

**Confidential Legal Materials, Subject To Joint Prosecution Privilege,  
Attorney-Client Privilege and Attorney Work Product**

**COMMON INTEREST, JOINT PROSECUTION,  
AND CONFIDENTIALITY AGREEMENT**

---

This Common Interest, Joint Prosecution, and Confidentiality Agreement (“Agreement”) is made and effective as of the 30<sup>th</sup> day of August 2019, by and among the following entities: the Public Advocates Office and the Sierra Club (“Party” individually and “Parties” collectively).

**WHEREAS**, the Public Advocates Office and Sierra Club are investigating tactics by Southern California Gas Company (“SoCalGas”) to perpetuate reliance on gas in buildings and whether these the costs of these activities are borne by SoCalGas customers.

**WHEREAS**, each Party has been granted party status in the California Public Utilities Commission’s (CPUC) Rulemaking Regarding Decarbonization (R. 19-01-011), wherein both the Public Advocates Office and Sierra Club have investigated SoCalGas’s role in the creation of Californians for Balanced Energy Solutions, an entity that also intervened in R.19-01-011 with no disclosure in its Motion for Party Status of its relationship with SoCalGas.

**WHEREAS**, the Public Advocates Office has investigated and continues to investigate SoCalGas’s activities related to undermining efficiency codes and standards in CPUC Rulemaking Energy Efficiency Rolling Portfolios, Policies, Programs, Evaluation, and Related Issues (R.13-11-005).

**WHEREAS**, Sierra Club has investigated SoCalGas’s use of customer funds for a range of anti-electrification activities in SoCalGas’s Application for Authority, Among Other Things, to Update its General Revenue Requirement and Base Rates Effective on January 1, 2019 (A.17-10-008).

**WHEREAS**, each Party is in agreement that there are many unanswered questions regarding the full scope of SoCalGas’s activities to obstruct progress on the transition from gas to electric end uses in buildings and the extent to which SoCalGas has passed the cost of these activities to its customers.

**NOW, THEREFORE**, in consideration of the mutual representations, covenants, and agreements hereinafter set forth, including the foregoing paragraphs, which are part of this Agreement and not mere recitals, the Parties hereto agree as follows:

1. The Parties acknowledge that they have a common interest in connection with R.19-01-011 before the CPUC, as noted above, as well as further investigations into SoCalGas use of customer funds for anti-electrification activities, as noted above, and that they will cooperate in the joint pursuit of their common interests to the extent permitted by law pursuant to the common interest doctrines recognized by the various state and federal courts.
2. To that end, the Parties recognize that facts and information known by one Party may assist the other in development of discovery that will assist in obtaining relief in

**Confidential Legal Materials, Subject To Joint Prosecution Privilege,  
Attorney-Client Privilege and Attorney Work Product**

currently pending proceedings as well as the development of future actions, such as a Motion for an Order to Show Cause. The Parties acknowledge and agree that their interests will be best served if the Parties can exchange information subject to the continued protection of any applicable privileges. In sharing information, documents, strategies, and resources with each other, the Parties expressly preserve and retain the privilege conferred by the work-product doctrine, the attorney-client privilege, rules of protection from disclosure, and all other privileges during any proceeding that may arise in relation to those matters listed in the recitals. Nothing contained herein, however, will obligate a Party to provide any confidential information to any other Party.

3. The Parties agree that they intend to, and will, maintain the confidentiality of the shared materials unless authorized by the other Party. Each Party agrees that it will protect confidential information from disclosure to non-Parties, other than counsel or consultants to any of the Parties, using the same degree of care used to protect its own confidential or proprietary information of like importance. Moreover, each Party will, on a best efforts basis, mark hard copies and e-mails or other electronic data containing confidential information provided to any other Party with some or all of the following words: "Confidential Legal Materials, Subject To Common Interest Privilege, Attorney-Client Privilege and Attorney Work Product." Failure to so mark the materials, however, will not be treated as waiving the common interest privilege. The inadvertent disclosure of such information or materials contrary to this provision shall not waive any privilege or confidentiality of such information or materials relative to any person or entity not a Party to this Agreement, *i.e.*, such disclosure shall not be considered a public or privilege-waiving disclosure of the information or materials
4. Confidential information shared in furtherance of this agreement shall not be used by any receiving Party(ies) against the Party(ies) sharing the information. Upon termination of this agreement the Parties will return or destroy any confidential information received in accordance with this Agreement if so requested by the original sharing Party.
5. Each Party shall bear its own costs, and no Party shall have authority to incur costs on behalf of any other.
6. Nothing contained in this Agreement is intended to create an attorney-client relationship for the purposes of conflicts or otherwise, and the fact that any counsel has entered into this Agreement shall not in any way preclude the counsel from representing any interest that may be construed to be adverse to any other Party to this Agreement, during the term hereof or after expiration or any earlier termination of the Agreement. The terms and conditions contained herein, and the fact that any counsel has entered into this Agreement, shall not in any way be used as a basis for seeking to disqualify any counsel from representing any other Party in the above identified discussions.

**Confidential Legal Materials, Subject To Joint Prosecution Privilege,  
Attorney-Client Privilege and Attorney Work Product**

7. Any Party may provide written notice to the other Parties of its intent to withdraw from this Agreement. Subsequent to such withdrawal, this Agreement shall continue to protect all shared materials disclosed by the Parties prior to the withdrawal. All Parties will continue to be bound by this Agreement with regard to any shared materials provided, disclosed, received, learned, or obtained through this Agreement. Moreover, a withdrawing Party shall not disclose to any third-party information pertaining to legal strategies developed in furtherance of this Agreement. Regardless of whether a Party withdraws from the Agreement, should any Party cease to have a common interest with the other Parties to this Agreement, it is the intent of the Parties that the Agreement will remain in effect as to those Parties who continue to have a common interest.
8. No Party acting alone may waive the Common Interest/Joint Prosecution Privilege; the Common/Interest/Joint Prosecution Privilege may be waived only by the unanimous consent of all the Parties as expressed in writing.
9. This Agreement may be amended or modified only by a written instrument executed by all Parties that states specifically that it is intended to amend or modify this Agreement.
10. This Agreement supersedes any other agreement, whether written or oral, that may have been made or entered into collectively by and between all of the Parties relating to the matters contemplated hereby. This Agreement constitutes the entire agreement by and among all of the Parties and there are no agreements or commitments except as expressly set forth herein. However, this provision does not in any way supersede any previous agreements between individual Parties or any subgroups of the Parties.
11. If any person or entity, requests or demands, by subpoena or otherwise, any materials subject to this Agreement, the Party who received (or whose attorneys received) the request or demand will advise the person or entity seeking the materials that such materials are privileged and may not be disclosed without the consent of the Party(ies) who furnished them, unless ordered by a court of competent jurisdiction or the CPUC. Unless and until written notice is received from the affected Party(ies) that all applicable rights and privileges are waived, the recipient of the request or demand will take all reasonable steps to permit the assertion of all applicable rights and privileges with respect to the materials and will cooperate fully with the affected Party(ies) and its (their) attorneys in any judicial or administrative proceeding relating to the disclosure of such materials.
12. If, at any time, the Commission, or any other federal, state, or local governmental authority, or any court or arbitration tribunal having jurisdiction determines that any provision of this Agreement is illegal, void, invalid, or unenforceable, in any respect, then the terms of this Agreement will, if possible, be modified, and this Agreement will be reformulated to the extent necessary to be deemed valid or enforceable in compliance with all Commission or other rules, regulations, order, and policies, and to preserve each Party's privilege, benefits, and equities hereunder.

**Confidential Legal Materials, Subject To Joint Prosecution Privilege,  
Attorney-Client Privilege and Attorney Work Product**

13. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.
14. The validity and enforceability of the terms of this Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, counsel to the Parties have executed this Agreement as of the date first above written.

s/ MATTHEW VESPA

**MATTHEW VESPA**  
Attorney for Sierra Club  
50 California St., Suite 500  
San Francisco, CA 94111  
mvespa@earthjustice.org  
Office: (415) 217-2123  
Cell: (415) 310-1549

/s/ DIANA L. LEE

**DIANA L. LEE**  
Attorney for Public Advocates Office  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Telephone: (415) 703.4342  
E-mail: diana.lee@cpuc.ca.gov