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

<p>Jeanne M. Wilson,</p> <p style="text-align: center;">Complainant,</p> <p style="text-align: center;">vs.</p> <p>Pacific Gas and Electric Company (U39E),</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">Case 23-06-005</p>
<p>And Related Matter.</p>	<p style="text-align: center;">Case 24-03-005</p>

**ADMINISTRATIVE LAW JUDGE’S RULING UPDATING CONSOLIDATED PROCEEDING SCHEDULE AND ORDERING BRIEFING**

This ruling (1) orders the parties in case 24-03-005 to file and serve briefs regarding whether complainants may maintain the claim raised under California Public Utilities Commission General Order 177 Section VII.B, and (2) adopts an updated proceeding schedule for the consolidated complaint (C.) proceedings C.23-06-005 and C.24-03-005.

**1. Background**

**1.1. C.24-03-005**

On March 8, 2024, complainants Jeanne M. Wilson (Wilson) and the Redbud Chapter of the California Native Plant Society (CNPS) filed complaint (C.)24-03-005 against defendant Pacific Gas and Electric Company (PG&E). The complaint alleges PG&E violated the Commission’s General Order (G.O.) 177

Section VII.B by failing to consult with the Nevada County, California when it began construction of a gas transmission station at PG&E's 15-acre parcel of land located at 11612 Rough and Ready Highway, Grass Valley, California.<sup>1</sup> That parcel is part of an area historically known as "Hell's Half Acre."

In an August 7, 2024 ruling, the Commission consolidated C.24-03-005 and C.23-06-005 for all purposes.<sup>2</sup> The parties previously reported to the assigned Administrative Law Judge (ALJ) that they were attempting to settle the consolidated cases.

On November 5, 2024, the parties filed a Joint Settlement Status Report indicating that settlement discussions to resolve all disputes in the consolidated cases were continuing. The parties must file an updated Joint Settlement Status Report on or by **December 5, 2024**.

### **1.2. C.23-12-020**

PG&E is also a defendant in C.23-12-020, filed on December 12, 2023, by the County of Nevada, California. As in C.24-03-005, that complaint arises from PG&E's construction of the gas transmission station on the Hell's Half Acre parcel.<sup>3</sup> Nevada County alleges that PG&E violated G.O. 177 Section VII.B by failing to consult with the county regarding the natural gas infrastructure project at Hell's Half Acre.<sup>4</sup> Neither Jeanne Wilson, nor CNPS are parties in that proceeding.

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<sup>1</sup> C.24-03-005, Complaint at 9, 14. The Commission preliminarily categorized C.24-03-005 as an adjudicatory proceeding. C.24-03-005, Instructions to Answer at 1. Defendant filed its answer on April 18, 2024.

<sup>2</sup> On June 6, 2023, complainant Wilson filed complaint C.23-06-005 against PG&E. That complaint alleges PG&E violated G.O. 177 Sections IV and V when it began construction of the gas transmission station at Hell's Half Acre. *See* C.23-06-005, Complaint at 14.

<sup>3</sup> *See* C.23-06-005, Joint Prehearing Conference Statement at 2 (filed May 21, 2024).

<sup>4</sup> C.23-12-020, Complaint at 17.

At the July 23, 2024, Prehearing Conference in C.24-03-005, the parties indicated that, at this time, no parties request – and PG&E would oppose -- consolidation of C.23-12-020 with C.24-03-005 and C.23-06-005.

## **2. Issues for Party Briefing**

G.O. 177 Section VII.B establishes local agency consultation rights and enforcement regarding gas utility facility construction as follows:

This General Order clarifies that local jurisdictions acting pursuant to local authority are preempted from regulating gas utility facilities constructed by public utilities subject to the Commission's jurisdiction. However, *in locating such projects, the public utilities shall consult with local agencies regarding land use matters.* In instances where the public utilities and local agencies are unable to resolve their differences, *the local agency should promptly file a complaint with the Commission. (emphasis added).*

The plain language of Section VII.B directs filing of a Commission complaint by the local agency to enforce its consultation rights. However, that section does not expressly authorize independent or concurrent private third-party enforcement of a local agency's consultation rights through a Commission complaint.<sup>5</sup>

Nevada County previously filed its claim in C.23-12-020 to enforce its local agency consultation rights under G.O. 177 Section VII.B. Complainants Wilson and CNPS then filed their claim in C.24-03-005, as private third-parties seeking to enforce Nevada County's consultation rights under G.O. 177 Section VII.B.

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<sup>5</sup> Wilson's complaint in C.23-06-005 alleges PG&E violated separate requirements under G.O. 177 Sections IV and V when it began construction of the gas transmission station at Hell's Half Acre. See C.23-06-005, Complaint at 14.

Wilson and CNPS do not identify a private right of action or other authority conferring standing or otherwise establishing a jurisdictional basis authorizing their independent, third-party enforcement of G.O. 177 Section VII.B's local agency consultation rights subsequent to or concurrently with Nevada County's preexisting complaint before the Commission.

The question presented here is whether the Commission has jurisdiction and authority to adjudicate the independent, private third-party claim presented in C.24-03-005. Moreover, separate adjudications by private third-parties and governmental complainants may lead to inconsistency and/or inefficiency between the proceedings. For example, separate resolutions in C.23-12-020 and C.24-03-005 may conflict. To review this issue, the parties in C.24-03-005 shall file briefs to address the following issues:

1. Whether the Commission has jurisdiction and authority to adjudicate complainants Wilson and CNPS' private third-party claim in C.24-03-005 to enforce local agency consultation rights under G.O. 177 Section VII.B where local agency Nevada County filed its own Commission complaint under G.O. 177 Section VII.B.
2. Whether complainants Wilson and CNPS may maintain their private third-party claim in C.24-03-005 to enforce local agency consultation rights under G.O. 177 Section VII.B where local agency Nevada County filed its own Commission complaint under G.O. 177 Section VII.B.

On or by **December 5, 2024**, the parties shall file and serve their concurrent opening briefs on the issues above. The parties may file and serve responsive reply briefs no later than **December 20, 2024**.

All briefs shall comply with the Commission Rules of Practice and Procedure and be limited to no longer than 10 pages in length. Reply briefs shall

be limited to addressing the opening brief to which they are responding and must not raise new arguments.

### 3. Updated Consolidated Proceeding Schedule

The following schedule for consolidated proceedings C.23-06-005 and C.24-03-005 is adopted here and supersedes all prior proceeding schedules for the consolidated proceedings. The schedule below may be modified by the ALJ as required to promote the efficient and fair resolution of the consolidated proceeding:

Event	Deadline/Due Date
Settlement Discussions	Ongoing
Defendant must file and electronically serve (by email) parties' updated Joint Settlement Status Report on behalf of all parties, reporting on (1) progress of settlement negotiations, and (2) any and all updates to the previous Joint Settlement Status Reports and Joint Prehearing Conference Statements (served and filed)	On or by the 5 <sup>th</sup> day of each month (starting December 5, 2024)
Opening Briefs on C.24-03-005 issues (served and filed)	December 5, 2024
Reply Briefs on C.24-03-005 issues (served and filed)	December 20, 2024
Prepared direct testimony - electronically served	Date to be determined
Prepared rebuttal testimony - electronically served	Date to be determined
Completion of all discovery	By agreement of the Parties
Deadline for filing of dispositive motions	Date to be determined
Remote Status Conference	Date to be determined

Parties must meet and confer and Defendant must serve (by email) all parties' final hearing materials on all parties and ALJ (including Joint Witness List, Joint Exhibit List, Joint Statement of Stipulated and Disputed Material Facts, pre-marked hearing exhibits, and other materials as ordered by the ALJ) <sup>6</sup>	Date to be determined
Motions <i>in limine</i>	Date to be determined
Evidentiary Hearing (in person) California Public Utilities Commission Hearing Room TBD 505 Van Ness Avenue San Francisco, CA 94102	Date to be determined
Opening Briefs	Date to be determined
Reply Briefs [ <i>matter submitted</i> ]	Date to be determined
Proposed Decision	Date to be determined

**IT IS RULED** that:

1. The parties must file monthly updated Joint Settlement Status Report starting on or before **December 5, 2024**, and on or before the 5th of each month thereafter.
2. On or by **December 5, 2024**, the parties shall file and serve their opening briefs on issues identified above in C.24-03-005.
3. The parties shall file reply briefs on those issues arising in C.24-03-005 no later than **December 20, 2024**.

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<sup>6</sup> Defendant shall be responsible for electronic submission of the Parties' exhibits in accordance with Rule 13.1(f) ("Exhibits shall be submitted as 'supporting documents' using the Electronic Filing System on the Commission's website at: <https://www.cpuc.ca.gov/PUC/efiling>").

4. All briefs on issues identified above in C.24-03-005 shall comply with the Commission Rules of Practice and Procedure and be limited to no longer than 10 pages in length. Reply briefs shall be limited to addressing the opening brief to which they are responding and must not raise new arguments.

5. The updated schedule for consolidated proceedings C.23-06-005 and C.24-03-005 is set forth above, adopted here, and supersedes all prior proceeding schedules for those proceedings.

Dated November 8, 2024, at San Francisco, California.

/s/ JEFFREY LEE  
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Jeffrey Lee  
Administrative Law Judge