

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Legal Division

Resolution L-618
February 23, 2023**RESOLUTION****RESOLUTION L-618 AFFIRMING STAFF'S DETERMINATION
TO WITHHOLD CERTAIN RECORDS IN RESPONSE TO PUBLIC
RECORDS REQUESTS**

SUMMARY

Between January 24, 2020 and April 11, 2022, the California Public Utilities Commission ("Commission") received multiple public records requests under the California Public Records Act ("CPRA") seeking disclosure of Commission records related to transportation network companies ("TNCs"). Between February 24, 2022 and April 21, 2022, Legal Division responded to each of these public records requests, releasing some records and withholding others based on specific exemptions of the CPRA. On the same date as the release of records, the requester appealed each of the initial denials of the records pursuant to General Order ("G.O") 66-D Section 5.5. Under these conditions, G.O. 66-D Sections 5.5 and 6 require Legal Division to issue a Resolution addressing the confidentiality claims and a determination regarding the release of the requested records, to be voted on by the full Commission. Here, we affirm Legal Division's determination to withhold records and authorize the disclosure of additional records that are no longer as sensitive due to the passage of time.

DISCUSSION**I. CPRA Requests ("PRAs") at Issue****A. PRA #20-29 – Seth Rosenfeld, SF Public Press**

PRA #20-29 was filed on January 24, 2020, seeking records related to the following, verbatim:

- 1) TNC driver training programs.
- 2) TNC accident patterns
- 3) Cases of TNC-involved accidents

- 4) TNC driver problems,
- 5) Bad driving of TNC drivers.
- 6) Any other issues concerning road safety, of TNC vehicles,
- 7) The adequacy of TNC programs to screen driving records,
- 8) Whether there are patterns of TNC accidents that could be addressed through safety measures and/or regulations
- 9) ways of making TNC services safer.
- 10) Any one or more accidents involving TNCs.

On February 19, 2020, staff provided records responsive to item #1 of the PRA. On January 6, 2022, staff noted they had released records responsive to items #2, #3, #4, #5, #6, and #10 in response to PRA #21-52 from Mr. Rosenfeld, and that the remaining topics were asking for evaluation of a program or were being debated deliberatively in an ongoing proceeding, within which those items may be addressed and so directed the requester to watch the ongoing proceeding. On January 7, 2022, the requester sent an email stating they believed there are additional records that have not been released. On February 24, 2022, staff provided an additional response re-iterating that all responsive records were released.

Mr. Rosenfeld appealed on February 24, 2022 stating that the Commission had not conducted an adequate search for the records, the Commission had not released all reasonably segregable parts of responsive records, the request was construed in an overly narrow and reductive manner, the fact that there is an ongoing proceeding is not an exemption under the CPRA, that additional information must have become available in the last two years, that the CPRA and the state constitution require the Commission to construe this request in the broadest possible sense, and that the public interest requires further disclosure of records.

Staff have since become more liberal in our interpretation and expanded our search to include all emails pertaining to these topics and are here providing 1352 additional documents responsive to this request. We are withholding some emails under six privileges: one, Cal. Gov't Code § 7927.500 (the draft exemption), two, deliberative process privilege,² three, Cal. Evid. Code § 950, *et seq.* (the attorney-client privilege),³

¹ Cal. Government Code § 7927.500 (formerly Cal. Gov't Code § 6254(a): "Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of any preliminary drafts, notes, or interagency or intraagency memoranda that are not retained by a public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure."

² See, e.g., *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.

³ Cal. Evid. Code § 950, *et seq.*: "confidential communication between client and lawyer" means

four, as settlement discussions pursuant to Commission Rules of Practice and Procedure Rule 12.6,⁴ five, under Cal. Gov't Code § 7927.700 (personal information exemption)⁵ and six, Cal. Gov't Code § 6255(a) (the public interest exemption).^{6,7} Such records are exempt from disclosure in response to your records request, pursuant to Cal. Gov't. Code § 7924.310(c), which exempts: "Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege." Regarding the public interest exemption, in doing the public's business, it is essential for Commission staff to be able to circulate confidential internal draft documents, to brainstorm ideas or take contrary positions. If staff could not do so, we would be unable to fully develop the issues and reach a well-reasoned final position. Accordingly, the public interest in withholding these records clearly outweighs the public interest in disclosure.

B. PRA #20-210 – Seth Rosenfeld, SF Public Press

PRA #20-210 was filed on May 14, 2020, seeking the following:

Copies of any and all studies, reports, summaries, presentations, and/or records of any kind produced by the CPUC and/or its staff, and/or by any other entity, in any way relating to any transportation network company and sexual assault, sexual harassment and/or sexual misconduct of any type. This encompasses but is not limited to records concerning any aspect

information transmitted between a client and his or her lawyer in the course of that relationship and in confidence by a means which, so far as the client is aware, discloses the information to no third persons other than those who are present to further the interest of the client in the consultation or those to whom disclosure is reasonably necessary for the transmission of the information or the accomplishment of the purpose for which the lawyer is consulted, and includes a legal opinion formed and the advice given by the lawyer in the course of that relationship."

⁴ Commission Rules of Practice and Procedure Rule 12.6: "No discussion, admission, concession or offer to settle, whether oral or written, made during any negotiation on a settlement shall be subject to discovery, or admissible in any evidentiary hearing against any participant who objects to its admission. Participating parties and their representatives shall hold such discussions, admissions, concessions, and offers to settle confidential and shall not disclose them outside the negotiations without the consent of the parties participating in the negotiations..."

⁵ Cal. Gov't Code § 7927.700 (formerly Cal. Gov't Code § 6254(c)): "Except as provided in Sections 7924.510, 7924.700, and 7929.610, this division does not require disclosure of personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy."

⁶ See note 1.

⁷ Cal. Gov't Code § 7922.000 (formerly Cal. Gov't Code § 6255(a)): "The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record."

of the general topic, as well as records concerning specific cases. The period covered by this request is from 9-1-13 to the date you complete processing this request.

On March 11, 2022 staff informed requester they would be withholding a small number of internal draft documents produced by Commission staff that were not intended for public release, pursuant to Cal. Gov't Code §§ 7927.500 and 7922.000. Staff also informed requester they would perform an email search. On March 25, 2022 staff informed requester they had found 537 responsive records, and were releasing 381 emails and withholding 156 exempt communications that were exempt settlement discussions pursuant to Commission's Rules of Practice and Procedure Rule 12.6,⁸ draft exemptions under the Cal. Gov. Code Sec. 7927.500, or information provided under seal and/or confidentially to a public employee in the course of their duty, and thus subject to the Commission's assertion of the official information privilege set forth in Cal. Evid. Code Sec. 1040.²

Mr. Rosenfeld appealed on March 30, 2022 re-iterating that the Commission had not conducted an adequate search for the records, the Commission had not released all reasonably segregable parts of responsive records, the request was construed in an overly narrow and reductive manner, the fact that there is an ongoing proceeding is not an exemption under the CPRA, that additional information must have become available in the last two years, that the CPRA and the state constitution require the Commission to construe this request in the broadest possible sense, that the public interest requires further disclosure of records, and that even if the Commission is withholding settlement discussions, they must release reasonably segregable portions.

We have expanded our search to include all emails pertaining to these topics and are here providing 38 additional documents responsive to this request. We are withholding some emails under three privileges: one, as settlement discussions pursuant to Commission Rules of Practice and Procedure Rule 12.6,¹⁰ two, as draft exemptions under the Cal. Gov. Code Sec. 7927.500, and three, under Cal. Gov't Code § 7922.000, the public interest exemption. In doing the public's business, it is essential for Commission staff to

⁸ Supra note 4.

² Cal. Evid. Code Sec. 1040: "A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing official information, if... disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice."

¹⁰ Commission Rules of Practice and Procedure Rule 12.6: "No discussion, admission, concession or offer to settle, whether oral or written, made during any negotiation on a settlement shall be subject to discovery, or admissible in any evidentiary hearing against any participant who objects to its admission. Participating parties and their representatives shall hold such discussions, admissions, concessions, and offers to settle confidential and shall not disclose them outside the negotiations without the consent of the parties participating in the negotiations..."

be able to circulate confidential internal draft documents, to brainstorm ideas or take contrary positions. If staff could not do so, we would be unable to fully develop the issues and reach a well-reasoned final position. Accordingly, the public interest in withholding these records clearly outweighs the public interest in disclosure.

C. PRA #21-514 – Seth Rosenfeld, SF Public Press

PRA #21-514 was filed on August 27, 2021, seeking the following:

- 1) All Quarterly Reports
- 2) All Exemption Requests
- 3) All Offset Requests (including retroactive Offset Requests)
- 4) All Access Provider Applications
- 5) All Advice Letters
- 6) All protests to each Exemption Request
- 7) All protests to each Offset Request
- 8) All protests to each Advice Letter
- 9) All consolidated Quarterly Reports submitted by each and every Access Fund Administrator and/or statewide Access Fund administrator. The above enumerated records are requested for all TNCs, for all geographic areas, and for the period dated from 1-1-19 to the date you complete processing this request.

On April 18, 2022, staff released all records responsive, by pointing Mr. Rosenfeld to the areas on the Commission's public website where he could locate records responsive to PRA items #1, #2, #3, #5, #6, #7, and #8, and by providing documents for item #9. Staff informed Mr. Rosenfeld that there were no records responsive to PRA item #4.

Mr. Rosenfeld appealed on April 26, 2022, re-iterating that the Commission had not conducted an adequate search for the records, the Commission had not released all reasonably segregable parts of responsive records, the request was construed in an overly narrow and reductive manner, the fact that there is an ongoing proceeding is not an exemption under the CPRA, that additional information must have become available in the last two years, that the CPRA and the state constitution require the Commission to construe this request in the broadest possible sense, that the public interest requires further disclosure of records.

As discussed in greater detail below, the Commission did conduct an adequate search for records, and has since sought out additional records as well in order to construe this request in the broadest possible sense. We are only withholding those records that are exempt from disclosure under an explicit exemption of the CPRA.

D. PRA #22-203 – Seth Rosenfeld, SF Public Press

PRA #22-203 was filed on April 11, 2022, seeking the following:

A glossary, dictionary, or record by any other name that contains definitions for the terms used in staff reports generated in the Next Request system used by the CPUC, including but not limited to the following terms:

“Fulfillment”

“Late Response”

“Overdue”

“Paused”

“No responsive documents released”

“Other government inquiry”

“Not assigned”

“Not commission regulated”

“Forwarded for review”

This request also seeks any additional information or definitions for the terms used and for how to interpret the staff reports.

On April 21, 2022, staff advised the requester that the Commission did not have any responsive records and does not answer questions in response to public records requests, but only provides records. Staff informed him that he could reach out to the Commission’s News and Outreach Office for further assistance.

Mr. Rosenfeld appealed on April 26, 2022 re-iterating that the Commission had not conducted an adequate search for the records, the Commission had not released all reasonably segregable parts of responsive records, the request was construed in an overly narrow and reductive manner, the fact that there is an ongoing proceeding is not an exemption under the CPRA, that additional information must have become available in the last two years, that the CPRA and the state constitution require the Commission to construe this request in the broadest possible sense, that the public interest requires further disclosure of records, and that even if the Commission is withholding settlement discussions, they must release reasonably segregable portions.

Again, as discussed in greater detail below, the Commission did conduct an adequate search for records, and has since sought out additional records as well in order to construe this request in the broadest possible sense. We are only withholding those records that are exempt from disclosure under an explicit exemption of the CPRA

II. Legal Background

Pursuant to California Public Utilities (“PU”) Code Sections 314.5, 314.6, 581, and 584, the Commission has statutory authority to inspect and audit the books and records of the utilities to ensure that ratepayers’ money is well spent. Pub. Util. Code Section 314.5 specifies that the Commission shall inspect and audit the books and records for regulatory and tax purposes at least once every three years for utilities serving over 10,000 customers and at least once every five years for utilities serving 10,000 or fewer customers. Pub. Util. Code Section 314.6(a) states that “the Commission may conduct financial and performance audits of any entity or program created by any order, decision, motion, settlement, or other action of the Commission.” Finally, the Commission has authority under Pub. Util. Code Sections 581 through 591 and General Order 104-A to require public utilities to provide reports as specified by the Commission.

Once records are furnished to the Commission, they are “public records” as defined by the California Public Records Act (“CPRA”).¹¹ The California Constitution, the CPRA, and discovery law favor disclosure of public records. The public has constitutional and statutory rights to access most government information.¹² Agencies must justify withholding a public record in response to a CPRA request on the basis of specific exemptions in the CPRA or upon a showing that on the facts of the particular case the public interest in nondisclosure clearly outweighs the public interest in disclosure.¹³

¹¹ Cal. Gov’t. Code § 6250, *et seq.*

¹² See, e.g., *National Lawyers Guild, San Francisco Bay Area Chapter v. City of Hayward* (2020) 9 Cal.5th 488, 492: “The California Public Records Act (PRA) establishes a right of public access to government records. “...the PRA was enacted for the purpose of increasing freedom of information by giving members of the public access to records in the possession of state and local agencies.” (*Los Angeles County Bd. of Supervisors v. Superior Court* (2016) 2 Cal.5th 282, 290). In enacting the statute in 1968, the Legislature declared this right of access to be “a fundamental and necessary right of every person in this state” (Gov. Code, § 6250)—a declaration ratified by voters who amended the California Constitution in 2004 to secure a “right of access to information concerning the conduct of the people’s business” (Cal. Const., art. I, § 3, subd. (b)(1). (See *Los Angeles County Bd. of Supervisors*, at p. 290.);” *Sierra Club v. Superior Court* (2013) 57 Cal.4th 157, 166-167: “‘Given the strong public policy of the people’s right to information concerning the people’s business (Gov. Code § 6250), and the constitutional mandate to construe statutes limiting the right of access narrowly (Cal. Const., art. I, § 3, subd. (b)(2)), ‘all public records are subject to disclosure unless the Legislature has *expressly* provided to the contrary.’” (*Office of Inspector General v. Superior Court* (2010) 189. Cal.Ap.4th 695, 709, quoting *Williams v. Superior Court* (1993) 5 Cal.4th 337, 346, italics added by the Court of Appeal;” *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 617.

¹³ Cal. Gov’t. Code § 6255(a). The fact that a record may fall within a CPRA exemption does not preclude its disclosure. *Modified Presiding Officer’s Decision Finding the San Francisco Municipal*

Subpoenas and other forms of discovery are subject to the California Code of Civil Procedure and the California Evidence Code. Discovery laws also favor disclosure.¹⁴ Statutes, court rules, and other authority limiting access to information must be broadly construed if they further the people's right of access, and narrowly construed if they limit the right of access.¹⁵ New statutes, court rules, or other authority that limit the right of access must be adopted with findings demonstrating the interest protected by the limitation and the need to protect that interest.¹⁶

Additionally, the CPRA authorizes California agencies to adopt regulations stating the procedures to be followed when making its records available, and requires named California agencies, including the commission, to adopt guidelines for accessibility of records, i.e., as to their execution of the CPRA.¹⁷ The Commission has implemented its responsibility under California Government Code Section 7922.640, by adopting guidelines for public access to Commission records. These guidelines are embodied in the Commission's General Order (G.O.) 66-D.

G.O. 66-D Section 5.5 provides that before releasing information in response to a CPRA request, or in any other context, Legal Division will determine whether the information submitter has established a lawful basis of confidentiality. The procedures outlined in G.O. 66-D govern this Resolution.

Transportation Agency in Contempt, in violation of Rule 1.1 of the Commission's Rules of Practice and Procedures ("SFMTA") (2015) Decision ("D.") 15-08-032, at 18: "CPRA exemptions are permissive rather than mandatory; they allow nondisclosure but do not prohibit disclosure. (*CBS, Inc. v. Block* (1986) 42 Cal.3d 646, 652; *Re San Diego Gas and Electric Company* (1993) D.93-05-020). [Footnote: 49 CPUC 2d 241, at 242.]" See also, *Marken v. Santa Monica-Malibu Unified School District* (2012) 202 Cal.App.4th 1250, 1261-1262; *Register Div. of Freedom Newspapers, Inc. v. County of Orange* (1984) 158 Cal.App.3d 893, 905; *Black Panthers v. Kehoe* (1974) 42 Cal.App.3d 645, 656; Cal. Gov't. Code § 6253(e): "Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter."; and the penultimate sentence in Cal. Gov't. Code § 6254: "This section does not prevent any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law."

¹⁴ Cal. Evid. Code § 911 states that: "Except as otherwise provided by statute: ... (b) No person has a privilege to refuse to disclose any matter or to refuse to produce any writing, ... [and] (c) No person has a privilege that another shall not ... disclose any matter or shall not produce any writing." Withholding information must generally be based upon a statutory prohibition, privilege, or similar protection against disclosure.

¹⁵ Cal. Const. Article I, § 3(b)(2).

¹⁶ *Id.*

¹⁷ Cal. Gov. Code §§ 6253.4(a), 6253.4(b)(28). Cal. Gov. Code § 6253.4(c) states that: "Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public."

III. PRAs for which we provided all existing records

The bases for the appeals of PRAs #20-29, #21-514 and #22-203 are unclear, since the Legal Division provided all records responsive to PRA #20-29 and PRA #21-514, and informed the requester that the commission had no responsive records in PRA #22-203. We simply re-iterate here that the commission has provided all existing responsive records, and affirm that the Legal Division conducted an adequate search for records as to all of the PRAs above.

A. Adequate search for records

Unless a records request is overbroad or unduly burdensome, agencies are obliged to disclose all records they can locate “with reasonable effort.”¹⁸ Reasonable efforts do not require that agencies undertake extraordinarily extensive or intrusive searches, however.¹⁹ In general, the scope of an agency's search for public records “need only be reasonably calculated to locate responsive documents.”²⁰

The CPRA does not prescribe specific methods of searching for those documents. It is not the case that any particular search method is required or necessarily adequate.²¹ Further, agencies may develop their own internal policies for conducting searches. Some general principles have emerged, however. Once an agency receives a CPRA request, it must “communicate the scope of the information requested to the custodians of its records,” although it need not use the precise language of the request.²² As to requests seeking public records held in employees' nongovernmental accounts, an agency's first step should be to communicate the request to the employees in question. The agency may then reasonably rely on these employees to search their own personal files, accounts, and devices for responsive material.²³

Here, for PRAs #20-29, #20-210, #21-514, and #22-203, staff in the Legal Division Public Records Office contacted staff in the transportation section and requested all relevant records. Transportation staff then provided all relevant records which were then reviewed by the public records office staff. Public records office staff released the majority of records or pointed the requester to the portions of the Commission's website,

¹⁸ *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159, 166.

¹⁹ See *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 453; *Bertoli v. City of Sebastopol* (2015) 233 Cal.App.4th 353, 371-372.

²⁰ *American Civil Liberties Union of Northern Cal. v. Superior Court* (2011) 202 Cal.App.4th 55, 85; see *Community Youth*, supra, 220 Cal.App.4th at p. 1420.

²¹ *City of San Jose v. Superior Court*, 2 Cal.5th 608 at p. 627.

²² *Community Youth*, supra, 220 Cal.App.4th at p. 1417.

²³ *City of San Jose v. Superior Court* (2017), 2 Cal.5th 608 at p. 627.

if responsive records were already publicly available and accessible, and withheld a small number of records under specific exemptions of the CPRA. In PRA #20-210, since the requester sought emails as well, public records office staff also submitted an email search request to the Commission's Information Technology ("IT") staff, which returned 537 responsive records. Public records office staff then reviewed these records to see whether they were subject to one or more CPRA exemptions, releasing 381 emails and withholding 156, in addition to a small number of documents that transportation staff had turned over, but which were drafts and not intended for public release. In addition, after these appeals, we have re-done the email searches and returned an additional 38 emails which we are disclosing concurrently with this Resolution, though we are still withholding a number under the settlement privilege.

PRAs for which we withheld records

In PRA #20-210 Legal Division public records staff found 537 responsive records, released 381 emails and withheld 156 exempt communications that were exempt settlement discussions pursuant to Commission Rules of Practice and Procedure Rule 12.6, draft exemptions under the Cal. Gov. Code Sec. 6254(a), or information provided under seal and/or confidentially to a public employee in the course of their duty, and thus subject to the official information privilege Cal. Evid. Code Sec. 1040 and therefore exempt from disclosure in response to records requests, pursuant to Cal. Gov't Code Sec. 7927.705²⁴. We also withheld a small number of internal draft documents produced by Commission staff that were not intended for public release under Cal. Gov't Code Sec. 7927.500 and 7922.000.

B. Reasonably segregable

Cal. Gov. Code Section 7922.525, subdivision (a), provides, "... Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law." As a general principle, "'where nonexempt materials are not inextricably intertwined with exempt materials and are otherwise reasonably segregable therefrom, segregation is required to serve the objective of the [CPRA] to make public records available for public inspection and copying unless a particular statute makes them exempt.' The burden of segregating exempt from nonexempt materials, however, remains one of the considerations which the court can take into account in determining whether the public interest favors disclosure under section 6255 [now 7922.000]."²⁵

²⁴ California Government Code § 7927.705 exempts from disclosure: "Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege."

²⁵ *American Civil Liberties Union Foundation v. Deukmejian* (1982) 32 Cal.3d 440, 446, fn. 6, 186 Cal. Rptr. 235, 651 P.2d 822.

As a general principle, where nonexempt materials are not inextricably intertwined with exempt materials and are otherwise reasonably segregable therefrom, segregation is required to serve the objective of the CPRA to make public records available for public inspection and copying unless a particular statute makes them exempt.²⁶

Upon review, we believe Legal Division public records staff should have released the reasonably segregable portions of any withheld records, and we will in this Resolution order the release of any reasonably segregable portions of any withheld records

SUMMARY

Based on the foregoing analysis, we conclude that Leal Division public records staff properly conducted an adequate search for records, and properly released most records, withholding those that were exempt from disclosure under an exemption in the CPRA. However, we also find that reasonably segregable portions of emails should have been produced, and are in this Resolution ordering staff to produce them now.

NOTICE AND COMMENTS ON DRAFT RESOLUTION

In accordance with Cal. Pub. Util. Code § 311(g), the Draft Resolution was mailed to the parties on December 9, 2022. Mr. Rosenfeld filed comments on January 2, 2023. No reply comments were filed.

Mr. Rosenfeld states that this Resolution is internally inconsistent as it states that records were properly withheld, but also notes we will be releasing additional records.

Mr. Rosenfeld also states that he believes there to be records available for PRA #22-203. He states that records have been withheld for three years which he notes is too long. Mr. Rosenfeld additionally states that he believes the deliberative process privilege does not apply to records withheld for PRA #20-29. Mr. Rosenfeld submits that the Commission should have released these emails three years ago. And finally, Mr. Rosenfeld requested that the Commission search additional emails related to the advice letters for PRA #21-514.

In response, the Commission is not being internally inconsistent by stating we properly conducted our searches and properly withheld the records we withheld, and at the same time we conducted additional searches and are releasing additional records here.

²⁶ Cal. Gov't Code § 6253(a); *Humane Society of U.S. v. Superior Court* (2013) 214 Cal.App.4th 1233 at p. 1274.

As to PRA #22-203 we do not have any records detailing the definition of the terms within NextRequest that you are seeking, and we are not required to create new records for you. As to PRA #20-29, we are releasing 391 additional emails/documents, and withholding 19 emails under the deliberative process privilege,²⁷ attorney-client privilege,²⁸ mediation exemption,²⁹ personal information exemption,³⁰ and public interest exemption.³¹ As to PRA #20-210, we have already released 381 records, and we are here releasing 38 additional emails. We did an additional search for records and located more for PRA #21-514. We are here releasing the access provider applications and all emails responsive to your PRA #21-514.

FINDINGS OF FACT

1. Commission staff properly conducted an adequate search for records in PRAs #20-29, #20-210, #21-514, and #22-203.
2. Commission staff properly released most records and withheld some records that were exempt from production under an explicit exemption in the CPRA.
3. Commission staff should have released reasonably segregable portions of documents that they withheld.

CONCLUSIONS OF LAW

1. The documents in the requested Commission's investigation file and report are public records as defined by Cal. Gov't. Code § 6250, *et seq.*
2. The California Constitution favors disclosure of governmental records by, among other things, stating that the people have the right of access to information concerning the conduct of the peoples' business.
3. The California Constitution requires that authority favoring disclosure be broadly construed, and that authority limiting disclosure be construed narrowly; and that any new statutes, court rules, or other authority limiting disclosure be supported by findings determining the interest served by keeping information from the public and the need to protect that interest. Cal. Const. Article I, §§ 3(b)(1) and (2).
4. The general policy of the CPRA favors disclosure of records.
5. Justification for withholding a public record in response to a CPRA request must be based on specific exemptions in the CPRA or upon a showing that, on the facts of a

²⁷ See note 2.

²⁸ See note 3.

²⁹ See note 4.

³⁰ See note 5.

³¹ See note 7.

particular case, the public interest in nondisclosure clearly outweighs the public interest in disclosure. Cal. Gov't. Code § 6255.

THEREFORE, IT IS ORDERED THAT:

1. The request for additional records is denied, as the search for records was adequate.
2. All documents withheld were properly withheld under an exemption of the CPRA.
3. Reasonably segregable portions of withheld documents shall be released to the requester.

This Resolution is effective today.

I certify that this Resolution was adopted by the California Public Utilities Commission at its regular meeting of February 23, 2023, and that the following Commissioners approved it:

Rachel Peterson,
Executive Director