Decision 20-02-030 February 6, 2020

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Gas and Electric Company for Authority, Among Other Things, to Increase Rates and Charges for Electric and Gas Service Effective on January 1, 2017. (U39M)	Application 15-09-001

ORDER DENYING REHEARING OF DECISION (D.) 18-12-009

I. INTRODUCTION

Today's decision disposes of the application for rehearing of Decision (D.) 18-12-009 (or "Decision"),[1] filed by Collaborative Approaches to Utility Safety Enforcement ("CAUSE").

In Decision (D.) 17-05-013, the Commission addressed a comprehensive settlement agreement ("Settlement Agreement") in the 2017 test year General Rate Case ("GRC") of Pacific Gas and Electric Company ("PG&E"). The Commission approved the Settlement Agreement with two modifications, resolved two contested issues, and directed PG&E to take a number of other actions. The Decision authorized GRC revenue requirement increases of $88 million for 2017, $444 million for 2018, and $361 million for 2019.

Several intervenors participated in the proceeding. On November 30, 2015, Scott J. Rafferty filed a Notice of Intent to Claim Intervenor Compensation ("2015 NOI") in his capacity as the Executive Director of CAUSE seeking eligibility for CAUSE as a

[1] Unless otherwise noted, all citations to Commission decisions are to the official pdf versions, which are available at http://docs.cpuc.ca.gov/DecisionSearchForm.aspx.

Category 3 customer. CAUSE's bylaws, attached to its 2015 NOI, indicate that it intended to participate in the proceeding as a safety intervenor.[2]

On July 25, 2016, the assigned Administrative Law Judge ("ALJ") issued a ruling rejecting the 2015 NOI finding, among other things, that CAUSE had not provided sufficient information to be eligible as a Category 3 customer. The ruling provided additional guidance in the event that CAUSE decided to file an amended NOI.[3]

On August 10, 2016, CAUSE filed a Motion to Amend that included an amended NOI ("2016 Amended NOI"), which was rejected by the Commission's Docket Office. Subsequently, on October 24, 2016, CAUSE replaced the Motion to Amend with a generic cover document that described the 2016 Amended NOI and provided additional information, which was accepted by the Docket Office.[4]

On February 2, 2017, the ALJ issued a ruling rejecting the 2016 Amended NOI because it did not cure the defects identified in CAUSE's original 2015 NOI. This ruling provided additional guidance in the event that CAUSE decided to file another amended NOI.[5]

On April 5, 2017, CAUSE filed its second amended NOI ("2017 Amended NOI"). The 2017 Amended NOI included the statement that "if CAUSE is not granted Category 3 status for any reason, CAUSE requests that Category 1 or 2 status be granted to CAUSE or its president" Scott J. Rafferty.[6]

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[2] Notice of Intent to Claim Intervenor Compensation And, If Requested, Administrative Law Judge's Ruling On Collective Approaches To Utility Safety Enforcement's Showing Of Significant financial Hardship [A.15-09-001] 11/30/15.

[3] Administrative Law Judge's Ruling Rejecting Collaborative Approaches To Utility Safety Enforcement's Notice Of Intent To Claim Intervenor Compensation [A.15-09-001] 07/25/16, pp. 5-8.

[4] Amendment To The Notice Of Intent To Claim Intervenor Compensation By Collaborative Approaches To Utility Safety Enforcement [A.15-09-001] 10/24/16.

[5] Administrative Law Judge's Ruling On Collaborative Approaches To Utility Safety Enforcement's Showing Of Significant Financial Hardship [A.15-09-001] 02/02/17.

[6] Notice of Intent to Claim Intervenor Compensation And, If Requested, Administrative Law Judge's Ruling On Collective Approaches To Utility Safety Enforcement's Showing Of Significant Financial Hardship [A.15-09-001] 04/05/17 p. 3; see also Motion for Party Status by Collaborative Approaches To Utility Safety Enforcement [A.15-09-001] 11/30/15, pp. 2-3.

On May 10, 2017, the ALJ issued a ruling addressing the 2017 Amended NOI and found CAUSE ineligible to claim intervenor compensation as a Category 3 customer, but ruled that Scott J. Rafferty ("Rafferty") is preliminarily determined to be eligible for intervenor compensation as a Category 1 customer in this proceeding.[7]

On July 17, 2017, Rafferty filed a claim for intervenor compensation seeking $591,995 for substantial contributions to D.17-05-013. In D.18-12-009, the Commission awarded Rafferty $33,855 for substantial contributions to D.17-05-013 regarding two contested issues (Rate Case Cycle and Gas Leak Maintenance) and the issue of Post-Settlement Cost Reductions. In addition, he received compensation for preparation and process. D.18-12-009 disallowed $558,140, or 94.3% of the requested amount, for other claimed contributions that the Commission determined did not make a substantial contribution to D.17-05-013.

Rafferty timely filed an Application for Rehearing of D.18-12-009, in which he alleges that the Commission erred in making the disallowance because Rafferty made a substantial contribution to the issue of safety and to the settlement process, and that he was denied due process and hindered from participating during the proceeding. Rafferty also asks for oral argument.[8] No party filed a response to the application for rehearing.

II. DISCUSSION:

A. The Commission lawfully disallowed $558,140 or 94.3% of Rafferty's intervenor compensation claim.

In his rehearing application, Rafferty alleges "PG&E and every intervenor unanimously submitted comments confirming that CAUSE had made a substantial contribution to safety and to the settlement process – conclusions that the ALJ summarily

[7] Administrative Law Judge's Ruling Addressing The Notice Of Intent To Claim Intervenor Compensation Of Collaborative Approaches To Utility Safety Enforcement And Related Motions [A.15-09-001] 05/10/17, pp.14-17.

[8] Rafferty includes an Exhibit 1 to his rehearing application, which alleges violations of due process and legislative mandates.

ignored. Dr. Rafferty should be granted an award that fully reflects its contribution to safety and to settlement and includes compensation for time necessarily spent responding to improper burdens imposed by the ALJ." (Rhg. App., p. 3.) Rafferty further alleges that "PG&E embraced the reforms CAUSE proposed. They were adopted in the settlement, which also granted CAUSE access to safety results." (Rhg. App., pp. 3-4.) In summary, Rafferty is alleging that it was legal error for the Commission to disallow a significant portion of Rafferty's intervener compensation claim. As explained below, Rafferty's analysis of these issues is incorrect and his allegations of legal error lack merit.

The purpose of the Intervenor Compensation statutes is "to provide compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers of participation or intervention in any proceeding of the commission." (Pub. Util. Code, § 1801.)[9] It is the intent of the Legislature that "[i]ntervenors be compensated for making a substantial contribution to the proceedings of the commission, as determined by the commission in its orders and decisions." (Pub. Util. Code, § 1801.3, subd. (d), emphasis added.) "Compensation" means payment for all or part, as determined by the commission, of reasonable advocate fees, reasonable expert witness fees, and other reasonable costs of preparation for and participation in a proceeding. . . . (Pub. Util. Code, § 1802, subd. (a), emphasis added.)[10]

> Section 1802(j) states, in pertinent part, as follows:
>
> "Substantial contribution" means that, in the judgment of the commission, the customer's presentation has substantially assisted the commission in the making of its order or decision because the order or decision has adopted in whole or in part one or more factual contentions, legal contentions, or specific

[9] All subsequent section references are to the Public Utilities Code unless otherwise specified.

[10] See also, Southern *California Edison Company v. Public Utilities Commission* (2004) 117 Cal.App.4th 1039, 1048 and The *Utility Reform Network v. Public Utilities Commission* (2008) 166 Cal.App.4th 522, 532, in which the Courts have confirmed the Legislature's intent that "[i]ntervenors be compensated for making a *substantial contribution* to proceedings of the commission, as determined by the commission in its orders and decisions." (Emphasis added.)

> policy or procedural recommendations presented by the customer.

(Emphasis added.)

Hence, the assessment of whether an intervenor has made a substantial contribution requires the exercise of judgment by the Commission:

> In assessing whether this standard has been met, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.

(*Re Commission's Intervenor Compensation Program* [D.98-04-059] (1998) 79 Cal.P.U.C.2d 628. 653, emphasis added.)

In this instance, Rafferty asserted substantial contribution on ten matters related to D.17-05-013: (1) Safety; (2) Settlement; (3) Compensation Metrics; (4) Rate Case Cycle; (5) Gas Leak Maintenance; (6) Monitor costs; (7) Possible Remedy if Post-Settlement Cost Reductions Were Not Reflected In Application; (8) Standard for Evaluating Settlements; (9) Catalyst for Acceptance of Modifications; and (10) Undergrounding.[11]

In D.18-12-009, we determined that with the exception of (4) Rate Case Cycle, (5) Gas Leak Maintenance, and (7) Post-Settlement Cost Reductions, Rafferty's participation failed to make a substantial contribution to D.17-05-013, as that term is defined by section 1802(j). (D.18-12-009, p. 9.) A review of the record confirms that we correctly disallowed certain claims because Rafferty's contentions or recommendations were not adopted in D.17-05-013. Of importance, due to the substantial reductions to the

[11] D.18-12-009, p. 9, fn. 12 citing Intervenor Compensation Claim Of Scott J. Rafferty And Decision On Intervenor Compensation Claim Of Scott J. Rafferty [A.15-09-001] 07/17/17, Claim, Part II, Substantial Contribution.

claimed amount, D.18-12-009 provides an extremely detailed review and explanation of each claimed contribution and the reason for its disallowance.[12]

For example, Rafferty made two specific recommendations regarding safety in his testimony: (1) the Commission should rely on international standards to supervise the development of management systems that will require utilities to develop, maintain, and document compliance with regulatory mandates; and (2) the utilities should adopt a specific form of collaboration known as "bubble-up."[13] Rafferty claims that the settlement included the use of international standards and broader involvement of line employees in achieving continuous improvement in safety conditions.[14]

D.18-12-009 states as follows:

> There is no language in D.17-05-013 that either wholly or partially adopts either recommendation. Section 1804(e) requires that "if the Commission determines that a substantial contribution has been made, it must describe it, and determine the amount of compensation to be paid." We cannot "describe" a substantial contribution by Rafferty to Section 3.2.8.8 of the Settlement because the plain language of Section 3.2.2.8 reflects neither of Rafferty's recommendations. Therefore, we cannot find that a substantial contribution to Section 3.2.8.8 of the Settlement has been made as claimed by Rafferty.

(D.18-12-009, p.14.)

D.18-12-009 points out that this finding is verified by the Commission's examination of Rafferty's claim for contribution: Rafferty's specific references to claimed contributions do not cite anything in D.17-05-013 that confirms that Rafferty made a "substantial contribution" to the Commission's final decision on any safety matter. (D.18-12-009, p. 13.)[15] Similarly in all the other subject areas for which Rafferty

[12] See D.18-12-009, pp. 9-38.

[13] Exhibit CAUSE-1, pp. 1 and 6.

[14] Intervenor Compensation Claim Of Scott J. Rafferty And Decision On Intervenor Compensation Claim Of Scott J. Rafferty [A.15-09-001] 07/17/17, p. 6, emphasis added.

[15] The Decision further states that thorough review of Rafferty's written testimony (Exhibit CAUSE-1, served April 29, 2016, consisting of 11 pages of text and an undated, 23-page PowerPoint attachment) contains no citations to PG&E's testimony, and therefore was of no

was denied compensation, the Decision carefully explains why there was no substantial contribution. (See D.18-12-009, pp. 7-38.)

In addition, in the recent court decisions in *New Cingular Wireless PCS, LLC v. Public Utilities Comm.* (2016) 246 Cal.App.4th 784 (*New Cingular I*) and *New Cingular Wireless PCS, LLC v. Public Utilities Comm.* (2018) 21 Cal.App.5th 1197 (*New Cingular II*), the Court of Appeal indicated that there are statutory limits on the Commission's award of intervenor compensation imposed by the Court's interpretation of section 1802(j). The opinions indicate that the Commission may only award compensation for contentions or recommendations that were actually adopted or affirmed in some type of a ruling or order (i.e., a procedural ruling).[16] In this instance, the only contentions or recommendations by Rafferty that were adopted in D.17-03-013 are those addressing Rate Case Cycle, Gas Leak Maintenance, and Post-Settlement Cost Reductions.

Based on the above, it is clear that we did not err in disallowing a substantial portion of Rafferty's intervenor compensation claim. Accordingly, rehearing on this issue is denied.

B. The Commission did not err in reducing Rafferty's hourly rate.

Rafferty requested a rate of $490 per hour asserting that this represents 85% of the top range for attorneys with his experience (i.e., 13 years or more). In D.18-12-009, we established rates for Rafferty equal to $320 per hour in 2015, $325 per hour in 2016, and $330 per hour in 2017, which are at the lower range for attorneys with 8-12 years of experience. (D.18-12-009, p. 47.)

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value to the Commission for the purpose of evaluating and reaching decisions on PG&E's safety showing. (D.18-12-009, pp. 12-13.)

[16] Although the New Cingular decisions addressed intervenor compensation when a proceeding ends without a decision on the merits, the Court's interpretation of section 1802(j) is not limited to those specific circumstances.

In his rehearing application, Rafferty alleges that the Commission erred in D.18-12-009 by lowering his requested hourly rate as an attorney. He asserts that the Decision inaccurately states that Rafferty, who has been an attorney for 38 years and appeared before 13 state regulatory commissions, had less than 12 years of experience. (Rhg. App., p. 8.) A review of the record, including Rafferty's intervenor compensation claim, demonstrates that we did not err in reducing his hourly rate.

Section 1806 requires that the computation of compensation awarded take into consideration "the market rates paid to persons of comparable training and experience who offer similar services." In Resolution ALJ-184, we stated that the rates tend to fall within well-defined ranges "based on length of relevant experience and roughly corresponding to the associate, partner, and senior partner levels within a law firm."[17] In D.07-01-009, we determined that intervenor representatives with a rate last authorized at least four years prior to the pending request may seek a new rate as if that individual were new to Commission proceedings.[18]

In this instance, Rafferty's intervenor compensation claim states that he does not appear in the Commission's rate table. It also states that he last participated in a Commission proceeding in 2007, and his last rate in that Commission proceeding (I.04-02-007) was $360 per hour for his contributions to D.07-07-006 as an "expert."[19]

D.18-12-009 points out that ten years have passed since Rafferty's last compensation award, and that award compensated Rafferty as an expert, not an attorney. D.18-12-009 states that Rafferty should be compensated as an attorney without regard to his prior Commission-related work as an expert. (D.18-12-009, p. 45.) Thus, consistent with D.07-01-009, we determined Rafferty's rate as an attorney "as if that individual were new to Commission proceedings."

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[17] Resolution ALJ-184, 08/19/04, p. 3. Resolution ALJ-184 is the Commission's resolution adopting the process of setting hourly rates for intervenors.

[18] D.07-01-009, Ordering Paragraph 4.

[19] Intervenor Compensation Claim Of Scott J. Rafferty And Decision On Intervenor Compensation Claim Of Scott J. Rafferty [A.15-09-001] 07/17/17, p. 22.

As stated above, Rafferty requested a rate of $490 per hour asserting that this represents 85% of the top range for attorneys with his experience (i.e., 13 years or more). However, we found that he did not have over 13 years of relevant experience, which should be practice before the Commission or in a similar administrative law setting. (D.18-12-009, p. 46.) The Decision correctly states that a review of Rafferty's resume indicates that prior to this proceeding most of his work was as a policy expert or an economist. (D.18-12-009, p. 47.)[20]

In regard to his work as an attorney, Rafferty's resume indicates that he's held three positions that would total over 13 years of experience if he worked full calendar years at each job, but his resume failed to indicate start and end dates for these positions. (D.18-12-009, p. 47.) In addition, his resume indicates that some of his time while more recently running his own law office was spent as "Executive Director for Peninsula Ratepayers Association," not as an attorney.[21] Furthermore, until the current case, little of Rafferty's work as an attorney involved appearing before regulatory commissions such as this one. Therefore, the we correctly concluded that Rafferty's rate as an attorney should be set with reference to attorneys with 8-12 years of experience.

These findings are consistent with the Commission's statement of intent in Resolution ALJ-184, which adopted the process of setting hourly rates for intervenors:

> Finally, the adopted rate carries our expectation about the level of the advocate's performance; to the extent that the advocate performs above or below that level in a particular proceeding we would consider augmenting or reducing the hourly rate.
>
> For example, we expect that advocates with experience before the Commission have a certain level of knowledge about our

[20] Intervenor Compensation Claim Of Scott J. Rafferty And Decision On Intervenor Compensation Claim Of Scott J. Rafferty [A.15-09-001] 07/17/17, p. 22; see also Exhibit 2 to Rafferty's Intervenor Compensation Claim, which includes Rafferty's resume.

[21] Intervenor Compensation Claim Of Scott J. Rafferty And Decision On Intervenor Compensation Claim Of Scott J. Rafferty [A.15-09-001] 07/17/17, p. 22; see also Exhibit 2 to Rafferty's Intervenor Compensation Claim, which includes Rafferty's resume.

> Rules of Practice and Procedure and filing requirements, so a seasoned advocate who fails to follow these rules would not be performing at a level consistent with what we would expect from someone of that training and experience. Thus, in that circumstance, we may consider awarding a lower hourly rate for the advocate's work in that proceeding.[22]

In this instance, Rafferty's timesheets document over 300 hours (out of a total of 1,333 hours) spent on tasks coded by Rafferty as some form of "Burden." Many of these hours appeared to be spent in disputes with the Commission's Docket Office or Intervenor Compensation Coordinator, contesting procedural matters that a more seasoned practitioner would have simply addressed as requested by Commission staff. In addition, the ALJ rulings regarding CAUSE's NOI document repeated instances of missed filing deadlines, illegible formatting, and typographical errors. Hence, in D.18-12-009, we correctly found that these are procedural mistakes that more seasoned practitioners do not make in formal filings with this Commission. (D.18-12-009, pp. 48-49.)

For these reasons, we correctly concluded in D.18-12-009 that Rafferty's hourly rates for 2015-2017 should be set at the bottom of the range for attorneys with 8-12 years of experience. Hence, D.18-12-009 established rates for Rafferty equal to $320 per hour in 2015, $325 per hour in 2016, and $330 per hour in 2017.

Based on the above, it is clear that we did not err in reducing Rafferty's hourly rate and rehearing on this issue is denied.

C. Rafferty's other allegations, including those of due process violations and prejudice, lack merit.

Rafferty alleges that the Commission's docket office's rejection of some of his filings and delay in the issuance of the ALJ's ruling on his NOI violated due process and caused irreversible prejudice. (Rhg. App., pp. 4-5.) He implies that if the assigned ALJ had ruled on his NOI eligibility earlier, CAUSE would have presented a more robust case in its capacity as an intervenor and presumably received a larger award. "The ALJ

[22] Resolution ALJ-184, p. 3, emphasis added.

irreversibly prejudiced CAUSE by failing to act within 30 days. CAUSE had already recruited world-class experts, but the unlawful delay forced CAUSE to disclose to them that its ability to provide compensation, even on a deferred and contingent basis, was now uncertain." (Rhg. App., p. 5.)

These allegations lack merit for several reasons. First, a ruling on an NOI granting eligibility is not a guarantee of an award of intervenor compensation. Intervenors proceed at their own risk. There is no guarantee of compensation. Thus, CAUSE should have proceeded to present its case to the best of its ability.

Second, the record demonstrates that CAUSE contributed to the delay in the determination of its NOI eligibility. On July 25, 2016, the ALJ issued a ruling rejecting CAUSE's original November 30, 2015 NOI (2015 NOI) finding, among other things, that CAUSE's bylaws did not indicate that CAUSE was authorized "to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation" as required by section 1802(b)(1)(C) of the Public Utilities Code. The ruling provided additional guidance in the event that CAUSE decided to file an amended NOI.[23]

On August 10, 2016, CAUSE filed a Motion to Amend along with an amended NOI ("2016 Amended NOI"), which was rejected by the Commission's Docket Office. On October 20, 2016, CAUSE replaced the Motion to Amend with a generic cover document that described the 2016 Amended NOI and provided additional information, which was accepted by the Docket Office.

On February 2, 2017, the ALJ issued a ruling rejecting the 2016 Amended NOI because it did not cure the defects identified in CAUSE's original 2015 NOI. In addition to providing additional guidance in the event that CAUSE decided to file a second amended NOI, the ruling directed CAUSE to do so within 14 days of this ruling.[24]

[23] Administrative Law Judge's Ruling Rejecting Collaborative Approaches To Utility Safety Enforcement's Notice Of Intent to Claim Intervenor Compensation [A.15-09-001] (CAUSE's 2015 NOI) 07/25/16, pp. 5-8.

[24] Administrative Law Judge's Ruling On Collaborative Approaches To Utility Safety

CAUSE did not file its second amended NOI within 14 days of the ruling. On April 5, 2017, CAUSE filed its second amended NOI ("2017 Amended NOI"). On May 10, 2017, the ALJ issued a ruling addressing CAUSE's 2017 Amended NOI. The ruling found that CAUSE failed to provide information necessary and specified in the ALJ's February 2, 2017 ruling to determine its eligibility as a Category 3 customer. However, the May 10, 2017 ruling granted CAUSE's alternate request set forth in its 2017 Amended NOI finding Rafferty eligible for intervenor compensation as a Category 1 customer in this proceeding.[25]

Rafferty also alleges that the Assigned ALJ's November 13, 2018 Ruling disrespects accountability to the Legislature and does not cure the due process violations. (Rhg. App., p. 11.) A review of the record shows that Rafferty was afforded sufficient process and these allegations lack merit.

A review of the record shows that on November 13, 2018, the assigned ALJ issued an "E-Mail Ruling Setting Deadline For Response To Prior ALJ Directives." The ruling includes a copy of the ALJ's September 7, 2018 e-mail to Rafferty and the service list, which provided a procedural update regarding the Commission's consideration of the Proposed Decision. Of importance, the September 7, 2018 e-mail notes that when Rafferty filed and served his comments on the Proposed Decision on August 20, 2018, he encountered technical problems such that the exhibits were not successfully filed. The September 7, 2018 e-mail made a "non-precedential exception" to the Commission's e-filing rules allowing Rafferty to send the exhibits directly to the ALJ, via postal mail, a CD, or other electronic media that contains a complete and correct version of whatever exhibits he was requesting be admitted into the record. The e-mail also assured Rafferty that the ALJ would work with Commission staff to ensure that the exhibits were placed

Enforcement's Showing Of Significant Financial Hardship [A.15-0-001] 02/02/17, p. 8.

[25] Administrative Law Judge's Ruling Addressing The Notice Of Intent To Claim Intervenor Compensation Of Collaborative Approaches To Utility Safety Enforcement And Related Motions [A.15-09-001] 05/10/17, pp.14-17.

on the Docket page for this proceeding.[26] The November 13, 2018 E-Mail ruling extended the deadline for Rafferty's filing of exhibits to his comments on the Proposed Decision to November 20, 2018. The ruling states that if Rafferty does not respond to the instructions in the September 7, 2018 e-mail by the November 20, 2018 deadline, the formal record of comments on the Proposed Decision shall consist of the documents currently posted on the Docket Card for this proceeding.[27]

Rafferty failed to comply with the November 13, 2018 ruling and missed the November 20, 2018 deadline by which he was to have submitted the exhibits to comments on the Proposed Decision. In his rehearing application, Rafferty states that he "is not in a position to monitor Commission dockets indefinitely, and did not see the ALJ issued a ruling that day." (Rhg. App., p. 11.) Rafferty, however, did not need to monitor the Commission's docket. He was served with the ruling by email on November 13, 2018. Rehearing on these issues is denied.

D. The request for oral argument is denied.

Rafferty submits that oral argument will assist the Commission in deciding this rehearing application. (Rhg. App., p. 12.) We have complete discretion to determine the appropriateness of oral argument in any particular matter. (See Rule 16.3(a); Cal. Cod of Regs., Tit. §20, 16.3, subd. (a).) The request for oral argument does not meet the requirements specified by the Commission's Rules. The issues raised by Rafferty are basic issues that are not of exceptional complexity. Accordingly, there is no basis to conclude oral argument would benefit disposition of the application for rehearing. Consequently, the request for oral argument is denied.

[26] E-Mail Ruling Setting Deadline For Response To Prior Administrative Law Judge's Directives [A.15-01-009] 11/13/18, p. 6.

[27] E-Mail Ruling Setting Deadline For Response To Prior Administrative Law Judge's Directives [A.15-01-009] 11/13/18, p. 4.

III. CONCLUSION

We have carefully reviewed each and every allegation in Rafferty's rehearing application. We find that the evidence in the record supports our conclusion that there is no merit to Rafferty's allegations of legal error in D.18-12-009. Accordingly, rehearing of D.18-12-009 is denied.

THEREFORE, IT IS ORDERED that:

1. Rehearing of D.18-12-009 is hereby denied.
2. The request for oral argument is denied.
3. The proceeding, A.15-09-001, is closed.

This order is effective today.

Dated February 6, 2020, at Bakersfield, California.

LIANE M. RANDOLPH
MARTHA GUZMAN ACEVES
CLIFFORD RECHTSCHAFFEN
GENEVIEVE SHIROMA
Commissioners

President Marybel Batjer, being necessarily absent, did not participate.