

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



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H2207010

In the matter of:

Pacific Gas & Electric Company's Execution
of 2020 Public Safety Power Shutoff Events

H.22-07-010
(Filed July 15, 2022)

**RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E)
TO MOTION OF PUBLIC ADVOCATES OFFICE FOR PARTY
STATUS AND EXPEDITED TREATMENT**

Pursuant to Rule 11.1(e) of the California Public Utilities Commission's (CPUC or Commission) Rules of Practice and Procedure, Pacific Gas and Electric Company (PG&E) files this response to the August 5, 2022 Motion of The Public Advocates Office (Cal Advocates) for Party Status and Expedited Treatment. Cal Advocates has requested expedited treatment to become a party by August 12 or soon thereafter, as Cal Advocates seeks to participate in the hearings and any settlement discussions on the AEO.

I. BACKGROUND

This proceeding pertains to the proposed Administrative Enforcement Order (AEO) issued by the CPUC's Safety and Enforcement Division (SED) for PG&E's 2020 Public Safety Power Shutoff (PSPS) events. In the Commission's Phase 3 PSPS Decision, D. 21-06-034, the Commission authorized SED to assess whether each utility's implementation of PSPS events complied with the Commission's PSPS rules and guidelines.¹ Based upon their review of PG&E's 2020 implementation of the PSPS, SED proposed a \$12 million penalty on the grounds that PG&E had failed to provide certain notifications during the de-energization event.

On July 15, 2022, PG&E requested a hearing, arguing that the proposed penalty was excessive. On August 5, 2022, ALJ Haga granted PG&E and SED's joint motion for a stay of the proceedings until September 9, 2022, to allow the parties time to engage in settlement

¹ D. 21-06-034, pp. 22-25.

discussions. The parties will report back to the Commission by September 9, 2022, as to whether the parties were able to reach agreement.

II. DISCUSSION

Cal Advocates seeks to participate in the hearings and settlement discussions on the AEO, arguing they have a vested interest due to their participation in PSPS-related proceedings.

However, Cal Advocates' participation as a party would directly conflict with the Citation Appellate Rules, which Cal Advocates itself admits govern these proceedings as directed by Resolution M-4846 and Section II.A.9.c of the Commission's Enforcement Policy.² Rule 8 of the Citation Appellate Rules (set forth in ALJ-377, Appendix A) specifically limits "the parties to the appeal [to] appellant and Staff which issued the citation which is appealed. Other interested persons may be placed on the information only section of the service list."³

The Commission specifically delegated to SED the investigation of facts and assessment of penalties regarding PSPS compliance.⁴ And SED issued the proposed penalty that PG&E challenges. Thus, according to the Citation Appellate Rules, the parties to the penalty proceeding may consist of only PG&E and SED. Cal Advocates and other interested parties may only be included on the service list for information. Interested parties receive adequate information about the proceedings without becoming "parties." In fact, ALJ-299, the predecessor to ALJ-377, specifically required all citation appeals to be filed with the docket office, so interested parties would have access to the record.⁵

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² Cal Advocates Motion, at p. 2 (the hearing will be conducted "in accordance with the hearing provisions in the Citation Appellate Rules").

³ ALJ, Appx. A, Rule 8.

⁴ D. 21-06-034, pp. 22-25.

⁵ ALJ-377, at p. 4.

Cal Advocates argues that the Citation Appellate Rules should not apply to these proceedings and, even if they do, the Citation Appellate Rules do not prohibit their request for party status. Both arguments are incorrect.

First, Cal Advocates argues that, notwithstanding Res. M-4846, the Citation Appellate Rules should not apply, because the Citation Appellate Rules were designed for expedited appeals where the total citation amount does not exceed the jurisdictional limit of the small claims court, which is exceeded in this case.⁶ This is incorrect.

ALJ-377 made permanent the rules for all citation appeals originally established as a pilot program by ALJ-299.⁷ ALJ-377 also modified the Citation Appellate Rules to add an “Expedited Citation Appeal Procedure,” set forth in Rule 6.1, for the limited situation where the total citation amount does not exceed the small claims court jurisdictional limit. Cal Advocates mistakes this Rule 6.1 as reflecting all Citation Appellate Rules. However, that is only a single rule out of the entire Citation Appellate procedure; the remaining Citation Appellate Rules apply to all citations. Neither ALJ-377 nor Appendix A codifying the Citation Appellate Rules limit the citations governed by the Citation Appellate Rules according to the size of the penalty. Thus, contrary to Cal Advocates’ assertion, the Citation Appellate Rules do apply to the penalty at issue in this proceeding.

Second, Cal Advocates claims that the Citation Appellate Rules do not address whether interventions are allowed, and therefore the CPUC’s Rules of Practice and Procedure governing interventions are applicable.⁸ This is incorrect.

Rule 8 of the Citation Appellate Rules specifically states: “[T]he parties to the appeal will be appellant and Staff which issued the citation which is appealed. Other interested persons may be placed on the information only section of the service list.”⁹ The Commission specifically

⁶ Cal Advocates Motion, at p. 2.

⁷ ALJ-377, at p. 1.

⁸ Cal Advocates Motion, at p. 2.

⁹ ALJ-377, Appx. A, Rule 8.

carved out an exception for GO 156 investigations appeals, where permissible parties to the appeal could also include the third party whose WMDVB status is challenged, in addition to the appellant and staff. Only in this limited instance of GO 156 appeals – and only for the third party directly affected by the appealed decision – did the Citation Appellate Rules expand the permissible parties to the appeal. Otherwise, according to the unequivocal language of the Citation Appellate Rules, only the entity challenging the penalty and the Commission staff issuing the penalty are permitted to be parties. Cal Advocates is neither, so allowing their intervention would create precedent in violation of the Citation Appellate Rules.

III. CONCLUSION

Cal Advocates is mistaken in asserting that the Citation Appellate Rules are only applicable to citations with penalty amounts subject to small claims court jurisdiction. Likewise, Cal Advocates is incorrect in arguing that they should be permitted to intervene despite Citation Appellate Rule 8, which only allows the appellant and the staff issuing the citation to be parties. In accordance with Res. M-4846 and the Citation Appellate Rules set forth in ALJ-377, PG&E respectfully requests that the Commission deny Cal Advocates' motion to intervene in these proceedings.

Respectfully Submitted,

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By: /s/ Alyssa T. Koo

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