

Decision **PROPOSED DECISION OF ALJ FOGEL** (Mailed 10/26/2022)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to
Establish Policies, Processes, and
Rules to Ensure Safe and Reliable Gas
Systems in California and perform
Long-Term Gas System Planning

Rulemaking 20-01-007

**DECISION ADOPTING GAS
INFRASTRUCTURE GENERAL ORDER**

TABLE OF CONTENTS

Title	Page
DECISION ADOPTING GAS INFRASTRUCTURE GENERAL ORDER	1
Summary	2
1. Background	3
2. Issues Before the Commission.....	6
3. Jurisdiction	7
4. Parties' General Responses to the Staff Proposal	9
5. Adopting a Gas Infrastructure GO	10
6. GO Purpose.....	14
6.1. Staff Proposal	14
6.2. Party Comments	14
6.3. Adopting Modified Version of Staff's Proposed Purpose.....	15
7. Adopting a Monetary Trigger for a CPCN Application Requirement.....	16
7.1. Staff Proposal	16
7.2. Party Comments	16
7.2.1. Monetary Trigger	16
7.2.2. PTC vs. CPCN Application Requirement	20
7.3. Adopting a \$75 million Threshold for Gas Infrastructure CPCN Applications	21
8. Sensitive Receptors Trigger Requirements.....	25
8.1. Staff Proposal	25
8.2. Party Comments	26
8.3. Adopting a "Sensitive Receptors" Trigger	29
9. Other Potential Non-Monetary Triggers	33
9.1. Party Proposals	33
9.2. Declining to Adopt Additional Non-Monetary CPCN Application Triggers	34
10. Defining "Project" for Purpose of the GO	35
10.1. Staff Proposal	35
10.2. Party Comments	36
10.3. Adopting a Definition of "Project" for Purposes of the GO.....	37
11. Emergency Projects.....	39
11.1. Staff Proposal	39
11.2. Party Comments	40
11.3. Exempting Rather Than Excluding Emergency Projects	40
12. Exemptions.....	41
12.1. Replacement of Existing Structures by Equivalent Structures	43

12.1.1. Staff Proposal.....	43
12.1.2. Party Comments.....	43
12.1.3. Rejecting Staff's Proposed Exemption IV(3)(a), Replacement of Existing Structures by Equivalent Structures	44
12.2. Minor Relocations, Repairs, Maintenance or Alterations	44
12.2.1. Staff Proposal.....	44
12.2.2. Party Comments.....	45
12.2.3. Rejecting Staff's Proposed Exemption Section IV(3)(b), Minor Relocations, Repairs, Maintenance or Alterations	45
12.3. Rejecting Staff's Proposed Exemption Section IV(3)(c).....	46
12.4. Projects with Completed CEQA Documents.....	46
12.4.1. Staff Proposal.....	46
12.4.2. Party Comments.....	47
12.4.3. Rejecting Staff's Proposed Exemption Section IV(3)(d), Projects with Completed CEQA Documents	47
12.5. Projects Required by CalGEM, PHMSA, or Other Regulatory Agency ...	48
12.5.1. Staff Proposal.....	48
12.5.2. Party Comments.....	48
12.5.3. Adopting a Modified Version of Staff's Proposed Exemption Section IV(3)(e), Projects Required by CalGEM, PHMSA, or Other Regulatory Agency	49
12.6. Distribution Pipelines	50
12.6.1. Staff Proposal.....	50
12.6.2. Party Comments.....	50
12.6.3. Including Distribution Pipelines in the Adopted GO and Rejecting Staff's Proposed Exemption Section IV(A)(3)(f)	52
12.7. Projects Previously Approved by this Commission.....	54
12.7.1. Staff Proposal.....	54
12.7.2. Party Comments.....	54
12.7.3. Adopting a Modified Version of Staff's Proposed Exemption Section IV(3)(g), Projects Previously Approved by this Commission	56
12.8. Additional Exemptions Proposed by Parties	58
12.8.1. Party Proposals.....	58
12.8.2. Party Comments.....	58
12.8.3. Declining to Adopt Additional Exemptions	58
13. Exceptions to Exemptions.....	59
13.1. Staff Proposal	59
13.2. Party Comments	60

13.3. Declining to Adopt Exceptions to Exemptions as Proposed by Staff (Section IV(A)(4))	61
14. Notification Requirements for Claimed Exemptions.....	62
14.1. Staff Proposal	62
14.2. Party Comments	63
14.3. Adopting a Modified Version of Staff's Proposed Notification Requirements (Section V)	65
15. CPCN Application Information Submittal Requirements (Section VI)	67
15.1. Staff Proposal	67
15.2. Party Comments	67
15.3. Adopting a Modified Version of Staff's Information Requirements (Section VI)	70
15.4. Clarifying PEA Requirements (Section VI(A)(12))	73
16. Reporting Requirements	74
16.1. Staff Proposal	74
16.2. Party Comments	75
16.3. Adopting a Modified Version of Staff's Proposed Reporting Requirements (Section X)	78
17. Definitions	83
17.1. Staff Proposal	83
17.2. Party Comments	83
17.3. Adopting Modified Versions of Staff's Proposed Definitions (Section III) 84	
18. Adopting All Other GO Sections as Proposed by Staff or With Minor Modifications	86
19. Comments on Proposed Decision.....	87
20. Assignment of Proceeding.....	87
Findings of Fact.....	87
Conclusions of Law	95
ORDER	99
APPENDIX A	

DECISION ADOPTING GAS INFRASTRUCTURE GENERAL ORDER

Summary

This decision adopts a gas infrastructure General Order (GO), GO 177, as contained in Appendix A. The GO requires regulated gas corporations to file an application for a certificate of public convenience and necessity (CPCN) prior to commencing construction on any gas infrastructure that meets either of these criteria: (1) project is located within 1,000 feet of a “sensitive receptor” (including housing, educational institutions or health care facilities); and (2) operation of the completed project by the gas corporation requires a permit from the relevant local air quality district for an increase in levels of (a) a toxic air contaminant; or (b) a criteria air pollutant, if the area is listed as a serious, severe, or extreme non-attainment area for that pollutant. The GO outlines CPCN application information and notification requirements and specific types of exempt projects for which CPCN applications are not required.

The GO and this decision require gas corporations to annually file a Report of Planned Gas Investments (gas reports), starting March 1, 2023. This decision directs Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SoCalGas), and San Diego Gas & Electric Company (SDG&E) to jointly convene a Planned Gas Investments Workshop during the years 2023, 2024, and 2025. It authorizes parties to file comments on the gas reports, and on the reporting requirements contained in the adopted GO, in the years 2023, 2024, and 2025. This decision authorizes PG&E, SoCalGas, and SDG&E to submit a Tier 3 Advice Letter requesting changes to the reporting requirements contained in the GO in Appendix A suggested by parties and agreed to by the gas corporations, in the years 2023, 2024, and 2025.

Rulemaking 20-01-007 remains open.

1. Background

The California Public Utilities Commission (Commission) adopted an *Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and perform Long-Term Gas System Planning* on January 16, 2020. This is the fourth decision in this case.¹ This decision addresses Scoping Issue (a) of Track 2(a) as set forth in the *Assigned Commissioner's Amended Scoping Memo and Ruling* (Second Amended Scoping Memo) on January 5, 2022, which asks whether the Commission should consider adopting a gas General Order (GO).

Track 2 of this proceeding addresses long-term natural gas policy and planning. As discussed in the Order Instituting Rulemaking (OIR), compliance with local and statewide greenhouse gas legislation will cause demand for natural gas to decline over the next 25 years. California is transitioning away from natural gas-fueled technologies to meet decarbonization goals while simultaneously demanding less electricity from gas-fired generators as renewable electricity and energy storage resources increase. This portion of Track 2, consideration of a gas infrastructure GO, addresses an identified gap in the Commission's active regulation of gas infrastructure. It also serves as an intermediary step towards development of a more a comprehensive long-term gas planning process later in this proceeding.

¹ The first, Decision (D.) 21-11-021, established an Operational Flow Order structure for Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) (collectively, the Sempra Companies). The second, D.22-04-042, extended year-round SoCalGas Rule 30 Operational Flow Order winter non-compliance penalty structure and applied it to the Sempra Companies and Pacific Gas and Electric Company (PG&E). The third decision in this case, D.22-07-002, established a framework for a citation program when a utility fails to maintain adequate backbone capacity, amongst other matters.

D.94-06-014 adopted GO 131-D, *“Rules Relating to the Planning and Construction of Electric Generation, Transmission/ Power/ Distribution Line Facilities and Substations Located in California,”* which addressed a similar gap in our active regulation of electric transmission lines of between 50 and 200 kilovolts (kV).²

On October 14, 2021, the assigned Commissioner issued an Amended Scoping Memo and Ruling addressing Track 2 issues and schedule and invited party comment. The assigned Commissioner issued an updated Second Amended Scoping Memo on Track 2 issues and schedule on January 5, 2022. On January 10, 2022, the Commission hosted a virtual workshop on Track 2(a) issues (a) – (d).

On February 4, 2022, an Administrative Law Judge (ALJ) issued a ruling inviting opening and reply briefs on the Track 2(a)(a) issue in this proceeding. On February 28, 2022, Environmental Defense Fund (EDF), the Sierra Club and the California Environmental Justice Alliance (Sierra Club/CEJA), Utility Consumer’s Action Network (UCAN), PG&E, SDG&E, SoCalGas, the Southern California Generation Coalition (SCGC), Rocky Mountain Institute (RMI), and Central Valley Gas Storage, LLC (CVGS) filed Opening Briefs and the Center for Accessible Technology (CforAT) filed Opening Comments. On April 1, 2022, Sierra Club/CEJA, EDF, Wild Goose Storage, LLC and Lodi Gas Storage, LLC (Wild Goose and Lodi), SCGC, the Public Advocates Office (Cal Advocates), PG&E, SoCalGas, UCAN, SDG&E, Indicated Shippers, and RMI filed Reply Briefs.

² See D.94-06-014 and D.95-08-038. See also GO 131-D on the Commission’s website, available as of September 14, 2022 at: <https://www.cpuc.ca.gov/proceedings-and-rulemaking/cpuc-general-orders>.

On March 1, 2022, an ALJ ruling provided a draft workshop report for the January 10, 2022 workshop, entered the draft report into the record of this proceeding, and invited comments on the draft workshop report, correcting inaccurate statements or informational gaps. On March 15, 2022, EDF, the Independent Energy Producers Association (IEPA), the Small Business Utility Advocates (SBUA), the Green Hydrogen Coalition (Hydrogen Coalition), the California Independent System Operator Corporation (CalISO), Indicated Shippers, SCGC, PG&E, SoCalGas, Cal Advocates, Southwest Gas Corporation (Southwest), and UCAN filed comments on the workshop report.

On March 1, 2022 an ALJ ruling required PG&E, SDG&E, SoCalGas, and Southwest to file gas distribution system and gas consumption information. The ruling invited the cities of Long Beach, Palo Alto, and Vernon to file the same information. On May 20, 2022, the Sempra Companies, Southwest, and PG&E each filed responses, and the cities of Long Beach, Palo Alto, and Vernon jointly filed a response to the March 1, 2022 ALJ ruling providing gas data.

On June 27, 2022, an ALJ ruling provided parties with a draft gas infrastructure GO proposed by Staff (Staff Proposal) and invited comment. The ruling included a number of specific questions for party comment. The ruling additionally directed PG&E, SDG&E, and SoCalGas to file a list of gas infrastructure projects completed over the last 10 years that exceeded \$100 million in capital expenditure.

On June 28, 2022, EDF filed a Motion to Augment the June 27, 2022 ALJ ruling, requesting that the threshold for the list of gas infrastructure projects be lowered to \$50 million. On July 8, 2022, an ALJ ruling granted the EDF motion, directed PG&E, SDG&E, and SoCalGas to file a list of gas infrastructure projects completed over the last 10 years that exceeded \$50 million

in capital expenditure, and provided other direction. On July 18, 2022, PG&E, SDG&E, and SoCalGas filed responses to the March 1, 2022 ALJ ruling requiring provision of gas infrastructure project data.

On July 25, 2022, CVGS, CforAT, Indicated Shippers, PG&E, UCAN, SCGC, Sierra Club/CEJA/RMI, SDG&E, Cal Advocates, SoCalGas, Southwest, and EDF filed comments on the draft proposed GO contained in the June 27, 2022 ALJ ruling. On August 1, 2022, Sierra Club/CEJA/RMI, CVGS, UCAN, SoCalGas, PG&E, SDG&E, SCGC, and EDF filed reply comments on the draft proposed GO.

2. Issues Before the Commission

This decision addresses issue (a) of Track 2(a) identified in the Second Amended Scoping Memo on Track 2 issues:

Should the Commission consider adopting a GO analogous to GO 131-D for electric infrastructure projects, that would require site-specific approvals for gas infrastructure projects that exceed a certain size or cost?

In the course of reviewing party comments on the Staff Proposal, we identified the following sub-issues to the Second Amended Scoping Memo question. We use these sub-issues to structure this decision:

- a. What should be the main objectives of the proposed GO?
- b. Should the Commission adopt a monetary threshold to trigger a permit to construct (PTC) and/or a certificate of public convenience and necessity (CPCN) application requirement for gas infrastructure?
- c. Should the Commission adopt different requirements for PTC versus CPCN applications regarding gas infrastructure?
- d. Should the Commission adopt an environmental impact threshold to trigger a CPCN application requirement for gas infrastructure?

- e. Should the Commission adopt any additional criteria to trigger a CPCN application requirement for gas infrastructure?
- f. Should the Commission define the term “project” for purposes of the GO and, if so, how?
- g. Should the Commission exclude or exempt emergency projects from the GO?
- h. What types of gas infrastructure projects, if any, should be exempt from CPCN application requirements?
- i. Should the Commission adopt any “exceptions” to exemptions from CPCN application requirements?
- j. What notification requirements should the GO contain?
- k. What information should CPCN applications covered by the GO contain?
- l. What type of additional reporting on gas infrastructure projects should the GO require?
- m. Are all terms appropriately defined in the GO?

3. Jurisdiction

The Public Utilities Code (Pub. Util. Code) Section 216 defines gas corporations as public utilities subject to this Commission’s jurisdiction. Pub. Util. Code Sections 221, 222, and 891 define “gas plant,” “gas corporations,” and “gas utility,” respectively.

Pub. Util. Code Section 451 requires gas rates to be just and reasonable. Pub. Util. Code Section 701.1(b) states that natural gas utilities should seek to exploit all practicable and cost-effective conservation and improvements in the efficiency of energy use and distribution that offer equivalent or better system reliability. Consideration of cost-effectiveness shall include a value for any costs and benefits to the environment, including air quality.

Pub. Util. Code Section 454.52(a)(1)(I) states that the Commission should adopt a process for utilities to adopt plans that minimize localized air pollutants

and other greenhouse gas emissions, with an early priority on disadvantaged communities.

Pub. Util. Code Section 701 states that the Commission may supervise and regulate every public utility in the State and may do all things which are necessary and convenient in the exercise of such power and jurisdiction. Pub. Util. Code Section 702 states that every public utility shall comply with every order, decision, direction, or rule made or prescribed by the Commission and shall do everything necessary or proper to secure compliance therewith by all of its officers, agents, and employees.

Pub. Util. Code Section 761 provides that, whenever the Commission, after a hearing, finds that the rules, practices, equipment, appliances, facilities, or service of any public utility, or the methods of manufacture, distribution, transmission, storage, or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the Commission shall determine and, by order or rule, fix the rules, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed.

Pub. Util. Code Section 762 provides that, whenever the Commission, after a hearing, finds that additions, extensions, repairs, or improvements to, or changes in, the existing plant, equipment, apparatus, facilities, or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that new structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the Commission shall make and serve an order directing that such additions, extensions, repairs, improvements, or changes be made or such structures be erected in the manner and within the time

specified in the order. Pub. Util. Code Section 762.5 proposes that, the Commission shall give consideration to the factors of (a) community values; (b) recreational and park areas; (c) historical and aesthetic values; and (d) influence on the environment, when making orders pursuant to Pub. Util. Code Section 762.

Pub. Util. Code Section 1001 *et seq* sets forth requirements for gas infrastructure CPCN applications. Pub. Util. Code Section 1005.5(a) provides that the Commission should determine the maximum cost for gas infrastructure projects exceeding \$50 million using an estimate of the anticipated construction cost and taking into consideration various factors. Section 1005.5(b) specifies that, after a CPCN has been issued, the gas corporation may apply to the Commission for an increase in the maximum cost specified in it.

Article XI, Section 8 of the California Constitution states that, “[a] city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission.”

4. Parties’ General Responses to the Staff Proposal

Parties’ responses to the Staff Proposal generally differ between gas corporations, on the one hand, and intervenors on the other. The gas corporations (PG&E, SoCalGas, SDG&E, Southwest) generally support the Staff Proposal, with some exceptions. The gas corporations support a \$100 million threshold for an application requirement but raise concerns with Staff’s proposed environmental criteria. Gas corporations also raise concerns about notification requirements for projects exempt from a permit requirement, particularly gas distribution lines less than 12 inches in diameter. Some gas corporations argue that the GO requirements should not apply to any distribution lines.

Intervenor parties generally support Staff's proposed environmental criterion and a lower monetary threshold (\$50 million or \$25 million), or no monetary threshold, and broader application requirements. Industry members represented by Indicated Shippers advocate stronger reporting requirements.

5. Adopting a Gas Infrastructure GO

This decision adopts a gas infrastructure GO, General Order 177, as contained in Appendix A. The GO and this decision require gas corporations to file CPCN applications under certain conditions described below. Three converging trends necessitate adoption of a gas GO at this time.

First, work to advance California's landmark greenhouse gas emission reduction goals has led to steadily declining gas consumption levels within California, at the rate of approximately one percent annually.³ Declining gas consumption levels in turn have three main causes: the installation of more renewable electricity resources on the grid, city ordinances banning the installation of gas appliances in new homes and commercial buildings, and progression of the State's building code toward all electric buildings. As more renewable electricity resources are installed, demand for gas-powered base load generation declines.⁴ Senate Bill (SB) 1477 (Stern, Stats. 2019, Chapter 582) promotes decarbonization of California's building supply. Incentive programs

³ 2022 California Gas Report at 6, citing energy efficiency and fuel switching as primary drivers and stating "[u]tility-served, statewide natural gas demand is projected to decrease at an annual average rate of 1.1 percent per year through 2035." Available as of October 10, 2022 at: https://www.socalgas.com/sites/default/files/Joint_Utility_Biennial_Comprehensive_California_Gas_Report_2022.pdf

⁴ California Energy Commission, Final 2021 Integrated Energy Policy Report: Volume III: Decarbonizing the State's Gas System (2021 IEPR Decarbonization Report), at 3, 24, 26 and C-6, available as of October 10, 2022 at: <https://www.energy.ca.gov/data-reports/reports/integrated-energy-policy-report/2021-integrated-energy-policy-report>. Ramping needs from gas-powered generation may remain high.

and pilot projects to advance building decarbonization are rapidly emerging.⁵ As of Fall 2022, nearly 50 cities and counties in California have adopted local ordinances requiring all-electric appliances in new homes or buildings, in some form.⁶ These trends and related decreases in natural gas consumption in California are predicted to continue, particularly with the passage of Assembly Bill (AB) 1279 (Muratsuchi, Stats. 2022, Chapter 337) establishing an economy-wide target of carbon neutrality by 2045.

This decline in demand means there may be less need for large gas infrastructure projects in the future. It also means there may be a declining customer base across which to distribute the costs of existing and any new infrastructure.⁷ Together, these trends amplify the Commission's responsibility to carefully scrutinize large gas infrastructure projects to ensure they are necessary. If a given facility is not necessary over its estimated useful life, a project could become a "stranded asset," imposing costs but providing limited benefits to a declining pool of ratepayers and increasing rates for the customers

⁵ D.20-03-027 established two programs directed by SB 1477, the Building Initiative for Low-Emissions Development (BUILD) and Technology and Equipment for clean heating (TECH). BUILD is an incentive program for all electric new construction, mostly for low-income housing. TECH is a market development program that trains contractors, piloting actions to reduce barriers to adoption of heat pumps and providing incentives for heat pump installation. The Self-Generation Incentive Program and energy efficiency programs administered by IOUs also offer heat pump water heater incentives. Information on smaller pilots or programs providing incentives for heat pumps are available, as of October 13, 2022 at: <https://www.cpuc.ca.gov/buildingdecarb>. In late summer 2022, PG&E filed Application (A.) 22-08-003, proposing a zonal electrification pilot program located at California State University Monterey Bay. In late 2021, SCE filed A.21-12-009, proposing a building electrification program.

⁶ See list of state and local government "zero emission building ordinances," available as of October 13, 2022 at: <https://www.buildingdecarb.org/zeb-ordinances.html>

⁷ 2021 IEPR Decarbonization Report at 86 - 89.

left behind on the gas system.⁸ Alternatively, some projects may be necessary for reliability in the next 10 to 25 years, even if they are not used for their full useful life. This balance between reliability and cost requires careful scrutiny in the years ahead.

The GO we adopt here provides a mechanism for project review for large and environmentally significant gas infrastructure projects in the near term as we continue to work towards developing a long-term gas planning process and strategy later in this proceeding. The long-term gas planning process and strategy will consider additional ways to avoid the risk of stranded assets and may build upon or refine the GO we adopt here.

Second, public controversy over large or environmentally significant gas infrastructure projects in recent years has demonstrated to us the need to strengthen public participation opportunities to ensure that impacted residents and stakeholders have appropriate means to voice concerns and shape project design. The Commission's Environmental and Social Justice (ESJ) Action Plan underscores the need for public participation opportunities in disadvantaged or historically pollution-burdened communities.⁹ The California Environmental Quality Act (CEQA) applies to discretionary projects to be carried out or approved by public agencies.¹⁰ However, this Commission has not previously required permit applications or CPCN for gas infrastructure projects. Instead, gas infrastructure projects have generally been included within Commission

⁸ 2021 IEPR Decarbonization Report at Chapter 7.

⁹ Commission Environmental and Social Justice Action Plan, available here as of September 6, 2022: <https://www.cpuc.ca.gov/-/media/cpuc-website/divisions/news-and-outreach/documents/news-office/key-issues/esj/esj-action-plan-v2jw.pdf>

¹⁰ Public Resources (Pub. Res.) Code Section 21080(a).

approvals of utility general rate case (GRC) applications. As a result, this Commission has conducted relatively few CEQA reviews of gas infrastructure projects.

This decision changes this framework to require CPCN applications for gas infrastructure projects under certain conditions. Following adoption of this decision, when a complete gas infrastructure CPCN application is filed with this Commission, we will complete a CEQA review pursuant to statutory requirements. Stakeholders and local communities will have the opportunity to review and comment on proposed gas infrastructure projects subject to a CPCN application requirement during both the application review process and the accompanying CEQA review process.

These two factors converge on a third rationale for, and benefit of, a gas GO at this time. The GO we adopt here aligns Commission gas infrastructure review processes with Pub. Util. Code Section 1001 *et seq.* Pub. Util. Code Section 1001 *et seq.* provides that regulated energy utilities shall not begin the construction or modification of a gas line, plant, or system without having first obtained from the Commission a CPCN that the present or future public “convenience and necessity” require such construction.

To implement Section 1001 *et seq.* for electric transmission projects, the Commission adopted GO 131-D in 1994.¹¹ The GO we adopt here draws on the design of GO 131-D as well as the unique circumstances surrounding gas infrastructure projects.

¹¹ See D.94-06-014 and D.95-08-038. See also GO 131-D on the Commission’s website, available as of September 14, 2022 at: <https://www.cpuc.ca.gov/proceedings-and-rulemaking/cpuc-general-orders>.

The remainder of this decision reviews and adopts each element of the gas GO contained in Appendix A.

6. GO Purpose

6.1. Staff Proposal

Section II of the Staff Proposal contains the following explanation of purpose of the proposed GO:

The Commission has adopted this GO to be responsive to:

- a. the requirements of CEQA (Public Resources (Pub. Res.) Code § 21000 et seq.);
- b. the need for public notice and the opportunity for affected parties and members of the public to be heard by the Commission;
- c. the obligation of the utilities to serve their customers in a timely and efficient manner; and
- d. the need to review significant investments in gas infrastructure for consistency with California's long-term greenhouse gas emission reduction and safety and reliability goals.

6.2. Party Comments

Few parties comment directly on the purpose proposed by Staff. Sierra Club/CEJA/RMI suggest the purpose reference air quality and equity goals. PG&E observes that, other than the SoCalGas Ventura Compressor Station project and the Line 1600 project, there is little record supporting the need for a GO. PG&E notes a lack of complaints regarding its gas infrastructure projects.¹²

¹² PG&E discusses Line 57C, which it asserts triggered a discretionary permit and underwent CEQA review at the California Lands Commission. See PG&E Comments on Staff Proposal at 2 - 3, footnote 3.

6.3. Adopting Modified Version of Staff's Proposed Purpose

The recommendation of Sierra Club/CEJA/RMI to reference air quality and equity goals within Section II, Purpose of the GO, are reasonable and are adopted. Air quality issues often arise in relation to natural gas infrastructure projects. Additionally, equity is a primary goal of the Commission, as reflected in the ESJ Action Plan, and merits ongoing consideration as we implement the GO.

We retain Staff's proposed bullet stating that this GO is responsive to CEQA requirements. However, we emphasize that the CPCN application requirements we adopt here both initiate and are distinct from Commission CEQA review of a project.

A gas corporation's filing of a CPCN application pursuant to this decision will initiate the environmental review required by CEQA.¹³ Depending on the results of this environmental review, the Commission may take several actions. Specifically, once a gas CPCN application is filed with this Commission, CEQA requires us to prepare and review an Environmental Impact Report (EIR) for the project or to issue a Negative Declaration, unless the project qualifies for an exemption under CEQA.

However, a gas corporation's filing of a CPCN application also entails the parallel review by this Commission of the application, pursuant to the Commission's Rules of Practice and Procedure (Rules). As set forth in the Rules, the application review process provides opportunities for party comment and discovery and may include evidentiary or public participation hearings or other steps. At the conclusion of this, and considering the outcome of the CEQA

¹³ Pub. Res. Code Section 21065(c). *See also* D.85951.

review process, this Commission will render a decision on the public convenience and necessity of the proposed project as well as on any mitigations or alterations to the project identified as part of the CEQA review.

The Staff Proposal language otherwise aligns with the goals and objectives for this GO as discussed herein and is adopted with minor clarifications as set out in Appendix A.

7. Adopting a Monetary Trigger for a CPCN Application Requirement

7.1. Staff Proposal

Section IV(A) of the Staff Proposal proposed a \$100 million threshold to require gas utilities to file a PTC application for all gas infrastructure other than new gas storage facilities. The Staff Proposal distinguishes between projects for which a PTC application would be required and those for which a CPCN is required. In Section IV(B), Staff recommended that the Commission require a CPCN application for “any entity seeking to operate a new gas storage field or to expand Commission-authorized footprint for an existing gas storage field.”¹⁴

7.2. Party Comments

7.2.1. Monetary Trigger

PG&E, SoCalGas and SDG&E (collectively, investor-owned utilities or IOUs) and intervenors differ on the question of an appropriate monetary threshold to trigger PTC application requirements. The IOUs generally support a triggering threshold of \$100 million while intervenors generally support lower thresholds of \$50 million (EDF, CforAT) or \$25 million (UCAN). Sierra Club/CEJA/RMI oppose any monetary threshold for PTCs but support a \$50 million threshold for CPCN applications. Sierra Club argues the threshold for

¹⁴ Staff Proposal, Section IV(B).

CPCNs should be \$50 million to capture projects like expansion of compressor station capacity.

The IOUs argue that the \$100 million threshold represents a balance between costs to customers and the costs of potential delays in projects versus the benefits of pre-construction review. The \$100 million threshold would maintain a focus on the larger projects most likely to have significant environmental impacts, they argue. SDG&E supports a \$100 million threshold and recommends this be annually automatically adjusted to address inflation, using a construction cost index (HIS/Markit Global Insight Utility Cost Information Service). In reply comments, SoCalGas supports a \$50 million triggering threshold.

Cal Advocates argues there is insufficient evidence to support a \$100 million threshold and the Commission should not exempt from review projects with potentially significant environmental impacts. Sierra Club/CEJA/RMI concur, noting that the Commission has not adopted a monetary threshold to trigger application requirements for electrical or telecommunications projects. Cal Advocates argues that the Commission should review the environmental analyses undertaken by the IOUs for the 24 projects identified in their July 18, 2022 filings prior to making a decision on an appropriate monetary threshold.

Sierra Club/CEJA/RMI argue that precedent requires environmental review for any project that is discretionary and does not qualify for a CEQA exemption. These parties contend that monetary thresholds cannot be used to determine whether a project requires a PTC, because CEQA doesn't recognize monetary thresholds for determining whether a project has significant environmental impacts or not. Adopting a monetary threshold would violate

CEQA, they contend, as enabling legislation does not state that this is a legitimate basis to determine the applicability of CEQA. SoCalGas opposes these arguments, asserting that the Commission is not constrained by CEQA in exercising its authority to determine which projects require a permit. They argue that a monetary threshold that determines when a discretionary permit is required does not, in and of itself, violate CEQA, which still applies in full once an application has been filed.

UCAN proposes the Commission adopt a \$25 million triggering threshold, stating that this would avoid including routine maintenance but would capture projects that could negatively impact communities.

Regarding determination of a project's actual costs for purposes of implementing a monetary trigger, SoCalGas states that project estimates should be based on "direct costs." SDG&E states that the \$100 million level should be based on an IOU's prudent estimate of a project's cost before the utility proceeds with the project. SDG&E further contends that the Commission should evaluate utility compliance with the threshold based on a utility's reasonable, good-faith estimate before post-planning work begins.

In comments on the proposed decision, PG&E states that it understands "direct costs" to mean the "all-in cost of a project, including capital costs and indirect costs, such as allowance funds used during construction."¹⁵ In reply comments on the proposed decision, PG&E recommends defining "direct costs" commensurate with Pub. Util. Code Section 1005.5(a) to use "an estimate of the anticipated construction cost, taking into consideration the design of the project,

¹⁵ PG&E Comments on Proposed Decision at 2.

the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.”¹⁶

In comments on the proposed decision, SDG&E states that industry practice is to consider project costs in terms of either direct costs or fully loaded costs. SDG&E further states that “fully loaded costs are the sum of direct costs and indirect costs. Direct costs are costs for labor, material, services and other expenses incurred to design, engineer, plan, permit, execute and document a project. This includes the development costs, project management, material, construction, inspection, environmental and other project execution activities. Indirect costs are for Administrative & General, purchasing, warehousing, pension and benefits, payroll tax and other costs that are overhead in nature. Allowance for Funds Used During Construction (AFUDC) and property taxes are also costs that may be included in the presentation of fully loaded project costs.”¹⁷ SDG&E recommends that the Commission require gas utilities to “include direct costs and other capitalized expenditures, i.e. escalation, allowed overheads, allowance for funds used during construction and capitalized property tax” as the basis of determining costs for purposes of the GO.¹⁸ Indicated Shippers also comments on cost issues in its comments on the proposed decision.

In comments on the proposed decision, PG&E, SoCalGas, and SDG&E object to the inclusion of an estimate of “utility proceeds” in the project cost for purposes of the monetary threshold. The Sempra companies observe that this idea was based on a misreading of SDG&E’s comments. PG&E observes that

¹⁶ PG&E Reply Comments on Proposed Decision at 1.

¹⁷ SDG&E Comments on Proposed Decision at 4, footnote 15.

¹⁸ *Id.* at iii.

including utility proceeds, defined in the proposed decision as an estimate of the guaranteed cost of capital investment benefit to a utility from a project, would alter the calculus of a project's cost and would bring additional projects under the monetary threshold. PG&E observes that the list of projects filed by the utilities on July 18, 2022 did not include utility proceeds. PG&E comments that a more appropriate location for inclusion of this information would be in the CPCN application itself.¹⁹

EDF recommends requiring utilities to use the high end of the cost range of a cost estimate or opinion of probable construction costs to determine whether a project meets the dollar threshold. PG&E responds that the GO should not direct a cost estimation method, as the IOUs meet industry standards, which are rigorous and proven to be accurate in their estimation methods. PG&E states that it uses the Association for the Advancement of Cost Engineering cost estimating methodology for "Class 2" estimates. In comments on the proposed decision, the IOUs state that the utility should be afforded the discretion to use a cost estimation method commensurate with the circumstances and stage of development of the proposed project.

In comments on the proposed decision, CforAT recommends the Commission review the monetary threshold in three years to assess the need for changes.

7.2.2. PTC vs. CPCN Application Requirement

Several parties, including SoCalGas, SDG&E, SCGC, and Cal Advocates, comment that the Commission should merge the separate categories of "PTC" and "CPCN" into a single unified category. SoCalGas observes that the

¹⁹ PG&E Comments on Proposed Decision at 5.

requirements for the two categories are effectively the same in the Staff Proposal. This is because the Staff Proposal would require applications for both categories to explain why a project is necessary to promote the safety, health, comfort, and convenience of the public, and is required by the public convenience and necessity.²⁰

Sierra Club/CEJA/RMI recommend maintaining the two categories and adopting differing qualifying thresholds for each – a \$50 million threshold for CPCN applications and no threshold for PTC applications. Cal Advocates and SCGC express concerns that, as worded, the Staff Proposal is not clear whether the provisions of Pub. Util. Code Section 1005.5 apply to PTC applications.

7.3. Adopting a \$75 million Threshold for Gas Infrastructure CPCN Applications

We adopt a monetary threshold of \$75 million for gas infrastructure projects requiring a CPCN application and do not adopt Staff's recommendation for a separate PTC application requirement. A \$75 million threshold for a CPCN application ensures focus on the largest projects with the greatest potential to create stranded assets and environmental impacts. As observed by several parties, we find the requirements for the CPCN and PTC categories proposed by Staff to be very similar, with no useful purpose served by maintaining them as separate. Close review of need, project alternatives, and ways to eliminate or mitigate environmental impacts will be helpful for all projects meeting our adopted monetary threshold.

²⁰ For PTC applications, this requirement is contained in Section IV(A)(1) of the Staff Proposal. For CPCN applications, this requirement is contained in Section IV(B) of the proposal. For both PTC and CPCN applications, the Staff Proposal would require a statement of the "reasons why and facts showing that the completion and operation of the proposed facility is necessary to promote the safety, health, comfort, and convenience of the public," in Section VI, "Information Required for PTC or CPCN Applications."

Review of gas infrastructure projects submitted by the gas corporations, other than Pipeline Safety and Enhancement Projects (PSEP) and Transmission Integrity Management Program projects (TIMP), which we exempt from CPCN application requirements as discussed below, leads to the conclusion that three gas infrastructure projects in the last ten years exceeded a \$100 million cost threshold, five exceeded a \$75 million cost threshold, and nine exceeded a \$50 million cost threshold.²¹ All SDG&E gas infrastructure projects over the last decade, which were all PSEP projects, fell within the \$50 to \$75 million cost range. Every project for which a CPCN application is required results in direct costs to ratepayers, including costs to prepare environmental reports, indirect costs, and other costs such as those arising from potential delays from the need to review projects. However, it is necessary to scrutinize large projects to ensure that they create net benefits for customers and local communities and avoid creating stranded assets. A \$75 million threshold reasonably balances these costs, risks, and benefits to ratepayers and local residents.

We disagree with parties that propose a \$50 million threshold (EDF, CforAT) or a \$25 million threshold (UCAN) for the reasons indicated above: each CPCN application process entails costs as well as benefits and we elect to focus our Commission resources on the largest, most costly and potentially environmentally significant projects.

²¹ Note that, although not stated in the submittal, PG&E's project numbers (4) and (6) are PSEP projects. See PG&E, PSEP Final Compliance Report, March 6, 2019, at Table 22-2, available as of October 21, 2022 at:

<https://docs.cpuc.ca.gov/SearchRes.aspx?DocFormat=ALL&DocID=294992975>. See also PG&E Response to the ALJ Ruling Directing Filing of Data and Extending the Filing Date for Comments, July 18, 2022.

We disagree with Sierra Club/CEJA and Cal Advocates that we have insufficient evidence to adopt a monetary threshold for an application requirement. Pursuant to Pub. Res. Code Section Code 21080(a), CEQA applies to discretionary projects approved by this Commission. Our adopted monetary threshold reflects a reasonable inference of the gas infrastructure projects that should receive additional scrutiny by the Commission – for both policy and environmental protection reasons. The Commission is creating a new discretionary review process for a class of projects where this level of scrutiny was previously not required. Correspondingly, CEQA creates no obligation for this Commission to require CPCN or PTC applications for gas infrastructure projects that do not meet the thresholds adopted here.

We decline to review utility environmental information regarding the project lists submitted on June 18, 2022 by the gas utilities, as recommended by Cal Advocates. This information is not currently part of the record of this proceeding. However, we may consider this information in the future as part of the long-term gas planning process that is scoped to occur later in this proceeding.

We do not use the physical properties of infrastructure projects that merit additional review because the monetary threshold concept aligns with a similar approach in Pub. Util. Code Section 1005.5 and is relevant for our consideration of potential stranded assets. We also do not adopt a \$50 million monetary threshold as is included in Pub. Util. Code Section 1005.5 because legislation establishing that statute was adopted in 1985 and inflation since then results in an equivalent value in 2022 real dollars of approximately \$130 million. Thus, a \$75 million dollar threshold strikes an appropriate balance. It does not require the Commission to expend scarce resources to scrutinize routine repair,

maintenance, replacement and minor projects that are necessary to ensure the safety and reliability of the gas system.

We direct the gas utilities to use cost estimation methods based on proven and rigorous industry standards. Utilities shall use “fully loaded” cost estimates that include both direct and indirect costs and shall take into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.²² We do not require the utilities to use a particular method as proposed by some parties. However, the utilities shall use a cost estimation method consistent with Association for the Advancement of Cost Engineering methodologies and appropriate to the project’s stage of development and anticipated technical construction or scope change risk. This approach is reasonable and practicable.

We do not require utilities to include an estimate of “utility proceeds,” defined in the proposed decision as the guaranteed cost of capital investment benefit, within its estimate of direct and indirect costs. The proposed decision’s inclusion of this requirement was based on a misreading of SDG&E’s comments and does not reflect our considerations regarding the appropriate monetary threshold level for a CPCN application requirement. However, we modify Section VI(A)(6) of our adopted GO to require utilities to include an estimate of the guaranteed cost of capital investment benefit to the utility in their CPCN

²² Direct costs are costs for labor, material, services and other expenses incurred to design, engineer, plan, permit, execute and document a project. This includes the development costs, project management, material, construction, inspection, environmental and other project execution activities. Indirect costs are for Administrative & General, purchasing, warehousing, pension and benefits, payroll tax and other costs that are overhead in nature, as well as AFUDC and property taxes.

applications. We agree with PG&E that this information may be useful to consider as part of the application review process, rather than as part of the determination of a project's monetary cost for purposes of triggering a CPCN application.

We decline to annually automatically adjust our adopted monetary trigger level to address inflation, as suggested by SDG&E. Our threshold level is reasonable and clear. However, we may from time to time, in a Commission decision, reconsider this level and adjust it in the future.

We clarify that all projects meeting our adopted criteria and submitting a CPCN application will be required to comply with Pub. Util. Code Section 1001 *et seq.* Requiring this aligns this GO with Pub. Util. Code Section 1001 *et seq.* and ensures attention to the accuracy and reasonableness of the cost estimates provided in applications.

Specifically, when approving projects subject to this GO, we will specify the maximum cost determined to be reasonable and prudent for the facility pursuant to Pub. Util. Code Section 1005.5. Section 15.3 below outlines the cost information we require in CPCN applications to support determination of a maximum project cost pursuant to Pub. Util. Code Section 1005.5.

Additionally, we authorize Commission Staff, in approximately three years, or when feasible, to prepare a short review of implementation of this GO using the \$75 million monetary trigger and to recommend revisions as warranted.

8. Sensitive Receptors Trigger Requirements

8.1. Staff Proposal

The Staff Proposal contains the following environmental trigger requirement for an application requirement:

project is located within 1,000 feet of a sensitive receptor, and operation of the relevant plant, line or extension is likely to result in an increase in criteria air pollutants in a severe or extreme non-attainment area.²³

Related to this, the June 27, 2022 ALJ Ruling asked parties to respond to the following questions:

- Should significant localized environmental impacts from a proposed gas infrastructure project beyond exposure to criteria air pollutants trigger review under the GO as specified in Section IV(A)(1)? If so, what types of environmental impacts should be considered?
- Should other types of parameters (*e.g.*, project size) be included in addition to, or instead of, the triggers specified in Section IV(A)(1)?

8.2. Party Comments

IOUs generally oppose Staff's proposed sensitive receptors trigger for an application requirement as being vague, and thus difficult to implement. The IOUs also allege that the requirement as worded is too broad. The IOUs recommend the Commission not adopt this criterion or revise it substantially if adopted.

Sierra Club/CEJQ/RMI argue that Staff's proposal in this area should be broadened, not further targeted. They state that the sensitive receptors trigger should apply to toxic air contaminants in addition to criteria air pollutants and the trigger should apply to all types of non-attainment areas including "serious" non-attainment areas, not just severe or extreme non-attainment areas.

Sierra Club/CEJA/RMI propose the Commission restructure this provision so that it serves as an exception to the exemptions included in the GO in Section IV(A)(4) rather than serving as a threshold to determine if a PTC

²³ Staff Proposal, Section IV(A)(1).

application is required. Sierra Club/CEJA/RMI propose that the Commission require an application for all gas infrastructure projects one mile or greater in length.²⁴

Sierra Club/CEJA/RMI propose that the Commission reconceptualize this proposed trigger for areas experiencing legacy pollution impacts. These parties assert that in areas experiencing legacy pollution impacts, the Commission should use gas infrastructure applications as opportunities to examine pathways to more meaningful reductions of criteria air pollutant or toxic air contaminant emissions, rather than simply limiting levels of additional emissions.

SoCalGas opposes Sierra Club/CEJA/RMI's proposals. SoCalGas states that reworking this requirement to somehow trigger investigation of more meaningful criteria air pollutant or toxic air contaminant emission reductions could deter safety improvements.

SoCalGas opposes Sierra Club/CEJA/RMI's proposal that the requirement include "serious" non-attainment areas. SoCalGas states that nearly all of its gas infrastructure is located 1,000 feet from sensitive receptors and, if this trigger is adopted, it should be revised to only target more substantial projects.

CforAT recommends the GO require measurement of ambient noise prior to constructing gas infrastructure projects and a forecast of how much construction will increase ambient noise. CforAT contends the Commission should require an application for major infrastructure projects anticipated to have a substantial localized noise, traffic, vibrations, fugitive dust, or other air pollution effects on a neighborhood for more than three-months.

²⁴ Sierra Club/CEJA/RMI Comments on Staff Proposal at A-3.

IOUs oppose CforAT's suggestions. PG&E and SDG&E state that determining if significant impacts were occurring would require gas utilities to perform an environmental assessment for each project prior to submitting an application, subverting the appropriate sequence of assessment of impacts. PG&E states that local air quality permitting, traffic control and local encroachment permit requirements already address the issues identified by CforAT. SoCalGas states the majority of larger gas infrastructure projects require a discretionary permit. SoCalGas states that in the rare circumstance when a discretionary permit is not required from another agency, the utilities must obtain ministerial permits, which affords local agencies the opportunity to review the project for localized impacts, such as for dust control, drainage, and traffic management.

In comments on the proposed decision, PG&E recommends rewording the environmental criterion to require all qualifying projects to be located in a serious, severe or extreme non-attainment area. In comments on the proposed decision, SoCalGas states that toxic air contaminant emissions may sometimes increase when criteria air pollutant emission reduction technologies are installed. SoCalGas also states that local air districts sometimes have rules that establish "allowable risks" for equipment emitting toxic air contaminants.²⁵ SoCalGas recommends the Commission establish a procedure involving the Commission Executive Director to exempt projects resulting in only a "de minimis" levels of pollutant emissions from a CPCN application requirement. In comments on the proposed decision, Sierra Club/NRDC/CEJA recommend that the Commission delink toxic air contaminants from any requirement to be located in a serious,

²⁵ SoCalGas Comments on Proposed Decision at 8.

severe, or extreme non-attainment area, stating that these pertain to criteria air pollutants only. Sierra Club/NRDC/CEJS state that some toxic air contaminants may have no safe exposure levels.

In comments on the proposed decision, PG&E and SoCalGas express concerns that the environmental criterion should not trigger a CPCN application if a gas corporation installs or deploys an emergency backup generator at a compressor station particularly when the utility is replacing an older backup generator that was installed without a permit from a local air quality district with a cleaner one that now requires an air permit. In comments on the proposed decision, Southwest Gas suggests the Commission clarify that the entity obtaining the permit be clearly identified as the gas corporation operating the completed project, not a downstream industrial customer.

8.3. Adopting a “Sensitive Receptors” Trigger

We adopt a second trigger for when a CPCN application is required, namely, when “(1) the project is located within 1,000 feet of a sensitive receptor; and (2) operation of the completed project by the gas corporation requires a permit from the relevant local air quality district for: (a) an increase in levels of a toxic air contaminant;²⁶ or (b) an increase in levels of a criteria air pollutant, if the area is listed as a serious, severe, or extreme non-attainment area for that pollutant.”

This criterion will trigger a CPCN application requirement and public review for gas infrastructure projects projected to increase local criteria air pollution or toxic air contaminant emissions such that the gas corporation is required to acquire a permit from a local air quality district agency. Such

²⁶ Increase in levels of a toxic air contaminant is defined as an increase exceeding (1) de minimis levels or (2), where relevant, allowable limits set by the local air quality district.

projects should be closely scrutinized to identify potential alternatives, including non-pipeline alternatives. This additional scrutiny is necessary regardless of cost, where the potential gas infrastructure project would be located or what type of infrastructure project it is. Additionally, in Section 15.3 below, we adopt requirements that will trigger additional scrutiny of projects proposed to be located in disadvantaged or ESJ communities.

The approach we adopt contains a clear threshold, which will assist us with implementation and ensuring compliance with the GO. As such, the requirement will advance the aims of this GO. Parties did not identify an alternative practicable method to implement this criterion.

We include “toxic air contaminants” in this criterion, as air quality or air pollution permits are also often required for this class of pollutants. We define toxic air contaminants as “an air pollutant which may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health, pursuant to Section 39655 of the California Health and Safety Code,” as suggested by Sierra Club/CEJA/RMI. The California Air Resources Board (CARB) has extensively reviewed toxic air contaminants as required by state and federal law and documented that they cause significant health impacts to humans at a variety of exposure thresholds. In such cases, alternatives to the proposed infrastructure and emission mitigation options must be carefully examined.

In response to comments on the proposed decision, we clarify the environmental criterion to delink toxic air contaminant emissions from non-attainment areas, which, as parties observe, apply to criteria air pollutants only. We also define “increase in toxic air contaminants” as “an increase exceeding (1) de minimis levels or (2), where relevant, allowable limits set by the local air

quality district.” These modifications retain the focus of this criterion on projects with the greatest potential for significant environmental impacts, wherever located, while reducing the likelihood that the criterion will result in a large number of CPCN applications for projects with only “de minimis” toxic air pollutant emission levels. Gas corporations must use discretion when claiming a project is exempt from the environmental criterion for this reason.

We include “serious” non-attainment areas in the definition of this criterion because we seek to ensure environmental protections to the most historically burdened communities that may be impacted by gas infrastructure. Areas designated as in a “serious non-attainment area” for a particular pollutant are likely to disproportionately implicate ESJ communities as defined in our ESJ Action Plan. Including “serious non-attainment areas” in this criterion provides a clear threshold and is reasonable.

We clarify in the definition of “project” included in our adopted GO that the replacement of an emergency diesel backup generator with a lower-emission emergency backup generator is not considered a “project” for purposes of GO 177 and does not trigger a CPCN application requirement. We agree with PG&E and SoCalGas that we do not intend to require a CPCN application for such projects as they do not represent the projects with the greatest potential environmental impacts or ratepayer costs.

We reject Sierra Club/CEJA/RMI’s proposal to require an application for all gas infrastructure projects one mile or greater in length. This approach is impracticable to implement, and the record of this proceeding does not support such a broad requirement. We also reject SoCalGas’s assertion that our adopted criterion impacts thousands of projects located within 1,000 feet of sensitive receptors, because our adopted criterion only addresses projects that additionally

would result in an increase in permitted air pollutants during operation of the gas pipeline or facility.

We reject CforAT's suggestion for an additional assessment of ambient noise or to require an application for major infrastructure projects anticipated to have a substantial localized noise, traffic, vibrations, or fugitive dust on a neighborhood beyond those addressed by the sensitive receptors criterion adopted here or otherwise addressed in the course of the Proponent's Environmental Assessment (PEA) that will be filed concurrent with a CPCN application. We concur with PG&E and SoCalGas that the appropriate locus of review of such potential impacts is with local agencies.

Regarding local jurisdictions, we note that our adopted GO, Section VI, Complaints and Preemption of Local Authority, addresses distinctions between local and state jurisdiction on gas corporation infrastructure. This Commission retains exclusive authority to regulate gas corporations pursuant to Article XI, Section 8 of the California Constitution, which states that, "[a] city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission." Section VII(B) of the GO restates this principle but also states that, in locating gas infrastructure projects:

the public utilities shall consult with local agencies regarding land use matters. In instances where the public utilities and local agencies are unable to resolve their differences, the local agency should promptly file a complaint with the Commission.²⁷

We emphasize Section VII(B) of the GO here, although no party commented on it. The Commission's complaint process is paramount should disputes arise in the course of such consultations and related CPCN applications.

²⁷ Staff Proposal at Section VII(B).

Pursuant to state law and statute, this Commission retains jurisdiction to respond to complaints from local agencies or others for ultimate resolution of any conflicts regarding gas corporation infrastructure. This Commission also retains jurisdiction over gas utility activities for which a CPCN application is not required.

Although we understand the concern, we decline to design this GO as a vehicle to reduce pollution in communities experiencing historical emissions burdens beyond what we can accomplish by closely reviewing every project subject to the adopted GO. The requirement of a CPCN application for projects that trigger an increase in permitted levels of a criteria air pollutant or a toxic air contaminant will result in significant scrutiny of such projects. The Commission's CPCN application requirement in such cases may result in a utility redesigning a project such that a CPCN application with this Commission is no longer triggered or relocating it. Both results should help avoid and decrease pollutant emissions in historically burdened communities. Beyond that, reducing pollution-burden in legacy communities through the targeted retirement of gas infrastructure is an element for consideration in our long-term gas planning efforts.

9. Other Potential Non-Monetary Triggers

9.1. Party Proposals

Several parties propose additional non-monetary triggers for an application requirement, including that an application should be required for:

- a. Substantial projects located in an environmental and social justice community (ESJ community), as defined by the Commission's Environmental and Social Justice Action Plan, or in a disadvantaged community, as defined by SB 535 (De Leon, Stats. 2012, Chapter 830) (proposed by UCAN, EDF, CforAT);

- b. Projects that may result in significant environmental impact as defined by CEQA (proposed by EDF);
- c. Projects located in Location Classes #3 and #4 and/or Location Classes #1 and #2 that are also located in High Consequence Areas as defined in the PSEP program (proposed by EDF);
- d. Projects entailing pipeline construction to increase the backbone system design capacity by more than 150 million cubic feet per day (proposed by SoCalGas);
- e. Projects entailing construction adding an incremental increase of 4,000 compressor horsepower or greater at a compressor station or storage field (proposed by SoCalGas);
- f. Projects that significantly expand backbone or compressor capacity (proposed by SDG&E); or,
- g. Projects driving expansion or addition of capacity at the transmission and backbone level (proposed by EDF).

9.2. Declining to Adopt Additional Non-Monetary CPCN Application Triggers

We decline to adopt the additional non-monetary application triggers proposed by parties. Our adopted triggers as discussed above are practicable and will encompass the most potentially environmentally significant projects for which project alternatives should be most closely scrutinized.

We reject the proposal by UCAN, EDF, and CforAT to require applications for all projects located in ESJ or disadvantaged communities. We concur with the large IOUs that doing so could cause additional delays for projects located in such communities which may otherwise be benign. This has the potential to harm such communities by delaying implementation of necessary safety or reliability improvements. Instead, our sensitive receptors trigger, adopted above, will capture the most potentially impactful projects in communities most heavily impacted by poor air quality. Additionally, in Section 15.3 below we

require additional scrutiny in a gas corporation's CPCN application of projects proposed to be located in ESJ or disadvantaged communities.

We decline to adopt EDF's proposal to adopt the criterion "project may result in a significant environmental impact as defined by CEQA" because this is not a clear threshold and determining whether the threshold was triggered would require an a priori assessment of environmental impacts of the nature intended to be conducted following a CPCN application, if it is determined that a full CEQA review is necessary. We also decline to adopt EDF's proposal regarding High Consequence Areas, as these areas were defined for a different purpose.²⁸

We decline to adopt proposals (d) – (g) above proposed by SoCalGas, SDG&E, and EDF, as these specific types of infrastructure projects are likely to be captured in the \$75 million monetary threshold adopted above. Adopting a monetary threshold is preferable to adopting thresholds based on specific project types as the monetary threshold will capture a greater number and type of high-cost projects of potential environmental concern that should be closely examined for alternatives and need.

10. Defining "Project" for Purpose of the GO

10.1. Staff Proposal

The Staff Proposal does not explicitly define a "project" for purposes of the GO. Instead, Staff align their proposed criteria for an application requirement with statutory language defining Commission jurisdiction over gas corporations.

²⁸ See PHMSA regulations establishing the pressure at which transmission pipelines can operate and regarding preventative maintenance requirements, at 49 CFR 192.5, 195.452 and 192.903.

The concept of “projects” in the Staff Proposal refers to activities involving the “construction or modification... of any plant, line or extension.”^{29, 30}

10.2. Party Comments

A number of parties recommend the Commission define “project” for purposes of the GO. EDF recommends the Commission adopt the definition of project included in CEQA Guidelines Section 15378, a definition which revolves around the concept of the “whole of an action.” EDF posits this would help ensure that projects exceeding the adopted monetary threshold over a longer time period will be captured.³¹ EDF further recommends the Commission direct gas corporations to consolidate “related projects” to ensure that multi-year projects are not allowed to circumvent the requirements of the GO. UCAN expresses similar concerns regarding “piecemealing.”

SDG&E and SoCalGas oppose these recommendations. SDG&E contends the “whole of the action” concept is a “CEQA term of art,” and the IOUs should not use this definition to determine applicability and requirements under the GO. If the Commission wishes to adopt a definition of “project,” SDG&E suggests that it be defined as “a temporary endeavor with a defined scope that

²⁹ Staff Proposal at IV(A)(1).

³⁰ As defined in Pub. Util. Code Section 221, “gas plant” includes all real estate, fixtures, and personal property, owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, underground storage, or furnishing of gas...” Pub. Util. Code Section 222 defines “gas corporation” as every corporation or person owning, controlling, operating, or managing any gas plant for compensation within this state, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

³¹ EDF Comments on Staff Proposal at 5. Projects mentioned by EDF include: “the SoCalGas Ventura Compressor Modernization Project with an expected project cost of \$209.5 million from 2022 to 2028; the SoCalGas Line 235 Repair and Replacement Project with an expected project cost ranging from \$378.4 million (repair option) to \$549.2 million (replacement option); and the SDG&E 49-1 Replacement Project with a capital cost of \$64.3 million.”

has independent utility in the gas system, has a start and completion date, and does not include routine maintenance.”³² SDG&E argues this definition would guard against UCAN’s concern by defining a project as something that is “stand-alone,” or “independent.”³³ In comments on the proposed decision, SoCalGas observes that the definition of “gas plant” contained in Pub. Util. Code Section 221 includes office buildings.³⁴

Southwest proposes that the Commission define project types covered by the GO to include only construction or physical modification of a: (1) liquified natural gas plant or storage facility; (2) compressor station; (3) gas storage facility; or (4) transmission line.

Cal Advocates recommends the GO explicitly identify hydrogen gas infrastructure projects as covered in the GO. SoCalGas opposes this, instead recommending that the Commission require an expedited permit review process for “clean fuel activities” such as hydrogen gas infrastructure to reflect the importance of these fuels to California’s carbon-neutrality goals.

10.3. Adopting a Definition of “Project” for Purposes of the GO

We define “project” for purposes of this GO as the “construction or physical modification of any gas plant with independent utility in the gas system, including compressor or regulator stations, any pipeline or pipeline extension, or any expansion of an existing gas storage field.” Defining a project in this way will help clearly demarcate individual projects within the broad range of utility infrastructure activities. Additionally, adopting this definition

³² SDG&E Comments on Staff Proposal at 14.

³³ *Id.* at 18.

³⁴ See footnote summarizing Pub. Util. Code Sections 221 and 222 above.

will help ensure that infrastructure projects for which revenue recovery is requested sequentially over time will be considered as a single project and subjected to a single CPCN application requirement. Gas corporations must not skirt our CPCN application requirement by proposing various phases of a single project over time, each phase of which may cost less than our \$75 million threshold.

For purposes of this GO, “gas plant” excludes gas corporation office buildings. This is a reasonable clarification to avoid unintended outcomes related to the installation of heating or cooling equipment at gas corporations’ office buildings. The installation at a gas corporation office building of equipment such as a boiler or electric generator that requires a permit from an air quality management district does not trigger the requirement for the gas utility to obtain a CPCN. We add this exclusion to those listed in the footnote to the definition of a “project” of the GO in Appendix A.

We do not adopt CEQA language defining a “project,” including with the phrase “whole of the action,” as this is not necessary here. The CEQA review that accompanies the CPCN application will adhere to CEQA requirements, but a simple definition of project is sufficient for purposes of the application requirement under this GO. We do not adopt either SDG&E or UCAN’s proposed definitions as they lacked clarity or were inappropriate for our purposes here.

We do not limit the types of activities that may qualify as a “project” under this definition to those identified by Southwest. This is because, as discussed in Section 12.6.3 below, we include all sizes of pipelines within the scope of the GO, with the exception of service pipelines connecting to customer

facilities and work on customer meters.³⁵ As discussed with regard to our adopted sensitive receptors trigger threshold, it is appropriate for this Commission to require a CPCN application for any type of project that meets this criterion, regardless of size or cost, subject to the GO exemptions outlined here. Southwest does not provide any rationale to explain why an infrastructure project falling outside certain categories (*i.e.* (1) liquified natural gas plant or storage facility; (2) compressor station; (3) gas storage facility; or (4) transmission line) should not receive scrutiny under this GO if it meets the monetary or environmental triggers we adopt here.

We decline to specifically identify hydrogen gas infrastructure projects as covered by the GO at this time.

11. Emergency Projects

11.1. Staff Proposal

The preamble to Section IV of the Staff Proposal identifies certain work that would not be covered by the proposed GO, including emergency projects as defined by CEQA Guidelines Section 15269 and Pub. Res. Code Section 21060.3.³⁶ Staff propose, however, that gas utilities invoking an exemption for emergency projects shall nonetheless comply with the notification requirements set forth in Section V(C) (“Notification Requirements for Claimed Exemptions”).³⁷

³⁵ We use the term “service pipeline connecting to customer facilities” synonymously with the terms “service lateral,” or “service pipe” as used in the gas utility’s Gas Tariff Rule No. 16.

³⁶ The Staff Proposal additionally identifies projects excluded from the GO as those involving the installation of environmental monitoring equipment, or any soil or geological investigation, or work to determine feasibility of the use of a particular site for the proposed facilities that does not result in a serious or major disturbance to an environmental resource.

³⁷ Staff Proposal at Section IV.

11.2. Party Comments

SDG&E supports excluding emergency projects from the GO. SDG&E recommends that the Commission not require compliance with Section V(C) notification requirements for excluded emergency projects. SDG&E observes that the Staff Proposal would require notifications of emergency projects even if the emergency project would not otherwise trigger an application requirement, making the noticing requirement for emergency projects broader than for any other category of exempted projects. SDG&E argues that giving notice of such projects serves no useful purpose and adds burden to both the noticing utility and the receiving entities. SDG&E requests the Commission clarify, at minimum, that the required notice may be given after implementation of the emergency project has begun.

PG&E concurs with SDG&E on this point, observing that GO 131-D requires neither an application nor a notice for emergency projects. UCAN disagrees and recommends the Commission require notifications regarding temporary emergency repair projects.

In comments on the proposed decision, EDF requests that the filing deadline for notifications of claimed emergency exemptions be reduced from 90 to 60 days, stating that this better balances utilities' ability to carry out emergency projects and the opportunity for stakeholders to provide meaningful input. In comments on the proposed decision, Sierra Club/CEJA/NRDC indicate concerns that the definition of "emergency project" may be too broad.

11.3. Exempting Rather Than Excluding Emergency Projects

We add emergency projects as an exempted project type into Section IV(B)(c), defined as follows:

emergency projects (for example: repairs, upgrades, replacements, restorations) as defined by CEQA Guideline § 15269 and Pub. Res. Code §§ 21060.3 and 21080(b)(2) & (4) to ensure reliable gas supplies.

We continue to require exemption notices for emergency projects, so defined, that also meet our adopted thresholds for a CPCN application requirement. However, we will not require gas corporations to submit notices of claimed exemptions for emergency projects until 60 days after the emergency project has commenced construction. We find this achieves a reasonable balance that allows gas corporations to begin work on urgent emergency projects as necessary, but that also provides an opportunity for affected community members, local governments, stakeholders and this Commission to learn about the project. A noticing requirement prior to commencement of construction of emergency projects is inappropriate because the focus at that time should be on addressing the emergency situation in an expedited fashion.

Based on comments on the proposed decision, we do not expand the definition of projects covered by this exemption from Staff's proposed language to include "emergency repairs or upgrades to ensure reliable gas supplies." Instead, the final decision clarifies the emergency situations where this exemption may be claimed. This retains the intent of the GO to not impede rapid implementation of repairs or improvements to address emergency situations, including when the ability of the utility's gas system to meet its backbone, peak day, and cold day design standards is threatened, while also minimizing potentially inappropriate exemption claims.

12. Exemptions

In Section IV(A)(3) of the Staff Proposal, Staff propose seven exemptions to the general application criteria included in Section IV(A)(1) of the GO. Staff

propose that projects that meet the two threshold criteria for a CPCN application requirement that also meet the defined exemption criteria would not be required to file a CPCN application. However, Staff propose that such projects would be required to comply with notification requirements for claimed exemptions.

Below are Staff's proposed exemption criteria:

- a. replacement of existing facilities or structures with equivalent facilities or structures in a manner consistent with CEQA Guidelines §§ 15300.4 and 15302(c); or
- b. minor relocation, repairs, maintenance or alterations of existing facilities in a manner consistent with CEQA Guidelines §§ 15300.4 and 15301(b); or
- c. the placing of new equipment on or replacement of supporting structures already built consistent with CEQA Guidelines §§ 15300.4, 15301(b), and 15302(c); or
- d. facilities to be relocated, modified or constructed which have undergone environmental review pursuant to CEQA as part of a larger project, and for which the final CEQA certified document (Environmental Impact Report (EIR) or Negative Declaration) finds no significant unavoidable environmental impacts caused by the proposed line or substation; or
- e. any plant, line or extension that is required by the California Geologic Energy Management Division (CalGEM) or the Pipeline and Hazardous Materials Safety Administration (PHMSA) for safety or reliability reasons; or
- f. construction, replacement or repair of distribution pipelines that are 12 inches in diameter or less; or
- g. projects previously approved in a General Rate Case or other Commission decision which are currently underway.

We adopt a modified version of the Staff Proposal for two of Staff's proposed exemptions, exemptions (e) and (g). We do not adopt Staff's proposal to exempt all pipelines 12 inches or less in diameter from a CPCN application

requirement. Instead, any pipeline project, other than on service pipelines connecting to customer facilities and work on customer meters, that meets the threshold criteria adopted in Sections 7.3 and 8.3 above (Section IV(A) of the GO), will be required to file a CPCN application pursuant to the GO, unless one of our adopted exemptions apply.

We do not adopt Staff's proposed exemptions (a), (b), or (c), as we find these unnecessary given the other requirements adopted here. We do not adopt Staff's proposed exemption (d) because we do not find it reasonable.

We adopt Staff's proposal that gas corporations must submit notices of claimed exemptions for all exempted projects.

12.1. Replacement of Existing Structures by Equivalent Structures

12.1.1. Staff Proposal

The Staff Proposal at Section IV(A)(3)(a) would exempt from an application requirement "replacement of existing facilities or structures with equivalent facilities or structures in a manner consistent with CEQA Guidelines §§ 15300.4 and 15302(c)." ³⁸

12.1.2. Party Comments

SDG&E suggests this exemption use the same "replacement or reconstruction" language found in CEQA Guideline § 15302. SDG&E requests that the Commission clarify that the location of a replacement pipeline or other structure may be adjusted to enhance safety, ease construction or reduce costs. SDG&E contends that replacing gas system facilities in a somewhat different location often makes sense for safety, construction, cost or development reasons, and argues that concern about potential environmental impacts should be

³⁸ Staff Proposal at Section IV(A)(3)(a).

mitigated if the new location is located in franchise (usually roads) or existing utility easements.

Sierra Club/CEJA/RMI oppose SDG&E's recommendations stating that SDG&E fails to provide any evidence that pipeline relocation projects will not have a significant environmental effect.

**12.1.3. Rejecting Staff's Proposed
Exemption IV(3)(a), Replacement of Existing
Structures by Equivalent Structures**

We decline to adopt Staff's proposed exemption IV(3)(a). We anticipate that projects entailing replacement of existing structures by equivalent structures are unlikely to meet the \$75 million monetary trigger or the sensitive receptors trigger, which are pre-requisites for a CPCN application requirement. Further, this exemption duplicates a CEQA categorical exemption that will apply as part of the Commission's CEQA review of any CPCN application. Once a CPCN application is filed, Commission staff will consider whether any CEQA exemptions apply as part of the Commission's environmental review process.

Including this exemption in this GO would make it more complicated without a corresponding benefit. Eliminating this exemption will simplify and streamline implementation of this GO.

**12.2. Minor Relocations, Repairs,
Maintenance or Alterations**

12.2.1. Staff Proposal

The Staff Proposal at Section IV(A)(3)(b) exempts from an application requirement "minor relocation, repairs, maintenance or alterations of existing facilities in a manner consistent with CEQA Guidelines §§ 15300.4 and 15301(b)."³⁹ CEQA Guideline § 15301 exempts from CEQA "the operation,

³⁹ Staff Proposal, Section IV(A)(3)(b).

repair, maintenance, ... or minor alteration of existing public or private structures [or] facilities ... involving negligible or no expansion of existing or former use,” including, under Section 15301(b), “[e]xisting facilities of both investor and publicly owned utilities used to provide electric power, natural gas, sewerage, or other public utility services.”⁴⁰

12.2.2. Party Comments

SDG&E supports Staff’s proposal in this area and requests the Commission clarify that projects undertaken to comply with federal regulations are included in this exemption. SDG&E states that it is continuously undertaking thousands of such projects, and it is not helpful nor cost-efficient to require noticing of such projects under the GO.

SDG&E requests the Commission clarify that work undertaken to recondition an existing pipeline as defined in GO 112-F, Section 125.3(c) and work to install pressure regulation devices, automatic shut-off valves, block valves or similar devices on existing pipelines, or to retrofit existing pipelines to accommodate in-line inspection devices falls under this exemption, contending that such work is required to comply with Pub. Util. Code Section 957 and 958.5 and enhances the safety and reliability of the existing gas system.

12.2.3. Rejecting Staff’s Proposed Exemption Section IV(3)(b), Minor Relocations, Repairs, Maintenance or Alterations

We decline to adopt Staff’s proposal for exemption (b) regarding minor relocations, repairs, maintenance or alterations based on the same reasoning that we used to reject Staff’s proposed exemption IV(3)(a), regarding replacement of existing structures by equivalent structures. Projects entailing minor relocations,

⁴⁰ SDG&E Comments on Staff Proposal at 9.

repairs, maintenance or alternations are unlikely to meet the \$75 million monetary trigger or the sensitive receptors trigger, which are pre-requisites for a CPCN application requirement. Similar to Staff's proposed exemption IV(3)(a), this exemption duplicates a CEQA categorical exemption which will apply as part of the Commission's CEQA review of any CPCN application. Eliminating this exemption will simplify and streamline implementation of this GO.

12.3. Rejecting Staff's Proposed Exemption Section IV(3)(c)

No party commented on this element.

We decline to adopt Staff's proposal for exemption (c) regarding the placing of new equipment on or replacement of supporting structures already built consistent with CEQA Guidelines §§ 15300.4, 15301(b), and 15302(c)⁴¹ based on the same reasoning that we used to reject Staff's proposed exemptions IV(3)(a) and IV(3)(b) above. Projects falling under this category are unlikely to meet the \$75 million monetary trigger or the sensitive receptors trigger, which are pre-requisites for a CPCN application requirement. Similar to Staff's proposed exemptions IV(3)(a) and IV(3)(b), this exemption duplicates a CEQA categorical exemption which will apply as part of the Commission's CEQA review of any CPCN application. Eliminating this exemption will simplify and streamline implementation of this GO.

12.4. Projects with Completed CEQA Documents

12.4.1. Staff Proposal

The Staff Proposal Section IV(A)(3)(d) recommends the Commission exempt projects with completed final CEQA documents from application requirements, as follows:

facilities to be relocated, modified or constructed which have undergone environmental review pursuant to CEQA as part of a larger project, and for which the final CEQA certified document (Environmental Impact Report (EIR) or Negative Declaration) finds no significant unavoidable environmental impacts caused by the proposed line or substation.⁴²

12.4.2. Party Comments

SDG&E, SoCalGas, and CVGS recommend the Commission exempt all gas infrastructure projects that have previously undergone CEQA review from application requirements, rather than identify a limited number of CEQA review outcomes where the exemption would apply.

Sierra Club opposes SDG&E's recommendation, stating that the Commission should instead analyze projects that have undergone prior CEQA review to see if CEQA supplemental review requirements apply.

12.4.3. Rejecting Staff's Proposed Exemption Section IV(3)(d), Projects with Completed CEQA Documents

We decline to adopt Staff's proposed exemption (d), projects with completed CEQA documents. Under CEQA, review by a lead agency does not relieve other agencies from their CEQA review obligations. Further, there may be circumstances under which another agency performs CEQA review of a proposed gas infrastructure facility as part of review of a larger project. It is not reasonable for a proposed project to be exempt from submitting an application to the Commission for review under this GO based on this criterion.

⁴² Staff Proposal at IV(A)(3)(d).

12.5. Projects Required by CalGEM, PHMSA, or Other Regulatory Agency

12.5.1. Staff Proposal

The Staff Proposal at Section IV(A)(3)(e) recommends the Commission exempt from application requirements the following:

any plant, line or extension that is required by the California Geologic Energy Management Division (CalGEM) or the Pipeline and Hazardous Materials Safety Administration (PHMSA) for safety or reliability reasons.⁴³

12.5.2. Party Comments

The gas corporations support this exemption and recommend expanding it. SoCalGas contends the Commission should exempt from application requirements all activities required to ensure gas system safety and reliability required by any regulatory agency, not just by CalGEM or PHMSA. SoCalGas recommends this exemption apply to all regulatory compliance projects, including environmental compliance projects such as those required by air quality management districts and regional water quality control boards, not just safety regulatory compliance projects. SoCalGas states that requiring the utilities to seek approval from the Commission for mandatory compliance work being performed under the primary discretionary authority of another public agency with the greatest responsibility for approving the project is duplicative and risks causing undue delay.

SDG&E supports Staff's proposal and requests the Commission amend the exemption to include "modifications" and to apply to any work required by a regulatory agency with jurisdiction over gas infrastructure. SDG&E states this exemption should also apply to work undertaken to clear conflicts required by

⁴³ Staff's Proposed GO, Section IV(A)(3)(e).

franchise agreements when triggered by government road, water, or sewer projects and work pursuant to the requirements specified in GO 112-F.

Sierra Club/CEJA/RMI oppose exempting any safety or reliability work from application requirements, stating that there is no legal or evidentiary basis for this.

**12.5.3. Adopting a Modified Version of Staff's
Proposed Exemption Section IV(3)(e),
Projects Required by CalGEM, PHMSA, or
Other Regulatory Agency**

We adopt Staff's proposed exemption (e) regarding projects required by CalGEM, PHMSA, or other regulatory agency with modifications to reflect IOU comments and to provide additional clarification, as follows:

any plant, line, extension, repair, replacement, or modification of existing facilities or structures that is required pursuant to a California Geologic Energy Management Division (CalGEM) Emergency Order or regulation, the Pipeline and Hazardous Materials Safety Administration (PHMSA), this Commission, or any other regulatory agency for safety reasons.

We concur with the IOUs that projects required by any regulatory agency for safety reasons should be exempt from CPCN application requirements. Exempting projects required by other agencies for safety reasons from permit requirements helps ensure timely utility compliance with those regulations and the accompanying public safety or reliability of gas supplies. This includes PSEP projects previously approved by this Commission.

Our adopted GO will require gas corporations to file notices of a claimed exemption for such projects, so we will have the ability to study and revisit the scope of this exemption in the future, if warranted.

12.6. Distribution Pipelines

12.6.1. Staff Proposal

The Staff Proposal at Section IV(a)(3)(f) recommends the Commission exempt from application requirements the “construction, replacement or repair of distribution pipelines that are 12 inches in diameter or less.” As with other exemptions, Staff propose requiring gas corporations to file a notice of claimed exemption for such projects.

The June 27, 2022 ALJ ruling requests party comment on the following questions:

- Should this exemption be modified? If so, how?
- Should other parameters such as pipeline length, volume of gas delivered, or pipeline operating pressure also be considered in determining whether a distribution pipeline should be exempt?

12.6.2. Party Comments

The gas corporations generally support Staff’s proposed exemption for pipelines with a diameter of 12 inches in diameter or less. Intervenor parties generally oppose this exemption.

SoCalGas, PG&E, and SDG&E argue the Commission should exclude distribution pipelines 12 inches in diameter or less from the GO, rather than exempt such projects from application requirements. The gas utilities argue that excluding rather than exempting smaller distribution pipeline projects would mean that gas utilities would not be required to file thousands of notices of claimed exemptions for routine repair activities. This would reduce uncertainty and avoid unnecessary costs and delays to ratepayers, they argue. SoCalGas

states that it installed 27,000 new customer meters in 2021 and such activities are unlikely to have significant environmental impacts.⁴⁴

SDG&E proposes that the Commission exclude distribution mains and distribution service laterals as defined in Gas Tariff Rule 16 from the GO, rather than exempting them from an application requirement. PG&E supports excluding distribution pipelines from the GO and argues that stakeholders may use Commission complaint processes should they have concerns about small diameter distribution pipeline projects.

UCAN also supports excluding distribution networks and minor relocations of pipelines from the GO, stating that such projects are typically small, low cost, and necessary for safety. Instead, UCAN proposes that the gas utilities be required to file applications for any proposed line that will operate at 60 lbs. per sq. inch (psi) or higher, or where the combined lengths of the pipelines being built or replaced exceeds ten miles in length. PG&E and SDG&E oppose this UCAN suggestion. PG&E states that there is no evidence that higher pressure distribution lines result in significantly greater environmental impacts, costs or increased risk of stranded costs. SDG&E states that nearly all of SDG&E's distribution system operates at a Maximum Allowable Operating Pressure (MAOP) of 60 psi, thus UCAN's suggestion is impracticable.

Sierra Club/CEJA/RMI argue that some distribution projects are highly likely to create environmental impacts and this this type of activity should not be categorically excluded from the GO. Sierra Club/CEJA/RMI state that repurposing distribution lines to carry hydrogen or changes in large industrial companies' pipelines and throughput are examples of distribution projects that

⁴⁴ SoCalGas Comments on Staff Proposal at 9.

should be reviewed. Sierra Club/CEJA/RMI further contend that such projects should not be addressed through a complaint process because communities by pipeline projects are not likely to be aware of such projects without a notification process.

Sierra Club/CEJA/RMI recommend the Commission exclude residential meters and connections from claimed distribution pipeline exemption noticing requirements.

EDF proposes the GO apply to all distribution projects because all pipelines can leak methane, regardless of size. Design of an exemption from application requirements for distribution projects should consider factors like leakage rates, pipeline materials, and non-pipeline materials, EDF states.

PG&E and SDG&E oppose these intervenor recommendations. PG&E states that work on PG&E's distribution pipelines that are 12 inches in diameter or less includes dozens of categories of capital projects ranging from service replacements to installation of meters. SDG&E similarly argues that requiring an application for distribution pipeline projects could affect thousands of projects annually.

12.6.3. Including Distribution Pipelines in the Adopted GO and Rejecting Staff's Proposed Exemption Section IV(A)(3)(f)

With the exception of service pipelines connecting to customer facilities and work on customer meters, we neither exempt nor exclude distribution pipelines of 12 inches in diameter or less from the adopted GO. Instead, as discussed above, gas corporations are required to file a CPCN application for any distribution pipeline of 12 inches in diameter or less that meets one of our adopted threshold criteria, namely the \$75 million monetary threshold and the

sensitive receptors criterion (*see* Sections 7.3 and 8.3 above). We expect this to be a modest number of distribution pipeline projects.

In substantiating concerns with the inclusion of distribution pipeline projects in this GO, the gas utilities primarily refer to the potential for unnecessary delay and waste of resources if work on service lines and residential meters is subject to the CPCN application requirements we adopt here. We address these concerns by excluding service pipelines connecting to customer facilities and work on customer meters from the GO completely. This means that no exemption notices would be required for such projects in the extremely unlikely event that such a project would meet our CPCN application requirement thresholds. As noted above, the intent of the GO is to ensure that only projects likely to have significant environmental and/or community impacts are deeply scrutinized.

We decline to exclude smaller distribution pipelines entirely from the GO as recommended by the IOUs as this is not necessary given our threshold criteria. Additionally, we wish to collect information on planned distribution projects that meet our adopted threshold criteria but qualify for other exemptions. Section 16 below, addressing Section X (Report of Planned Gas Investments) of the GO discusses reporting requirements.

This approach ensures that we focus Commission review on the projects most likely to cause significant environmental harms or substantial costs to ratepayers.

We disagree with intervenor parties that this GO should be designed to result in Commission-level review of the majority of new distribution line extension projects. Such an outcome is impracticable and would not be a good use of Commission resources given that such projects are likely to have limited

community and environmental impacts. We also do not believe this would support positive outcomes for local communities, as this could result in the delay of innocuous projects necessary to support reliable gas service in the short term. Instead, much of the remainder of Track 2 work in this proceeding will develop a process to identify criteria to selectively avoid new distribution line infrastructure and to “prune” existing gas distribution line infrastructure, where feasible and beneficial.

We decline to adopt UCAN’s suggested criteria regarding gas infrastructure operating at 60 psi or greater, as we do not find this to be a practicable method to distinguish between projects. We also do not envision this GO as addressing leaking pipelines per se, and as such decline to adopt EDF’s suggested approach as well. The Commission addressed the issue of leak abatement in D.17-06-015, which created a Natural Gas Leak Abatement Program in accordance with SB 1371.

12.7. Projects Previously Approved by this Commission

12.7.1. Staff Proposal

The Staff Proposal in Section IV(A)(3)(g) recommends that “projects previously approved in a GRC or other Commission decision which are currently underway” should be exempt from an application requirement.

12.7.2. Party Comments

IOUs and intervenors generally differ on which projects should be grandfathered in as exempt from an application requirement, with intervenors contending the grandfathering exemption as proposed by Staff is too broad, and gas corporations largely supporting it. Cal Advocates proposes defining projects that are “currently underway,” as previously approved projects that have approved permits or are in construction. The Sierra Club and EDF propose the

Commission exempt from application requirements those projects that have commenced construction by June 1, 2022.

The gas corporations, particularly PG&E, disagree with limiting the grandfathering exemption to projects that have secured all required permits or have commenced construction. PG&E observes there are significant costs and that it takes many years to bring projects to the permitting phase. PG&E further contends that system planners assume that projects that have been previously approved by the Commission will be placed into service on their in-service date as planned. Delaying or discontinuing such projects creates risk, PG&E states.

SoCalGas opposes any “relitigation” of projects previously approved in a GRC application. SoCalGas states that requiring additional Commission review of such projects could halt authorized projects that have been under development for many years.

SDG&E contends that work undertaken according to the gas PSEP plans required in D.11-06-017 or D.14-06-007, pursuant to Pub. Util. Section 958, should be exempt from the application requirement. SDG&E opposes the intervenor’s proposals for defining work “currently in process,” stating that adopting them could cause delays of up to 38 months for necessary safety or reliability work.

In comments on the proposed decision, SoCalGas and SDG&E suggest that the “grandfathering” clause should be revised to include projects that have submitted an application for the approval of a compliance project from an air district, prior to the effective date of the GO.

**12.7.3. Adopting a Modified Version of Staff's
Proposed Exemption Section IV(3)(g),
Projects Previously Approved by this
Commission**

We modify Staff's proposed exemption (g) to address previously approved projects. We determine that projects that have a scheduled in-service date occurring before January 1, 2024, and projects for which an application for approval has been submitted to an air quality management district for compliance with an environmental rule, prior to the effective date of this GO, shall be exempt from filing a CPCN application. We agree with PG&E that significant work and costs are incurred to bring large infrastructure projects to the point of readiness to apply for required permits, of which there may be many. However, PG&E did not provide us with information to substantiate this concern or identify the types of projects it may be referring to. The record of this proceeding lacks information on how significant the expenses incurred to bring a project to the permitting application stage might be. We anticipate that many such projects are likely to be exempt under other provisions of the GO.

It is reasonable that we require CPCN applications for projects with a scheduled in-service date on or after January 1, 2024 that are not otherwise exempt. Adopting an in-service date that is over 12 months away from the date of this decision gives utilities sufficient planning and lead time while exempting projects that are relatively close to fruition.

Likewise, it is reasonable to exempt from a CPCN application requirement projects for which an application for approval has been submitted to an air quality management district for compliance with an environmental rule prior to the effective date of this GO. Including this exemption allows projects planned to comply with local air quality management district environmental

requirements that required substantive time and resources to develop to move forward in a streamlined fashion.

We agree with parties that Section IV(A)(3)(g) of the Staff Proposal – which recommends that “projects previously approved in a General Rate Case or other Commission decision which are currently underway” should be exempt from the application – lacks clarity and is subject to interpretation without the adopted clarification.

Within 60 days of issuance of this decision, each respondent gas utility⁴⁵ shall file and serve a list of gas infrastructure projects that are scheduled to be in-service before January 1, 2024 that have a cost exceeding \$75 million or where (1) the project is located within 1,000 feet of a sensitive receptor; and (2) operation of the completed project by the gas corporation requires a permit from the relevant local air quality district for: (a) an increase in levels of a toxic air contaminant;⁴⁶ or (b) an increase in levels of a criteria air pollutant, if the area is listed as a serious, severe, or extreme non-attainment area for that pollutant. Each respondent shall include in this list, clearly indicated, projects for which an application for approval has been submitted to an air quality management district for compliance with an environmental rule, prior to the effective date of this GO. Each respondent gas utility shall provide, for each project listed, the information identified in Section V(C)(2) of the adopted GO.

⁴⁵ See *Order Instituting Rulemaking to Establish Policies, Processes, and Rules to Ensure Safe and Reliable Gas Systems in California and Perform Long-Term Gas System Planning*, Section 6.

Respondents to this rulemaking are Alpine Natural Gas, PG&E, SoCalGas, SDG&E, Southwest Gas, West Coast Gas Company, Inc., Wild Goose Storage, Lodi Gas Storage, Gill Ranch Storage, Central Valley Gas Storage, Sacramento Natural Gas Storage, LLC.

⁴⁶ Increase in levels of a toxic air contaminant is defined as an increase exceeding (1) de minimis levels or (2), where relevant, allowable limits set by the local air quality district.

12.8. Additional Exemptions Proposed by Parties

12.8.1. Party Proposals

In response to the June 27, 2022 ALJ ruling, several parties propose additional exemptions from an application requirement. PG&E and SDG&E propose the Commission exempt from an application requirement the following:

- a. Projects in an existing franchise or public utility easement;
- b. Projects required for reliability purposes; and,
- c. Projects statutorily or categorically exempt from CEQA.

CVGS requests the Commission clarify that projects undertaken by independent storage providers included within the scope of existing CPCN and CEQA approvals are exempt from any additional application requirements. CVGS identifies the natural gas facility approved by the Commission in D.10-10-001 as an example of the type of storage project that should be exempt from any additional application requirement.

12.8.2. Party Comments

Sierra Club/CEJA/RMI oppose the additional exemptions from application requirements proposed by SDG&E and PG&E.

UCAN opposes CVGS's proposal, stating that if a substantial expansion such as the installation of a compressor station is planned, the project should be required to file an additional application.

12.8.3. Declining to Adopt Additional Exemptions

We do not adopt any of the additional exemptions proposed by parties. These exemptions are too broad as proposed. In Section 11.3 above, we adopt a new exemption for emergency and emergency repairs or upgrades to ensure safe and reliable gas service. This appropriately limits the types of safety and reliability projects that should be exempt from additional scrutiny. We do not

adopt PG&E and SDG&E's proposed exemption for projects statutorily or categorically exempt from CEQA, because this is too broad.

We clarify that independent storage projects that have previously undergone CEQA review and are included in the existing property boundary of a current CPCN are excluded from additional CPCN application requirements under the GO. However, any storage expansion project that meets the criteria and definitions adopted here must apply for a CPCN application as stated in our adopted GO. Amongst other issues, this GO is concerned with ensuring prudent investments in the gas infrastructure system, and this includes gas storage infrastructure expansions beyond the existing property boundary of a CPCN. Section 17.3 defines "expansion of an existing gas storage field."

13. Exceptions to Exemptions

13.1. Staff Proposal

The Staff Proposal recommends the Commission adopt six exceptions to the exemptions listed in Section IV(A)(3). As proposed by Staff, an "exception to an exemption" means that a project that would otherwise not be subject to a CPCN application, because it met the GO's exemption criteria, would have to file such an application if it met the criteria of an exception to an exemption. Staff's proposed exceptions to the exemptions are as follows:

- a. there is a reasonable possibility that the project may impact an environmental resource of hazardous or critical concern designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies;
- b. the cumulative impact of successive projects of the same types, in the same place, over time is significant;
- c. there is a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances;

- d. the project may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. However, this exception does not apply to improvements which are required as a mitigation by an adopted negative declaration or certified EIR;
- e. the project is located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code; or,
- f. the project may cause a substantial adverse change in the significance of a historical resource.

13.2. Party Comments

Party comments on Staff's proposed exceptions to exemptions in the GO address three areas: (1) how the Commission should structure exceptions to exemptions; (2) disadvantaged communities; and (3) Staff's proposed sensitive receptors criterion.

SoCalGas argues that the Staff Proposal inappropriately incorporates CEQA exceptions into utility determinations of whether an application is required. SoCalGas recommends Commission delete all of Staff's proposed exceptions from the adopted GO. SoCalGas argues that doing so would help restructure the adopted GO to better align it with CEQA requirements.

SoCalGas contends that, under CEQA, the exceptions determine if a project no longer qualifies for a CEQA exemption only after an application has been submitted.

With regards to disadvantaged and ESJ communities, PG&E proposes that the Commission add a new exception to the list of Staff's proposed exemptions as follows:

there is a reasonable possibility that the activity will have a significant effect on the environment due to its location within an [ESJ or SB 535 disadvantaged] community.”⁴⁷

PG&E argues that projects occurring in disadvantaged or ESJ communities deserve special consideration. As such, PG&E contends the Commission could consider a project’s location within a disadvantaged or ESJ community as a factor in determining whether an application is required for an otherwise-exempt project. PG&E states that this is preferable to adopting a permit trigger for all projects located in disadvantaged or ESJ communities, which PG&E opposes.

As discussed in Section 8.2 above, Sierra Club/CEJA/RMI argue that the Commission should adopt a sensitive receptors criterion as an exception to the list of exemptions rather than as a threshold trigger for an application requirement.⁴⁸

13.3. Declining to Adopt Exceptions to Exemptions as Proposed by Staff (Section IV(A)(4))

We do not adopt the exceptions to exemptions contained in the Staff Proposal. These broadly worded exceptions can introduce uncertainty into implementation, and as SoCalGas notes, create a frequently disputed, and unnecessarily burdensome administrative process to determine applicability of the GO. Further, the exceptions as written are in some cases vague. Exceptions (b) and (c) overlap substantially with our adopted sensitive receptors criterion, especially since the criterion is triggered in heavily impacted air communities.

We believe that it is preferable to omit these exceptions at present. There may, however, be instances where a gas utility’s exemption claim is not well

⁴⁷ PG&E Reply Comments on Staff Proposal at 17. Use of [] in the original.

⁴⁸ Sierra Club/CEJA/RMI Comments on Staff Proposal at 6.

supported. The Commission's complaint process gives stakeholders a mechanism to contest a gas utility's exemption claim. Similarly, Commission Staff should inform the Executive Director, and the assigned ALJ and Commissioner in this or any successor proceeding of any instances where Staff believe a gas utility has inappropriately claimed an exemption under our adopted GO. This Commission will investigate such instances as warranted.

We also do not adopt the additional exceptions to exemptions proposed by PG&E and Sierra Club/CEJA/RMI. Instead, regarding PG&E's proposal, we address the potential location of a gas infrastructure facility in a disadvantaged or ESJ community by requiring additional information in relevant project CPCN applications, as discussed in Section 15.3 below. Requiring corporations to consider, and for the Commission to undertake, additional evaluation of alternatives for projects proposed to be located in a disadvantaged or ESJ community addresses the similar concerns identified by PG&E, but with greater clarity and specificity to the circumstances surrounding actual proposed projects.

We do not adopt Sierra Club/CEJA/RMI's proposal because in Section 8.3 above we have adopted a threshold criterion for sensitive receptors that is clear and practicable.

14. Notification Requirements for Claimed Exemptions

14.1. Staff Proposal

Section V of the Staff Proposal sets forth Staff's proposed notification requirements for claimed exemptions.

The June 27, 2022 ALJ ruling asks the following regarding Staff's proposed notification requirements:

Should certain types of infrastructure projects be exempt from any of the notification requirements in Section V? If so, what types of projects should be exempt? Should any modifications be made to the notification...requirements provided in Section V?

14.2. Party Comments

Intervenor parties generally support Staff's proposal regarding notification requirements, while gas corporations generally oppose them. The gas corporations state that the notification requirements in the Staff Proposal are too broad. SoCalGas proposes deleting the entirety of Section V(C) of the Staff Proposal from the adopted GO. Section V(C) addresses notification requirements for all claimed exemptions.

SDG&E objects that the Staff Proposal as worded would require noticing for thousands of maintenance projects. SDG&E asserts that it undertakes thousands of maintenance, repair and relocation of existing gas infrastructure projects for service lines each year. SDG&E states these projects are typically triggered by requirements specified in GO 112-F and PHMSA regulations, as well as by work to clear conflicts required by franchise agreements relating to government road, water, or sewer projects. SDG&E states that although this work would be exempt from application requirements under Staff's proposed exemptions in Sections IV(A)(3), notification pursuant to Staff's proposed Section V(C) would still be required. SDG&E states that at a minimum, new service lines should not require advice letters or other notifications. SDG&E further argues that maintenance, repair, and relocation work on the existing gas system should be excluded from the Section V(C) notification requirement.

Sierra Club/CEJA/RMI state that notifications should be required in all instances when a gas corporation asserts an exemption to a permit requirement. Sierra Club/CEJA/RMI propose additions to Staff's proposed Section V to reflect

requirements contained in recently passed legislation, AB 819 (Levine, Stats. 2021, Chapter 97), regarding CEQA notice and reporting requirements.⁴⁹ Sierra Club/CEJA/RMI suggest changes to Staff's proposed Section V(C) to require noticing provisions contained in the Commission's ESJ Action Plan related to accessibility, understandability and availability of information. They further assert that the GO should require that all requests for exemptions and notices of exemption are posted on the Commission's website and are easy to access.

PG&E opposes the suggestion that information required of CEQA lead agencies under AB 819 is required in the GO. PG&E observes that Staff's proposed Section V governs the notices provided by the utilities to various agencies and stakeholders to alert them to the filing of applications at the Commission, or to claims of exemptions from Commission permit requirements. As such, these actions by private companies are not subject to CEQA noticing requirements as contained in AB 819, PG&E asserts.

PG&E states that the other suggestions provided by Sierra Club/CEJA/RMI about noticing are reasonable, for instance that notices of a gas corporation's application filing should include references to the Commission's website. The Commission's Public Advisor's Office could consider these Sierra Club/CEJA/RMI suggestions when working with IOUs to develop an agreed-upon template for the notices, PG&E states.

⁴⁹ Sierra Club/CEJA/RMI note that AB 819, for example, requires the posting of CEQA notices to an agency's website and requires agencies to allow members of the public to file comments electronically and accept comments via email (Pub. Res. Code Section 21082.1.d and Section 21091.d.3). Sierra Club/CEJA/RMI Comments on Staff Proposal at 10.

14.3. Adopting a Modified Version of Staff's Proposed Notification Requirements (Section V)

We adopt a modified version of Staff's proposed Section V regarding notices of projects and notices of claimed exemptions. First, regarding distribution lines, as discussed in Section 12.6.3 above, the way we have structured the CPCN application thresholds of this GO (adopted in Sections 7.3 and 8.3 above, *see* Section IV(A) of the GO) means that only a limited number of distribution pipeline projects will meet these thresholds. Thus, a manageable number of CPCN applications are likely to be required pursuant to our adopted GO for distribution projects, which in turn means that the number of exemption notices for distribution projects are also likely to be manageable.

Second, regarding Section V(A), we incorporate some of the changes suggested by Sierra Club/CEJA/RMI. To the extent possible, we require gas corporations to submit notices regarding a CPCN application pursuant to our adopted GO in a format accessible to the visually impaired and to serve them to relevant service lists, which shall include the service list of R.20-01-007 and any successor proceeding, as well as the service list of each utility's most recent general rate case application proceeding. We require gas corporations to consult with the Commission's Public Advisor's Office regarding the format of both project CPCN application and exemption notice requirements, including ways to ensure the notices are easily accessible. Further, we direct Commission staff to post submitted notices to the webpage on Long-Term Gas Planning on the Commission's website within 30 days of receiving it.

Third, regarding Section V(B), which addresses the information required in CPCN application notices, we require gas corporations to include information about how individuals or organizations may electronically file comments on the

application. We also require the notices to include a summary of potential environmental impacts, including emissions, from the proposed facility.

Fourth, regarding Section V(C), which addresses notification requirements for claimed exemptions, we clarify that gas corporations must submit the required information no later than 60 days prior to the planned commencement date of construction. Setting a date certain for the notices of claimed exemptions will contribute to orderly implementation of the GO and provide Staff and stakeholders with a reasonable level of advance notification.

Fifth, as discussed in section 11.3 above, we clarify that notices of a claimed exemption for emergency projects must be submitted no later than 60 days after the commencement of construction on the project. This achieves a reasonable balance that allows gas corporations to begin work on urgent emergency projects as necessary, but that also provides an opportunity for affected community members, local governments, stakeholders and this Commission to learn about the project within a reasonable amount of time from project commencement.

Finally, we retain the requirement that gas corporations must submit a Tier 1 information-only advice letter when claiming an exemption under the GO. Pursuant to GO 96, Tier 1 information-only advice letters are effective immediately upon submittal and protests are not permitted.⁵⁰ As discussed above, Commission Staff should inform the Executive Director, and the assigned ALJ and Commissioner in this or any successor proceeding, of any instances where Staff believe a gas utility has inappropriately claimed an exemption under our adopted GO. This Commission will investigate such instances as warranted.

⁵⁰ GO 96-B at 10, Section 6.2. Available as of October 21, 2022 at: <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M023/K381/23381302.PDF>.

15. CPCN Application Information Submittal Requirements (Section VI)

15.1. Staff Proposal

Section VI of the Staff Proposal contains Staff's proposed information submittal requirements for CPCN applications. Amongst other required information, Staff propose that gas utilities file a PEA with each CPCN application.

15.2. Party Comments

Party comments address three main areas regarding Staff's proposed application information requirements. These are: (1) non-pipeline alternatives; (2) health impacts; and (3) unique considerations for gas storage projects.

Regarding non-pipeline alternatives, several intervenors (CforAT, EDF, UCAN) recommend the Commission adopt more detailed requirements regarding how gas corporations should assess non-pipeline alternatives in their applications. EDF states that additional clarity will help the Commission more fully evaluate proposed projects, support safe and reliable natural gas service for Californians at just and reasonable rates, and help achieve California's decarbonization goals.

CforAT provides a number of specific recommendations in this area, namely:

- a. The analysis should describe who is intended to be served by proposed project and what options for efficiency or managed consumption may be available to reduce need for project;
- b. If a project is primarily intended to serve residential customers, electrification options should be considered, including direct support for electrification if it could be done at lower cost than the construction project;

- c. Consideration of cost should include external costs, such as the environmental impacts and the public health impacts of the proposed gas infrastructure project, as well as the direct dollar costs; and,
- d. If the project is primarily intended to serve commercial and industrial customers, consideration should be included regarding alternative methods to provide necessary energy supplies, again considering both direct and externalized costs of new infrastructure.⁵¹

UCAN proposes that the Commission require applications to demonstrate:

- a. That the potential facility will be needed in light of the California Energy Commission's long-term projections of natural gas demand;
- b. That existing facilities are inadequate or need repair to meet applicable safety standards;
- c. That no reasonable alternatives exist to the proposed project;
- d. That the adverse environmental effects of the project can be adequately mitigated; and,
- e. That the proposed project does not substantially increase the density of existing infrastructure facilities in a given location without offsetting substantial economic benefits.⁵²

SoCalGas opposes adopting additional details regarding how non-pipeline alternatives should be evaluated by permit applicants at this time. SoCalGas observes that questions regarding non-pipe alternatives are scoped into Track 2a of this proceeding regarding initial steps to develop a long-term gas planning process in this proceeding. SoCalGas contends that requiring analysis of non-pipeline alternatives in the proposed GO is therefore premature.

⁵¹ CforAT Comments on Staff Proposal at 3.

⁵² UCAN Comments on Staff Proposal at 4.

Regarding health impacts, CforAT recommends the Commission modify Staff's proposal to ensure more meaningful review of the public health impacts of proposed gas infrastructure projects. CforAT suggests the Commission require consideration of the impacts of new gas infrastructure on public health, including risks of air pollution, increased rates of asthma and other chronic health issues in communities located near gas infrastructure, and the public health risks of gas leaks.

The gas corporations oppose CforAT's suggestion. PG&E and SDG&E state that Commission PEA requirements, which include a Health and Safety Plan and a Health Risk Assessment, already address these concerns. SoCalGas observes that there is substantial oversight from various agencies to evaluate air emissions and public health impacts from projects, through PHMSA requirements, the Environmental Protection Agency (EPA), CARB, and regional air quality districts.

Regarding independent storage projects, CVGS argues that such projects should not be required to comply with several Section VI information requirements because the projects were not approved under cost-based rates. CVGS states that independent storage providers' CPCN applications should not have to consider alternative routes or non-pipeline alternatives or provide capital and budget estimates. CVGS asserts that independent storage providers should not have to provide the information requested in Staff's proposed Section VI(A)(10), which addresses government agencies that have been consulted on the route of a proposed project and their responses.

Sierra Club/CEJA/RMI object to the exclusion of information required in Section VI from the CPCN applications of storage projects.

In comments on the proposed decision, SoCalGas states that considerations surrounding the Ventura Compressor Station mean that it would be helpful if the requirement for submittal of a draft PEA at least three months prior to filing a CPCN application could apply to an amended application.

15.3. Adopting a Modified Version of Staff's Information Requirements (Section VI)

We adopt a modified version of Staff's proposed CPCN application information requirements. We adopt many intervenor recommendations, including providing more guidance on our expectations for utility evaluation of non-pipeline alternatives. The suggestions are reasonable and adopting them will ensure that the information contained in the CPCN applications is sufficiently robust for this Commission to appropriately review and take action on the application. Requiring the additional information proposed by intervenors will help avoid unnecessary costs to ratepayers and will assist this Commission in evaluating and addressing potential environmental harms to local communities surrounding proposed infrastructure.

Specifically, we require the following elements to be included in any analysis of non-pipeline alternatives:

- a. The customers to be served by the proposed project, and whether direct support for electrification, consumption reduction (energy efficiency, conservation and demand response), and/or alternative methods to provide necessary energy supplies for these customers could be accomplished at a lower cost and/or with lesser environmental impact than the proposed project;
- b. The potential environmental impacts of alternatives, including emissions; and
- c. An estimate of the environmental and health impacts of the project, as well as the direct costs of the project.

We also direct the inclusion in CPCN applications of information required pursuant to Pub. Util. Code Sections 1003⁵³ and 1005.5.⁵⁴ Requiring this information is reasonable and will prepare this Commission to make a determination regarding the maximum cost that is reasonable and prudent for each infrastructure project for which a CPCN application is filed. Information added for this purpose is contained in Section VI(A)(5) and Section VI(A)(6) of the adopted GO in Appendix A.

We disagree with SoCalGas that the GO should not explicate expectations regarding consideration of non-pipeline alternatives. Undertaking this type of analysis for large infrastructure projects is a central rationale driving the need for this GO. Although questions regarding analysis of non-pipeline alternatives are scoped into other elements of Track 2a of this proceeding, it would be inappropriate to delay to a later date consideration of such alternatives for projects subject to a CPCN application. There is an urgent need to minimize the risk of stranded assets and rising energy bills, which place an especially heavy burden on low-income customers. As needed, we can refine our requirements

⁵³ Pub. Util. Code Section 1003 requires inclusion of the following information:

- (a) Preliminary engineering and design information on the project;
- (b) A project implementation plan showing how the project would be contracted for and constructed;
- (c) An appropriate cost estimate;
- (d) A cost analysis comparing the project with any feasible alternative sources of power; and
- (e) A design and construction management and cost control plan which indicates the contractual and working responsibilities and interrelationships between the corporation's management and other major parties involved in the project.

⁵⁴ Pub. Util. Code Section 1005.5(a) requires consideration of the maximum cost using an estimate of the anticipated construction cost, taking into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.

for evaluating non-pipeline alternatives for projects subject to this GO as work on a long-term gas planning strategy continues.

In this regard, we require an additional information element to reflect recommendations from Sierra Club/CEJA/RMI, EDF, CforAT, PG&E and other parties regarding disadvantaged communities. If the proposed project is located within an ESJ Community as defined in the most recent version of the Commission's ESJ Action Plan, we require gas corporations to consider in their CPCN applications, as part of consideration of alternatives, whether it is possible to relocate the project and, if so, steps taken to locate the project outside such areas. This requirement reflects the Commission's ESJ Action Plan and helps minimize environmental impacts from gas infrastructure in such communities, reflecting the equity purpose of the GO. It also helps implement Pub. Util. Code Section 454.52(a)(1)(I), which states that the Commission should adopt a process to develop plans that minimize localized air pollutants and other greenhouse gas emissions, with an early priority on disadvantaged communities. We also require in Section VI(A)(7)(b), as proposed by Staff, that gas corporations provide a summary of outreach to, and engagement undertaken with, local communities (including relevant community-based organizations), likely to be impacted by the proposed project.

We do not modify our adopted GO to reflect CforAT's comments on health impacts. We concur with the gas corporations that these issues are adequately addressed in the PEAs that must be filed concurrent with the CPCN applications.

Regarding information requirements for independent storage providers, we modify our adopted GO to clarify that independent storage providers need not include an analysis of non-pipeline alternatives in their CPCN applications, as outlined in Section VI(A)(4)(a), nor an analysis of alternative routes, as

outlined in Sections VI(A)(4)(b), VI(A)(4)(d) and VI(A)(5)(c). Additionally, regarding cost information required in Section IV(A)(6), independent storage providers may file a motion for this information to be filed under seal as confidential. These are reasonable modifications to required information elements to reflect the different circumstances of independent storage providers as compared to other gas corporations.

Review of the required cost information will enable a broader understanding of the pass-through costs from gas storage to utility customers, which will in turn support broader consideration of alternatives to minimize costs to ratepayers and stranded costs in this era of declining gas consumption.

15.4 Clarifying PEA Requirements (Section VI(A)(12))

Regarding the required PEA, we modify and adopt here Staff's proposed Section VI on CPCN application requirements to indicate that the PEA filed with the CPCN application must be prepared according to the most recent version of the Commission's Guidelines for Energy Project Applications Requiring CEQA Compliance: Pre-filing and Proponent's Environmental Assessments (PEA Guidelines).⁵⁵ We clarify Staff's proposed Section IV to indicate that that gas corporations may provide the required information elements as part of their PEA if they provide a clear mapping to the location of the required information within the PEA. We modify Staff's proposed Section IV to require gas corporations to initiate a pre-filing meeting with Commission CEQA Staff no later than 60 days prior to filing of the application to assist with ensuring the completeness of the CPCN filing. With the exception of CPCN applications filed

⁵⁵ 2019 Version available as of September 13, 2022 at: <https://www.cpuc.ca.gov/-/media/cpuc-website/files/legacyfiles/c/6442463239-ceqa-pre-filing-guidelines-pea-checklist-nov-2019.pdf>.

within 120 days from issuance of this decision, we require gas corporations to submit a draft PEA to Commission CEQA Staff at least three months prior to application filing. These are reasonable requirements that will ensure the Commission has a robust PEA with which to consider potential environmental impacts and to initiate CEQA review of the proposed project. Exempting the requirement for submittal of a draft PEA three months before a CPCN application is filed for CPCN applications filed within 120 days from issuance of this decision is reasonable because this helps avoid delay in timely application filings or the filing of both an initial and an amended application, review of which expends scarce Staff resources with little gain.

Commission Staff will conduct the CEQA review simultaneous to the consideration within the formal proceeding of the substantive policy issues associated with the project. The CEQA review may inform the policy considerations of the proceeding - especially the costs and benefits of alternatives and impacts on overburdened communities.

We note that this decision adopts Staff's proposed definition of a PEA in Section III of the GO. This definition indicates that the PEA filed as part of the CPCN application must include all information and studies required under the Commission's Information and Criteria List adopted pursuant to Chapter 1200 of the Statutes of 1977 (Government Code Sections 65940 through 65942), which is published on the Commission's website (Section 1701, Public Utilities Code).

16. Reporting Requirements

16.1. Staff Proposal

In Section X of the Staff Proposal, Staff recommend gas corporations report annually on planned gas investments for any system expansions or projects that are expected to exceed \$100 million. Staff recommend the Commission require

gas corporations to provide a 15-year forecast for investments subject to a CPCN application requirement. Staff recommend the Commission require gas corporations to file additional detailed information for projects scheduled to be in-service within five years.

The June 27, 2022 ALJ ruling invited comments on the following questions:

- Should certain types of infrastructure projects be exempt from the reporting requirements in Section X? If so, what types of projects should be exempt?
- Should any modifications be made to the... reporting requirements provided in... Section X?

16.2. Party Comments

Gas corporations generally support Staff's proposed reporting requirements with few changes. Intervenors and Indicated Shippers generally advocate expanding Staff's proposed reporting requirements.

Indicated Shippers, Sierra Club/CEJA/RMI, and EDF propose lowering the reporting threshold to \$50 million and requiring utilities to provide detailed descriptions of each planned system expansion including its intended purpose.

Indicated Shippers recommends this detailed description include:

- a. the projected capital expenditure;
- b. a detailed description of the gas infrastructure project that includes what will be modified or constructed, what specific actions will be taken, and why the project will be conducted;
- c. projected operating costs over the expected life of the asset as of the year the report is filed (in both nominal and net-present value terms);
- d. a description of the cost drivers; and

- e. total projected quantified reliability benefits over the expected life of each project expected to come online within the next 5 years from the date the report is filed.⁵⁶

In addition to helping the Commission avoid stranded infrastructure costs, Indicated Shippers contends that the report, with the additional information recommended, would benefit new and existing gas industrial customers by providing information about the repair and replacement schedule of relevant transmission and distribution lines. Indicated Shippers asserts that annual reports reflecting planned infrastructure investments would provide new industrial customers with insight into these schedules and help them to understand the potential risks and costs of interconnection. Indicated Shippers recommends the Commission require use of a reporting template.

Sierra Club/CEJA/RMI assert the Commission should require reporting on all planned capital investments, regardless of cost. Sierra Club/CEJA/RMI state the report should indicate if the project is located in a disadvantaged or ESJ community or in a High Consequence Area, the expected level of gas throughput over the project's useful life, and the expected customer utilization of the project by customer class. These parties recommend the Commission undertake a systematic review process of the contents of the reports to provide visibility into future planned investments and to provide opportunities to identify non-pipeline alternatives. UCAN proposes a \$25 million threshold for reporting requirements.

CVGS suggests the Commission exempt independent storage projects within the scope of existing CPCN and CEQA approvals from Staff's proposed reporting requirements. CVGS states it would be competitively damaging for

⁵⁶ Indicated Shippers Comments on Staff Proposal at 9.

these entities to provide the cost data recommended by Staff in Section X(D)(2). CVGS argues that Indicated Shippers' concerns about the risks of stranded costs do not apply to independent storage projects as these projects don't recover costs through rates, including any reporting costs. CVGS observes that D.10-10-001 waived both cost caps and cost data reporting requirements for independent storage projects.

SoCalGas asserts that only projects subject to the GO should be required to comply with reporting requirements. SDG&E requests clarification whether exempt projects are subject to the GO's reporting requirements.

PG&E supports Staff's proposed \$100 million reporting threshold but observes that the 10 to 15-year forecast period is inconsistent with GO 131-D, which only requires a five-year forecast for smaller projects.

PG&E and SoCalGas contend that GRC applications already contain the additional information suggested by Indicated Shippers. PG&E states that GRC applications review the prudence of projected operating costs, a description of the cost drivers, and quantification of projected reliability benefits over the life of the asset and would contain more accurate information than a 15-year projection. PG&E asserts that it would be inefficient and problematic to litigate the need for projects in multiple proceedings.

In comments on the proposed decision: (a) UCAN expresses concern with allowing gas utilities to file annual gas reports in the years 2023, 2024, and 2025 that have been revised to respond to party comments; (b) PG&E requests additional time for utilities to consider changes to reporting requirements proposed by parties, from 60 to 90 days; and (c), SDG&E requests gas utilities be given 45 rather than 30 days to respond to party comments on their reports.

16.3. Adopting a Modified Version of Staff's Proposed Reporting Requirements (Section X)

We adopt a modified version of Staff's proposed reporting requirements. First, we lower the reporting threshold to projects with a cost of \$50 million or more, with "costs" defined as the "fully loaded" cost estimate, including direct and indirect costs, and taking into consideration the design of the project, the expected duration of construction, an estimate of the effects of economic inflation, and any known engineering difficulties associated with the project.⁵⁷ This lower threshold will help provide transparency into utility infrastructure planning processes and will give us insight into a greater range of planned projects than will be covered by our CPCN application requirements. The additional information will allow us to evaluate the impact of our adopted threshold of \$75 million and adjust this threshold as necessary. The reporting requirements in Section X, as adopted, are not overly burdensome or onerous enough to justify a higher monetary value reporting threshold.

Second, we clarify that reporting shall include projects that the gas corporations anticipate claiming as exempt from CPCN application requirements pursuant to the GO. Including projects for which gas corporations intend to claim exemptions in the annual reports will enhance transparency and give stakeholders and Commission staff visibility into planned projects. This will also give stakeholders the opportunity to track projects and assess whether there is a sufficient basis for potential exemption claims.

For projects for which the gas corporation anticipates claiming as exempt from a CPCN application requirement, the gas corporation is not required to

⁵⁷ Explanations of "direct" and "indirect" costs are provided in the GO in Appendix A.

include in the annual report information describing non-pipeline alternatives considered, as required in Section X(D), and information regarding cumulative environmental impacts of successive projects, as required in Section X(C)(6). It is reasonable to not require gas corporations to report this information for exempt projects, as these will consist of required safety projects, minor relocations or repairs, emergency projects, and other exempt project types as outlined in Section IV(B) of the adopted GO.

Third, we reduce the forecast period for reporting from 15 to 10 years. This will allow for more accurate and useful reporting. Requiring a 15-year projection could introduce too much uncertainty into the reporting on anticipated projects because so many contingencies may play out in unexpected ways over such a long time period. We disagree with PG&E and SoCalGas that requiring cost and related information in the annual gas reports conflicts with information provided in GRC applications. The filings serve different purposes at different time frames in project development and the information we require here is reasonable to provide on a 10-year advance timeframe.

Fourth, we require the gas corporations to include for all reported projects the following information recommended by Indicated Shippers:

- detailed description of the gas infrastructure project that includes what will be modified or constructed, what specific actions will be taken, and why the project will be conducted; and,
- the projected capital expenditure and a description of the cost drivers.

Including this basic information in the report will contribute to the Commission and parties' understanding of the planned investment and support long-term planning.

Fifth, we augment the information that we require gas corporations to include in the reports regarding facilities scheduled to be in-service within five years of the date of the report. Based on Indicated Shippers' recommendations, we add to the information elements proposed by Staff. We require gas corporations to include in their annual reports for facilities scheduled to be in-service within five years of the date of the report the following additional elements:

- total projected quantified reliability cost savings over the expected life of the project;⁵⁸ and,
- projected operating costs over the expected life of the asset as of the year the report is filed (in both nominal and net-present value terms).

We clarify Indicated Shippers' suggestion regarding quantified reliability benefits by requiring a projection of anticipated cost savings from the project, and by specifying that gas corporations shall consider "1 in 10" winter days when making such projections. The definition of gas demand on a 1-in-10 winter day should reflect the approach used by the gas utility in its design standard, including adjustments based on changing weather patterns, adapted to extend over the life of the project. Gas corporations shall disclose the methods and assumptions used to make these projections in their CPCN applications. Including this information in the report will contribute to the Commission and parties' understanding of the planned investment and support long-term planning.

Sixth, regarding facilities scheduled to be in-service within five years of the date of a given report, we retain Staff's recommended information element –

⁵⁸ Based on inclusion of an appropriate number of 1 in 10 winter days.

“analysis of non-pipeline alternatives” – and specify that gas corporations should summarize the analysis conducted. Gas corporations should address at a high level the analytical questions regarding non-pipeline alternatives adopted in Section 15.3 above (pertaining to Section VI(A)(4) of the GO regarding CPCN application information requirements).

Seventh, we require gas corporations to indicate if the planned project is located in an ESJ community as defined in the Commission’s ESJ Action Plan. This is not an onerous requirement and requiring this will advance ESJ Action Plan aims.

Eighth, with the exception of the information required in Section X(D)(1) regarding non-pipeline alternatives, we do not exempt independent storage providers from our adopted reporting requirements. We emphasize, however, that independent storage providers may file concurrent with their annual reports a motion to file information under seal as confidential. Review of the required cost information will enable a broader understanding of the pass-through costs from gas storage to utility customers, which will in turn support broader consideration of alternatives to minimize costs to ratepayers and stranded costs in this era of declining gas consumption.

Finally, we adopt a process that will support careful review of the filed reports in the initial implementation years of this GO and provide an opportunity for parties to recommend revisions to the report, and to the reporting requirements, as needed.

We direct PG&E, SoCalGas, and SDG&E to jointly convene a “Report of Planned Gas Investments Workshop” no less than 60 days from the date of filing their annual gas reports pursuant to Section X of the GO adopted here, for the years 2023, 2024 and 2025. The workshop shall be designed so that utility

representatives provide an overview of projects listed in the report and stakeholders are afforded an opportunity to ask questions. Each utility's overview shall provide explanatory information on listed projects that is additional to that included in the filed report. To the extent a gas corporation other than PG&E, SoCalGas, and SDG&E has upcoming projects listed in that year's annual Report of Planned Gas Investments, the gas corporation shall participate in the workshop and present on such projects. PG&E, SoCalGas, and SDG&E shall provide 30-day advance notice to the service list of R.20-01-007, or a successor proceeding, of each annual workshop.

Parties may serve and file comments on the annual reports recommending changes to them, as needed, to the docket of R.20-01-007, or a successor proceeding, in the years 2023, 2024, and 2025, no later than 15 days from the date of each annual Report of Planned Gas Investments Workshop. In their comments, parties may also suggest changes to the reporting requirements adopted here and contained in the GO in Appendix A that would improve the usefulness of the reports.

During the years 2023, 2024, and 2025, gas corporations shall consider filed party comments on their reports, and shall refile their reports, with revisions that add additional information or clarifications to address party comments, no later than 45 days from the date party comments are filed. Gas corporations shall include in their refiled reports an appendix that summarizes how each party comment was addressed. If no party comments on a gas corporation's annual Report of Planned Gas Investments during the years 2023, 2024, and 2025, the gas corporation is not required to refile a revised report as described here. These are reasonable requirements that add transparency to the reporting process.

No later than 90 days from the date party comments are filed in 2023, 2024, and 2025, PG&E, SoCalGas, and SDG&E, and other gas corporations as interested, shall jointly submit a Tier 3 Advice Letter requesting any changes to the reporting requirements suggested by parties and agreed to by the gas corporations. If no changes to the reporting requirements were proposed by parties and agreed to by the gas corporations, PG&E, SoCalGas, and SDG&E are not required to file a Tier 3 Advice Letter.

Requiring an annual Report of Planned Gas Investments Workshop during the years 2023, 2024, and 2025, and providing an opportunity for parties to comment on the reports and reporting requirements in a way that may result in revisions to them, adds transparency, accountability, and the opportunity for engagement. This process will help improve the report information and its use in the early years of implementation of this GO.

17. Definitions

17.1. Staff Proposal

Section III of the Staff Proposal contains proposed definitions for a variety of terms used in the draft GO.

17.2. Party Comments

Several parties propose modest refinements to definitions included in Section III of the Staff Proposal.

SoCalGas recommends modifying definitions of the terms:

- a. “non-attainment area,” which SoCalGas states should be adjusted to align with the Federal Clean Air Act, Part D;⁵⁹
- b. “severe and extreme non-attainment area,” which SoCalGas states should be revised to align with the US EPA’s “Green Book” of National Ambient Air Quality

⁵⁹ SoCalGas Comments on Staff Proposal at 10.

Standards based on the area's design value for a specific criteria pollutant;⁶⁰

- c. "sensitive receptor," which SoCalGas states should be adjusted to align with the California Health & Safety Code, which is the same definition used in the Commission's PEA Guidelines.⁶¹

SoCalGas recommends that the Commission define "gas storage field" to ensure that CPCN applications are only required for a "new storage field or the expansion of the property boundary of a storage field due to acquisition in fee of property with the intent to install new gas infrastructure on the newly acquired property."⁶² SoCalGas states that expansion or construction within "buffer areas" – land acquired to establish a greater distance between an adjacent landowner and a gas storage facility – should not trigger a CPCN application requirement.

In line with its proposal that the sensitive receptors criterion include toxic air contaminants, Sierra Club/CEJA/RMI propose the Commission define toxic air contaminants as:

Air pollutants identified by the California Air Resources Board that may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health.⁶³

17.3. Adopting Modified Versions of Staff's Proposed Definitions (Section III)

We adopt many of the parties proposed revisions to Staff's definitions. We also define three new phrases.

⁶⁰ Id. at 11.

⁶¹ *Ibid.*

⁶² SoCalGas Comments on Staff Proposal at 17.

⁶³ Sierra Club/CEJA/RMI Comments on Staff Proposal at Appendix A-2.

First, we define the following new phrases:

- a. “Toxic air contaminant” — an air pollutant which may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health, pursuant to Section 39655 of the California Health and Safety Code;
- b. “Project” — construction or physical modification of any gas plant with independent utility in the gas system, including any compressor or regulator stations, any pipeline or pipeline extension, or any expansion of an existing gas storage field.⁶⁴
- c. “Expansion of an existing gas storage field” — expansion of the property boundary of a Commission-authorized storage field to increase natural gas storage inventory capacity.

We discussed the first two terms and definitions earlier in this decision. These are reasonable clarifications. We also adopt here SoCalGas’s suggested definition of “expansion of an existing gas storage field.” We agree with SoCalGas’s suggestion because this clarifies that the “expansion” in question pertains to the land base where equipment is located rather than to expansion of equipment placed on the land for which a CPCN has already been granted. This definition excludes land acquired to create or expand a buffer zone. We agree this is a reasonable clarification. As we stated in Section 12.8.3, although gas utilities need not submit applications for new projects within the existing property boundary, any storage expansion project that otherwise meets the criteria and definitions adopted here must apply for a CPCN application as stated in our adopted GO.

⁶⁴ Exclusions from the definition of “project” are indicated in the GO in Appendix A.

We redefine the term “non-attainment area” as recommended by SoCalGas, such that our adopted definition is:

for any air pollutant, an area which is designated “nonattainment” with respect to that pollutant within the meaning of Section 7407(d) of the Clean Air Act (CAA). CAA Section 7501(2).

We clarify the definition of “severe and extreme non-attainment areas” so that our adopted definition reads:

non-attainment areas designated as “serious,” “severe” or “extreme” by the US EPA in the “Green Book” of National Ambient Air Quality Standards (NAAQS) based on the area’s design value for a specific criteria pollutant type.

We do not modify the definition of sensitive receptors in response to SoCalGas’s comments. The phrase we adopt in Section 7.3 originates with Pub. Util. Code Section 1103(b), which pertains to CPCN requirements for gas storage facilities, and is appropriate for use here. The definition of sensitive receptors in the Commission’s PEA guidelines, referencing the California Health and Safety Code, is more general, and we decline to change the definition to this usage.

These are reasonable modifications that add clarity and will assist in the efficient and beneficial implementation of the GO.

18. Adopting All Other GO Sections as Proposed by Staff or With Minor Modifications

Parties generally did not file comments concerning Section I (General), Section VII (Complaints and Preemption of Local Authority), Section VIII (Review of Gas Infrastructure Projects by Other State or Federal Agencies), or Section IV (CEQA Compliance). These sections are reasonable and are adopted in full or with minor modifications to provide clarity.

19. Comments on Proposed Decision

The proposed decision of ALJ Cathleen A. Fogel in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. On November 15, 2022, CVGS, SoCalGas, SDG&E, EDF, Southwest, PG&E, Indicated Shippers, UCAN, CforAT, and Sierra Club/CEJA/RMI filed opening comments. On November 21, 2022, NRDC/Sierra Club/CEJA, PG&E, SoCalGas, EDF, UCAN, and SDG&E filed reply comments.

The final decision contains revisions based on party comments on the proposed decision in the Summary section, in sections 7.2.1, 7.3, 8.2, 8.3, 10.2, 10.3, 11.2, 11.3, 12.7.2, 12.7.3, 14.3, 15.3, 15.4, 16.2, 16.3, 17.3., in several Findings of Fact, Conclusions of Law, and Ordering Paragraphs, and in the GO contained in Appendix A.

20. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Cathleen A. Fogel is the assigned ALJ in this proceeding.

Findings of Fact

1. Utility-served statewide natural gas consumption is projected to decrease at an annual average rate of 1.1 percent per year through 2035.
2. Declining gas consumption means there may be less need for large natural gas infrastructure projects in the future.
3. Declining gas consumption suggests there may be a declining customer base across which to distribute the costs of existing and any new infrastructure.
4. If a given gas infrastructure facility is not necessary over its estimated useful life, it could become a stranded asset, imposing costs but limited benefits

to a declining pool of ratepayers, and increasing the cost burden on individual ratepayers.

5. Recent controversies and the Commission's ESJ Action Plan underscore the need for public participation opportunities regarding gas infrastructure projects.

6. The Commission has not previously required permit or CPCN applications for gas infrastructure and has conducted relatively few CEQA reviews of gas infrastructure projects.

7. Establishing a gas infrastructure GO will allow the Commission to exercise discretionary approval authority over certain gas infrastructure.

8. A gas infrastructure GO is responsive to:

- a. the requirements of CEQA;
- b. the need for public notice and the opportunity for affected parties and members of the public to be heard by the Commission;
- c. the obligation of the utilities to serve their customers in a timely and efficient manner; and
- d. the need to review significant investments in gas infrastructure for consistency with California's long-term greenhouse gas emission reduction, air quality, equity, safety and reliability goals.

9. The CPCN application requirements we adopt here both initiate and are distinct from Commission CEQA review of a project.

10. Stakeholders and local communities will have the opportunity to review and comment on proposed gas infrastructure projects subject to a CPCN application requirement pursuant to this decision during both the application review process and the accompanying CEQA review process. Section VI(A)(7)(b) of the adopted GO requires gas corporations to undertake outreach to and

engagement with local communities likely to be impacted by proposed projects (including relevant community-based organizations) and to provide a summary of these activities in their CPCN applications.

11. A \$75 million threshold for a CPCN application under a new gas infrastructure GO will ensure Commission focus on the largest projects with the greatest potential to create stranded assets and environmental impacts.

12. Requiring gas utilities to use “fully loaded” cost estimates, including direct costs and indirect costs, in their estimates of project costs, for purposes of assessing if a project cost exceeds \$75 million for purposes of a gas GO, will help ensure that the full costs to ratepayers of the project and potential alternatives are considered.

13. Requiring a CPCN application if (1) a project is located within 1,000 feet of a sensitive receptor; and (2) operation of the completed project by the gas corporation requires a permit from the relevant local air quality district for: (a) an increase in levels of a toxic air contaminant (as defined in this decision); or (b) an increase in levels of a criteria air pollutant, if the area is listed as a serious, severe, or extreme non-attainment area for that pollutant, will focus Commission review on those gas infrastructure projects most likely to have significant local air pollution impacts, including projects located in historically pollution-burdened communities.

14. Areas designated as a “serious” non-attainment area for a particular pollutant are likely to disproportionately implicate ESJ communities as defined in our ESJ Action Plan.

15. It is reasonable to base the criterion described in Finding of Fact 13 on criteria pollutants for which there is an established National Ambient Air Quality Standard (40 C.F.R. Part 50), and to limit application of the criterion, for any air

pollutant, to any non-attainment area within the meaning of Section 7407(d) of the CAA Section 7501(2) for that air pollutant, with “serious,” “severe” or “extreme” based on an area’s design value for a specific criteria pollutant in the US EPA’s Green Book of NAAQS.

16. Including toxic air contaminants in the criterion described in Finding of Fact 13 is reasonable because such pollutants may cause or contribute to an increase in mortality or an increase in serious illness, have been extensively reviewed by CARB, and are documented to cause significant human health impacts at a variety of exposure levels.

17. The appropriate locus of review of localized noise, traffic, vibrations, or fugitive dust effects on a neighborhood associated with gas infrastructure projects is with local agencies.

18. Requiring gas utilities to consult with local agencies regarding land use matters involving gas infrastructure supports resolution of conflicts between utilities and local agencies in a timely manner.

19. Because the Commission has exclusive jurisdiction over state gas infrastructure, in instances where the public utilities and local agencies are unable to resolve their differences, the local agency should promptly file a complaint with the Commission.

20. Defining a project for purposes of a gas GO as the “construction or physical modification of any gas plant with independent utility in the gas system, including compressor or regulator stations, any pipeline or pipeline extension, or any expansion of an existing gas storage field” helps ensure that gas corporations’ proposed projects address a single set of infrastructure modifications over time, regardless of the time period over which the project is implemented.

21. This decision does not address whether hydrogen gas infrastructure projects should be covered by the adopted GO.

22. This GO is intended to minimize potentially inappropriate exemption claims while not impeding rapid implementation of gas infrastructure repairs or improvements to address emergency situations, including when the reliability of gas supplies is urgently threatened.

23. Requiring utilities to file claims of exemptions for gas emergency projects no later than 60 days from commencement of the project allows utilities to begin work on urgent emergency projects while providing an opportunity for affected community members, local governments, stakeholders and this Commission to learn about the project.

24. Exempting projects required by any regulatory agency for safety reasons from CPCN application requirements ensures timely utility compliance with those regulations and the accompanying public safety of gas supplies.

25. Excluding service lines connecting gas infrastructure to customer facilities and work on customer meters from the GO is reasonable as these projects are unlikely to cause significant environmental impacts.

26. Requiring a CPCN application for any sized distribution pipeline, other than service pipelines that connect to customer facilities and work on customer meters, that otherwise meet our adopted criteria, will focus Commission review on the distribution projects most likely to cause environmental harms or substantial costs to ratepayers.

27. The record of this proceeding lacks information on the costs incurred to bring a project from conception to the permit application stage.

28. Authorizing an exemption from filing a CPCN application for projects that have an in-service date scheduled to occur before January 1, 2024 gives utilities

sufficient planning time while exempting projects that are relatively close to fruition.

29. Authorizing an exemption from filing a CPCN application for projects for which an application for approval has been submitted to an air quality management district for compliance with an environmental rule prior to the effective date of this GO allows projects planned to comply with local air quality management district environmental requirements that required substantive time and resources to develop to move forward in a streamlined fashion.

30. It is not necessary to adopt exemptions to CPCN application requirements for projects involving the replacement of existing facilities by equivalent facilities, minor relocations, repairs, maintenance or alternations of existing facilities in a manner consistent with CEQA guidelines, or the placement of new equipment on structures already built consistent with CEQA guidelines because these projects are unlikely to meet our adopted threshold criteria and these exemptions duplicate CEQA categorical exemptions that will apply as part of the Commission's CEQA review of any CPCN application.

31. It is not reasonable to exempt from a CPCN application requirement those projects with completed CEQA documents because project review by one agency does not relieve other agencies from their CEQA review obligations and there may be circumstances under which another agency performs CEQA review of a proposed gas infrastructure project only as part of a larger project.

32. Adopting broadly worded exceptions to the exemptions adopted here could introduce uncertainty into implementation of the GO and is not necessary.

33. The notification requirements in the adopted GO are reasonable.

34. Requiring a robust set of information in gas CPCN applications filed under this GO will help avoid unnecessary costs to ratepayers and will assist this

Commission in evaluating and addressing potential environmental harms to local communities.

35. The need for analysis of non-pipeline alternatives is a central rationale for adoption of a gas infrastructure GO at this time.

36. Requiring gas corporations in their CPCN applications, if a proposed project is located within an ESJ community, to consider whether it is possible to relocate the project outside such areas, and, if so, steps taken to do so, reflects the Commission's ESJ Action Plan, helps minimize environmental impacts from gas infrastructure in such communities, and reflects the equity purpose of the GO.

37. Due to the unique circumstances of independent storage providers, it is reasonable that such gas corporations are not required to provide information elements contained in Section VI(A)(4)(a) Section VI(A)(4)(b), VI(A)(4)(d) and VI(A)(5)(c), regarding non-pipeline alternatives and alternate routes, in their CPCN applications, or information element Section X(D)(1) in their annual Report of Planned Gas Investments.

38. Review of cost information provided by independent storage providers will enable a broader understanding of the pass-through costs from gas storage to utility customers, which will in turn support broader consideration of alternatives to minimize costs to ratepayers and stranded costs in this era of declining gas consumption.

39. Requiring gas corporations to initiate prefiling meetings with Commission Staff and, with the exception of CPCN applications filed within 120 days from issuance of this decision, to submit a draft PEA at least three months prior to filing a CPCN application will ensure the Commission has a robust PEA

with which to consider potential environmental impacts and to initiate CEQA review of the proposed project.

40. Requiring gas utilities to report on projects they intend to claim as exempt from a CPCN application requirement in their annual Report of Planned Gas Investments will assist stakeholders and the Commission in evaluating the effectiveness and implementation of these exemptions.

41. Adopting an annual reporting requirement for projects with costs in excess of \$50 million over a 10-year horizon and projects meeting the sensitive receptors criterion described in Finding of Fact 13, including projects a gas corporation plans to claim as exempt from a CPCN application requirement, adds transparency, is not onerous, and will provide stakeholders and the Commission with insight into a greater range of planned projects than addressed by our CPCN application requirements.

42. For projects the gas corporation anticipates claiming as exempt from a CPCN application requirement, it is reasonable that gas corporations not be required to include in the annual Report of Planned Gas Investments information describing non-pipeline alternatives considered (Section X(D)), and information regarding cumulative environmental impacts of successive projects (Section X(C)(6)).

43. Requiring an annual Report of Planned Gas Investments Workshop during the years 2023, 2024, and 2025, and providing an opportunity for parties to comment on the reports and reporting requirements in a way that may result in revisions to them, adds transparency, and accountability, and provides an opportunity for engagement in and improvement in the report information and its use in the early years of implementation of this GO.

44. Requiring additional information in the annual Report of Planned Gas Investments on projects planned to be in-service within five years of the date of a given annual report provides transparency and is reasonable.

45. The definitions contained in the adopted GO are reasonable.

46. The information required to be included in the annual Report of Planned Gas Investments is reasonable.

Conclusions of Law

1. This Commission retains exclusive authority to regulate gas corporations pursuant to Article XI, Section 8 of the California Constitution, which states that, “[a] city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the Commission,” including jurisdiction to regulate all aspects of the design, construction, modification, or relocation of public utilities.

2. The Commission has discretion to require CPCN applications for gas infrastructure projects with costs exceeding \$75 million or where (1) the project is located within 1,000 feet of a sensitive receptor; and (2) operation of the completed project by the gas corporation requires a permit from the relevant local air quality district for: (a) an increase in levels of a toxic air contaminant (as defined in this decision); or (b) an increase in levels of a criteria air pollutant, if the area is listed as a serious, severe, or extreme non-attainment area for that pollutant.

3. The \$75 million monetary threshold we adopt here for a CPCN application encompasses all phases of a project.

4. Projects meeting the criteria described in Conclusion of Law 2 should be subject to CEQA review and closely scrutinized to determine need, identify

potential alternatives including non-pipeline alternatives, and identify ways to eliminate or mitigate environmental impacts.

5. Declaring that CPCN applications are not required for gas infrastructure projects that do not meet the criteria in Conclusion of Law 2 allows the Commission to focus its resources on costs and need for and the environmental impacts of projects most likely to effect local communities.

6. Requiring a CPCN application would serve no useful regulatory purpose for projects that meet the following criteria:

- a. any plant, line, extension, repair, replacement, or modification of existing facilities or structures that is required pursuant to a CalGEM Emergency Order or regulation, PHMSA, this Commission, or any other regulatory agency for safety reasons;
- b. projects that have a scheduled in-service date occurring before January 1, 2024 and projects for which an application for approval has been submitted to an air quality management district for compliance with an environmental rule, prior to the effective date of this GO; or,
- c. emergency projects (for example: repairs, upgrades, replacements, restorations) as defined by CEQA Guideline § 15269 and Pub. Res. Code §§ 21060.3 and 21080(b)(2) & (4) to ensure safe and reliable gas supplies.

7. The Commission should require, within 60 days of the issuance of this decision, each respondent gas corporation to this rulemaking to file and serve a list of gas infrastructure projects that are scheduled to be in-service before January 1, 2024, that have a cost exceeding \$75 million or where (1) the project is located within 1,000 feet of a sensitive receptor; and (2) operation of the completed project by the gas corporation requires a permit from the relevant local air quality district for: (a) an increase in levels of a toxic air contaminant (as

defined in this decision); or (b) an increase in levels of a criteria air pollutant, if the area is listed as a serious, severe, or extreme non-attainment area for that pollutant, should require this list to include, clearly indicated, projects for which an application for approval has been submitted to an air quality management district for compliance with an environmental rule prior to the effective date of this GO, and should require each respondent gas utility to provide for each project listed the information identified in Section V(C)(2) of the adopted GO.

8. For gas infrastructure projects with costs below \$75 million or where (1) the project is not located within 1,000 feet of a sensitive receptor; and (2) operation of the completed project by the gas corporation does not require a permit from the relevant local air quality district for: (a) an increase in levels of a toxic air contaminant (as defined in this decision); or (b) an increase in levels of a criteria air pollutant, if the area is listed as a serious, severe, or extreme non-attainment area for that pollutant, the Commission's complaint procedure is adequate for addressing concerns public agencies or the public may have with regard to utility projects.

9. Requiring gas corporations, if a proposed project is located within an ESJ community, to consider in their CPCN applications whether it is possible to relocate the project outside such areas, and, if so, steps taken to do so, reflects the intent of Pub. Util. Code Section 454.52(a)(1)(I).

10. Independent storage projects that have previously undergone CEQA review and are included in the existing property boundary of a current CPCN should be excluded from additional CPCN application requirements under the GO. However, any storage expansion project that meets the criteria and definitions adopted here should apply for a CPCN application as stated in our adopted GO.

11. The Commission should require independent storage providers to provide the same information as other gas corporations in CPCN applications and annual reports, with the exception, in CPCN applications, of the information elements contained in Section VI(A)(4)(a) Section VI(A)(4)(b), VI(A)(4)(d) and VI(A)(5)(c), and with the exception, in the annual Report of Planned Gas Investments, of information element D(1) in Section X.

12. The Commission should direct PG&E, SoCalGas, and SDG&E to jointly convene a Report of Planned Gas Investments Workshop no less than 60 days from the date of filing their annual gas reports pursuant to Section X of the GO adopted here, for the years 2023, 2024 and 2025. To the extent a gas corporation other than PG&E, SoCalGas, and SDG&E has upcoming projects listed in that year's annual Report of Planned Gas Investments, the Commission should require that gas corporation to participate in the workshop and present on such projects.

13. The Commission should allow parties to file and serve comments on the annual Report of Planned Gas Investments and to recommend changes to the reports and to reporting requirements, as needed, in R.20-01-007 or a successor proceeding, in the years 2023, 2024, and 2025, no later than 15 days from the date of each annual Report of Planned Gas Investments Workshop. During the years 2023, 2024, and 2025, the Commission should require gas corporations to consider filed party comments on their report, and to refile their reports, with revisions that add additional information or clarifications to address party comments, no later than 45 days from the date party comments are filed, including in the refiled reports an appendix that summarizes how each party comment was addressed.

14. The Commission should require PG&E, SoCalGas, and SDG&E, and other gas corporations as interested, no later than 90 days from the date party comments are served and filed on the annual Report of Planned Gas Investments in 2023, 2024, and 2025, to jointly submit a Tier 3 Advice Letter requesting any changes to the reporting requirements suggested by parties and agreed to by the gas corporations. If no changes to the reporting requirements were proposed by parties and agreed to by the gas corporations, the Commission should not require PG&E, SoCalGas, and SDG&E to file a Tier 3 Advice Letter.

15. The Commission should adopt the GO set forth in Appendix A.

O R D E R

IT IS ORDERED that:

1. The General Order attached to this decision as Appendix A, General Order 177, which prescribes the rules relating to the planning and construction of gas infrastructure located in California, is adopted.

2. Gas infrastructure planned or constructed by California gas utilities under this Commission's jurisdiction shall adhere to the rules set forth in General Order 177.

3. Prior to the construction or physical modification of any gas plant with independent utility in the gas system with a cost exceeding \$75 million, or where (1) the project is located within 1,000 feet of a sensitive receptor; and (2) operation of the completed project by the gas corporation requires a permit from the relevant local air quality district for: (a) an increase in levels of a toxic air contaminant, defined as an increase exceeding de minimis levels or, where relevant, allowable limits set by the local air quality district; or (b) an increase in levels of a criteria air pollutant, if the area is listed as a serious, severe, or extreme non-attainment area for that pollutant, the gas utility shall file an application for

a certificate of public convenience and necessity, unless the project qualifies for exemption as prescribed in General Order 177.

4. Gas utilities invoking exemptions (a)-(b) listed under Section IV(B) of General Order 177 shall provide 60 days' prior notice of claimed exemptions to General Order 177 as described therein. Gas utilities invoking exemption (c) under Section IV(B) shall provide notice of claimed exemptions to General Order 177 no later than 60 days of initiating the project as described therein.

5. Gas projects as defined in General Order 177 that have a scheduled in-service date occurring before January 1, 2024 and projects for which an application for approval has been submitted to an air quality management district for compliance with an environmental rule prior to the effective date of General Order 177, shall be exempt from the requirements adopted here.

6. Within 60 days of issuance of this decision, each respondent gas utility shall file and serve a list of proposed gas infrastructure projects that have a scheduled in-service date occurring before January 1, 2024 that have a cost exceeding \$75 million or where (1) the project is located within 1,000 feet of a sensitive receptor; and (2) operation of the completed project by the gas corporation requires a permit from the relevant local air quality district for: (a) an increase in levels of a toxic air contaminant, defined as an increase exceeding de minimis levels or, where relevant, allowable limits set by the local air quality district; or (b) an increase in levels of a criteria air pollutant, if the area is listed as a serious, severe, or extreme non-attainment area for that pollutant. Each respondent gas utility shall include in this list, clearly indicated, projects for which an application for approval has been submitted to an air quality management district for compliance with an environmental rule prior to the

effective date of General Order 177, and shall provide, for each project listed, the information identified in Section V(C)(2) of General Order 177.

7. The gas utility shall annually serve and file, in Rulemaking 20-01-007 or a successor proceeding, a Report of Planned Gas Investments on or before March 1 of each year, starting March 1, 2023, as described in Section X of the General Order 177.

8. Pacific Gas and Electric Company, Southern California Gas Company, and San Diego Gas & Electric Company shall jointly convene a Report of Planned Gas Investments Workshop as specified in this decision no less than 60 days from the date of filing their annual Report of Planned Gas Investments reports pursuant to Section X of the General Order 177, for the years 2023, 2024 and 2025.

9. To the extent a gas corporation respondent to this rulemaking, other than those listed in Ordering Paragraph 8, has upcoming projects listed in their 2023, 2024, or 2025 annual Report of Planned Gas Investments, the gas corporation shall participate in the workshop described in Ordering Paragraph 8 and shall present on such projects.

10. Parties to Rulemaking 20-01-007, or a successor proceeding, may serve and file comments on the annual Report of Planned Gas Investments recommending changes to the reports, or to the reporting requirements included in the General Order 177, in the years 2023, 2024, and 2025, no later than 15 days from the date of each annual Report of Planned Gas Investments Workshop.

11. During the years 2023, 2024, and 2025, gas corporations shall consider filed party comments on their annual Report of Planned Gas Investments, and shall refile their reports, with revisions that add additional information or clarifications to address party comments, no later than 45 days from the date party comments are filed. Gas corporations shall include in their refiled reports

an appendix that summarizes how each party comment was addressed. If no party comments on a gas corporation's annual Report of Planned Gas Investments during the years 2023, 2024, and 2025, the gas corporation is not required to refile a revised report as described here.

12. Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SoCalGas), and San Diego Gas & Electric Company (SDG&E) shall, and other gas corporations may, no later than 90 days from the date party comments are filed on the Report of Planned Gas Investments in 2023, 2024, jointly submit a Tier 3 Advice Letter requesting any changes to the reporting requirements contained in General Order 177 suggested by parties and agreed to by the gas corporations. If no changes to the reporting requirements were proposed by parties and agreed to by the gas corporations, PG&E, SoCalGas, and SDG&E are not required to file a Tier 3 Advice Letter.

13. Rulemaking 20-01-007 remains open.

This order is effective today.

Dated _____, at San Francisco, California.