

**SAN DIEGO GAS & ELECTRIC COMPANY
SOUTHERN CALIFORNIA GAS COMPANY**

LINE 1600

(A.15-09-013)

(DATA REQUEST ORA/PAO DR 107)

Date Requested: March 26, 2020

Date Responded: April 7, 2020

PRELIMINARY STATEMENT

1. These responses and objections are made without prejudice to, and are not a waiver of, SDG&E's and SoCalGas' right to rely on other facts or documents in these proceedings.
2. By making the accompanying responses and objections to these requests for data, SDG&E and SoCalGas do not waive, and hereby expressly reserve, their right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege. Further, SDG&E and SoCalGas make the responses and objections herein without in any way implying that they consider the requests, and responses to the requests, to be relevant or material to the subject matter of this action.
3. SDG&E and SoCalGas will produce responses only to the extent that such response is based upon personal knowledge or documents in the possession, custody, or control of SDG&E and SoCalGas, as set forth in the California Public Utilities Commission ("Commission or CPUC") Rules of Practice and Procedure. SDG&E and SoCalGas possession, custody, or control does not include any constructive possession that may be conferred by SDG&E's and SoCalGas' right or power to compel the production of documents or information from third parties or to request their production from other divisions of the Commission.
4. A response stating an objection shall not be deemed or construed that there are, in fact, responsive information or documents which may be applicable to the data request, or that SDG&E and SoCalGas acquiesces in the characterization of the premise, conduct or activities contained in the data request, or definitions and/or instructions applicable to the data request.
5. SDG&E and SoCalGas expressly reserves the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental or additional response(s).
6. Publicly available information and documents including, but not limited to, documents that are part of the proceeding record, newspaper clippings, court papers, and materials available on the Internet, will not be produced.

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GENERAL OBJECTIONS

1. SDG&E and SoCalGas object to each instruction, definition, and request to the extent that it purports to impose any requirement or discovery obligation greater than or different from those under the CPUC Rules of Practice and Procedure, Statutes, and the applicable Orders of the Commission.
2. SDG&E and SoCalGas object to each request that is overly broad, unduly burdensome, or not reasonably calculated to lead to the discovery of admissible evidence.
3. SDG&E and SoCalGas object to each instruction, definition and data request to the extent that it seeks information protected from disclosure by the attorney-client privilege, deliberative process privilege, attorney work product doctrine, or any other applicable privilege. Should any such disclosure by SDG&E and SoCalGas occur, it is inadvertent and shall not constitute a waiver of any privilege.
4. SDG&E and SoCalGas object to each instruction, definition and data request as overbroad and unduly burdensome to the extent it seeks documents or information that are readily or more accessible to Public Advocates Office (“Cal Advocates” or “PAO”) from Cal Advocates’ own files, from documents or information in Cal Advocates’ possession, or from documents or information that SDG&E and SoCalGas previously released to the public or produced to Cal Advocates. Responding to such requests would be oppressive, unduly burdensome, and unnecessarily expensive, and the burden of responding to such requests is substantially the same or less for Cal Advocates as for SDG&E and SoCalGas.
5. SDG&E and SoCalGas object to each instruction, definition and data request to the extent that it seeks the production of documents and information that were produced to SDG&E and SoCalGas by other entities and that may contain confidential, proprietary, or trade secret information.
6. To the extent any of Cal Advocates’ data requests seek documents or answers that include expert material, including but not limited to analysis or survey materials, SDG&E and SoCalGas object to any such requests as premature and expressly reserves the right to supplement, clarify, revise, or correct any or all responses to such requests, and to assert additional objections or privileges, in one or more subsequent supplemental response(s) in accordance with the time period for exchanging expert reports set by the Commission.
7. SDG&E and SoCalGas incorporate by reference every general objection set forth above into each specific response set forth below. A specific response may repeat a general objection for emphasis or some other reason. The failure to include any general objection in any specific response does not waive any general objection to that request. Moreover, SDG&E and SoCalGas do not waive their right to amend any responses.

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QUESTION 1:

Please refer to the response to DR 105 Q3 – Detailed Environmental Review for Black Mountain, p36 paragraph 1 (quoted below).

3.4.1. Recommendations and Avoidance, Minimization and Compliance Measures

General Order 112-F implies that SDG&E is preempted from obtaining discretionary permitting (i.e., Site Development Permits, Conditional Use Permits, and Neighborhood Use Permits) from the City. Preliminary coordination with the City about this preemption could pose schedule risks if City officials do not concur, resulting in extensive legal discussions. Therefore, it is recommended to avoid this type of coordination.

With this passage in mind, please answer the following questions:

- a. Please provide the exact language within GO 112-F that SoCalGas and/or its consultant asserts preemption of the City of San Diego from review and discretionary permitting of Line 1600 Black Mountain Replacement Section 14 as recommended in this document.
- b. Please explain why the language of GO 112-F that SoCalGas identifies in response to question 1a in fact preempts the City of San Diego from review and discretionary permitting of Line 1600 Black Mountain Replacement Section 14.
- c. Public Advocates Office understands that the above quoted passage applies to the Line 1600 Black Mountain Replacement Section 14. Is this correct?
- d. If not, please identify which section of Line 1600 to which the above mentioned passage applies.
- e. Public Advocates Office understands that, when using the term “City”, the above quoted passage refers to the City of San Diego. Is this correct?
- f. If not, please identify the “City” to which the above quoted passage refers.
- g. Please identify each section of Line 1600 to which SoCalGas received a recommendation or created an internal recommendation that is like or the same as the one identified in the quoted passage in this question.
- h. For each of the segments which SoCalGas has a recommendation like or the same as the one identified in the quoted passage in this question, please explain why SoCalGas asserts that the language provided in response to question 1a preempts SoCalGas from obtaining discretionary permitting from an agency.

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Date Responded: April 7, 2020

RESPONSE 1:

In responding to this data request, SDG&E and SoCalGas (jointly, Utilities) object that the subject matter of this data request, the Utilities' response and any documents, data or materials produced with such response are not within the scope of Phase 2 in this proceeding, as set forth in D.20-02-024, or admissible in evidence in Phase 2.

Subject to and without waiving the foregoing objection, the Utilities respond as follows:

- a. The quoted portion of the Detailed Environmental Review of the Black Mountain Replacement Segment refers to the general authority of the California Public Utilities Commission (CPUC) to preempt conflicting, local regulation of an area that is fully occupied by state law. General Order 112-F, entitled "State of California Rules Governing Design, Construction, Testing, Operation, and Maintenance of Gas Gathering, Transmission, and Distribution Piping Systems," provides comprehensive regulation of gas transmission lines in the State of California.
- b. Article XI, Section 7 of the California Constitution states, "A conflict exists if the local legislation 'duplicates, contradicts, or enters an area fully occupied by [state] law, either expressly or by legislative implication.'" Further, Article XII, Section 8 of the California Constitution establishes, in pertinent part, the permissible scope of local regulation in the utility context:

"A city, county, or other public body may not regulate matters over which the Legislature grants regulatory power to the [PUC]. This section does not affect power over public utilities relating to the making and enforcement of police, sanitary, and other regulations concerning municipal affairs pursuant to a city charter existing on October 10, 1911, unless . . ."

With respect to the construction, operation, and maintenance of gas transmission pipelines like Line 1600, the CPUC has fully occupied the area. Regulation of public utilities by the CPUC is generally authorized by Public Utilities Code section 701, which states,

"The [PUC] may supervise and regulate every public utility in the State and may do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction."

Further, Public Utilities Code Section 768 provides that:

"The [PUC] may prescribe, among other things, the installation, use maintenance, and operation of appropriate safety or other devices or appliances, . . . The [PUC] may establish uniform or other standards of construction and equipment, and require the performance of any other act with the health or safety of its employees, passengers, customers, or the public may demand . . ."

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With respect to design and construction of gas transmission pipelines, among other things, the CPUC has exercised its constitutional and statutory authority through the issuance of CPUC General Order 112-F. General Order 112-F provides uniform governance over the design, construction, operation and maintenance of gas transmission systems, such as the work that the Utilities have proposed for Line 1600. The Utilities are required to comply with the standards set by the CPUC, including but not limited to GO 112-F and, thus, are not required to seek the discretionary approval of a local jurisdiction for the design, construction, operation, and maintenance of natural gas transmission pipelines like Line 1600. The Utilities have, and will, continue to seek the necessary discretionary approvals that fall outside of the area occupied by the CPUC, and all necessary ministerial permits.

See response to Q1(a), which is hereby incorporated for reference.

- c. Yes.
- d. See the response to Q1(c), which is hereby incorporated by reference.
- e. Yes.
- f. See the response to Q1(e), which is hereby incorporated by reference.
- g. The Utilities object to Question 1(g) as vague, ambiguous, and overbroad by its use of the phrase “that is like or the same as the one identified in the quoted passage in this question.” Notwithstanding that objection, the Utilities provide the following response: Environmental Reports have been prepared only for certain of the projects approved in the Utilities’ Line 1600 Plan. See the Utilities response to Cal PA DR 105, Q3, which included the Detailed Environmental Response for the Midway Drive Replacement Segment, Black Mountain Road Replacement, and Serra Mesa Replacement Segment. Each of the Environmental Reports recognizes that the CPUC has preempted discretionary local permitting over these gas transmission line projects. The recommendations in each Environmental Report speak for themselves.
- h. See the response to Q1(g), which is hereby incorporated by reference. The Utilities further note that the quoted language from Section 3.4.1. of the Detailed Environmental Review for Black Mountain is slightly muddled in stating “SDG&E is preempted”; rather it is the City of San Diego that is preempted from requiring a discretionary permit for this gas transmission pipeline project.

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QUESTION 2:

Please refer to the response to DR 105 Q3 – Detailed Environmental Review for Serra Mesa Replacement p33 paragraph 2

3.4.1 Recommendations

General Order 112-F implies that SDG&E is preempted from obtaining discretionary permitting (i.e., Site Development Permits, Neighborhood Use Permits, and Conditional Use Permits, as described further in Attachment C: City of San Diego Municipal Code Requirements and Exemptions) from the City. Preliminary coordination with the City about this preemption could pose schedule risks if City officials do not concur, which could result in extensive legal discussions. Therefore, it is recommended to verify that City property is avoided at the stopple and tie-in workspaces within Montgomery Field or anticipate long lead time permitting with the City.

With this passage in mind, please answer the following questions:

- a. Public Advocates Office understands that the above quoted passage applies to the Line 1600 Serra Mesa Replacement 19. Is this correct?
- b. If not, please identify which section of Line 1600 to which the above-mentioned passage applies.
- c. Public Advocates Office understands that, when using the term “City”, the above quoted passage refers to the City of San Diego. Is this correct?
- d. If not, please identify the “City” to which the above quoted passage refers.
- e. Please provide the exact language within GO 112-F that SoCalGas and/or its consultant asserts preemption of the City of San Diego from review and discretionary permitting of Line 1600 Serra Mesa Replacement Section 19 as recommended in this document.
- f. Please explain why the language of GO 112-F that SoCalGas identifies in response to question 1a in fact preempts the City of San Diego from review and discretionary permitting of Line 1600 Serra Mesa Replacement Section 19.
- g. Please identify each section of Line 1600 to which SoCalGas received a recommendation or created an internal recommendation that is like or the same as the one identified in the quoted passage in this question.

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h. For each of the segments which SoCalGas has a recommendation like or the same as the one identified in the quoted passage in this question, please explain why SoCalGas asserts that the language provided in response to question 1a preempts SoCalGas from obtaining discretionary permitting from an agency.

RESPONSE 2:

In responding to this data request, SDG&E and SoCalGas (jointly, Utilities) object that the subject matter of this data request, the Utilities' response and any documents, data or materials produced with such response are not within the scope of Phase 2 in this proceeding, as set forth in D.20-02-024, or admissible in evidence in Phase 2.

Subject to and without waiving the foregoing objection, the Utilities respond as follows:

- a. Yes.
- b. See the response to Q2(a), which is hereby incorporated by reference.
- c. Yes.
- d. See the response to Q2(c), which is hereby incorporated by reference.
- e. See the response to Q1(a), which is hereby incorporated by reference.
- f. See the response to Q1(a), which is hereby incorporated by reference.
- g. See the response to Q1(g), which is hereby incorporated by reference.
- h. See the response to Q1(g) and Q2(g), which are hereby incorporated by reference.

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QUESTION 3:

- a. Does SoCalGas intend to request California Environmental Quality Act (CEQA) environmental review from a government agency for each of the 19 Line 1600 segments?
- b. If the answer to question 3.a. is no, please identify each of the 19 Line 1600 segments for which SoCalGas does not intend to request CEQA environmental review.
- c. If the answer to question 3.a. is no, for each of the 19 Line 1600 segments that SoCalGas has identified it does not intend to request CEQA environmental review, please explain why.

RESPONSE 3:

In responding to this data request, SDG&E and SoCalGas (jointly, Utilities) object that the subject matter of this data request, the Utilities' response and any documents, data or materials produced with such response are not within the scope of Phase 2 in this proceeding, as set forth in D.20-02-024, or admissible in evidence in Phase 2.

Subject to and without waiving the foregoing objection, the Utilities respond as follows:

- a. See the response to ORA/PAO DR 105 Q6 and Q7, as well as ORA/PAO DR 106 Q1, Q2, and Q10, all of which are hereby incorporated by reference.
- b. See the response to Q1(a), which is hereby incorporated by reference.
- c. See the response to ORA/PAO DR 105 Q6 and Q7, as well as ORA/PAO DR 106 Q1, Q2, and Q10, all of which are hereby incorporated by reference.

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QUESTION 4:

For each question in this data request, please do the following

- a. First, answer as if the question is being asked within the context of A.15-09-013.
- b. Second, answer as if the question is being asked outside of the context of A.15-09-013, but being asked pursuant to Public Advocates Office's authority under California Public Utilities Code Section 309.5(e).
- c. Please identify where the answer differs because of the requested assumption to use under 4a or 4b.

RESPONSE 4:

In responding to this data request, SDG&E and SoCalGas (jointly, Utilities) object that the subject matter of this data request, the Utilities' response and any documents, data or materials produced with such response are not within the scope of Phase 2 in this proceeding, as set forth in D.20-02-024, or admissible in evidence in Phase 2.

The Utilities further object to Question 4 as vague, ambiguous, cumulative and, depending upon its interpretation, burdensome and harassing. The Utilities do not understand the reference to an "assumption." The Utilities do not understand what is meant by the "within the context of A.15-09-013," given that PAO purports to be serving its data requests in the proceeding commenced as A.15-09-013 and about topics addressed by D.18-06-028 issued in proceeding A.15-09-013. The Utilities do not understand what is meant by "outside the context of A.15-09-013" given that PAO purports to be serving its data requests in the proceeding commenced as A.15-09-013 and about topics addressed by D.18-06-028 issued in proceeding A.15-09-013.

Subject to and without waiving the foregoing objections, the Utilities respond as follows:

If PAO is asking whether the facts change depending upon the authority upon which PAO relies to be serving data requests upon Utilities at this time, the answer is no.