

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION ONE

SOUTHERN CALIFORNIA GAS
COMPANY,

Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA,

Respondent.

Case No. B310811

Commission Decision
No. D.21-03-001 &
Resolution ALJ-391

REQUEST TO APPEAR AS A REAL PARTY IN INTEREST

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March 23, 2021

I. INTRODUCTION

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) requests that the Court recognize Cal Advocates as a Real Party in Interest in this proceeding. On March 8, 2021, Southern California Gas Company (SoCalGas) filed a Petition for Writ of Review/Mandate and/or Other Appropriate Relief (Petition), a Motion for Emergency Stay and Application for Leave to File Under Seal. The Respondent in this proceeding is the California Public Utilities Commission (Commission). Although the Petition at page 9 identifies Cal Advocates as the Real Party in Interest, the caption of the Petition fails to list Cal Advocates as the Real Party in Interest. Consequently, the Court's website also fails to include Cal Advocates as the Real Party in Interest.¹

II. PROCEDURAL HISTORY

On March 16, 2021, the Court issued a temporary stay order in response to the Petitioner's Motion for Emergency Stay and scheduled an oral argument for March 25, 2021.² The Petitioner subsequently withdrew its Motion for Emergency Stay on March 19, 2021, –after the Respondent - over Cal Advocates' objections - granted SoCalGas an extension of time to comply with Resolution ALJ-391, as modified, until 21 days after this Court's disposition of the Petition.³ The Court

¹ See https://appellatecases.courtinfo.ca.gov/search/case/partiesAndAttorneys.cfm?dist=2&doc_id=2343056&doc_no=B310811&request_token=NiIwLSEmTkw8WyBVSCI9TE1IQFw6USxXIJeJztTICAgCg%3D%3D

² *Temporary Stay Order*, March 16, 2021.

³ *Southern California Gas Company's Notice of Withdrawal of Request for Emergency Stay or Other Injunctive Relief, Declaration of Julian W. Poon, and Proposed Order*, March 19, 2021, pp. 2-3.

vacated its temporary stay⁴ and subsequently granted an extension of time until June 1, 2021 for the Respondent to file its answer to the Petition and until July 16, 2021 for the Petitioner to respond.⁵

Petitioner’s Application for Leave to File Under Seal is still pending, with a response deadline of March 23, 2021.

III. LEGAL RIGHT OF REAL PARTY IN INTEREST CAL ADVOCATES TO ENFORCE SUBSTANTIVE LAW

The Real Party in Interest is the one who actually possesses the substantive right being asserted and has a legal right to enforce the claim (under applicable substantive law).⁶ Cal Advocates is a statutory public body established as an independent office of the California Public Utilities Commission. Cal Advocates is charged with serving the public interest and, specifically, “to represent and advocate on behalf of the interests of public utility customers and subscribers within the jurisdiction of the commission.”⁷ Cal Advocates represents the interests of customers, including customers of SoCalGas, who may be adversely affected by a decision of this Court to address the Petition or Motion for Emergency Stay and Application for Leave to File Under Seal.

Pursuant to its statutory charge to advocate on behalf of utility customers, Cal Advocates pursued the investigation at issue here, and

⁴ *Order*, March 22, 2021.

⁵ *Order Granted extension of time.*, March 22, 2021.

⁶ *Del Mar Beach Club Owners Assn. v. Imperial Contracting Co.* (1981) 123 Cal.App.3d 898, 906, citing to *Powers v. Ashton* (1975) 45 Cal.App.3d 783, 787.

⁷ Pub. Util. Code, § 309.5 (a.)

has been an active participant at all stages of the legal proceedings that are the subject of this Petition. The Petition here is merely a discovery dispute between a regulated utility and Cal Advocates, the entity charged with representing the interest of residential ratepayers of investor-owned utilities, such as Petitioner SoCalGas. Specifically, the Petitioner has intentionally withheld discovery from Cal Advocates for over ten months – including the ability to audit its accounts –based on frivolous First Amendment claims. Contrary to the Petitioner’s arguments, the law is clear that Respondent, the Commission, and Real Party in Interest Cal Advocates have a broad statutory right to investigate the utility, including the right to obtain from the utility the information necessary to determine whether SoCalGas is properly booking costs associated with activities that should not be funded by ratepayers.⁸

IV. REQUEST TO APPEAR AS THE REAL PARTY IN INTEREST

Cal Advocates has not yet appeared in this proceeding, but as the acknowledged Real Party in Interest,⁹ Cal Advocates requests that the Court recognize its right to appear in this proceeding. In particular, the Application to File under Seal is still pending. Cal Advocates only recently learned that the deadline for responding to the Application to

⁸ See, e.g. *Brock v. Local 375, Plumbers Int’l Union*, 860 F.2d 346, 348 (9th Cir. 1988) (“[t]he investigatory powers of administrative agencies are analogous to the grand jury, and an agency can investigate on the mere suspicion the law is being violated”).

⁹ *Petition*, p. 9.

File Under Seal is today. Cal Advocates plans to file its response to the Application for a Stay expeditiously.

V. CONCLUSION

Cal Advocates respectfully requests that the Court acknowledge its right to appear as the Real Party in Interest.

Respectfully submitted,

DARWIN FARRAR
DIANA L. LEE

By: /s/ *DARWIN FARRAR*

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March 23, 2021

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CERTIFICATE OF WORD COUNT

I certify that this Request To Appear As A Real Party In Interest of Real Party in Interest Public Advocates Office at the California Public Utilities Commission contains 1178 words. In completing this word count, I relied on the “word count” function of the Microsoft Word program.

March 23, 2021

By: /s/ *DARWIN FARRAR*

DARWIN FARRAR

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PROOF OF SERVICE

I, Joseph P. Como, declare as follows:

I am employed in the County of San Francisco, State of California, I am over the age of eighteen years and am not a party to this action; my business address is 505 Van Ness Avenue, San Francisco, CA 94102.

On March 23, 2021, I served the following document(s):

REQUEST TO APPEAR AS A REAL PARTY IN INTEREST

on the parties stated below, by the following means of service:

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BY ELECTRONIC SERVICE THROUGH TRUEFILING: I caused the documents to be electronically served through TrueFiling.
 (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Executed on March 23, 2021.

By: /s/ JOSEPH P. COMO

Joseph P. Como

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