



FILED

04/15/19
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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation and Order to Show Cause on the Commission's Own Motion into the Operations and Practices of Pacific Gas and Electric Company with Respect to Locate and Mark Practices and Related Matters.

Investigation 18-12-007

ADMINISTRATIVE LAW JUDGE'S RULING ON REDACTION OF INFORMATION

Summary

This ruling denies a motion by the Coalition of California Utility Employees (CUE) to modify a prior ruling in this proceeding addressing redaction of information in an investigative report (and supporting attachments) prepared by the Commission's Safety and Enforcement Division (SED).¹

1. Background

A Law and Motion Hearing (Hearing) was held on February 5, 2019, to address proposed redactions to the SED Report, and parties were directed in advance to be prepared to address the basis for keeping information private or making it public, particularly the identity of witnesses. CUE presented an argument at the Hearing that all employee names should be kept confidential

¹ The formal title of the report is: Investigative Report into the Operations and Practices of Pacific Gas & Electric Company's Damage Prevention and Locate & Mark Programs (SED Report).

until the Commission issues a final decision in this proceeding. (Transcript v.1 at 24-25.)²

An Administrative Law Judge's (ALJ's) Ruling issued on February 25, 2019 addressed the appropriate scope of redactions in the SED Report. Consistent with Commission Resolution L-436, the ALJ Ruling determined that it was appropriate to publicly disclose the names of Pacific Gas & Electric Company (PG&E) employees with safety responsibilities.

2. CUE's Argument

At the prehearing conference (PHC) held on April 4, 2019, CUE argued for a modification of that ruling, seeking to keep additional PG&E employee names confidential. Specifically, CUE argued that the names of staff-level (non-supervisory) employees who worked temporarily as supervisors should be redacted, as the SED Report refers to those employees (in their supervisory role) as knowing (or assumed to know) about misconduct by PG&E. (Transcript, Vol. PHC at 44-46.) According to CUE, this would tie these employees to PG&E's misconduct, and would accordingly have the potential to subject these employees to additional danger from members of the public that are angry with PG&E. (*Id.*)

CUE did not address the analysis or criteria in Resolution L-436, which states: "[W]e do not consider the names, titles, and job specifications of utility employees with regulatory communications or safety responsibilities to be

² The Commission's Public Advocates Office and Office of the Safety Advocate, The Utility Reform Network, and CUE were not parties to the proceeding at that time, but were allowed to specially appear at the Hearing to address the redaction issue.

highly sensitive or confidential.” (Resolution L-436 at 12.)³ CUE also did not address why a temporary supervisor’s name should be kept confidential while a permanent supervisor’s name could reasonably be made public. Finally, California courts have held that: “A mere assertion of possible endangerment” is insufficient to justify non-disclosure of employee names. (*Commission on Peace Officer Standards and Training v. Superior Court*, 42 Cal. 4th 278, 301 (2007) (re peace officer names), citing *CBS, Inc. v. Block*, 42 Cal. 3rd 646, 652 (1986).)

For the reasons stated above and in the February 25, 2019 ALJ Ruling, CUE’s motion is denied.

3. PG&E Motion for Clarification

PG&E separately filed a motion for clarification of the February 25, 2019 ALJ Ruling.⁴ PG&E’s Motion for Clarification was discussed and addressed at the 4/4/19 PHC, and was granted with conditions. (Transcript, Vol. PHC at 14-17.)

³ Similarly, Commission Resolution L-232, addressing accident investigation records, states: “As a general rule, we have limited such redactions to personal information concerning accident victims or their families, and have disclosed the name and contact information of utility employees involved in reporting or investigation [sic] the accident...We felt that disclosure of the identities of individuals dealing with the accident in a professional capacity did not constitute an unwarranted invasion of their personal privacy, whether or not they may prefer to remain wholly anonymous.” (Resolution L-232 at 19.)

⁴ Pacific Gas and Electric Company’s Motion to Clarify Ruling on Redaction of Information in SED Report (PG&E Motion for Clarification).

IT IS RULED that the Coalition of California Utility Employees' motion to modify the February 25, 2019 ALJ Ruling is denied.

Dated April 15, 2019 at San Francisco, California.

/s/ PETER V. ALLEN
Peter V. Allen
Administrative Law Judge