.”<sup>4</sup> The POD elsewhere notes that the proposed decision for D.18-05-041 was issued “nearly two months” before the Commission adopted the decision.<sup>5</sup> The POD also indicates SoCalGas did not seek formal clarification “through a petition for modification or otherwise,” and instead sought informal guidance from Commission staff rather than the Commission.<sup>6</sup>

## III. DISCUSSION

SoCalGas appreciates the POD’s instructions and guidance and takes them very seriously. Given the clear direction in the POD that SoCalGas seek formal guidance and clarification from the Commission as soon as practicable to prevent noncompliance, *i.e.*, prior to the decision’s deadline for employee time tracking,<sup>7</sup> SoCalGas files this motion seeking clarification on the below aspects of the POD so that SoCalGas can take direction from the Commission on its intent for parameters around compliance.<sup>8</sup>

---

<sup>3</sup> CPUC Rules of Practice and Procedure, Rule 15.5.

<sup>4</sup> POD, p. 25.

<sup>5</sup> *Id.* at 18.

<sup>6</sup> *Id.* at 26; *see also id.* at 41 (“If SoCalGas had any need for clarification or guidance on [the decision’s] prohibition, it had ample opportunity to seek such guidance.”)

<sup>7</sup> POD, p. 35 (“SoCalGas may not seek recovery from ratepayer-funded accounts for the costs of labor and associated overhead for codes and standards programs. SoCalGas must implement appropriate tracking of employees’ time so that the Commission can supervise compliance with this decision.”); Order Paragraph (OP) 7 (“Within 30 days after the issue date of this decision, Southern California Gas Company must implement appropriate tracking of employee time to ensure compliance with this decision. At minimum, Southern California Gas Company must identify and track the employee name, cost category, number of hours, and specific activity for all employee time spent on codes and standards programs.”)

<sup>8</sup> SoCalGas is not soliciting nor does SoCalGas expect a response from the Commission to this Motion before appeals to the POD are due on March 7, 2022. However, SoCalGas files this Motion now so that SoCalGas will be ready to meet compliance obligations as set forth in a final decision.

**A. SoCalGas Requests that the Commission Confirm the Ways in Which it Wishes to Receive Clarification Requests**

The POD is clear that SoCalGas must seek upfront clarification on Commission decisions when there is a perceived ambiguity or an issue of interpretation arises.<sup>9</sup> The POD provides that clarification should be sought early and formally, including prior to a final decision being adopted, as seeking guidance from Commission staff on matters of interpretation is insufficient.<sup>10</sup> To that end, SoCalGas brings this motion for clarification so that SoCalGas can prudently and effectively comply with the Commission’s intent, particularly since the time tracking requirement for employee time spent on activities prohibited from ratepayer funding will include activities that were not directly addressed in prior related decisions, such as ALJ Kao’s April 2021 POD in the other Order to Show Cause (OSC) against SoCalGas in this proceeding or D.18-05-041. To the extent, however, that the Commission would prefer another method or process for clarification requests (for this proceeding, and others), SoCalGas is more than willing to comply with that preference for a clearer and timely understanding of the Commission’s intent.

SoCalGas requests that the Commission confirm its preferred method or procedure for clarification questions.

**B. SoCalGas Requests Confirmation that the Ratepayer-Funding Prohibition in the POD Applies to Energy Efficiency Codes and Standards, but does not Apply to Safety, Operational, or Other Codes and Standards**

SoCalGas seeks confirmation that the POD’s prohibition on SoCalGas’s ratepayer funded engagement on proposed codes and standards activities only applies to proposed energy efficiency codes and standards and not to other codes and standards.<sup>11</sup> Given the history behind the POD and the context of the POD, SoCalGas understands the POD’s reference to “codes and standards” throughout the POD to mean energy efficiency codes and standards and reach

---

<sup>9</sup> POD, p. 25-26.

<sup>10</sup> *See Id.* at 25 (SoCalGas “had notice and opportunity to seek guidance on ‘what activities were affected’ as early as April 4, 2018, when the Commission issued the proposed decision.”); p. 26 (“[T]he only instance in which SoCalGas sought guidance about D.18-05-041’s prohibition was an in-person meeting with Commission staff. Not only did SoCalGas fail to seek guidance from the Commission . . . .”)

<sup>11</sup> *Id.* at 49-50, OP 6. SoCalGas understands that the prohibition on using ratepayer funds also applies to SoCalGas’s engagement on proposed reach code activities.

codes.<sup>12</sup> There are other proposed codes and standards that SoCalGas must review, analyze, and provide input on as part of its operations and in order to provide safe and reliable service. Past examples<sup>13</sup> of SoCalGas's involvement in safety and operational codes and standards have included seeking enhancements to codes and standards regarding the safe placement of customer-owned step-down regulators so that they may be accessed for leak testing; monitoring changes in the National Fuel Gas Code to ensure safe, leak-free, and durable piping; being involved in issues regarding locations of meters and necessary clearances around meters; and supporting hardware requirements such as manifold pressure taps, sight glasses, and exhaust gas ports for Ultralow NOx furnaces so that SoCalGas employees can effectively service and adjust the furnaces. SoCalGas asks that the Commission confirm SoCalGas's understanding that "codes and standards" as used in the POD, refers to energy efficiency codes and standards and that the prohibition on the use of ratepayer funding applies only to proposed energy efficiency codes and standards and proposed reach codes. Absent further clarification, SoCalGas plans to exclude this from the scope of employee time tracking ordered in the POD's OP 7.

### **C. SoCalGas Requests Clarification Around the Parameters in the POD's Ratepayer-Funding Prohibition**

SoCalGas seeks confirmation that the POD's prohibition on SoCalGas's ratepayer funded engagement on proposed energy efficiency codes and standards activities and proposed reach code activities applies to situations where SoCalGas is affirmatively seeking to obtain information about, discussing, researching, or analyzing a proposed energy efficiency code or standard or a proposed reach code for the purpose of participating in or influencing the process for the adoption of the proposed energy efficiency code or standard or the proposed reach code and not to other situations where SoCalGas may be obtaining information about, discussing, or analyzing a proposed energy efficiency code or standard or proposed reach code, but which are outside of the situations which were the subject of this OSC, as discussed further below.

---

<sup>12</sup> See, e.g., POD, p. 2 ("This decision . . . prohibits [SoCalGas] from recovering costs of codes and standards activity (such as conducting research or communicating with an agency responsible for establishing building or appliance standards about a proposed building code or appliance standard) from ratepayers[.]")

<sup>13</sup> This is a non-exhaustive list of the safety, operational, and other codes and standards where SoCalGas is involved.

The POD provides, “this decision finds reason to impose an indefinite prohibition on SoCalGas’s cost recovery from ratepayer-funded accounts for participating in any codes and standards programs, other than to transfer funds to the statewide codes and standards lead.”<sup>14</sup> It further provides that:

[T]his decision specifies that “codes and standards advocacy” includes, at minimum, any activity in which a utility or any of its employees:

- *Obtains information about*, discusses or conducts research or analysis of a proposed code or standard, including a proposed reach code;
- pays another individual or organization to *obtain information about*, discuss or conduct research or analysis of a proposed code or standard, including a proposed reach code;
- communicates (*e.g.*, sends letters, provides comments, or makes public statements) with the CEC, DOE, or a local government regarding a proposed code or standard; or
- pays another individual or organization to communicate with the CEC, DOE, or a local government regarding a proposed code or standard.<sup>15</sup>

To facilitate compliance and tracking, SoCalGas seeks clarification on the parameters around the POD’s prohibition on SoCalGas’s use of ratepayer funds to engage in proposed energy efficiency codes and standards activities or proposed reach code activities, especially in situations not involving a rulemaking or process to consider the adoption of a proposed energy efficiency code or standard or a proposed reach code. These situations include other Commission proceedings where SoCalGas has been named as a respondent and issues around proposed energy efficiency codes and standards or proposed reach codes are part of the scope of the proceeding.

In addition, SoCalGas seeks clarification around the POD’s use of the terms “obtains information about,” particularly since this is new language not seen in prior issued decisions on

---

<sup>14</sup> POD, p. 30.

<sup>15</sup> *Id.* at 30-31 (emphasis added).

this topic.<sup>16</sup> As part of its regular operations SoCalGas obtains information about proposed energy efficiency codes and standards and proposed reach codes. Notably, most of these instances are not related to advocacy activities on a proposed energy efficiency code or standard, or a proposed reach code. In addition, SoCalGas is at times receiving the information unsolicited.

Examples include, but are not limited to:

- **CPUC Proceedings:** SoCalGas is a party to numerous regulatory proceedings before the Commission. Although none of these proceedings are for the purpose of adopting a proposed energy efficiency code or standard or a proposed reach code, sometimes proceedings contain a reference to a proposed energy efficiency code or standard or a proposed reach code. For example, SoCalGas is a respondent party in the Building Decarbonization OIR (R.19-01-011). One of the issues scoped into the proceeding is “Coordinating with Title 24 Building Energy Efficiency Standards and Title 20 Appliance Efficiency Standards.” The scope involves “developing guidelines for Commission rules, policies, and procedures to support *the development of current and future Title 24 building standards and Title 20 appliance standards....*” As such, SoCalGas will necessarily obtain information about proposed energy efficiency codes and standards and proposed reach codes as a mandatory participant that receives all information distributed to the service list, and while attending workshops, etc. A recent example is in the Phase III Scoping Memo issued by the Commission.<sup>17</sup> There, the Commission attached a Staff Proposal to eliminate gas line extension allowances, refunds and discounts and required Respondents (including SoCalGas) to comment on the Staff Proposal. The Staff Proposal included information on proposed local reach codes and proposed CARB standards in order to justify the proposal, which

---

<sup>16</sup> See Presiding Officer’s Decision Ordering Remedies for SoCalGas’s Activities that Misaligned with Commission Intent for Codes and Standards Advocacy (April 21, 2021), p. 32; Decision Different of Commissioner Rechtschaffen (February 9, 2022), p. 47 (Decision Different); Modified Presiding Officer’s Decision Ordering Remedies for SoCalGas’s Activities that Misaligned with Commission Intent for Codes and Standards Advocacy (February 10, 2022), p. 35 (MOD POD).

<sup>17</sup> Assigned Commissioner’s Scoping Memo and Ruling (November 16, 2021) *available at* <https://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M423/K516/423516230.PDF>.

was obtained by SoCalGas as a recipient on the service list.<sup>18</sup> In addition, in order to prudently participate in the proceeding as a mandated respondent to develop “guidelines for Commission rules, policies, and procedures to support the development of current and future Title 24 building standards and Title 20 appliance standards,” SoCalGas will need to understand current and future Title 24 and Title 20 standards. To be clear, as part of this CPUC proceeding, SoCalGas is not influencing (or seeking to influence) the adoption of energy efficiency codes or standards at the CEC. Rather, SoCalGas, as a required respondent, necessarily must review, analyze, and understand the energy efficiency codes and standards adopted, or to be adopted, by the CEC in order to develop guidelines to support such codes and standards.

- **Facility/Asset Planning:** SoCalGas has efforts underway to make its facilities more sustainable by achieving different designations such as LEED certification.<sup>19</sup> LEED certifications involve many aspects of a building’s operation, which include in part, making them more energy efficient. SoCalGas needs to be aware of proposed statewide energy efficiency codes and standards and proposed reach codes in the planning of its own facility modifications, including new leases, or construction or renovations. SoCalGas also works with consultants in these efforts and will need to pay consultants who should be aware of these

---

<sup>18</sup> *Id.* at Appendix A “R.19-01-011 Phase III Staff Proposal”, p. 11 (internal citations omitted): “Staff at CARB have proposed a statewide zero GHG emission standard for commercial and residential buildings in a draft of their 2022 *Strategy for the State Implementation Plan*. According to the proposed standard, “Beginning in 2030, 100 percent of sales of new space heaters and water heaters would need to comply with the emission standard.” If approved by CARB, the regulation would rely heavily on heat pump technologies as an alternative to gas models. In scenarios proposed by CARB, new residential and commercial buildings would have to install all-electric appliances beginning in 2026 to meet a 2035 carbon neutrality target, or either by 2026 or 2030 to meet the same target by 2045.”

“...the Bay Area Air Quality Management District (BAAQMD), which oversees air quality in nine Bay Area counties, is considering new regulations that would reduce nitrogen oxides (NOx) from furnaces, water heaters, and gas boilers in the buildings in its district. If enacted, it would ultimately lead to the phase-out of gas space and water heating systems through zero-emission appliance standards. The proposed rule changes would take effect between 2027 and 2031, depending on the appliance.”

<sup>19</sup> LEED rating system, available at <http://www.usgbc.org/leed>.



changes as they affect the effort to improve the sustainability of SoCalGas's facilities.

- **Prudent Design and Operation of EE Non-C&S Programs:** SoCalGas is mandated by the Commission to administer an Energy Efficiency (EE) portfolio. In order to have the most effective EE portfolio delivery, SoCalGas needs to be aware of pending changes in code for gas appliances in the design and operation of its EE programs that are unrelated to the programs that are the subject of the POD (*i.e.*, the energy efficiency codes and standards programs). For example, as part of its energy efficiency programs, SoCalGas offers incentives to customers for upgrading to a more energy-efficient gas appliance than one that meets a code baseline. In the process of determining what measures are available to offer in the portfolio, SoCalGas needs to at least be aware of proposed energy efficiency codes and standards. As another example, as part of the Commission's required third party competitive solicitations, bidders could include in their proposal measures based on anticipated upcoming code changes and SoCalGas would then be in receipt of that information. Conversely, SoCalGas will need to monitor proposals of bidders to ensure that their proposals, which span a few years, take into account upcoming changes to codes and standards.
- **Other Governmental Entities:** SoCalGas at times receives requests from other governmental entities, including the California Energy Commission, Air Quality Management Districts, metropolitan planning organizations, and local governments to participate in public information meetings, planning processes, rulemakings, or advisory groups that, although often on broader topics, can include information about proposed energy efficiency codes or standards or proposed reach codes. These requests to participate can be unsolicited by SoCalGas. SoCalGas understands that to the extent it undertakes an analysis or discussion on whether to participate or does in fact participate in processes concerning the adoption of a proposed energy efficiency code or standard or proposed reach code, any associated costs for these activities must not be ratepayer funded. However, SoCalGas is not sure how to handle these, at times unsolicited requests, under the POD's language, when such instances may be construed as "obtaining information about" a

proposed energy efficiency code or standard or a proposed reach code.

- **News Services and Trade Publications:** There are SoCalGas employees who subscribe to various news services and trade publications, which provide summaries of news stories, including at times, stories related to proposed energy efficiency codes and standards or proposed reach codes. For example, a news service or trade publication might send an automatic email, which includes summaries of several top stories, including a story about how a city is considering a new proposed reach code. Similarly, SoCalGas employees may subscribe to local government meeting notices or agendas, which are publicly distributed and may contain information about a proposed reach code. SoCalGas understands that to the extent it undertakes an analysis or discussion on whether to engage with the city on the adoption of the proposed reach code or does in fact engage, any associated costs for these activities must not be ratepayer funded. However, SoCalGas is not sure how to handle the mere receipt of a news summary or meeting agenda, which may be construed as “obtaining information about” a proposed energy efficiency code or standard.
  
- **CEC/CPUC Modeling and Technical Analyses, Ratemaking, Rate Design, Cost Allocation Proceedings/Processes:**
  - Gas OIR: SoCalGas is a respondent in the Gas System Planning OIR, R.20-01-007. Consistent with the purposes for and objectives of the Gas System Planning OIR, SoCalGas is using analytical tools and conducting financial and technical analyses to support the long-term gas system planning process, such that it aligns with the State’s decarbonization objectives pursuant to the OIR, including to update the planning framework for capital deployment consistently with those objectives. As part of such analysis, modeling occurs for different scenarios relating to energy demand side futures, including the pace and penetration of building electrification, which must consider proposed energy efficiency codes and standards and proposed reach codes, and their prospective impact on throughput and customer demand. The demand reduction as a result of energy efficiency codes and

standards is an expressed consideration and element of the OIR.<sup>20</sup> It is thus a key input in both long-term system planning (as envisioned in the OIR) as well as assessing the cost allocation and rate impacts related to potential decline in throughput. Such research and analysis of proposed energy efficiency codes and standards and proposed reach codes is for the purposes of responding to the requirements and objectives of the OIR, and the numerous questions within the scoping orders to be determined in the proceeding.

- CGR: In 1961, the Commission issued D.62260, ending an investigation into the adequacy of gas supply and service in California as well as the propriety and reasonableness of gas tariff provisions related to priority of service and curtailment procedures. By that decision, SoCalGas and the other statewide Investor-Owned Utilities were ordered to prepare annual reports detailing current and future gas supply, which came to be known as the California Gas Report (CGR). In 1995, the Commission issued D.95-01-039, which changed the CGR's frequency from annual to biennial and adopted expanded data on the sources and uses of gas within California. Oversight in production of the CGR is provided by a statewide committee, in which the CPUC and the CEC participate. The CGRs are filed on July 1 in even years, with supplements provided in odd years to include the latest recorded data. The 2020 CGR included discussion on the impacts of electrification and local reach codes.<sup>21</sup> The 2022 CGR, due to be filed on July 1, 2022, is likely to build further on this information, with SoCalGas incorporating some level of anticipated electrification/fuel switching into its gas demand forecast. The prospective pace and penetration of building electrification incorporated in the 2022 forecasts may necessarily take into consideration adoption of proposed energy efficiency codes and standards and proposed reach codes, since those measures will impact gas demand and throughput. The CGR results are important, because they form the basis of, among other things, slack backbone transmission capacity planning<sup>22</sup> and core interstate

---

<sup>20</sup> See, e.g., R.20-01-007, Assigned Commissioners Amended Scoping Memo and Ruling (January 5, 2022).

<sup>21</sup> See, e.g., 2020 CGR, p. 9.

<sup>22</sup> D.06-09-039; see also, e.g., SoCalGas Advice No. 5703.

capacity planning.<sup>23</sup> Additionally, the Commission’s consideration of Track 1 issues in R.20-01-007 may similarly implicate the use of CGR data when establishing capacity planning standards,<sup>24</sup> as could SoCalGas’s Triennial Cost Allocation Proceeding (TCAP), a mandatory application at the CPUC, when considering allocating costs among customer classes.

As shown in the examples above, which are not exhaustive, SoCalGas appreciates confirmation that the POD’s prohibition on the use of ratepayer funding is not intended to include these, and other similar situations. These examples and similar situations are not part of a rulemaking or process to consider the adoption of a proposed energy efficiency code or standard or a proposed reach code, and include situations where SoCalGas is a respondent in a CPUC proceeding or other governmental entities’ proceedings or processes.

SoCalGas also needs clarification on whether the inclusion in the prohibition of “obtaining information about” a proposed energy efficiency code or standard or a proposed reach code is meant to apply to the above scenarios, and similar scenarios that may arise, which include situations where SoCalGas is not engaged (or planning to engage) in any *advocacy* and/or where the information being received is unsolicited by SoCalGas.<sup>25</sup>

SoCalGas asks that the Commission confirm SoCalGas’s understanding that the intended ratepayer-funding prohibition in the POD is situations where SoCalGas is affirmatively seeking to obtain information about, discussing, researching, or analyzing a proposed energy efficiency code or standard or a proposed reach code for the purpose of participating in or influencing the process for the adoption of the proposed energy efficiency code or standard or the proposed reach code, which would exclude the above and similar situations.

Absent further clarification, SoCalGas plans to exclude these and similar situations from the scope of employee time tracking ordered in the POD’s OP 7 according to the proposed parameters above.

---

<sup>23</sup> D.04-09-022; *see also, e.g.*, SoCalGas Advice No. 5699.

<sup>24</sup> *See, e.g.*, R.20-01-007 Assigned Commissioners’ Scoping Memo and Ruling (April 23, 2020), p. 3 (“Are the existing natural gas reliability standards for infrastructure and supply still adequate? If not, how should they be changed?”).

<sup>25</sup> Notably this language is not included in the recently issued Decision Different and the MOD POD, both issued in connection with the other OSC against SoCalGas in this proceeding.

**D. SoCalGas Requests Clarification on the Process for Handling Any Potential “Non-Proceeding” Discovery Disputes with the Public Advocates’ Office**

The POD appears to direct SoCalGas, and presumably other regulated entities, to be the entity, instead of Cal Advocates, to affirmatively seek a decision from the Assigned Commissioner or the President of the Commission in every instance where a regulated entity wishes to raise an objection to a data request propounded by Cal Advocates per California Pub. Util. Code § 309.5(e) (*i.e.*, “non-proceeding” data requests served outside of a docketed proceeding).<sup>26</sup> This is a fundamental change to SoCalGas’s understanding and frequent experience over the last several years with discovery practice.<sup>27</sup> SoCalGas does not want to unnecessarily burden the Commission who will have to issue decisions on all objections to any submitted data requests under this process, unless this is clearly the direction given by the Commission.<sup>28</sup>

SoCalGas seeks clarification on whether the POD intended to apply this change to the California Pub. Util. Code § 309.5(e)’s non-proceeding data request process generally, or, alternatively, to apply it to specific instances where the objections are based on SoCalGas’s disputed interpretation of a Commission decision. SoCalGas believes it is the latter since the POD’s discussion focused on that circumstance where there is perceived ambiguity by the utility and the objection is based on the interpretation of a decision.

**E. SoCalGas Seeks Clarification on the Timing for the Exclusion of the At Issue Expenditures from Ratepayer Accounts**

Lastly, SoCalGas asks for clarification on an apparent inconsistency between Ordering Paragraph 1 and Ordering Paragraphs 4 and 5 in the POD. Ordering Paragraph 1 provides,

---

<sup>26</sup> See POD, pp. 23-24 (citing California Pub. Util. Code § 309.5).

<sup>27</sup> See CPUC General Discovery Custom and Practice (“[A]s a general principle, discovery should proceed in a cooperative and efficient manner, differences should be resolved as much as possible among the parties, and a discovery dispute should be brought before the assigned Administrative Law Judge only as a last resort, after the parties’ good faith efforts at resolution of the dispute have failed.”)

<sup>28</sup> Further, in summarily denying SoCalGas’s previous motion under California Pub. Util. Code § 309.5(e), Administrative Law Judge Regina DeAngelis ruled that “Public Utilities Code section 309.5(e) allows California Public Advocates Office to compel the production or disclosure of any information if there are any objections to any request for information. This code section does not provide such relief to regulated entities.” Administrative Law Judge Regina DeAngelis’s email ruling re SoCalGas’s Emergency Motion to File Under Seal and Motion for a Protective Order (Not in a Proceeding) (April 6, 2020).

SoCalGas “must refund all ratepayer-funded expenditures associated with the activities identified in Table 1 of this decision, to the extent it has not already excluded these expenditures from ratepayer-funded accounts *as of the date this decision becomes the Commission’s decision.*”<sup>29</sup> Ordering Paragraph 4, however, provides that “[w]ithin two years after the issue date of this decision, the Commission’s Utility Audits Branch shall complete an audit to determine the amount of ratepayer-funded expenditures associated with the activities identified in Table 1 of this decision.”<sup>30</sup> Ordering paragraph five continues:

Within 30 days after the Commission approves the audit ordered by Ordering Paragraph 4, [SoCalGas] must submit a Tier 2 advice letter detailing the entries it will make to the Demand Side Management Balancing Account and any other accounting mechanisms identified by the results of the audit ordered by Ordering Paragraph 4, to effectuate the refund of all expenditures associated with the activities identified in Table 1 of this decision, consistent with the findings of the audit ordered by Ordering . . . Southern California Gas Company must propose to effectuate this refund as part of its next gas Public Purpose Programs surcharge change.<sup>31</sup>

SoCalGas understands the POD to mean that for any of the at issue expenditures that have not already been transferred to accounts identified for exclusion from SoCalGas’s recovery in rates, SoCalGas must follow the process that is outlined in OP 4 and OP 5 to work with the Utility Audits Branch to identify the at issue funds and thereafter to file the Tier 2 advice letter ordered by the POD. However, SoCalGas would appreciate confirmation of its understanding or further clarification on the apparent discrepancy in timing between Ordering Paragraph 1 and Ordering Paragraphs 4 and 5.

## V. CONCLUSION

For the reasons stated above, SoCalGas respectfully requests the Assigned Commissioner and/or the Assigned ALJ issue a Ruling clarifying the above discussed aspects of the POD before the compliance deadline in POD OP 7. These important clarifications will allow SoCalGas to swiftly and successfully implement the directions in the POD.

---

<sup>29</sup> POD, OP 1.

<sup>30</sup> *Id.* at OP 4.

<sup>31</sup> *Id.* at OP 5.

With regard to the POD’s prohibition, SoCalGas asks that the Commission confirm SoCalGas’s understanding that “codes and standards” as used in the POD, refers to energy efficiency codes and standards and that the prohibition on the use of ratepayer funding applies only to proposed energy efficiency codes and standards and proposed reach codes. Absent further clarification, SoCalGas plans to exclude activities related to operational, safety, or other non-energy efficiency proposed codes and standards from the scope of employee time tracking ordered in the POD’s OP 7.

SoCalGas also asks that the Commission confirm SoCalGas’s understanding that the ratepayer-funding prohibition in the POD applies to situations where SoCalGas is affirmatively seeking to obtain information about, discussing, researching, or analyzing a proposed energy efficiency code or standard or a proposed reach code for the purpose of participating in or influencing the process for the adoption of the proposed energy efficiency code or standard or the proposed reach code, but excludes the examples discussed in Section III.C, and similar situations. Absent further clarification, SoCalGas plans to exclude these and similar situations from the scope of employee time tracking ordered in the POD’s OP 7 according to the proposed parameters above.

Respectfully submitted on behalf of SoCalGas,

By: /s/ Holly A. Jones  
Holly A. Jones

HOLLY A. JONES  
ERIC A. GRESSLER  
*Attorneys for*  
SOUTHERN CALIFORNIA GAS COMPANY  
555 West Fifth Street, Suite 1400  
Los Angeles, California 90013  
Telephone: (213) 244-2232  
Facsimile: (213) 629-9620  
E-mail: [HAJones@socalgas.com](mailto:HAJones@socalgas.com)  
E-mail: [EGressle@socalgas.com](mailto:EGressle@socalgas.com)

March 7, 2022