

1 **BEFORE THE HEARING BOARD OF THE**
2 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter of

San Diego Gas & Electric Company
[Facility ID No. 004242]

Petitioner

Amended Petition for Interim & Regular
Variance

Case No. 3607-13

**[PROPOSED] FINDINGS AND DECISION
FOR AN ORDER GRANTING A
REGULAR VARIANCE**

Hearing Date: April 26, 2022
Time: Consent Calendar (9:00 am)
Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

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4 **[PROPOSED] FINDINGS AND DECISION OF THE HEARING BOARD**

5 This amended petition for interim and regular variance (“Petition”) was heard on the consent
6 calendar on April 26, 2022, pursuant to notice and in accordance with the provisions of California
7 Health and Safety Code Section 40826 and District Rule 510. The matter was placed on the Consent
8 Calendar pursuant to the Joint Stipulation to Place Matter on Consent Calendar. The following members
9 of the Hearing Board were present: Cynthia Verdugo-Peralta, Chair; Mohan Balagopalan, Vice Chair;
10 Micah Ali; Allan Bernstein, DPM, MBA; and Robert Pearman, Esq. San Diego Gas & Electric
11 Company (“Petitioner”), represented by Vincent M. Gonzales, Senior Environmental Counsel, did not
12 appear. Respondent, Executive Officer of the South Coast Air Quality Management District (“District”),
13 represented by Daphne Hsu, Principal Deputy District Counsel, did not appear. The public was given the
14 opportunity to testify. The Joint Stipulation to Place Matter on Consent Calendar, the Declaration of

1 Annie Ho, and the Declaration of Steve Diuco were received as evidence, and the case submitted. The
2 Hearing Board finds and decides as follows:

3 Nature of Business and Location of Facility

4 1. Petitioner is a public utility engaged in the transmission and distribution of electricity and
5 natural gas to business and residential customers in San Diego and Imperial Counties and parts of
6 Orange and Riverside Counties. Petitioner owns and operates a natural gas compressor station located at
7 14601 Virginia Street, Moreno Valley, California 92555 (District Facility ID No. 004242; the
8 “Facility”). The Facility plays a critical role in the transmission of natural gas to Petitioner’s customers
9 in Imperial, Orange, and San Diego counties, using ten (10) compressors, driven either by natural-gas-
10 fired internal combustion engines or natural-gas-fired turbines. The Facility is a cycle 2 RECLAIM
11 (defined below) and a Title V facility.

12 Equipment

13 2. The equipment that is the subject of this variance request is a 3200 hp internal
14 combustion engine, lean burn, non-emergency, natural gas fired, Cooper Bessemer Model 8V-275C2,
15 with RECLAIM Device number D10 (“Equipment”). The Equipment is used to compress natural gas for
16 transmission from points East to points South towards Orange, San Diego, and Imperial Counties.

17 SUMMARY

18 3. Because of the RECLAIM Sunset and AB 617 – both of which are defined below –
19 Petitioner is required to comply with emission limits set forth in District Rule 1110.2. To do so,
20 Petitioner is replacing nine of the ten compressors at the Facility with a combination of electrically
21 driven compressors and cleaner, natural-gas-driven turbine compressors. Petitioner is also retrofitting
22 the Equipment by replacing its oxidation catalyst, installing a new selective catalytic reduction (“SCR”)
23 system and an aqueous ammonia storage tank, and modifying the continuous emission monitoring system

1 (“CEMS”) attached to the Equipment (collectively, the “Retrofit Project”). During the Retrofit Project,
2 the Equipment will be taken offline and kept non-operational for a certain period time, during which,
3 among other things, it will be disconnected from its exhaust stack which is being replaced. Since the
4 CEMS’s probe is connected to the exhaust stack, the CEMS will not be continuously connected to the
5 Equipment during this period. This will cause Petitioner to be in violation of certain District Rules and
6 Facility permit conditions requiring that the CEMS and the Equipment be continuously connected, even
7 if the Equipment is non-operational. Therefore, because of circumstances beyond its reasonable control,
8 Petitioner will need a variance from these District Rules and Facility permit conditions to perform the
9 Retrofit Project. During the variance period, Petitioner will be performing the Retrofit Project diligently
10 to achieve compliance with the District Rules and Facility permit conditions as expeditiously as
11 possible. Further, there will be no excess emissions in this matter.

12 FINDINGS OF FACT AND CONCLUSIONS

13 Following are the facts and conclusions supporting the findings set forth in Health and Safety
14 Code Section 42352 necessary to grant the variance. The Executive Officer did not oppose the granting
15 of the variance.

16 **a. The petitioner for a variance is, or will be, in violation of Section 41701 or of any rule**
17 **regulation or order of the District.**

18 4. By not having the CEMS continuously connected to the Equipment during the retrofit
19 project period, Petitioner will be in violation of the following District Rules: Rule 2012(c)(2)(A); Rule
20 2012(g)(1); Rule 2012(i); Rule 2012, Appendix A, Chapter 2, section A.1.; Rule 203(b); Rule
21 2004(f)(1), and Rule 3002(c)(1). In addition, Petitioner will be in violation of the following conditions
22 in its Facility permit: Section D, Permit Condition D82.1; Section F, Permit Condition I.A.1.; and
23 Section G, Permit Condition I.1.

1 5. Compliance will be achieved once the CEMS is reconnected to the Equipment and is
2 kept continuously functioning.

3 **b. (1). Non-compliance with District Rule(s) is due to conditions beyond the reasonable control**
4 **of the petitioner.**

5 6. In 1993, the District’s Governing Board adopted the RECLAIM (Regional Clean Air
6 Incentives Market) program which is a market-based program designed to reduce total NO_x and SO_x
7 emissions in the South Coast Air Basin. Years later, in 2017, the Governing Board adopted the 2016
8 Air Quality Management Plan which, among other things, directed District staff to transition the
9 RECLAIM program back to a command-and-control regulatory structure (a.k.a. “RECLAIM Sunset”).
10 Concurrently, the California legislature adopted Assembly Bill (AB) 617 which ordered air districts to
11 retire their market-based systems and adopt an expedited schedule for the implementation of best
12 available retrofit control technology or BARCT levels.

13 7. As a result of AB 617 and the RECLAIM Sunset, the Facility must transition away
14 from RECLAIM and comply with emission levels set forth in District Rules 1110.2 and 1134. To meet
15 these more stringent emission limits, Petitioner determined that it needed to replace nine of its ten
16 compressors with electrically driven compressors and cleaner gas-fired turbine-driven compressors.
17 Petitioner also determined that the remaining compressor – the Equipment – needed to be retrofitted
18 by (1) replacing its oxidation catalyst, (2) connecting it to a SCR system, and (3) installing an aqueous
19 ammonia storage tank. The CEMS for the Equipment would also need to be modified.

20 8. On June 6, 2021, the District issued a Title V Minor Permit Revision (A/N 619556)
21 (“Permit to Construct” or “PTC”) to Petitioner, to initiate the Retrofit Project. In accordance with
22 District Rule 1100, Petitioner must complete the Retrofit Project and the modified Equipment must
23 meet the BARCT limits within 24 months after the issuance of the PTC, or June 6, 2023.

1 9. On Friday, February 25, 2022, in a meeting with the contractor it hired for the Retrofit
2 Project, Petitioner learned for the first time that the sequencing of the various steps in the Retrofit
3 Project will require that the Equipment be disconnected from its exhaust stack for a period of up to six
4 (6) months. Since the CEMS's sample probe is embedded in the exhaust stack, this would mean that
5 the CEMS will be disconnected from the Equipment for more than 96 hours – in violation of the
6 Facility permit conditions and the District Rules listed above.

7 10. A week later, on Friday, March 4, 2022, Petitioner filed a petition with this Hearing
8 Board seeking interim and regular variance relief. After a hearing on March 10, 2022, this Hearing
9 Board granted interim variance relief to Petitioner subject to certain variance conditions and lasting
10 until April 26, 2022, the date of its regular variance hearing.

11 11. Soon after interim variance relief was granted, Petitioner proceeded to retrofit the
12 Equipment as diligently as possible, hoping to connect both the modified CEMS and the modified
13 Equipment as early as June 21, 2022. There are additional phases of the Retrofit Project that follow
14 this milestone, however, that may require the Equipment to be disconnected from time to time from
15 the CEMS, such as the commissioning and startup of the new SCR system. There may also be
16 unforeseen circumstances such as additional COVID variant outbreaks or extreme weather conditions
17 that can delay completion of the Retrofit Project. Taking all the above into account, Petitioner
18 anticipates achieving final compliance by September 30, 2022.

19 **b. (2). Requiring compliance would result in either (1) an arbitrary or unreasonable taking of**
20 **property, or (2) the practical closing and elimination of a lawful business.**

21 12. Requiring compliance would result in an arbitrary or unreasonable taking of property,
22 as well as the practical closing and elimination of a lawful business. If the variance were denied,
23 Petitioner would be unable to disconnect the CEMS from the Equipment, putting Petitioner on the path

1 of violating District Rules 1100 and 1110.2 which requires compliance with BARCT levels by June 6,
2 2023. Petitioner would then be subject to substantial monetary penalties due to noncompliance with
3 District Rules.

4 13. Further, if Petitioner is not able to modify and operate the Equipment, it could curtail
5 the transmission of natural gas to its business and residential customers in Orange, Imperial, and San
6 Diego Counties. The resulting natural gas shortage – coupled with possible power blackouts since
7 electric generators in San Diego County run on natural gas – could cause many lawful businesses to
8 close and prevent numerous residents from cooling their homes or cooking their food.

9 **c. The closing or taking would be without a corresponding benefit in reducing air**
10 **contaminants.**

11 14. The closing or taking would be without a corresponding benefit in reducing air
12 contaminants, because the Equipment will not have been modified to emit less than what it currently
13 emits. Indeed, the variance will allow the Equipment to be taken out of operation to be modified to
14 meet more stringent emission limits.

15 **d. The applicant for the variance has given consideration to curtailing operations of the**
16 **source in lieu of obtaining a variance.**

17 15. Petitioner has considered curtailing operations of the Equipment in lieu of obtaining a
18 variance but has concluded that doing so would not obviate the need for a variance. The RECLAIM
19 Sunset and AB 617 are both forcing Petitioner to modify its Equipment to meet more stringent emission
20 limits, and only granting a variance will enable Petitioner to do so.

1 e. **During the period the variance is in effect, that the applicant will reduce excess emissions**
2 **to the maximum extent feasible.**

3 16. There will be no excess emissions from the Equipment to mitigate or reduce during the
4 variance period, because the Equipment will not be in operation.

5 f. **During the period the variance is in effect, that the applicant will monitor or otherwise**
6 **quantify emission levels from the source, if requested to do so by the district, and report**
7 **these emission levels to the district pursuant to a schedule established by the district.**

8 17. Upon the District's request, Petitioner will monitor for emissions from the Equipment
9 during the variance period. The fuel flow meter will be in operation and daily fuel flow reads will be
10 obtained to validate non-operation of the Equipment until the Equipment is reconnected to its CEMS.
11 The data will be made available to the District upon request.

12 Petitioner anticipates achieving final compliance by September 30, 2022.

13 **ORDER**

14 THEREFORE, good cause appearing, the Hearing Board orders as follows:

15 A. Petitioner is granted a regular variance from District Rules 2012(c)(2)(A), 2012(g)(1),
16 2012(i), and 2012, Appendix A, Chapter 2, section A.1., and from District Rules 203(b), 2004(f)(1), and
17 3002(c)(1) with respect to the following permit conditions: Section D, Permit Condition D82.1; Section
18 F, Permit Condition I.A.1.; and Section G, Permit Condition I.1. The regular variance period will begin
19 on April 26, 2022, and will expire on September 30, 2022.

20 B. Petitioner shall comply with the following variance conditions:

21 (1) The variance period shall end on September 30, 2022, or when the CEMS and the
22 Equipment are reconnected and restarted and are able to operate in normal operating mode, whichever
23 occurs first.

1 (2) Petitioner shall not operate the Equipment during the variance period unless the
2 CEMS is connected to the Equipment and is operational.

3 (3) Petitioner shall disconnect the natural gas fuel feed lines, install and maintain a
4 blind flange on both ends of the disconnected lines, and install a double block valve at the process feed
5 line for the Equipment for the entire variance period.

6 (4) Petitioner shall not reconnect the natural gas fuel feed lines, remove the blind
7 flanges on both ends of the lines or remove the double block valve at the process feed line to the
8 Equipment until the CEMS is connected to the Equipment and is operational.

9 (5) Petitioner shall verify that no fuel is being fed to the Equipment by checking the
10 fuel meter for natural gas flow to the Equipment at least once a day during the variance period.

11 Petitioner shall record daily the meter readings and shall make this daily log available to the District
12 upon request.

13 (6) At all times during the variance period, Petitioner shall, upon request from the
14 District, provide natural gas flow data to the Equipment for the entire variance period.

15 (7) Within seven (7) days after the CEMS is returned to operation, Petitioner shall
16 provide, by email to Jessica Abbruzzese (jabbruzzese@aqmd.gov), hourly natural gas flow data to the
17 Equipment for the entire variance period.

18 (8) Petitioner shall not resume natural gas fuel flow to the Equipment until the CEMS
19 serving the Equipment is back in service.

20 (9) Petitioner shall notify the District at 1-800-CUT-SMOG and by email to
21 Cut_Smog@aqmd.gov at the following times for each specified event:

22 a. Within 12 hours after the CEMS is returned to operation.

