

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Revise
Commission General Order Number 95 Pursuant
to Decision 05-01-030.

Rulemaking 05-02-023
(Filed February 24, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING DENYING
MOTION TO STRIKE REBUTTAL TESTIMONY**

Seven parties¹ (the Moving Parties) move for an order striking portions of the rebuttal testimony of Dale Hatfield that, in the view of Moving Parties, represent legislative facts and legal conclusions regarding antenna rules promulgated by the Federal Communications Commission. The motion is opposed by the Wireless Group,² which contends that the testimony cited either responds to opinion testimony of witnesses for the Moving Parties or is foundational in nature. The motion is denied.

As the Wireless Group notes, the motion to strike was filed on February 1, 2006, three business days before the commencement of hearings in this matter, while the Hatfield testimony was circulated more than three months

¹ Moving parties are Pacific Gas and Electric Company, the Commission's Consumer Protection and Safety Division, San Diego Gas and Electric Company, the International Brotherhood of Electrical Workers 1245, California Municipal Utilities Association, City of Anaheim and the Northern California Power Agency.

² The Wireless Group is comprised of Cingular Wireless, Crown Castle, NextG Networks of California, Inc., Sprint Nextel, T-Mobile and Verizon Wireless.

earlier, on October 18, 2006. Under these circumstances, the motion is untimely and unduly prejudices the Wireless Group in that it must divert its resources to respond to a motion rather than to prepare for hearing.³

Moreover, the disputed portions of the Hatfield testimony arguably respond to assertions made by witnesses for the Moving Parties. To the extent that any of this testimony or rebuttal testimony involves legislative facts or legal conclusions that are the responsibility of the adjudicator, the objections of the parties will go to the weight to be given to these statements.

IT IS RULED that the Motion to Strike the Rebuttal Testimony of Dale Hatfield on Behalf of the Wireless Group is denied.

Dated February 15, 2006, at San Francisco, California.

/s/ Glen Walker
Glen Walker
Administrative Law Judge

³ The Administrative Law Judge notified the parties on February 3, 2006, that the motion would be denied.

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Strike Rebuttal Testimony on all parties of record in this proceeding or their attorneys of record.

Dated February 15, 2006, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.