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18 SUPERIOR COURT OF THE STATE OF CALIFORNIA

19 COUNTY OF ORANGE

20 Southern California Gas Company,)
Utility Workers Union of America)
21 Local Unions Nos. 132, 483 and 522,)
Clean Energy,)

22)
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24)
25)
26)
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Petitioners and
Plaintiffs,

v.

25 California State Energy Resources)
Conservation and Development)
26 Commission,)
27)
28)

Respondent and
Defendant.

Case No.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF; PETITION
FOR WRIT OF MANDATE

INTRODUCTION

1
2 1. The California State Energy Resources Conservation and Development
3 Commission (“CEC”), also known as the California Energy Commission, is a state agency
4 created and governed by the Warren-Alquist State Energy Resources Conservation and
5 Development Act. California law requires the CEC to implement a balanced approach to
6 California’s complex energy needs that includes the use of natural gas. The CEC is required by
7 such laws to maximize the benefits of natural gas and encourage the use of all energy sources so
8 as to ensure system reliability. Despite the California Legislature’s directives to include natural
9 gas in California’s energy plans, the CEC has decided to substantially eliminate its use in the
10 State. This case seeks to require the CEC to comply with the law. While the CEC may disagree
11 with the directives imposed upon it by the Legislature, it is not free to ignore them in favor of its
12 own policy objectives, no matter how strongly felt. This case is not about the wisdom of the
13 CEC’s policy choices. It is about requiring public officials to comply with the law.

14 2. The Legislature has recognized that “natural gas can play a significant role in
15 supporting efforts to reduce [greenhouse gas emissions],” that the natural gas system is critical to
16 a reliable and affordable energy supply, and that the natural gas industry plays an important role
17 in the economy and in developing fuel alternatives, including for transportation. The Natural
18 Gas Act, passed in 2013, codified these policy decisions by emphasizing the important role and
19 benefits of natural gas and requiring the CEC to maximize those benefits for Californians. The
20 Natural Gas Act requires the CEC to produce a report every four years to “identify strategies to
21 maximize the benefits obtained from natural gas . . . helping the state realize the environmental
22 and cost benefits afforded by natural gas” in areas including transportation, consumer end-uses,
23 gas-fired generation, the development of alternative fuels such as renewable gas, and the creation
24 of jobs in gas-related industries. Cal. Pub. Res. Code § 25303.5(b). The Natural Gas Act is
25 consistent with other state laws requiring and encouraging the use of natural gas.

26 3. In 2015, the CEC created a Natural Gas Act docket, held multiple workshops,
27 collected a wide range of information and input, and produced a voluminous report (the “2015
28 Natural Gas Act Report”) addressing in detail the ten areas identified in the Natural Gas Act as

1 areas for which the benefits of natural gas should be optimized.

2 4. The CEC’s 2019 approach to complying with its obligations under the Natural
3 Gas Act, however, was dramatically different. The CEC did not create a separate docket, did not
4 hold workshops dedicated to the Natural Gas Act, did not seek information or input from
5 stakeholders (and ignored what information it was provided), and claimed it could satisfy the
6 legislative mandate to maximize the benefits of natural gas for the ten identified areas by
7 attaching a conclusory “Appendix A” to the Integrated Energy Policy Report (“IEPR”).
8 Appendix A bore no resemblance to the CEC’s 2015 Natural Gas Act Report. Appendix A also
9 ignored substantial evidence and information submitted in comments on many of the key issues
10 that the Natural Gas Act required the CEC to address.

11 5. The impact of the CEC’s procedure and Appendix A was to *minimize* the use of
12 natural gas, not to maximize its benefits, contrary to the findings and directives of the
13 Legislature.

14 6. The CEC’s recommendation has far-reaching consequences. Among other things,
15 numerous other California agencies and governmental bodies are required by law to rely on the
16 CEC’s assessment as the basis for regulatory action.

17 7. The Legislature included natural gas as part of its energy policy for good reason.
18 Natural gas and renewable gas are clean, affordable, resilient, and reliable sources of energy on
19 which millions of California consumers and businesses depend. Natural gas has played a
20 significant role in reducing greenhouse gas emissions and improving air quality, and natural gas
21 and renewable gas remain critical to meeting California’s energy goals. Gas-fired electric
22 generation, including industrial cogeneration, has helped reduce emissions and helped keep the
23 price of electricity more affordable over the past decades, and it remains a necessary component
24 of any electric-generation system based on intermittent renewable sources of electricity like wind
25 or solar power. The natural gas system also is key to developing and deploying new
26 technologies such as renewable gas and hydrogen that will help decarbonize the energy grid,
27 create solutions for storing power from renewable sources, reduce currently uncontrolled
28 emissions from agricultural and forestry practices including waste management, and help

1 decarbonize and substantially reduce health effects and pollution from diesel emissions in the
2 transportation sector, especially in areas such as heavy-duty trucking. The natural gas and
3 renewable gas industries have large, skilled workforces and innovative companies that contribute
4 to these efforts to meet environmental goals while adding to the strength of the California
5 economy. In 2019, natural gas powered generation alone provided over 20,000 jobs to
6 Californians, with the median income for gas plant operators at approximately \$50 per hour, and
7 the natural gas fuels sector accounts for over 8,000 more California jobs.¹ Petitioners believe
8 that natural gas and renewable gas can be a key part of reaching California’s climate change
9 goals including the reduction of greenhouse gas emissions, and they support and are committed
10 to helping the State meet those goals.

11 8. The CEC, however, has disregarded state laws in furtherance of its own policy
12 preferences. In its recent 2019 Integrated Energy Policy Report (“2019 IEPR”), including
13 Appendix A, the CEC has decided to discourage and in effect eliminate natural gas in the State
14 as a source of heat, light, and power. That is not its decision to make. Such sweeping changes in
15 the State’s energy policy and infrastructure are reserved for the Legislature. And, indeed, the
16 Legislature has spoken, making natural gas a key component of the State’s energy supply and
17 directing the CEC to maximize its benefits for, among other things, transportation, development
18 of renewable gas and other fuel alternatives, consumer end-uses, zero-net energy buildings, and
19 strengthening jobs and the California economy. Because the CEC did not undertake the required
20 investigation and analysis to produce a Natural Gas Act report, and did not determine how it
21 could maximize the benefits of natural gas, it will be more difficult and costly to achieve
22 California’s climate and energy goals. The CEC’s intent to reduce and ultimately eliminate the
23 natural gas system fundamentally conflicts with state laws and exceeds the CEC’s statutorily
24 limited authority.

25 9. The California Constitution commits policy-making with respect to providers of
26 heat, light, and power to the Legislature. The Legislature’s power is plenary, and entities to

27 _____
28 ¹ BW Research Partnership, *2020 California Energy and Employment Report*, at 13, 17,
22, available at <https://www.energy.ca.gov/filebrowser/download/2272>.

1 whom its power is delegated must act within the scope of the legislation that delegates the
2 power. The CEC thus is required to follow the Legislature’s statutes in discharging its duties. It
3 is not permitted to pick and choose those laws with which it agrees and reject the others.
4 Petitioners through this case seek to require the CEC to issue a 2019 IEPR and 2019 Natural Gas
5 Act Report in conformity with state law.

6 **PARTIES**

7 10. Petitioner and Plaintiff the Southern California Gas Company (“SoCalGas”) is,
8 and at all times mentioned herein was, the gas distribution utility for much of Southern
9 California. SoCalGas is headquartered in Los Angeles, California. SoCalGas is a regulated
10 subsidiary of Sempra Energy, a publicly traded energy services holding company based in San
11 Diego, California. SoCalGas delivers clean, safe and reliable energy to 21.8 million consumers
12 in more than 500 communities over a pipeline system of more than 101,000 miles in length. Its
13 pipeline system also delivers natural gas to industrial customers, including gas-fired electrical
14 generation and co-generation plants. SoCalGas’s service territory encompasses approximately
15 24,000 square miles in diverse terrain throughout Central and Southern California, from Visalia
16 to the Mexican border, and includes Orange County. SoCalGas has nine facilities in Orange
17 County with a total of 688 employees. It provides commercial, residential, and industrial natural
18 gas service to more than 950,000 customers in Orange County.

19 11. Petitioners and Plaintiffs Utility Workers Union of America Local Unions Nos.
20 132, 483 and 522 (“Utility Workers”) collectively represent over 4,000 members who work
21 “wall to wall” at SoCalGas. From operating and maintaining transmission and distribution
22 pipelines, repairing leaks and thereby reducing emissions, servicing residential, commercial and
23 industrial customers’ piping and appliances, to clerical, data-inputting and processing, and call
24 center workers, the Utility Workers’ members cover a vast array of technical expertise related to
25 maintaining critical natural gas infrastructure and providing service to the public. The Utility
26 Workers’ members work and provide services throughout Central and Southern California, and
27 in particular live, work and provide services in Orange County.

28 12. Petitioner and Plaintiff Clean Energy is a leading provider of renewable natural

1 gas for the transportation market in North America, with a network of approximately 550 fueling
2 stations across the United States and Canada. Clean Energy builds and operates compressed
3 natural gas (“CNG”) and liquefied natural gas (“LNG”) fueling stations, owns natural gas
4 liquefaction facilities in California and Texas, and transports bulk compressed natural gas and
5 liquefied natural gas to non-transportation customers around the United States. Clean Energy is
6 a California corporation headquartered in Newport Beach, in Orange County. Clean Energy has
7 approximately 150 employees in Orange County, including its senior executive team, and owns,
8 operates or maintains 27 natural gas vehicle fueling locations in Orange County. Clean Energy
9 serves numerous Orange County-based customers including municipalities and other public
10 entities.

11 13. Each of SoCalGas, Utility Workers, and Clean Energy (collectively,
12 “Petitioners”) is an “aggrieved person” within the meaning of Cal. Pub. Res. Code § 25901(a).
13 The Integrated Energy Policy Report and the Natural Gas Act Report that the CEC is obliged to
14 produce inform and serve as the factual basis for state regulations and other actions concerning
15 natural gas and the natural gas industry and accordingly have direct impacts on Petitioners. The
16 2019 IEPR, including its Appendix A, fails to comply with California law and thereby harms
17 Petitioners immediately and substantially by seeking to phase out natural gas, by *not* maximizing
18 the benefits of natural gas and renewable natural gas for transportation, consumers, and industry,
19 and by *not* providing crucial information and policy proposals in accordance with the CEC’s
20 statutory mandates. SoCalGas participated in the proceedings leading to the development of the
21 2019 IEPR and Appendix A, including by submitting comments addressing the deficiencies in
22 the CEC’s approach and making recommendations.

23 14. For the same reasons, Petitioners are “beneficially interested” in the CEC’s
24 compliance with California law, including the Natural Gas Act, within the meaning of Cal. Civ.
25 Proc. Code § 1085. Petitioners have economic interests that will be severely injured by the
26 CEC’s failure to comply with California law, including the Natural Gas Act.

27 15. Petitioners have no other adequate legal remedy besides a writ of mandate or
28 injunctive relief requiring the CEC to comply with California law, including the Natural Gas Act.

1 Pecuniary compensation would not afford Petitioners adequate relief, and it would in any event
2 be extremely difficult, if not impossible, to ascertain the amount of compensation that would
3 afford relief to Petitioners.

4 16. The CEC also owes a duty to the public to comply with California law, including
5 the Natural Gas Act. Petitioners are members of the public and are interested in having the laws
6 faithfully executed and the CEC's duty enforced.

7 17. Respondent and Defendant California Energy Commission, formally the
8 California State Energy Resources Conservation and Development Commission, is, and at all
9 times discussed herein was, a public agency of the State of California organized pursuant to the
10 Warren-Alquist State Energy Resources Conservation and Development Act (the "Warren-
11 Alquist Act"), Cal. Pub. Res. Code § 25000 et seq. Its principal offices are located in
12 Sacramento, California.

13 JURISDICTION AND VENUE

14 18. This Court has subject matter jurisdiction over this matter pursuant to the general
15 jurisdiction granted by the California Constitution and Civ. Proc. Code §§ 410.10, 526, 1060,
16 and 1085, and Pub. Res. Code § 25901.

17 19. This Court has personal jurisdiction over Respondent and Defendant CEC
18 because the CEC is domiciled in the State of California.

19 20. Venue is proper in Orange County. *See* Cal. Civ. Proc. Code § 393(b). The
20 CEC's actions giving rise to the claims are felt throughout the State of California and are felt by
21 SoCalGas, Utility Workers, and Clean Energy throughout Orange County. SoCalGas has
22 significant gas infrastructure in Orange County and distributes gas to residences and businesses
23 throughout the County. The Utility Workers have members who work and perform gas-utility-
24 related services in Orange County. Clean Energy is headquartered in Orange County and has
25 significant operations and infrastructure in Orange County.

26 GENERAL ALLEGATIONS

27 A. The CEC's Statutory Authority and Obligations

28 21. The Warren-Alquist Act established the CEC as a division of the California

1 Natural Resources Agency in 1974 to respond to the energy crisis of the early 1970s and the
2 State’s growing demand for energy resources.

3 22. The CEC has five commissioners appointed by the Governor and confirmed by
4 the Senate. Commissioners serve staggered five-year terms. The Governor also designates a
5 chair and vice chair as primary agency leads. The CEC operates by majority vote.

6 23. The CEC’s responsibilities include compiling information about energy uses and
7 forecasting trends, Cal. Pub. Res. Code § 25216, *id.* § 25216.5(d), licensing power plants, *id.*
8 § 25216.5(a), planning for energy shortages, *id.* § 25216.5(b), and evaluating policies for energy
9 conservation, *id.* § 25216.5(c).

10 24. Created by statute, the CEC’s authority to act is defined by statutes passed by the
11 California Legislature and signed by the Governor into law.

12 25. The CEC is required to act in compliance with California law.

13 26. The CEC is required to encourage the balanced use of all energy sources,
14 including natural gas. In so doing, it is required to avoid reliance on a single source of energy,
15 which the Legislature determined could lead to undesirable consequences.

16 27. The CEC “shall conduct an ongoing assessment of the opportunities and
17 constraints presented by all forms of energy. *The commission shall encourage the balanced use*
18 *of all sources of energy to meet the state’s needs and shall seek to avoid possible undesirable*
19 *consequences of reliance on a single source of energy.”* Cal. Pub. Res. Code § 25400 (emphasis
20 added).

21 28. In creating and authorizing the CEC, California’s Legislature made clear the
22 essential role government plays in ensuring the reliability of California’s energy supply and
23 confirmed the government’s constitutional role in regulating providers of heat, light, and power.
24 “The Legislature further finds and declares that government has an essential role to ensure that a
25 reliable supply of energy is provided consistent with protection of public health and safety,
26 promotion of the general welfare, maintenance of a sound economy, conservation of resources,
27 and preservation of environmental quality.” Cal. Pub. Res. Code § 25300(b).

28 29. The CEC is responsible for conducting assessments and forecasts to develop

1 energy policies that accomplish the objectives established by the Legislature. For example, the
2 CEC must “conduct assessments and forecasts of all aspects of energy industry supply,
3 production, transportation, delivery and distribution, demand, and prices. The commission shall
4 use these assessments and forecasts to develop and evaluate energy policies and programs that
5 conserve resources, protect the environment, ensure energy reliability, enhance the state’s
6 economy, and protect public health and safety.” Cal. Pub. Res. Code § 25301(a).

7 30. The CEC’s statutory authority must be exercised consistent with other state laws,
8 including the Public Utilities Code. For example, under the Public Utilities Code, “[t]he
9 Legislature finds and declares that, in addition to other ratepayer protection objectives, a
10 principal goal of electric and natural gas utilities’ resource planning and investment shall be to
11 minimize the cost to society of the reliable energy services that are provided by natural gas and
12 electricity, and to improve the environment and to encourage the diversity of energy sources
13 through improvements in energy efficiency, development of renewable energy resources, such as
14 wind, solar, biomass, and geothermal energy, and widespread transportation electrification.”
15 Cal. Pub. Util. Code § 701.1(a)(1).

16 31. The Public Utilities Code provides for the provision of natural gas service to
17 California consumers and businesses, stating in relevant part: “The Legislature finds and
18 declares . . . [i]n order to ensure that all core customers of a gas corporation continue to receive
19 safe basic gas service in a competitive market, each existing gas corporation should continue to
20 provide this essential service” Cal. Pub. Util. Code § 328.

21 32. As part of its mandate, the CEC is required to identify likely shortages of natural
22 gas and other energy sources, and recommend actions required to avert such shortages: “The
23 commission shall carry out studies to determine if potential serious shortages of electrical,
24 natural gas, or other sources of energy are likely to occur and shall make recommendations to the
25 Governor and the Legislature concerning administrative and legislative actions required to avert
26 possible energy supply emergencies or serious fuel shortages.” Cal. Pub. Res. Code § 25704.

27 33. The CEC’s authority is meant to work in concert with related policy objectives
28 established by the State. For example, the CEC is required to consider electrolytic hydrogen as

1 an energy storage technology targeted for increased use, and to consider other potential uses for
2 this technology. *See* Cal. Pub. Util. Code § 400, et seq. Similarly, the Legislature directed the
3 CPUC to “consider options to promote the in-state production and distribution of biomethane[.]”
4 A.B. 3187.

5 **B. The Integrated Energy Policy Report**

6 34. Under the Warren-Alquist Act, the CEC must conduct biennial assessments and
7 forecasts of all aspects of California’s energy industry supply, production, transportation,
8 delivery and distribution, demand, and prices in order to “develop and evaluate energy policies
9 and programs that conserve resources, protect the environment, ensure energy reliability,
10 enhance the state’s economy, and protect public health and safety.” Cal. Pub. Res. Code
11 § 25301(a).

12 35. These assessments, forecasts, policies and programs must be included in an
13 Integrated Energy Policy Report, or IEPR, which is required to contain an overall assessment of
14 major energy trends and issues facing California’s electricity, natural gas, and transportation fuel
15 sectors. More specifically,

16 (a) Beginning November 1, 2003, and every two years thereafter, the [CEC] shall
17 adopt an [IEPR]. This integrated report shall contain an overview of major energy
18 trends and issues facing the state, including, but not limited to, supply, demand,
19 pricing, reliability, efficiency, and impacts on public health and safety, the
20 economy, resources, and the environment. The [IEPR] shall present policy
21 recommendations based on an in-depth and integrated analysis of the most current
22 and pressing energy issues facing the state. The analyses supporting this [IEPR]
23 shall explicitly address interfuel and intermarket effects to provide a more informed
24 evaluation of potential tradeoffs when developing energy policy across different
25 markets and systems.

22 (b) The [IEPR] shall include an assessment and forecast of system reliability and
23 the need for resource additions, efficiency, and conservation that considers all
24 aspects of energy industries and markets that are essential for the state economy,
25 general welfare, public health and safety, energy diversity, and protection of the
26 environment

25 Cal. Pub. Res. Code § 25302.

26 36. When preparing the IEPR, the CEC must consult with a range of stakeholders,
27 including the California Public Utilities Commission (“CPUC”), the Public Advocate’s Office of
28 the CPUC, the State Air Resources Board, the Electricity Oversight Board, the California

1 Independent System Operator (“CAISO”), the Department of Water Resources, the Department
2 of Transportation, and the Department of Motor Vehicles. *See id.* at § 25302(d).

3 37. In developing the IEPR, the CEC is expected to “conduct workshops, hearings,
4 and other forums to gain the perspectives of the public and market participants.” *Id.* at § 25306.
5 The CEC creates public “dockets” available online to publish relevant information and to
6 provide a forum for stakeholders to comment on the IEPR development.

7 38. Once the IEPR is finalized, the CEC must provide it to enumerated state agencies,
8 including the agencies listed above. The Warren-Alquist Act mandates that those other agencies
9 use the IEPR’s findings of fact and analyses as the basis for energy policy decisions: “For the
10 purpose of ensuring consistency in the underlying information that forms the foundation of
11 energy policies and decisions affecting the state, those entities shall carry out their energy-related
12 duties and responsibilities based upon the information and analyses contained in the report.” *Id.*
13 at § 25302(e). Therefore, the IEPR has a significant, direct impact on the energy policy and
14 regulations of the State and on the way state agencies implement their energy-related
15 responsibilities.

16 39. Natural gas is a critical consideration in the IEPR. As part of the IEPR, the CEC
17 must, among other things, conduct extensive “natural gas forecasting and assessment activities,”
18 *id.* at § 25303(a); forecast and assess “alternative transportation fuels,” *id.* at § 25304(a);
19 “encourage the balanced use of all sources of energy to meet the state’s needs, and to seek to
20 avoid possible undesirable consequences of reliance on a single source of energy,” *id.* at
21 § 25400; “survey . . . all forms of energy” to offer recommendations “for the orderly
22 development of all potential sources of energy to meet the state’s needs,” *id.* at § 25401; and
23 “develop and update an inventory of current and potential cost-effective opportunities in each
24 utility’s service territory to improve efficiencies and to help manage loads in all sectors of
25 natural gas and electricity use,” *id.* at § 25401.2.

26 C. California’s Natural Gas Act

27 40. The Legislature passed the Natural Gas Act in 2013 (A.B. 1257), adding section
28 25303.5 to the Public Resources Code. The Natural Gas Act requires the CEC to analyze the use

1 of natural gas and to produce a report on strategies and proposals to maximize the benefits of
2 natural gas across multiple sectors of the economy. The Senate analysis accompanying the bill
3 explained that “[u]nlike other fossil fuels, natural gas plays a significant role in most sectors of
4 the modern economy, including power generation, industrial, commercial, and residential.” A.B.
5 1257, Senate Floor Analysis, at 3 (Sept. 11, 2013). The Senate Analysis accompanying A.B.
6 1257 relied on a study that found “that natural gas can play a significant role in supporting
7 efforts to reduce [greenhouse gases] nation-wide.” *Id.*

8 41. The Natural Gas Act requires that the CEC “identify strategies to *maximize the*
9 *benefits obtained from natural gas*, including biomethane for purposes of this section, as an
10 energy source, *helping the state realize the environmental and cost benefits afforded by natural*
11 *gas.*” Cal. Pub. Res. Code § 25303.5(b) (emphases added).

12 42. The CEC must, every four years, prepare a report (a “Natural Gas Act Report”),
13 which, “at a minimum, shall identify strategies and options” for each of the following ten
14 categories:

- 15 (1) Making the best use of natural gas as a transportation fuel, as appropriate,
16 including for the movement of freight, vessels, mass transit, and other
17 commercial and passenger vehicle use and identifying methods to develop
18 natural gas refueling infrastructure.
- 19 (2) Determining the role of natural gas-fired generation as part of a resource
20 portfolio, including, but not limited to, combined heat and power, and the
21 impact of that role on meeting greenhouse gas targets.
- 22 (3) Taking the best advantage of natural gas as a low-emission resource,
23 including potential zero and near-zero greenhouse gas emissions, natural
24 gas, and biogas options, taking into account the impact on electric system
25 operations.
- 26 (4) Optimizing the role of natural gas as a flexible and convenient end use
27 energy source, including the efficient use of natural gas for heating, water
28 heating, cooling, cooking, engine operation, and other end uses, and the
optimization of appliances for these uses.
- (5) Identifying effective methods by which the electric and natural gas
industries can facilitate implementation of any of the strategies identified in
this section.
- (6) Determining the extent to which a long-term policy is needed to ensure
adequate infrastructure and storage and developing strategies for pursuing
additional infrastructure development to maintain or enhance pipeline and
system reliability, including increased natural gas storage. In developing

1 those strategies, the commission shall consider needed policies to protect
2 against system capacity constraints, minimize system leakage and related
3 emissions, mitigate investment risk associated with the long-term
investment in infrastructure in an evolving energy market, and identify
factors that could limit the ability to receive maximum benefits from natural
gas as an energy resource.

4 (7) Determining the role that natural gas can play in the development of zero
5 net energy buildings, as appropriate.

6 (8) Optimizing the methods by which the pursuit of these strategies can
7 facilitate jobs development in the private sector, particularly in distressed
8 areas.

9 (9) Optimizing the methods by which state and federal policy can facilitate any
10 of the proposed strategies.

11 (10) Evaluating the incremental beneficial and adverse economic cost and
12 environmental impacts of proposed strategies, including life-cycle
13 greenhouse gas emissions from the production, transportation, and use of
14 natural gas, based on authoritative, peer-reviewed, and science-based
15 analysis or in consultation with the State Air Resources Board.

16 Cal. Pub. Res. Code § 25303.5(b).

17 43. The CEC is required to undertake this analysis “with the [IEPR] prepared
18 pursuant to Section 25302” — that is, this analysis occurs alongside, not as part of, the IEPR.

19 Cal. Pub. Res. Code § 25303.5(b).

20 44. The legislative history confirms that the Natural Gas Act Report “will be a report
21 separate from the IEPR.” A.B. 1257, Senate Floor Analysis, at 1 (Sept. 11, 2013).

22 45. When preparing the first Natural Gas Act Report in 2015, the CEC created a
23 specific docket for the 2015 Natural Gas Act Report, separate from the then-effective IEPR
24 docket. *See* A.B. 1257 Natural Gas Act Report, Docket 15-IEPR-04. Over a period of months,
25 the CEC held several workshops specific to the 2015 Natural Gas Act Report and invited
26 comments. The CEC ultimately produced the 2015 Natural Gas Act Report, a 121-page
27 document, in November 2015.² The results of the first Natural Gas Act Report were in turn
28 summarized in the 2015 IEPR.³

26 ² *See* California Energy Commission, *AB 1257 Natural Gas Act Report: Strategies to*
27 *Maximize the Benefits Obtained from Natural Gas as an Energy Source* (Nov. 2015), available
at <https://efiling.energy.ca.gov/GetDocument.aspx?tn=226173&DocumentContentId=56925>.

28 ³ Available at <https://efiling.energy.ca.gov/getdocument.aspx?tn=212018>.

1 46. In 2018, S.B. 1374 amended the Natural Gas Act to add a “sunset” provision
2 providing that “[the Natural Gas Act] shall become inoperative on November 1, 2025, and, as of
3 January 1, 2026, is repealed.” Cal. Pub. Res. Code § 25303.5(d). Until then, the CEC continues
4 to be bound by the Natural Gas Act. S.B. 1374 did not repeal the CEC’s responsibilities and the
5 Natural Gas Act reporting requirements for the period prior to 2026, but rather left in place the
6 requirement for two more Natural Gas Act Reports (2019 and 2023) to be completed before the
7 Natural Gas Act becomes inoperative. The Senate Analysis noted that the sunset date “provides
8 the Legislature with time to consider whether the reporting requirement is needed after 2025.”
9 S.B. 1374, Senate Floor Analysis, at 3 (Aug. 30, 2018).

10 **D. The CEC Begins Phasing Out Natural Gas.**

11 47. The Warren-Alquist statutory framework requires the CEC, among other things,
12 to make assessments and develop policy to reduce energy costs, reduce greenhouse gas
13 emissions, and ensure California’s safe, resilient, and reliable energy supply. In so doing, the
14 CEC is required to encourage the balanced use of natural gas along with other energy sources,
15 and it must avoid reliance on a single source of energy. The CEC is also required as part of its
16 Natural Gas Act Report to identify strategies to maximize the benefits of natural gas. In short,
17 the California Legislature has made clear that natural gas is to play a significant role in the
18 State’s balanced energy policy, including as a facilitator of reducing greenhouse gas emissions
19 and maintaining affordability and reliability, and has directed the CEC to develop specific
20 policies in furtherance of those determinations.

21 48. The CEC has rejected the policies reflected in these state statutes and as stated by
22 the California Legislature, pursuing instead its own extra-legal policy preferences. Specifically,
23 as evidenced in the CEC’s process to develop the IEPR and Appendix A and statements in the
24 IEPR itself, the CEC has defied state law by deciding that the State’s policy should be a
25 “transition away from fossil natural gas” including through “building electrification.” It even has
26 gone so far as to refuse to issue the separate Natural Gas Act Report as required by A.B. 1257,
27 instead issuing only its incomplete and legally deficient “Appendix A” to the 2019 IEPR.

28 49. The 2019 IEPR, including Appendix A, reflects the CEC’s unauthorized decision

1 to move towards a single-energy-source system that calls for a transition away from using natural
2 gas in the generation of electricity. Phasing out natural gas is fundamentally inconsistent with
3 the CEC’s statutory mandate, including the requirement of *maximizing* the benefits of natural
4 gas.

5 50. To bolster its pursuit of these preferences, the CEC commissioned and relied upon
6 studies that are flawed and inaccurate. The CEC ignored evidence that these studies, among
7 other things, underestimate electric rate increases and overestimate gas rate increases; ignore the
8 value of the natural gas system and the potentially transformative value of renewable gas; and
9 undervalue synthetic gas and hydrogen.

10 **E. California’s Statutory Framework Recognizes the Essential Role of Natural**
11 **Gas for the State’s Energy Goals.**

12 51. The Legislature’s emphasis on including natural and renewable gases as part of
13 the State’s balanced energy objectives is not just policy by which the CEC is legally obliged to
14 abide, it also makes practical sense. Natural gas and renewable gases (such as biomethane,
15 renewable natural gas, hydrogen, or synthetic natural gas) are clean, reliable, affordable, and
16 resilient sources of energy for millions of Californians. Natural gas and renewable gases are also
17 clean sources of transportation fuel that can dramatically reduce emissions, including from hard-
18 to-decarbonize sectors such as heavy-duty trucking and the industrial sector (two sectors from
19 which emissions have either been stagnant or increased since the carbon policy of A.B. 32 in
20 2006). And the natural gas and renewable gas industries provide employment to thousands of
21 workers in California.

22 52. Natural gas has historically played a role in improving air quality and reducing
23 carbon intensity, particularly through using natural gas in electric generation.⁴ The use of natural
24 gas as a low-carbon fuel can reduce emissions of both greenhouse gases and the criteria air
25 pollutants regulated by the U.S. Environmental Protection Agency, including in the

26 ⁴ See Congressional Research Service, *U.S. Carbon Dioxide Emissions in the Electricity*
27 *Sector: Factors, Trends, and Projections*, at 8-9 (Jan. 7, 2019), available at
28 <https://fas.org/sgp/crs/misc/R45453.pdf>.

1 transportation sector, which is one of the largest contributors to greenhouse gas emissions.⁵

2 53. California is attempting to address climate change through legislation focused on
3 meeting greenhouse gas emissions targets, coal divestitures, and Renewables Portfolio Standard
4 requirements, which set escalating renewable energy procurement requirements. Petitioners
5 support these efforts to address climate change; this is not a debate about whether to use
6 renewable energy sources or whether California should reduce emissions. California's climate
7 goals are not incompatible with the continued use of natural gas and renewable gas, including
8 methane and carbon capture, which can and should continue to play a key role. As just one
9 example, because most renewable energy sources are intermittent and there is not sufficient
10 storage capacity, it is only possible to increase the amount of renewable energy sources and still
11 maintain the reliability and affordability of the energy grid if natural-gas-fired generation is
12 available, including availability to support California's extensive hydroelectric resources, both
13 reservoir storage and pumped storage. Similarly, the microgrid approach to grid resiliency may
14 require the reliability and affordability of natural gas fuel, which is particularly critical for
15 hospitals, other emergency services, and consumers, especially in the most vulnerable
16 populations.

17 54. There are alternative ways to work toward decarbonization — ways that would
18 not conflict with legislative mandates. For example, the incorporation into the natural gas
19 system of even small amounts of renewable natural gas can dramatically decrease greenhouse
20 gas emissions at a much lower cost than other approaches. Renewable natural gas captures
21 methane gas emitted from other sources, such as agricultural waste from, for example, dairy
22 farms, that would otherwise be released unabated into the atmosphere, and uses this gas as a
23 portion of the natural gas supply. Renewable natural gas thus has the potential to be not just
24 carbon neutral, but carbon negative, because it removes emissions from the atmosphere that
25 would otherwise occur. For this reason, studies have shown that replacing less than 20% of
26 traditional natural gas delivered to consumers via the natural gas pipeline system with renewable

27 ⁵ See California Air Resources Board, *LCFS Pathway Certified Carbon Intensities*,
28 <https://ww3.arb.ca.gov/fuels/lcfs/fuelpathways/pathwaytable.htm> (last visited July 30, 2020).

1 natural gas can achieve greenhouse gas emission reductions equivalent to converting 100% of
2 California’s buildings to electric-only energy by 2030 — at a significantly lower cost and with
3 far less disruption to consumers.⁶ Focusing on carbon *negative* resources, which are more
4 effective than renewable electricity, thus should be a top priority in reducing greenhouse gas
5 emissions.

6 55. Natural gas and renewable natural gas are also key components to reaching
7 climate goals and ensuring resilient fuel supplies for the transportation sector, particularly in the
8 near term. Heavy-duty trucks in particular contribute substantially to smog-forming emissions
9 and greenhouse gas emissions. Using low-emission trucks fueled by natural gas and renewable
10 natural gas is critical to meeting air-quality requirements as well as greenhouse gas emissions
11 reduction goals and has a lower carbon intensity. Natural gas and renewable natural gas also
12 have promise as a fuel in other transportation sectors, including marine vessels, locomotives, and
13 mass transit systems.

14 56. Accounting for and utilizing all available energy sources and technologies will
15 help meet the State’s climate goals. The Public Utilities Commission Deputy Director for
16 Energy and Climate Policy, Edward Randolph, recently noted: “Given the role methane plays in
17 short-lived climate pollutants, it may be critical that the state agencies and industry find a way to
18 make renewable natural gas affordable in playing a role in transportation and/or building
19 sectors.”⁷

20 57. Utilizing natural gas and renewable gas in planning for the future is also cost-
21 efficient because it uses the existing energy infrastructure, technological expertise, and an
22 existing skilled workforce that have been developed over decades and are already in place. The

23 ⁶ See Navigant Consulting, *Analysis of the Role of Gas for a Low-Carbon California*
24 *Future* (July 24, 2018), available at
25 https://www.SoCalGas.com/1443741887279/SoCalGas_Renewable_Gas_Final-Report.pdf; see
26 also National Fuel Cell Research Center, *National Fuel Cell Research Center Comments on*
Joint Agency Workshop April 8, 2019, at 6-8 (Apr. 22, 2019), available at
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=227836&DocumentContentId=59211>
(explaining why “renewable gas is a critical decarbonization pathway”).

27 ⁷ ADMINMonitor, *California – California Public Utilities Commission – Voting*
28 *Meeting*, at 1:42:38 – 1:42:51 (Sept. 12, 2019), available at
http://www.adminmonitor.com/ca/cpuc/voting_meeting/20190912/ (“CPUC Meeting Video”).

1 natural gas system and work force are key components of the California economy that have been
2 and should continue to be leveraged to help meet climate goals.

3 58. Natural gas infrastructure, the natural gas workforce, and natural gas storage are
4 also becoming increasingly important to energy reliability and to energy resilience.

5 59. Reliability is the capability of providing electric supply upon demand and when
6 needed. Intermittent renewable energy sources, primarily solar and wind, are not always
7 available on-demand and may in particular not be available during times of peak demand, such
8 as in the evening hours.⁸ Natural-gas-fired generation is able to provide power during times of
9 peak demand and low availability, acting as a critical backstop to provide system reliability. As
10 the CAISO has confirmed in regulatory filings, natural gas may facilitate renewable resource
11 deployment in the electric grid and support the ramping and system balancing required, as more
12 unpredictable and variable wind and solar is deployed — a need and service provided by natural
13 gas that may increase in the future.⁹

14 60. Resilience is a system’s capacity to tolerate disturbance and continue to deliver
15 energy to customers. The ability to continue operations unaffected by climate events or wildfires
16 and quickly to resume service is critical to maintaining California’s public health, safety, and
17 economy. This critical aspect has become even more important recently, given California’s
18 grave and increasing wildfire risk.

19 61. During extreme weather or wildfire conditions, electric utilities are increasing the
20 number of Public Safety Power Shutoff (“PSPS”) events to mitigate wildfire risk and keep
21 communities safe. Governor Newsom launched a \$75 million Local Government PSPS
22 Resiliency Program to support state and local government efforts to mitigate the impact of power
23

24 ⁸ See Southern California Gas Company, *SocalGas Comments on AB 1257 – The Natural*
25 *Gas Act*, App’x B, at 9-10 (Nov. 15, 2019), available at
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=230747&DocumentContentId=62358>
26 (“SoCalGas Natural Gas Act Comment”).

27 ⁹ See California Independent System Operator Corporation, *Comments of the California*
28 *Independent System Operator Corporation*, Rulemaking 20-01-007, at 2-3 (Feb. 26, 2020),
available at <http://www.caiso.com/Documents/Feb26-2020-Comments-ScopeProceeding-SafeandReliableGasSystems-R20-01-007.pdf>.

1 shutoffs by supporting continuity of operations and efforts to protect public health, safety, and
2 commerce in affected communities. In response to the Governor’s call to reform public safety
3 shutoff rules and regulations, the California Public Utilities Commission announced that it
4 intends to take actions focused on public health and safety to reduce the risk of ignitions from
5 utility infrastructure, the risks that result from power loss, and the disruption to communities and
6 commerce.

7 62. Natural gas and renewable gas are more reliable and have greater resilience by
8 virtue of being largely underground systems, are ubiquitous in urban and suburban settings in
9 California, and are operated and maintained by a skilled workforce including emergency
10 responders. As the Public Utilities Commission has recognized, a diverse portfolio approach
11 will permit the State to integrate renewables, increase the electric system’s flexibility, and
12 manage risk by maintaining system reliability and resilience. Commissioner Shiroma recently
13 explained: “We do not yet in 2019, have [a] 24-hour source of electricity that is reliable, even,
14 sustainable, and so forth. . . . Currently, we have a gas system that is very essential for
15 sustainability for our hospitals, for our low-income customers, for our med [medical] rate
16 customers, and so forth.”¹⁰

17 **F. The CEC Violated State Law by Setting a New State Energy Policy that**
18 **Conflicts with Its Statutory Mandates and Other State Laws.**

19 63. The CEC issued its scoping order for the 2019 IEPR on March 20, 2019. The
20 CEC set out the subjects and scope of its planned investigation and foreshadowed the CEC’s
21 eventual non-compliance with state law, including the Natural Gas Act:

22 **Natural Gas Assessment** - The Energy Commission will explore the role of
23 natural gas in a decarbonized future. The analysis will include:

- 24 • Evaluation of the trends in natural gas prices, supply, and demand in
25 California and the nation.
- 26 • Update of the analysis of the strategies and options for using natural gas as
27 called for in AB 1257 (Bocanegra, Chapter 749, Statutes of 2013) and the
28 recommendation in the *2017 IEPR* to coordinate closely with the

¹⁰ CPUC Meeting Video at 2:21:02 – 2:21:37.

1 California Public Utilities Commission to ensure California’s continued
2 shift away from fossil fuels, including methane.¹¹

3 64. The CEC convened a handful of 2019 IEPR and “decarbonization” workshops.
4 The workshops, however, did not include representative or diverse interests. SoCalGas
5 expressed concerns with this one-sided process in a comment letter submitted to the CEC earlier
6 in 2019.¹² The CEC made no changes to its process in response.

7 65. The CEC did not, as it had done in 2015, create a separate docket for the
8 statutorily required 2019 Natural Gas Act Report and did not hold *any* workshops specific to its
9 preparation of the 2019 Natural Gas Act Report.

10 66. On October 30, 2019, the CEC held a workshop on the 2019 IEPR. During that
11 workshop, the CEC staff suggested that compliance with the Natural Gas Act could be satisfied
12 with a bullet-point list of existing programs and without identification of strategies to maximize
13 the benefits of natural gas and renewable gas. Identifying strategies to make the best use of
14 natural gas and renewable gas is in fact central to compliance with state law, including the
15 Natural Gas Act.

16 67. During the workshop, the CEC staff highlighted legislation that they interpreted
17 as affecting and limiting the Natural Gas Act requirements. In particular, the CEC focused on
18 policies relating to meeting greenhouse gas emissions targets and Renewables Portfolio Standard
19 requirements, including S.B. 100. S.B. 100 requires the CEC and other state agencies to “plan
20 for 100 percent of total retail sales of electricity in California to come from eligible renewable
21 energy resources and zero-carbon resources by December 31, 2045.” S.B. 100 § 1(b).

22 68. One staffer said: “A [Natural Gas Act] report is due this year. But since the bill
23 has been rescinded and the last report will be in 2023, we will actually be covering this

24 ¹¹ California Energy Commission, *2019 IEPR Scoping Order*, at 3-4 (Mar. 20, 2019),
25 *available at*
26 <https://efiling.energy.ca.gov/GetDocument.aspx?tn=227365&DocumentContentId=58475>
27 (quotation mark omitted).

28 ¹² See Southern California Gas Company, *SoCalGas Comments on Building
Decarbonization Workshop* (Apr. 22, 2019), *available at*
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=227834&DocumentContentId=59209>.

1 requirement as part of the Natural Gas Outlook [in the IEPR.]”¹³ The Natural Gas Act, which
2 remains in force through January 1, 2026, requires a separate Natural Gas Act Report apart from
3 the analysis of the natural gas outlook in the IEPR.

4 69. Meeting greenhouse gas emissions targets and Renewables Portfolio Standard
5 requirements (including S.B. 100) does not require the CEC to minimize the use of natural gas or
6 transition away from the natural gas system. The CEC can comply with state law *and* meet
7 greenhouse gas emissions targets and Renewables Portfolio Standard requirements. Indeed, it
8 must do so. S.B. 100 does not mandate building electrification or a transition away from the
9 natural gas system. S.B. 100 applies exclusively to retail electricity generation, and even there,
10 renewable gas has a significant role to play. S.B. 100 does not purport to eliminate or repeal
11 California’s Natural Gas Act, other state laws requiring agencies to consider a variety of fuel
12 sources, or any other statutory mandate or policy concern.

13 70. On November 8, 2019, the CEC published its draft 2019 IEPR (“2019 Draft
14 IEPR”).¹⁴ The draft 2019 IEPR explained the CEC’s plans to phase out and transition away from
15 natural gas as follows:

16 California is beginning a transition away from fossil natural gas as a primary fuel
17 source for electric generation. To meet air quality, climate, and other
18 environmental goals, natural gas generation is being replaced by resources
including renewables, transmission upgrades, energy storage, energy efficiency,
and demand response.

19 2019 Draft IEPR at 11. And it stated:

20 Additionally, building electrification is a key strategy for the state’s residential
21 and commercial building stock to meet new requirements calling for [greenhouse
22 gas] reductions from buildings to 40 percent below 1990 levels by January 1,
2030.

23 *Id.* at 198.

24 71. The draft 2019 IEPR attached an 18-page Appendix A, which purported to satisfy

25 ¹³ California Energy Commission, *IEPR Commissioner Workshop on Preliminary*
26 *Natural Gas Price Forecast and Outlook*, at 11 (Apr. 22, 2019), available at
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=228226&DocumentContentId=59387>.

27 ¹⁴ Available at
28 <https://efiling.energy.ca.gov/GetDocument.aspx?tn=230539&DocumentContentId=62120>.

1 the requirement that the CEC issue a Natural Gas Act Report. Appendix A nominally addressed
2 some of the issues required by statute, but only in the context of phasing out and minimizing the
3 use of natural gas. Contrary to the Natural Gas Act, the draft appendix did not “identify
4 strategies and options” to maximize the benefits of natural gas and renewable gas. Instead, it
5 listed a small number of existing programs.

6 72. Despite comment letters objecting to this superficial treatment of the Natural Gas
7 Act and other state law requirements, on January 31, 2020, the CEC issued a draft final IEPR
8 that again recommended phasing out and minimizing the use of natural gas and renewable gas,
9 and again included Appendix A, which in form and substance failed to comply with the Natural
10 Gas Act Report requirement.¹⁵

11 73. There were multiple comment letters throughout the 2019 IEPR process that
12 supported the importance and critical role of the natural gas system and renewable gas generally
13 and that called into question the CEC’s approach.¹⁶ There were also comments that specifically
14 addressed the deficiencies in the evidence and analysis of the 2019 IEPR and of the CEC’s
15 proposed compliance with its Natural Gas Act obligations through Appendix A. On November
16 15, 2019, SoCalGas submitted comments to the CEC in response to the October 30, 2019 IEPR
17 Workshop, which explained why the CEC’s approach to complying with the Natural Gas Act by
18 including a bulleted list of existing programs in an appendix to the 2019 IEPR and minimizing
19 the use of natural gas failed to satisfy the statutory requirements.¹⁷ SoCalGas also submitted a
20 comment letter on the November 8, 2019 draft IEPR, which provided extensive analysis and

21 ¹⁵ Available at
22 <https://efiling.energy.ca.gov/GetDocument.aspx?tn=231820&DocumentContentId=63671>.

23 ¹⁶ See, e.g., National Fuel Cell Research Center, *National Fuel Cell Research Center*
24 *Comments on Joint Agency Workshop April 8, 2019*; Coalition for Renewable Natural Gas, *RNG*
25 *Coalition Comments on April 8, 2019 Joint CPUCCEC Workshop on Building Decarbonization*
26 *(Apr. 22, 2019)*, available at
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=227835&DocumentContentId=59210>;
27 California Pool and Spa Association, *California Pool and Spa Association Comments –*
Swimming Pool & Spa Industry Needs Natural Gas (Aug. 8, 2019), available at
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=229284&DocumentContentId=60690>.

28 ¹⁷ See SoCalGas Natural Gas Act Comment.

1 supporting studies and evidence focused on the ten areas required by the Natural Gas Act.¹⁸ In
2 response to the January 31, 2020 draft final IEPR, SoCalGas requested that the CEC re-review
3 SoCalGas’s prior comments and evidence as those had largely not been addressed and further
4 explained that the draft final IEPR still did not satisfy the requirements of the Natural Gas Act or
5 other state law.¹⁹

6 74. On February 20, 2020, the CEC adopted the final 2019 IEPR.²⁰ The final 2019
7 IEPR was the January 31, 2020 draft with an Errata that made minor adjustments. The
8 comments and the overwhelming evidence supporting the continued use and role of natural gas
9 and the deficiencies in the CEC’s approach to the Natural Gas Act went essentially unaddressed.

10 75. The CEC’s final 2019 IEPR fails to comply with the Natural Gas Act and other
11 state laws mandating a balanced energy approach that includes natural gas and renewable gas.

12 76. The 2019 IEPR recommends “high electrification” of end uses, and plans for
13 phasing out and transitioning away from natural gas.

14 77. The 2019 IEPR explains that the CEC’s “aim is to leverage California’s clean
15 electricity system to decarbonize, or remove carbon from, other portions of the state’s energy
16 system,” and that “building electrification” is a key part of this strategy. *See* 2019 IEPR at 1, 58.

17 78. According to the CEC, “it is the policy of the state for eligible renewable energy
18 and zero-carbon resources to supply 100 percent of retail sales of electricity to California
19 customers . . . by December 31, 2045. This policy — along with building electrification,
20 electrical vehicle adoption, the Renewables Portfolio Standard (RPS), and increased use of
21 renewable natural gas — sets the stage for a decrease in fossil natural gas use in California. As
22 such, the expectation is that natural gas production and consumption will continue to decline in

23 ¹⁸ *See* Southern California Gas Company, *Southern California Gas Company Comments*
24 *– SoCalGas Comments Draft IEPR* (Nov. 27, 2019), *available at*
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=230895&DocumentContentId=62538>.

25 ¹⁹ *See* Southern California Gas Company, *Southern California Gas Company Comments*
26 *– on Final 2019 IEPR* (Feb. 11, 2020), *available at*
<https://efiling.energy.ca.gov/GetDocument.aspx?tn=232010&DocumentContentId=63874>.

27 ²⁰ *Available at*
28 <https://efiling.energy.ca.gov/GetDocument.aspx?tn=232922&DocumentContentId=65363>.

1 the state over the next few decades.” 2019 IEPR at 246.

2 79. The CEC explains that it “funded a study that evaluates deep decarbonization
3 scenarios[.]” 2019 IEPR at 247. It further explains:

- 4 • “A major focal point of the study is the strategy of ‘high electrification’

5 This scenario predicts a dramatic reduction in natural gas demand at the
6 distribution level. . . .” *Id.* at 248.

- 7 • “The CEC-funded study, *Deep Decarbonization in a High Renewables*
8 *Future*, identifies a high biofuel scenario for transportation as ‘high risk’ due
9 to concerns about the long-term availability and sustainability of growing
10 crops for biofuels.” *Id.* at 264.

- 11 • “In addition, *Deep Decarbonization in a High Renewables Future* states that
12 there is an insufficient amount of [renewable natural gas] in California to meet
13 long-term demand for low-carbon fuels in buildings and industries without
14 widespread electrification.” *Id.* at 266.

15 80. The CEC also explains that “[i]t is critical that the state’s planning efforts reflect
16 and account for . . . declining reliance on natural gas.” 2019 IEPR at 6. And it repeats this
17 theme of phasing out natural gas as a fuel source: “California is beginning a transition away
18 from fossil natural gas as a primary fuel source for electric generation.” *Id.* at 12. “As the
19 electricity market grows regionally and resources such as energy storage and demand
20 management grow to help integrate renewables, natural gas generation will decrease further.” *Id.*
21 at 2. “By 2025 . . . the system is shifting to decreased reliance on fossil natural gas.” *Id.* at 9.

22 **G. The CEC Failed To Comply with State Law, Including the Natural Gas Act**

23 81. The 2019 IEPR, including Appendix A, fails to comply with state law and
24 violates the CEC’s mandate. The CEC is required, in accordance with the laws set forth above,
25 to maximize the benefits of natural gas and develop a balanced energy policy. Phasing out and
26 substantially eliminating natural gas irreconcilably conflicts with those laws.

27 82. The CEC purported to comply with its obligation to issue a Natural Gas Act
28 Report in 2019 by including Appendix A (entitled “Assembly Bill 1257-Natural Gas Benefits”)

1 in the 2019 IEPR. The Natural Gas Act requires the CEC to “identify strategies and options” to
2 “maximize the benefits obtained from natural gas” for at least each of 10 specified categories.
3 Cal. Pub. Res. Code § 25303.5(b).

4 83. Appendix A fails to comply in form or substance with the Natural Gas Act. It is
5 not a separate report, it was not developed through separate proceedings, and it does not analyze
6 the ten statutorily required categories to maximize the benefits of natural gas or to identify any
7 forward-looking strategies or options for maximizing the benefits of natural gas. Instead,
8 Appendix A seeks to minimize the role of natural gas and is part of a broader extra-statutory
9 CEC policy of phasing out and transitioning away from natural gas. In preparing Appendix A,
10 the CEC ignored record evidence and reached conclusions unsupported by substantial evidence.

11 84. The CEC’s conclusions with respect to each of the ten categories in Appendix A
12 are not supported by substantial evidence in the record. To the contrary, the CEC ignored
13 substantial evidence supporting various strategies and options for each category.

14 85. Specifically, there were extensive comments on each of the ten categories in the
15 record, explaining why the CEC’s approach did not meet the statutory mandate and providing
16 evidence and analysis that supported a different course of action.²¹ The CEC ignored and failed
17 to address this evidence or analysis.

18 86. For example, instead of identifying “strategies and options” to “[m]ak[e] the best
19 use of natural gas as a transportation fuel, as appropriate, including for the movement of freight,
20 vessels, mass transit, and other commercial and passenger vehicle use and identifying methods to
21 develop natural gas refueling infrastructure,” as required by the first category of the Natural Gas
22 Act, Cal. Pub. Res. Code § 25303.5(b)(1), Appendix A simply summarizes ongoing, limited
23 funding of natural gas vehicle development by the CEC and other agencies. *See* 2019 IEPR at
24 A-2–A-4. The Appendix even admits that the “CEC did not allocate any Fiscal Year 2019-2020
25 Clean Transportation Program funding for natural gas vehicle incentives or infrastructure
26 projects.” *Id.* at A-4.

27
28 ²¹ *See, e.g.,* SoCalGas Natural Gas Act Comment.

1 87. The third statutorily specified category requires the CEC to “identify strategies
2 and options” to “[t]ak[e] the best advantage of natural gas as a low-emission resource, including
3 potential zero and near-zero greenhouse gas emissions, natural gas, and biogas options, taking
4 into account the impact on the electric system operations.” Cal. Pub. Res. Code § 25303.5(b)(3).
5 Appendix A does not identify any strategies or options to take the best advantage of natural gas
6 and renewable natural gas as a low-emission resource. It only discusses the history of renewable
7 natural gas and related programs. *See* 2019 IEPR at A-8–A-11.

8 88. The fourth statutorily specified category requires the CEC to “identify strategies
9 and options” to “optimiz[e] the role of natural gas as a flexible and convenient end use energy
10 source, including the efficient use of natural gas for heating, water heating, cooling, cooking,
11 engine operation, and other end uses, and the optimization of appliances for these uses.” Cal.
12 Pub. Res. Code § 25303.5(b)(4). The CEC did nothing remotely like this. Instead, Appendix A
13 discusses how to *eliminate* natural gas for many end uses. *See* 2019 IEPR at A-11–A-14.

14 89. The seventh statutorily specified category requires the CEC to “identify strategies
15 and options” to “determin[e] the role that natural gas can play in the development of zero net
16 energy buildings.” Cal. Pub. Res. Code § 25303.5(b)(7). Appendix A does not identify any such
17 strategies or options. To the contrary, the CEC rejects the statutory goal of this category, and
18 states that the CEC recommends that “the state should replace its zero-net-energy policy goals
19 with appropriate goals for low-carbon buildings.” 2019 IEPR at A-18. This is not the CEC’s
20 decision to make; the Legislature has already determined that the CEC should be developing zero
21 net energy buildings and the CEC’s refusal to comply with that statutory mandate violates the
22 Natural Gas Act and exceeds the CEC’s authority under it.

23 90. As but one more example, the eighth statutorily specified category requires the
24 CEC to “identify strategies and options” to “[o]ptimiz[e] the methods by which the pursuit of
25 these strategies can facilitate jobs development in the private sector, particularly in distressed
26 areas.” Cal. Pub. Res. Code § 25303.5(b)(8). Appendix A fails to “identify strategies and
27 options” or make any recommendations, particularly concerning distressed areas, and includes
28 only a single high-level statement limited to jobs in the carbon-neutral portion of the gas

1 industry. *See* 2019 IEPR at A-19. Comments pointed to record evidence that supports the
2 position that promoting the use of natural gas and renewable gas has the potential to create jobs
3 both directly in the natural gas and renewable gas sector, and indirectly in industries that rely on
4 an affordable and reliable source of energy.²² The CEC made no mention of any of this
5 evidence.

6 91. Likewise, for the other statutorily mandated categories, the CEC generally failed
7 to identify strategies or options that would maximize the benefits of natural gas and renewable
8 gas, failed to consider evidence and analysis submitted in comments, and simply pointed to
9 bullet-point lists of existing programs.

10 92. Appendix A does not meet the CEC’s obligations under the Natural Gas Act. It
11 does not even come close.

12 **H. The CEC’s Policy of Phasing Out Natural Gas Is an Improper**
13 **“Underground Regulation”**

14 93. The CEC, as manifested in the 2019 IEPR and Appendix A (and in the manner in
15 which the CEC set out to prepare and adopt both), has adopted a policy of phasing out and
16 ultimately eliminating the natural gas system (the “Anti-Natural Gas Policy”), and it is this Anti-
17 Natural Gas Policy — rather than applicable state law — that the CEC followed in preparing and
18 adopting the 2019 IEPR and Appendix A.²³

19 94. In order to adopt regulations, state agencies must follow the process established
20 by the Administrative Procedure Act.²⁴ Regulations that are adopted without complying with
21 these requirements are “underground regulations” and are void and may not be enforced. Cal.
22 Gov’t Code § 11340.5.

23 ²² *See* SoCalGas Natural Gas Act Comment, App’x B, at 43-45.

24 ²³ The CEC’s Anti-Natural Gas Policy also determines its actions in other contexts, such
25 as approving local ordinances that require or encourage building electrification in new
26 construction. *See, e.g.,* California Energy Commission, *CEC Approves First Local Energy*
27 *Efficiency Standards That Go Beyond 2019 Statewide Requirements* (Dec. 11, 2019), available
at <https://www.energy.ca.gov/news/2019-12/cec-approves-first-local-energy-efficiency-standards-go-beyond-2019-statewide>.

28 ²⁴ *See* Cal. Gov’t Code §§ 11340 – 11361.

1 95. A regulation is any rule that (1) “applies generally” and (2) “implement[s],
2 interpret[s], or make[s] specific the law[.]” *Tidewater Marine Western, Inc. v. Bradshaw*, 14
3 Cal. 4th 557, 571 (1996) (internal citation omitted); *see also* Cal. Gov’t Code § 11342.600.

4 96. The CEC’s Anti-Natural Gas Policy applies generally and purports to implement,
5 interpret, and make specific the law. Accordingly, the Anti-Natural Gas Policy cannot be
6 implemented without following the APA.

7 97. The CEC adopted the Anti-Natural Gas Policy without complying with the APA.

8 98. The Anti-Natural Gas Policy is an unlawful underground regulation that is void
9 and of no effect.

10 **I. The CEC’s Failure To Comply with State Law, including the Natural Gas**
11 **Act, Directly Harms Petitioners.**

12 99. The IEPR and the Natural Gas Act Report serve a critical role in state energy
13 policy by providing the factual basis for state regulations and other actions concerning natural
14 gas. The CEC’s 2019 IEPR and Appendix A represent a failure to comply with the Natural Gas
15 Act and with other state laws requiring a balanced energy approach that includes natural gas and
16 renewable gas as a clean, reliable, and affordable energy source. This failure harms Petitioners
17 directly and substantially because state policy makers have been deprived of crucial information
18 — or worse, they have received incorrect information — about how to maximize the benefits of
19 natural gas and the critical role of natural gas and renewable gas in protecting the State’s reliable
20 and affordable energy supply while reaching the State’s climate goals. Petitioners have
21 economic interests that will be injured by the CEC’s failure to comply with the Natural Gas Act
22 and with state law in issuing the 2019 IEPR and Appendix A.

23 100. SoCalGas participated in the proceedings leading to the development of the 2019
24 IEPR and Appendix A, including by submitting comments addressing the deficiencies in the
25 CEC’s approach, providing evidence, and making recommendations. Other comments also
26 provided evidence and analysis highlighting the deficiencies in the CEC’s approach.

27 101. Petitioners are members of the public interested in having the laws executed and
28 the CEC’s duty enforced. The CEC is under a duty to the public to comply with state law in

1 issuing the IEPR and Natural Gas Act Report.

2 102. Petitioners have no other adequate legal remedy besides a writ of mandate or
3 injunctive relief requiring the CEC to comply with state law in issuing the IEPR and Natural Gas
4 Act Report. Pecuniary compensation would not afford Petitioners adequate relief, or at the least
5 it would be extremely difficult to ascertain the amount of compensation which would afford
6 relief to Petitioners.

7 **FIRST CAUSE OF ACTION**
8 **FOR WRIT OF MANDATE RE: VIOLATION OF STATE LAW**
9 **BY ISSUING INADEQUATE AND IMPROPER IEPR**
10 **(Code Civ. Proc. § 1085 and Pub. Res. Code § 25901)**
11 **(All Petitioners against the CEC)**

12 103. Petitioners re-allege the previous paragraphs as though set forth fully herein.

13 104. The CEC's 2019 IEPR violates state law. The CEC's stated policy of phasing out
14 and eventually eliminating natural gas violates state law and supersedes the CEC's authority. In
15 this regard, the 2019 IEPR violates state laws governing permissible policy actions by the CEC.
16 The CEC is under a duty to adopt policies that develop natural gas as a resource, to promote a
17 balanced energy supply and reduce reliance on a single source of energy, and to conduct an in-
18 depth integrated analysis of all available sources of energy in compiling the IEPR.

19 105. The CEC has failed to perform those duties. As a result, the 2019 IEPR is
20 unlawful. It fails to set forth a plan for the balanced use of all energy sources, including natural
21 gas, so as to avoid reliance on a single source of energy.

22 106. Petitioners have no plain, speedy, and adequate remedy at law, other than the
23 relief sought in this Petition. Petitioners are each an "aggrieved person" within the meaning of
24 Cal. Pub. Res. Code § 25901(a) and are beneficially interested in the issuance of a writ of
25 mandate to obtain judicial review of the CEC's non-compliance with state law. SoCalGas
26 participated in the proceedings leading to the development of the 2019 IEPR, including by
27 submitting comments addressing the deficiencies in the CEC's approach, recommendations, and
28 drafts of the 2019 IEPR.

107. If a court finds "(1) that the [CEC] proceeded without, or in excess of its

1 jurisdiction, (2) that, based exclusively upon a review of the record before the commission, the
2 decision is not supported by substantial evidence in light of the whole record, or (3) that the
3 commission failed to proceed in the manner required by law,” Cal. Pub. Res. Code § 25901(b), it
4 shall order that the decision be set aside and “may order the reconsideration of the case in light of
5 the court’s opinion and judgment,” Cal. Civ. Proc. Code § 1094.5(f); *see also* Cal. Pub. Res.
6 Code § 25901(c).

7 108. Accordingly, Petitioners are entitled to issuance of a writ of mandate or
8 peremptory writ as specified more fully below.

9 **SECOND CAUSE OF ACTION**
10 **FOR WRIT OF MANDATE RE: VIOLATION OF THE NATURAL GAS ACT**
11 **(Code Civ. Proc. § 1085 and Pub. Res. Code § 25901)**
12 **(All Petitioners against the CEC)**

13 109. Petitioners re-allege the previous paragraphs as though set forth fully herein.

14 110. The CEC’s issuance of Appendix A to the 2019 IEPR as an attempt to satisfy its
15 obligations under the Natural Gas Act violates state law. Appendix A violates state laws
16 governing permissible policy actions by the CEC. The CEC is under a duty to adopt policies that
17 develop natural gas as a resource, to promote a balanced energy supply and reduce reliance on a
18 single source of energy, and to publish the Natural Gas Act Report as a separate document that
19 identifies strategies and options to maximize the benefits of natural gas for each of the ten
20 statutory criteria.

21 111. The CEC has failed to perform those duties. As a result, Appendix A is unlawful.
22 It fails to set forth a plan for the balanced use of all energy sources, including natural gas, so as
23 to avoid reliance on a single source of energy. The CEC failed to issue a separate Natural Gas
24 Act report; failed to identify strategies and options to maximize the benefits obtained from
25 natural gas, including for any of the ten statutorily mandated categories; failed to support the
26 Natural Gas Act report as represented in Appendix A with substantial evidence, including its
27 strategies and options for the ten statutorily mandated categories; and ignored the overwhelming
28 evidence on maximizing the benefits of natural gas.

112. Petitioners have no plain, speedy, and adequate remedy at law, other than the

1 relief sought in this Petition. Petitioners are each an “aggrieved person” within the meaning of
2 Cal. Pub. Res. Code § 25901(a) and are beneficially interested in the issuance of a writ of
3 mandate to obtain judicial review of the CEC’s non-compliance with the Natural Gas Act.
4 SoCalGas participated in the proceedings leading to the development of the CEC’s claimed
5 compliance with the Natural Gas Act, including by submitting comments addressing the
6 deficiencies in the CEC’s approach, recommendations, and drafts of the 2019 IEPR and
7 Appendix A.

8 113. If a court finds “(1) that the [CEC] proceeded without, or in excess of its
9 jurisdiction, (2) that, based exclusively upon a review of the record before the commission, the
10 decision is not supported by substantial evidence in light of the whole record, or (3) that the
11 commission failed to proceed in the manner required by law,” Cal. Pub. Res. Code § 25901(b), it
12 shall order that the decision be set aside and “may order the reconsideration of the case in light of
13 the court’s opinion and judgment,” Cal. Civ. Proc. Code § 1094.5(f); *see also* Cal. Pub. Res.
14 Code § 25901(c).

15 114. Accordingly, Petitioners are entitled to issuance of a writ of mandate or
16 peremptory writ as specified more fully below.

17 **THIRD CAUSE OF ACTION**
18 **DECLARATORY RELIEF**
19 **(Code Civ. Proc. § 1060 and Gov’t Code § 11350(a))**
20 **(All Petitioners against the CEC)**

21 115. Petitioners re-allege the previous paragraphs as though set forth fully herein.

22 116. An actual and present controversy now exists between Petitioners, on the one
23 hand, and the CEC, on the other. CEC contends that it acted consistently with and satisfied its
24 obligations under California law, including the Natural Gas Act, by issuing the 2019 IEPR and
Appendix A. Petitioners contend that the CEC failed to satisfy its obligations.

25 117. Petitioners seek and are entitled to a judicial declaration that the CEC ignored and
26 violated legal obligations and state law in preparing the 2019 IEPR, including Appendix A.
27 Petitioners further seek and are entitled to a judicial declaration that the 2019 IEPR and
28 Appendix A violated applicable procedural law and conflicts with state law and policy.

FIFTH CAUSE OF ACTION
DECLARATORY AND INJUNCTIVE RELIEF
(Violations of the APA - Underground Regulations,
Gov't Code § 11340 – 11361, Code Civ. Proc. § 1060, and Gov't Code § 11350(a))
(All Petitioners against the CEC)

126. Petitioners re-allege the previous paragraphs as though set forth fully herein.

127. Cal. Gov't Code § 11350(a) provides that “[a]ny interested person may obtain a judicial declaration as to the validity of any regulation or order of repeal by bringing an action for declaratory relief in the superior court in accordance with the Code of Civil Procedure.”

128. The CEC’s Anti-Natural Gas Policy to phase out and substantially eliminate natural gas as manifested in the 2019 IEPR, including Appendix A, is a standard of general applicability that purports to implement, interpret, and make specific the law.

129. The CEC’s Anti-Natural Gas Policy is an underground regulation in violation of APA standards requiring formal rulemaking.

130. Such declaratory and injunctive relief is necessary and appropriate now because the 2019 IEPR and Appendix A will continue to impose unlawful burdens and consequences that are adverse to Petitioners and the public.

131. Accordingly, the CEC’s Anti-Natural Gas Policy is void and unenforceable.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that judgment be entered against Respondent as follows:

1. As to the First Cause of Action, a writ of mandate or peremptory writ commanding the CEC to:
 - a) Vacate the 2019 IEPR;
 - b) Issue a revised IEPR that complies with the law.
2. As to the Second Cause of Action, a writ of mandate or peremptory writ commanding the CEC to:
 - a) Vacate Appendix A to the 2019 IEPR;
 - b) Issue a Natural Gas Act Report that complies with state law.
3. As to the Third Cause of Action, a declaration that:

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- a) The CEC did not comply with state law or act consistently with state law in issuance of the 2019 IEPR and Appendix A;
 - b) The CEC is required to issue an IEPR that complies with state law;
 - c) The CEC is required to issue a separate Natural Gas Act Report that maximizes the benefits obtained from natural gas for each of the 10 statutory criteria; and
 - d) The CEC’s failure to support Appendix A with substantial evidence, and its disregard of the overwhelming evidence on maximizing the benefits of natural gas, violates the Natural Gas Act.
4. As to the Fourth Cause of Action, a writ of mandate or peremptory writ commanding the CEC to:
- a) Vacate its Anti-Natural Gas Policy.
5. As to the Fifth Cause of Action, a declaration that:
- a) The CEC did not comply with state law in adopting its Anti-Natural Gas Policy; and
 - b) The CEC’s Anti-Natural Gas Policy is void and unenforceable.
6. As to the Fifth Cause of Action, a permanent injunction restraining Respondent from adopting or enforcing any policy to phase out and substantially eliminate natural gas until such time as it complies with the APA and other applicable state statutes.
7. A permanent injunction restraining Respondents from implementing the 2019 IEPR and Appendix A and from issuing any further reports until such time as the CEC has complied with the requirements of state law and the Natural Gas Act.
8. For reasonable attorneys’ fees and costs of suit incurred herein.
9. For such other and further relief as the Court deems proper.

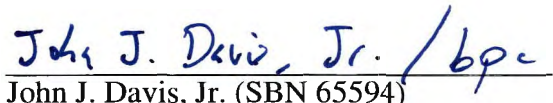
1 Dated: July 31, 2020



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17 Dated: July 31, 2020



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VERIFICATION

I, Andy Carrasco, am the Vice President, Strategy and Engagement, and Chief Environmental Officer of the Southern California Gas Company. I have read this Verified Complaint for Declaratory and Injunctive Relief; Petition for Writ of Mandate in the matter of *Southern California Gas Company et al. v. California State Energy Resources Conservation and Development Commission*. I am informed, and do believe, that the matters herein are true. On that ground I allege that the matters stated herein are true.

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

Executed this 31st day of July 2020, in Glendale, California.

