

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Jim Irizarry,

Complainant,

vs.

Case 23-02-003

Pacific Gas and Electric Company (U39E),

Defendant.

PRESIDING OFFICER'S DECISION GRANTING MOTION TO DISMISS

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PRESIDING OFFICER'S DECISION GRANTING MOTION TO DISMISS

Summary

This decision grants the motion filed by defendant Pacific Gas and Electric Company to dismiss Case 23-02-003.

Case 23-02-003 is dismissed.

This proceeding is closed.

1. Background

1.1. The Complaint and Answer

On February 10, 2023, Complainant Jim Irizarry (Complainant) filed Complaint (C.) 23-02-003 against Defendant Pacific Gas and Electric Company (Defendant or PG&E) (collectively, the Parties). The Complaint was appended with various supplemental documents purportedly showing the scope and history of the Parties' disputes. The California Public Utilities Commission (Commission) preliminarily categorized this as an adjudicatory proceeding.¹

In his Complaint, Mr. Irizarry sought urgent relocation of Defendant's electric power lines from tree connections to one or more power poles located on Defendant's public utility easement. He claimed that the tree connections created hazards that required immediate relocation.²

¹ See Instructions to Answer (filed March 3, 2023).

² The circumstances of this proceeding raise questions regarding Irizarry's credibility. For example, Irizarry claimed the tree-connected power lines presented hazardous conditions requiring urgent action by PG&E upon the filing of the Complaint in February 2023. However, attachments to his Complaint, indicate that prior to the filing of the Complaint, Defendant sent work crews to perform that work. Complainant blocked PG&E's work crews from gaining access to the property, frustrating Defendant's effort to address the conditions created by the tree connections. Upon filing of the Complaint, Defendant agreed to perform that work as soon

Footnote continued on next page.

Separately, Complainant sought a relocation of one or more power poles located on or adjacent to Complainant's property at 1200 Bear Gulch Road, Woodside, California, to a location 20 feet away on a PG&E utility easement road.³ Significantly, Complainant demands that Defendant bear all costs for that relocation. This issue remains as the only disputed issue to be adjudicated and is addressed below.

In addition, the Complaint sought to compel PG&E to connect a power line from Bear Gulch Road to a preexisting power pole.⁴

Finally, the Complaint demanded that PG&E include his power pole relocation and power line connection demands in the public utility's alleged preexisting project plan for the tree connection work.⁵ Complainant claimed Defendant should perform and coordinate its workplans according to Irizarry's preferences to address unspecified "public safety hazards."⁶

as possible. Irizarry did not agree that the urgent hazard mitigation work may proceed until an agreement was reported to the Commission over 15 months later, in a May 10, 2024 Joint Status Report.

In addition, although we have accorded Irizarry the full indulgence typically accorded a self-represented party, he cannot fully justify the pleading and record deficiencies described herein on the basis that he is self-represented. In a September 22, 2023 [First] Joint Status Report, Irizarry requested a lengthy postponement of proceeding deadlines, on the basis that he was engaging counsel for this proceeding. Irizarry did not seek additional time to retain counsel at any time thereafter.

³ C.23-02-003 at 2.

⁴ C.23-02-003 at 2.

⁵ C.23-02-003 at 2.

⁶ C.23-02-003 at 2.

The Complaint claims in general, conclusory terms that PG&E has been negligent, reckless, and engaged in an unspecified “cover up,” and has created a “wildland fire hazard” and an “imminent danger to life and property.”⁷

The Complaint also claims conclusorily that PG&E violated “California state law and Wildland fire codes.”⁸

Defendant filed its Answer to the Complaint (Answer) on April 10, 2023. PG&E stated that it cannot divine the meaning of various conclusory allegations found in the Complaint.⁹

Regarding the dispute regarding PG&E’s responsibility to relocate power pole(s), Defendant answered that it would relocate the pole(s) if Irizarry applied under Electric Rule 15.I.1:

PG&E lacks sufficient information to understand the exact pole to which Complainant refers. PG&E admits that it refuses to relocate two existing poles near Complainant’s residence (which are unrelated to the “tree connect” work) *at PG&E’s expense*. PG&E denies that it is refusing to relocate the poles; *PG&E has expressed to Complainant that it may relocate the poles should Complainant apply for relocation and be willing to pay the cost under Electric Rule 15.I.1.*¹⁰

1.2. Scoped Issues

The assigned Administrative Law Judge (ALJ) issued a ruling setting a June 23, 2023, prehearing conference (PHC) to address the issues of law and fact,

⁷ C.23-02-003 at 2.

⁸ C.23-02-003 at 2.

⁹ Answer at 3.

¹⁰ Answer at 5 (emphasis added); *See also*, Answer at 6-7.

determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. That ALJ ruling also required the Parties to file a Joint PHC Statement, including the Parties' requested proceeding schedule.

The PHC was held on June 23, 2023. After considering the Complaint, Answer, Joint PHC Statement, and discussion at the PHC, Commissioner John Reynolds determined the issues and initial schedule of the proceeding as set forth in an August 17, 2023, Scoping Memo and Ruling (Scoping Memo).

The Scoping Memo identified three issues to be determined through this proceeding:

1. **Scoped Issue No. 1:** Whether or not Defendant must relocate Defendant's power lines from current tree connections to one or more power poles located on Defendant's public utility easement;
2. **Scoped Issue No. 2:** Whether Defendant must bear all costs of removing one or more power poles located on or adjacent to Complainant's property at Complainant's request; and
3. **Scoped Issue No. 3:** Whether there exist any unresolved public health or safety issues related to this proceeding.

1.3. Parties' Resolution of Scoped Issue Nos. 1 and 3

Throughout this proceeding, the Parties have engaged in settlement discussions to resolve the issues identified in the August 17, 2023 Scoping Memo. They have filed periodic joint status reports regarding their progress toward a complete settlement of the three Scoped Issues.

As requested by the Parties, the initial proceeding schedule provided through September 22, 2023, to (1) engage in settlement discussions; (2) file a

Joint Status Report addressing the progress of settlement negotiations; and (3) provide any and all updates to the previously filed Joint PHC Statement.

In the Parties' September 22, 2023 [First] Joint Status Report, Complainant requested modification of the proceeding schedule to engage counsel and for a period of discovery. He proposed a 60-day continuation of all existing proceeding deadlines and an additional 60 days for discovery. Defendant did not oppose the Complainant's engagement of counsel and a period to educate that counsel on the case. Moreover, Defendant proposed to resolve Scoped Issue No. 1 immediately by relocating Defendant's power lines from tree connections to one or more power poles located on Defendant's public utility easement.¹¹ The assigned ALJ issued an October 20, 2023, ruling adopting an updated proceeding schedule and ordering a Second Joint Status Report by November 20, 2023.

In Decision (D.) 23-11-101, issued December 6, 2023, the Commission extended the 12-month statutory deadline to resolve this proceeding under Public Utilities (Pub. Util.) Code §1701.2(i), from February 10, 2024, to September 30, 2024.

The Parties reported in four subsequent Joint Status Reports from November 20, 2023 through April 12, 2024 that settlement discussions were productive and requested additional time to continue. The assigned ALJ modified the proceeding schedule accordingly to accommodate the Parties in each instance.

¹¹ The Complaint appendices in the record state that Defendant had previously attempted to perform that work, but was turned away by Complainant at the project location.

In their May 10, 2024 Sixth Joint Status Report, the Parties reported that Scoped Issue No. 1 was resolved. The Parties agreed that Defendant would relocate Defendant's power lines from current tree connections at issue to one or more power poles on Defendant's public utility easement as soon as practicable for Defendant to mobilize its work crews. The Parties also reported that relocating the tree-connected power lines to power poles would address public safety and wildfire risks, thereby resolving Scoped Issue No. 3.

Regarding Scoped Issue No. 2, the Parties reported that they achieved an agreement in principle and again requested that the assigned ALJ provide them additional time to await a County of San Mateo (County) decision regarding a public easement needed for their prospective settlement. They identified no date by which the County would act and requested that the proceeding schedule be vacated. The assigned ALJ issued a sixth ruling on May 28, 2024, adopting an updated proceeding schedule and ordering the Parties to file a Seventh Joint Status Report by June 17, 2024.

In their June 17, 2024 Seventh Joint Status Report, the Parties reported first that Scoped Issue No. 1 did not require adjudication and the tree line relocation work was scheduled to be performed July 17, and July 19, 2024. Second, the Parties reported that a settlement of Scoped Issue No. 2 remained contingent on a County easement decision to effectuate Complainant's requested power pole relocation. They requested that the Commission stay the proceeding for three months to await a decision from the County. Third, the Parties reiterated that because no unaddressed public health or safety issues remain in this proceeding, Scoped Issue No. 3 did not require adjudication and decision by the Commission.

The ALJ issued rulings on July 8, 2024, and September 20, 2024, adopting an updated proceeding schedule and ordering the Parties to file additional Joint Status Reports on September 13, 2024, November 15, 2024, and then on the first Friday of each month thereafter.

In their September 13, 2024, Eighth Joint Status Report, the Parties reported Mr. Irizarry was working with County representatives to facilitate acquisition of the easement sought from the County. Moreover, the Parties reported evaluating alternatives to effectuate their settlement without a need for that County easement.

In D.24-09-042, issued September 26, 2024, the Commission extended the 12-month statutory deadline to resolve this proceeding under Pub. Util. Code §1701.2(i) a second time, from September 30, 2024, to June 30, 2025.

The Parties filed additional Joint Status Reports on November 15, 2024, December 6, 2024, and January 3, 2025, to update the assigned ALJ on the status of settlement. By their February 7, 2025, Joint Status Report, the Parties reported that they had not yet resolved Issue No. 2. However, they continued to anticipate a resolution.

1.4. Motion to Dismiss

On March 14, 2025, Defendant filed the present motion to dismiss (Motion) pursuant to a March 3, 2025 assigned ALJ ruling establishing a briefing schedule. Complainant opposed the Motion (Opposition) on April 1, 2025 and Defendant filed a reply in support of the Motion on April 11, 2025 (Reply).

1.5. Scoped Issue No. 2 Settlement Impasse

On August 1, 2025, the Parties reported in their Eighteenth Joint Status Report they had reached an impasse on Scoped Issue No. 2, the sole remaining issue in dispute. The Parties requested that the assigned ALJ decide Defendant's Motion and, if denied, set a new proceeding schedule to adjudicate Scoped Issue No. 2. In their September 5, 2025 Nineteenth Joint Status Report, October 3, 2025 Twentieth Joint Status Report, and November 7, 2025 Twenty-First Joint Status Report the Parties reiterated that they are at a settlement impasse.

In D.25-10-021, issued October 17, 2025, the Commission extended the 12-month statutory deadline to resolve this proceeding under Pub. Util. Code §1701.2(i), from October 31, 2025 to April 3, 2026.¹²

1.6. Submission Date

The present Motion was submitted on April 11, 2025 upon Defendant's filing of its Reply in support of its Motion.

2. Jurisdiction and Burden of Proof

The Commission has jurisdiction over the activities of public utilities.¹³ Defendant PG&E provides electric and gas services to the public. Therefore, PG&E is a utility subject to the Commission's jurisdiction, control and regulation.

Complainant, Mr. Irizarry is an individual person.

¹² To consider an Appeal and Response in this proceeding, the Commission issued D.26-04-014 on April 9, 2026, extending the statutory deadline for the proceeding to May 29, 2026.

¹³ Pub. Util. Code Section 216(a).

Complainant filed the Complaint pursuant to Commission's Rule of Practice and Procedure (Rule) 4.1(a).¹⁴ The Complaint alleges, *inter alia*, that PG&E is required to bear all costs to relocate a power pole located on his property to Defendant's public utility easement road.

Complainant Irizarry bears the burden of proof to show by a preponderance of evidence that Defendant violated a rule, order, law, or tariff approved by the Commission.¹⁵

3. Issues Before the Commission

The Parties reported that they resolved two of the three issues that the Scoping Memo identified to be resolved through this proceeding. Based on the Parties' May 10, 2024 and June 17, 2024 Joint Status Reports, and the Motion, Opposition, and Reply briefs, Scoped Issue Nos. 1 and 3 are settled and no longer in dispute. Accordingly, Scoped Issue Nos. 1 and 3 are now moot, presenting no case or controversy to be adjudicated before the Commission.

The only issue to be decided is Scoped Issue No. 2: Whether Defendant must bear all costs of removing one or more power poles located on or adjacent to Complainant's property at Complainant's request.

¹⁴ All Rules cited in this decision refer to the Commission's Rules of Practice and Procedure, unless otherwise specified.

¹⁵ See *In Complaint of Service-All-Tech, Inc. v. PT&T Co.* (Cal. PUC, 1977) 83 CPUC 135, Decision (D.) No. 88223 (complaint relating to the disconnection of telephone service where the court found that complainant had the burden of proof and that complainant's "failure to present any evidence present[ed] a total lack of meeting that burden"); see also *Pacific Bell Telephone Company, d/b/a AT&T California vs. Fones4All Corporation* (Cal. PUC, 2008) D.08-04-043, 2008 Cal. PUC LEXIS 132.

4. Discussion

As discussed below, Defendant's Motion is granted. The Complaint is dismissed.

Rule 4.1(a) requires a complaint to state its claim(s) by "setting forth any act or thing done or omitted to be done by any public utility including any rule or charge heretofore established or fixed by or for any public utility, *in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission.*" (emphasis added).¹⁶ Absent such a violation, Defendant is not required to bear all costs of removing any power pole located on or adjacent to Complainant's property at Complainant's request

Rule 11.2 allows parties to file "a motion to dismiss the proceeding based on the pleadings." The Commission first "accept[s] the facts as stated, the[n] . . . examines them in the light of applicable law and policy."¹⁷ A complaint should be dismissed if, "taking the well-pleaded factual allegations of the complaint as true, the defendant is entitled to prevail as a matter of law."¹⁸

Representations in a complaint, as well as statements and omissions in pleadings, briefs, and arguments are considered as admissions of legal and factual points relevant to deciding a motion.¹⁹ The Commission may also

¹⁶ See also Pub. Util. Code section 1702.

¹⁷ D.18-01-002 at 4 and n.20 [citing D.12-03-037 at 7].

¹⁸ D.18-01-002 at 4 and n.18 [citing D.17-08-016 at 4].

¹⁹ See *Brandwein v. Butler* (2013) 218 Cal.App.4th 1485, 1515 n.19, 161 Cal.Rptr.3d 728 [affirming order sustaining demurrer without leave to amend and relying on the factual allegations and omissions in the complaint, together with factual admissions in the trial court and in briefs]; *Federer v. County of Sacramento* (1983) 141 Cal.App.3d 184, 186, 190 Cal.Rptr. 187 [admission in

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properly take official notice of, and consider, the files and records of court and Commission proceedings in ruling on a motion to dismiss.²⁰

4.1. Parties' Positions

The Parties agree that only Scoped Issue No. 2 remains to be adjudicated in this proceeding. The Parties also agree that the dispute involves the costs to relocate a single 20-foot pole from Complainant's property to Defendant's easement road. Notably, PG&E does not refuse to perform the relocation work requested by Complainant. Instead, the dispute distills to whether PG&E must bear all costs of performing that power pole relocation.

Defendant argues that the Complaint must be dismissed because Irizarry fails to state a claim against PG&E by sufficiently alleging under Pub. Util. Code section 1702: (1) PG&E engaged in an act, or failed to engage in an act, that (2) PG&E violated a law, rule, or Commission order.²¹ Defendant maintains that the

opening brief was "the equivalent of a concession"; *Ramona v. Superior Court* (1997) 57 Cal.App.4th 107, 112, fn. 6, 66 Cal.Rptr.2d 766 [concessions made by plaintiff's counsel during oral argument showed there was no basis for a cause of action]; *Fassberg Construction Co. v. Housing Authority of City of Los Angeles* (2007) 152 Cal.App.4th 720, 725, 60 Cal.Rptr.3d 375 [oral statement by counsel in action was binding judicial admission]; *Lueras v. BAC Home Loans Servicing, LP* (2013) 221 Cal.App.4th 49, 93 (Thompson, J., concurring and dissenting) ["We accept the factual allegations of the verified first amended complaint as true . . . We also take into account briefs and arguments, which are 'reliable indications of a party's position on the facts as well as the law, and a reviewing court may use statements in them as admissions against the party.' [Citations.] . . . An express concession or assertion in a brief is frequently treated as an admission of a legal or factual point, controlling in the disposition . . ."].

²⁰ See, e.g., D.12-03-037 at 7 (quoting D.99-11-023). See also, *Rodas v. Spiegel* (2001) 87 Cal.App.4th 513, 518 [taking judicial notice of admissions in demurrer opposition].

²¹ Defendant Reply at 1-2 (citing Public Utilities Code § 1702; *Scarberry v. PG&E*, D.04-08-036 at 5 (denying complainant's request for undergrounding and pole relocation and finding no violation of law or Commission rule or order); *Sweeney v. SDG&E*, D.02-08-021 at 4-5 (finding that the complainant should pay for the cost to move the power pole where SDG&E did not

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Complaint presents vague, inadequate allegations that preclude a meaningful defense.²²

Complainant argues that the Motion should be denied because Scoped Issue No. 2 remains unresolved and “involves significant public safety and statutory compliance concerns” that required PG&E to be “held responsible for the costs of relocating the remaining power pole and ensuring that all hazardous infrastructure installation is corrected in compliance with public safety, property wildland protection requirements and statutory obligations.”²³ Specifically, Irizarry states that he “filed his original Complaint with the CPUC as a result of PG&E’s failure to comply CCR Title 14, Sections 1257 and 1258. PG&E’s installation of these facilities were clearly reckless and inconsistent with best industry practices regarding public and fire safety posing a significant fire hazard, and in violation of Senate Bill 901 and AB 111, CPUC high fire threat district regulations and related state, federal and local wildland fire codes and laws.”²⁴ Complainant now asserts that the pole at issue presents a wildfire hazard and has exceeded its useful life.²⁵

PG&E replies that Complainant’s opposition to the Motion fails to cure Mr. Irizarry’s failure to allege sufficient facts in the Complaint. Defendant

violate a law); *Reclamation District No. 2042 v. PG&E*, D.01-07-010 at 17 (dismissing complaint seeking to have PG&E pay for costs to relocate facilities for failure to show PG&E violated any provision of law or any Commission rule or order).

²² See Answer at 3, 5, 6-7, 9.

²³ Complainant Opp’n at 4.

²⁴ Complainant Opp’n at 3.

²⁵ Complainant Opp’n at 3.

characterizes Mr. Irizarry's new allegations in the Opposition as "conclusory" and still failing to describe how PG&E's conduct violates "any law or Commission rule or order."²⁶

4.2. Convenience Relocations and Electric Rule 15.I.1

Electric Rule 15.I.1, governs the power pole relocation work requested by Irizarry. Electric Rule 15.I.1 states in relevant part:

Any relocation or rearrangement of PG&E's existing facilities, at the request of, or to meet the convenience of an Applicant or customer, and agreed upon by PG&E, normally shall be performed by PG&E. . . . In all instances, PG&E shall abandon or remove its existing facilities, at the option of PG&E. Applicant or customer shall be responsible for the costs of all related relocation, rearrangement and removal work. (Emphasis added).

That language plainly provides that any relocation or rearrangement of PG&E's existing facilities, at the request of, or to meet the convenience of an applicant or customer, and agreed upon by PG&E, normally shall be performed by PG&E. Under those circumstances, the applicant or customer is responsible for the costs of such relocation, rearrangement, and removal work. However, the requestor – here Irizarry – is not responsible for those costs *if* the work is required for a reason other than for his convenience.

Here, PG&E has agreed to perform Mr. Irizarry's requested relocation of the power pole at issue. PG&E's willingness to perform the relocation work is not at issue. Therefore, if the relocation is merely for the convenience of Irizarry, then he must bear all costs pursuant to Electric Rule 15.I.1.

²⁶ Reply at 4.

Defendant seeks to evade those financial consequences for the relocation by PG&E under Electric Rule 15.I.1 by establishing that the work he seeks from Defendant is not for his convenience. Instead, he argues in his Opposition that the work must be performed at PG&E's expense to remedy violations of California statutes and/or regulations. Mr. Irizarry argues that the relocation is required to comply with California Code of Regulations (C.C.R.) Title 14, Sections 1257 and 1258; to remedy noncompliance with California Senate Bill (S.B.) 901 and Assembly Bill (A.B.) 111; and for public health or safety issues. Therefore, we examine whether Complainant has sufficiently stated a claimed violation under those legal authorities that would compel Defendant to relocate the power pole for a reason other than Irizarry's convenience.

4.2.1. 14 C.C.R. Sections 1257 and 1258

Complainant's Opposition states in conclusory fashion and without specific provision citations, factual allegations, or record support that PG&E must relocate the power pole to comply with 14 C.C.R. Sections 1257 and 1258.

C.C.R. Title 14, Section 1257, outlines "exempt minimum clearance provisions" under California Public Resources Code (Pub. Res. Code) section 4293 for utility vegetation management, essentially defining when a living, mature tree's branches are not required to be cleared if they are close to a utility's primary distribution equipment. These exemptions apply to sound, living trees whose trunks and major limbs are situated between six inches and the required

clearance distance away from the equipment, provided all dead or decadent branches have been removed.²⁷

Similarly, C.C.R. Title 14, Section 1258 concerns tree lines, falling under the California Department of Forestry and Fire Protection's regulations for fire prevention standards for electric utilities. Section 1258 promotes fire protection and was enacted to ensure public utility companies maintain proper clearance between their power lines and vegetation to prevent fires.

Despite Complainant's argument that the Commission should adjudicate Issue No. 2 to compel relocation of a single power pole, 14 C.C.R. sections 1257 and 1258 appear applicable only to now-moot Scoped Issue No. 1, focused on clearance of hazardous tree-connected power lines. No allegation or reasonable interpretation of the Complaint or proceeding record shows a nexus between those tree line regulations and the power pole relocation under Scoped Issue No. 2.

As a result, the Complaint does not state a claimed violation for the Commission to adjudicate Scoped Issue No. 2 or to remedy any identifiable noncompliance with 14 C.C.R. Section 1257 or 1258's legal requirements by compelling Defendant to relocate the subject power pole.

4.2.2. Senate Bill 901 (2018) and Assembly Bill 111 (2019)

Complainant's Opposition further states in conclusory fashion and without specific provision citations, factual allegations, or record support that PG&E must relocate the power pole to comply with S.B. 901 and A.B. 111.

²⁷ See Pub. Res. Code Section 4293.

S.B. 901 was a significant year 2018 legislation addressing the state's wildfire risk. S.B. 901 established a broad approach for wildfire prevention and mitigation for the state's electric utilities. In part, it required electrical utilities to create comprehensive Wildfire Mitigation Plans (WMP's) detailing how they would minimize the risk of their equipment causing wildfires. For regulatory oversight, S.B. 901 created the Commission's Wildfire Safety Division (WSD) to oversee and enforce a public utility's compliance with wildfire safety requirements and promote risk reduction. The statute initiated a formal proceeding at the Commission WSD to review and approve public utility wildfire plans.

A.B. 111 was a subsequent, year 2019 bill that amended S.B. 901. Significantly, A.B. 111 (in conjunction with A.B. 1054 that year), transferred the responsibility for evaluating and approving a public utility's WMP out of the Commission WSD. In July 2021, the WSD was transferred and reorganized into the Office of Energy Infrastructure Safety within the California Natural Resources Agency.

Once again, despite Complainant's argument that the Commission should adjudicate Issue No. 2 to compel PG&E to pay all costs to relocate the power pole, nothing in the Complaint or proceeding record alleges with particularity any act by or condition caused by PG&E regarding the current power pole location is in violation of a WMP or other aspect of S.B. 901 or A.B. 111. No allegation or reasonable interpretation of the record shows a nexus between those statutes and the requested power pole relocation under Issue No. 2.

As a result, the Complaint does not state a claim for the Commission to adjudicate Scoped Issue No. 2 to remedy any identifiable violation of a WMP or other S.B. 901 or A.B. 111 legal requirement by compelling Defendant to relocate the subject power pole.²⁸

4.2.3. Public Health or Safety Issues

Complainant's Opposition further states in conclusory fashion and without specific provision citations, factual allegations, or record support that PG&E must relocate the power pole to remedy any unresolved public health or safety issue(s).

Reading the allegations in the Complaint and appended documents as a whole does not reveal with adequate specificity any public health or safety issues related to the individual pole Irizarry seeks to relocate. The insufficiency of those allegations prevents Defendant from having enough notice of the claim to mount a defense.

We also recognize that both Parties reported to the Commission that resolution of Scoped Issue No. 1 also resolved all public health and safety issues under Scoped Issue No. 3. Complainant also conceded in its Opposition that there exist no unresolved public health or safety issues related to this

²⁸ Moreover, even if Complainant's disputed power pole relocation somehow falls under wildfire risk regulation through S.B. 901 or A.B. 111, the implementing rules and orders, and enforcement authority fall under the purview of the California Natural Resources Agency, not the Commission. Therefore, to the extent Complainant's citation of S.B. 901 and A.B. 111 is a generalized, broad attempt to identify a violation of "any order or rule of the Commission," as required by Pub. Util. Code Section 1702 and Commission Rule 4.1(a)(1), it must fail.

proceeding.²⁹ Any prior claim alleging such public health or safety issues is now mooted by the Parties' stated resolution of them. Therefore, no dispute remains under Scoped Issue No. 3, focused on unresolved public health and safety.

Accordingly, Complainant does not state a claim for the Commission to adjudicate Scoped Issue No. 2 to remedy any unresolved public health or safety issue or violation by compelling Defendant to relocate the subject power pole.

5. Conclusion

The Parties' joint statements in the proceeding record establish that Scoped Issue Nos. 1 and 3 have been resolved, require no adjudication, and are now moot.

In our review of the record relevant to the Motion and Scoped Issue No. 2, we have taken the factual allegations as stated in the Complaint and its attachments as true and examined them in their best light, including as cast by Irizarry's Opposition to the Motion, and under the applicable law and policy governing Scoped Issue No. 2.³⁰

The Complaint and associated documents in the proceeding record do not identify a factual basis to maintain a claim that the current pole location is a violation, or a claimed violation of any provision of law or of any order or rule of the Commission, as required under Rule 4.1(a)(1).

²⁹ Opposition at 3 (Complainant stating "Scoping Issue No. 3 pertains to whether any unresolved public health or safety issues remain in this proceeding. Both parties agree that no additional public health or safety issues exist beyond those encompassed in Scoping Issues Nos. 1 and 2. Therefore, Scoping Issue No. 3 does not require further adjudication by the Commission.").

³⁰ D.18-01-002 at 4 and n.20 (citing D.12-03-037 at 7).

Irizarry has made only broad citations to authorities and conclusory allegations. He has not alleged with sufficiency a factual basis to adjudicate any violation of S.B. 901, A.B. 111, 14 C.C.R. Sections 1257 or 1258, and cannot now allege any noncompliance with public health or safety standard. There is therefore no stated claim to require Defendant to relocate the subject power pole to remedy a legal violation.

Without sufficient facts alleged to constitute a violation or a claimed violation, PG&E is not required by any provision of law or of any order or rule of the Commission to relocate the subject power pole. As a result, we find that Irizarry's request for its relocation is for his convenience rather than to remedy a legal violation.

Because Complainant's request to relocate the power pole is only for his convenience, Defendant is not required to bear the relocation costs under Electric Rule 15.I.1. Although PG&E agrees to relocate the power pole pursuant to Complainant's request, the costs of that relocation must be borne by Irizarry.

Taking as true the factual allegations of the Complaint and appended documents, and Complainant's Motion papers, Complainant has not alleged facts to support a claimed violation for the Commission to adjudicate. Defendant PG&E is therefore entitled to prevail as a matter of law on Scoped Issue No. 2 under Electric Rule 15.I.1.³¹

No issues of law or fact remain to be adjudicated under the Complaint in this proceeding. Accordingly, the Motion is granted. The Complaint is dismissed.

³¹ D.18-01-002 at 4 and n.18 [citing D.17-08-016 at 4].

To the extent recent evidence or circumstances support a new claim, Complainant may file a new complaint proceeding with factual allegations sufficient to satisfy Rule 4.1(a)(1).

6. Category of Proceeding

This matter has been categorized as adjudicatory. Upon this decision dismissing the Complaint, hearings are no longer necessary.

7. Appeal or Review of Presiding Officer's Decision

The presiding officer's decision in this matter was mailed to the Parties in accordance with Section 311 of the Pub. Util. Code. Pursuant to Rule 14.4 of the Commission's Rules of Practice and Procedure, any party may file an appeal of the presiding officer's decision within 30 days of the date the decision is served. In addition, any Commissioner may request review of the presiding officer's decision by filing a request for review within 30 days of the date the decision is served.

Complainant filed an appeal of the Presiding Officer's Decision Granting Motion to Dismiss on December 17, 2025 (Appeal). Defendant was not served with the Appeal. Upon learning of the Appeal, Defendant requested and received permission from the ALJ to file a late response to the Appeal. Defendant filed a timely Appeal response (Response) on April 6, 2026.

To consider the Appeal and Response, the Commission issued D.26-04-014 on April 9, 2026, extending the statutory deadline for the proceeding to May 29, 2026.

In the Appeal, Complainant argued that the presiding officer's decision erred in granting Defendant PG&E's March 14, 2025 motion to dismiss (Motion)

on the grounds below. Defendant's Response opposes each ground, citing to the decision. After consideration, the decision was not modified except for the addition of a clarifying Conclusion of Law and a reiteration in decision Section 5 (Conclusion) that Scoped Issue Nos. 1 and 3 were resolved and moot. The relevant arguments on Appeal are as follow.

First, Complainant argues on Appeal that the decision errs in determining that Scoped Issue No. 3 - the existence of unresolved public health or safety issues - was mooted by the Parties.³² Complainant now argues that unresolved public health and safety issues exist for two reasons: (a) the Parties' agreement to resolve Scoped Issue No. 1 through PG&E's removal of tree-connected power lines did *not* resolve all public health and safety issues arising from Defendant's infrastructure.³³

Defendant's Response argues that in their June 17, 2024, the Parties—including Complainant—filed a joint status report that informed the ALJ the Parties had resolved Scoping Issues Nos. 1 and 3 and that those issues did not require adjudication.³⁴ In that June 17, 2024 Joint Status Report, they stated: "The Parties agree that there are no other public health or safety issues related to this proceeding that were not already addressed in Scoping Issues Nos. 1-2. *Therefore, Scoping Issue No. 3 does not require adjudication and decision* by the Commission through this proceeding."³⁵

³² Appeal at 3.

³³ Appeal at 2-3 and 4-5.

³⁴ *See* Response at 6.

³⁵ June 17, 2024 Joint Status Report at 1-2 (emphasis added).

Defendant then argues that (a) “[t]he Parties then reaffirmed that position *fourteen* times over the course of a year and five months, specifically stating each time that only Scoping Issue No. 2 remained in the proceeding” in their Eighth through Twenty-First Joint Status Reports; and (b) “Mr. Irizarry also explicitly stated that Scoping Issue No. 3 was resolved in his Opposition to the Motion to Dismiss,” quoting his Opposition, concluding that “Mr. Irizarry cannot reverse his position on Appeal.”³⁶

Here, Complainant’s post-decision argument directly contradicts the Parties’ joint statements in their Joint Status Reports and Complainant’s Opposition to the Motion, establishing that Scoped Issue No. 3 was mooted by them. Defendant’s arguments are supported by the relevant portions of the proceeding record, while Complainant’s Appeal arguments above present mere *post hoc* rationalizations that contradict the record and/or reargue its Motion opposition.

The language of Scoped Issue Nos. 1, 2, and 3 left health or safety issues not resolved under Issue Nos. 1 and 2 to be addressed under Scoped Issue No. 3. Defendant’s Response recognizes that “[a]s to Scoping Issue No. 3, the ALJ correctly concluded that that no other public health and safety issues existed because the Parties, including Mr. Irizarry, affirmed that position to the ALJ (at

³⁶ See Response at 6-7 (emphasis added). Defendant quotes Complainant’s Motion Opposition at 3 (stating “Scoping Issue No. 3 pertains to whether any unresolved public health or safety issues remain in this proceeding. Both parties agree that no additional public health or safety issues exist beyond those encompassed in Scoping Issues Nos. 1 and 2. Therefore, Scoping Issue No. 3 does not require further adjudication by the Commission.”).

least fifteen separate times)” in their Joint Status Reports.³⁷ The decision adopted the Parties’ filed joint representations that Scoped Issue No. 3 had been resolved, demonstrating that no unresolved health or safety issues remained. The Motion, corroborated their Joint Status Reports, establishing that Scoped Issue No. 3 was moot.

We accept as truthful and accurate all representations by the Parties. Commission Rule of Practice and Procedure No. 1 (Rule 1) mandates accuracy and candor in all statements to the Commission:

Any person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of this State; to maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges; and *never to mislead the Commission or its staff by an artifice or false statement of fact or law.* (emphasis added).

Notably, Complainant sought and was granted a significant period of time to retain legal counsel at the onset of this proceeding. He did not seek additional time, indicating that he had access to advice of counsel when the June 17, 2024 Joint Status Report was filed -- and subsequently -- to inform the Commission that Scoped Issue No. 3 was resolved. As a result, the decision properly credits and adopts that and later statements, made pursuant to Rule 1, in the Motion and Joint Status Reports, and not modified or contradicted subsequently.

Accordingly, the Appeal identifies no error requiring modification of the decision finding Scoped Issue No. 3 moot.

³⁷ Response at 7 (citing Decision at 6, 9, 17).

Second, similarly, the Motion identified and the Parties reported in their Joint Status Reports that Scoped Issue No. 1 was resolved by removal or relocation of tree line connections. The decision therefore credited and adopted that statement in their June 17, 2024 Joint Status Report and later Joint Status Reports.

Now, Complainant says on Appeal that the decision erred, arguing that the Parties' agreed remediation of tree line connections under Scoped Issue No. 1 was only "partial" because it should have included "remov[al] or relocate[ion]" of what he now characterizes as "the most dangerous pole," *i.e.*, the pole that is the subject of Scoped Issue No. 2.³⁸

Complainant thereby impermissibly conflates Issue Nos. 1 and 2 despite the Scoping Memo and Parties' treatment of those issues as distinct in the record. Scoped Issue No. 1 clearly addresses "Whether or not [PG&E] must relocate [PG&E's] *power lines from current tree connections to one or more power poles located on [PG&E's] public utility easement.*" In contrast, Scoped Issue No. 2 does not concern tree line connections or power poles located on PG&E's easement. Instead, Scoped Issue No. 2 focuses on "Whether [PG&E] must bear all costs of removing one or more *power poles* located on or adjacent to *Complainant's property* at Complainant's request." As a result, a pole removal from Complainant's property was not within the ambit of Scoped Issue No. 1. Complainant cannot expand Scoped Issue No. 1 on appeal to include the pole at issue under Scoped Issue No. 2.

³⁸ Appeal at 4.

Complainant mistakenly seeks to apply 14 C.C.R. Sections 1257 and 1258 to compel removal of the pole that is the subject of Scoped Issue No. 2 as part of the completed remediation that resolved Scoped Issue No. 1. Defendant's Response properly points out that 14 C.C.R. Sections 1257 and 1258 govern minimum clearances and tree connections under Scoped Issue No. 1 that were resolved by agreement and PG&E's replacement of tree connections with pole connections.³⁹ Defendant recognizes that "These regulations are not relevant to the pole near the front of Mr. Irizarry's driveway adjacent to Bear Gulch Road under Scoping Issue No. 2" because "that pole has a pole connection, not a tree connection."⁴⁰ All tree connections under Scoped Issue No. 1 have been resolved.

Significantly, the Appeal identifies no part of the record that reported the Parties' resolution of Scoped Issue No. 1 as incomplete or failing to address all public health or safety issues. Complainant had access to advice of counsel when the June 17, 2024 Joint Status Report and subsequent Joint Status Reports were filed to inform the Commission that Scoped Issue No. 1 was resolved. As a result, the decision properly credits and adopts that statement, made pursuant to Rule 1 and not modified or contradicted subsequently. Accordingly, the Appeal presents no error requiring modification of the decision finding Scoped Issue No. 1 moot.⁴¹

³⁹ Response at 8.

⁴⁰ Response at 8.

⁴¹ Moreover, taken together, resolution of Issue Nos. 1 and 3 show that the Parties represented no unresolved public health or safety issues remained from Issue No. 1.

Third, on Appeal, Complainant argues that the decision erred because Scoped Issue No. 2 “inherently” implicated public health and safety issues described as “embodied in Title 14 of the California Code of Regulations, including Sections 1257 and 1258.”⁴² The inference from the pleadings that Complainant invites is that the pole sought for removal under Scoped Issue No. 2 is not inconveniently located, but instead is “*part of a system of poles and tree connections installed by PG&E in 1988 that were improperly and unsafely constructed in violation of the legal requirements embodied in Title 14 of the California Code of Regulations, including Sections 1257 and 1258.*”⁴³

Defendant’s Response correctly recognized that its removal of tree connections under Scoped Issue No. 1 is not relevant to the pole at issue under Scoped Issue No. 2 (that lacks a tree connection) and that keeping the pole in its current location violates no law or Commission rule.⁴⁴ Defendant correctly notes regarding Scoped Issue No. 2 that the decision properly found that Complainant did not sufficiently allege facts showing any violations of a law, order, or Commission rule, including any public health or safety issue.⁴⁵ The Response also correctly recognizes that (a) “[t]he ALJ considered Mr. Irizarry’s citations to 14 C.C.R. Sections 1257, 1258, Senate Bill 901 (2018), and Assembly Bill 111 (2019) and found that there was no nexus between the alleged facts under Scoping Issue

⁴² Appeal at 3-4.

⁴³ Appeal at 4.

⁴⁴ See Response at 9.

⁴⁵ Response at 7 (citing Decision at 18).

No. 2 and these citations;⁴⁶ and (b) “[t]he ALJ further found that Mr. Irizarry’s allegations relating to the pole near his driveway were not stated with adequate specificity to show a public health or safety issue.”⁴⁷ As a result, 14 C.C.R. Sections 1257 and 1258 did not “inherently” implicate public health and safety issues.

Here, the decision determined that the Complaint did not state a violation of 14 C.C.R. Sections 1257 and 1258. On Appeal, Complainant does not identify any portion of the Complaint or other part of the record sufficiently to allege that the subject pole was “improperly and unsafely constructed in violation of” any legal requirement – whether individually or as part of a vague system of unspecified poles in existence at some point in time. Complainant’s argument on Appeal reiterates legal bases presented in opposition to the Motion that were rejected in the decision. Therefore, the Appeal did not identify any error requiring modification of the decision regarding Scoped Issue No. 2.

However, in response to the Appeal, the decision was modified to add a clarifying Conclusion of Law stating, “The Complaint fails to ‘set[] forth any act or thing done or omitted to be done by [Defendant] including any rule or charge heretofore established or fixed by or for [Defendant], in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission’ under Rule 4.1(a).”

⁴⁶ Response at 7 (citing Decision at 14-16).

⁴⁷ Response at 7 (citing Decision at 17).

Fourth, on Appeal, Complainant argues error in granting Defendant PG&E's March 14, 2025 Motion to dismiss without an evidentiary hearing. Complainant argues that "The Decision dismissed the Complaint at the *pleading stage*, finding Complainant's allegations 'conclusory' and insufficient. In doing so, the presiding officer denied Complainant the opportunity to present evidence and testimony explicitly contemplated by Rule 4.1(a), . . . " and that "factual disputes warranted further development of the record rather than dismissal."⁴⁸ Complainant argues that it was entitled to an evidentiary hearing to present photographs, testimony, admissions, and other evidence.⁴⁹

Defendant's Response correctly argues that dismissal was warranted upon the Motion because (a) Complainant failed to sufficiently allege facts that Defendant engaged in an act, or failed to perform an act, in violation of a law or Commission order or rule under Pub. Util. Code Section 1702;⁵⁰ such that (b) even taking Complainant's factual allegations as true, Defendant is entitled to prevail as a matter of law without an evidentiary hearing on the merits.⁵¹

Upon consideration, Complainant's argument misses the mark. Complainant's pleading did not present a basis to continue beyond the pleading stage. Commission Rule of Practice and Procedure 11.2 expressly provides for

⁴⁸ Appeal at 5.

⁴⁹ Appeal at 5.

⁵⁰ See Response at 10 (citing Pub. Util. Code Section 1702 and Rule 4.2, requiring the complaint to "be so drawn as to completely advise the defendant and the Commission of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired").

⁵¹ See Response at 10.

“[a] motion to dismiss a proceeding *based on the pleadings.*” (emphasis added). Here, the decision on the Motion was based on Defendant’s attack on the sufficiency of the pleading, *i.e.*, the Complaint. Consideration of the Motion required no evidentiary hearing.

The Appeal ignores that the decision granting the Motion was granted as a matter of law, upon consideration of the issues raised and addressed in the Parties’ Motion, opposition, and reply briefs. The record under consideration consisted of the Parties’ statements found in the pleadings, the Motion and Opposition, and undisputed and unrecanted admissions by Complainant found in the Parties’ Joint Status Reports. No evidentiary hearing was required or necessary to grant the Motion.

The Appeal is also unavailing to the extent that it suggests an insufficient notice and/or opportunity to oppose the Motion. Here, the Complainant made all joint statements relied upon in the record for the decision, received notice of the arguments found in the Motion, and had a full opportunity to oppose the Motion in writing. Complainant also requested and received a period to retain and/or consult counsel throughout the proceeding, including for assistance and/or representation in the preparation of joint statements, the opposition to the Motion, and this Appeal.

In conclusion, after considering Complainant’s arguments on Appeal and Defendant’s Response, no error in the decision has been shown. However, in response to the Appeal, the decision was modified by addition of a clarifying Conclusion of Law and to reiterate in decision Section 5 (Conclusion) that Scoped

Issue Nos. 1 and 3 were resolved by the Parties, require no adjudication, and are moot.

8. Assignment of Proceeding

Christine Harada is the assigned Commissioner and Jeffrey Lee is the assigned Administrative Law Judge and the presiding officer in this proceeding.

Findings of Fact

1. Scoped Issue Numbers 1 and 3 have been resolved by the Parties and are no longer in dispute.

2. Defendant PG&E filed a Motion to Dismiss the only remaining issue in dispute, Scoped Issue No. 2.

3. Complainant Irizarry's request that Defendant relocate a power pole located on or adjacent to Complainant's property to Defendant's public utility easement road is made for Complainant's convenience.

Conclusions of Law

1. Scoped Issue Nos. 1 and 3 are moot.

2. The Complaint fails to "set[] forth any act or thing done or omitted to be done by [Defendant] including any rule or charge heretofore established or fixed by or for [Defendant], in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission" under Rule 4.1(a).

3. PG&E should not be required to pay all costs to relocate a power pole located on or adjacent to Complainant's property to Defendant's public utility easement road for Complainant's convenience under Electric Rule 15.I.1.

4. PG&E should prevail on Scoped Issue No. 2 as a matter of law under Electric Rule 15.I.1.

5. The Motion to Dismiss filed by Defendant should be granted.

6. The Complaint should be dismissed.
7. All pending motions that have not been expressly ruled upon by the assigned Administrative Law Judge should be denied.
8. C.23-02-003 should be closed.

O R D E R

IT IS ORDERED that:

1. Defendant Pacific Gas and Electric Company's Motion to Dismiss is granted.
2. The Complaint is dismissed.
3. All pending motions which have not been expressly resolved by the assigned Administrative Law Judge are denied.
4. Hearings are no longer needed.
5. Case 23-02-003 is closed.

This order is effective today.

Dated _____, at San Francisco, California