

SOUTHERN CALIFORNIA GAS COMPANY

(DATA REQUEST CALADVOCATES-SC-SCG-2020-03)

Date Received: December 18, 2020

Date Submitted: December 28, 2020

GENERAL OBJECTIONS AND OBJECTIONS TO “INSTRUCTIONS”

1. SoCalGas objects to the Instructions and Definitions submitted by Cal Advocates on the grounds that they are overbroad and unduly burdensome. Special interrogatory instructions of this nature are expressly prohibited by California Code of Civil Procedure Section 2030.060(d). SoCalGas further objects to the Instructions to the extent they purport to impose requirements exceeding that required by CPUC General Order 66-D or the Discovery Custom and Practice Guidelines provided by the CPUC.
2. SoCalGas objects to the Data Request’s imposition of a deadline of December 28, 2020 as unduly burdensome and unreasonable, particularly given the holidays.
3. The highlighted sentence in the second paragraph under “General” states that if SoCalGas “acquire[s] additional information after providing an answer to any request, [it] must supplement [its] response following the receipt of such additional information.” SoCalGas objects to this instruction on the grounds that it is a continuing interrogatory expressly prohibited by Code of Civil Procedure § 2030.060(g), has no basis in the Commission’s Rules of Practice and Procedure, and exceeds that required by the Discovery Custom and Practice Guidelines provided by the CPUC.
4. The highlighted paragraph under “Responses” purports to require SoCalGas identify “the person providing the answer to each question and his/her contact information.” SoCalGas objects to this instruction because it has no basis in the Commission’s Rules of Practice and Procedure and exceeds that required by the Discovery Custom and Practice Guidelines provided by the CPUC.
5. The highlighted portion of the paragraph under “Requests for Clarification” purports to require SoCalGas to notify Cal Advocates “within five (5) business days” if “a request, definition, or an instruction is unclear”; the highlighted paragraph under “Objections” purports to require SoCalGas to “submit specific objections, including the specific legal basis to the objection . . . within five (5) business days”; and the highlighted portion of the paragraph under “Assertions of Privilege” in the “Instructions” section of this Request further purports to require SoCalGas to “assert any privilege for documents responsive to this data request . . . within five (5) business days.” SoCalGas objects to these requirements as unduly burdensome and unreasonable as SoCalGas cannot determine which aspects of the Request need clarification, formulate objections or identify privileged information and documents until SoCalGas has otherwise completed its investigation and prepared its response to the Request.
6. The highlighted paragraph under “Assertions of Confidentiality” purports to require SoCalGas, “[i]f it assert[s] confidentiality for any of the information provided,” to “please identify the information that is confidential with highlights and provide a specific explanation of the basis for each such assertion.” SoCalGas objects to this request the extent it purports to impose requirements exceeding the process for submitting confidential information to the Commission outlined in GO 66-D § 3, has no basis in the Code of Civil Procedure or the Commission’s Rules of Practice and Procedure, and exceeds that required by the Discovery Custom and Practice Guidelines provided by the CPUC.

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7. The first highlighted paragraph under “Signed Declaration” purports to require SoCalGas to provide “a signed declaration from a responsible officer or an attorney under penalty of perjury that [SoCalGas has] used all reasonable diligence in preparation of the data response, and that to the best of [his or her] knowledge, it is true and complete.” SoCalGas objects to this instruction because it has no basis in the Code of Civil Procedure or the Commission’s Rules of Practice and Procedure, and exceeds that required by the Discovery Custom and Practice Guidelines provided by the CPUC. SoCalGas further objects to the extent it purports to limit SoCalGas from amending its responses should additional information be later discovered. SoCalGas reserves its right to amend its responses to these requests should additional information relevant to SoCalGas’s responses is discovered at a later date.
 8. SoCalGas objects to the second highlighted paragraph under “Signed Declaration” to the extent it purports to impose requirements exceeding the process for submitting confidential information to the Commission outlined in GO 66-D § 3, has no basis in the Code of Civil Procedure or the Commission’s Rules of Practice and Procedure, and exceeds that required by the Discovery Custom and Practice Guidelines provided by the CPUC. SoCalGas further objects to this paragraph as unduly interfering with the attorney-client relationship and forcing waiver of the attorney-client privilege and attorney work product doctrines. This violates Evidence Code sections 954, 955, 915, and 912, and exceeds the power of the Commission by seeking to modify the legislatively mandated privilege. It further violates Cal. Code Civ. Pro. sections 128.7, 2018.030(a), and 2031.250(a), and as such exceeds the power of the Commission by setting rules in conflict with statute.
 9. SoCalGas objects to the definition of “you,” “your(s),” “Company,” “SCG,” and “SoCalGas” to the extent it seeks information from Sempra Energy. The responses below are made on behalf of SoCalGas only.

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QUESTION 1:

On page 3 of the December 18, 2020 application for rehearing of Resolution ALJ-391 SoCalGas states: Further, if Sierra Club through the Joint Prosecution Agreement has coopted or inappropriately taken advantage of Cal Advocates' statutory authority for its own benefit, it would be an abuse of Cal. Pub. Util. Code § 309.5.

Please provide any and all evidence in SoCalGas' possession or control of Cal Advocates' statutory authority being "inappropriately taken advantage of" by Sierra Club, as referenced above.

RESPONSE 1:

SoCalGas incorporates herein the General Objections and Objections to "Instructions" stated above. SoCalGas further objects to this response on the grounds that the information sought is equally, if not more so, available to Cal Advocates. Discovery is ongoing on this matter and SoCalGas is unable to respond to this request as it is still waiting for the Commission to complete its responses to Public Records Act Request No. 20-322, and Public Records Act Request No. 20-327. Further, SoCalGas is aware that Assemblymembers Blanca Rubio and Jim Cooper requested information that may be responsive to this request in a letter dated November 30, 2020 to Commission President Batjer. SoCalGas is unaware that the Commission has provided responses to the letter. Finally, the Common Interest, Joint Prosecution, and Confidentiality Agreement ("Agreement") dated August 30, 2019 between the Public Advocates Office and Sierra Club speaks for itself. The Agreement states that "[t]he Parties acknowledge that they have a common interest in . . . further investigations into SoCalGas use of customer funds for anti-electrification activities, as noted above, and that they will cooperate in the joint pursuit of their comment interest . . ." Agmt. ¶ 1. Paragraph 2 of the Agreement further states that:

The Parties recognize that facts and information known by one Party may assist the other in development of discovery that will assist in obtaining relief in currently pending proceedings as well as the development of future actions, such as a Motion for an Order to Show Cause. The Parties acknowledge and agree that their interests will be best served if the Parties can exchange information subject to the continued protection of any applicable privileges. In sharing information, documents, strategies, and resources with each other, the Parties expressly preserve and retain the privilege conferred by the work-product doctrine, the attorney-client privilege, rules of protection from disclosure, and all other privileges during any proceeding that may arise in relation to those matters listed in the recitals. Nothing contained herein, however, will obligate a Party to provide any confidential information to any other Party.

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QUESTION 2:

On page 19 of the December 18, 2020 application for rehearing of Resolution ALJ-391 SoCalGas states: Cal Advocates (and the Sierra Club, with whom Cal Advocates is apparently sharing information and investigational strategy under a Joint Prosecution Agreement)

Please provide any and all evidence in SoCalGas's possession or control showing that Cal Advocates' "sharing information and investigational strategy" with the Sierra Club.

RESPONSE 2:

SoCalGas incorporates herein the General Objections and Objections to "Instructions" stated above. SoCalGas further objects to this response on the grounds that the information sought is equally, if not more so, available to Cal Advocates. Discovery is ongoing on this matter and SoCalGas is unable to respond to this request as it is still waiting for the Commission to complete its responses to Public Records Act Request No. 20-322, and Public Records Act Request No. 20-327. Further, SoCalGas is aware that Assemblymembers Blanca Rubio and Jim Cooper requested information that may be responsive to this request in a letter dated November 30, 2020 to Commission President Batjer. SoCalGas is unaware that the Commission has provided responses to the letter. Finally, the Common Interest, Joint Prosecution, and Confidentiality Agreement ("Agreement") dated August 30, 2019 between the Public Advocates Office and Sierra Club speaks for itself. The Agreement states that "[t]he Parties acknowledge that they have a common interest in . . . further investigations into SoCalGas use of customer funds for anti-electrification activities, as noted above, and that they will cooperate in the joint pursuit of their common interest . . ." Agmt. ¶ 1. Paragraph 2 of the Agreement further states that:

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QUESTION 3:

On page 20 of the December 18, 2020 application for rehearing of Resolution ALJ-391 SoCalGas states: Cal Advocates has also apparently shared its investigatory power with Sierra Club under a Joint Prosecution Agreement specifically to investigate SoCalGas's "use of consumer funds for anti-electrification activities.

Please provide any and all evidence in SoCalGas's possession or control showing that Cal Advocates "shared its investigatory power with Sierra Club."

RESPONSE 3:

SoCalGas incorporates herein the General Objections and Objections to "Instructions" stated above. SoCalGas further objects to this response on the grounds that the information sought is equally, if not more so, available to Cal Advocates. Discovery is ongoing on this matter and SoCalGas is unable to respond to this request as it is still waiting for the Commission to complete its responses to Public Records Act Request No. 20-322, and Public Records Act Request No. 20-327. Further, SoCalGas is aware that Assemblymembers Blanca Rubio and Jim Cooper requested information that may be responsive to this request in a letter dated November 30, 2020 to Commission President Batjer. SoCalGas is unaware that the Commission has provided responses to the letter. Finally, the Common Interest, Joint Prosecution, and Confidentiality Agreement ("Agreement") dated August 30, 2019 between the Public Advocates Office and Sierra Club speaks for itself. The Agreement states that "[t]he Parties acknowledge that they have a common interest in . . . further investigations into SoCalGas use of customer funds for anti-electrification activities, as noted above, and that they will cooperate in the joint pursuit of their common interest . . ." Agmt. ¶ 1. Paragraph 2 of the Agreement further states that:

The Parties recognize that facts and information known by one Party may assist the other in development of discovery that will assist in obtaining relief in currently pending proceedings as well as the development of future actions, such as a Motion for an Order to Show Cause. The Parties acknowledge and agree that their interests will be best served if the Parties can exchange information subject to the continued protection of any applicable privileges. In sharing information, documents, strategies, and resources with each other, the Parties expressly preserve and retain the privilege conferred by the work-product doctrine, the attorney-client privilege, rules of protection from disclosure, and all other privileges during any proceeding that may arise in relation to those matters listed in the recitals. Nothing contained herein, however, will obligate a Party to provide any confidential information to any other Party.

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QUESTION 4:

Please provide any and all evidence in SoCalGas' possession or control showing that Cal Advocates shared SoCalGas' confidential information with Sierra Club.

RESPONSE 4:

SoCalGas incorporates herein the General Objections and Objections to "Instructions" stated above. SoCalGas further objects to this response on the grounds that the information sought is equally, if not more so, available to Cal Advocates. Discovery is ongoing on this matter and SoCalGas is unable to respond to this request as it is still waiting for the Commission to complete its responses to Public Records Act Request No. 20-322, and Public Records Act Request No. 20-327. Further, SoCalGas is aware that Assemblymembers Blanca Rubio and Jim Cooper requested information that may be responsive to this request in a letter dated November 30, 2020 to Commission President Batjer. SoCalGas is unaware that the Commission has provided responses to the letter. Finally, the Common Interest, Joint Prosecution, and Confidentiality Agreement ("Agreement") dated August 30, 2019 between the Public Advocates Office and Sierra Club speaks for itself. The Agreement states that "[t]he Parties acknowledge that they have a common interest in . . . further investigations into SoCalGas use of customer funds for anti-electrification activities, as noted above, and that they will cooperate in the joint pursuit of their common interest . . ." Agmt. ¶ 1. Paragraph 3 of the Agreement further states that:

The Parties agree that they intend to, and will, maintain the confidentiality of the shared materials unless authorized by the other Party. Each Party agrees that it will protect confidential information from disclosure to non-Parties, other than counsel or consultants to any of the Parties, using the same degree of care used to protect its own confidential or proprietary information of like importance. Moreover, each Party will, on a best efforts basis, mark hard copies and e-mails or other electronic data containing confidential information provided to any other Party with some or all of the following words: "Confidential Legal Materials, Subject To Common Interest Privilege, Attorney-Client Privilege and Attorney Work Product." Failure to so mark the materials, however, will not be treated as waiving the common interest privilege. The inadvertent disclosure of such information or materials contrary to this provision shall not waive any privilege or confidentiality of such information or materials relative to any person or entity not a Party to this Agreement, i.e., such disclosure shall not be considered a public or privilege-waiving disclosure of the information or materials

Paragraph 4 of the Agreement further states:

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Confidential information shared in furtherance of this agreement shall not be used by any receiving Party(ies) against the Party(ies) sharing the information. Upon termination of this agreement the Parties will return or destroy any confidential information received in accordance with this Agreement if so requested by the original sharing Party.

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QUESTION 5:

Please provide any and all evidence in SoCalGas' possession or control showing that Cal Advocates shared SoCalGas' confidential information related to the subject of the Application for Rehearing with any entity or party, other than SoCalGas.

RESPONSE 5:

SoCalGas incorporates herein the General Objections and Objections to "Instructions" stated above. SoCalGas objects to the phrase "related to the subject of the Application for Rehearing" as vague and ambiguous. SoCalGas further objects to this response on the grounds that the information sought is equally, if not more so, available to Cal Advocates. Discovery is ongoing on this matter and SoCalGas is unable to respond to this request as it is still waiting for the Commission to complete its responses to Public Records Act Request No. 20-322, and Public Records Act Request No. 20-327. Further, SoCalGas is aware that Assemblymembers Blanca Rubio and Jim Cooper requested information that may be responsive to this request in a letter dated November 30, 2020 to Commission President Batjer. SoCalGas is unaware that the Commission has provided responses to the letter. Finally, the Common Interest, Joint Prosecution, and Confidentiality Agreement ("Agreement") dated August 30, 2019 between the Public Advocates Office and Sierra Club speaks for itself. The Agreement states that "[t]he Parties acknowledge that they have a common interest in . . . further investigations into SoCalGas use of customer funds for anti-electrification activities, as noted above, and that they will cooperate in the joint pursuit of their common interest" Agmt. ¶ 1. Paragraph 3 of the Agreement further states that:

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Confidential information shared in furtherance of this agreement shall not be used by any receiving Party(ies) against the Party(ies) sharing the information. Upon termination of this agreement the Parties will return or destroy any confidential information received in accordance with this Agreement if so requested by the original sharing Party.