

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA



FILED
07/22/20
04:21 PM

ADMINISTRATIVE LAW JUDGE ZHEN ZHANG, presiding

)	STATUS
)	CONFERENCE
Order Instituting Investigation on)	
the Commission's Own Motion into the)	
California's One Million New)	
Internet Users Coalition's Misuse of)	
California Advanced Services Fund)	Investigation
Grant Funds; and Order to Show Cause)	18-07-009
Why the Commission Should Not Impose)	
Penalties and/or Other Remedies for)	
Violating Terms of Their Grant and)	
for Refusing to Return Funds)	
Previously Demanded by the)	
Commission's Division.)	
)	

REPORTER'S TRANSCRIPT
Virtual Proceeding
June 09, 2020
Pages 82 - 130
Volume - 2

Reported by: Doris Huaman, CSR No. 10538

VIRTUAL PROCEEDING

JUNE 9, 2020 - 9:16 A.M.

* * * * *

ADMINISTRATIVE LAW JUDGE ZHANG: Let's go on the record.

Good morning. The Commission will come to order. I am Administrative Law Judge Zhang and the presiding officer of this proceeding. This is the time and place for the status conference for Investigation 18-07-009, Order Instituting Investigation on the Commission's own motion and into California's One Million New Internet Users Coalition's misuse of California Advanced Services Fund, grant funds and Order to Show Cause why the Commission should not impose penalties and/or remedies for violating terms of their grant and for refusing to return funds previously demanded by the Commission's division.

This status conference is conducted via Webex. To ensure complete, clear and accurate court reporting, the following ground rules apply: Parties shall speak in the order requested by the judge. Parties are to announce and identify themselves each time when speaking. Parties are not to interrupt. Parties are to mute the

1 microphone on their device when not speaking,
2 and parties are to speak slowly and enunciate
3 each word to aid in clear court reporting.

4 Will counsel for Consumer Protection
5 and Enforcement Division identify herself for
6 the record.

7 MS. BALDWIN: Good morning, your Honor.
8 This is Vanessa Baldwin with the Consumer
9 Protection and Enforcement Division.

10 ALJ ZHANG: Please spell your full name
11 for the reporter.

12 MS. BALDWIN: V-A-N-E-S-S-A. Last name
13 B-A-L-D-W-I-N.

14 ALJ ZHANG: Will the representative for
15 Community Union identify himself for the
16 record and please spell your full name for
17 the court reporter.

18 MR. ORTEGA: Yes. Larry Ortega,
19 L-A-R-R-Y O-R-T-E-G-A.

20 ALJ ZHANG: There are other attendees
21 on -- at this status conference, but because
22 they will not have a speaking role, we do not
23 need to identify them separately. The agenda
24 for today:

25 No. 1 is Community Union's June 3rd
26 email and Community Union's June 5th email
27 both from 2020.

28 No. 2 is Community Union's May 28th,

1 2020 request to prepare an amended motion to
2 deny CPED and Korean Churches for community
3 development settlement agreement.

4 The third item is CPED's May 22nd,
5 2020 status update.

6 The fourth item is Community Union's
7 May 29th, 2020 status update.

8 The fifth item is addressing any
9 outstanding motions.

10 And the sixth item is a discussion
11 on holding the evidentiary hearing via Webex.

12 Lastly, I will take questions. The
13 first item, I need to discuss the two emails
14 that Mr. Ortega sent. These were two
15 inappropriate emails. One was sent on June
16 3rd, 2020 at 1:44 p.m., which was addressed
17 to Ms. Baldwin and cc'd the ALJ. The other
18 one is on June 5th, 2020 at 5:13 p.m. to
19 Ms. Baldwin, which also cc'd the ALJ. These
20 are not emails to the entire service list.
21 These emails discussed discovery issues.
22 Although these emails are mostly procedural,
23 making me, the judge, part of these
24 communications is unnecessary. Copying me on
25 communications make ex-parte violations more
26 likely.

27 Mr. Ortega, I've already admonished
28 you for an ex-parte communication earlier in

1 this proceeding. Do not copy me unless you
2 have included the entire service list.
3 Failing to do so may be considered a
4 violation of the Commission's ex-parte rules
5 which may subject you to penalties and fines.
6 This behavior is unacceptable and cannot
7 happen again.

8 Mr. Ortega, do you have any
9 comments? And please announce yourself by
10 your full name when you speak.

11 MR. ORTEGA: Larry Ortega.

12 I understand your Honor, and that
13 was a failure of procedure. I did not know I
14 had not copied the entire service list. I
15 apologize.

16 ALJ ZHANG: Moving on to the second
17 agenda item. We will discuss Community
18 Union's May 28th, 2020 request. On May 28,
19 2020, Community Union requested to prepare an
20 amended motion to deny CPED and Korean
21 Churches for community development settlement
22 agreement. Community Union has already had
23 the opportunity to address the settlement
24 agreement that was given despite it being
25 late and untimely.

26 Mr. Ortega, do you have any comments
27 before I rule?

28 MR. ORTEGA: I do not, your Honor.

1 ALJ ZHANG: Ms. Baldwin, for CPED, do
2 you have any comments before I rule?

3 MS. BALDWIN: Vanessa Baldwin with
4 CPED.

5 I do not have anything further.
6 Thank you.

7 ALJ ZHANG: I deny Community Union's
8 request.

9 Before I move on to the next agenda
10 item, I remind the parties that on May 4th
11 during our last status conference the parties
12 agreed to the following schedule:

13 Joint stipulated facts would be
14 filed on May 19th, 2020.

15 Respondent's opening testimony would
16 be served on May 19th, 2020.

17 Consumer Protection and Enforcement
18 Division's reply testimony would be served on
19 June 2nd, 2020.

20 Respondent's rebuttal testimony
21 would be served on June 16, 2020.

22 Discovery would be completed on June
23 16th, 2020.

24 The evidentiary hearing would occur
25 on June 24th, 25th and 26th.

26 Concurrent opening briefs would be
27 due on July 8th, 2020.

28 Concurrent reply briefs would be due

1 on July 22nd, 2020.

2 I made it clear during our last
3 status conference that the evidentiary
4 hearing will take place on June 24th, 25th
5 and the 26th. According to the Commission's
6 Rules of Practice and Procedure Rule 13.8,
7 prepared written testimony is not required.
8 When we discussed written testimony at the
9 last status conference, the idea behind the
10 schedule is to make the hearing itself be
11 more streamlined, but there is nothing that
12 requires written testimony before the
13 hearing.

14 If the parties cannot have written
15 testimony before the evidentiary hearing,
16 then we will take direct testimony, rebuttal
17 and cross during the evidentiary hearing.

18 Moving on to item 3 of the agenda,
19 after reviewing CPED's May 22nd, 2020 status
20 update, I note that because CPED did not
21 receive the promised data request responses
22 from Community Union on May 19th, it could
23 not complete its rebuttal testimony.

24 Although CPED did report back to me
25 on May 19th that there would be no stipulated
26 facts, Community Union submitted partial data
27 request responses on May 29th. I believe
28 Community Union provided some documents but

1 not all the documents. And then there is
2 some contact information for the Jane Does
3 that Community Union intends to have appear
4 at the evidentiary hearing.

5 Community Union has not submitted or
6 served any opening testimony or opening
7 statement of the case.

8 Now, I have a question for CPED.
9 What material is still missing from what we
10 discussed at the May 4th status conference?

11 Ms. Baldwin?

12 MS. BALDWIN: Thank you, your Honor.
13 Vanessa Baldwin with CPED.

14 We are missing -- if we go through
15 the data request and in order -- and this is
16 CPED's data request issued in February, in
17 regards to Data Request No. 1, we don't have
18 a complete list of all facilities responsive
19 to the question.

20 Regarding Data Request No. 2, we
21 have the list of names and phone numbers from
22 Community Union but not the addresses for the
23 individuals.

24 ALJ ZHANG: I'm sorry. What do you
25 mean the individual? If you have the list of
26 names -- you mean you don't have the
27 addresses to go with the names; is that
28 correct?

1 MS. BALDWIN: Correct.

2 ALJ ZHANG: Okay.

3 MS. BALDWIN: For Data Request No. 5,
4 in regards to the federal and California
5 filed tax returns, Community Union stated
6 they will provide their response by May 29th,
7 and to date, we have not received any tax
8 returns from Community Union.

9 In regards to Data Request No. 6, to
10 date, we have not received documentation as
11 requested. Rather Community Union has stated
12 in its May 26th response that it will take 8
13 to 16 hours to obtain a sample, but they do
14 not provide a date certain of when the
15 additional documents will be provided.

16 In regards to Data Request No. 7,
17 CPED does not have the documentation from
18 Community Union. Community Union has stated
19 in its May 26th response that it will take
20 three to four hours to find records from the
21 five boxes of documents that are not
22 electronically available.

23 In regards to Data Request No. 8,
24 Community Union has provided some of the bank
25 statements requested, but they still need to
26 provide bank statements for August 2012
27 through May 2013.

28 In regards to Data Request No. 9,

1 Community Union provided an answer in part,
2 and no time line has been provided for a --
3 complete information as requested.

4 In regards to Data Request No. 10,
5 Community Union provides a partial answer.
6 However, no courses or course information is
7 provided as requested in the data request.
8 And no date certain has been provided for a
9 complete response.

10 In regards to Data Request No. 12,
11 during our -- during one of our Webex
12 meetings with Community Union, CPED discussed
13 the need for correspondence pertaining to
14 CASF activities as requested in the data
15 request. Community Union agreed to search
16 for and produce relevant emails, but to date,
17 we have not received any email correspondence
18 as -- or other correspondence as requested in
19 Data Request 12.

20 In regards to Data Request 13,
21 Community Union has not provided details for
22 each of the grants as requested by this data
23 request.

24 In regard to Data Request 14,
25 Community Union has stated that it will take
26 three to four hours to produce a sample. It
27 does not provide a date certain of when the
28 documents will be provided.

1 In regards to Data Request 15,
2 Community Union provides an answer in part.
3 They provide only payments but do not provide
4 the grant source, which is what the question
5 has asked for. In addition, they do not
6 provide the amount received from the grant
7 corresponding to the payment or with any
8 withholding from the total payment as
9 requested.

10 In regards to Data Request 18, we
11 have not received a response in the form of
12 responsive documentation. To date, Community
13 Union has stated it will take four to five
14 hours to respond, but no date certain was
15 provided.

16 In CPED's Webex calls with Mr.
17 Ortega, we have explained that his indication
18 of providing samples documentation is not
19 acceptable and not what the question has
20 asked for. We have explained to him that we
21 need the totality of all documentation that
22 he claims is responsive to each data request.

23 We have also set up a means to be
24 able to exchange documentation so that we can
25 put it into electronic form. However, we
26 still are going back and forth in regards to
27 the responsive documents.

28 In my last conversation with Mr.

1 Ortega, he indicated that he would be able to
2 deliver the five boxes of documents to the
3 Commission's Los Angeles office for CPED to
4 scan. However, I did indicate that the
5 documents must be separated and designated
6 per data response request and that it is his
7 responsibility to indicate which documents
8 are responsive to which request as opposed to
9 just providing all the documents in all the
10 five boxes. And so I believe Mr. Ortega has
11 heard my concerns and understands my
12 concerns.

13 ALJ ZHANG: Do you understand that even
14 if there are incomplete answers that we still
15 have to have the hearing on June 24th?

16 MS. BALDWIN: This is Vanessa Baldwin
17 with CPED.

18 I do understand that we will proceed
19 with the documents and information that we
20 have from Mr. Ortega.

21 ALJ ZHANG: Okay. Thank you, Ms.
22 Baldwin. We will address this matter in
23 light of the written testimony later on
24 during the status conference.

25 Moving on to the fourth agenda item,
26 after reviewing Community Union's status
27 update, which were emailed on May 29th at
28 6:12 a.m. and also on May 29th at 12:31 p.m.

1 and subsequent events, it appears that
2 Community Union has provided some responses
3 and some documents, but the February data
4 request from CPED is far from being complete.

5 Ms. Baldwin is correct that it is
6 Community Union's responsibility to identify
7 specific documents that are responsive. Mr.
8 Ortega mentioned at a previous status
9 conference that he intends on bringing all
10 five boxes to the evidentiary hearing.
11 Whether documents get accepted as evidence at
12 the evidentiary hearing requires there to be
13 a basis for the documents. The Commission is
14 not going to accept all documents in certain
15 boxes that Community Union allegedly state is
16 relevant to this proceeding. It is Community
17 Union's responsibility to identify why those
18 documents are necessary and relevant. It is
19 also Community Union's responsibility to
20 establish a basis that the documents are
21 reliable. For example, if there is a
22 document that Mr. Ortega did not author, the
23 author of the document has to be available
24 for cross-examination.

25 In Mr. Ortega's May 29th emails, he
26 stated that for Data Request No. 14 and 15,
27 there were issues.

28 Mr. Ortega, would you like this

1 opportunity to discuss what those issues are?

2 MR. ORTEGA: This is Larry Ortega with
3 Community Union.

4 I'm reading those data requests now,
5 your Honor. Give me one moment, please.

6 So we had indicated -- so the
7 question reads: Provide a copy of the
8 document authorizing each grant, grant letter
9 listed and -- in Question 13. And I know
10 that -- what Ms. Baldwin has suggested, and
11 partial response, it's actually been -- as it
12 relates to No. 13, it's actually all of the
13 information that we had on the grants that we
14 had provided that we feel that it tied to the
15 general ledger. So from the bank statement
16 to the general ledger, the connection of the
17 grants that were received over the grant
18 period were clearly identified from the bank
19 statement to the general ledger. And then
20 from the general ledger, we had separated out
21 what was other funding -- that represented
22 other funding as well as what was the funding
23 that was received from the CPUC. And we had
24 shown that there was nearly -- it was about a
25 50/50 split on the cash that was received
26 from those particular grants.

27 We did not -- outside -- short of
28 the grantor's name -- for example, there was

1 a grant from AT&T, grants from Sempra and the
2 like. Now, there was also -- so this
3 actually speaks to the --

4 ALJ ZHANG: Mr. Ortega, why did you not
5 provide the source names for the other
6 grants?

7 MR. ORTEGA: I did.

8 ALJ ZHANG: You are stating them now on
9 the record. You just said "AT&T" and
10 "Sempra." Why did you not link the names of
11 these organizations to the amount of money
12 that Community Union received?

13 MR. ORTEGA: Larry Ortega, Community
14 Union.

15 We did, your Honor. That's what I
16 was trying to get at. I'm sorry I was not
17 explaining it accurately, but the names and
18 the amounts of the grants that were received
19 are clearly delineated in the information
20 that was provided to CPED in the form of both
21 the bank statements which tied to the general
22 ledger. So that information was provided,
23 your Honor.

24 ALJ ZHANG: Ms. Baldwin, I need more
25 details about what was not provided. Was
26 there the bank statements that show source of
27 the funding or grants?

28 MS. BALDWIN: Sure, your Honor.

1 Vanessa Baldwin with CPED.

2 We did not receive -- in regards to
3 Question 13, we did not receive the specific
4 time period that the grant covers or the term
5 of the grant. We do note that Community
6 Union did provide some information in its
7 general ledger, or what it claims to be its
8 general ledger, but it did not provide a
9 separate answer for Question 13, which we
10 will consider the information he has entered
11 into what he claims is the general ledger as
12 responsive to Question 13, but still it is
13 incomplete for the basis of it does not
14 provide time periods and doesn't provide the
15 specific terms of the grant.

16 And in addition, in regards to
17 Question 14, which is actually -- we're
18 asking for a copy of the documents
19 authorizing each grant. We do not have those
20 documents. And so one of the biggest
21 concerns here is that just because Community
22 Union states it to be so, by typing in the
23 information in Excel documents, doesn't mean
24 it is so. We need the supporting
25 documentation to prove that this fact -- or
26 alleged fact is true and accurate.

27 ALJ ZHANG: Mr. Ortega, as the
28 president of Community Union, do you have the

1 authorizing documents for each grant?

2 MR. ORTEGA: Your Honor, we had scanned
3 through some of the information in the boxes.
4 We do have pieces. But because it's been
5 more than, you know, in some cases, eight
6 years for this information, in the few moves
7 that we've done, we might have lost the
8 information. But I cannot say for sure that
9 it is not completely available. And that's
10 why I proposed to Ms. Baldwin that if she was
11 open to taking a sample set of the
12 documentation that I could provide or that I
13 was able to ascertain -- and for the record,
14 your Honor, the manner to which the details
15 as to the time period of the grant and the
16 actual terms of the grant, those
17 specificities are not -- that's not how
18 Verizon and AT&T -- that's not how they are
19 giving their grants.

20 And plus, this was a -- it was a
21 pass-through grant that we had in some
22 instances -- so not every grant but in some
23 instances, in the case of AT&T and Sempra and
24 maybe Edison, they were pass-through grants.
25 So KCCD actually was the recipient, and then
26 from that amount we got, you know, a portion
27 of those dollars, that went to the program.

28 So I'm happy to attempt to

1 articulate those details in which grants were
2 pass-through, but I don't believe the time
3 period -- the information that Ms. Baldwin
4 seeks as it relates to like a time period --
5 so AT&T would not say, "Here's this money.
6 You need to spend it from here to here." It
7 wouldn't do that. It would just be general
8 technology training support. And from their
9 philanthropic, you know, arm, they would, you
10 know, make those contributions to help us
11 shore up the obligation that we had on the
12 other funding that we were attempting to
13 seek.

14 So in some instances, we may be able
15 to find some of that information, and I have
16 been ascertaining that information. And
17 there is two types. So there was the grants
18 that would come from the AT&Ts and the
19 Sempras, for example. And they were few. I
20 mean, they were only maybe five or six of
21 them that I can recall that we had. The
22 other funding, if you will, came from the
23 relationships and the partnerships that we
24 had with the school districts in providing
25 some of the training. So that was the other
26 half of that information, and the specificity
27 of those grants are information that we have
28 available that I had intended to give to Ms.

1 Baldwin in the form -- at the time that we
2 were going to meet because those documents
3 are, you know, quite large. They are
4 multipage. And at the last status
5 conference, we had agreed that we would try
6 to find a way to which I would be able to get
7 these documents to Ms. Baldwin to which I had
8 said, "I am happy to take the five boxes to
9 the L.A. office and together, you know, I can
10 get you the documents and you can make the
11 copies that you are asking for." And --

12 ALJ ZHANG: Mr. Ortega, do you
13 understand that you are not just handing over
14 boxes with unorganized documents, that these
15 documents have to be labeled as to which
16 questions they are responsive to?

17 Do you understand that?

18 MR. ORTEGA: Larry Ortega.

19 I do, your Honor. Absolutely. That
20 is my full intent, and I'm sorry I did not
21 say that in my initial comments.

22 ALJ ZHANG: Okay. In Community Union's
23 status update, it stated that it had
24 requested all emails from Robert Wullenjohn
25 and Ryan Dulin on the matter of One Million
26 New Internet Users. These emails would be
27 from January 2015 to June 2015.

28 Counsel for CPED, could you update

1 me as to how you responded?

2 MS. BALDWIN: Yes, your Honor. Vanessa
3 Baldwin with CPED.

4 If I may, could I just close out one
5 outstanding item on the last topic that we
6 were on in regards to the data request?

7 ALJ ZHANG: Yes. Go ahead.

8 MS. BALDWIN: Thank you. Vanessa
9 Baldwin with CPED.

10 One of our concerns is the rolling
11 production of data request responses from
12 Community Union. And we're concerned that he
13 was not -- he is not providing us the
14 complete set now and that perhaps at the
15 hearing, you know, documents that should have
16 been responsive to our data request but
17 weren't produced at the time will appear.

18 And so is there any way to be able
19 to, other than at hearings, make note of it
20 but be able to prevent this process and
21 perhaps have a more -- so I think I had left
22 off around perhaps have a more efficient
23 process during hearing so that we better
24 anticipate what documents are going to show
25 up when. Because I do understand Community
26 Union has put forward a response saying it
27 doesn't have the time -- it doesn't have the
28 time to go through the documents. It can go

1 through some of them, but it might not be
2 able to get through all of them. So our
3 concern is that at hearings all of sudden Mr.
4 Ortega or Community Union provides documents
5 that were responsive to the data request but
6 he has not provided at the time.

7 I'm sorry, your Honor, I'm just
8 trying to figure out how to make that clear,
9 if we can make, you know, the cutoff for
10 discovery the cutoff when Community Union
11 provides in totality all of its documents as
12 requested by the data request and that those
13 documents are what it deems fully responsive.

14 ALJ ZHANG: I understand, Ms. Baldwin.
15 We will talk about the schedule later on
16 during this status conference. I'm sure
17 you're aware and Mr. Ortega is aware that the
18 Commission does not allow exhibits that are a
19 surprise to the opposing party unless they
20 are either for cross or impeachment purposes.
21 And even those exhibits may be marked and
22 identified, but it does not mean that those
23 exhibits will be entered into the record.
24 That is one aspect of how in order to ensure
25 due process the opposing side must have
26 notice of the documents that will be used to
27 support the parties' case.

28 Mr. Ortega, do you have any

1 comments?

2 MR. ORTEGA: I do, your Honor. Larry
3 Ortega.

4 I just wanted to say that first it's
5 in my best interest as a representative for
6 Community Union to provide all the
7 documentation that we have relative to the
8 information as requested by CPED in the form
9 of the bank statements, the details of the
10 grants and the time frame. The -- I think
11 that Ms. Baldwin mischaracterized my intent
12 to provide the information as requested by
13 the data request. I had simply -- had
14 asked -- and it is common practice, in
15 talking with former CPUC Commissioners, that
16 sample sets of data is a matter of practice
17 with adjudicatory hearings at this time. And
18 I was simply asking if they would be open to
19 doing that, and I stated, yes, that because
20 it was going to take X amount of hours, which
21 I had tried to be clear during this crises
22 that we are under right now, that we have
23 undergone extreme financial difficulty and
24 any way that it was possible to try to get
25 CPED to a spot, just based on the sample set,
26 that they would ultimately arrive at even if
27 they had all of the data.

28 ALJ ZHANG: Mr. Ortega, now it's clear

1 that for the particular questions of the
2 specific data request, the samples would be
3 inadequate. You know that the investigation
4 is trying to determine Community Union's
5 other sources of funding, and if you provide
6 just one sample of the source of funding, it
7 doesn't give a complete picture of what
8 funding Community Union is using for its
9 activities. I understand that you are trying
10 to perhaps give CPED what it needs given your
11 limited resources, but I think, given our
12 current discussion, it's clear that samples
13 will not be adequate.

14 Mr. Ortega, unless you have
15 something else to say, I'm going to move on
16 to the emails that you requested from Mr.
17 Wullenjohn and Mr. Dulin.

18 MR. ORTEGA: That is all, your Honor.
19 Thank you. Larry Ortega.

20 ALJ ZHANG: Ms. Baldwin, did you have
21 any other comments before I move on?

22 MS. BALDWIN: (No audible response.)

23 ALJ ZHANG: It looks like Ms. Baldwin
24 is no lodger with us. So we're going to take
25 a short break and go off the record to try to
26 sort this out.

27 Let's go off the record.

28 (Off the record.)

1 ALJ ZHANG: The next item I wanted to
2 cover was Community Union's request to CPED
3 for emails from Robert Wullenjohn to Ryan
4 Dulin -- I think it means emails between
5 these two people -- on the matter of One
6 Million New Internet Users from January 2015
7 to June 2015.

8 Ms. Baldwin, for CPED, would you
9 please update me on the status of this
10 request?

11 MS. BALDWIN: Yes, your Honor. Vanessa
12 Baldwin with CPED.

13 If it's possible, I will answer your
14 question in regards to Community Union's
15 discovery request. I also was hoping to
16 circle back to our prior topic to just close
17 out a few loose ends that I didn't have a
18 chance to speak on. And my apologies again
19 for getting cut off.

20 ALJ ZHANG: Okay. Please go ahead.

21 MS. BALDWIN: In regards to the emails
22 requested by Community Union, we have started
23 to produce those emails. We sent a first
24 batch to Community Union on May 29th. Upon
25 notification from Mr. Ortega that he did not
26 receive those emails, I, again, tried to send
27 the emails on June 3rd to Community Union. I
28 have not received any undelivered or failed

1 delivery messages to -- back to my Outlook
2 account. But in the abundance of caution, I
3 also sent Community Union the batch of emails
4 responsive to the discovery request, again,
5 on June 4th and then two times again on June
6 8th through Kiteworks. And Kiteworks is one
7 of the Commission's resources for sending
8 larger data files. And Mr. Ortega has, in
9 this proceeding, used Kiteworks. He's been
10 able to successfully log in, access emails
11 that we have previously sent him as well as
12 used Kiteworks to send us data and
13 information.

14 So it is my understanding that he
15 should be able to access the responsive
16 emails through Kiteworks. And just yesterday
17 he indicated if we could also send the emails
18 to a different email address than the address
19 in the service list, which is L-A -- at --
20 L@Ortega.com, which we did yesterday on June
21 8th.

22 And so we will continue to review
23 emails, responses to all of Community Union's
24 data request, and if we find anything
25 further, we will be sure to forward those
26 along as well.

27 ALJ ZHANG: Did you have other comments
28 to tie up the loose ends, or is this the end?

1 MS. BALDWIN: Yes, your Honor. Thank
2 you. Vanessa Baldwin with CPED.

3 In regards to the last item
4 regarding discovery request -- or data
5 request from CPED, we did want to make note
6 that Community Union has asked that certain
7 information be deemed confidential. However,
8 other than making this blanket request, we
9 are not aware -- and it is -- has not been
10 clarified to us which documents and what
11 information in each of the documents he
12 intends to produce that he wants or desires
13 to be designated as confidential.

14 I did share with him yesterday in an
15 email that the Commission's rules regarding
16 confidentiality will need to be complied with
17 in their General Order 66-C, and I did send
18 him a link to the General Order on the
19 Commission's website so that he would
20 understand the process for seeking
21 confidentiality.

22 I believe he also -- I believe
23 Community Union also sent your Honor a
24 message notifying the proceeding that he
25 intended to file a motion to seek
26 confidentiality. However, to date, we have
27 not seen such a motion or such a motion being
28 granted. And so I just want to put for the

1 record that this back-and-forth has been
2 going on that has potentially prolonged our
3 ability to receive responsive documents from
4 Community Union.

5 I also did want to ask Community
6 Union regarding his conversation with
7 Commissioners -- I thought I heard it was a
8 former Commissioner, but I just wanted to be
9 clear given the ex-parte rules and -- just
10 wanted to be clear for the record who his
11 conversation was with.

12 Thank you. Those are my follow-up
13 questions or comments.

14 ALJ ZHANG: I believe Mr. Ortega has
15 his hand up.

16 Mr. Ortega, what are your comments?

17 MR. ORTEGA: Larry Ortega, your Honor,
18 for Community Union.

19 ALJ ZHANG: Before you start, we are
20 not going to discuss the substance of any
21 conversations that you've had with anybody.
22 So before I address Ms. Baldwin's question
23 about Mr. Ortega's conversations with
24 ex-Commissioners, Mr. Ortega, please refrain
25 from discussing that.

26 MR. ORTEGA: Understood, your Honor.
27 Larry Ortega.

28 Regarding the email request on our

1 data request, Ms. Baldwin had alluded that it
2 was just between Mr. Wullenjohn and Mr.
3 Dulin -- the request actually includes staff
4 as well -- to staff communications within the
5 CD's office, Communications Division, as well
6 as to the auditors --

7 ALJ ZHANG: Mr. Ortega, I described the
8 request as between Mr. Dulin and Mr.
9 Wullenjohn based on your May 29th emails. If
10 you have other requests and they have not
11 been answered, then that is why Ms. Baldwin
12 did not respond to that. So I'm the one that
13 stated that your request was for material
14 between Mr. Wullenjohn and Mr. Dulin based on
15 your May 29th status update.

16 So what other requests are you
17 referring to? Could you point me to the date
18 of the request?

19 MR. ORTEGA: It was the original data
20 request, your Honor. Larry Ortega, Community
21 Union.

22 ALJ ZHANG: What have you received in
23 terms of the original data request?

24 MR. ORTEGA: Well, from Ms. Baldwin's
25 own words, I've had difficulty -- and she's
26 correct that she states that I have had
27 difficulty receiving the information that she
28 says that she has sent. I have not looked at

1 this last June 8th communication. So I want
2 to do that, but to date, I have not been able
3 to ascertain the information that Ms. Baldwin
4 has said she has sent. But that could be a
5 technical difficulty. That is not to suggest
6 that it was not sent, as she says. It
7 just -- it could be something that's
8 happening on my end. I do need to check
9 yesterday's information, and I'll be able to
10 provide a better update.

11 ALJ ZHANG: Okay. Have you logged onto
12 Kiteworks and checked your inbox?

13 MR. ORTEGA: Not for the June 8th
14 stuff, I have not, your Honor. Larry Ortega.

15 ALJ ZHANG: Okay. Well, we will have
16 another update next week, and I will
17 check-in. I am moving on to the issue of
18 contact information for the Jane Does.

19 CPED, Ms. Baldwin, have you received
20 all the contact information?

21 MS. BALDWIN: Vanessa Baldwin with
22 CPED.

23 I am in receipt of Community Union's
24 list of Jane Does, who he provided in a Word
25 document to your Honor. And I believe that
26 was attached to one of his May 29th emails.
27 And I believe it's -- and then -- yes. So
28 those are the Jane Does. And I guess I would

1 just like to confirm with Community Union if
2 there are any changes to this May 29th list
3 of Jane Does.

4 ALJ ZHANG: Okay. Well, before we get
5 to that, for the -- I think it was a list of
6 10.

7 Mr. Ortega, is that correct?

8 MR. ORTEGA: Larry Ortega for Community
9 Union.

10 Yes, that is correct, your Honor.

11 ALJ ZHANG: Do you intend to offer all
12 10 Jane Does as witnesses at the evidentiary
13 hearing?

14 MR. ORTEGA: That is our intent at this
15 time, your Honor. Larry Ortega.

16 ALJ ZHANG: What do you intend to
17 provide each person to testify to?

18 MR. ORTEGA: Larry Ortega, your Honor.
19 As to their experience and time in the class
20 during that -- these selected Jane Does were
21 part of the -- that period that is in
22 question, Quarters 11, 12 and 13, to which
23 One Million NIU -- California's One Million
24 NIU was not paid for. So I wanted to
25 articulate in the different locations. So it
26 was -- each of those clients represent a
27 different location from what they were served
28 and were part of the original signatures,

1 sign-ins and data bases that were provided as
2 reimbursement -- part of the reimbursement
3 packages that we had submitted.

4 ALJ ZHANG: Are these reimbursement
5 packages material you have already provided
6 to CPED?

7 MR. ORTEGA: They were not part of
8 the -- your Honor, Larry Ortega.

9 They were not part of the data
10 request, but they are evidence that I intend
11 to introduce as a matter of supporting our
12 side of the story on this issue.

13 ALJ ZHANG: If each person has a name
14 that you've already provided sign-in sheets
15 and you can correlate the sign-in sheet to
16 each Jane Doe and the sign-in sheet shows
17 that it was for a different class, then do
18 you have that information?

19 MR. ORTEGA: Larry Ortega, your Honor.
20 That is the challenge to which I am
21 trying to overcome by providing the actual
22 participants in that we learned in this data
23 request process that the Communications
24 Division has mysteriously lost the sign-in
25 sheets that were provided to them that
26 accompanied the reimbursement packages for
27 those last Quarters 11, 12 and 13. So the
28 sign-in sheets are gone, your Honor.

1 ALJ ZHANG: Why doesn't Community Union
2 have a copy?

3 MR. ORTEGA: Your Honor, the originals
4 were sent, and the copies that were made were
5 lost in the process. And that is why, your
6 Honor, that it is Community Union's desire to
7 present the actual participants to attest to
8 being individuals that have participated
9 during that time frame. So we are trying to
10 overcome this lost-document challenge by
11 actually having these individuals testify
12 themselves. That is our attempt -- our
13 intent.

14 ALJ ZHANG: Okay. The Commission Rules
15 of Practice and Procedure, Rule 13.5, allows
16 limiting the numbers or the time for
17 testimony upon a particular issue. If all 10
18 Jane Does are to provide similar testimony, I
19 intend to limit the number of Jane Does and
20 also their testimony. The investigation
21 seeks information on what services according
22 to the work plan Community Union, in fact,
23 performed. And if the Jane Does are to
24 provide testimony on their similar
25 experiences at the training, I don't think we
26 need to hear from all 10 witnesses.

27 Mr. Ortega, do you have any
28 comments?

1 MR. ORTEGA: Larry Ortega, Community
2 Union.

3 Yes, I do, your Honor. I think it
4 is imperative to this matter that the
5 Quarters 11, 12 and 13 -- what that
6 implies -- is it then -- just as a point of a
7 clarification, your Honor, is it then -- the
8 matter then is that the number and courses
9 that we have provided during those quarters
10 then will be stipulated to by CPED that they
11 actually had taken place because they are
12 relevant to the costs and expenses that were
13 incurred. And if sign-in sheets are to be
14 the sole identifier of these -- courses
15 actually have taken place, then absent those
16 sheets now that CD has lost them -- and then
17 we -- you know, we don't have copies of them,
18 how else will we be able to get to a point of
19 articulating like these courses actually did
20 transpire, did actually occur during those
21 quarters to which, again, expenses were
22 incurred during that time frame and should be
23 part of the record, as ALJ Zhang, you had
24 pointed out in the initial status conference
25 that that was your desire, to get at that
26 information.

27 ALJ ZHANG: Ms. Baldwin, do you have
28 any comments?

1 MS. BALDWIN: Yes, your Honor. Vanessa
2 Baldwin with CPED.

3 First I do want to clarify that the
4 list that I'm pulling up of Jane Does from
5 Community Union's email provides 13
6 witnesses, not 10.

7 ALJ ZHANG: Okay.

8 MS. BALDWIN: And so just for
9 clarification, it provides 13.

10 ALJ ZHANG: Okay.

11 MS. BALDWIN: The -- Mr. -- or
12 Community Union had noted that it did not
13 provide the database for reimbursed packages
14 to CPED because it was not asked for.
15 However, that is not true. The data request
16 asked for communications and documents
17 between KCCD, or Korean Churches For
18 Community Development. It is our
19 understanding KCCD submitted the
20 reimbursement packages under penalty of
21 perjury and received those documents from
22 Community Union -- or received some of the
23 documents in part from Community Union. It's
24 our understanding that to be responsive to
25 that data request, which is Data Request No.
26 12, Community Union should have provided
27 those databases for reimbursement packages
28 that were also provided to Korean Churches

1 For Community Development.

2 In regards to what we're calling the
3 sign-in sheets, there is no record of sign-in
4 sheets. If we are talking about sheets where
5 each attendee was required to sign in, there
6 are attendants lists for classes that are not
7 signed by each of the participants but merely
8 lists the names of participants and the date
9 of the class. And this was requested, I
10 believe, by CD to be able to confirm the
11 involvement of -- in the classes that
12 Community Union had alleged to implement and
13 organize.

14 In regards to -- I believe I heard
15 Community Union ask if we would stipulate to
16 the fact that courses took place in Quarters
17 11, 12 and 13 -- and that is not something
18 that we can do, because we don't have, one,
19 the evidence for it, Community Union has not
20 provided us complete responses to our data
21 request, some of which asks for relevant
22 information in regards to what courses were
23 held, what were the names of the courses,
24 when were the courses held. They have not
25 put together or provided a class schedule
26 throughout the time period of the grant for
27 us to be able to verify that the courses took
28 place. And so without additional evidence

1 such as that, we are not going to stipulate
2 to Community Union's request.

3 ALJ ZHANG: Ms. Baldwin, are you
4 finished?

5 MS. BALDWIN: Yes, your Honor. Thank
6 you.

7 ALJ ZHANG: After hearing the responses
8 from the parties regarding the Jane Does, I
9 will circle back regarding whether all 13
10 will be permitted to testify. At this time,
11 it seems CPED is still looking for
12 documentation from Community Union that
13 describes the classes that took place, the
14 participants of the classes for specific time
15 periods.

16 Mr. Ortega, what are your comments?

17 MR. ORTEGA: Larry Ortega, Community
18 Union.

19 A couple of things, your Honor.
20 First is the -- I didn't -- I was a little
21 bit lost by Ms. Baldwin's comment relative to
22 databases and sign-in sheets and the
23 differentiation between that and her request
24 at No. 12. She tried to tie -- it appears
25 that she was trying to tie the written,
26 electric -- electronic correspondence to KCCD
27 and put -- I was a little lost in her
28 references.

1 I know that in terms of the -- so I
2 wanted to just to try to clarify, your Honor,
3 if I may, that the databases that we have on
4 each of the courses that we provided -- and I
5 would like to, your Honor, point out again
6 that the classes themselves, the actual
7 conduct of the classes, is related to
8 activity 5 only in the work plan, which
9 represents it was funded by CASF only 15
10 percent of the grant. There is 7 activities
11 in total that were designated to be completed
12 with their own metrics, outcomes that needed
13 to be completed.

14 ALJ ZHANG: Mr. Ortega, that is part of
15 your argument for the case. Right now CPED
16 is requesting specific documents from you,
17 and they can do that. I understand that you
18 believe that activity 5 is not the only
19 responsibility for -- that was described in
20 the work plan and that is part of your
21 statement of the case. But right now we are
22 talking about the data request. And if you
23 cannot answer the data request, then we just
24 need to move on.

25 Mr. Ortega, what is your other
26 comment?

27 MR. ORTEGA: Your Honor, Larry Ortega.
28 I'll just leave it there, your

1 Honor. Thank you.

2 ALJ ZHANG: The parties have until the
3 date of trial to sort out the answers to the
4 data requests. I will circle back as to
5 whether all 13 Jane Does will be permitted to
6 testify at the evidentiary hearing.

7 Earlier we discussed the issue of
8 Mr. Ortega communicating with Commissioners.
9 I believe this might be related to his status
10 update which states that Community Union
11 intends to replace Ron Vera with Timothy
12 Simon. I think that is the correct name
13 because Mr. Ortega did not use the first name
14 of Timothy. Perhaps there is another first
15 name that Commissioner Simon used to use.

16 Mr. -- Commissioner Simon was a past
17 Commissioner who allegedly attended a
18 graduation ceremony in July of 2012. The
19 Community Union's status update states that
20 Community union intends to offer Commissioner
21 Simon to discuss the impact of California One
22 Million New Internet Users Coalition's
23 program on hard-to-reach communities and the
24 impact of the program and the coalition on
25 Commissioner Simon personally.

26 Mr. Ortega, have you contacted
27 Commissioner Simon regarding his appearance
28 at the evidentiary hearing?

1 MR. ORTEGA: I have not given him --
2 your Honor, Larry Ortega, Community Union.

3 I have not given him the specific
4 dates, but I have ascertained his permission
5 to participate in the hearing. He does not
6 have the specific date as of yet. I have to
7 circle back with him this week and will
8 provide him that information. I was waiting
9 to get passed this particular status
10 conference, your Honor.

11 ALJ ZHANG: Does he understand that he
12 will be cross-examined regarding the
13 specifics of the program?

14 MR. ORTEGA: Larry Ortega, Community
15 Union.

16 Your Honor, I'm not -- I have not
17 had that conversation with him as of yet but
18 will. That is my intent.

19 ALJ ZHANG: Okay. I previously
20 misspoke. I do not know what the
21 cross-examination will entail, and if Mr.
22 Simon appears, he would be subject to
23 whatever right that the opposing party has to
24 question him. After you have ensured that
25 Mr. Simon will appear, we will discuss how
26 his testimony is going to be relevant to your
27 case. At this time, I'm not sure what you're
28 offering Mr. Simon to testify to.

1 I understand this investigation to
2 be about how Community Union spent the funds
3 that are received from the Commission. I am
4 uncertain as to how Commissioner Simon would
5 be able to answer any of the facts related to
6 that question. I am not sure if CPED is
7 contesting that California One Million New
8 Internet Users program did not have an impact
9 on hard-to-reach communities. These are my
10 thoughts right now, and we will come back to
11 this matter as we get closer to the hearing.

12 Community Union has not met any of
13 the due dates it agreed on during the May 4th
14 status conference. Because of Community
15 Union's failure to meet these deadlines, CPED
16 has not been able to meet its own deadlines.
17 I have received extension requests from both
18 Community Union and CPED.

19 At this time, there has been no
20 testimony served. If there will be any
21 written testimony, they must be submitted by
22 Tuesday, June 16th. After June 16th, we must
23 prepare for the evidentiary hearing.

24 We can go off the record to discuss
25 whether there is time for the written
26 testimony. I see that Ms. Baldwin has her
27 hand up.

28 Ms. Baldwin, do you have a comment?

1 MS. BALDWIN: Your Honor, Vanessa
2 Baldwin with CPED.

3 It seems like perhaps we can discuss
4 this off the record.

5 ALJ ZHANG: Okay. Let's do that.

6 MS. BALDWIN: Okay. Thank you.

7 ALJ ZHANG: Let's go off the record.

8 (Off the record.)

9 ALJ ZHANG: While we were off the
10 record, we discussed whether it is possible
11 for the parties to submit written testimony
12 between now and the evidentiary hearing. We
13 discussed how Community Union did not meet
14 the set deadlines which meant CPED could not
15 meet its own deadlines as well. Given that
16 there's only two weeks before the evidentiary
17 hearing, I deny the request from both CPED
18 and Community Union for extensions to submit
19 written testimony.

20 At the evidentiary hearing, the
21 parties will present their case in chief with
22 their documents, and the witnesses will be
23 subject to cross and recross. Both parties
24 will have an opportunity to rebut the case in
25 chief of the other side. While we were off
26 the record, we also discussed CPED
27 supplementing its original staff report. If
28 CPED does create a supplemental staff report,

1 it will submit it on June 16th. That gives
2 Community Union an opportunity to review the
3 staff report and cross-examine the author at
4 the evidentiary hearing. I believe this
5 addresses the agenda item on motions.

6 Ms. Baldwin, is there anything else
7 regarding motions that you would like to
8 discuss?

9 MS. BALDWIN: Vanessa Baldwin with
10 CPED.

11 Nothing further at this time, your
12 Honor. Thank you.

13 ALJ ZHANG: Mr. Ortega, is there
14 anything else you would like to discuss
15 regarding motions?

16 MR. ORTEGA: Yes, your Honor. Just as
17 a -- Larry Ortega, Community Union.

18 As a point of clarification, on the
19 motion that was submitted to deny the
20 settlement agreement, has her honor had an
21 opportunity to -- is there a time line to
22 which there may be a response or a ruling on
23 that particular motion?

24 ALJ ZHANG: This status conference is
25 focused on Community Union's responsibilities
26 regarding the work plan. The settlement
27 agreement is still under consideration. I am
28 moving on to the next item on the agenda

1 regarding whether an evidentiary hearing by
2 Webex would be possible.

3 Today the parties have participated
4 in the status conference, and it appears that
5 with planning, the evidentiary hearing should
6 be adequate via Webex. Because of the
7 shelter-in-place orders and travel
8 restrictions, we would have to delay the
9 hearing, and I am not inclined to do that
10 because the statutory deadline for this
11 investigation has already been extended.

12 For the evidentiary hearing, the
13 ground rules are similar to the ground rules
14 of the status conference. You must identify
15 yourself by name every time you speak. And
16 you will be called upon to speak, and then if
17 you are not speaking, you will be muted.
18 What will be different at the Webex
19 evidentiary hearing is that we will only use
20 the Webex program for video. For audio, you
21 will call in using your phone, and it will be
22 a separate teleconference number.

23 Once you log into Webex, you can
24 mute yourself and also mute your own
25 microphone, and then you will speak into the
26 telephone in order to be heard. Let's go off
27 the record to discuss how the parties will
28 handle exhibits and witnesses and the process

1 at the hearing.

2 (Off the record.)

3 ALJ ZHANG: We're back on the record.

4 While we were off the record, we
5 discussed having the evidentiary hearing via
6 Webex. We discussed procedural tools to
7 organize our witnesses, our exhibits and the
8 examination times. I have prepared the
9 following schedule with "to do" items for
10 each party up to a couple days before the
11 hearing.

12 By Tuesday, June 16th, CPED will
13 submit its supplemental staff report if it
14 intends to. CPED will make the author of the
15 staff report available for cross-examination
16 during evidentiary hearing. On Wednesday,
17 June 17th, I will email the parties the
18 exhibit list chart and the witness chart.
19 The parties may use these charts or create
20 their own. The intent of both of these
21 charts is for the parties to work
22 collaboratively so that they could submit one
23 exhibit list chart and one witness chart.

24 On Thursday, June 18th, we will have
25 a Webex to go over the exhibits that the
26 parties intend to use at the evidentiary
27 hearing. We will discuss identifying,
28 marking and submission of exhibits. We will

1 also go over the witnesses. So that means
2 the parties should be thinking about their
3 exhibits and their witnesses right now so
4 that by Wednesday, June 17th, they will know
5 how to fill out the exhibit chart and the
6 witness chart. They will know who will be
7 their witnesses, how much time they want the
8 witness to be on the stand and what dates
9 these witnesses will be available.

10 On Friday, June 19th, CPED will
11 create a master packet that lists all the
12 exhibits premarked for identification. I
13 understand that this might not be possible if
14 Community Union has not identified all the
15 exhibits it intends to use. But on June
16 19th, I expect either CPED to submit its own
17 list of exhibits, and if it cannot have the
18 exhibits of Community Union, then Community
19 Union must submit its own exhibit packet.
20 The exhibit packet will be circulated to the
21 service list. The parties will identify the
22 items in the exhibit list that they can
23 stipulate to and the items that they object
24 to. That way when we get to the hearing the
25 stipulated items can be moved into the
26 record, and then we will deal with the items
27 that are not stipulated to with either
28 motions or objections, and we will assess

1 whether they should be entered into the
2 record during the evidentiary hearing.

3 On Monday, June 22nd, we will have a
4 Webex to discuss the exhibits, to go over any
5 motions and to go over any last-minute items.
6 For the June 22nd event, we will have a Webex
7 that is muted with the parties calling in
8 with a telephone conference line. We will
9 use the Webex for the video, but we will rely
10 on the phone for the audio. I will provide
11 the Webex information and the telephone
12 conference information later.

13 On Wednesday, June 24th, that is the
14 first day of the hearing, everyone will sign
15 in 15 minutes early so that we can deal with
16 any last-minute items. And as stated by
17 Commission's Rules of Practice and Procedure
18 Rule 13.4, CPED will open with their case in
19 chief, and they will also close.

20 In closing, I will afford each party
21 an opportunity to speak on any issues I did
22 not address today. You may also use this
23 time to ask questions.

24 Ms. Baldwin, do you have any matters
25 you'd like to bring up?

26 MS. BALDWIN: Your Honor, Vanessa
27 Baldwin with CPED.

28 Not at this time, but I do want to

1 quickly confer with my client but perhaps
2 after Community Union has presented any
3 additional questions.

4 ALJ ZHANG: Okay.

5 Mr. Ortega, do you have any
6 comments?

7 MR. ORTEGA: Your Honor, I have none.
8 Larry Ortega. Your Honor, I have none.

9 ALJ ZHANG: Okay. If there aren't any
10 other issues, you can see from the schedule
11 that I laid out there will be opportunities
12 to discuss them. So this isn't the last
13 chance before the hearing.

14 Ms. Baldwin, do you want us to take
15 a short break?

16 MS. BALDWIN: Your Honor, thank you.
17 No, I conferred with my client. We don't
18 have anything at this time.

19 ALJ ZHANG: Okay.

20 MS. BALDWIN: Thank you.

21 ALJ ZHANG: Okay. I encourage the
22 parties to work out their discovery issues.
23 It is to everyone's advantage to be as
24 transparent as possible so that when we get
25 to the hearing one party isn't objecting to
26 an item because that is the first time that
27 they've ever seen it. If you want a copy of
28 this transcript, please email

1 reporting@cpuc.ca.gov. Thank you for your
2 participation today. We are adjourned.

3 We are off the record.

4 (Whereupon, at the hour of 11:41
5 a.m., the Commission then adjourned.)

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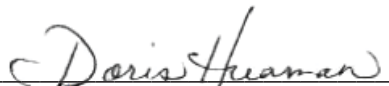
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF CALIFORNIA

CERTIFICATION OF TRANSCRIPT OF PROCEEDING

I, DORIS HUAMAN, CERTIFIED SHORTHAND REPORTER
NO. 10538, IN AND FOR THE STATE OF CALIFORNIA, DO
HEREBY CERTIFY THAT THE PAGES OF THIS TRANSCRIPT
PREPARED BY ME COMPRISE A FULL, TRUE, AND CORRECT
TRANSCRIPT OF THE TESTIMONY AND PROCEEDINGS HELD IN
THIS MATTER ON JUNE 9, 2020.

I FURTHER CERTIFY THAT I HAVE NO INTEREST IN THE
EVENTS OF THE MATTER OR THE OUTCOME OF THE PROCEEDING.

EXECUTED THIS JUNE 12, 2020.


DORIS HUAMAN
CSR NO. 10538

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