

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking on the Commission's)
Own Motion to Adopt New Safety and Reliability)
Regulations for Natural Gas Transmission and)
Distribution Pipelines and Related Ratemaking)
Mechanisms.)

R.11-02-019
(Filed February 24, 2011)

**RESPONSE OF SOUTHERN CALIFORNIA GAS COMPANY (U 904 G)
AND SAN DIEGO GAS & ELECTRIC COMPANY (U 902 M)
TO THE RULING OF THE ASSIGNED COMMISSIONER**

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May 11, 2012

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Southern California Gas Company (SoCalGas) and San Diego Gas & Electric Company (SDG&E) submit the following response to the March 14, 2012 Ruling of the Assigned Commissioner Granting, on an Interim Basis, the Motion of the Utility Workers Union of America, and Adopting Procedures for a Proposed Regulation Regarding Whistleblower Protections (March 14 Ruling). In the March 14 Ruling, the Assigned Commissioner requests that each Respondent to this proceeding “file and serve a description of its existing internal employee reporting protocols for unethical, unsafe or illegal activities” in preparation for an upcoming workshop on June 14. The purpose of this workshop and the Respondents’ filings in advance of the workshop is to assist the Commission in developing a record on whether it is “necessary or practical” for the Commission to “adopt rules to protect utility employees from management retaliation for bringing information to the Commission regarding unreported utility public safety issues.”^{1/}

Attached as an appendix to the March 14 Ruling, are seven topics that should be addressed by the Respondents in their filings. Those topics are:

^{1/} March 14 Ruling, pp. 6-7.

- (1) A description of Respondent’s program to report ethical or safety-related issues;
- (2) “The name of the utility department, to which the employees report the unethical, unsafe or illegal activities, and the name and title of the utility manager in charge of the department”;
- (3) “The number of times employees have reported unsafe activities or conditions to the utility during the past 5 years, broken down on a year-by-year basis (i.e., 2007 through 2011)”;
- (4) “The number of follow-up investigations, after employees reported the unsafe activities or conditions, conducted by the utility during the past 5 years, broken down on a year-by-year basis, and the results of the investigations”;
- (5) “The number of employees, who reported unsafe conditions during the past 5 years and still employed by the utility”;
- (6) “The number of employees, who have alleged during the past 5 years in writing, including complaints before the Labor Commissioner, the U.S. Department of Labor, or federal or state courts, that the utility has retaliated against the employee for reporting unsafe activities or conditions”;
- (7) “Whether the utility has in place a program to protect whistleblowers, who report unsafe conditions to the Commission, and, if so, describe the program.”

SoCalGas and SDG&E address each of these topics in the responses below.^{2/} As described in greater detail there, SoCalGas and SDG&E strive to have a workplace that is safety-focused and encourages open and informal discussion of ethical and safety related issues.

^{2/} Because the scoping memo provided little guidance with respect to these topic areas, SoCalGas and SDG&E have attempted to construe them in a manner that is consistent with what they believe to be the Commission’s intent, but may seek to supplement this response if further clarification is provided.

1. Description of the SoCalGas and SDG&E Programs to Report Ethical or Safety-Related Issues

SoCalGas and SDG&E offer an extensive array of safety programs and have multiple avenues for employees to report unethical, unsafe, or illegal activities. Safety is embedded into all phases of the employee experience. It starts with the formalized training that employees receive when they begin their career. It is emphasized on the job, and then re-emphasized during the training they receive as they advance to new jobs. Completing work safely is interwoven into all parts of their training.

The Code of Business Conduct is SoCalGas and SDG&E’s standard for maintaining a legally compliant and ethical workplace. The Code provides the necessary information, support and resources for employees to act ethically and in compliance with the laws affecting our business.

All employees receive copies of the Business Code of Conduct and are required to (a) periodically complete ethics and compliance training, and acknowledge that they understand and comply with these standards (which includes bringing any known or perceived, illegal behavior to the attention of their respective companies.); or (b) participate in annual policy review meetings which, for all SoCalGas bargaining unit employees, includes reviewing a companion “Employee Conduct and Responsibilities Policy.”

Employees are encouraged to report any suspected violations of company policy. SoCalGas and SDG&E are committed to ensuring that any such concerns, when raised in good faith, are fully investigated and resolved, without retaliation.

The companies’ values are comprised of five key employee attributes—ethical, respectful, high performing, forward looking, and responsible partner—which ultimately support an ethical business and safety culture:

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Ethical

Do the right thing

- Act with honesty and integrity
- Be open and fair
- Keep our commitments
- Earn people's trust

Respectful

People matter

- Listen, communicate clearly, be candid
- Embrace diversity of people and perspective
- Contribute individually, succeed as a team
- Treat safety as a way of life

High Performing

Deliver outstanding results

- Set tough goals and achieve them, act with urgency
- Reward superior performance, acknowledge successes
- Learn and improve
- Be accountable

Forward Looking

Shape the future

- Think strategically and critically
- Anticipate market needs
- Actively pursue and create opportunities
- Implement with discipline, manage risks

Responsible Partner

Create positive relationships

- Engage others, seek feedback, collaborate
- Support our communities
- Be a responsible environmental steward
- Do what we say we'll do

These expectations and values are the building blocks for the ethical and safety-focused cultures at SoCalGas and SDG&E.

Employees are trained to raise safety and ethical concerns of any kind to their immediate supervisor for rapid resolution. Employees are also trained to “stop the job” whenever employee or public safety is threatened. As a result, the majority of safety and ethical concerns are raised directly with supervisors and addressed expeditiously.² SoCalGas and SDG&E also maintain

² Formal tracking of safety issues elevated to immediate supervisors is not presently in place.

training programs, produce written and electronic communications, and have systems for employees to report hazards, close calls and near misses. SoCalGas and SDG&E have broad programs that incorporate employee and management involvement in furthering their safety culture.

Other avenues for reporting safety concerns include safety meetings, employee dialogue sessions and town hall meetings, safety committees, safety services staff, an illness prevention program, and a pipeline safety advisor:

Safety Meetings – SoCalGas and SDG&E conduct frequent, and in many cases daily, meetings with their employees to discuss employee, customer and system safety. Many of these meetings are led by employees, who are also safety committee members (see below for a description of our safety committees).

Employee Dialogue Sessions and Town Hall Meetings – Company Officers and Directors routinely conduct employee dialogue sessions and Town Hall meetings with employees. These sessions provide opportunities for employees to engage directly with top leadership and ask questions or express concerns about any topic, including safety.

Safety Committees – Hundreds of SoCalGas and SDG&E employees serve on safety committees. Membership in these committees rotates among the workforce. Local Safety Committees have been part of SoCalGas and SDG&E’s safety cultures for decades. The Local Safety Committees are comprised of bargaining unit employees and management and meet regularly to discuss ways to foster safe work practices and to address any and all safety concerns raised by employees. In addition, Local Safety Committees meet with other safety committees, on a regular basis, to share ideas and best practices.

Safety committee members work on projects to reduce hazards and prevent injuries. The committees meet regularly with employees to share the results of their work. Safety Committee members participate in events where they are trained in different safety-related topics and where “best practices” are shared. They receive training on a variety of topics, including incident evaluation analysis, which many of them apply during incident investigations.

For many years, these safety committees have conducted annual Safety Congresses, in which hundreds of field and office employees participate. These Safety Congresses provide employees the opportunity to participate in dozens of different safety-related workshops, as well as “Talk to the Executives” dialogue sessions.

In addition, SoCalGas and SDG&E have Executive Safety Committees, which meet regularly at different work locations. These meetings provide a forum to discuss local safety issues within company districts and divisions. They give employees an opportunity to discuss what is working well and areas where safety can be improved.

Safety Services Staff – The Safety Services Staffs at SoCalGas and SDG&E are comprised of Health and Safety professionals who provide services to personnel throughout the utility. The Safety Services Staffs include Safety and Health Managers who serve as Safety and Health Team Leads, Safety and Health Business Advisors, Field Safety Advisors, a Senior Pipeline Safety Advisor, Ergonomists, Industrial Hygienists and Occupational Health Nurses.

Safety Services Staff provide technical and regulatory assistance for safety and health to client organizations. They implement and maintain company programs in client organizations. They counsel, guide and inform operating and corporate departments of safety issues relative to California Division of Occupation Health and Safety (Cal/OSHA), California Public Utilities Commission (CPUC) and United States Department of Transportation (DOT) regulations. They consult with company employees to establish employee safety plans and set employee safety goals. They also work with client groups to conduct accident and/or pipeline safety incident investigations, and provide on-site safety training.

In addition, Safety Services Staff work with client organizations to identify potential and existing safety hazards and unsafe work practices, and recommend corrections. They perform inspections of company facilities and work activities for compliance with Cal-OSHA and CPUC/DOT regulations, and company procedures. In addition, they participate in, and provide employee safety and occupational health perspective during major projects.

Safety Services Staff are also key participants in incident investigations. They review and analyze industrial incidents and motor vehicle accident reports to see that root causes were found and corrections made. They provide counsel and training to personnel to improve investigation techniques and the processes used to identify accident causes.

Finally, Safety Services Staff promote employee safety awareness and safe behavior and compliance company-wide. They serve on tool committees and recommend appropriate protective equipment. They provide continuing safety education and training to company personnel. They recommend work methods and solutions for specific situations; promote safety and health awareness, safe behavior, and safety compliance system-wide.

Illness Prevention Program (IIPP) – SoCalGas and SDG&E have established, implemented and maintained IIPPs in accordance with the Department of Industrial Relations’ General Industry Safety Orders. The IIPPs include systems for communicating with impacted employees in readily understandable forms on matters relating to occupational safety and health. As part of their IIPPs, SoCalGas and SDG&E encourage employees to inform management of workplace hazards without fear of reprisal.

Senior Pipeline Safety Advisor – The Senior Pipeline Safety Advisor resides in the SoCalGas organization and provides services to both SoCalGas and SDG&E Gas Services. The Pipeline Safety Advisor understands and provides counsel on the established strategic programs for compliance with CPUC and DOT regulations. The Advisor serves as a liaison between SoCalGas and SDG&E, the California Public Utilities Commission Utilities Safety Branch (CPUCUSB) and the DOT Research and Special Programs Administration regarding pipeline safety regulation.

The position serves as liaison between Field Operations, Engineering and Operations and auditors during all CPUC pipeline safety audits. He or she supports the responsible manager during General Order 112-E CPUC compliance audits, communicates the measures the utility takes to prevent or rectify violations, and coordinates technical responses to auditor questions. He or she monitors and follows-up on audit findings and corrective actions. The Advisor also

participates in Cal/OSHA, CPUC, DOT, National Transportation Safety Board (NTSB) and other regulatory agency investigations.

In addition, the Senior Pipeline Safety Advisor serves as the point of contact for review of all potential non-compliant conditions requiring reporting to the CPUC or local authorities. He or she engages Engineering and Operations and Field Services personnel in developing initial notifications and data request responses directed to CPUCUSB involving potential and known pipeline safety violations. He or she also coordinates company responses to regulatory agencies regarding customer complaints pertaining to pipeline safety.

While a majority of safety issues are resolved quickly through the avenues identified above, if, for some reason, issues raised via these avenues are not promptly addressed or an employee is not comfortable raising a particular issue with his/her supervisor, the following more formalized methods of raising safety and ethical concerns are also available.

Corporate Compliance – As an alternative to raising issues directly with their immediate supervisors, employees are encouraged to raise ethics concerns through the Corporate Compliance Mailbox and/or the company's Chief Ethics Officer. When concerns are filed with the Corporate Compliance Mailbox or Chief Ethics Officer, a senior officer of the Company initiates an internal investigation into the allegations. All claims are investigated and resolved, consistent with the company's high ethical and safety standards. Between 2004 and 2009 complaints raised through the Corporate Compliance Mailbox or directly with the company's Chief Ethics Officer were logged in a spreadsheet format. Since 2009, complaints received through the Corporate Compliance Mailbox or the company's Chief Ethics Officer have been tracked through an electronic database.

Ethics Helpline – The Ethics Helpline is maintained through a third-party to provide callers with the ability to remain anonymous, and is available to all employees, vendors and customers, globally, 24 hours per day, seven days per week, in English and Spanish. When third-party Call Center employees receive a call, they provide a claim number, complete a report and upload the claim into our Claim Management System. Anonymous callers are asked to call

the Call Center again in two weeks to respond to potential requests for additional information and/or to be advised of the status of the investigation. Within minutes of the intake call being completed, the Law Department is notified of the report and reviews and assigns an employee, depending on the nature of the claim, from Human Resources, Security, Law and/or Audit Services to investigate the claim.

Upon conclusion of the investigation, the investigator prepares a report of the investigation which is then uploaded into our Claims Management System. The Law Department and Human Resources, in consultation with the investigative team, finalize the report with recommended actions to be taken. The Chief Ethics Officer reviews all reports and approves all actions to be taken and provides final comments/approval in the Claims Management System. No case is closed until all action items have been completed. The Chief Ethics Officer provides a summary of reports to the Sempra Audit Committee.

All of the records of Ethics Helpline calls are highly confidential, and are treated as such by Sempra, SoCalGas and SDG&E. Access to these records is limited internally to those persons who need to know the information in order to carry out their responsibilities to investigate and/or resolve the identified issues. Between 2004 and 2009 Ethics Helpline calls were logged in a spreadsheet format. Since 2009, complaints received through the Ethics Helpline have been tracked through an electronic database.

Collective Bargaining Agreement (CBA) – The CBA grievance process allows for represented employee grievances to be resolved at the local level between shop stewards and local management. To the extent the union is not satisfied with the first step resolution or response, the union may escalate the matter to Labor Relations personnel for investigation and/or resolution. After a request is received in Labor Relations for a second step hearing, the union will prioritize the cases it wants to schedule. If the union is still not satisfied with the resolution or response at the second step, the union may escalate the matter to arbitration. Labor Relations maintains records of all second step grievances and arbitrations.

2. The Name of the Utility Department, to Which the Employees Report the Unethical, Unsafe or Illegal Activities, and the Name and Title of the Utility Manager in Charge of the Department.

As described above, SoCalGas and SDG&E provide multiple avenues and methods for employees to report safety and/or ethical concerns. The backbone of SoCalGas and SDG&E's ethical safety culture is the requirement that all employees raise safety and ethical concerns of any kind, using the avenue they are most comfortable with. At SoCalGas and SDG&E, we believe that all employees, at every level, are responsible for maintaining our safe and ethical work environment. All utility departments share this responsibility.

SoCalGas and SDG&E each have officers who are responsible for the companies' overall employee safety culture. Jimmie Cho and Scott Drury, Vice Presidents of Human Resources, Diversity and Inclusion, have this role for SoCalGas and SDG&E, respectively. Each has a safety staff that is responsible for employee safety policies and procedures, as well as incident investigations and follow-up.

Joyce Rowland is the Chief Ethics Officer for the Sempra family of companies, including SoCalGas and SDG&E. Her role is to ensure the Business Code of Conduct is understood and adhered to, and that our Values are instilled and practiced, by every employee. She also oversees the Ethics Hotline and thorough follow-up on every issue that is raised.

3. The Number of Times Employees Have Reported Unsafe Activities Or Conditions to the Utility During the Past 5 Years, Broken Down on a Year-to-Year Basis (i.e., 2007 through 2011)

As explained above, with SoCalGas and SDG&E's values and safety-focused culture, the majority of safety and ethical concerns are raised directly with supervisors and addressed expeditiously. While a majority of safety issues are resolved quickly through this informal process, if for some reason issues raised with an immediate supervisor are not promptly addressed to the satisfaction of the employee or an employee is not comfortable raising a particular issue with his/her supervisor, the employee may elect to raise those issues through one of the three more formalized processes described above—the Ethics and Compliance

Mailbox/Chief Ethics Officer, the Ethics Hotline and/or, if the employee’s employment is subject to the terms of a CBA, the union grievance process in the CBA. These three more formalized methods are tracked, and therefore, data responsive to this request for information was obtained from these three sources.

In conducting a search for data responsive to this request, SoCalGas and SDG&E searched available records for the formalized processes described above for the term “safety.” All records of complaints that include that search term were further reviewed to determine whether the complaints were responsive to the question. In construing this question, SoCalGas and SDG&E interpret the phrase “unsafe activities or conditions” to refer to alleged safety violations that pertain to public safety and/or the safety of our system. Records of complaints that include the relevant search term, but do not appear responsive to our understanding of the question (*e.g.*, employee relations complaints that do not implicate system safety concerns and complaints that relate to personal safety equipment or working conditions), are not included, but can be included if the scope of this question is clarified to include such complaints within its scope.

Number of Times Employees Have Reported Unsafe Activities or Conditions

	2007	2008	2009	2010	2011
SoCalGas	2	1	3	--	3
SDG&E	1	1	--	1	--

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4. The Number of Follow-Up Investigations, After Employees Reported the Unsafe Activities Or Conditions, Conducted by the Utility During the Past 5 Years, Broken Down on a Year-to-Year Basis and the Results of the Investigations.

SoCalGas			
Year	Number of Complaints	Number of Investigations	Results of Investigations
2007	1	1	An employee contacted the Ethics Helpline to report suspicious activities by a fellow employee. The employee that was the subject of this complaint was suspended pending the investigation and his employment was ultimately terminated as a result of the investigation.
2008	2 ⁴	1	These two related complaints were not substantiated. Recommendations for counseling, additional training, and additional monitoring of employees were implemented.
2009	3 ⁵	1	These three anonymous complaints were addressed collectively. Human Resources representatives went to this work location to speak in-person with employees at this location about any issues they would like to discuss. The allegations of the three complaints were not substantiated. Employees were reminded of the work rules and their responsibility to follow those rules. Supervisors met with the employees at this work location and clarified expectations.
2010	--	--	
2011	3	3	All three of these complaints were received through the union grievance process and were investigated as part of that process. The first grievance was withdrawn by the employee and the union declined to pursue further action. With respect to the second grievance, the union has not requested a hearing or to pursue this further. The third grievance is in the process of being resolved with the union; a second step hearing date on the grievance has not yet been set.

⁴ These two complaints are related and therefore, a single follow-up investigation of both complaints was conducted.

⁵ These three anonymous complaints were received through the Ethics Helpline within minutes of each other and were deemed related, such that SoCalGas conducted a single follow-up investigation for all three complaints.

SDG&E			
Year	Number of Complaints	Number of Investigations	Results of Investigations
2007	1	1	This was an anonymous complaint received through the Ethics Helpline. The caller was asked to call back to provide additional information to enable SDG&E to complete its investigation, but the caller never called back, and the matter was closed.
2008	1	1	This complaint was raised by an employee through the union grievance process and was investigated and settled with the union as part of the union grievance process.
2009	--	--	--
2010	1	1	This complaint was received anonymously through the Helpline. The caller requested that a representative from Human Resources meet with employees at a specified location to hear their concerns. Two in-person meetings were conducted by a Human Resources representative and the employees' concerns were heard and responded to during those meetings. The employees' supervisor was counseled to meet with the employees more often to listen to and address their concerns and was also advised of SDG&E's strict policy against retaliation against employees.
2011	--	--	--

5. The Number of Employees, Who Reported Unsafe Conditions During the Past 5 Years and Are Still Employed by the Utility.

Because not all employee reports of safety concerns are formally tracked, we are unable to answer this question the way it was asked. However, we have a process whereby we review the circumstances of termination for every employee and no employee has ever been terminated for reporting an unsafe condition.

6. The Number of Employees, Who Have Alleged During the Past 5 years in Writing, Including Complaints Before the Labor Commissioner, the U.S. Department of Labor, or Federal or State Courts, that the Utility Has Retaliated Against the Employee for Reporting Unsafe Activities or Conditions.

SoCalGas and SDG&E are not aware of any complaints that fall into this category.

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7. Whether the Utility Has in Place a Program to Protect Whistleblowers, Who Report Unsafe Conditions to the Commission, and, if so, Describe the Program.

SoCalGas and SDG&E follow all whistleblower laws and, to our knowledge, have never been accused otherwise. For added protection, any employee discipline that is contemplated is first reviewed for appropriateness by Labor Relations and/or Human Resources. Similarly, all employee terminations are first reviewed by Legal staff for appropriateness. Hiring and promotional decisions for bargaining unit employees are governed by collective bargaining agreements; for non-bargaining unit employees, Human Resources is engaged in all decisions to assess appropriateness.

SoCalGas and SDG&E have strong ethical and safety-focused cultures, fostered by the comprehensive and multi-faceted approach described above. We have not experienced employee reluctance to report concerns using a channel of communication with which they are most comfortable.

Recently, in response to the Commission's directives in D.12-04-010, SoCalGas and SDG&E have begun to implement a program whereby employees that either work in the field or are involved with pipeline records/compliance in some capacity will receive training regarding the companies' Pipeline Safety Plans. Employees will be afforded the opportunity to provide input and advised of their right to contact the Commission anonymously to report any perceived breach of safety-related requirements. This information will also be provided to employees via posters that will be posted in the workplace.

In addition, numerous federal and state laws already provide protection for employees who raise ethical and/or safety concerns with the Commission. For example, the California Whistleblower Act provides that:

- (a) An employer may not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information

discloses a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation.

(b) An employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of state or federal statute, or a violation or noncompliance with a state or federal rule or regulation.^{6/}

Pursuant to the Whistleblower Act, the California Attorney General must maintain a whistleblower hotline to receive calls from aggrieved persons. All calls received by the Attorney General must be referred to the appropriate government authority for review and investigation.^{7/} Employers must post a notice regarding “employees’ rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline described in Section 1102.7.”^{8/} An employer who violates California’s whistleblower protection law is “guilty of a misdemeanor” and an individual is subject to up to one year in jail and a \$1,000 fine. Corporations may be fined up to \$5,000, plus an additional civil penalty of up to \$10,000 per violation.^{9/} Finally, the law permits employees to recover damages from the employer for any injury resulting from a violation of the statute.^{10/}

An employee may also file a common law claim for wrongful termination in violation of public policy. An employee need only show (i) a public policy; (ii) an adverse employment action that violates the public policy, such as a termination in retaliation for statutorily protected activity or for refusal to participate in illegal activity;^{11/} and (iii) damages resulting from the

^{6/} Cal. Lab. Code § 1102.5 (a)-(b). (emphasis added)

^{7/} Cal. Lab. Code § 1102.7.

^{8/} Cal. Lab. Code § 1102.8.

^{9/} Cal. Lab. Code § 1102.5 and § 1103.

^{10/} Cal. Lab. Code § 1105. An aggrieved employee must file a claim with the California Labor Commissioner within six (6) months of the alleged violation. Cal. Lab. Code § 98.7. In *Campbell v. Regents of the Univ. of Cal.*, 35 Cal. 4th 311, 333-4 (2005), the California Supreme Court held that a litigant seeking damages under section 1102.5 is required to exhaust administrative remedies before the Labor Commissioner prior to bringing suit. The exhaustion of administrative remedies rule is “well established in California jurisprudence.” *Campbell*, p. 321. “[T]he rule is that where an administrative remedy is provided by statute, relief must be sought from the administrative body and this remedy exhausted before the courts will act.” *Id.*

^{11/} An “adverse employment action” may include actions other than termination.

adverse employment action.^{12/} So called “*Tameny*” claims are broad and permit employees to name any number of public policy claims. The policy must be supported by a statutory or constitutional provision, it must inure to the public interest, it must have been well-established at the time of the discharge, and the policy must be “fundamental” and “substantial.”^{13/} In addition to the statutory protection offered under Labor Code section 1102.5, the California Supreme Court has held that discrimination against whistleblowing employees is contrary to public policy.^{14/} Thus, an employee may seek redress by filing a *Tameny* claim using as support the public policy outlined in Labor Code section 1102.5.

The California Occupational Safety and Health Act (Cal/OSHA) prohibits discrimination against employees who make oral or written complaints about workplace safety to either their employer or a governmental agency, or who institute or testify in proceedings under the Act.^{15/} In *Hentzel v. Singer Co.*, 138 Cal. App. 3d 290 (1982), the court explained that Section 6310 protects employees who complain in good faith about working conditions or practices that they reasonably believe to be unsafe.

^{12/} *Tameny v. Atlantic Richfield Co.*, 27 Cal. 3d 167 (1980).

^{13/} *See Kirby Wilcox*, California Employment Law, § 60.04.

^{14/} *Sanchez v. Unemployment Ins. Appeals Bd.*, 36 Cal. 3d 575, 588 (1984). *See Colores v. Board of Trustees*, 105 Cal. App. 4th 1293, 1301, n.1 (2003) (Lab. Code § 1102.5 reflects broad public-policy interest in encouraging whistleblowers to report unlawful acts without fearing retaliation).

^{15/} *See* Cal. Lab. Code § 6310. (“(a) No person shall discharge or in any manner discriminate against any employee because the employee has done any of the following: (1) Made any oral or written complaint to the division, other governmental agencies having statutory responsibility for or assisting the division with reference to employee safety or health, his or her employer, or his or her representative. (2) Instituted or caused to be instituted any proceeding under or relating to his or her rights or has testified or is about to testify in the proceeding or because of the exercise by the employee on behalf of himself, herself, or others of any rights afforded him or her. (3) Participated in an occupational health and safety committee established pursuant to Section 6401.7. (b) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because the employee has made a bona fide oral or written complaint to the division, other governmental agencies having statutory responsibility for or assisting the division with reference to employee safety or health, his or her employer, or his or her representative, of unsafe working conditions, or work practices, in his or her employment or place of employment, or has participated in an employer-employee occupational health and safety committee, shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by the acts of the employer. Any employer who willfully refuses to rehire, promote, or otherwise restore an employee or former employee who has been determined to be eligible for rehiring or promotion by a grievance procedure, arbitration, or hearing authorized by law, is guilty of a misdemeanor.”)

An employee claiming a violation of Labor Code Section 6310 may file a complaint with the California Labor Commissioner. The employee must file the complaint within six months of the violation.^{16/} Potential remedies include rehiring or reinstatement, and reimbursement of lost wages and benefits, with interest and attorney's fees.^{17/}

Labor Code Section 1101 prevents employers from enforcing any rule or otherwise forbidding or preventing employees from participating in politics. In *Gay Law Students Association v. Pacific Telephone & Telegraph Co.*, 24 Cal. 3d 458 (1979), the court found that “political activity” should be read broadly to include litigation, wearing armbands, and associating with others for the advancement of ideas. Alleged violations of Section 1101 are brought in the same manner as claims for alleged violations of California’s Whistleblower Protection Act, Section 1102.5.

Several Federal laws also protect employee whistleblowers and may apply to activities related to proceedings before the Commission. For example, the Pipeline Safety Improvement Act (PSIA), 49 U.S.C. section 60129 “Protection of employees providing pipeline safety information” provides, in pertinent part:

(a) DISCRIMINATION AGAINST EMPLOYEE

(1) IN GENERAL- No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)

(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

(B) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

^{16/} See, *id.*, § 6317.

^{17/} *Id.*

(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

In addition, the Energy Reorganization Act of 1974 Provision Protecting Employees^{18/} prohibits employers from discriminating against any employee who notifies his or her employer of an alleged violation of, refuses to engage in any practice made unlawful by, or participates in a proceeding under the Energy Reorganization Act or the Atomic Energy Act of 1954. The National Labor Relations Act^{19/} protects the rights of employees to engage in self-organization, collective bargaining, and *mutual aid and protection*. The act prohibits adverse employment action (*e.g.*, discipline or discharge) based on union activity or *other concerted activity* relating to the employees' common interests, or the exercise of any rights under the act. The United States Occupational Safety and Health Act Provision Protecting Employees^{20/} prohibits the discharge or discrimination against any employee because he or she has instituted or testified in any proceedings under the Act or exercised rights afforded by its provisions.

^{18/} 42 U.S.C. § 5851.

^{19/} 29 U.S.C. § 158.

^{20/} 29 U.S.C. § 660(c).

CONCLUSION

SoCalGas and SDG&E are proud of their strong safety record, which could only have been achieved through the dedication of our ethical and safety-focused workforce. We believe the strong ethical and safety values of our employees are best fostered and maintained through a comprehensive approach to ethics and safety that appropriately encourages open and informal discussions between employees and their immediate supervisors. We further believe the fact that we have few formal complaints to report in response to the Commission's queries is evidence of the success of our informal programs. We look forward to working with the Commission to build-upon and improve our existing program through this Rulemaking process.

Respectfully submitted,

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May 11, 2012