

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

Application of Southern California Edison Company
(U338E) for Approval of Energy Efficiency Rolling
Portfolio Business Plan.

Application 17-01-013
(Filed January 17, 2017)

And Related Matters.

Application 17-01-014
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**SOUTHERN CALIFORNIA GAS COMPANY (U 904 G) MOTION TO STRIKE
PORTIONS OF OFFICE OF RATEPAYER ADVOCATES' FINAL COMMENTS ON
ENERGY EFFICIENCY PROGRAM ADMINISTRATORS' BUSINESS PLAN
APPLICATIONS**

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I. INTRODUCTION AND SUMMARY

Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), Southern California Gas Company (SoCalGas) moves to strike portions of the Office of Ratepayer Advocates’ (ORA) Final Comments on Energy Efficiency Program Administrators’ Business Plan Applications (ORA Comments), which were filed September 25, 2017. Specifically, ORA devotes approximately ten pages of its Comments¹ to accuse SoCalGas of using ratepayer funds to advocate against the State’s energy efficiency goals in the Codes & Standards area, when it opposed energy efficiency standards for residential furnaces proposed by the Department of Energy (DOE) (Furnace Rule) in the 2014-2015 timeframe.² ORA also accuses SoCalGas of being an ineffective lead in an ongoing California

¹ See ORA Comments, pp. 5-16.

² See Id. at 7-12.

Energy Commission (CEC) rulemaking on tub spout diverters.³ ORA recommends that SoCalGas be removed from Codes & Standards efforts and that it return to ratepayers funds it used to commission studies opposing the Furnace Rule.⁴ The Motion to Strike should be granted because:

1. ORA's allegations are baseless. ORA is wrong to allege SoCalGas advocated against the State's energy efficiency goals because SoCalGas did not join comments fully supporting a proposed Federal rule on residential furnaces, but instead submitted its own comments voicing concern over technical flaws and potential negative impacts to customers;
2. The evidence ORA relies on to make its inflammatory allegations (which include emails produced by SoCalGas and other Investor Owned Utilities (IOUs)) provides no credible support that SoCalGas had an anti-energy efficiency agenda, but rather, those documents reveal that SoCalGas could not reach consensus with other IOUs on the Furnace Rule for several reasons, all of which were in public comments in the DOE's rulemaking docket;
3. The emails cited by ORA also show that SoCalGas voiced concerns several times about the potential cost impacts to Southern California Gas customers and low-income customers if the Furnace Rule was enacted without revision;
4. Many of ORA's characterizations of email excerpts are taken out of context, and in some cases, are outright false or misleading;

³ See Id. at 12-15.

⁴ See Id. at 14-16.

5. ORA failed to disclose other emails contained in the data request responses from SoCalGas that provide important and relevant insight into why SoCalGas did not support the Furnace Rule (*see* Exhibit A);
6. ORA's attack on SoCalGas' work with reputable industry organizations and consultants such as the American Gas Association (AGA), American Public Gas Association (APGA), Gas Technology Institute (GTI), and Negawatt Consulting (Negawatt), is misguided given the Codes & Standards Statewide Program Implementation Plan (PIP) encourages use of external resources, which other IOUs have also employed;
7. ORA's portrayal of SoCalGas as a bad actor in energy efficiency is directly contradicted by SoCalGas' track record in achieving gas energy efficiency savings;
8. ORA's use of selective emails to portray SoCalGas as an ineffectual leader in the CEC's current tub spout rulemaking is directly contradicted by emails ORA had in its possession but chose not to disclose;
9. ORA's allegations and careless treatment of the evidence it relies upon are counterproductive to this proceeding and highly prejudicial to SoCalGas, and serve only to damage SoCalGas' character as a company and reputation in the energy efficiency marketplace and before its regulators;
10. ORA's allegations are ultimately a distraction to the decision-making process and the review of business plans and all the comments, arguments, and evidence offered by parties on the issues that matter in this proceeding.

Although SoCalGas believes ORA's entire Codes & Standards allegations against SoCalGas merit no weight whatsoever, this Motion only requests that ORA's false and

misleading statements be stricken. The facts and assertions actually supported by evidence, as well as the documents contained in ORA's Appendix C, speak for themselves and do not need to be stricken.⁵

II. SECTIONS AND STATEMENTS THAT SHOULD BE STRICKEN

A. The Entirety of ORA's Section II.B. Introduction Should be Stricken as Misleading

ORA's Codes & Standards attack on SoCalGas begins on page 5 of its Comments, and includes several statements that are misleading, inflammatory, and lacking in evidentiary support. ORA alleges that SoCalGas has used ratepayer funds to engage in a concerted effort to undermine the State's goals in Codes & Standards advocacy,⁶ and claims that SoCalGas' own emails and invoices somehow show that SoCalGas advocated directly against state energy policies and goals.⁷ In addition, ORA alleges that SoCalGas impeded development of new federal and state energy efficiency codes and standards in multiple DOE and CEC proceedings.⁸ ORA claims that SoCalGas worked with organizations like the AGA to formulate adverse policy positions in an attempt to delay or halt implementation of rules it considered likely to reduce gas throughput. ORA further claims that SoCalGas acted to undermine the advocacy efforts of other investor-owned utilities (IOUs) that sought to comply with state energy efficiency goals.

Fact Check: Since 2014, SoCalGas has participated in over ten DOE rulemakings, filed seventy comment letters in response to seventeen CEC Pre-Rule or Rulemakings for Title 20, and supported the 2016 and 2019 Title 24 Code Cycles through the IOUs' forty-four Codes &

⁵ See Id, Appendix C.

⁶ SoCalGas also moves to strike this language from the Table of Contents, and from the Introduction (Id. at 1).

⁷ See Id. at 5.

⁸ See Id. at 6.

Standards Enhancement (CASE) initiatives.⁹ Among the DOE rulemakings, SoCalGas did not join the other IOUs in only two, including the Furnace Rule.

SoCalGas worked diligently to co-fund and lead multiple measures within the Codes & Standards subprograms. SoCalGas has developed nine co-funding agreements and twenty-seven contracts within the Building Standards, Appliance Standards, Compliance Improvement, Reach Codes and Planning & Coordination Subprograms supporting the advancement of Codes & Standards both statewide and nationally.¹⁰ SoCalGas has been the lead for the Title 24 Drain Water Heat Recovery CASE report, and the Title 20 Tub Spout Diverters rulemaking.

In the 2014-2015 timeframe, SoCalGas voiced concern over the DOE's Furnace Rule, and did so in formal, public comments submitted in DOE's Notice of Proposed Rulemaking. Emails produced in discovery provide additional insight into SoCalGas' concerns as well as the concerns and views of PG&E and its hired consultants on the Furnace Rule. There is no dispute that there were disagreements over the Furnace Rule, and SoCalGas and PG&E in particular were not able to resolve their differences.

SoCalGas reached out to AGA and other industry experts and consultants for technical assistance in reviewing the Furnace Rule. SoCalGas did so under the approved Codes & Standards Statewide Program Implementation Plan (or PIP). According to the PIP:

Advocacy also includes affirmative expert testimony at public workshops and hearings, participation in stakeholder meetings, ongoing communications with industry, and a variety of other support activities.¹¹

⁹ DOE Rulemakings found at www.Regulations.gov; Title 20 rulemakings found at www.Energy.ca.gov; Title 24 rulemakings found at www.Title24stakeholders.com.

¹⁰ All contract data was provided to ORA through data request ORA-008. Co-funding agreements were not included, as other IOUs held these contracts.

¹¹ Program Implementation Plan, p. 2.

SoCalGas voiced several times in emails that it had a concern over the cost impact of the adoption of the Furnace Rule, without modification, to Southern California Gas customers. One email string produced by ORA contains a statement from a SoCalGas Codes & Standards employee:

*“As for the PG&E question, they have adopted a position that California is moving too slowly in this area and they are going to advance efficiencies **regardless of the potential negative to customers.**”¹² (emphasis added)*

And in another email string, that same employee stated,

*“I have received the reports from the two analyses SoCalGas conducted regarding the DOE Furnace Rulemaking. I have highlighted a few of the most relevant points below and based on these findings am recommending that we prepare and file comments in opposition to this rulemaking on behalf of our customers. **These reports indicate several reasons that this rulemaking is not good for Southern Californian’s but the most poignant is that using the DOE’s own inputs and variables, more Southern California customers will suffer a net cost rather than a net benefit and that is contrary to the DOE’s own requirements for enacting a rule of this nature and contrary to California’s requirements for cost effectiveness.**”¹³ (emphasis added)*

SoCalGas’ response to an ORA data request further explains this concern for SoCalGas customers. ORA issued a data request to the IOUs on the DOE’s Furnace Rule. ORA asked SoCalGas:

“Describe your rationale for not commenting on or for not supporting DOE’s proposed efficiency level (TSL) for all rulemakings responsive to Question 6.”¹⁴

SoCalGas responded (in relevant part):

In DOE Rulemaking for the Energy Conservation Standards for Residential Furnaces, EERE-2014-BT-STD-0031, SoCalGas did

¹² See ORA Comments, Appendix C, Ex. 18.

¹³ See Id. at Ex 9, p. 39.

¹⁴ See Exhibit A, Ex-01, which contains ORA’s questions and SoCalGas’ responses to Data Request ORA-A1701013-SCG004.

not support the DOE's proposed TSL 6. The analysis that was conducted showed that even with the split standard, **it continues to be an economic hardship on Southern California customers.** SoCalGas submitted two sets of analyses to the original NOPR that provided a comprehensive evaluation of the underlying inputs, assumptions and methods of DOE's life cycle cost (LCC) analysis and data filtered by region (California and Southern California). SoCalGas had also conducted a second analysis based on the updated LCC calculations and associated technical support document (TSD) released with the SNOPR. SoCalGas requested the DOE to review the summary of our findings and address all concerns with the TSD and LCC prior to issuing a final rulemaking.¹⁵ (emphasis added)

ORA did not produce SoCalGas' data request responses in its Comments (SoCalGas introduces them in Exhibit A). ORA did produce several email strings, as well as SoCalGas' official comments to the Furnace Rule. This body of evidence provides no support whatsoever that SoCalGas was engaged in any improper or obstructionist activities against the State's energy efficiency goals. It demonstrates that while SoCalGas ultimately did not join the other IOUs in their support of the DOE's proposed Furnace Rule, SoCalGas voiced its concerns with the IOUs, and formalized them in public comments.

Conclusion: If SoCalGas is going to be accused of a concerted effort to halt, delay, or work against the State's energy efficiency goals because it voiced an informed opinion about issues it had with the proposed Furnace Rule, and did so without the support of the other IOUs, there will be a chilling effect upon any IOU program administrator to voice any concerns over any proposed rule, regulation, or measure. This is arguably contrary to the intent of the DOE's Notice of Proposed Rulemaking which solicits public comment. ORA views this (at least for SoCalGas) as engaging in a concerted effort against the State's energy efficiency goals, which is a preposterous notion and should be stricken from consideration.

¹⁵ See Exhibit A, Ex-0., Response to DR-ORA-A1701013-SCG004, Question 7.

B. Further Statements Which Should be Stricken

The specific underlined sections contained in ORA's Furnace Rule allegations should be stricken.

- **ORA Comments at 7**

2. SoCalGas opposed adoption of amended federal energy conservation standards for residential gas furnaces on the grounds that improved efficiency would encourage fuel switching away from natural gas.

Fact Check: The source document in question is SoCalGas' comments in the DOE's Notice of Proposed Rulemaking, which ORA attached as Exhibit 2 to Appendix C. That document includes *seven* specific reasons why the proposal was problematic: (1) economic infeasibility for Southern California customers, (2) burden on low-income communities, (3) increases in energy consumption (where fuel switching is discussed), (4) data requires additional clarification and transparency, (5) concern over the "no-new-standards case furnace assignment" methodology, (6) life cycle cost savings were overstated, and (7) use of outdated price forecasts.¹⁶

Further, as to the reference to fuel switching, SoCalGas was not expressing a concern about gas throughput, but the implied forced switch to another fuel source that would have resulted from mandating a condensing furnace that would require a full infrastructure change-out at replacement. As stated in its Furnace Rule public comments:

The increased costs of moving to a 92% AFUE minimum efficiency gas furnace from the current industry standard of 80% AFUE... make fuel-switching (using split-system or mini-split heat pumps) an attractive alternative to consumers on a cost, rather than performance; basis. *A switch from gas to electricity space heating will, however, increase source energy consumption* due to the inefficiencies of losses in generation, transmission and distribution of electricity.... The resulting increased source energy

¹⁶ See ORA Comments, Appendix C, Ex. 2.

use is contrary to the stated goals of the legislation that provides the basis for efficiency standards.¹⁷ (emphasis added)

Conclusion: By failing to provide the complete picture, ORA is misleading the Commission when it claims SoCalGas opposed improved energy efficiency standards because it would promote fuel switching away from gas. SoCalGas raised several concerns over whether this standard was viable, and its comment on fuel switching focused on the impact to energy consumption, not the mere fact that there was a switch from gas to electricity.

- **ORA Comments at 8, 9, 10, and 14**

SoCalGas used ratepayer-funded studies to undermine gas efficiency standards. (at 8 and Table of Contents)

In other words, after AGA commissioned research that it found useful in advocating against more stringent codes and standards, SoCalGas used ratepayer funds to commission an additional study for its service territory by the same consultant for the same purpose, suggesting a coordinated effort by AGA and SoCalGas to undermine the furnace standard. (at 9)

This series of emails show a clear effort on the part of SoCalGas to coordinate with AGA and APGA in their joint efforts to undermine pending gas energy efficiency standards and the use of ratepayer funded consultants to do so. (at 10)

Since at least 2014, SoCalGas has actively advocated against state policies and goals related to codes and standards, using ratepayer funds to support consultant activities that sought to undermine and/or stall their implementation. SoCalGas emails show its concern for maintaining gas throughput, even at the expense of more stringent codes and standards that could increase the efficiency of residential gas furnaces. (at 14)

Fact Check: In accordance with the Statewide PIP, SoCalGas and other IOUs are expected and encouraged to use industry sources. AGA, APGA, and GTI are among the most reputable in the industry and offer an expertise in natural gas that can bring useful information to the evaluation of energy efficiency. They are not the only industry voices or experts, but they

¹⁷ Id.

are among many who have collaborated with IOUs and other organizations in energy efficiency. All activity conducted by SoCalGas on the Furnace Rule was consistent with its obligations under the PIP.

Conclusion: ORA's allegations that there were joint efforts to undermine energy efficiency are irresponsible and misleading and tarnishes the reputations and contributions of respected industry organizations and consulting firms which offer their knowledge and technical expertise. IOUs and other stakeholders will need to continually engage and collaborate with them going forward, and ORA's allegations are counter-productive and damaging to those relationships. Further, not every proposed agency rule in energy efficiency is presumptively a good one, cost beneficial to customers, or beyond scrutiny and improvement. Efforts to expose and possibly improve rules are beneficial to the development of sound and customer-beneficial energy efficiency rules.

- **ORA Comments at 10**

SoCalGas attempted to obstruct the efforts of other utilities to implement the state's energy efficiency goals.

Fact Check: SoCalGas filed comments on the Furnace Rule independent from the other IOUs. Both sets of comments are included in ORA's Comments, Appendix C. While all IOUs attempted to reach consensus, SoCalGas did not ultimately join in support for the Furnace Rule because of the concerns raised in the filed comments, which are consistent with the emails introduced by ORA during that timeframe. In another DOE rulemaking (Energy Conservation Standards for Residential Cooking Products), it was PG&E which did not join the other IOUs' comments.¹⁸ Not every IOU will ultimately decide it can fully support joint comments.

¹⁸ See Exhibit A, Ex-01, SoCalGas' response to data request ORA-A1701013-SCG004, Question 7.

Conclusion: Claiming that SoCalGas obstructed efforts of the other IOUs is misleading and should be stricken.

- **ORA Comments at 10**

Further, in internal communications, SoCalGas executives noted with concern PG&E efforts to comply with state policies.

Fact Check: The SoCalGas executive, in response to an employee’s detailed briefing of the Furnace Rule, asks two questions: (1) “How many of the furnaces is out [sic¹⁹] service territory fall within the lower size limit by PG&E and then the larger size proposed by DOE?” and (2) “Why is it PG&E is so in favor of these rules?”²⁰ A later email from the same executive (directed at two employees) states, “I would like to get your input.”²¹ This appears to be the entirety of ORA’s support, and yet the plain language of the email does not state or imply that SoCalGas leadership voiced any concern over PG&E complying with any State policy.

Conclusion: ORA misrepresents by suggesting multiple executives voiced concerns about complying with State policies. This is not what this document says or suggests. Further, characterizing an inquiry into PG&E’s position on the Furnace Rule as concern that PG&E was complying with State policies (thus by extension, SoCalGas was opposed to complying) is unreasonable, unsupported, and prejudicial. ORA’s statement therefore lacks evidentiary support and is misleading, and should be stricken.

¹⁹ This is a direct quote; however, it is likely the intent was to state “How many of the furnaces [in our] service territory . . .”

²⁰ See ORA Comments, Appendix C, Ex. 18.

²¹ See ORA Comments, Appendix C, Ex. 9, at 8.

- **ORA Comments at 11**

In condemnation of these acts, another SoCalGas manager decries PG&E as “blighters.”

ORA’s own commentary on this particular one-word email offers no probative value, lacks foundation, and should be stricken.

- **ORA Comments at 11**

In October 2015, the SoCalGas codes and standards manager described PG&E’s position on the furnace rules to a vice president at SoCalGas’ parent company Sempra who asked why PG&E favors the rules: “They [PG&E] have adopted a position that California is moving too slowly in this area and they are going to advance efficiencies regardless of the potential negative impact to customers.” This email suggests that SoCalGas views the state’s energy efficiency goals as a threat and something to be opposed rather than seeing support for the state’s energy efficiency goals as a fundamental obligation of ratepayer funding.

Fact Check: The executive in question was a SoCalGas employee, not a Sempra Energy employee. The lengthy email briefing the executive discusses why the Furnace Rule was problematic, and includes a summary of an in-depth analysis performed by GTI.

Conclusion: Nowhere does this email string say or suggest that SoCalGas viewed California’s energy efficiency goals as a threat or something to be opposed. It is an unreasonable and unsupportable stretch to extrapolate that an email detailing concerns of a proposed Furnace Rule is a view that the State’s energy efficiency goals are a threat and should be opposed. ORA’s statements are misleading and lack evidentiary foundation, and should be stricken.

- **ORA Comments at 12 and 14**

As a part of negotiations over statewide leads, SoCalGas worked out an agreement with PG&E's Senior Director responsible for EE to have PG&E's codes and standards principal fired as a condition of PG&E becoming the overall statewide lead for codes and standards. (at 12)

SoCalGas made contingent its acceptance of the lead decisions on the replacement of PG&E's representative and PG&E acceptance of SoCalGas as co-lead on gas initiatives. (at 12, FN. 37)

SoCalGas also offered to serve as a statewide lead on codes and standards initiatives, but conditioned approval of all statewide lead administrators on the removal of PG&E's lead codes and standards principal.-(at 14)

Fact Check: A plain reading of the email statement does not support ORA's version of events. The statement from SoCalGas' director reads in its entirety: "Let me know how today goes. If you get closure on replacing [NAME REDACTED] and securing the Gas co-lead we can send out the joint communications with the leads identified."²² The PG&E employee ORA claims was fired has remained an active employee at PG&E and continues to work in Codes & Standards. The plain language of the email nowhere suggests this employee was fired or should be fired. The email speaks for itself.

Conclusion: ORA's version of events, based on this one statement, is unsupported by this evidence, lacks foundation, and plainly misleads the Commission by claiming there was an agreement between PG&E and SoCalGas to have a PG&E employee fired. These statements should be stricken.

²² See ORA Comments at 12, referencing, Appendix C, Ex. 20.

- **ORA Comments at 12**

In addition, SoCalGas has not worked with the other IOUs in good faith to promote enhanced codes and standards statewide, undermining statewide collaboration and jeopardizing the state’s leadership on energy efficiency. For example, with respect to the 2017 DOE RFI response, SoCalGas participated in a process of drafting a joint letter with other utilities, but formally withdrew from that process only one day before comments were due despite determining a week earlier that they could not sign a joint letter.

Fact Check: As shown in an email string produced by ORA, SoCalGas was internally considering filing a separate letter on July 6, 2017, but continued to try to negotiate a joint letter up until July 12.²³ Then on July 13, PG&E stated:

“As the IOUs have worked through comments *over the last month there was an explicit agreement that the IOUs can submit separate RFI comment letters* since there may be different policy stances on the RFI questions.”²⁴ (emphasis added)

Moreover, it was an individual at PG&E who stated on July 13:

“*PG&E* has a few overarching comments on SCG’s most recent version of the letter, and *recommends separate letters.*”²⁵ (emphasis added)

Conclusion: ORA has taken one statement out of context and ignores other evidence in order to support a highly misleading factual statement. It should therefore be stricken.

- **ORA Comments at 12, 13, and 14**

SoCalGas demonstrated its inability to effectively lead IOU codes and standards efforts. (at 12)

In early 2017, SoCalGas volunteered to act as state lead on a CEC rulemaking on tub spout diverter efficiency standards but failed to perform basic activities until pressed to do so repeatedly by the CEC and other IOUs. (at 12)

²³ See ORA Comments, Appendix C, Exs. 21, 22 at 2-3.

²⁴ Id. at, Ex. 22 at 2.

²⁵ Id. at Ex. 21 at 1.

After pressed to take action by the CEC and other IOUs, SoCalGas management appears to have grudgingly agreed to participate in the rulemaking due to threats to the company's prestige. (at 13)

However, even after agreeing to participate, SoCalGas failed to make the necessary resources available to fulfill their obligations as the lead IOU for the rulemaking. (at 13)

For example, even though it lobbied to be the lead IOU on tub spout diverters, SoCalGas did not respond to an invitation from the CEC to participate in a meeting on tub spout diverters. (at 13)

Only after repeated requests from the CEC and other utilities did SoCalGas finally issue an initial response and preliminary research plan for the rulemaking, though it continued to insist that more analysis was needed. (at 13)

See June 23, 2017 internal email from executives of SoCalGas parent company Sempra Utilities, which details the timeline of events and identifies a “possible risk of loss of credibility if we do not comment.” (at 13)

At a minimum, SoCalGas' failure to proactively address the CEC's data gathering needs for the tub spout diverter rulemaking demonstrates its incompetence and potentially its inability or unwillingness to implement codes and standards advocacy programs as directed by the Commission. (at 14)

Fact Check: SoCalGas provided in discovery to ORA its reasons for deciding not to submit an initial comment on the tub spout diverters. ORA did not include that data request response in its Comments (SoCalGas provides the full responses in Exhibit A). ORA asked in discovery:

“Describe your rationale for not commenting on or for not supporting CEC's proposed efficiency level for all pre-rulemakings or rulemakings responsive to Question 6.”

SoCalGas responded:

At the time of the Invitation to Participate (ITP), the first open comment period in the CEC docket . . . research, testing and analysis had not taken place. Although SoCalGas is supportive of exploring Tub Spout Diverters for inclusion in future code, without any specific validation for the measure it seemed prudent to gather scientific data that would allow for future support that would be

considered informed and indisputable. SoCalGas agreed that conducting research and considering tighter standards was sensible due to savings potential, but the CEC had already made that case very well. As a result, SoCalGas decided to not comment at that time. It is important to note that this was shared on a Statewide call with the CED on June 22nd (Please see email response 1.zip; 062217_S.pdf) and no objection was voiced.

Furthermore, as part of its discovery response, SoCalGas provided ORA with emails on tub spouts which ORA did not include in its Comments. These emails reveal that SoCalGas had been informed that the initial data gathering had been started by PG&E consultant, Energy Solutions. A month after proactively reaching out for updates and documents, it was shared that “they hadn’t completed the analysis on the tub spout diverters.”²⁶ SoCalGas then gathered information and data as quickly as possible setting up various manufacturer and test lab interviews. Yet despite such efforts, SoCalGas felt it was not adequately prepared to issue a sufficient initial response to the CEC. That decision was not opposed by the other IOUs. In fact, SoCalGas was assured by another utility’s employee that “this isn’t a big deal, you/we had no way of knowing” that the CEC was expecting a response.²⁷

Conclusion: The data request response and the additional emails, which ORA did not bring to light, directly contradict ORA’s assertions that SoCalGas is an incompetent or reluctant lead. Therefore, these flagged statements are not supported by a full and fair evidentiary record, are misleading, and should be stricken.

- **ORA Comments at 13 and 14**

Oddly, SoCalGas’ proposed research plan omitted the field studies that the CEC and other utilities considered crucial to understanding the feasibility and effectiveness of the proposed standard, instead proposing to rely solely on interviews with manufacturers who were opposed to the new standard. (at 13)

²⁶ See Exhibit A, Ex-12.

²⁷ See Id. at Ex-16.

Only under pressure from the CEC and other utilities did SoCalGas eventually respond, but even then SoCalGas required additional pressure before agreeing to undertake the research efforts required to support the rulemaking. (at 14)

Fact Check: Emails included in ORA's Comments show that SoCalGas' consultant only *initially* suggested collecting data directly from manufacturers. The consultant did not include independent testing on its initial plan, but, after feedback from the Energy Division, SoCalGas agreed to revise the plan to incorporate additional testing (and to address other comments).²⁸ The process of developing a plan and other steps in considering a potential measure is a collaborative and ongoing process so that potential shortcomings can be addressed and remedied. SoCalGas' draft research plan was circulated for comments to all of the IOUs and the CEC.²⁹

Conclusion: The CEC's tub spout diverter rulemaking is ongoing. As shown in the point above, SoCalGas is active and collaborative on this matter. Initial plans are constantly subject to feedback, revision, and improvement. It is a team effort which SoCalGas is proficiently leading. ORA's mischaracterization seems intended to discredit SoCalGas' lead on this effort. However, the facts do not support any notion that SoCalGas is unable to fulfill its role on this current rulemaking. These excerpts therefore deserve no merit and should be stricken.

C. The Entirety of ORA's Section II.C. Should be Stricken

This section of ORA's Comments discusses ORA's proposed remedies against SoCalGas for alleged misuse of ratepayer funds.³⁰ ORA largely repeats its claims that SoCalGas has actively advocated against state policies and goals related to Codes & Standards.³¹ Further, ORA

²⁸ See ORA Comments, Appendix C, Ex. 26.

²⁹ See Exhibit A, Ex-06.

³⁰ See ORA Comments at 14

³¹ See Id.

alleges that “[r]egardless of whether SoCalGas’ efforts have been compromised, inconsistent, or merely ineffective, SoCalGas has deprived ratepayers of the benefit of the bargain made on their behalf to pursue more stringent codes and standards in exchange for ratepayer funding and shareholder performance incentives.”³²

Fact Check: A few excerpts from SoCalGas’ comments on the Furnace Rule³³ speak for themselves:

“The average savings for Southern California is over 99 percent less than the “Rest of the Country” region California is identified under for the proposed split standard, putting our customers at a severe disadvantage and making this economically infeasible.”

“The simple payback for Southern California is more than three times the “Rest of the Country” region California is identified under for the proposed split standard, making this not cost-effective.”

“The average payback for impacted customers in Southern California is more than double the “Rest of the Country” region, again, making this not cost-effective.”

“DOE’s own analysis shows that low-income consumers in the “Rest of the Country” region may bear a larger burden than other consumers with this rulemaking, despite the split standard. This burden is compounded by the fact that low- and fixed-income homeowners typically live in smaller spaces, which require less energy to heat and therefore will achieve less annual savings. Additionally, low- and fixed-income renters will likely be forced to deal with higher rents when landlords are required to install high-efficiency furnaces, passing the costs to the renters, contrary to DOE assertions.”

Conclusion: ORA’s entire section contains inflammatory and misleading assertions to justify its proposed remedies against SoCalGas. The fact is that SoCalGas was a strong advocate for ratepayers when it voiced concerns over the DOE’s Furnace Rule, even if it had to voice

³² Id. at 15.

³³ See Id., Appendix C, Ex. 2.

them apart from the rest of the IOUs. These actions are not indicative of a utility that has acted in contravention to ratepayer interests. Quite the opposite. Therefore, ORA's recommendations lack any merit; and, this entire section should be stricken.

III. CONCLUSION

ORA is entitled to strongly advocate against SoCalGas' Business Plan or aspects of SoCalGas' role in energy efficiency. However, it should not be permitted to propagate misleading and unsubstantiated allegations in the process. ORA's allegations are inflammatory, misleading and prejudicial, and lacking in evidentiary support. Therefore, the sections and excerpts identified in this Motion should be given no weight and should be stricken so that they do not continue to be a source of distraction to this proceeding, and defamation to SoCalGas.

Respectfully submitted on behalf of
SOUTHERN CALIFORNIA GAS COMPANY,

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