



## **SOUTHWEST GAS CORPORATION**

Carla C. Kolebuck, Associate General Counsel/Legal Affairs

July 13, 2020

Via Email (Sophia.Park@cpuc.ca.gov)

Administrative Law Judge Sophia Park  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102-3298

Re: Comments of Southwest Gas Corporation on Draft Resolution No. ALJ-381  
Agenda ID#18447

Dear Administrative Law Judge Park:

Pursuant to Rule 14.5 of the Rules of Practice and Procedure (Rules) of the California Public Utilities Commission (Commission), Southwest Gas Corporation (Southwest Gas or Company) hereby submits its comments on Draft Resolution ALJ-381 (Draft Resolution), issued May 14, 2020, which proposes various amendments to the Commission's Rules reflected in Appendix A to the Draft Resolution. Southwest Gas appreciates the efforts of the Administrative Law Judge Division to develop the proposed modifications to the Commission's Rules. While generally supportive of the proposed amendments to the Rules, Southwest Gas offers the following comments with respect to Item 7 (New Rule 1.18 - Public Participation in Proceedings) and Item 23 (Rule 13.6(a) - Evidence).

Proposed New Rule 1.18 incorporates new requirements for the submission and treatment of public written comments in Commission proceedings with the intent of promoting public engagement.<sup>1</sup> Specifically, proposed New Rule 1.18 requires that comments submitted by the public in a ratesetting or quasi-judicial proceeding be entered into the record and considered by the presiding officer in arriving at a decision. The proposed Rule additionally provides that parties may respond to and cite to public comments in their submissions to the Commission in the proceeding. Southwest Gas has concerns with the proposed Rule as it provides for informal public comments to be entered into the record of proceeding, cited to by parties in their filings, and considered by the presiding officer without providing a right to discovery, authentication or cross-examination with respect to statements and facts reflected in such public comments. This raises concerns with procedural due process rights that

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<sup>1</sup> Draft Resolution, p. 5.



are to be afforded all parties, as well as concerns associated with the integrity of the record in the proceedings.

The proposed Rule further appears to conflict with California Public Utilities Code section 1701.1(g), which provides that public written comments included in the record of a proceeding shall not be treated as evidence. While supportive of encouraging public interest and engagement in Commission proceedings, Southwest Gas believes there are significant procedural and evidentiary concerns with proposed New Rule 1.18. Southwest Gas therefore recommends that the proposed Rule be revised to delete subsections (a) through (d) and add clarifying language specifying that written public comments entered into the record of a proceeding will not be treated as evidence.

Southwest Gas additionally recommends revision to proposed Rule 13.6(a) for clarification regarding preservation of parties' due process protections. As recognized in Item 23 of the Draft Resolution, the proposed modifications are designed, in part, to ease the admission and use of relevant evidence in administrative hearings at the Commission, while still ensuring the integrity of the evidence and protecting the rights of the parties. Though California Public Utilities Code section 1701 provides flexibility with regard to technical rules of evidence in administrative proceedings, compliance with procedural protections required by due process of law must be observed. The proposed amendments to Rule 13.6 include a general reference to preservation of parties' rights to meaningfully participate and public policy protections but deletes the phrase "substantial rights of the parties shall be preserved." By deleting such language, the requirement that due process protections be preserved is left unclear and the fundamental rights of parties may be impaired. Southwest Gas therefore recommends that the language that has been deleted in proposed Rule 13.6(a) be reinstated.

Southwest Gas appreciates the opportunity to submit these comments.

Sincerely,

Carla C. Kolebuck  
Associate General Counsel

cc: Valerie Ontiveroz  
California Regulatory Manager