

Docket: : R.13-11-005
Exhibit Number : Cal Advocates 01E
Commissioner : _____
Admin. Law Judge : Randolph
ORA Analyst : Kao
: S. Babka
: S. Castello



**THE PUBLIC ADVOCATES OFFICE
CALIFORNIA PUBLIC UTILITIES COMMISSION**

PREPARED TESTIMONY

OF SOPHIE BABKA AND STEPHEN CASTELLO (Errata)

**ON THE OCTOBER 3, 2019, ADMINISTRATIVE LAW JUDGE'S RULING
GRANTING THE MOTION OF THE PUBLIC ADVOCATE'S OFFICE
AND DIRECTING SOUTHERN CALIFORNIA GAS COMPANY TO
SHOW CAUSE WHY IT SHOULD NOT BE SANCTIONED BY THE
COMMISSION FOR VIOLATION OF CALIFORNIA PUBLIC UTILITIES
CODE SECTIONS 702, 2107 OR 2108 OR RULE 1.1 OF THE
COMMISSION'S RULES OF PRACTICE AND PROCEDURE**

San Francisco, California
April 24, 2020 **revised** October 26, 2020

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION AND EXECUTIVE SUMMARY	1
II. SOCALGAS CONTINUED TO RECORD COSTS OF ENERGY EFFICIENCY CODES AND STANDARDS ADVOCACY IN RATEPAYER FUNDED ACCOUNTS IN VIOLATION OF EXPLICIT COMMISSION ORDERS PURSUANT TO DECISION 18-05-041	2
A. SoCALGAS CONTINUED TO RECORD COSTS IN RATEPAYER FUNDED ACCOUNTS FOR STATEWIDE EE CODES AND STANDARDS ADVOCACY AFTER THE COMMISSION ORDERED SoCALGAS TO CEASE SUCH ADVOCACY	2
B. SoCALGAS FAILED TO TIMELY END FEDERAL CODES AND STANDARDS ADVOCACY ACTIVITY	9
C. SoCALGAS MISLED THE COMMISSION BY CLAIMING THAT ADVOCACY TO FEDERAL GOVERNMENT ENTITIES WAS NOT PART OF STATEWIDE PROGRAMS	12
III. SOCALGAS REPEATEDLY MISLED THE COMMISSION WITH INACCURATE AND INCOMPLETE DATA REQUEST RESPONSES	14
A. SoCALGAS SUBMITTED MISLEADING AND INACCURATE INFORMATION TO THE PUBLIC ADVOCATES OFFICE AND MINIMIZED THE FULL EXTENT OF ITS PARTICIPATION IN CODES AND STANDARDS ADVOCACY	14
B. SoCALGAS ADDRESSES INAPPROPRIATE ACCOUNTING ENTRIES ONLY IN RESPONSE TO COMMISSION ACTION	18
IV. CONCLUSION	19
APPENDIX A - QUALIFICATIONS OF WITNESSES	

1 **I. INTRODUCTION AND EXECUTIVE SUMMARY**

2 This testimony presents the investigation of the Public Advocates Office at the California
3 Public Utilities Commission concerning the *Order to Show Cause why SoCalGas should not be*
4 *Sanctioned by the Commission for Violation of California Public Utilities Code Sections 702,*
5 *2107 or 2108 or Rule 1.1 of the Commission’s Rules of Practice and Procedure* (Order to Show
6 Cause).¹ Specifically, this testimony addresses Southern California Gas Company’s (SoCalGas)
7 failure to comply with Decision (D.) 18-05-041 and failure to comply with the California Public
8 Utilities Commission’s (Commission) Rules of Practice and Procedure (Rule) 1.1 as outlined in
9 the Assigned Commissioner’s Scoping Memo and Ruling dated December 2, 2019.²

10 Section II of this testimony demonstrates SoCalGas’s failure to comply with the
11 Commission’s order to cease energy efficiency (EE) codes and standards advocacy. Despite the
12 prohibition, SoCalGas failed to cease its advocacy in a timely manner and continued to record
13 the costs in ratepayer-funded accounts. SoCalGas also continued to participate in advocacy at the
14 federal level based on an unreasonable interpretation of the Commission’s orders.

15 Section III details the misleading and inaccurate information SoCalGas submitted to
16 Commission staff that minimized the full extent of its codes and standards advocacy. In addition,
17 SoCalGas’s failure to provide timely corrections to inaccurate information that it had provided in
18 data request responses hindered the Public Advocates Office’s ability to perform its duty.
19 Moreover, SoCalGas took action to correct its mistakes only when it was clear that it risked
20 being sanctioned by the Commission.

21 By failing to comply with the Commission’s orders and submitting misleading and
22 inaccurate information to the Commission, SoCalGas violated Public Utilities Code Section 702
23 and Rule 1.1 and should be subject to fines and sanctions consistent with Public Utilities Code
24 Sections 2107 and 2108.

¹ *Administrative Law Judge’s Ruling Granting the Motion of the Public Advocates Office of the Public Utilities Commission direction Southern California Gas Company to Show Why it Should Not be Sanctioned by the Commission for Violation of California Public utilities Code Sections 702, 2107 or 2108 or Rule 1.1 of the Commission’s Rules of Practice and Procedure* (October 3, 2019) (hereinafter Order to Show Cause).

² *Assigned Commissioner’s Scoping Memo and Ruling for Order to Show Cause Against the Southern California Gas Company*, December 2, 2019 (hereinafter Scoping Memo and Ruling for Order to Show Cause), pp. 4-5.

1 **II. SOCALGAS CONTINUED TO RECORD COSTS OF ENERGY**
2 **EFFICIENCY CODES AND STANDARDS ADVOCACY IN**
3 **RATEPAYER FUNDED ACCOUNTS IN VIOLATION OF**
4 **EXPLICIT COMMISSION ORDERS PURSUANT TO**
5 **DECISION 18-05-041**

6 (Witness: S. Babka)

7 **A. SoCalGas continued to record costs in ratepayer funded**
8 **accounts for statewide EE codes and standards advocacy**
9 **after the Commission ordered SoCalGas to cease such**
10 **advocacy**

11 The fact that SoCalGas violated a Commission order is not in dispute. SoCalGas
12 concedes that D.18-05-041 (Decision) prohibits statewide codes and standards advocacy but
13 nonetheless continued the prohibited activities.³ SoCalGas attempts to minimize and excuse its
14 violations by arguing the “continuing activities were minimal” and “were taken during a time
15 when SoCalGas was still assessing the full implications of the Decision and what activities were
16 affected.”⁴ SoCalGas further asserts that all codes and standards advocacy post decision were
17 either “purely transitional in nature,” related to “federal codes and standards,” or involved the
18 “wrapping up of ongoing statewide [codes and standards] advocacy activities.”⁵

19 The Commission should reject SoCalGas’s excuses for violating the Decision for several
20 reasons. First, the Decision’s language is absolute and does not include an exception for
21 transitional activities.⁶ Ordering paragraph 53 of the Decision establishes the broad prohibition,

³ SoCalGas *Response to the Motion of the Public Advocates Office for an OSC why SoCalGas should not be sanctioned for violating a Commission Order and Rule 1.1 of the Commission’s Rules of Practice and Procedure*, p. 1 (hereinafter SoCalGas Response to Motion for an OSC).

⁴ Prepared Direct Testimony of Darren M. Hanway on Behalf of Southern California Gas Company, March 27, 2020 (hereinafter SoCalGas March 2020 Testimony), p. 6:13-16.

⁵ Prepared Direct Testimony of Darren M. Hanway On Behalf of Southern California Gas Company (OSC Ordered Items of Testimony 1 and 2), January 10, 2020.p. 7:9-10 (hereinafter SoCalGas January 2020 Testimony).

⁶ The Public Advocates Office recognized that there were likely some activities that would be necessary to implement the Decision’s prohibition, such as communicating to the Los Angeles Department of Water and Power (LADWP) regarding the transition to a new lead for statewide lighting codes and standards. However, the Public Advocates Office noted that “any such activities should be de minimis.” *See Motion of the Public Advocates Office for an Order to Show Cause Why Southern California Gas Company Should Not Be Sanctioned for Violating a Commission Order and Rule 1.1 of the Commission’s Rules of Practice and Procedure*, July 15, 2019 (hereinafter Motion for an OSC) p. 3, fn. 8.

1 stating that SoCalGas “is prohibited from participating in statewide codes and standards
2 advocacy activities, *other than to transfer ratepayer funds to the statewide lead for codes and*
3 *standards*, during this business plan period.”⁷ The Decision was adopted on May 31, 2018 and
4 the prohibition was effective immediately.⁸ The Decision did not allow a transition period of any
5 length. SoCalGas’s excuses for continued codes and standards activities are self-serving and
6 inconsistent with the plain language of the ordering paragraph.

7 Second, if SoCalGas had any questions about the scope of the Decision’s prohibition, it
8 should have filed a petition for modification or, at a minimum, consulted Commission staff.
9 Instead of seeking clarification, SoCalGas imprudently continued its statewide codes and
10 standards advocacy activities. Allowing SoCalGas to selectively exclude activities that it
11 describes as “minimal” and “transitional” from the Commission’s outright prohibition would set
12 a troubling precedent that could encourage other utilities to defer compliance with Commission
13 decisions.

14 Third, SoCalGas failed to take steps to cease codes and standards advocacy activity until
15 after the Public Advocates Office’s investigation started on June 29, 2018.⁹ SoCalGas asserts
16 that it stopped all codes and standards advocacy activity on July 10, 2018, one month after the
17 Commission clearly prohibited these activities and only after the Public Advocates Office
18 submitted a data request revealing SoCalGas’s continued codes and standards advocacy.¹⁰

19 SoCalGas recorded most of the costs associated with its prohibited codes and standards
20 advocacy to its demand side management balancing account (DSMBA). SoCalGas only removed
21 costs associated with these prohibited activities from ratepayer-funded accounts after the Public
22 Advocate’s Office sent five data requests and filed its *Motion for an Order to Show Cause Why*
23 *Southern California Gas Company Should not be Sanctioned for Violating a Commission Order*
24 *and Rule 1.1 of the Commission’s Rules of Practice and Procedure* (Motion for OSC). Table 1
25 below presents a timeline of the Public Advocates Office’s investigation into SoCalGas’s
26 misconduct. The timeline demonstrates a link between the issuance of data requests, the filing of

⁷ D.18-05-041, OP 53, p. 193 (emphasis added).

⁸ D.18-05-041, p. 195.

⁹ Data Request ORA_HB_SCG-2018-09.

¹⁰ D.18-06-041 Ordering Paragraph 53, p. 93; SoCalGas March 2020 Testimony, p. 4:13-15; Data Request ORA-HB-SCG-2018-09.

1 the Motion for OSC, and SoCalGas’s eventual transfer of these codes and standards advocacy
 2 costs to shareholder-funded accounts. Although SoCalGas claims all post-prohibition codes and
 3 standards advocacy activity ceased on July 10, 2018, the first transfer of costs to shareholders
 4 was not initiated until *over a year* later on August 16, 2019 – after the Public Advocates Office’s
 5 Motion for OSC was filed.

**Table 1:
 Timeline of the Public Advocates Office Investigation into SoCalGas’s participation in Prohibited
 Codes and Standards Advocacy Activity post D.18-05-041.**

Date Received/filed	Action	Summary	Notes
6/29/2018	Data Request HB-SCG-2018-09 ¹¹	First Data Request (DR) sent regarding hours, costs, personnel, activities of SoCalGas related to codes and standards advocacy after June 1, 2018.	SoCalGas answered DR with a preliminary statement that stated that federal codes and standards advocacy would not be included in the answers (answers amended 9/11/19).
7/19/2018	DR ORA-EF-SCG-2018-01 ¹²	Second DR sent regarding SoCalGas’s representative holding a seat on the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC).	
12/10/2018	CalAdvocates-HB-SCG-2018-13 ¹³	Third DR sent regarding SoCalGas involvement on codes and standards (C&S) documents after the Decision and how that work was funded.	*Response received 12/28/18. Amended responses received on 01/07/2019 and on 09/11/2019 in which the latter update informed that charges were transferred from ratepayer funded accounts to shareholder accounts
1/16/19	CalAdvocates-HB-SCG-2019-01 ¹⁴	DR requested clarification of above data request responses including ASRAC funding participation in and funding of a June 26, 2018 meeting, and other EE balancing account charges.	On 9/11/2019, an amended response was sent notifying that charges had been switched from ratepayer-funded accounts to shareholder funded accounts.

¹¹ Public Advocate Office Data Request ORA-HB-SCG-2018-09 sent 6/26/2018.

¹² Public Advocates Office Data Request ORA-EF-SCG-2018-01 sent 07/19/2018.

¹³ Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13 sent 12/10/2018.

¹⁴ Public Advocates Office Data Request CalAdvocates-HB-SCG-2019-01 sent 01/16/2019.

Date Received/filed	Action	Summary	Notes
3/18/2019	CalAdvocates-HB-SCG-2018-03 ¹⁵	DR sent regarding SoCalGas's process for charging the EE balancing account and clarification of charges from the 3 rd DR above	On 9/11/2019, an amended response was sent notifying that charges had been switched from ratepayer funded accounts to shareholder funded accounts.
07/15/2019	The Public Advocates Office files its Motion for an OSC		
08/16/2019	SoCalGas initiates first transfer of charges from the DSMBA to shareholder funded account for advocacy that occurred after D.18-05-041 prohibited ratepayer funded codes and standards advocacy ¹⁶	Inappropriate charges removed from energy efficiency balancing account.	The most recent transfer of charges from EE C&S activity post D.18-05-041 from ratepayer funded accounts to shareholder funded accounts occurred 01/23/2020 ¹⁷
10/03/19	The Public Advocates Office Motion for an OSC Granted ¹⁸		

1 Fourth, most of SoCalGas's EE statewide codes and standards advocacy was not purely
2 transitional in nature. SoCalGas appears to define transitional activities as activities that are
3 necessary to bring "ongoing projects to a logical conclusion" and not substantive.¹⁹ SoCalGas's
4 definition is inconsistent with its previously identified transitional activities. SoCalGas's
5 response to the Motion for OSC only identifies five activities as transitional.²⁰ SoCalGas's
6 response also lists other advocacy activities it engaged in that it did not label as transitional.²¹
7 Now, SoCalGas's testimony claims its codes and standards advocacy was "purely transitional in
8 nature," was related to "federal codes and standards," or is part of the "wrapping up of ongoing
9 statewide C&S advocacy activities," contradicting the table it previously provided identifying

¹⁵ Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-03 sent 03/18/2019.

¹⁶ Response of SoCalGas to Data Request CalAdvocates-EP-SCG-2020-01 sent 02/07/2020.

¹⁷ Response of SoCalGas to Data Request CalAdvocates-EP-SCG-2020-01 sent 02/07/2020.

¹⁸ Order to Show Cause.

¹⁹ SoCalGas March 2020 Testimony, p. 6: 8-10.

²⁰ SoCalGas Response to Motion for an OSC, Appendix A. SoCalGas identifies one additional activity as "unclear, but likely transition."

²¹ SoCalGas Response to Motion for an OSC, Appendix A.

- 1 only five advocacy activities as transitional.²² Table 2 below identifies the activities that
- 2 SoCalGas originally identified as transitional juxtaposed to other SoCalGas prohibited codes and
- 3 standards activities that the Public Advocates Office has discovered.

**Table 2:
SoCalGas Codes and Standards Advocacy post-D.18-05-041.²³**

Activity	Date(s)	Labor Hours ²⁴	3 rd Party Cost ²⁵	Gov. Entity ²⁶	Original Account Charged ²⁷	Costs shifted to shareholder account?
Debrief on California Energy Commission’s (CEC) position on DPPP (dedicated purpose pool pumps) ²⁸	6/1/2018			Statewide (SW)	DSMBA	Yes
SoCalGas communicated to LADWP ²⁹ that PG&E would be leading SW lighting Codes and Standards going forward ³⁰	6/1/2018; 6/8/2018 ³¹			SW- Transitional		
DOE Dishwasher Collaboration with the CEC Meeting ³²	6/4/2018			Federal	DSMBA	Yes
Program Manager and Contractor attended a Conference Call for Comment Letters on Residential Dishwasher Petition	6/7/2018	1.16 hours	\$375	Federal	DSMBA	Yes

²² SoCalGas January 2020 Testimony, p. 7:9-10.

²³ Data from this table is from the following source unless otherwise noted: Response of SoCalGas to CAL-ADVOCATES-HB-SCG-2018-13 Question 16 Tab M and Question 17 Tab N of spreadsheet, originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019. *Note: “As noted in the Preliminary Statement, the specific information identified in response to Tab M[N] should be considered approximate.”

²⁴ This column reflects times spent on this activity if available, if data was not available column is left blank.

²⁵ This column reflects contractor rate charged spent on this activity if available, if data was not available column is left blank.

²⁶ This column states the government entity level in which the advocacy took place. The data from this column is from SoCalGas Response to Motion for an OSC, Appendix A unless otherwise noted.

²⁷ This column reflects times spent on the funding mechanism of the activity, if data was not available column is left blank.

²⁸ SoCalGas Response to Motion for an OSC, Appendix A

²⁹ Los Angeles Department of Water and Power.

³⁰ SoCalGas March 2020 Testimony, p.6: 5-7.

³¹ SoCalGas Response to Motion for an OSC, Appendix A.

³² PG&E’s response to Data Request ORA-HB-PGE-2018-04.

Activity	Date(s)	Labor Hours ²⁴	3 rd Party Cost ²⁵	Gov. Entity ²⁶	Original Account Charged ²⁷	Costs shifted to shareholder account?
Program Manager attended Title 24 2019 Wrap up and 2022 Planning, Bi-weekly Building Codes Advocacy Check-in Call	6/7/2018	1.16 hours		SW	DSMBA	Yes
Program Manager attended 2019 Title 24 Advocacy Support ASHRAE 90.1 Presentation	6/11/2018	0.5 hours		SW	DSMBA	Yes
Text Message between PG&E and SoCalGas Attorney ³³	6/15/18			Transitional		
Program Manager and Contractor attended a Proposed Comment Letter on Cooking top Petition Meeting	6/18/18	1.16 hours	\$375	Federal	DSMBA	Yes
Program Manager and Contractor attended a DOE Central AC (CAC)Waivers meeting	6/18/18	.82 hours	\$975	Federal	DSMBA	Yes
Program Manager attended a Portable ACs Updating Meeting	6/20/18	1.16 hours		SW	DSMBA	Yes
SoCalGas Attorney had a phone call to discuss cooktop test procedures with a PG&E Attorney	6/22/18	~5 mins		Transitional	Ratepayer funded account, DSMBA	No
Three SoCalGas employees participated in a building decarbonization conference call	6/26/2018	5.3 hours		SW ³⁴	Ratepayer funded account	No
Program Manager attended an IOU Title 20 Fan Call	6/26/2018	0.66 hours		SW	DSMBA	Yes
SoCalGas Director and PG&E Director call to discuss SoCalGas's involvement in EE Codes and Standards ³⁵	6/28/2018			“Unclear, but likely transition” ³⁶		
Consultant Negawatt ceased monitoring docket activity related to SW and federal Codes and standards ³⁷	7/10/2018		6 hours ³⁸	Transitional	DSMBA	Yes

³³ Response of PG&E’s to Data Request ORA-HB-2018-14.

³⁴ Some portion of this meeting appears to have been devoted to discussing statewide advocacy. Response of PG&E to DR ORA-HB-PGE-2018-14, Question 2.

³⁵ Response of PG&E to DR ORA-HB-PGE-2018-14.

³⁶ SoCalGas Response to Motion for an OSC, Appendix A.

³⁷ Response of SoCalGas to CalAdvocates-HB-SCG-2018-13 Question 24 originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019.

³⁸ Total time from 6/30/2018 to 7/10/2018.

Activity	Date(s)	Labor Hours ²⁴	3 rd Party Cost ²⁵	Gov. Entity ²⁶	Original Account Charged ²⁷	Costs shifted to shareholder account?
SoCalGas worked on the following documents between 6/6/2018 and 6/29/2018						
SoCalGas worked on the CAIOU Technical Memo Reproducibility Draft ³⁹	6/6/2018-6/29/2018	.08 hours		SW ⁴⁰	DSMBA	Yes
Commercial Dryer Memo CEC ⁴¹	6/22/18	.08 hours		SW ⁴²	DSMBA	Yes
Cooking Top Test Procedures Petition One Page Review Form ⁴³	6/6/2018-6/29/2018	.08 hours	.08 hours	Federal	DSMBA	Yes
Dishwasher CASE Report ⁴⁴	6/6/2018-6/29/2018	.08 hours	2.5 hours	Federal	DSMBA	Yes
Draft T20 CASE Report Hearth Products ⁴⁵	6/8/2018 ⁴⁶	.16 hours	4.5 hours	SW	DSMBA	Yes
Fans and Blowers Draft CASE Report ⁴⁷	6/6/2018-6/29/2018	.08 hours		SW	DSMBA	Yes
T20 CASE Report Fans and Blowers Addendum ⁴⁸	6/6/2018-6/29/2018	.08 hours		SW	DSMBA	Yes

³⁹ Response of SoCalGas to CalAdvocates-HB-SCG-2018-13 Tab A, originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019. * “As noted in the Preliminary Statement, the specific information identified in response to Tab A should be considered approximate.”

⁴⁰ This activity appears to be related to advocacy at the statewide level.

⁴¹ Response of SoCalGas to CalAdvocates-HB-SCG-2018-13 Tab A, originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019. * “As noted in the Preliminary Statement, the specific information identified in response to Tab A should be considered approximate.”

⁴² This activity is at the CEC, so it appears to be related to advocacy at the statewide level.

⁴³ Response of SoCalGas to CalAdvocates-HB-SCG-2018-13 Tab A, originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019. * “As noted in the Preliminary Statement, the specific information identified in response to Tab A should be considered approximate.”

⁴⁴ Response of SoCalGas to CalAdvocates-HB-SCG-2018-13 Tab A, originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019. * “As noted in the Preliminary Statement, the specific information identified in response to Tab A should be considered approximate.”

⁴⁵ Response of SoCalGas to CalAdvocates-HB-SCG-2018-13 Tab A, originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019. * “As noted in the Preliminary Statement, the specific information identified in response to Tab A should be considered approximate.”

⁴⁶ SoCalGas Response to Motion for an OSC, Appendix A.

⁴⁷ Response of SoCalGas to CalAdvocates-HB-SCG-2018-13 Tab A, originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019. * “As noted in the Preliminary Statement, the specific information identified in response to Tab A should be considered approximate.”

⁴⁸ Response of SoCalGas to CalAdvocates-HB-SCG-2018-13 Tab A, originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019. * “As noted in the Preliminary Statement, the specific information identified in response to Tab A should be considered approximate.”

Activity	Date(s)	Labor Hours ²⁴	3 rd Party Cost ²⁵	Gov. Entity ²⁶	Original Account Charged ²⁷	Costs shifted to shareholder account?
Nonresidential SOW RM ⁴⁹	6/6/2018-6/29/2018	.25 hours		SW ⁵⁰	DSMBA	Yes
Residential Dishwasher Comment Final Letter ⁵¹	6/6/2018-6/29/2018	.08 hours		Federal	DSMBA	Yes

1 As demonstrated above, most activities were not transitional, contrary to SoCalGas’s
2 claim.

3 Whether transitional or not, SoCalGas’s activities were in clear violation of the Decision.
4 Therefore, the Commission should reject SoCalGas’s excuses for its violations of the Decision
5 and impose fines and sanctions on SoCalGas.

6 **B. SoCalGas failed to timely end federal codes and standards**
7 **advocacy activity.**

8 SoCalGas claims it is “reasonable” to interpret that federal codes and standards advocacy
9 activities were not prohibited because the Decision approved the investor-owned utilities’ (IOUs)
10 proposals in their business plans to establish a separate federal level EE codes and standards
11 advocacy subprogram that would be administered locally rather than statewide.⁵² SoCalGas’s
12 interpretation of the Decision is unreasonable and should be rejected for several reasons.

13 First, SoCalGas’s interpretation ignores the unambiguous language of the Decision, which
14 prohibits SoCalGas from engaging in any ratepayer-funded EE codes and standards advocacy.
15 The Decision made several unambiguous statements regarding the prohibited activities,
16 including:

- 17 • “We are nevertheless convinced that there is potential for
18 SoCalGas to misuse ratepayer funds authorized for codes and
19 standards advocacy, such that we find it reasonable to limit

⁴⁹ Response of SoCalGas to CalAdvocates-HB-SCG-2018-13 Tab A, originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019. * “As noted in the Preliminary Statement, the specific information identified in response to Tab A should be considered approximate.”

⁵⁰ Response of SoCalGas to CalAdvocates-HB-SCG-2018-09, Attachment C 060718_2022-Nonres-SOW RM.

⁵¹ Response of SoCalGas to CalAdvocates-HB-SCG-2018-13 Tab A, originally sent 12/28/2018, amended on 01/07/2019 and 9/11/2019. * “As noted in the Preliminary Statement, the specific information identified in response to Tab A should be considered approximate.”

⁵² SoCalGas March 2020 Testimony, pp. 4:21-5:41.

- 1 SoCalGas’s involvement in codes and standards advocacy as
 2 [the Public Advocates Office] recommends.”⁵³
- 3 • “SoCalGas shall have no role in statewide codes and standards
 4 advocacy other than to transfer funds to the statewide codes
 5 and standards lead for program implementation.”⁵⁴
 - 6 • “We are prohibiting SoCalGas from *using ratepayer funds* to
 7 conduct codes and standards advocacy, which we find
 8 reasonable based on the Commission’s clear policy intent for
 9 such funds and on evidence submitted by ORA of SoCalGas’s
 10 past contravention of that policy intent.”⁵⁵
 - 11 • “[W]e decline to consider a penalty for SoCalGas’s past
 12 conduct but instead limit their future involvement in statewide
 13 codes and standards advocacy as a precautionary measure”.⁵⁶
 - 14 • Finding of Fact 77: “Evidence shows that SoCalGas has not
 15 worked towards adoption of more stringent codes and
 16 standards.”⁵⁷
 - 17 • Conclusion of Law 76: “We should limit SoCalGas’s
 18 involvement in codes and standards advocacy during this
 19 business plan period.”⁵⁸
 - 20 • Ordering Paragraph 53: “Southern California Gas Company is
 21 prohibited from participating in statewide codes and standards
 22 advocacy activities, other than to transfer ratepayer funds to the
 23 statewide lead for codes and standards, during this business
 24 plan period.”⁵⁹
- 25 D.18-05-041 did not distinguish codes and standards advocacy adopted at the state level
 26 from those adopted at the federal level, nor did it create an exception for federal level advocacy.
 27 SoCalGas nevertheless continued to conduct federal level codes and standards advocacy,

⁵³ D.18-05-041, p. 144.

⁵⁴ D.18-05-041, p. 144.

⁵⁵ D.18-05-041, p. 150. The Public Advocates Office was known as the Office of Ratepayer Advocates when the Commission adopted D.18-05-041. (Original emphasis).

⁵⁶ D.18-05-041, p. 151.

⁵⁷ D.18-05-041, p. 168, Finding of Fact 77.

⁵⁸ D.18-05-041, p. 181.

⁵⁹ D.18-05-c041, p. 193, Ordering Paragraph 53.

1 disregarding the Commission’s response to the evidence of misuse of ratepayer funds, which the
2 Commission viewed as a “serious allegation.”⁶⁰

3 Second, the Decision's prohibition was in part based on allegations raised by the Public
4 Advocates Office that SoCalGas misused ratepayer funds to improperly oppose federal codes
5 and standards advocacy proposed by the U.S. Department of Energy (DOE). The Decision cites
6 the following allegations related to SoCalGas’s federal activities as evidence to support the
7 prohibition on SoCalGas’s codes and standards advocacy:

- 8 • SoCalGas’s opposition to the DOE’s proposed new efficiency
9 standards for residential furnaces
- 10 • SoCalGas’s use of ratepayer money to fund the American Gas
11 Association and American Public Gas Association to conduct a
12 study in opposition to the DOE’s proposed furnace rule
- 13 • Bad faith engagement with other IOUs in joint code and standards
14 efforts for a DOE letter.⁶¹

15 It is illogical to interpret the Decision’s prohibition, which was in part based on
16 allegations of improper federal codes and standards advocacy, as not including federal codes and
17 standards advocacy activities. While D.18-05-041 refers to “statewide codes and standards
18 advocacy” activities, “statewide” describes the mechanism for implementing the program, rather
19 than the government entity that adopts the codes and standards advocacy.^{62 63}

20 Third, despite SoCalGas’s alleged confusion about the scope of the Decision’s prohibition,
21 SoCalGas failed to seek the Commission’s clarification until after the Public Advocates Office
22 began to investigate the matter. If SoCalGas was unclear about the scope of the Decision’s
23 prohibition language, SoCalGas should have followed the Commission’s Rules of Practice and
24 Procedure, and sought clarification or requested modification of the Decision using the
25 appropriate procedural mechanism, such as a petition for modification. Moreover, when the
26 Public Advocates Office sent data requests requesting information regarding codes and standards

⁶⁰ D.18-05-041, p. 140.

⁶¹ D.18-05-041, p. 141.

⁶² Thus, statewide EE programs are administered by a single utility on behalf of (and with funding from) all four utilities, rather than being administered separately by each utility.

⁶³ Any claim that Ordering Paragraph 53 permitted SoCalGas to engage in federal codes and standards advocacy vanished after its July 31, 2018 meeting with the Energy Division, and its continued assertions to the contrary were inconsistent with SoCalGas’s obligation not to mislead the Commission or its staff.

1 advocacy, SoCalGas provided responses that stated that federal codes and standards advocacy
2 activity was not considered in its following response ⁶⁴ (to be discussed in Section III).

3 One month after the Public Advocates Office issued data requests about SoCalGas’s
4 federal activities, SoCalGas met with the Energy Division on July 31, 2018 to discuss whether
5 federal codes and standards advocacy was included in the Decision’s prohibition.⁶⁵ SoCalGas
6 asserted that only “shortly” after this meeting did SoCalGas decide to “no longer engage in
7 federal EE C&S advocacy.”⁶⁶ SoCalGas acted imprudently by waiting two months after the
8 Decision before meeting with the Energy Division. It remains questionable whether SoCalGas
9 would have taken this step but for the Public Advocates Office’s investigation.

10 Fourth, SoCalGas’s purported interpretation of the Decision is not credible. SoCalGas’s
11 claim that it “informed its consultants to stop monitoring docket activity related to statewide *and*
12 *federal* EE codes and standards” on July 10, 2018 is inconsistent with its claim that it stopped
13 federal advocacy shortly after the July 31, 2018 meeting with the Energy Division.⁶⁷ These
14 inconsistent claims call into question whether SoCalGas is being transparent and forthcoming
15 about its reasoning that the Decision was unclear about prohibiting federal codes and standards
16 advocacy.

17 **C. SoCalGas misled the Commission by claiming that**
18 **advocacy to federal government entities was not part of**
19 **statewide programs.**

20 (Witness: S. Castello)

21 SoCalGas’s claim⁶⁸ that it was reasonable to interpret the Decision as not prohibiting
22 federal advocacy is questionable for a number of reasons.

23 First, the “statewide” language used in D.18-05-041 is not ambiguous and has been defined by
24 the Commission in previous proceedings. In the context of EE programs, statewide refers to a

⁶⁴ SoCalGas’s response to DR-ORA-HB-SCG-2018-09, Preliminary Statement: For the purposes of these responses, SoCalGas understands the phrase “energy efficiency codes and standards advocacy” to mean conduct directly concerning statewide energy efficiency codes and standards advocacy, as delineated in Decision 18- 05-041. The activities therefore do not include activities for local programs, such as compliance, reach codes, and engagement with the Department of Energy (“DOE”).

⁶⁵ SoCalGas March 2020 Testimony, p. 5:12-14.

⁶⁶ SoCalGas did not define the time interval. SoCalGas March 2020 Testimony, p. 5:17-19.

⁶⁷ SoCalGas March 2020 Testimony, pp. 3:23-4:2. (emphasis added)

⁶⁸ SoCalGas Response to Motion for OSC, p. 5.

1 program that is delivered uniformly through the four large IOU territories and administered by a
 2 lead program administrator.⁶⁹ Moreover, SoCalGas’s business plan states that “[S]tatewide
 3 Codes and Standards (C&S) Program advances technologies into code through advocacy work
 4 with standards and code-setting bodies, such as the California Energy Commission (CEC) and
 5 the Department of Energy (DOE), to strengthen EE regulations by improving compliance with
 6 existing C&S.”⁷⁰ Both of these explanations make clear that “statewide” refers to how a program
 7 is administered, not specifically advocacy to a state regulatory body.

8 SoCalGas’s claim that federal advocacy was a local program is not credible because no
 9 such local program existed on the California Energy Data and Reporting System (CEDARS).⁷¹
 10 In fact, all federal codes and standards programs funded by SoCalGas are explicitly classified as
 11 statewide programs, not local programs.⁷² SoCalGas staff enter information directly into the
 12 CEDARS database; therefore, SoCalGas is clearly aware of this definition. Table 3 shows the
 13 SoCalGas Codes and Standards Subprograms from CEDARS’ June 2018 Monthly Report.

**Table 3: SoCalGas Codes and Standards Subprograms
 (June 2018 Monthly Report)**

Program ID	Program Name	Parent Program	Advocacy?
SCG3724	C&S-SW-Building Codes & Compliance Advocacy*	Statewide Programs	Yes
SCG3725	C&S-SW-Appliance Standards Advocacy*	Statewide Programs	Yes
SCG3726	C&S-Compliance Enhancement	Local Programs	No

⁶⁹ “A program or subprogram that is designed to be delivered uniformly throughout the four large investor-owned utility service territories. Each statewide program and/or subprogram shall be consistent across territories and overseen by a single lead program administrator. One or more statewide implementers, under contract to the lead administrator, should design and deliver the program or subprogram. Local or regional variations in incentive levels, measure eligibility, or program interface are not generally permissible (except for measures that are weather dependent or when the program administrator has provided evidence that the default statewide customer interface is not successful in a particular location. Upstream (at the manufacturer level) and midstream (at the distributor or retailer level, but not the contractor or installer level) interventions are required to be delivered statewide. Some, but not all, downstream (at the customer level) approaches are also appropriate for statewide administration. Statewide programs are also designed to achieve market transformation,” D.16-08-019, OP 5.

⁷⁰ SoCalGas Energy Efficiency Business Plan January 17, 2017, p. 103.

⁷¹ CEDARS, Monthly Reports, SoCalGas Confirmed Monthly Report Dashboard for February 2020, “SoCalGas Confirmed Monthly Report Summary.” <https://cedars.sound-data.com/monthly-reports/confirmed-dashboard/SCG/>.

⁷² CEDARS, Monthly Reports, SoCalGas Confirmed Monthly Report Dashboard for February 2020, “SoCalGas Confirmed Monthly Report Summary.” <https://cedars.sound-data.com/monthly-reports/confirmed-dashboard/SCG/>.

1 to the Demand Side Management Balancing Account (DSMBA). Table 5 details these omissions
 2 and obfuscations.

**Table 5:
 SoCalGas’s Misleading or Inaccurate Responses to Data Request ORA-HB-SCG-2019-09**

Question 1	Omitted employee time spent on EE codes and standards advocacy activities from June 1, 2018 to June 5, 2018.
Question 2	Omitted time spent by three employees on EE codes and standards advocacy activities on or after June 6.
Question 4	Claimed only one employee spent time on EE codes and standards activities on or after June 6.
Question 5	Omitted the following EE codes and standards advocacy activity between June 1, 2018 and June 5, 2018: (1) Joined a call with the other IOUs and CEC to discuss a on the petition received by the DOE on residential dishwasher standards.
Question 6	Omitted the following EE codes and standards advocacy activity on or after June 6, 2018: (1) Joined a call with the other IOUs to discuss comments on the petition received by the DOE on residential dishwasher standards. (2) Email sent concerning DOE comments on residential dishwasher standards (3) Joined a call with the other IOUs for a consultant presentation regarding American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) 90.1-2004. (4) Joined a call regarding waivers published by the DOE on central air conditioners. (5) Joined a call with the other IOUs to discuss comments on a petition for rulemaking received by the DOE on cooking top test procedure. (6) SoCalGas staff met with a consultant to discuss recent DOE codes and standards activity. (7) Text message communication between SoCalGas Customer Programs Regulatory Policy and Reporting Manager and a PG&E employee on June 15, 2018. (8) Communication between SoCalGas attorney and PG&E attorney on June 22, 2018. (9) Email to PG&E’s consultant on electric vehicles. (10) Email to PG&E’s consultant on natural gas cooktop comments. (11) Instructed SoCalGas’s consultant, Negawatt, not to attend a CEC Integrated Energy Policy Report (IEPR) workshop. (12) Phone call between a PG&E director and a SoCalGas director to discuss roles in codes and standards advocacy on June 28, 2018.
Question 8	Omitted providing approval to statewide IOU comments submitted to the DOE on residential dishwasher standards.

Question 9	Provided incomplete costs SoCalGas charged or expected to charge to EE balancing accounts for costs incurred between June 1, 2018 and June 5, 2018.
Question 10	Provided incomplete costs SoCalGas charged or expected to charge to EE balancing accounts for cost incurred on or after June 6, 2018.
Question 11	Provided incomplete disaggregation of costs SoCalGas charged or expected to charge to EE balancing accounts for costs incurred between June 1, 2018 and June 5, 2018.
Question 12	Provided incomplete disaggregation of costs SoCalGas charged or expected to charge to EE balancing accounts for cost incurred on or after June 6, 2018.
Question 16	Omitted the following communications that occurred between SoCalGas and other IOUs: (1) Text message communication between SoCalGas Customer Programs Regulatory Policy and Reporting Manager and a PG&E employee on June 15, 2018. (2) Communication between SoCalGas attorney and PG&E attorney on June 22, 2018. (3) Phone call between a PG&E director and a SoCalGas director to discuss roles in codes and standards advocacy on June 28, 2018.

1 SoCalGas responded to the Public Advocates Office’s data request on July 16, 2018
2 before meeting with the Energy Division staff on July 31, 2018 to discuss the extent of the
3 Commission’s prohibition.⁷⁶ SoCalGas has argued that its answers to the July 16, 2018 data
4 request were consistent with its understanding the intention of D.18-05-041. But this argument
5 ignores the fact that SoCalGas did not supplement its responses to be complete after their
6 meeting with Energy Division. SoCalGas failed to correct its previous false and incomplete
7 responses for over one year. Moreover, SoCalGas continued to provide the Public Advocates
8 Office with incomplete information in follow up responses to data requests.

9 On December 28, 2018, the Public Advocates Office sent a follow-up data request⁷⁷,
10 seeking further information on the cost accounting for SoCalGas’s previously-identified codes
11 and standards advocacy activities. SoCalGas provided vague and incomplete responses. For
12 example, SoCalGas responded that SoCalGas’s EE Programs Operations Manager made the
13 decisions that SoCalGas should sign two letters sent to the DOE on June 21, 2018 and

⁷⁶ SoCalGas March 2020 Testimony, p. 5:12-14.

⁷⁷ Data Request CalAdvocates-HB-SCG-2018-13.

1 June 22, 2018.⁷⁸ However, SoCalGas also claims in the same responses that the manager in
 2 question spent no time in making that determination and providing his approvals.⁷⁹

3 In addition to the above example, SoCalGas makes numerous implausible time estimates
 4 for work done to support various codes and standards advocacy documents.⁸⁰ Table 6 shows
 5 SoCalGas’s document, its estimate of the time spent working on the document, and the
 6 associated program.

**Table 6:
 SoCalGas Time Estimates of Time Spent Working on Advocacy Documents
 between June 6, 2018 and June 29, 2018⁸¹**

Document	Total time SoCalGas employees spent working on document between June 6, 2018 and June 29, 2018	Which specific SoCalGas program(s) and subprogram(s) was this work associated with?
CAIOU Technical Memo	5 minutes	SCG 3725 - C&S SW -Appliance Standards Advocacy
Commercial Dryer Memo CEC	5 minutes	SCG 3725 - C&S SW -Appliance Standards Advocacy
Cooking Top Test Procedures Petition Review Form	5 minutes	SCG 3725 - C&S SW -Appliance Standards Advocacy
Draft Dishwasher CASE Report	5 minutes	SCG 3725 - C&S SW -Appliance Standards Advocacy
Draft T20 CASE Report Hearth Products	10 minutes	SCG 3725 - C&S SW -Appliance Standards Advocacy
Fans and Blowers Draft CASE Report	5 minutes	SCG 3725 - C&S SW -Appliance Standards Advocacy
T20 CASE Report Fans and Blowers Addendum	5 minutes	SCG 3725 - C&S SW -Appliance Standards Advocacy
Nonresidential SOW RM	15 minutes	SCG 3724 - C&S SW - Building Codes & Compliance Advocacy
Residential Dishwasher Comment Letter	5 minutes	SCG 3725 - C&S SW -Appliance Standards Advocacy
Residential Dishwasher Comment Letter	5 minutes	SCG 3725 - C&S SW -Appliance Standards Advocacy

7 Moreover, the estimates SoCalGas provides for review of the above documents are
 8 questionable. For example, SoCalGas claims its contractor Negawatt spent 2.5 hours reviewing

⁷⁸ Data Request CalAdvocates-HB-SCG-2018-13, SoCalGas’s Responses to Questions 13, 14, and 15.

⁷⁹ Data Request CalAdvocates-HB-SCG-2018-13, SoCalGas’s Responses to Questions 13, 14, and 15.

⁸⁰ Data Request CalAdvocates-HB-SCG-2018-13, SoCalGas’s Response Attachment A.

⁸¹ Data Request CalAdvocates-HB-SCG-2018-13, SoCalGas’s Response Attachment A, Tab A.

1 and suggesting comments on the Draft Dishwasher CASE Report⁸² while their employee only
2 spent 5 minutes in reviewing the same document and considering whether or not authorize
3 SoCalGas to endorse it.

4 SoCalGas provided amendments to multiple data requests on September 11, 2019,⁸³
5 approximately 14 months after its initial response was submitted. SoCalGas again failed to
6 amend its claim that only one employee worked on EE codes and standards advocacy in the
7 period after June 6, 2018, despite its own data request responses indicating multiple employees
8 engaged in codes and standards advocacy-related activities after the prohibition.⁸⁴

9 SoCalGas’s failure to provide accurate and complete responses is inconsistent with its
10 obligation to provide truthful information to Commission staff. The Commission should consider
11 these misleading, inaccurate, and incomplete responses when it determines the appropriate
12 penalties in the form of fines and sanctions.

13 **B. SoCalGas addresses inappropriate accounting entries only**
14 **in response to Commission action.**

15 In addition to the inappropriate charges discussed in Section II, the Public Advocates
16 Office also identified allocated overhead costs for activities subject to the Commission’s
17 prohibition that have been charged to ratepayer-funded accounts. SoCalGas states, “In an
18 abundance of caution and as a showing of good faith, SoCalGas transferred the amounts
19 associated with the two Statewide EE codes and standards advocacy programs, as well as costs
20 associated with federal C&S advocacy, during this 40-day period to shareholder funds.^{85”}

21 SoCalGas’s claims are disingenuous and misleading. Internal SoCalGas email
22 communications show that SoCalGas only initiated transfer of these overhead costs from
23 ratepayer-funded accounts to shareholder-funded accounts in response to the order in the
24 Assigned Commissioner’s December 2nd Scoping Memo and Ruling for Order to Show Cause to

⁸² Data Request CalAdvocates-HB-SCG-2018-13, SoCalGas’s Response to Question 6; Data Request CalAdvocates-HB-SCG-2018-13, SoCalGas’s Response Excel Attachment A Tab F.

⁸³ Data Request CalAdvocates-HB-SCG-2018-09; Data Request CalAdvocates-HB-SCG-2018-03.

⁸⁴ Data Request CalAdvocates-HB-SCG-2018-13, SoCalGas’s Responses to Questions 3 and 4; Data Request CalAdvocates-HB-SCG-2018-13, SoCalGas’s Response Excel Attachment Tab N.

⁸⁵ SoCalGas January 2020 Testimony, p.7:10-13.

1 submit testimony.⁸⁶ In an email sent on January 8, 2020, a Sempra⁸⁷ employee reminds a
2 SoCalGas employee that SoCalGas has testimony due January 10, 2020 and wants to confirm the
3 status of the “allocated overhead loading dollars” associated with SoCalGas’s codes and
4 standards activities.⁸⁸ This communication indicates that SoCalGas had not actually reversed the
5 overhead charges in its accounting system. Moreover, the evidence SoCalGas has provided in its
6 data request responses indicates that it did not fully reverse the charges prior to January 23,
7 2020.⁸⁹ Therefore, any claims made by SoCalGas about reversing charges to ratepayers in good
8 faith should be tempered by the understanding that SoCalGas was unlikely to correct these
9 violations in the absence of the Public Advocates Office’s investigation.

10 **IV. CONCLUSION**

11 Despite an explicit prohibition to cease EE codes and standards advocacy, SoCalGas
12 continued to record the costs associated with such advocacy to accounts identified for cost
13 recovery from ratepayers. When questioned about its activities, SoCalGas submitted misleading
14 and inaccurate statements to Commission staff. Given SoCalGas’s blatant disregard for the
15 Commission’s rules and orders, the Commission should find that SoCalGas violated Public
16 Utilities Code Section 702 and Rule 1.1 of the Rules of Practice and Procedure and impose
17 appropriate fines and sanctions.

⁸⁶ Data Request CalAdvocates-EP-SCG-2020-01, 02_DREP-SCG-2020-01.Q20000003.

⁸⁷ Southern California Gas Company is a subsidiary of Sempra Energy.

⁸⁸ Date Request CalAdvocates- EP-SCG-2020-01, 02_DREP-SCG-2020-01.Q20000003, January 8, 2020 email sent at 10:26 AM.

⁸⁹ Data Request CalAdvocates-EP-SCG-2020-01, 02_DREP-SCG-2020-01.Q20000003, January 22, 2020 email sent at 8:49 AM.

APPENDIX A

QUALIFICATIONS OF WITNESSES

1 **QUALIFICATION OF WITNESS**

2 **SOPHIE BABKA**

3 My name is Sophie Babka. My business address is 505 Van Ness Avenue,
4 San Francisco, California, 94102. I am employed as a Public Utilities Regulatory Analyst in the
5 Customer Branch of the Public Advocates Office. I have a Bachelor of Science in Environmental
6 Sciences and minors in Public Policy and Energy Resources from the University of California,
7 Berkeley.

8 I have been working for the Public Advocates Office since November 2019, and
9 previously worked in the Energy Division of the California Public Utilities Commission
10 (Commission). I have worked on the following Commission proceedings, Ordering Instituting
11 Rulemaking to Consider New Approaches to Disconnections and Reconnections to Improve
12 Energy Access and Contain Costs (R.18-07-005), Order Instituting a Rulemaking to Establish a
13 Framework and Processes for Assessing the Affordability of Utility Service (R.18-07-006), and
14 Order Instituting a Rulemaking Concerning Energy Efficiency Rolling Portfolios, Policies,
15 Programs, Evaluation, and Related Issues (R.13-11-005).

16 This completes my prepared testimony.

1 **QUALIFICATION OF WITNESS**

2 **STEPHEN CASTELLO**

3 My name is Stephen Castello. My business address is 505 Van Ness Avenue,
4 San Francisco, California, 94102. I am employed as a Public Utilities Regulatory Analyst I in the
5 Customer Branch of the Public Advocates Office. I am sponsoring the Testimony of S. Castello.

6 I received a Bachelor of Arts Degree in Political Science from the University of
7 California, Berkeley in 2014 and a Master of Science in Economics from California State
8 University, East Bay in 2018.

9 I have been working for the Public Advocates Office since May 2019. Since joining the
10 Public Advocates Office, I have worked on the following California Public Utilities Commission
11 proceedings: Demand Response Programs, Pilots and Budgets for Program Years 2018-2022
12 (Application (A).17-01-012, A.17-01-018, A.17-01-019), the Integrated Distributed Energy
13 Resources Rulemaking (R.14-10-003), the Self-Generation Incentive Program and Other
14 Distributed Generation Issues Rulemaking (R.12-11-005), and the Application of PacifiCorp for
15 Approval of its Proposed Net Billing Tariff to Compensate Eligible Customers (R.19-04-013).

16 This completes my prepared testimony.