

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Concerning
Energy Efficiency Rolling Portfolios, Policies,
Programs, Evaluation, and Related Issues.

Rulemaking 13-11-005
(Filed November 14, 2013)

**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**

**HENRY BURTON
ELIZABETH FOX**
Analysts

The Public Advocates Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 696-7311
E-mail: henry.burton@cpuc.ca.gov

**DIANA L. LEE
TOVAH TRIMMING**
Attorneys

The Public Advocates Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-4342
E-mail: diana.lee@cpuc.ca.gov

July 15, 2019

TABLE OF CONTENTS

	<u>Pages</u>
I. INTRODUCTION.....	1
II. STATEMENT OF FACTS.....	2
A. D.18-05-041 PROHIBITS SOCALGAS FROM USING RATEPAYER FUNDS TO PARTICIPATE IN EE CODES AND STANDARDS ADVOCACY THROUGH 2025.	2
B. SoCalGas IGNORED D.18-05-041’S ORDER TO CEASE RATEPAYER FUNDED EE CODES AND STANDARDS ADVOCACY FOR THE DURATION OF THE 2018-2025 BUSINESS PLAN CYCLE AND FAILED TO DESCRIBE THE FULL EXTENT OF THOSE ACTIVITIES IN RESPONSE TO DATA REQUESTS.	3
1. SoCalGas admits that it continued to work on EE codes and standards advocacy using ratepayer funding in contravention of the Commission’s order in D.18-05-041.	3
2. SoCalGas’s EE codes and standard advocacy activities were more extensive than stated in its July 16, 2018 responses.	5
3. SoCalGas sought to redefine the EE codes and standards prohibited by D.18-05-041 by providing a misleading and inaccurate disclaimer.	8
4. SoCalGas’s responses to data requests lack credibility.	9
5. SoCalGas did not disclose relevant communications as the Public Advocates Office requested.	11
6. SoCalGas did not disclose the full extent of employee participation in EE codes and standards advocacy as the Public Advocates Office requested.	12
III. DISCUSSION	14
A. THE COMMISSION SHOULD REJECT SOCALGAS’S CLAIM THAT D.18-05-041 ALLOWS SOCALGAS TO CHARGE RATEPAYERS FOR ADVOCACY AT THE DOE.	14
B. THE COMMISSION SHOULD ORDER SOCALGAS TO DEMONSTRATE ITS COMPLIANCE WITH D.18-05-041.	15
C. SoCalGas VIOLATED RULE 1.1 BY MAKING FALSE STATEMENTS TO THE PUBLIC ADVOCATES OFFICE AND FAILING TO DISCLOSE IMPORTANT DOCUMENTARY EVIDENCE.	16
1. SoCalGas falsely claimed that engagement with the Department of Energy was part of a local program.	17
2. SoCalGas’s response to a data request shows that its previous responses to data requests were false.	20
3. SoCalGas’s own actions and statements show that it did not believe federal-level advocacy was permissible under D.18-05-041.	21

IV. ORDER TO SHOW CAUSE22

A. THE COMMISSION SHOULD ORDER SoCALGAS TO SHOW CAUSE WHY THE
COMMISSION SHOULD NOT PENALIZE SoCALGAS FOR VIOLATING A
COMMISSION ORDER AND RULE 1.1 OF THE COMMISSION’S RULES OF
PRACTICE AND PROCEDURE.22

APPENDICES A-F

TABLE OF AUTHORITIES

Pages

Cases

Pacific Gas & Electric Co. v. Public Utilities Com.
237 Cal. App, 4th 81223

CPUC Decisions

D.01-08-06216
D.18-05-041 Passim
D.98-12-75..... 23

State Statutes

California Public Utilities Code

Section 21623
Section 309.....16
Section 314.....16
Section 702.....23
Section 1731.....4
Section 2107.....23
Section 2108.....23

Commission Rules of Practice and Procedure

Rule 11.11
Rule 1.1 Passim

I. INTRODUCTION

Pursuant to Rule 11.1 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), the Public Advocates Office at the California Public Utilities Commission (Cal Advocates), submits this *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* (Motion). This Motion presents evidence that:

- Southern California Gas Company (SoCalGas) continued to charge ratepayers for energy efficiency (EE) codes and standards advocacy for nearly a month after the Commission ordered SoCalGas to cease such advocacy.¹
- SoCalGas submitted misleading and inaccurate information that minimized the full extent of its codes and standards advocacy after the Commission ordered SoCalGas to cease its ratepayer-funded advocacy.

The misconduct summarized in this Motion began in June 2018 and continued through at least January 7, 2019. The Public Advocates Office recommends that the Commission issue an Order to Show Cause why the Commission should not:

- Sanction SoCalGas for violating a Commission order;
- Sanction SoCalGas for violating Rule 1.1 of the Commission's Rules of Practice and Procedure;
- Order SoCalGas to demonstrate that all of its charges to ratepayers since June 1, 2018, including balancing account entries in the Demand Side Management Balancing Account (DSMBA) are in compliance with Decision (D.) 18-05-041 (or Decision); and
- Order SoCalGas to reverse each charge that does not comply with D.18-05-041's order limiting SoCalGas's role in ratepayer-funded EE codes and standards advocacy and make any other adjustments needed to ensure that SoCalGas did not charge ratepayers for advocacy in violation of D.18-05-041.

Thus far, the amount of money SoCalGas expended on EE codes and standards advocacy represents only a small portion of SoCalGas's EE budget. However, as explained below, the Public Advocates Office is not confident that SoCalGas has disclosed all of its charges to

¹ D.18-05-041, *Decision Addressing Energy Efficiency Business Plans*, May 31, 2018, pp. 140-144, 150-151; Ordering Paragraph 53, p. 193.

ratepayers for EE codes and standards advocacy that occurred after the effective date of D.18-05-041. Moreover, the principles at stake are critical to the integrity of the regulatory process. The Commission must act to ensure that its orders are timely followed and that SoCalGas provides honest information.

II. STATEMENT OF FACTS

A. **D.18-05-041 prohibits SoCalGas from using ratepayer funds to participate in EE codes and standards advocacy through 2025.**

D.18-05-041 affirms that the purpose of ratepayer funding for EE codes and standards advocacy is to promote increasingly strict codes and standards. The Commission recognized that the Public Advocates Office had presented “serious allegations,” supported by evidence, that SoCalGas had misused EE funds,² including evidence that SoCalGas opposed an efficiency standard for residential furnaces proposed by the United States Department of Energy (DOE).³

The Commission, therefore, concluded that “there is a potential for SoCalGas to misuse ratepayer funds authorized for codes and standards advocacy” and expressly prohibited SoCalGas from any further involvement in EE codes and standards advocacy for the duration of the current business plan period (2018-2025):

[W]e find it reasonable to limit SoCalGas’s involvement in codes and standards advocacy as [the Public Advocates Office] recommends. SoCalGas shall have no role in statewide codes and standards advocacy other than to transfer funds to the statewide codes and standards lead for program implementation.⁴

The Commission adopted D.18-05-041 on May 31, 2018. The Decision states “[t]his order is effective today.”⁵

² D.18-05-041, p. 140.

³ D.18-05-041, pp. 140-141.

⁴ D.18-05-041, p. 144.

⁵ D.18-05-041, p. 195. Public Utilities Code Section 1731 requires the Commission to set an effective date when issuing a decision, which can be before the issuance of the decision. D.18-05-041 was adopted on May 31, 2018 “effective today” and issued on June 5, 2018. Therefore, this Motion includes evidence of SoCalGas’s use of ratepayer funds for EE codes and standards advocacy starting on June 1, 2018.

B. SoCalGas ignored D.18-05-041’s order to cease ratepayer funded EE codes and standards advocacy for the duration of the 2018-2025 business plan cycle and failed to describe the full extent of those activities in response to data requests.

Following the issuance of D.18-05-041, the Public Advocates Office sent data requests to SoCalGas⁶ and the other utilities to verify SoCalGas’s compliance with that Decision.

SoCalGas’s responses to the data requests revealed a continuing pattern of troubling behavior.

1. SoCalGas admits that it continued to work on EE codes and standards advocacy using ratepayer funding in contravention of the Commission’s order in D.18-05-041.

In response to a data request, SoCalGas states that one employee continued to work on EE codes and standards advocacy after June 1, 2018.⁷ In particular, SoCalGas states that an employee participated in a conference call about implementation of California Title 24 standards, provided comments on a draft report on hearth products for a Codes and Standards Enhancement Initiative (CASE);⁸ and joined conference calls regarding electric standards for pool pumps, air conditioners, and fans.⁹

SoCalGas states that it has charged or expects to charge approximately \$5,401 to energy efficiency balancing accounts for work done on statewide EE codes and standards advocacy since June 1, 2018.¹⁰ This includes \$614 for labor costs and \$4,787 for payments to Negawatt Consulting.¹¹ These amounts stated above for EE codes and standards advocacy exclude

⁶ Appendix A, Public Advocates Office Data Request ORA-HB-SCG-2018-09, June 29, 2018. The data requests asked SoCalGas to quantify the amount of time its personnel, including consultants, spent on energy efficiency codes and standards advocacy after the Commission’s adoption of D.18-05-041, and the resulting charges to ratepayers.

⁷ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Questions 1 and 2.

⁸ SoCalGas also states that it communicated with the Los Angeles Department of Water and Power regarding the transition to a new lead for statewide lighting codes and standards. Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Questions 5 and 6. The Public Advocates Office recognizes that such transitional activities may be reasonable. Any such activities should be de minimis.

⁹ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Questions 5 and 6. Regardless of D.18-05-041, it is unclear why, as a utility that serves only gas customers, SoCalGas participated in calls regarding standards for electric appliances.

¹⁰ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Questions 9 and 10.

¹¹ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Questions 11 and 12.

“allocated overheads”¹² of \$652.^{13, 14} SoCalGas asserts that the costs of codes and standards advocacy, including overhead, will be charged to the DSMBA and recovered from ratepayers through Public Purpose Program charges.¹⁵

SoCalGas admits that it has charged ratepayers at least \$6,059 for EE codes and standards advocacy after the effective date of D.18-05-041.^{16, 17} However, this total may significantly understate the amount actually spent because: 1) SoCalGas’s responses attempt to

¹² Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Questions 10 and 12. SoCalGas’s January 7, 2019 responses similarly excluded “time, work, personnel, costs, etc. for items such as overhead or generally allocated items.” Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, Preliminary Statement.

¹³ SoCalGas stated that the allocated overhead for EE codes and standards programs from June 5, 2018 was \$226.70, and from June 6 through June 29, 2018 was \$425.32. It is unclear why SoCalGas’s allocated overhead of \$226.70 for EE codes and standards advocacy from June 1-5, 2018 exceeds the underlying program costs of \$223. Appendix F, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2019-03, April 1, 2019, Question 5.

¹⁴ SoCalGas explained:

Allocated overhead costs for the Energy Efficiency Portfolio, including Codes & Standards Advocacy, are general administrative overhead activities such as general administration, accounting support, IT services and support, and regulatory support. These overhead costs are for support of the entire portfolio, which are then allocated across all programs within the portfolio using a weighted average spread.

See Appendix F, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2019-03, April 1, 2019, Question 3.

¹⁵ Appendix F, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2019-03, April 1, 2019, Question 4.

¹⁶ This amount includes \$5,401 of charges that SoCalGas identified in its response to Public Advocates Office Data Request ORA-HB-SCG-2018-09 (Questions 9 and 10) (available in Appendix A), and \$652 of allocated overhead that SoCalGas identified in response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2019-03, April 1, 2019, Question 5 (available in Appendix F).

¹⁷ SoCalGas also identified costs and time spent on EE codes and standards activities in its January 7, 2019 responses to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13 (available in Appendix D). SoCalGas identified \$2,136 of costs related to participation in EE codes and standards meetings, 1.0 hours of employees’ time spent on specific EE codes and standards documents, and 7.1 hours of contractors’ time spent on the same documents. (Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 1-12 and 16-17.) However, these costs likely overlap with some the costs identified in response to Public Advocates Office Data Request ORA-HB-SCG-2018-09 (available in Appendix A). The Public Advocates Office does not include the time or costs spent on the codes and standards attribution study research plan because it is funded by a different EE program.

redefine the advocacy that D.18-05-041 prohibited,¹⁸ 2) SoCalGas states that it is not certain about the accuracy of its responses,¹⁹ and 3) some of SoCalGas's responses appear implausible.²⁰

2. SoCalGas's EE codes and standard advocacy activities were more extensive than stated in its July 16, 2018 responses.

Documentary evidence contradicts SoCalGas's responses to the Public Advocates Office June 29, 2018 data request. For example, SoCalGas states that a single employee spent 12.5 hours on a narrow range of activities related to EE codes and standards advocacy after the effective date of D.18-05-041.²¹ However, the evidence shows that SoCalGas's activities related to EE codes and standards were more extensive.²²

Documents submitted by SoCalGas show that its employees and its consultant performed several activities that SoCalGas did not describe in its response to the data request. Among other things:

- A SoCalGas employee reviewed and edited the scope of work for a Request for Proposals for a consultant to develop energy efficiency standards for non-residential buildings.²³ The employee's time was charged to the DSMBA and specifically attributed to the Building Codes and Compliance Advocacy subprogram (SCG 3724) of the Statewide Codes and Standards program.²⁴
- A SoCalGas employee provided comments on a draft CASE report on hearth products for development of California Title 20 standards.²⁵ The employee's time was charged to the DSMBA and specifically

¹⁸ See Section II.B.3 of this Motion.

¹⁹ See Section II.B.4 of this Motion.

²⁰ See Section II.B.4 of this Motion.

²¹ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Questions 1 and 2.

²² Appendix A, Public Advocates Office Data Request ORA-HB-SCG-2018-09, Jun 29, 2018. SoCalGas submitted responses to this data request on July 16, 2018.

²³ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, "060718_2022 Non Res RFP.pdf". See also "060518_2022 Non Res RFP.pdf" and "060718_2022-Nonres-SOW RM.docx."

²⁴ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 1 and 11, Response Template, Tabs A and M, responses regarding the document "060718_2022-Nonres-SOW RM.docx."

²⁵ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, "060818_Hearth products June emails.pdf," see also "061118_Hearth products June emails.pdf."

attributed to the Appliance Standards Advocacy subprogram (SCG 3725) of the Statewide Codes and Standards program.²⁶

- A SoCalGas employee and its consultant participated in a June 18, 2018 call regarding DOE’s proposed interim waivers for space-constrained heat pump units.²⁷ The employee’s and consultant’s time was charged to the DSMBA and specifically attributed to the Appliance Standards Advocacy subprogram (SCG 3725) of the Statewide Codes and Standards program.²⁸
- SoCalGas employees continued to receive messages from consultants about CASE Study Results Reports and the Code Change Savings Reports as of June 21, 2018.²⁹
- A SoCalGas employee agreed on June 21, 2018 to attend a 30-minute presentation about the impact of 2019 Title 24 and Title 20 on 2017 Customer Programs Reported Resource measures.³⁰

In addition, SoCalGas worked with the other utilities to develop a comment letter to DOE about residential dishwasher product categories.³¹ Emails from a SoCalGas employee to SoCalGas consultants show that the letter was conceived and drafted after June 1, 2018.³² Representatives of the California utilities met by phone to discuss the comment letter regarding residential dishwasher product categories on June 4, 2018 from 9 a.m. to 10 a.m.³³ and on

²⁶ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 1 and 7, Response Template Tabs A and E, responses regarding the document “Draft T20 CASE Report Hearth Products_20180531_20180607_SoCalGas.docx.”

²⁷ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, “061818_CAC waivers June emails.”

²⁸ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 16 and 17, Response Template Tab M, response regarding the June 18, 2018 meeting on “DOE CAC Waivers.”

²⁹ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, “062118_Compliance manual emails.pdf.”

³⁰ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, “062118_SDGE T24 & T20 Intgr study present.pdf.”

³¹ DOE Docket ID EERE-2018-BT-STD-0005, “Energy Conservation Standards for Dishwashers,” California Utilities’ Residential Dishwasher DOE Comment Letter available at: <https://www.regulations.gov/document?D=EERE-2018-BT-STD-0005-1800>

³² Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, “062118_Dishwasher emails.pdf”, p. 10 (June 4, 2018 email from a SoCalGas employee to SoCalGas consultants).

³³ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, “062118_Dishwasher emails,” pp. 7-9 (June 4, 2018 email from a PG&E employee to a SoCalGas employee, *et al*).

June 7, 2018 from 3 p.m. to 4 p.m.³⁴ Notes from these meetings show that the utilities were still formulating their position at the time of the calls.³⁵ SoCalGas approved sending the letter on its behalf on June 21, 2018,³⁶ the same day that the utilities submitted the letter to DOE.³⁷ SoCalGas charged the time spent by the employee and consultant to the DSMBA and specifically attributed to the Appliance Standards Advocacy subprogram (SCG 3725) of the Statewide Codes and Standards program.³⁸

Finally, SoCalGas participated in developing a comment letter on a DOE petition for rulemaking regarding DOE's proposed procedure to test cooking tops.³⁹ A SoCalGas employee agreed on June 13, 2018 to participate in a meeting to develop comments on the petition⁴⁰ and then attended the meeting on June 18, 2018.⁴¹ SoCalGas's consultant also attended the meeting.⁴² SoCalGas approved the final comment letter on June 22, 2018, but revoked its approval on June 25, 2018.⁴³ The letter was filed without SoCalGas's signature.⁴⁴ The time of

³⁴ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, "062118_Dishwasher emails," p. 5 (June 7, 2018 email from a consultant to a SoCalGas employee and others.).

³⁵ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, "062118_Dishwasher emails.pdf", p. 9 (June 4, 2018 email from a PG&E employee to a SoCalGas employee).

³⁶ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, "062118_Dishwasher Emails2," p. 1. (June 4, 2018 email from a SoCalGas employee to a consultant).

³⁷ Res Dishwasher Comment Letter Final, filed in DOE Docket ID EERE-2018-BT-STD-0005, June 21, 2018, available at: <https://www.regulations.gov/document?D=EERE-2018-BT-STD-0005-1800>.

³⁸ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 1, 12, 16, and 17, Response Template, Tabs A and M, responses regarding the document "Res Dishwasher Comment Letter Final" and about the June 7, 2018 "Conference Call for Comment Letter on Res Dishwasher Petition."

³⁹ DOE Docket ID EERE-2018-BT-TP-0004, "Energy Conservation Program: Test Procedures for Cooking Products, Notice of Petition for Rulemaking," Available at <https://www.regulations.gov/docket?D=EERE-2018-BT-TP-0004>.

⁴⁰ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, "061318_Cooking prod email" and "061118_Cooking prod email."

⁴¹ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Question 16, Response Template Tab M, response regarding the June 18, 2018 meeting on "Proposed Comment Letter on Cooking Top Petition."

⁴² Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Question 17.

⁴³ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, "062518_Cooking prod emails.pdf."

⁴⁴ "Cooking Top Petition - Comment Letter_Final," filed in DOE Docket ID EERE-2018-BT-TP-0004,

the employee and consultant was charged to the DSMBA and specifically attributed to the Appliance Standards Advocacy subprogram (SCG 3725) of the Statewide Codes and Standards program.⁴⁵

3. SoCalGas sought to redefine the EE codes and standards prohibited by D.18-05-041 by providing a misleading and inaccurate disclaimer.

SoCalGas’s response to the Public Advocates Office’s June 29, 2018 data requests included a “Preliminary Statement.” This preface may account for the discrepancies between the activities identified in SoCalGas’s July 16, 2018 data request responses and the more extensive activities documented in emails, meeting agendas, and meeting notes. SoCalGas used its “Preliminary Statement” to craft its own definition of the energy efficiency codes and standards advocacy prohibited by the Decision as excluding “engagement with the Department of Energy:”

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 & 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”) See Decision (D.) 18-05-041 at 12, 91; SoCalGas Business Plan at 298, PG&E Business Plan at 548, Southern California Edison Business Plan at 224. In addition, SoCalGas has continued to monitor and be passively involved with statewide energy efficiency Codes & Standards advocacy. Therefore, the time, work, and personnel identified in the below responses include instances where SoCalGas employees were, for example, not “participating” in energy efficiency codes and standards (EECS) advocacy but were merely present for a call. This understanding applies to all response below unless it is stated otherwise.⁴⁶

June 25, 2018, document EERE-2018-BT-TP-0004-0015, available at <https://www.regulations.gov/document?D=EERE-2018-BT-TP-0004-0015>.

⁴⁵ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 16 and 17, Response Template, Tab. M, response regarding the June 18, 2018 meeting on “Proposed Comment Letter on Cooking Top Petition.”

⁴⁶ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Preliminary Statement (emphasis added). SoCalGas included a similar disclaimer in its response to subsequent data requests; see also Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Preliminary Statement, footnote 1.

In support of this argument, SoCalGas cites passages of D.18-05-041 that approve SoCalGas’s business plan (see D.18-05-041, p. 12) and designate Pacific Gas and Electric Company (PG&E) as the lead

SoCalGas continued to include the same disclaimer in its responses to a subsequent data request, even when the data request contained explicit instructions to the contrary.⁴⁷ SoCalGas’s claim that D.18-04-041 allows SoCalGas to continue ratepayer-funded EE codes and standards advocacy at the federal level is incorrect.⁴⁸ Moreover, SoCalGas’s categorization of EE codes and standards advocacy for purposes of charging ratepayers contradicts the narrow reading of the Decision used in responding to data requests.⁴⁹ In fact, SoCalGas continued to charge federal EE codes and standards advocacy to its statewide program for appliance standards.⁵⁰

The result of SoCalGas’s self-serving definition of energy efficiency codes and standards advocacy as excluding “engagement with the Department of Energy” is that its responses likely understate the amount of time and money it charged ratepayers for EE codes and standards advocacy after the issuance of D.18-05-041.⁵¹

4. SoCalGas’s responses to data requests lack credibility.

SoCalGas’s responses to follow-up data requests of the Public Advocates Office include implausible or contradictory statements, caveats, and vague disclaimers that raise questions about the accuracy and veracity of the responses. For example, SoCalGas stated that the Programs Advisor for EE codes and standards spent a total of ten minutes reviewing drafts (prepared by a consultant) of two DOE filings.⁵² However, SoCalGas did not indicate that anyone at a level above the Programs Advisor for EE codes and standards spent time reviewing

administrator of the statewide EE codes and standards subprograms for appliances and building codes (see D.18-05-041, p. 91). SoCalGas also cites its own business plan, which proposes to establish a federal-level EE codes and standards subprogram that would be administered locally rather than statewide (see SoCalGas Business Plan, p. 298). SoCalGas fails to note that D.18-05-041 approves the business plans “except as modified in this decision” (see D.18-05-041, p. 2).

⁴⁷ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019.

⁴⁸ See Section III.A below.

⁴⁹ Section III C 2 below.

⁵⁰ Section III C 2 below.

⁵¹ SoCalGas provided additional detail about time spent on EE codes and standards advocacy in subsequent responses to data requests, (Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019) but the Public Advocates Office is not confident that SoCalGas has accurately identified the total amount of time that it charged ratepayers for EE codes and standards advocacy after the issuance of D.18-05-041

⁵² Appendix D SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 5 and 12, Response Template, Tab A responses regarding “Cooking Top Test Procedures Petition” and “One Page Review Form.docx “Res Dishwasher_ Comment Letter_Final”

these written submissions to the DOE. That SoCalGas would consider submitting formal, written documents to the DOE that were not reviewed by anyone above the junior employee level is unlikely at best.⁵³ Likewise, it is unlikely that the Programs Advisor reviewed the comments and determined that SoCalGas should sign the comments in only five minutes.

SoCalGas stated that its EE Program Operations Manager made the decision that SoCalGas should sign the two DOE filings (related to cooktop test procedures and dishwasher product categories) in June 2018.⁵⁴ Yet SoCalGas simultaneously implied its EE Program Operations Manager spent zero time reviewing or working on either document in any fashion.⁵⁵

Moreover, SoCalGas once again attempted to exclude “local programs, such as compliance, reach codes, and engagement with the Department of Energy” from the definition of energy efficiency codes and standards advocacy,⁵⁶ despite explicit instructions to the contrary. Thus, it appears that SoCalGas’s responses to the data request continued to exclude material, responsive information.

Finally, SoCalGas included the caveat that:

[M]any of the requests concern calls, conversations, and meetings from over six months ago which were not necessarily memorialized, or memorialized in detail. These responses are therefore provided based on our recollection and a reasonable, good faith inquiry. Where specific information is provided (such as amounts of time spent), the specificity should not be construed as certainty, as we have provided approximate information to the best of our knowledge in many instances.⁵⁷

Given SoCalGas’s broad disclaimers and implausible responses regarding document review, SoCalGas’s data responses may not provide a full picture of its involvement in EE codes and standards advocacy. Based on the responses received to data requests, the Public Advocates

⁵³ As discussed on page 11, SoCalGas approved filing the DOE comment letter regarding the test procedure for cooking tops, but subsequently withdrew its authorization. See Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, “062518_Cooking prod emails.pdf.”

⁵⁴ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 13-14.

⁵⁵ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 5 and 12, Response Template, Tabs A, E, and L.

⁵⁶ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Preliminary Statement.

⁵⁷ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Preliminary Statement.

Office cannot verify the total amount of time and ratepayer money that SoCalGas expended on codes and standard advocacy after the issuance of D.18-05-041.

5. SoCalGas did not disclose relevant communications as the Public Advocates Office requested.

The Public Advocates Office requested that SoCalGas provide written or electronic correspondence with other California investor-owned utilities regarding EE codes and standards advocacy⁵⁸ and information about phone conversations or meetings with the other utilities.⁵⁹ At a minimum, SoCalGas failed to disclose or describe the following communications:

- Text messages between the Customer Programs Regulatory Policy and Reporting Manager for SoCalGas and a PG&E employee on June 15, 2018.⁶⁰
- A conversation between a SoCalGas attorney (Elliott Henry) and a PG&E attorney (Tessa Carlberg) on June 22, 2018, regarding the DOE comment letter on cooktop test procedures.⁶¹
- A phone conversation between a SoCalGas Director and a PG&E Director on June 28, 2018 regarding SoCalGas's role in EE codes and standards advocacy.⁶²

SoCalGas's responses to the Public Advocates Office's data request were incomplete and deceptive, and attempted to mislead the Public Advocates Office about the extent and nature of its prohibited EE codes and standards advocacy activities.

⁵⁸ Appendix A, Public Advocates Office Data Request ORA-HB-SCG-2018-09, June 29, 2018, Question 15.

⁵⁹ Appendix A, Public Advocates Office Data Request ORA-HB-SCG-2018-09, June 29, 2018, Question 16.

⁶⁰ Appendix B, PG&E Response to Public Advocates Office Data Request ORA-HB-2018-14, July 23, 2018, Question 2, Attachment 2.

⁶¹ Appendix B, PG&E Response to Public Advocates Office Data Request ORA-HB-2018-14, July 23, 2018, Question 2, Attachment 2.

⁶² Appendix B, PG&E Response to Public Advocates Office Data Request ORA-HB-2018-14, July 23, 2018, Question 2, Attachment 2.

6. SoCalGas did not disclose the full extent of employee participation in EE codes and standards advocacy as the Public Advocates Office requested.

SoCalGas stated that only one employee was involved in EE codes and standards advocacy after the Commission adopted D.18-05-041.⁶³ SoCalGas’s own statements and documents show that this is false. Based on SoCalGas’s documents, SoCalGas’s responses to subsequent requests for more specific information, and information provided by other utilities, it appears at least five SoCalGas employees were involved in such work:

- The Programs Advisor worked on several codes and standards documents,⁶⁴ reviewed DOE comment letters, participated in several meetings,⁶⁵ and corresponded with personnel at other utilities about EE codes and standards.
- The SoCalGas Director of Customer Programs and Assistance, SoCalGas Attorney, Elliott Henry, and SoCalGas Regulatory Policy and Reporting Manager each communicated with PG&E personnel about EE codes and standards advocacy.⁶⁶
- An employee held a seat on the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC), which advises DOE on energy efficiency standards,⁶⁷ through at least December 2018.⁶⁸ Although SoCalGas maintains that the employee participated in ASRAC “as an individual representative”⁶⁹ rather than as a representative of SoCalGas or the other California utilities,⁷⁰

⁶³ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Questions 3 and 4.

⁶⁴ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 3-12, Response Template Tabs C-K, with the exception of Tab J.

⁶⁵ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Question 16, Response Template, Tab L.

⁶⁶ Appendix B, PG&E Response to Public Advocates Office Data Request ORA-HB-PGE-2018-14, July 23, 2018, Question 2, Attachment 2.

⁶⁷ U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, “Appliance Standards and Rulemaking Federal Advisory Committee,” <https://www.energy.gov/eere/buildings/appliance-standards-and-rulemaking-federal-advisory-committee>.

⁶⁸ Appendix C, SoCalGas Response to Public Advocates Office Data Request ORA-EF-SCG-2018-01, August 2, 2018, Questions 1 and 3; Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Question 18.

⁶⁹ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Question 19.

⁷⁰ Appendix C, SoCalGas Response to Public Advocates Office Data Request ORA-EF-SCG-2018-01, August 2, 2018, Question 3.

SoCalGas charged ratepayers for the time the employee spent on activities related to ASRAC.⁷¹ Additionally, the Commission should reject SoCalGas's claim that the employee participated in ASRAC in a purely individual capacity.⁷² Whether the employee officially represented SoCalGas on ASRAC is irrelevant. The relevant fact is that SoCalGas expended ratepayer funds on the employee's participation, in direct contravention of the Decision.⁷³

In addition to these examples, several other employees may have engaged in EE codes and standards advocacy activities.

- SoCalGas states that its Energy Efficiency Program Operations Manager decided that SoCalGas should sign the comment letters to DOE on dishwashers and cooktops and subsequently decided to remove SoCalGas's signature from the letter on cooktops,⁷⁴ although SoCalGas also asserts that its Energy Efficiency Program Operations Manager spent zero time on either document.
- According to SoCalGas, three SoCalGas employees participated in a 1.5-hour conference call on June 26, 2018 focused on building decarbonization.^{75 76} While "SoCalGas does not recall any Energy Efficiency Codes & Standards advocacy during the conference call,"⁷⁷ PG&E's response indicates that one of the topics was "Codes and

⁷¹ Specifically, the time spent on ASRAC was charged to the Operations & Maintenance account. Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Question 20; Appendix E, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2019-01, January 30, 2019, Question 1.

⁷² It is reasonable to conclude that since the SoCalGas employee who participated in ASRAC was compensated by SoCalGas for her time, SoCalGas was involved.

⁷³ D.18-05-041 prohibits SoCalGas from using ratepayer funds for any involvement in EE codes and standards advocacy. D.18-05-041, pp. 150-151.

⁷⁴ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Questions 13-15.

⁷⁵ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Question 16, Response Template, Tab M, response regarding Conference call on studies of interest to gas utilities, including building decarbonization activities through 2019; *see also* Appendix E, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2019-01, January 30, 2019, Question 2.

⁷⁶ PG&E's response to a data request states that seven to nine SoCalGas personnel may have attended this meeting. Appendix B, PG&E Response to Public Advocates Office Data Request ORA-HB-PGE-2018-14, July 23, 2018, Question 2, Attachment 2.

⁷⁷ Appendix B, PG&E Response to Public Advocates Office Data Request ORA-HB-PGE-2018-14, July 23, 2018, Question 2, Attachment 2.

Standards.”⁷⁸ SoCalGas stated that the time spent on this meeting was charged to ratepayers through its General Rate Case account.⁷⁹

Despite SoCalGas’s claim that only one employee was involved in EE codes and standards advocacy activities after the effective date of D.18-05-041, the evidence cited here demonstrates that at least five, and probably nine or more, employees participated in such activities.

III. DISCUSSION

A. **The Commission should reject SoCalGas’s claim that D.18-05-041 allows SoCalGas to charge ratepayers for advocacy at the DOE.**

The Commission should reject SoCalGas’s claim that “engagement with the Department of Energy” does not concern “statewide energy efficiency codes & standards advocacy, as delineated in Decision 18-05-041.”⁸⁰ The claim that D.18-05-041 allows SoCalGas to continue EE codes and standards advocacy with the DOE ignores the unambiguous language of the Decision, which prohibits SoCalGas from engaging in *any* ratepayer-funded EE codes and standards advocacy. For example, the Decision says:

We are prohibiting SoCalGas from *using ratepayer funds* to conduct codes and standards advocacy, which we find reasonable based on the Commission’s clear policy intent for such funds and on evidence submitted by [the Public Advocates Office]⁸¹ of SoCalGas’s past contravention of that policy intent.⁸²

D.18-05-041 recognized as “serious allegations” the evidence summarized on pages 140 and 141 of the Decision, which largely relates to SoCalGas’s advocacy at the DOE.⁸³

⁷⁸ Appendix B, PG&E Response to Public Advocates Office Data Request ORA-HB-PGE-2018-14, July 23, 2018, Question 2, Attachment 2.

⁷⁹ Appendix E, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2019-01, January 30, 2019, Question 2.

⁸⁰ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Preliminary Statement; *see also* Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Preliminary Statement, footnote 1.

⁸¹ The Public Advocates Office was known as the Office of Ratepayer Advocates when the Commission issued D.18-05-041.

⁸² D.18-05-041, pp. 150-151 (emphasis in original).

⁸³ See Section II B 1, *infra*.

Thus, D.18-05-041 did not distinguish codes and standards adopted at the state level from those adopted at the federal level, nor did it create an exception for federal-level advocacy. In fact, the word “federal” appears only once in the body of the decision, in a discussion of SoCalGas’s malfeasance.⁸⁴ While D.18-05-041 refers to “statewide codes and standards advocacy” activities, “statewide” describes the mechanism for implementing the program rather than government entity that adopts the codes and standards. 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. It would be nonsensical for the Commission to respond to deleterious federal-level advocacy by limiting the ban on SoCalGas’s use of ratepayer funded EE codes and standards advocacy to activities at the state level.⁸⁵

The Commission should also reject SoCalGas’s claim that calling into a conference call relating to EE codes and standards, but not actively “participating” was somehow permitted by D.18-05-041.⁸⁶

B. The Commission should order SoCalGas to demonstrate its compliance with D.18-05-041.

Given SoCalGas’s apparent attempts to underestimate and obscure the full extent of its EE codes and standards advocacy after the issuance of D.18-05-041, and its refusal to provide accurate information, the Commission should order SoCalGas to demonstrate that it has wholly complied with Ordering Paragraph 53 of D.18-05-041, which states that:

Southern California Gas Company is prohibited from participating in statewide codes and standards advocacy activities, other than to transfer ratepayer funds to the statewide lead for codes and standards, during this business plan period.

The Commission should direct SoCalGas to demonstrate that each entry in SoCalGas’s Demand Side Management Balancing Account (DSMBA) since June 1, 2018 (including

⁸⁴ D.18-05-041, p. 141.

⁸⁵ D.18-05-041 also describes the ban on codes and standards advocacy as “a precautionary measure” intended to prevent SoCalGas from frustrating the Commission’s policy goals. See D.18-05-041, pp. 150-151.

⁸⁶ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Preliminary Statement.

allocated overhead) complies with the Commission’s directive prohibiting “SoCalGas from *using ratepayer funds* to conduct codes and standards advocacy.”⁸⁷

If SoCalGas is unable to demonstrate that all balancing account entries comply with Commission orders and represent proper uses of energy efficiency funds, the Commission should order SoCalGas to remove inappropriate charges from the DSMBA and to take any other actions necessary⁸⁸ to comply with Ordering Paragraph 53 of D.18-05-041.

C. SoCalGas violated Rule 1.1 by making false statements to the Public Advocates Office and failing to disclose important documentary evidence.

The Public Advocates Office obtained documentary evidence showing that SoCalGas made false or misleading statements to the Public Advocates Office. In doing so, SoCalGas violated Rule 1.1 of the Commission’s Rules of Practice and Procedure, which requires that:

Any person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act ... agrees ...never to mislead the Commission or its staff by an artifice or false statement of fact or law.

Staff of the Public Advocates Office have the same discovery rights as other Commission staff.⁸⁹ Therefore, misleading the Public Advocates Office is a violation of Rule 1.1 in exactly the same way as misleading Commissioners or other Commission staff. As summarized above in sections II B 2, and 4-6 above, SoCalGas provided data request responses that were incomplete and misleading. Nor can SoCalGas argue that all of its omissions and false statements were justified by its belief that “engagement with the Department of Energy” does not concern “statewide energy efficiency codes & standards advocacy, as delineated in

⁸⁷ D.18-05-041, pp. 150-151 (emphasis in original).

⁸⁸ For example, while most EE charges are in the DSMBA, SoCalGas charged its Operations and Maintenance Account for participation of an employee in the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC). See footnote 71. SoCalGas also charged the General Rate case for employee participation in a building decarbonization meeting. See footnote 79.

⁸⁹ D.01-08-062, pp. 6-7 and 10 (Findings of Fact 4-5). The Commission found that the Public Advocates Office (then known as the Office of Ratepayer Advocates) has the same discovery rights as other Commission staff members. The Commission noted that the Public Advocates Office’s “scope of authority to request and obtain information from entities regulated by the Commission is as broad as that of any other units of our staff, including the offices of the Commissioners.” D.01-08-062, p. 6. See also Public Utilities Code 309.5(e) and 314.

Decision 18-05-041.”⁹⁰ The evidence below demonstrates that SoCalGas made false statements that cannot be justified even by its purported reading of D.18-05-041. For example, SoCalGas made claims that contradict its own program accounting and reporting structure.

1. SoCalGas falsely claimed that engagement with the Department of Energy was part of a local program.

In addition to mischaracterizing D.18-05-041, SoCalGas’s disclaimer includes a false statement about the structure of its EE codes and standards advocacy program. In response to data requests, SoCalGas maintains that EE codes and standards advocacy does not include “activities for local programs, such as compliance, reach codes, and engagement with the Department of Energy.”⁹¹ According to SoCalGas’s twice-repeated disclaimer, “engagement with the Department of Energy” is a local program, comparable to compliance and reach codes.

However, SoCalGas’s monthly EE reports to the Commission show otherwise. SoCalGas’s monthly report for June 2018, submitted to the California Energy Data and Reporting System (CEDARS) shows that SoCalGas had five subprograms within the energy efficiency codes and standards program.⁹² None of them focused on federal-level advocacy.

⁹⁰ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Preliminary Statement.

⁹¹ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, Preliminary Statement; Appendix D; SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Preliminary Statement, footnote 1.

⁹² CEDARS, Monthly Reports, SoCalGas Confirmed Monthly Report Dashboard for June 2018, “SoCalGas Confirmed Monthly Report Program Summary.” <https://cedars.sound-data.com/monthly-reports/confirmed-dashboard/SCG/>.

Table 1: SoCalGas Codes and Standards Subprograms

From 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
SCG3727	C&S – Reach Codes	Local Programs	No
SCG3728	C&S – Planning Coordination	Local Programs	No
* SW means “statewide.”			
<i>Source:</i> CEDARS, SoCalGas Monthly Report for June 2018. ²³			

Table 1 reveals that SoCalGas has two EE subprograms with an advocacy focus. Both of these are statewide subprograms.

Additionally, SoCalGas has three local subprograms within the EE codes and standards program: compliance enhancement, reach codes and planning coordination. None of these local subprograms is focused on advocacy, at either the state or federal level.²⁴

SoCalGas’s Program Implementation Plan for the Codes and Standards Program provides additional detail about the focus of each of these five subprograms.²⁵ For example, it describes the Appliance Standards Advocacy Program as follows:

²³ CEDARS, Monthly Reports, SoCalGas Confirmed Monthly Report Dashboard for June 2018, “SoCalGas Confirmed Monthly Report Program Summary.” <https://cedars.sound-data.com/monthly-reports/confirmed-dashboard/SCG/>.

²⁴ As of May 2019 (the most recent monthly report available at the time of this filing), SoCalGas *still* did not have any EE codes and standards subprogram focused on federal-level advocacy. SoCalGas’s May 2019 monthly report shows the same five subprograms listed in Table 1. See: CEDARS, Monthly Reports, SoCalGas Confirmed Monthly Report Dashboard for May 2019, “SoCalGas Confirmed Monthly Report Program Summary.” <https://cedars.sound-data.com/monthly-reports/confirmed-dashboard/SCG/>.

²⁵ CEDARS, Programs, Download Program Documents, “SCG3725_implementation_plan_v1.pdf”

The Appliance Standards Advocacy subprogram targets both state and federal standards and test methods: improvements to Title 20 Appliance Efficiency Regulations by the CEC, and improvements to Federal appliance regulations by the US Department of Energy.²⁶

The Program Implementation Plan also shows that neither Compliance Enhancement, Reach Codes, nor Planning Coordination involves advocacy to the DOE.²⁷ (The Reach Codes subprogram provides technical support to local governments that intend to adopt more aggressive building codes. However, it does not involve formal advocacy and does not involve any federal-level policy.)²⁸

SoCalGas's Annual Budget Advice Letter (ABAL) for its 2018 energy efficiency portfolio, which outlines SoCalGas's EE programs and spending levels for 2018, supports the same conclusion. SoCalGas's 2018 ABAL was approved in D.18-05-041 and therefore took

(SoCalGas, Statewide Codes and Standards Program: Program Implementation Plan).
<https://cedars.sound-data.com/programs/SCG3725/details/>.

²⁶ SoCalGas, Statewide Codes and Standards Program: Program Implementation Plan, p. 12.

²⁷ The Program Implementation Plan describes these subprograms as follows:

Compliance Improvement:

The Compliance Improvement subprogram ... provides education, training, and other activities targeting building departments and other industry actors responsible for compliance with Building Energy Code and Appliance Standards requirements. Activities may include development of "best practices tools" and other infrastructure elements that serve multiple compliance improvement objectives.

Reach Codes:

The Reach Codes subprogram provides technical support to local governments that wish to adopt ordinances that exceed statewide Title 24 minimum energy efficiency requirements for new buildings, additions, or alterations. Support for local governments includes research and analysis for establishing performance levels relative to Title 24 and cost effectiveness per Climate Zone, drafting of model ordinance templates for regional consistency, and assistance for completing and expediting the application process required for approval by the CEC. The subprogram also supports local governments that seek to establish residential or commercial energy conservation ordinances for existing buildings.

Planning and Coordination:

The Planning and Coordination Subprogram supports planning activities that improve alignment across the IOU energy efficiency portfolio with respect to future C&S program activities. This subprogram supports efforts to prepare the market for future code adoption (i.e., improve code readiness), to ensure higher code compliance rates and advance the CPUC Strategic Plan goals for achieving zero net energy.

²⁸ SoCalGas, Statewide Codes and Standards Program: Program Implementation Plan, pp. 12-13.

effect upon the issuance of the Decision.⁹⁹ The 2018 ABAL proposed the same five energy efficiency codes and standards subprograms that are listed in Table 1 and reflected in SoCalGas’s monthly CEDARS report for June 2018.¹⁰⁰

SoCalGas’s CEDARS reports and most recently approved ABAL show that all of SoCalGas’s state-level and federal-level advocacy activities on energy efficiency codes and standards are delivered through statewide programs. Therefore, SoCalGas’s assertion that “statewide energy efficiency codes & standards advocacy, as delineated in Decision 18-05-041” does not include “activities for local programs, such as ... engagement with the Department of Energy”¹⁰¹ is false. Making a “false statement of fact” is a violation of Rule 1.1.¹⁰²

2. SoCalGas’s response to a data request shows that its previous responses to data requests were false.

SoCalGas’s responses to a data request shows that SoCalGas made false statements in response to previous Public Advocates Office data requests. SoCalGas’s narrow reading of the Decision for purposes of responding to data requests is at odds with the program accounting of EE codes and standards advocacy SoCalGas used to charge ratepayers. In its response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, SoCalGas admits that its advocacy to DOE was part of the statewide codes and standards advocacy subprogram by providing the program identification codes associated with statewide subprograms.¹⁰³ This admission contradicts the disclaimer SoCalGas included in that response, as well as a prior response.¹⁰⁴

When asked directly, SoCalGas admitted that its work in June 2018 on two DOE comment letters– on dishwasher product categories and cooktop test procedures¹⁰⁵ – was

⁹⁹ D.18-05-041, p. 176 (Conclusion of Law 32), and p. 185 (Ordering Paragraph 14).

¹⁰⁰ CEDARS, Budget Filings, SoCalGas Filing Dashboard for 2018, “Programs in This Filing.” <https://cedars.sound-data.com/filings/dashboard/SCG/2018/>.

¹⁰¹ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Preliminary Statement.

¹⁰² Rule 1.1 of the Commission’s Rules of Practice and Procedure.

¹⁰³ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Question 1, Response Template, Tab A.

¹⁰⁴ Appendix A, SoCalGas Response to ORA-HB-SCG-2018-09, July 16, 2018, Preliminary Statement; Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Preliminary Statement, footnote 1.

¹⁰⁵ The DOE comment letters are discussed at pages 10-12 of these comments.

associated with, and charged to, the Statewide Appliance Standards Advocacy subprogram (SCG3725)¹⁰⁶ This further contradicts SoCalGas’s assertions (in its preliminary statements)¹⁰⁷ that DOE advocacy was part of an unspecified local subprogram.

3. SoCalGas’s own actions and statements show that it did not believe federal-level advocacy was permissible under D.18-05-041.

SoCalGas asserted to the Public Advocates Office that federal-level advocacy was a permissible activity under D.18-05-041.¹⁰⁸ Yet SoCalGas’s own actions and correspondence indicate that even SoCalGas doubted this claim. On June 22, 2018, SoCalGas authorized the submission on its behalf the final draft of a DOE comment letter on cooktop test procedures that was to be filed on behalf of all four California utilities.¹⁰⁹ Then, on June 25, 2018, SoCalGas revoked its approval.¹¹⁰ The letter was filed without SoCalGas’s signature. Why did SoCalGas abruptly reverse course?

Information provided to the Public Advocates Office provides the likely answer. At 4:00 pm on June 22, 2018, SoCalGas’s attorney spoke by phone to PG&E’s attorney.¹¹¹ In a follow-up email on June 25, 2018, PG&E’s attorney asked “if SoCalGas would still like to be a signatory to the comments.” SoCalGas’s attorney replied that SoCalGas would not be a signatory and attributed the decision to D.18-05-041:

We do not want to be a signatory. We are still in the process of transitioning and implementing the changes in the decision, so thank you for bringing this to our attention.¹¹²

¹⁰⁶ Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Question 1.

¹⁰⁷ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, Preliminary Statement; Appendix D; SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Preliminary Statement, footnote 1.

¹⁰⁸ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Preliminary Statement; Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Preliminary Statement, footnote 1.

¹⁰⁹ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, “062518_Cooking prod emails.pdf.”

¹¹⁰ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, “062518_Cooking prod emails.pdf.”

¹¹¹ Appendix B, Appendix B, PG&E Response to Public Advocates Office Data Request ORA-HB-PGE-2018-14, July 23, 2018, Question 2, Attachment 2.

¹¹² Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Question 15, Attachment C, “06-25-2018 Email.pdf.” Emphasis in original.

This email from SoCalGas’s attorney shows that SoCalGas did, in fact, understand that federal-level advocacy was prohibited by D.18-05-041. Nonetheless, SoCalGas subsequently asserted to the Public Advocates Office – on July 16, 2018 and January 7, 2019 – that the prohibition on EE codes and standards advocacy in D.18-05-041 did not cover “engagement with the Department of Energy.”¹¹³

IV. ORDER TO SHOW CAUSE

A. The Commission should order SoCalGas to show cause why the Commission should not penalize SoCalGas for violating a Commission order and Rule 1.1 of the Commission’s Rules of Practice and Procedure.

The evidence summarized in this Motion demonstrates that SoCalGas disobeyed the Commission’s order in D.18-05-041 to cease its involvement in ratepayer funded codes and standards advocacy. The evidence also shows that SoCalGas failed to provide truthful and accurate responses to data requests from the Public Advocates Office. Therefore, the Commission should order SoCalGas show cause why the Commission should not penalize SoCalGas for violating the Commission’s order and Rule 1.1 of the Commission’s Rules of Practice and Procedure.

Although SoCalGas’s responses to date indicate that it has charged ratepayers only a small amount of money for prohibited EE codes and standards advocacy, the principles at stake are far more important than the money. The Commission should enforce its orders and demand honesty from regulated utilities. When the Public Advocates Office’s data requests brought to light the fact that SoCalGas engaged in EE codes and standards advocacy that was prohibited by D.18-05-041, SoCalGas could have easily acknowledged the error and rectified the problem by removing the inappropriate costs from the balancing account. Instead, SoCalGas dissembled and minimized the extent of wrongdoing. The disclaimers and caveats in SoCalGas’ responses to data requests have made it difficult, if not impossible, for the Public Advocates Office to determine the full extent of SoCalGas’s noncompliant activities.

¹¹³ Appendix A, SoCalGas Response to Public Advocates Office Data Request ORA-HB-SCG-2018-09, July 16, 2018, Preliminary Statement; Appendix D, SoCalGas Response to Public Advocates Office Data Request CalAdvocates-HB-SCG-2018-13, January 7, 2019, Preliminary Statement, footnote 1.

Section 702 of the Public Utilities Code requires public utilities such as SoCalGas¹¹⁴ to obey and comply with the Commission’s orders, decisions, directions, or rules “relating to or affecting its business as a public utility,” and requires public utilities to take all reasonable steps to “to secure compliance therewith by all of its officers, agents, and employees.”

Section 2107 of the Public Utilities Code provides that a public utility that:

fails or neglects to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the commission . . . is subject to a penalty of not less than five hundred dollars (\$500), nor more than one hundred thousand dollars (\$100,000), for each offense.

Section 2108 of the Public Utilities Code complements Section 2107, specifying that “[e]very violation . . . is a separate and distinct offense, and in case of a continuing violation each day’s continuance thereof shall be a separate and distinct offense.” A “continuing violation” occurs when a party engages in “a continuing course of unlawful conduct” over a period of time.¹¹⁵

The Public Advocates Office recommends that the Commission consider penalties of significant magnitude to recognize SoCalGas’s numerous repeated violations of D.18-05-041 and Rule 1.1, including the company’s failure to prevent, detect, disclose, or rectify the violations.¹¹⁶

The Public Advocates Office requests the opportunity to provide a more specific recommendation on appropriate penalties after SoCalGas provides a full accounting of its entries in the DSMBA, as recommended above. Only after SoCalGas provides information regarding the full extent of its ongoing charges to ratepayers for codes and standards advocacy after the effective date of D.18-05-041 will it be possible to recommend a penalty appropriate for SoCalGas’s failure to obey a Commission order and its pattern of misleading responses to data requests.

¹¹⁴ As a gas corporation that serves the public, SoCalGas is a public utility. Public Utilities Code Section 216(a).

¹¹⁵ *Pacific Gas & Electric Co. v. Public Utilities Com.*, 237 Cal. App. 4th 812, 855 (2015).

¹¹⁶ See e.g. D.98-12-075, *Final Opinion Adopting Enforcement Rules*, issued December 17, 1998 in R.98-04-009, pp. 56-58.

III. CONCLUSION

Codes and standards advocacy plays an important role in meeting California's energy efficiency and climate goals. The Commission should carefully examine the evidence of SoCalGas's blatant disregard of D.18-05-041's order to cease charging ratepayers for its participation in EE codes and standards advocacy, and SoCalGas's misrepresentations to the Public Advocates Office. Based on the evidence presented in this motion and the attached appendices, the Public Advocates Office respectfully requests that the Commission issue an Order to Show Cause why SoCalGas should not be sanctioned.

Respectfully submitted,

/s/ DIANA L. LEE
Diana L. Lee
Attorney

Public Advocates Office
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 703-4342
E-mail: diana.lee@cpuc.ca.gov

July 15, 2019