

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.

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

(CPRA).¹ The Commission adopted Revision 1 to GO 66-D on January 31, 2019,² and Revision 2 on August 27, 2020.³

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?⁴ 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 Government Code (Gov. Code) §§ 7920.000, *et seq.*

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

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

⁴ OIR at 2.

1.1. Submission Date

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

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. 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.*⁵ 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. 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

⁵ *Id.* at n.2.

- not an information submitter, because the Commission created the information).
- 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.**
 - c. The Commission shall not release such information pending the adoption of the resolution provided for in this section.
 - 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).⁶ 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.”⁷

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 deemed as a Resolution denying the request.”⁸ 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.⁹

Second, CTIA recommended that the Commission clarify what events must occur before a denial of a Public Information Appeal.¹⁰ 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

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

⁷ CWA Opening Comments on OIR at 2.

⁸ CTIA Opening Comments on OIR at 1-2.

⁹ *Id.* at 2.

¹⁰ *Ibid.*

days after the Public Information Appeal Form is filed.¹¹ 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.¹²

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.¹³

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 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.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Id.* at 2-3.

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. 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. 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. Comments on Proposed Decision

The proposed decision of 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. The Commission did not receive any comments on the proposed decision.

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. The Commission adopted Revision 1 to GO 66-D on January 31, 2019, and Revision 2 on August 27, 2020.
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. Section 6 of GO 66-D governs the Commission's response to requests for information under the CPRA.
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. GO 66-D should be revised to reflect the statutory renumbering of the CPRA in the Government Code.
2. Section 6 of GO 66-D relating to the Commission's process for CPRA responses should be revised.
3. The non-substantive and substantive revisions to GO 66-D, which are reflected in the attached Appendix A, should be adopted.
4. All rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding should be affirmed.

5. All motions not ruled on to date should be denied.
6. This proceeding should be closed.

O R D E R

IT IS ORDERED that:

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. 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. All rulings made by the Administrative Law Judge and assigned Commissioner in this proceeding are affirmed.
4. All motions not ruled on to date are denied.
5. Rulemaking 24-05-022 is closed.

This order is effective today.

Dated _____, at San Francisco, California