

**PUBLIC UTILITIES COMMISSION**

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298

December 12, 2024

**Agenda ID #23155**  
**Quasi-Legislative**

~~TO PARTIES OF RECORD IN RULEMAKING 24-05-022:~~

~~This is the proposed decision of Commissioner Baker. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's January 16, 2025, Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.~~

~~Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.~~

~~/s/ MICHELLE COOKE~~

~~Michelle Cooke~~

~~Chief Administrative Law Judge~~

MLC: asf

Attachment

CMR/MBK/asf

**PROPOSED DECISION** Agenda ID #23155 [\(Rev. 1\)](#)

Quasli-Legislative

[1/16/2025 Item #11](#)

[Decision](#)

~~Decision **PROPOSED DECISION OF COMMISSIONER BAKER (Mailed**~~

~~**12/12/2024)**~~

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

Order Instituting Rulemaking to  
Modify General Order 66-D.

Rulemaking 24-05-022

**DECISION ADOPTING REVISIONS TO GENERAL ORDER 66-D**

**Summary**

This decision adopts Revision 3 to General Order 66-D to incorporate substantive changes limited to California Public Records Act responses and non-substantive changes to reflect the statutory renumbering of the California Public Records Act. Revision 3 to General Order 66-D supersedes Revision 2 of General Order 66-D. The specific revisions to General Order 66-D adopted by this decision are reflected in Appendix A to this decision.

The proceeding is closed.

**4.1. Background**

General Order (GO) 66-D governs, in part, the Commission’s process to respond to requests for information under the California Public Records Act

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(CPRA).<sup>1</sup> The Commission adopted Revision 1 to GO 66-D on January 31, ~~2019~~,<sup>2</sup> and Revision 2 on August 27, ~~2020~~.<sup>3</sup>

On June 10, 2024, the Commission issued this Order Instituting Rulemaking (OIR) to consider one issue: Is it reasonable to modify Section 6 of GO 66-D as it relates to the CPRA, and, if so, what should those modifications be?<sup>4</sup> The Commission provided proposed GO 66-D modifications in an Attachment to the OIR.

On July 10, 2024, Pacific Gas and Electric Company, Southern California Edison Company, San Diego Gas & Electric Company, and Southern California Gas Company (collectively referred to as the Joint Investor-Owned Utilities), the California Water Association (CWA), and CTIA – The Wireless Association (CTIA) filed opening comments. No party filed reply comments.

On August 22, 2024, the assigned Commissioner issued the Scoping Memo and Ruling (Scoping Memo) confirming the scope of this proceeding to the one issue in the proceeding and determining that opening comments on the OIR sufficiently addressed the issue and that no further proceeding events were required.

#### **1.1.1. Submission Date**

This matter was submitted on August 22, 2024, upon issuance of the Scoping Memo.

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<sup>1</sup>[Government Code \(Gov. Code\) §§ 7920.000, et seq.](#)

<sup>1</sup>~~[Government Code \(Gov. Code\) §§ 7920.000, et seq.](#)~~

<sup>2</sup>~~[Decision \(D.\) 19-01-028 \(adopting General Order \(GO\) 66-D, Rev. 1\).](#)~~

<sup>3</sup>~~[D.20-08-031; see also D.21-09-020 \(correcting GO 66-D to reflect second revision\).](#)~~

<sup>4</sup>~~[OIR at 2.](#)~~

<sup>2</sup>Decision (D.) 19-01-028 (adopting General Order (GO) 66-D, Rev. 1).

<sup>3</sup>D.20-08-031; *see also* D.21-09-020 (correcting GO 66-D to reflect second revision).

<sup>4</sup>OIR at 2.

## **2.2. Issues Before the Commission**

This decision considers one issue: Is it reasonable to modify Section 6 of GO 66-D as it relates to the CPRA, and, if so, what should those modifications be?

## **3.3. Changes to GO 66-D**

The OIR sought comment regarding whether the Commission should adopt the proposed non-substantive and substantive modifications to GO 66-D, provided as the Attachment to the OIR. The non-substantive modifications reflect the CPRA's statutory renumbering in the Government Code, operative January 1, 2023, from Section 6250, *et seq.* to Section 7920.000, *et seq.*<sup>55</sup> The substantive changes are limited to Section 6 of GO 66-D regarding the Commission's process for CPRA responses. The language proposed in the OIR is as follows:

(6.1) Resolutions: If the Public Records Office, Legal Division, prepares a draft resolution granting or denying, in whole or in part, the CPRA request per Section 5.5(b), (c), or (d), then:

**a.a.** The Commission will serve the draft resolution on both the information submitter and information requestor (except for the scenario identified in Section 5.5(d) where there is not an information submitter, because the Commission created the information).

**b.b.** The Commission will release the draft resolution for **30-days** public review and comment pursuant to Pub. Util. Code § 311(g)(1) and Rule 14.5 of the Commission's Rules. **If all parties stipulate to a reduced or waived public review and comment period, pursuant to Pub. Util. Code § 311(g)(2), they can so inform the Public Records Office by indicating the reduction or waiver on the Public Information Appeal Form.**

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<sup>55</sup>~~*Id.* at n.2.~~

5/d. at n.2.

~~e.c.~~ The Commission shall not release such information pending the adoption of the resolution provided for in this section.

~~d.d.~~ **If there has been no Resolution by the Commission on the request for documents after 120 days from the date of the filing of the Public Information Appeal Form, any challenge by an information requestor may be deemed as a Resolution denying the request.**

6.2 Applications for Rehearing. To challenge a Commission resolution, which disposes of the appeal of staff action, a party may file an Application for Rehearing pursuant to Pub. Util. Code § 11731 and Rule 16.1 of the Commission’s Rules of Practice and Procedure. Per Pub. Util. Code § 1732, the Application for Rehearing shall set forth specifically the ground or grounds on which the applicant considers the decision to be unlawful and no corporation or person shall in any court urge or rely on any ground not so set forth in the application.

On July 10, 2024, the Joint Investor-Owned Utilities, CWA, and CTIA commented on the Commission’s proposed changes to GO 66-D. The Joint Investor-Owned Utilities supported the Commission’s proposal and urged the Commission to adopt the modification to Sections 6.1(b) and 6.1(d).<sup>66</sup> CWA did not object to the revisions if the Commission maintains the existing Section 6.1(c), “such that it will not release such information pending the adoption of the resolution and such that information will not be released until any disputes are substantive[ly] addressed.”<sup>77</sup>

CTIA recommended three modifications to the Commission’s proposal. First, CTIA recommended that the Commission clarify the proposed language in Section 6.1(d), which states, “any challenge by an information requestor may be

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~~<sup>6</sup>Joint Utilities Opening Comments on OIR at 1-2.~~

~~<sup>7</sup>CWA Opening Comments on OIR at 2.~~



6 Joint Utilities Opening Comments on OIR at 1-2.

7 CWA Opening Comments on OIR at 2.

deemed as a Resolution denying the request.”<sup>88</sup> CTIA urged the Commission to state explicitly whether it intends to deem an information requestor’s challenge denied after a certain period and to clarify the term “challenge” so it harmonizes with the rest of GO 66-D.<sup>99</sup>

Second, CTIA recommended that the Commission clarify what events must occur before a denial of a Public Information Appeal.<sup>1010</sup> According to CTIA, the Commission’s proposal is unclear as to whether the Legal Division’s issuance of a draft resolution and the Commission’s approval must both occur within 120 days after the Public Information Appeal Form is filed.<sup>1111</sup> CTIA stated that the Commission should clarify when the 120-day deemed denial period begins, and what event must occur to avoid a deemed denial.<sup>1212</sup>

Third, CTIA recommended that the Commission clarify whether the proposed deletion of Section 6.2 abrogates a party’s right to apply for rehearing under Public Utilities Code Section 1731 and Rule 16.1 of the Commission’s Rules of Practice and Procedure.<sup>1313</sup>

Based on our review of the parties’ comments, we clarify the process described in the proposed modifications to GO 66-D initially provided as the Attachment to the OIR. In response to CTIA’s recommendations, we clarify Section 6.1(d) to explicitly state that we will deem an information requestor’s challenge denied within 120 days of the proper filing of the Public Information

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<sup>8</sup> ~~CTIA Opening Comments on OIR at 1-2.~~

<sup>9</sup> ~~Id. at 2.~~

<sup>10</sup> ~~Ibid.~~

<sup>11</sup> ~~Ibid.~~

<sup>12</sup> ~~Ibid.~~

<sup>13</sup> ~~Id. at 2-3.~~

<sup>8</sup>CTIA Opening Comments on OIR at 1-2.

<sup>9</sup>Id. at 2.

<sup>10</sup>Ibid.

<sup>11</sup>Ibid.

<sup>12</sup>Ibid.

<sup>13</sup>Id. at 2-3.

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Form. We described the process for petitioning for review or applying for rehearing in Section 6.1(e). We also have removed the term “challenge” and clarified the sequence of events. Finally, we confirm that an information requestor retains the option of applying for rehearing within 30 days of the Commission’s denial of a Public Information Appeal.

In response to CWA’s comment, we will maintain Section 6.1(c), which prohibits the Commission from releasing “such information pending the adoption of the resolution provided for in this section.”

Finally, we deleted the proposed changes to Section 6.1(b) because they are duplicative of the referenced statutory language and hence unnecessary.

With these clarifications, we revise Section 6 of GO 66-D relating to the Commission’s process for CPRA responses and adopt the non-substantive and substantive revisions to GO 66-D, which are reflected in the attached Appendix A.

#### **4.4. Summary of Public Comment**

Rule 1.18 allows any member of the public to submit written comments in any Commission proceeding using the “Public Comment” tab of the online Docket Card for that proceeding on the Commission’s website. Rule 1.18(b) requires that relevant written comments submitted in a proceeding be summarized in the final decision issued in that proceeding. There are no public comments in the Docket Card for this proceeding.

#### **5.5. Procedural Matters**

This decision affirms all rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding. All motions not ruled on are deemed denied.

#### **6.6. Comments on Proposed Decision**

The proposed decision of ~~Administrative Law Judge Andrea D. McGary~~[Commissioner Matthew Baker](#) in this matter was mailed to the parties in

accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure.

~~Comments were filed on \_\_\_\_\_, and reply~~The Commission did not receive  
any comments ~~were filed on \_\_\_\_\_ by \_\_\_\_\_ on the~~  
proposed decision.

### **7.7. Assignment of Proceeding**

Matthew Baker is the assigned Commissioner and Robyn Purchia is the assigned Administrative Law Judge in this proceeding.

### **Findings of Fact**

~~1.1.~~ The Commission adopted Revision 1 to GO 66-D on January 31, 2019, and Revision 2 on August 27, 2020.

~~2.2.~~ Operative January 1, 2023, the CPRA was renumbered in the Government Code, from Section 6250, *et seq.* to Section 7920.000, *et seq.*

~~3.3.~~ Section 6 of GO 66-D governs the Commission's response to requests for information under the CPRA.

~~4.4.~~ It is reasonable to revise GO 66-D to incorporate certain substantive changes related to CPRA responses and non-substantive changes to reflect the statutory renumbering of the CPRA.

### **Conclusions of Law**

~~1.1.~~ GO 66-D should be revised to reflect the statutory renumbering of the CPRA in the Government Code.

~~2.2.~~ Section 6 of GO 66-D relating to the Commission's process for CPRA responses should be revised.

~~3.3.~~ The non-substantive and substantive revisions to GO 66-D, which are reflected in the attached Appendix A, should be adopted.

~~4.4.~~ All rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding should be affirmed.

~~5.5.~~ All motions not ruled on to date should be denied.

~~6.6.~~ This proceeding should be closed.

~~ORDER~~

ORDER

**IT IS ORDERED** that:

~~1.1.~~ The Revision 3 to General Order 66-D, as reflected in Appendix A of this decision, is adopted, and General Order 66-D is modified as provided therein.

~~2.2.~~ General Order 66-D, Revision 3, shall replace General Order 66-D, Revision 2, on the Commission's website as the currently effective General Order.

~~3.3.~~ All rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding are affirmed.

~~4.4.~~ All motions not ruled on to date are denied.

~~5.5.~~ Rulemaking 24-05-022 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California

# APPENDIX A

**GENERAL ORDER NO. 66-D**  
**Revision 3(Supersedes General Order No. 66-D, Revision 2)**

**PROCEDURES FOR (1) SUBMISSION OF INFORMATION TO THE CALIFORNIA PUBLIC UTILITIES COMMISSION WITH CLAIMS OF CONFIDENTIALITY, (2) SUBMISSION OF REQUEST PER THE CALIFORNIA PUBLIC RECORDS ACT, AND (3) THE RELEASE OF ANY INFORMATION BY THE COMMISSION, INCLUDING PURSUANT TO THE CALIFORNIA PUBLIC RECORDS ACT**

Adopted June 5, 1974; Effective June 5, 1974. Resolution No. L-151.  
Amended June 25, 1974; Effective June is, 1974. Resolution No. DE 120.  
Amended May 4, 1982; Effective May 4, 1982. Resolution No. L-224.  
Amended September 28, 2017, effective January 1, 2018. Decision 17-09-023.  
Modified by Revision 1 effective January 31, 2019. Decision 19-01-028.  
Modified by Revision 2 effective August 27, 2020. Decision 20-08-031, as corrected by Decision 21-09-020.  
Modified by Revision 3 effective [date]. Decision 24-XX-XXX

**1. Definitions and Acronyms**

- (1.1) “Commission” includes the Commission; each commissioner; any person employed by the Commission; which includes the Office of Ratepayer Advocates, Safety and Enforcement Division, and Office of Safety Advocate.
- (1.2) “Confidential Matrices” is a term describing a Commission determination that specific classifications of information are confidential per Section 3.4 of this GO. The determination is made prior to the submission of such information and applies broadly to a classification of information.
- (1.3) “CPRA” is an acronym for California Public Records Act (Section 6250 et seq. of the Government Code).
- (1.4) “GO” is an acronym for General Order.
- (1.5) “Information” includes but is not limited to, any document, record, account, book, or paper regardless of whether it is in an analog or digital format, which is prepared, owned, used, submitted to or retained by the Commission.



- (1.6) "Information Submitter" includes any person or entity submitting information to the Commission.
- (1.7) "Information Requestor" includes any person or entity requesting information from the Commission per the CPRA.
- (1.8) "Modified D.06-06-066" is a citation to Decision 06-06-066, as modified by D.07-05-032, which addresses confidentiality in the context of energy procurement information.
- (1.9) "Public Records Office" is the portion of the Commission Legal Division assigned to process claims of confidentiality and responses to CPRA requests.

## **2. Statement of Liability For Non-Compliance**

(2.1) Compliance with all Commission Orders is subject to Public Utilities Code Sections 702 and the penalty provisions in the Public Utilities Code including but not limited to, Sections 2107, 2107.5, 2108 2110, 2111, 2112, 2113, and 2114 and Rule 1.1 of the Commission's Rules. Non-compliance by a person, corporation, and/or organization with this GO may be referred to the Commission's General Counsel and/or law enforcement for further action.

## **3. The Submission of Information with a Claim of Confidentiality to the Commission**

(3.1) **Applicability:** This section applies to information submitted to the Commission on or after January 1, 2018. Information submitted between September 25, 2016, and December 31, 2017, is governed by D.16-08-024. Where D.16-08-024 references future decisions in R.14-11-001, this GO shall apply. Information submitted prior to September 25, 2016, is subject to GO 66-C or its predecessors.

(3.2) **Submission of Information with a Claim of Confidentiality:** An information submitter bears the burden of proving the reasons why the Commission shall withhold any information, or any portion thereof, from the public. To request confidential treatment of information submitted to the Commission, an information submitter must satisfy all of the following requirements:

- a) If confidential treatment is sought for any portion of information, the information submitter must designate each page, section, or field, or any portion thereof, as confidential. If only a certain portion of information is claimed to be confidential, then only that portion rather than the entire submission should be designated as confidential.
- b) Specify the basis for the Commission to provide confidential treatment with specific citation to an applicable provision of the CPRA.

A citation or general marking of confidentiality, such as "GO-66" and/or "Public Utilities Code Section 583" without additional justification of confidentiality does not satisfy the information submitter's burden to establish a basis for confidential treatment by the Commission.

If the information submitter cites Government Code Section 7922.000 (commonly known as the public interest balancing test) as the legal authority for the Commission to withhold the document from public release, then the information submitter must demonstrate with granular specificity on the facts of the particular information why the *public* interest served by not disclosing the record clearly outweighs the *public* interest served by disclosure of the record. A *private* economic interest is an inadequate interest to claim in lieu of a *public* interest. Accordingly, information submitters that cite Section 7922.000 as the basis for the Commission to withhold the document and rest the claim of confidentiality solely on a *private* economic interest will not satisfy the requirements of this Section. To invoke the administrative processes described in Sections 5 and 6, the information submitter must satisfy the requirements of this Section.

If the information submitter cites Government Code Section 7927.705 (which allows information to be withheld when disclosure of it is prohibited by federal or state law), it must also cite the applicable statutory provision and explain why

the specific statutory provision applies to the particular information.

An information submitter may not cite Government Code Section 7922.000 as the legal authority to establish a basis for confidential treatment by the Commission, because Section 7922.000 does not apply to any communication between the Commission and a member of the public.

If the information submitter asserts that the submitted information is confidential because it is critical infrastructure information, the submitter must make a detailed showing that the subject information: (1) is not customarily in the public domain by providing a declaration in compliance with Section 3.2(c) stating that the subject information is not related to the location of a physical structure that is visible with the naked eye or is available publicly online or in print; **and** (2) the subject information either: could allow a bad actor to attack, compromise or incapacitate physically or electronically a facility providing critical utility service; or discusses vulnerabilities of a facility providing critical utility service.

c) Provide a declaration in support of the legal authority cited in Section 3.2(b) of this GO signed by an officer of the information submitter or by an employee or agent designated by an officer. The officer delegating signing authority to an employee or agent must be identified in the declaration.

d) Provide a name and email address of the person for the Commission to contact regarding the potential release of information by the Commission per Section 5 of this GO. An information submitter may designate as many as three people by name and email address for all document submissions to the Commission. Failure of the information submitter to monitor and respond to Commission communications to the designated email address(es) does not preclude release of information per Section 5 of this GO. There is no requirement for the Commission staff to contact each name provided. To change the designated email address and contact name, an information submitter shall send a letter to:

Public Records Office, Legal Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

There are limited circumstances when the requirements of this Section do not apply. First, information subject to the requirements of Modified D.06-06-066 is exempted from the requirements of this Section and may continue to be submitted consistent with the requirements of that decision. Second, valid submission of information per Section 3.3 (submission in a formal proceeding) and Section 3.4 (submission consistent with a determination of confidentiality in a decision) of this GO is exempted from the requirements of this Section.

If an information submitter satisfies the requirements in this Section, then the Commission will evaluate the legal authority for the Commission to withhold the document from the public per the process established in Sections 5 and 6 of this GO. Unless information is submitted in accordance with Section 3.2-3.4, information submitted in non-compliance with this Section, may be released to the public per Section 5.2.

**(3.3) Submissions in a Formal Proceeding:** The requirements of Section 3.2 of this GO do not apply when a party in a formal proceeding files information in the docket. To obtain confidential treatment of information to be filed in the docket of a formal proceeding, the information submitter must file a motion pursuant to Rule 11.4 of the Commission's Rules, or comply with a process established by the Administrative Law Judge for that specific proceeding. Please note that advice letters are not part of formal proceedings and thus confidentiality for information in advice letters shall be governed by the process in Section 3.2 or 3.4.

**(3.4) Preemptive Determination of Confidentiality in a Decision:**

- a) The Commission may adopt confidential matrices which preemptively designate certain information as confidential or

public in a decision. Information submitted to the Commission per this Section shall clearly designate the relevant decision adopting the applicable confidential determination. If the information is appropriately identified as being preemptively determined to be confidential, the Commission will not release information in response to a CPRA, unless by order of the Commission. The Commission's general determination that a classification of information in a confidential matrix is confidential may only be challenged by filing an Application for Rehearing or a Petition to Modify of the Commission decision adopting the confidential matrix. The Commission's specific determination of whether particular information qualifies for confidential treatment per a confidential matrix adopted by the Commission may be challenged per Sections 5.5 and 6.

- b) In addition, in any proceeding in which the Commission issues a decision requiring the submission of information, the Commission may make a determination of whether the information required by the decision will be treated as public or confidential. In such an instance the Commission will:
- i. Identify the type of information to be submitted, and
  - ii. Provide an analysis of the legal authority for the Commission to provide confidential treatment to the specific information.

Information submitted to the Commission per this Section should clearly designate the relevant decision containing the confidential determination. Any party may challenge the confidentiality determination of the decision by filing an Application for Rehearing or Petition to Modify. The determination of confidentiality in a decision governs the release of the information to the public, including in response to a CPRA request. Any determination to treat certain information as confidential is limited to the particular information required to be submitted in that decision and

does not constitute a decision of more general applicability made pursuant to Section 3.4(a).

If the Commission has made a determination in another General Order regarding confidentiality, an information submitter may cite that General Order. In such instances the process in Sections 5.5 and 6 will apply.

**(3.5) Confidential Treatment Unavailable for Public Information:** A request for the Commission to provide confidential treatment of information per Sections 3.2 - 3.4 of this GO, which is already public, will not be granted. An information submitter requesting confidential treatment must make reasonable steps to maintain the information confidentially and in the event an information submitter becomes aware that the information is public, the information submitter must so inform the Commission in a timely manner.

#### **4. California Public Records Act Requests**

**(4.1) Submission of California Public Record Act Requests:** A CPRA request for information from the Commission can be made in four ways. First, CPRA requests can be submitted to the Public Records Office, Legal Division, by using the electronic Public Records Request Form available at [publicrecords.cpuc.ca.gov /](http://publicrecords.cpuc.ca.gov/). Second, a request can be submitted by U.S. mail by mailing a request to:

Public Records Office, Legal Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Third, a request can be submitted by email or phone to a Commission employee. And lastly, a request may be submitted in person to the Public Records Office. Before submitting a request, please check to see if the information is available from the Commission's website, <https://publicrecords.cpuc.ca.gov/requests>. The Commission will process a CPRA request per this GO regardless of how it is titled.

**(4.2) Fees for Copies:** Fees may be assessed consistent with the CPRA. Checks for payment should be made payable to the Public Utilities

Commission of the State of California. Information requestors may request fees to be waived when submitting a request.

**(4.3) Review of CPRA Requests:** Requests will be reviewed and processed by the Public Records Office per Sections 5 and 6 of this GO. The Office will promptly notify the person making the request of the determination of whether the information is disclosable, in accordance with Government Code Section 7922 of the CPRA. If information is withheld, the provisions of Sections 5 and 6 of this GO shall apply.

**(4.4) Exemptions to Disclosure Per the CPRA:** Information in possession of the Commission is available for public inspection unless deemed to be exempt by the Commission from inspection pursuant to the exemptions in the CPRA (Government Code Sections 7920.000-7930.215, et seq., except Section 7927.500 which does not apply to information submitted by regulated entities and the public).

## **5. Guidelines for the Commission's Release of Information to the Public**

**(5.1) Scope:** This section defines when information submitted to the Commission and information created by the Commission may be released to the public, including in response to CPRA requests.

In instances when the Commission receives a subpoena, it will review claims of confidentiality consistent with lawful claims of privileges and applicable law.

**(5.2) Release of Information with No Claim of Confidentiality:**

Information submitted to the Commission with no claim of confidentiality at all may be released to the public without further action by the Commission, unless the Commission withholds the information per an exemption of the CPRA. This provision applies regardless of the date the information was submitted to the Commission. Information created by the Commission may be released to the public without further action by the Commission, unless the Commission withholds the information per an exemption of the CPRA.

**(5.3) Release of Information with Claims of Confidentiality:** The determination of rules applicable for the release of information submitted to the Commission with a claim of confidentiality will be based on the date of submission to the Commission. Section 5.4 of this GO governs the release of information with a claim of confidentiality

submitted prior to January 1, 2018. Section 5.5 of this GO governs the release of information with a claim of confidentiality submitted on or after January 1, 2018.

If the Commission withholds the information created by the Commission per an exemption of the CPRA, then Section 5.5 of this GO will govern the release of information.

#### **(5.4) Information with a Claim of Confidentiality Submitted Prior to the Effective Date of this GO**

**a) Information Submitted per the Requirements of Modified D.06-06-066:** This section applies when the Commission seeks to release information submitted to the Commission as confidential pursuant to the requirements of Modified D.06-06-066 after the effective date of that decision, and that are in compliance with the requirements of that decision. Such information will only be released, including in response to CPRA requests, after the applicable time period set forth in Modified D.06-06-066. After the expiration of the applicable time period, or if the submission does not comply with the requirements of Modified D.06-06-066, such information may be released by Commission staff.

**b) Information Submitted Prior to September 25, 2016; not per the Requirements of Modified D.06-06-066:**<sup>1</sup> This section applies when the Commission seeks to release information submitted prior to September 25, 2016, including in a response to a CPRA request, and the document submitter simply marked the information confidential, or invoked Section 583 or

General Order 66-C, without more information to substantiate the claim of confidentiality.

If the Commission has received a CPRA request for such information, Legal Division will contact the information submitter and provide them ten days to meet the requirements of

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<sup>1</sup>This section resolves Section 3.2(4) of D.16-08-024, which stated such documents “will only be released subject to a process to be determined in this proceeding or a successor proceeding, consistent with these guidelines.”



Section 3.2 of this GO. An information submitter may request an extension of time of an additional ten days.

If the Commission seeks to release such information in any context other than a CPRA request, Legal Division will contact the information submitter and provide them ten days to meet the requirements of Section 3.2 of this GO. In this instance, the ten days may be extended by Legal Division to fifteen days, if the information submitter requests an extension.

Rule 1.15 of the Commission's Rules governs calculation of time.

**c) Information submitted between September 25, 2016 and December 31, 2017, not per the requirements of Modified D.06-06-066:** This section applies when the Commission seeks to release information, including in response to a CPRA request, submitted to the Commission between September 25, 2015, the date established in D.16-08-024 for the implementation of the D.16-08-024 rules, and December 31, 2017, which was not submitted per the requirements of Modified D.06-06-066. Section 3.2 of D.16-08-024 governs the release of such information.

If the information submitter has satisfied the requirements of Section 3.1 of D.16-08-024, and the Commission receives a CPRA request for such a document, then the provisions of Sections 5.5 and 6 of this GO will apply.

If the information submitter fails to satisfy the requirements of Section 3.1 of D.16-08-024, and the Commission receives a CPRA request for such information, then the information may be released.

**(5.5) Information Submitted on or after January 1, 2018, with a Claim of Confidentiality and Information Created by the Commission**

**a) Release of Information Submitted on or After January 1, 2018, With a Claim of Confidentiality:** This section applies if an information submitter has satisfied Section 3.2 of this GO, or if the information submitter has met the requirements of a confidentiality matrix established per Section 3.4 of this GO.

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. If Legal Division finds *the information submitter did establish a lawful basis of confidentiality*, then Legal Division will not release the information, and will proceed as described in Section 5.5(b) of this GO. If Legal Division finds *the information submitter has failed to establish a lawful basis of confidentiality*, Legal Division will proceed as described in Section 5.5(c) of this GO.

**b) Commission Review of CPRA Request Where a Confidentiality Claim Has Been Found Lawful:** If an information submitter has met the requirements of Section 3.2 of this GO or if the information submitter has met the requirements of a confidentiality matrix established per Section 3.4 of this GO, and Legal Division finds *the information submitter did establish a lawful basis of confidentiality*, then Legal Division will inform the CPRA requestor and not release the information. In these cases, Legal Division will comply with the CPRA by providing the requestor with enough detail about the withheld information so that the requestor broadly understands what is being withheld and why, without disclosing confidential information. If a CPRA request is denied in whole or in part, the requestor may appeal to the Commission for reconsideration by submitting a Public Information Appeal Form within ten days of receiving notice that a CPRA request has been denied in whole or in part. The Public Information Appeal Form may state the reasons why the information should be released. Information requesters are encouraged to provide reasons why information should be released. Rule 1.15 of the Commission's Rules governs calculation of time.

If an information requestor submits a Public Information Appeal Form, Legal Division will prepare a draft resolution per the requirements of Section 6.

**c) Commission Review of Request Where a Confidentiality Claim Has Been Found Unlawful:** If an information submitter has met the requirements of Section 3.2 of this GO or if the information

submitter has met the requirements of a confidentiality matrix established per Section 3.4 of this GO, but Legal Division finds *the information submitter has failed to establish a lawful basis of confidentiality*, then Legal Division will submit a draft resolution per Section 6. In these cases, the information submitter receives notice of the resolution and may comment on the draft resolution per Rule 14.5 no later than ten days before the Commission meeting when the draft resolution is first scheduled for consideration. Rule 1.15 of the Commission's Rules governs calculation of time.

**d) Information Created by the Commission:** If the Commission receives a CPRA request for information created by the Commission, and the Legal Division finds a lawful basis to withhold the information created by the Commission, then Legal Division will inform the CPRA requestor and not release the information. In these cases, Legal Division will comply with the CPRA by providing the requestor with enough detail about the withheld information so that the requestor broadly understands what is being withheld and why, without disclosing confidential information. If a CPRA request is denied, in whole or in part, the requestor may appeal to the Commission for reconsideration by submitting a Public Information Appeal Form within 10 days of receiving notice that a CPRA request has been denied in whole or in part. The Public Information Appeal Form may state the reasons why the information should be released. Information requesters are encouraged to provide reasons why information should be released. Rule 1.15 of the Commission's Rules governs calculation of time. If an information requestor submits a Public Information Appeal Form, Legal Division will prepare a draft resolution per the requirements of Section 6.

## **6. Resolutions**

**(6.1) Resolutions:** If the Public Records Office, Legal Division, prepares a draft resolution granting or denying, in whole or in part, the CPRA request per Section 5.5(b), (c), or (d), then:

- a) The Commission will serve the draft resolution on both the information submitter and information requestor (except for the scenario identified in Section 5.5(d) where there is not an information submitter, because the Commission created the information).
- b) The Commission will release the draft resolution for public review and comment pursuant to Pub. Util. Code § 311(g)(1) and Rule 14.5 of the Commission's Rules.
- c) The Commission shall not release such information pending the adoption of the resolution provided for in this section.
- d) If the Commission has not adopted a Resolution addressing the CPRA request within 120 days of a properly filed Public Information Appeal Form, the Public Information Appeal is deemed denied by order of the Commission.
- e) Within 30 days of the denial of a Public Information Appeal, the information requestor may petition for a writ of review pursuant to Public Utilities Code Section 1756 without filing an Application for Rehearing. However, the information requestor may instead choose to file an Application for Rehearing pursuant to Public Utilities Code Section 1731 and Rule 16.1 of the Commission's Rules of Practice and Procedure. Any Application for Rehearing must be filed within 30 days of the denial of a Public Information Appeal.

## **7. Release of Information in Response to an Audit, Inspection, Investigation or Enforcement Action**

- (7.1) Scope:** This section applies to information submitted to the Commission in response to an audit, inspection, investigation, or enforcement action performed by the Commission. This section only applies when the Commission staff conducting the audit, inspection, investigation, or enforcement action invokes the provisions of this section. A regulated entity may not invoke the provisions of

this section. This section does not apply to a formal proceeding, which is governed by Section 3.3.

- (7.2) Timing of Responses:** After a request by the Commission per this section, the information submitters shall produce the information to the Commission at the time directed by the request.
- (7.3) Format of Responses:** Responses to the Commission's requests shall be in the form directed by the request. If the information submitter cannot comply with this requirement, it must provide a justification for its inability to comply.
- (7.4) Claim of Confidentiality:** Concurrently with submission of information to the Commission pursuant to this section, the information submitter shall inform Commission staff (a) whether the regulated entity is making a preliminary claim of confidentiality for information submitted and (b) whether the regulated entity is withholding responsive information per an assertion of privilege.

If the regulated entity does assert a preliminary claim of confidentiality for information submitted, then the Commission shall maintain the information confidentiality for the 20 days following submission. During this time period, the information submitter may submit a claim of confidentiality per the requirements of Section 3. If no claim of confidentiality is submitted 20 days after submission of information to the Commission, then the Commission may release information to the public without further action, unless the Commission withholds the information per an exemption of the CPRA, per Section 5.2. Rule 1.15 of the Commission's Rules governs calculation of time.

If the regulated entity informs the Commission it is withholding responsive information under an assertion of privilege, it shall provide a redacted

version of the information to the Commission  
within 10 days and identify how the claim applies to  
the specific information requested.

**(END OF APPENDIX A)**

<b>Summary report:</b>	
<b>Litera Compare for Word 11.0.0.61 Document comparison done on 1/10/2025 2:33:20 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original filename:</b> R.24-05-022 MBK.RP6 Decision Modifying General Order 66-D Agenda 1-16 (COMMENT) FINAL.docx	
<b>Modified filename:</b> (Rev. 1) R.24-05-022 Decision Modifying General Order 66-D.pdf	
<b>Changes:</b>	
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<del>Move To</del>	0
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<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>340</b>