



April 1, 2021

Hon. Frances Rothschild, Presiding Justice  
Hon. Victoria Gerrard Chaney, Associate Justice  
Hon. Helen I. Bendix, Associate Justice  
California Court of Appeal  
Second Appellate District, Division One  
Ronald Reagan State Building  
300 S. Spring Street  
2nd Floor, North Tower  
Los Angeles, California 90013

Re: *Southern California Gas Company v. Public Utilities  
Commission of the State of California*

Second Appellate District, Division One, Case No.  
B310811

**Sierra Club Response to Erroneous Allegations  
by Southern California Gas Company on  
Common Interest Agreement and Disclosure of  
Confidential Information**

Honorable Justices,

Sierra Club writes to respond to attempts by Southern California Gas Company (“SoCalGas”) to depict Sierra Club’s coordination with the California Public Advocates Office (“CalPA”) on areas of common interest as improper and to its unsupported allegations that PAO is “funneling” confidential information to Sierra Club.<sup>1</sup> Far from being unusual or untoward, the California Public Utilities Commission (“CPUC” or “Commission”) explicitly encourages parties to work with CalPA on areas of mutual concern. In addition, CalPA has shared no confidential information with Sierra Club as part of its investigation into SoCalGas’ misuse of customer funds and SoCalGas has provided absolutely no evidence any such disclosure has occurred.

Sierra Club’s coordination with CalPA to investigate SoCalGas’ misuse of customer money to obstruct California clean energy and climate objectives is exactly what is called for under Commission rules. Under its intervenor compensation program, the Commission provides parties like Sierra Club with the opportunity to recover costs of participating in Commission

---

<sup>1</sup> SoCalGas, *Petition for Writ of Review, Mandate, and/or Other Appropriate Relief*, at 10–11, 54 (Mar. 8, 2021) (“SoCalGas Petition for Review”); SoCalGas, *Reply in Support of its Application for Leave to File Under Seal Volumes 9 and 10 of the Exhibits its Petition for Writ of Review*, at 9 (Mar. 26, 2021).

proceedings.<sup>2</sup> As a part of any claim for intervenor compensation, a party must indicate whether CalPA was a participant and explain how it avoided duplicating the efforts of CalPA and other intervening parties. This can be demonstrated through “working agreements among the parties, lead counsel arrangements on certain issues, sharing of expert witnesses, filing joint documents, or other arrangements.”<sup>3</sup> Coordination with CalPA is a routine aspect of practice before the CPUC.

Similarly, parties with aligned interests routinely execute common interest agreements to enable communications that might otherwise waive applicable attorney-client, work-product, or other privileges. As has been widely reported, Sierra Club uncovered SoCalGas’ role in forming and financing the front group Californians for Balanced Energy Solutions to further its interest in opposing policies that would reduce climate pollution in the building sector through electrification.<sup>4</sup> Another example

---

<sup>2</sup> CPUC, The Intervenor Compensation Program, <https://www.cpuc.ca.gov/icompl/>.

<sup>3</sup> *Id.*, Program Guide, at 21 (Apr. 2017).

<sup>4</sup> See e.g., Molly Peterson, *SoCalGas Admits Funding ‘Front’ Group in Fight for Its Future*, KQED (Jul. 31, 2019), <https://www.kqed.org/science/1945910/socalgas-admits-funding-front-group-in-fight-for-its-future>; LA Times Editorial, *SoCalGas’ sleazy ‘Astroturf’ effort to keep fossil fuels flowing in California*, LA Times (Aug. 10, 2019), <https://www.latimes.com/opinion/story/2019-08-10/socalgas-astroturf-cpuc-aliso-canyon>.

of SoCalGas’ misuse of ratepayer funds was using efficiency funding intended for advocacy for stronger efficiency standards to instead push for weaker appliance rules to avoid a transition from natural gas to more efficient electric alternatives.<sup>5</sup> A common interest agreement is appropriate because Sierra Club and CalPA have a common interest in ensuring SoCalGas’ customers do not bear the costs of the company’s tactics to maintain dependency on fossil fuels.

Finally, contrary to SoCalGas’ unsubstantiated claims that CalPA is “funneling” information to Sierra Club, CalPA has not disclosed confidential material to Sierra Club.<sup>6</sup> As the CPUC noted in its denial of SoCalGas’ Petition for Rehearing of ALJ-391, “[w]hether or not Cal Advocates has a ‘joint prosecution’ agreement with the Sierra Club, it is not relieved of its confidentiality obligations.”<sup>7</sup> Accordingly, SoCalGas’ claim that a common interest agreement enables Sierra Club to “obtain material from SoCalGas pursuant to authority delegated *solely* to

---

<sup>5</sup> D.18-05-041, *Decision Addressing Energy Efficiency Business Plans*, at 139, 141–144 (June 5, 2018), <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M215/K706/215706139.PDF>.

<sup>6</sup> SoCalGas Petition for Review at 10.

<sup>7</sup> D.21-03-001, *Order Modifying Resolution ALJ-391 and, As Modified, Denying Rehearing of Resolution ALJ-391*, at 13 (Mar. 2, 2021), <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M368/K860/368860809.PDF>.

CalPA” is false.<sup>8</sup> A common-interest agreement does not entitle Sierra Club to confidential information obtained by CalPA. Non-confidential responses to CalPA discovery are a matter of public record and can be obtained through a Public Records Act request. SoCalGas’ efforts to manufacture concerns over potential disclosure of confidential information by CalPA are without factual basis and do not withstand scrutiny.

Thank you,

/s/ Matthew Vespa \_\_\_\_\_

Matthew Vespa

Staff Attorney

Earthjustice

[mvespa@earthjustice.org](mailto:mvespa@earthjustice.org)

*Representing Sierra Club*

---

<sup>8</sup> SoCalGas Petition for Review at 11 (emphasis in original).

## **PROOF OF SERVICE**

I, Matthew Vespa, declare as follows:

I am employed in the County of San Francisco, State of California, I am over the age of eighteen years old, and am not a party to this action; my business address is 50 California Street, Suite 500, San Francisco, in said County and State. On April 1, 2021, I served the following document(s):

**Sierra Club Response to Erroneous Allegations by  
Southern California Gas Company on Common Interest  
Agreement and Disclosure of Confidential Information**

on the parties stated below, by the following means of service:

**Southern California Gas Company**

Julian Wing-Kai Poon  
Gibson Dunn & Crutcher LLP  
333 South Grand Avenue  
Los Angeles, CA 90071

Michael Harkett Dore  
Gibson, Dunn & Crutcher LLP  
333 S Grand Ave  
Ste 4600  
Los Angeles, CA 90071-1512

Andrew Thomas Brown  
Gibson, Dunn & Crutcher LLP  
333 South Grand Ave

Los Angeles, CA 90071

Daniel Matthew Rubin  
Gibson, Dunn & Crutcher LLP  
333 South Grand Ave.,  
Los Angeles, CA 90071-3197

Matthew Nolan Ball  
Gibson Dunn & Crutcher  
333 South Grand Ave.,  
Los Angeles, CA 90071

**Public Utilities Commission**

Arocles Aguilar  
California Public Utilities Commission  
505 Van Ness Ave  
San Francisco, CA 94102

Mary Frank McKenzie  
Public Utilities Commission  
505 Van Ness Avenue  
Room 5134  
San Francisco, CA 94102

Carrie G. Pratt  
Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

Edward Moldavsky  
CA Public Utilities Commission  
505 Van Ness Ave  
San Francisco, CA 94102-3214

**San Diego Gas & Electric Company**

John Anthony Pacheco  
SDG&E  
8330 Century Park Ct Fl 2  
San Diego, CA 92123-1530



**BY ELECTRONIC SERVICE THROUGH TRUEFILING:** I caused the documents to be electronically served through TrueFiling.

**(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 1, 2021.

*/s/ Matthew Vespa*

Matthew Vespa

Document received by the CA 2nd District Court of Appeal.