No. B310811

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT, DIVISION 1

SOUTHERN CALIFORNIA GAS COMPANY,
Petitioner,

v.

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA,
Respondent.

ON PETITION FOR WRIT OF REVIEW, MANDATE, AND/OR OTHER APPROPRIATE RELIEF

FROM PUBLIC UTILITIES COMMISSION DECISION NO. D.21-03-001 & RESOLUTION ALJ-391

APPLICATION OF PUBLIC CITIZEN AND CONSUMER WATCHDOG FOR LEAVE TO FILE AMICI CURIAE BRIEF IN SUPPORT OF RESPONDENT PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, AND BRIEF OF AMICI CURIAE

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APPLICATION OF PUBLIC CITIZEN AND CONSUMER WATCHDOG FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT OF APPELLANT

Public Citizen and Consumer Watchdog respectfully request leave to file the accompanying brief as amici curiae in support of respondent Public Utilities Commission of the State of California, addressing whether the orders requiring petitioner Southern California Gas (SoCalGas) to produce information concerning its expenditures for public policy advocacy and the allocation of those expenditures to ratepayer and/or shareholder accounts violate the First Amendment.

INTEREST OF AMICI CURIAE

Founded in 1971, Public Citizen is a non-profit consumer advocacy organization with members and supporters nationwide, including in California. Public Citizen advocates before Congress, administrative agencies, and courts on a wide range of issues, and works for enactment and enforcement of laws protecting consumers, workers, and the public.

Public Citizen's longstanding concerns include issues relating to First Amendment rights of speech and association. Although Public Citizen strongly supports the First Amendment right of citizens to associate freely to advance common interests

and opposes unwarranted interferences with that right, Public Citizen also recognizes that disclosures relating to a corporation's expenditures on advocacy efforts may advance significant public and governmental interests—including interests in oversight over the rates of highly regulated industries such as public utilities. In addition, Public Citizen is increasingly concerned that First Amendment claims may be invoked in settings where they do not serve to protect individual rights, but rather to advance the interest of corporations in inhibiting legitimate government regulatory actions aimed at protecting workers, consumers, and the general public. As a result, Public Citizen frequently submits amicus curiae briefs in cases involving claims by corporations and others alleging that long-accepted government regulatory actions violate the First Amendment. For example, Public Citizen filed amicus briefs in the Supreme Court of the United States in *Americans for Prosperity Foundation v. Bonta*, 141 S. Ct. 2373 (2021); *Janus v. AFSCME*, 138 S. Ct. 2448 (2018); and *National Institute of Family & Life Advocates v. Becerra*, 138 S. Ct. 2361 (2018).

Amicus Curiae Consumer Watchdog is a nationally recognized, California-based, non-profit education and advocacy

organization that represents the interests of consumers and taxpayers. Established in 1985, Consumer Watchdog utilizes a combination of litigation, advocacy, and public education to effectuate its mission. Consumer Watchdog has initiated and/or participated in numerous proceedings before the PUC, legislature, and the courts to advocate on behalf of residential utility customers. Consumer Watchdog's Litigation Project attorneys advocate for consumers' rights and hold corporations and government officials accountable in federal and state courts and before regulatory agencies. The Legal Project specializes in highly complex litigation to address abuses in the marketplace such as illegal overcharges, false advertising, and violation of consumer protection laws, as well as civil rights and First Amendment issues.

One of Consumer Watchdog's chief missions is to monitor California's gas, electric, and oil companies, including municipal and investor-owned utilities, to protect ratepayers, consumers, and the environment. Consumer Watchdog worked decades ago to fight and roll back California's electric deregulation debacle, including stopping a ratepayer bailout in the legislature and getting ratepayers' money back. We fight today to prevent Californians

from being duped again by similar utility and energy industry scams. Consumer Watchdog has a strong interest in ensuring that public utilities do not hide behind First Amendment claims to impede legitimate government regulatory actions to protect ratepayers.

In this case, amici curiae believe that a brief addressing the implications of the Supreme Court's recent decision in *Americans for Prosperity Foundation* (*AFP*) may be helpful to the Court. In particular, amici seek to explain that *AFP* forecloses any suggestion that strict scrutiny is applicable to this case. Assuming that SoCalGas has carried its burden of demonstrating that the information requests at issue are subject to First Amendment scrutiny to begin with, *AFP* holds that a disclosure requirement satisfies such scrutiny if it has a substantial relationship to an important state interest and is narrowly tailored to serve that interest. The interest at issue here—preventing compelled subsidization of SoCalGas's advocacy by ratepayers—is undoubtedly important, and the requests at issue are narrowly tailored to obtain the information needed to ensure protection of that interest. Amici respectfully submit that their brief addressing

these points may be of assistance to the Court in resolving this case.

CERTIFICATION

No party or counsel for a party to this proceeding authored the proposed brief of amici curiae in whole or in part, or made a monetary contribution intended to fund the preparation or submission of the brief. No person or entity made a monetary contribution intended to fund the preparation or submission of the brief, other than the amici curiae or their counsel in the pending matter.

Dated: July 30, 2021

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I. The Commission's orders in this case are not subject to strict scrutiny.

This case involves the effort of the California Public Utilities Commission (PUC), through the Public Advocates Office, to obtain records from Southern California Gas Company (SoCalGas) concerning SoCalGas's expenditures on public-policy advocacy, which appear to have been wrongfully allocated to accounts for expenditures chargeable to ratepayers in SoCalGas's PUC-approved rates. SoCalGas contends that disclosure of these records implicates its First Amendment-protected associational rights. The subjects of disclosure, however, are its payments to and commercial relationships with contractors—not the kinds of disclosures of individuals' political affiliations or organizational memberships that the United States Supreme Court has held trigger First Amendment scrutiny. *See Americans for Prosperity Fdn. v. Bonta*, 141 S. Ct. 2373, 2382 (2021) (*AFP*) (holding that a requirement that charities disclose the identities of financial supporters implicated the freedom of association).

Even if SoCalGas were correct that the disclosure of such information to the Public Advocates Office, subject to statutory

protections of confidentiality, requires First Amendment scrutiny, the Supreme Court's recent decision in *AFP* rejects a key premise of SoCalGas's petition: its assertion that strict scrutiny—under which "the government must adopt 'the least restrictive means of achieving a compelling state interest"—applies to compelled disclosure of the affiliation of individuals and groups engaged in First Amendment-protected expressive association. *See id.* at 2383 (plurality opinion of Roberts, C.J.); *id.* at 2396 (Sotomayor, J., dissenting). Instead, *AFP* holds that government-imposed disclosure requirements that affect First Amendment-protected associational rights "are reviewed under exacting scrutiny." *Id*. at 2383 (plurality); *id*. at 2396 (dissent).

Exacting scrutiny differs from strict scrutiny in two key respects. First, rather than demanding that a challenged requirement be *necessary* to achieve a *compelling* state interest, exacting scrutiny demands only that there be "a substantial relationship between the disclosure requirement and a sufficiently important governmental interest." *Id*. (plurality) (quoting *Doe v. Reed*, 561 U.S. 186, 196 (2010)). The standard is a flexible one, requiring a nuanced consideration of whether "the strength of the governmental interest" invoked to justify the action "reflect[s] the

seriousness of the actual burden on First Amendment rights." *Id.* (quoting *Doe*, 561 U.S. at 1990).

Second, exacting scrutiny requires a less demanding degree of fit between means and ends than does strict scrutiny. Strict scrutiny requires the government to justify a requirement as the "least restrictive means" necessary to advance the government's interests. In contrast, "exacting scrutiny does not require that disclosure regimes be the least restrictive means of achieving their ends," but "it does require that they be narrowly tailored to the government's asserted interest." *Id.* (majority). Thus, exacting scrutiny "require[s] a fit that is not necessarily perfect, but reasonable; that represents not necessarily the single best disposition but one whose scope is in proportion to the interest served." *Id.* at 2384 (quoting *McCutcheon v. FEC*, 572 U.S. 185, 218 (2014)). In this way, the standard "ensures that the government adequately considers the potential for First Amendment harms before requiring that organizations reveal sensitive information about their members and supporters," *id.*, and facilitates "a reasonable assessment of the burdens imposed by disclosure" relative to the need for it, *id.* at 2385.

Despite the standard set forth by the U.S. Supreme Court in *AFP*, SoCalGas continues to assert that strict scrutiny applies here and that a compelling interest is required to justify the disclosures sought. *See* SoCalGas Reply 40, 43–44. SoCalGas's argument appears to rest on the fact that Part II(B)(1) of the lead opinion in *AFP*, which rejected strict scrutiny in favor of exacting scrutiny, was joined only by a plurality of the Court: Chief Justice Roberts together with Justices Kavanaugh and Barrett. *See id.* at 41 n.12. Three concurring Justices, by contrast, would have required strict scrutiny or left open the possibility of its application. *See AFP*, 141 S. Ct. at 2389 (Thomas, J., concurring in part and concurring in the judgment); *id.* at 2391 (Alito, J., joined by Gorsuch, J., concurring in part and concurring in the judgment).

SoCalGas, however, neglects to count the votes of the three dissenting Justices in *AFP*, who agreed with the plurality that strict scrutiny did *not* apply and that least-restrictive-means analysis was not required. *See id.* at 2392, 2396 (Sotomayor, J., joined by Breyer and Kagan, JJ., dissenting). Thus, a clear majority of the Court—six Justices—rejected the proposition that strict scrutiny applies to disclosure requirements concerning First Amendment-protected expressive association, while a separate

majority of six Justices concluded that the disclosure requirement at issue was unconstitutional. Under those circumstances, Chief Justice Roberts's opinion holding that exacting scrutiny is the proper standard sets forth the holding of the Court, because it explains the Court's judgment on the narrowest grounds, rather than on the basis of broader legal propositions rejected by a majority of Justices. *See*, *e.g.*, *Marks. v. United States*, 430 U.S. 188, 193 (1977). Moreover, because Justices Alito and Gorsuch joined Part II(B)(2) of the Court's opinion, which concludes that least-restrictive-means analysis is not required when exacting scrutiny is applicable, *see* 141 S. Ct. at 2383, that proposition, too, is undoubtedly part of the holding of *AFP*. Indeed, *eight* Justices rejected least-restrictive-means analysis as part of exacting scrutiny. *AFP* therefore establishes that, to the extent that the disclosure requirements here trigger First Amendment scrutiny, the appropriate standard is exacting scrutiny, which requires that the disclosure be substantially related to a sufficiently important interest and that it be reasonably narrowly tailored to advance that interest.

II. The Commission's requests for information are narrowly tailored to serve important government interests.

Enforcement of the Public Advocates Office's information requests would readily satisfy exacting scrutiny. There is no doubt that the state interest at issue—preventing ratepayers from being required to support SoCalGas's advocacy efforts—is important, even compelling. And unlike what the Supreme Court characterized as the "dragnet" disclosure requirement in *AFP*, which applied universally to charitable organizations regardless of whether they were even suspected of any wrongdoing, *see id*. at 2387 (majority), the requests at issue are limited to a single, highly regulated utility that has admitted to having improperly charged advocacy expenditures to accounts that are supposed to be limited to expenditures chargeable to ratepayers in the utility's rate base.

A. The Commission has an important interest in preventing ratepayer subsidization of SoCalGas's advocacy efforts.

The importance of the state interests at issue cannot seriously be disputed. SoCalGas does not contend that it has a right to fund political advocacy efforts from accounts that are included in its recoverable expenses for ratemaking purposes, and for good reason: The state has a strong interest in preventing

ratepayers from being compelled to support SoCalGas's advocacy efforts through state-approved rates that consumers must pay to obtain needed utility services.

Both federal and state regulators have long recognized the importance of this interest. At the federal level, where wholesale utilities are regulated under the Natural Gas Act and Federal Power Act, the Federal Energy Regulatory Commission and its predecessor agency, the Federal Power Commission, have recognized for decades that "political" expenditures by utilities subject to rate regulation—including expenditures to influence public opinion on matters of policy as well as to influence the decisions of public officers—"have a doubtful relationship to rendering utility service," and should not be lumped together in accounts with "operating expenses" that are routinely recoverable from ratepayers. *In re Alabama Power Co.*, 24 F.P.C. 278, 287 (1960). The agency's position reflects recognition that "on matters which are politically controversial, differences of opinion may and frequently do exist between the companies and their customers, between management and the rate payer," and that isolating advocacy expenditures from other expenditures that "must in due course … be paid by rate payer" is necessary to "avoid[] any

implication that the companies are entitled without a further showing to charge against the rate payer the cost of political programs favored by the companies but possibly opposed by those who must pay the costs of supporting these enterprises." *Id*. at 286–87.

The proposition that a utility's public advocacy expenditures are not properly chargeable to ratepayers was elevated to a matter of federal statutory policy when Congress enacted the Public Utility Regulatory Policies Act (PURPA) of 1978, Pub. L. No. 95-617, 92 Stat 3117. Parallel provisions in PURPA applicable to electric and gas utilities provide that "[n]o … utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising." 15 U.S.C. § 3203(b)(5) (gas); 16 U.S.C. § 2623(b)(5) (electric). The statute broadly defines "political advertising" to include attempts to influence public opinion on "any controversial issue of public importance." 15 U.S.C. § 3204(b)(1)(B); 16 U.S.C. § 2625(h)(1)(B). PURPA further required that state utility commissions promptly consider whether to adopt this prohibition as a matter of state law and to do so if they determined that the prohibition "is appropriate to carry out

the purposes of this chapter, is otherwise appropriate, and is consistent with otherwise applicable State law." 15 U.S.C. § 3203(a)(2); 16 U.S.C. § 2623(a)(1). California's PUC accordingly "adopted the prohibition on the recoupment by utilities of political advertising expenditures from ratepayers" in 1980. *See In re Pac. Gas & Elec. Co.*, 7 CPUC 2d 349, 1981 Cal. PUC LEXIS 1279, at § IX(B)(1) (1981).

The PUC's adoption of the PURPA prohibition on charging ratepayers for a utility's advocacy expenditures reflected that prohibition's consistency with longstanding principles of California regulatory ratemaking law. In *Pacific Telephone & Telegraph Co. v. PUC*, 62 Cal. 2d 634 (1965), the California Supreme Court stated that it "agree[s] with the general policy of the commission that the cost of legislative advocacy should not be passed on to the ratepayers." *Id.* at 670. The Supreme Court approvingly quoted the PUC's reasoning that "ratepayers … should not be required to pay for costs of such legislative advocacy without having the opportunity to make their own judgments on what legislative proposals they would or would not favor and to designate who, if anyone, should advocate their interests." *Id.*

The PUC has similarly recognized that "ratepayers should not fund" other expenditures that are "inherently political," such as payments to "political organizations," even if such expenditures may have "some attenuated potential rate benefit." *In re So. Cal. Edison*, 2012 WL 6641483, at § 9.8 (Cal. P.U.C. 2012). Similarly, in a ratemaking proceeding involving SoCalGas, the Commission stated broadly that "ratepayers should not pay the costs associated with SoCalGas'[s] lobbying efforts, whether those efforts are at the federal, state or local level, and whether or not the effort is directed at legislation or administrative action." *In re So. Cal. Gas*, 52 CPUC 2d 471, 1993 WL 601937, at § V(L)(1)(b) (1993). The Commission applied that principle to deny the utility's request that its rates include the cost of its public relations efforts regarding environmental issues, which were "designed primarily to increase load by promoting natural gas use to business and government leaders." *Id.*

The legislature, too, has recognized the importance of ensuring that ratepayers do not foot the bill for utilities' advocacy on matters of public importance and controversy. A decades-old California statute, for example, prohibits utilities from recovering expenses for advertising that seeks to promote consumption of

energy. Cal. Pub. Util. Code § 796. And more recently, the legislature adopted a law that expressly acknowledges the PUC's obligation to "implement that portion of [PURPA] that establishes the federal standard that no electric utility may recover from any person other than the shareholders or other owners of the utility, any direct or indirect expenditure by the electric utility for promotional or political advertising." Cal. Pub. Util. Code § 707(a)(5). Even more broadly, the statute recognizes the interest in "protect[ing] a ratepayer's right to be free from forced speech." *Id*.

As the statute's reference to "forced speech" suggests, there is a constitutional dimension to the ratepayers' interest in not being forced to subsidize utilities' advocacy efforts. Thus, the prohibition of using ratepayer funds for a utility's advocacy efforts reflects more than just the perception that it could be "unwarranted" and "unfair" to allow a utility to use its government-regulated rates as a means of subsidizing its expression of views that are at odds with the beliefs and interests of ratepayers. *Alabama Power*, 24 F.P.C. at 286. Protecting ratepayers against such required subsidies for utilities' speech on controversial matters also reflects that, as the U.S. Supreme Court

has recognized, the First Amendment "may prevent the government … from compelling certain individuals to pay subsidies for speech to which they object." *United States v. United Foods, Inc.*, 533 U.S. 405, 411 (2001).

The U.S. Supreme Court has recently reiterated that "[c]ompelling a person to subsidize the speech of other private speakers raises … First Amendment concerns" similar to those present when the government directly compels individuals to engage in speech that they find objectionable. *Janus v. AFSCME*, 138 S. Ct. 2448, 2464 (2018). Thus, "[b]ecause the compelled subsidization of private speech seriously impinges on First Amendment rights, it cannot be casually allowed." *Id.*

In *Janus*, the Court's majority held that such governmentally compelled subsidization is subject to scrutiny at least as stringent as that prescribed in *AFP* for disclosure requirements that affect expressive association. *See id.* at 2465. And it applied that standard to hold that government employees could not be compelled to provide financial support for unions designated as their collective bargaining representatives—even though the government had a strong interest in bargaining with a single, exclusive representative of all its employees, and the

designated bargaining representative had a duty to represent and act in the interest of the employees who objected to paying their share for its efforts. *See id*. at 2465–69.

If the PUC were to approve rates that included the recovery of a utility's public-policy advocacy expenditures from ratepayers, the state would be compelling individual ratepayers to subsidize the speech of other private speakers at least as much as the employees in *Janus* were required to subsidize the speech of the union designated as their bargaining representative. Consumers have no choice but to pay the filed rates approved by the Commission to the utilities that serve their areas. And the justification for such a subsidy would be far weaker than in *Janus*: Unlike the union in *Janus*, which was legally required to represent the interests of employees when bargaining on their behalf, SoCalGas and other utilities are under no obligation to advance the interests of ratepayers when they engage in political and policy advocacy, which is typically driven by their own commercial interest in promoting consumption of their services. *See So. Cal. Gas*, 52 CPUC 2d 471, 1993 WL 601937, at § V(L)(1)(b). Indeed, the interest of the utility and its ratepayers may well be antithetical. *See Alabama Power*, 24 F.P.C. at 286 ("[O]n politically

controversial matters, the opinions of management and the ratepayer may differ decidedly.").

Although the First Amendment compelled-subsidization concerns presented by utility rates and public-employee union agency fees are not identical, protecting individuals from being forced to subsidize the speech of a corporation with which they disagree is, at a minimum, a substantial and even compelling interest—and one of constitutional dimension. This compelling interest supports efforts by the PUC and the Public Advocates Office to ensure that the utility does not use ratepayer funds for its own political speech. SoCalGas's emphasis on its own right to engage in such advocacy should not obscure that there is a countervailing interest at least as strong on the other side: preventing SoCalGas from extracting from unwilling ratepayers a subsidy for its advocacy.

B. The information requests are narrowly tailored to serve the government's interest.

In addition to being substantially related to the important state interest, the requests for information allowing the PUC and the Public Advocates Office to audit SoCalGas's compliance with the requirement that its advocacy expenditures be isolated to avoid

subsidization by ratepayers are narrowly tailored to advance that interest. Unlike *AFP*, this case involves no "dragnet," across-the-board request for disclosures by organizations that are not even suspected of any wrongdoing. *See AFP*, 141 S. Ct. at 2387. Rather, the demand for an audit was based on reason to believe that SoCalGas had allocated advocacy expenditures to ratepayer accounts. Indeed, SoCalGas admits having done so. SoCalGas Reply 46. Although it characterizes its conduct as an "accounting error," *id*., that characterization hardly minimizes its significance: Proper accounting is what the requirement of avoiding subsidization by ratepayers of expenses not properly chargeable to them is all about. *See Alabama Power*, 24 F.P.C. at 286–87. And audit requests directed to entities suspected of improper accounting are exactly the kind of narrowly tailored actions that *AFP* approvingly contrasted with the across-the-board requests at issue in that case. *See* 141 S. Ct. at 2386. That SoCalGas made "accounting" errors is not a reason for limiting the Public Advocates Office's audit. It is the reason an audit is necessary.

Indeed, SoCalGas appears to acknowledge that the Public Advocates Office is entitled to access to its books and records as reasonably needed to audit its compliance with its obligation not

to allocate its advocacy expenditures to ratepayer accounts. And it claims to have *offered* to allow access to the great majority of the records sought, though not, evidently, to have actually *provided* such access in response to the Public Advocates Office's data requests and subpoena. Given the utility's admission that the Public Advocates Office is entitled to access to 96% of its vendor accounts, including "nearly every *shareholder* account," SoCalGas Reply 31, SoCalGas's request that the Commission's order be set aside in its entirety is, even on its own terms, grossly overbroad.

SoCalGas's contention that the Public Advocates Office's requests for access to its records are not narrowly tailored because they are not limited to ratepayer accounts is, in any event, unfounded. The company's argument that advocacy expenditures it assigns (or, as in this case, reassigns) to "below-the-line" accounts are off-limits to the Commission ignores the reason that federal regulators first ordered that such expenditures be isolated in a designated below-the-line account (now referred to as account 426.4): to allow "the separate disclosure and classification of all such controversial items, so as [to] enable a *clear understanding and realistic appraisal of the nature thereof*." *Alabama Power*, 24 F.P.C. at 286 (emphasis added); *see also Expenditures for Political*

Purposes—Amendment of Account 426, Other Income Deductions, Uniform System of Accounts, and Report Forms Prescribed for Electric Utilities and Licensees and Natural Gas Companies—FPC Forms Nos. 1 and 2, 30 F.P.C. 1539, 1540–42 (1963) (describing adoption of account 426.4). By contrast, "[t]hrowing all such controversial expenditures into a hotpotch of operating expenses would tend to obscure their essential character, and make more difficult their informed analysis and proper ultimate disposition." *Alabama Power*, 24 F.P.C. at 286. Failure to properly segregate advocacy expenditures into the appropriate account would interfere with regulators' ability to scrutinize closely any request during ratemaking proceedings that they be recovered from ratepayers and to ensure that the burden of subsidizing the company's political activities is not improperly imposed on ratepayers. SoCalGas's suggestion that examination of ratepayer accounts is sufficient to allow regulators to perform their functions overlooks the regulatory interest in ensuring that advocacy expenses have been assigned to the proper below-the-line account, which an audit limited to above-the-line accounts cannot fulfill.

SoCalGas's argument also ignores the important role that examination of the below-the-line account to which advocacy

expenditures are supposed to be assigned plays in carrying out the Commission's concededly valid interest in "verify[ing] that the cost[s] of its advocacy activities are not in ratepayer accounts." SoCalGas Reply 24. First, examination of the expenditures that SoCalGas *has* assigned to the proper below-the-line account, and identification of the vendors involved, will facilitate identification of similar expenditures that may still be improperly assigned to ratepayer accounts. Second, analysis of the below-the-line account to determine whether items that regulators would expect to be there are missing will assist the regulators in focusing their efforts to determine whether those items are hidden in above-the-line accounts. Third, to the extent payments to the same vendors may be allocated between advocacy work not chargeable to ratepayers and other work that may be properly recoverable from ratepayers, *see Expenditures for Political Purposes*, 30 F.P.C. at 1541–42, examination of both above-the-line and below-the-line accounts may be necessary to ensure that the allocation is correct. Finally, review of the relative magnitude of amounts reclassified as below-the-line only after the Public Advocates Office began its inquiry with those that were properly allocated to begin with will provide context necessary for evaluating SoCalGas's arguments that its

improper allocation of expenditures was an inadvertent mistake involving no intentional misconduct.

In short, SoCalGas's argument that the Public Advocates Office's information requests are not narrowly tailored because they do not permit SoCalGas unilaterally to wall off one portion of its books and records from scrutiny by the Commission is unpersuasive. Under the circumstances here, access to below-the-line as well as above-the-line accounts is reasonably necessary to fulfillment of the Commission's concededly important regulatory functions, and the Public Advocates Office's requests are narrowly tailored to serve those interests.

CONCLUSION

The Court should deny SoCalGas's requests that it vacate the Commission's orders and that it enjoin the Commission from seeking disclosure of the records at issue.

Dated: July 30, 2021

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 8.204(c)(1) of the California Rules of Court and in reliance on the word count feature of the program used to prepare this brief (Microsoft Word 2010), undersigned counsel certifies that this Brief of Amici Curiae Public Citizen, Inc., and Consumer Watchdog was produced using a 13-point, Roman type font (Century Schoolbook BT) and contains 3,567 words.

Dated: July 30, 2021

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PROOF OF SERVICE

State of California, City of Los Angeles, County of Los Angeles

I am employed in the City and County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 6330 San Vicente Boulevard, Suite 250, and I am employed in the city and county where this service is occurring.

On July 30, 2021, I caused service of true and correct copies of the documents entitled:

APPLICATION OF PUBLIC CITIZEN AND CONSUMER WATCHDOG FOR LEAVE TO FILE AMICI CURIAE BRIEF IN SUPPORT OF RESPONDENT PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA, AND BRIEF OF AMICI CURIAE

upon the persons named in the attached service list, in the following manner:

1. If marked HAND DELIVERED, by personally delivering copies to the person served at the listed address.

2. If marked EMAIL or ELECTRONIC SERVICE, by electronic mail transmission this date to the email address stated or by electronic transmission to all parties appearing on electronic service list via TrueFiling.

3. If marked U.S. MAIL or OVERNIGHT, by placing this date for collection for regular or overnight mailing true copies of the within document in sealed envelopes, addressed to each of the persons so listed. I am readily familiar with the regular practice of collection and processing of correspondence for mailing of U.S. Mail and for sending of Overnight mail. If mailed by U.S. Mail, these envelopes would be deposited this day in the ordinary course of business with the U.S. Postal Service. If mailed Overnight, these envelopes would be deposited this day in a box or other

facility regularly maintained by the express service carrier, or delivered this day to an authorized courier or driver authorized by the express service carrier to receive documents, in the ordinary course of business, fully prepaid.

4. If marked FAX SERVICE, by fax transmission this date to the FAX number stated to the person(s) named. Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission which I printed out is attached.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 30, 2021 at Los Angeles, California.

Kaitlyn Gentile

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