



Public Advocates Office

California Public Utilities Commission

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March 18, 2021

Ms. Rachel Peterson
Executive Director
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Subject: *Second Request of Southern California Gas Company for an Extension of Time to Comply with Resolution ALJ-391, as modified by Decision 21-03-001.*

Dear Executive Director Peterson:

The Public Advocates Office at the California Public Utilities Commission (Cal Advocates) has learned that Southern California Gas Company (SoCalGas) submitted its second request for an extension of time to comply with ALJ-391 this morning, March 18, 2021. Cal Advocates is also aware that the California Court of Appeals (Court) has granted SoCalGas a temporary stay of Resolution ALJ-391 pending oral argument on a similar stay request before that Court. Cal Advocates opposes the requested extension because, as set forth more fully below, it is improper, unnecessary, overly broad, and would seriously undermine Commission Decision (D.) 21-03-001.

The requested extension is improper. This is the second extension request by SoCalGas related to D.21-03-001. The first extension, which was granted by the Executive Director, expired on March 17, 2021. In both instances SoCalGas requests the extension “[p]ursuant to Rule 16.6 of the Rules of Practice and Procedure of the California Public Utilities Commission.”

However, in relevant part, Rule 16.6 provides that the email, letter or facsimile requesting the extension “must be received by the Executive Director at least five business days before the existing date for compliance.” Because SoCalGas’s prior extension expired on March 17, 2021, less than five days before its second extension request, the request is improper, outside the authority of the Executive Director, and must be denied.

The requested extension is unnecessary. After noting that “[o]n March 16, 2021, the Court of Appeal granted SoCalGas a Temporary Stay Order and scheduled a hearing for March 25, 2021” SoCalGas claims the extension “will allow the Court of Appeal to consider the Petition in due course while avoiding serious or irreparable harm to SoCal Gas.” SoCalGas’ statements conflict. The Court of Appeal granted SoCalGas a Temporary Stay and scheduled a hearing to determine whether “imminent and irreparable injury will occur if the data requests and subpoena at issue in the Resolution are enforced prior to completion of the statutory judicial review process.” In granting this temporary stay, the Court of Appeals has made clear that it is more than capable of determining the merits of SoCalGas’s claim of irreparable harm in a timely fashion.

The requested extension is overly broad. “SoCalGas requests an extension of time to comply with the Resolution, as modified by D.21-03-001, and all related obligations until twenty-one (21) days following the Court of Appeal’s final disposition of SoCalGas’s Petition.” (Emphasis added.) This request is overly broad in at least two respects. First, the request ignores the fact that the Court of Appeal is scheduled to consider SoCalGas’s claims of harm in less than a week and instead seeks an open-ended extension. This discovery dispute – which is primarily related to whether Cal Advocates may perform an audit of SoCalGas’ accounts - has already gone on for more than ten months. Given that the statewide median time from the notice of appeal in a civil case to the filing of the Court of Appeal’s opinion is about 17 months,¹ it is unreasonable for the Executive Director to agree to put off resolution of the audit for an additional year and a-half. This is especially true here since the Court of Appeals is prepared to address the harm issue one week from now.

The requested extension would undermine the Commission’s authority. The gravamen of SoCalGas’ claim of irreparable harm is that Cal Advocates cannot be trusted to comply with its statutory obligations to keep information confidential. The Commission addressed this claim in Decision (D.) 21-03-001, stating:

Cal Advocates states that “[w]hile non-confidential information from SoCalGas’ data responses has been made public – indeed a Public Records Act request required that it be made public – Cal Advocates knows of no instance in this investigation where confidential utility information has been disclosed, and SoCalGas has failed to identify any such disclosure.”²

¹ See <https://www.courts.ca.gov/documents/2017-Court-Statistics-Report.pdf>

² D.21-03-001, p. 13.

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The Commission went on to dismiss SoCalGas's claims of irreparable harm specifically stating:

SoCalGas has failed to show how submitting the relevant documents, to Commission staff (including Cal Advocates staff) under Section 583 confidentiality would cause any associational harm. Whether or not Cal Advocates has a "joint prosecution" agreement with the Sierra Club, it is not relieved of its confidentiality obligations under Section 583. Assumed motives have no bearing on such requirements.³

The Commission's determination of this factual issue is dispositive of SoCalGas' claims of harm here and in the Appellate Court. Granting SoCalGas' motion on the sole basis of allegations that were rejected by the Commission would undermine the Commission's decisional authority and could compromise the Commission's litigation position in the Appellate Court.

"Justice delayed is justice denied." In addition to being improper, granting the requested extension would serve only to delay resolution of an already protracted discovery dispute for some lengthy and indeterminate time, and compromise the Commission's case in the Appellate Court. Rather than cede the Commission's Appellate case and its rights to timely discovery, the requested extension should be rejected.

Sincerely,

/s/ Darwin E. Farrar

Darwin E. Farrar

Chief Counsel,

The Public Advocates Office

cc: Marybel Batjer, Commission President
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³ D.21-03-001, p. 13.

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