

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



**FILED**

05/29/20  
04:59 PM

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 Grant Funds; and Order to Show Cause 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.

Investigation 18-07-009

**MOTION OF THE CONSUMER PROTECTION AND ENFORCEMENT  
DIVISION FOR EXTENSION OF TIME TO SUBMIT REPLY TESTIMONY TO  
COMMUNITY UNION, INC. OPENING TESTIMONY**

**VANESSA M. BALDWIN**  
Attorney

Consumer Protection & Enforcement Division  
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May 29, 2020

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OF THE STATE OF CALIFORNIA

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 Grant Funds; and Order to Show Cause 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.

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**I. INTRODUCTION**

The California Public Utilities Commission's Consumer Protection and Enforcement Division (CPED) respectfully submits this *Motion of the Consumer Protection and Enforcement Division for Extension of Time to Submit Reply Testimony to Community Union, Inc. Opening Testimony* (Motion) pursuant to Rule 11.3 of the Rules of Practice and Procedure (Rules) of the California Public Utilities Commission (Commission). An extension of time is warranted due to Larry Ortega and Community Union, Inc.'s (Respondents) failure to comply with the Administrative Law Judge's Ruling to submit opening testimony on May 19, 2020.<sup>1</sup>

**II. DISCUSSION**

ALJ Zhang's email ruling on May 5, 2020 updated the schedule for this proceeding requiring that Respondents submit opening testimony on May 19, 2020. To date, CPED has not received Respondents opening testimony and no motion requesting

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<sup>1</sup> I.18-07-009 *Email Ruling Updating the Schedule*, dated May 5, 2020.

an extension of time to submit opening testimony has been filed in the docket of this proceeding. Thus, it appears that Respondents have effectively waived their opportunity to submit opening testimony in this proceeding.

No further latitude should be provided to Respondents. ALJ Zhang has repeatedly reprimanded Respondents for failing to comply with the process and procedures required for Commission proceedings. ALJ Zhang previously permitted Respondents to late file a motion more than a week after it was due and cautioned Respondents that a motion for extension of time must be sought in advance.<sup>2</sup> ALJ Zhang chastised Respondents for consistently filing last minute extensions for multiple deadlines in this proceeding stating that, “[f]uture requests for extensions will not be viewed favorably. If Community Union’s numerous extension requests become indicative of attempts to delay the proceeding or refusal to produce information, an order to show cause as to why Community Union should not be fined for such behavior may be necessary.”<sup>3</sup> ALJ Zhang has accommodated Respondents on numerous occasions when they have failed to follow the Commission’s procedural rules.

Respondents failure to now submit opening testimony on time is indicative of attempts to delay this proceeding. In fact, in a prohibited ex parte email communication to ALJ Zhang sent on May 29, 2020 at 6:12 am, Respondents have expressed their intention to file opening testimony on June 1, 2020, almost two weeks late and a day before CPED’s reply testimony is due.<sup>4</sup> Respondents have been fully aware since the May 4, 2020 status conference that their opening testimony would be due May 19, 2020.<sup>5</sup> In addition, on May 5, 2020, ALJ Zhang emailed the service list notifying the parties of the updated schedule which included May 19, 2020 as the due date for Respondents’

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<sup>2</sup> See, I.18-07-009 *Email Ruling Accepting Community Union Inc.’s Motion and Granting KCCD’s and CPED’s Joint Request to File a Reply*, dated May 20, 2020.

<sup>3</sup> See, I.18-07-009 *Email Ruling Granting Community Union’s Motion Requesting Extension of Time for Answers to CPED’s Data Request*, dated May 18, 2020.

<sup>4</sup> See, Attachment B, Email from Larry Ortega to ALJ Zhang, *Community Union’s Response to Re: I1807009 Update on Procedural Items CPED*, dated May 29, 2020.

<sup>5</sup> Transcript, Status Conference, May 4, 2020, p. 64, lns. 12-13.

opening testimony.<sup>6</sup> CPED then reminded Respondents during the May 21, 2020 WebEx meeting that Respondents' opening testimony was past due.<sup>7</sup> When asked when their opening testimony would be forthcoming, Respondents refused to provide a date certain.<sup>8</sup>

If Respondents truly recognized the import of the Commission's rules, they would have submitted a motion requesting an extension of time prior to the May 19, 2020 due date. Yet, Respondents have ignored the ALJ's warnings and proceeded to wait until the day before CPED's reply is due to submit their opening testimony. Respondents have acted in bad faith by attempting to delay the proceeding in this manner.

Additionally, while Respondents consistently make claims of "financial hardship," they have not demonstrated the extent of their claimed hardship through the submission of financial statements and supporting documentation. While Respondents now contend that they have depleted "every dime of reserves,"<sup>9</sup> they have yet to provide evidence supporting such a claim. Respondents have had the opportunity since 2017 to provide a copy of their income tax filings, yet, to date, they fail to disclose the information to the Commission.

Moreover, Respondents' excuse of "financial hardship" should not be given any further credence where Respondents have defied and violated on a continual basis the Commission's procedural rules and requirements. While Respondents claim lack of familiarity in CPUC proceedings,<sup>10</sup> ignorance of the law is no excuse. In fact, Mr. Ortega should be held to a higher standard of conduct where he represents Western State School of Law as part of his educational background.<sup>11</sup> Above all, Respondents pro se status

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<sup>6</sup> I.18-07-009 *Email Ruling Updating the Schedule*, dated May 5, 2020.

<sup>7</sup> See, Attachment A, Email from CPED's attorney to ALJ Zhang, *I1807009 Update on Procedural Items*, dated May 22, 2020.

<sup>8</sup> See, Attachment A, Email from CPED's attorney to ALJ Zhang, *I1807009 Update on Procedural Items*, dated May 22, 2020.

<sup>9</sup> See, Attachment B, Email from Larry Ortega to ALJ Zhang, *Community Union's Response to Re: I1807009 Update on Procedural Items CPED*, dated May 29, 2020, Attachment.

<sup>10</sup> See, Attachment B, Email from Larry Ortega to ALJ Zhang, *Community Union's Response to Re: I1807009 Update on Procedural Items CPED*, dated May 29, 2020, Attachment.

<sup>11</sup> See, Attachment C: Declaration of Vicky Zhong, May 29, 2020.

does not relieve them of their obligations to comply with the law or consequences for not doing so.

If Respondents are permitted to late file opening testimony, CPED requests an extension of time to submit its rebuttal testimony two weeks<sup>12</sup> from the submission of Respondents opening testimony.

### III. CONCLUSION

For the reasons set forth in this Motion, CPED respectfully requests that if Respondents are provided additional time to submit opening testimony, the Commission extend CPED's date for supplemental testimony to two weeks after Respondents file opening testimony.

Respectfully submitted,

/s/ VANESSA M. BALDWIN  
Vanessa M. Baldwin

Consumer Protection & Enforcement Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
Telephone: (415) 703-3942  
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May 29, 2020

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<sup>12</sup> The updated schedule for this proceeding allows for two weeks from the time period of Respondents Opening Testimony to the date of CPED's Reply Testimony. (*See*, I.18-07-009 *Email Ruling Updating the Schedule*, dated May 5, 2020).

**ATTACHMENT A**

**From:** [Baldwin, Vanessa](#)  
**To:** [Zhang, Zhen](#)  
**Cc:** [hyepin@gmail.com](mailto:hyepin@gmail.com); [Mail@BBALA.org](mailto:Mail@BBALA.org); [JTseng@HillFarrer.com](mailto:JTseng@HillFarrer.com); [LOrtega@OneMillionniu.org](mailto:LOrtega@OneMillionniu.org); [Shek, Selina](#); [dfong@apcf.org](mailto:dfong@apcf.org); [rms2979@aol.com](mailto:rms2979@aol.com); [Hom, Brian](#); [Lo, Jeanette](#); [Sastra, Rudy](#)  
**Subject:** I1807009 Update on Procedural Items  
**Date:** Friday, May 22, 2020 5:02:00 PM

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Greetings Your Honor:

CPED provides the following status updates regarding certain procedural items discussed during the May 4, 2020 Status Conference.

### **CU's Response to CPED's Data Request**

- According to the ALJ's email ruling on May 18, 2020, the deadline for Community Union (CU) to respond to CPED's data request, issued on February 21, 2020, was extended to 5/19.
- As of the date of this email, CPED has not received CU's written responses.
- CPED initiated a webex with Mr. Ortega on May 21, 2020 and provides the following summary:
  - Mr. Ortega emailed documents related to requests 1-5. CPED reviewed the documents with Mr. Ortega and identified areas where CPED would require additional information for CU's complete and full response.
  - Mr. Ortega mentioned he would provide complete responses to the data request by EOD May 22, 2020.
  - For request. 10 Mr. Ortega stated that he only had complete data for 34 of his total 142 classes. CPED is willing to accept the 34 classes by EOD May 22, 2020 as a partial response to question 10 and requests that Mr. Ortega prepare data for the remaining 108 classes by EOD May 29, 2020.
  - For No. 14 and 15, Mr. Ortega claims that there are some responsive documents in the 5 boxes of non-digitized material. Mr. Ortega stated that he had 90% of the responsive documents and indicated he would provide those documents and notify CPED by EOD May 22, 2020 how he would provide the remaining 10% of responsive documents.
  - CPED has provided Mr. Ortega with access to Kiteworks, the Commission's file sharing service, to more easily upload digital documents.
  - Furthermore, CPED reminded Mr. Ortega that written responses are still required.

### **CU's Discovery Requests**

- On May 7, 2020, CU sent CPED several discovery requests including ten questions and two requests for documents.
- Earlier today, CPED sent responses to CU's ten questions.
- Regarding the request for documents, CPED intends to begin providing responsive emails next week, 5/26.

### **CU's Witnesses – Contact Information**

- At the May 4, 2020 Status Conference, the ALJ required Mr. Ortega to provide the contact information for the Neri Rivas, Debra Janes, Ron Vera and Jane Does by May 6, 2020. As of the date of this email, CPED does not have this information. Mr. Ortega mentioned on the May 21, 2020 webex call that he would provide the contact information for Neri Rivas, Debra Janes, and Ron Vera by EOD May 22, 2020. The identity and contact information for the Jane Does still remain outstanding.

### **CU's Opening Testimony**

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2020 webex with Mr. Ortega, CPED reminded Mr. Ortega that the submission of his opening testimony is past due. Mr. Ortega did not indicate a date certain on when CU's testimony would be filed.

Thank you.

Sincerely,

Vanessa Baldwin  
Counsel for CPED

Vanessa M. Baldwin  
Attorney  
Legal Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
(415) 703-3942  
[Vanessa.Baldwin@cpuc.ca.gov](mailto:Vanessa.Baldwin@cpuc.ca.gov)

**ATTACHMENT B**

**From:** [LOrtega@OneMillionniu.org](mailto:LOrtega@OneMillionniu.org)  
**To:** [Zhang, Zhen](#)  
**Cc:** [Hom, Brian](#); [Lo, Jeanette](#); [Sastra, Rudy](#); [Baldwin, Vanessa](#)  
**Subject:** Community Union's Response to Re: I1807009 Update on Procedural Items CPED  
**Date:** Friday, May 29, 2020 6:12:15 AM  
**Attachments:** [To ALJ Zhang, Community Union's Response to CPED's update procedural items.pdf](#)

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Greetings ALJ Zhang,  
Community Union responds to CPED's Update on Procedural Items. Please see the attached file.

Larry Ortega  
For Community Union

On May 22, 2020 5:02 PM Baldwin, Vanessa <[vanessa.baldwin@cpuc.ca.gov](mailto:vanessa.baldwin@cpuc.ca.gov)> wrote:

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Thank you.

Sincerely,

Vanessa Baldwin  
Counsel for CPED

Vanessa M. Baldwin

Attorney

Legal Division

California Public Utilities Commission

505 Van Ness Avenue

San Francisco, CA 94102

(415) 703-3942

[Vanessa.Baldwin@cpuc.ca.gov](mailto:Vanessa.Baldwin@cpuc.ca.gov)

Response to Update on Procedural Items CPED, Ms. Baldwin:

ALJ Zhang,

Community Union (CU) respectfully responds to CPED's I1807009 Update on Procedural Items as follows:

1. At the crux of the challenges CU has had in meeting the deadlines set forth by the court are both financial and personal:
  - a. Financial: CU's principal line of income over the last three years has been contracts with schools in providing technology training to parents whose children are attending these schools. This fiscal year beginning in September, contracts were slow to come with CU closing 0 (zero) business through December. Realizing this challenge CU launched speaking engagement campaigns in attempt to advise school districts and the families they served about the ill-effects of wireless technologies. Listed here [via links to live presentations listed below](#) are a series of examples in which we attempted to book speaking engagements with school districts throughout the region Pomona, San Bernardino, Glendora, Walnut, Chino Hills. We waited for other school districts to respond to our proposals to provide parent technology training.
    - i. [Tech-Talks by L.A. Ortega - Pomona](#)
    - ii. [Before the School Board at San Bernardino](#)
    - iii. [Before the City Council at Pomona](#)
  - b. Each of these presentations were done with the intent of booking **public speaking engagements** as we waited on school districts to enter into training agreements with CU to provide training to parents.
  - c. In early February we closed a training agreement with a local school district in L.A. County with Training set to begin in mid-March.
  - d. In late February we were scheduled to present to nearly 500 attendees at a local park in Pomona on the issue of Tech-Talks, cell phone radiation.
  - e. By cancelling all public gatherings, the Covid-19 – Governor Newsome's Stay at Home orders nixed everything we had built-up-to since September of 2019.
  - f. We again attempted to pivot from this catastrophic impact to our business model by offering on-line training to the constituency we traditionally served at the school sites. We attempted to offer training via Zoom in an on-line platform. We soon learned via empirical observation and feedback and then later officially from USC's Dr. Hernan Galperin, that nearly 50% of the communities who most needed our training services could not connect to the Internet for lack of equipment and/or Internet connectivity. See the report link here from Dr. Galperin of USC, [select brown and black communities were purposefully digitally red-lined](#).
  - g. Before we knew it, May 2020 was upon us and we had generated 0 (zero) revenue in new business, depleting every dime of reserves we had just to keep a roof over our head and the lights and Internet working. We are left with assistance from the State of California's Covid-19 relief for Independent Contractors. We have applied, but have not yet been approved.

Response to Update on Procedural Items CPED, Ms. Baldwin:

- h. Personal: Due to a major break in an old pipe giving-out in one of my restrooms at my place of residence. I found that a mold issue in my home had been created. Because my roommate has adverse affects to mold, she needed to move-out, forcing yet another financial hardship to be assumed by resources that simply are not available.
    - i. Personally and professionally we (I) am struggling just to keep the lights on.
2. As has been well documented and acknowledged, I am the only person available who is able to respond to this OII on behalf of Community Union, Inc. I have attempted to engage pro bono counsel and have been scantily successful which has allowed me to get as far as I have in this proceeding. That pro bono assistance has now ended. Counsel advised me yesterday they will no longer be able to assist without a retainer. Given our current financial situation, a retainer is impossible. I am not a lawyer. I am not familiar (but working very hard to familiarize myself procedurally how to manage) in CPUC proceedings. I know in disclosing this information I set Community Union up for a possible barrage of procedural tactics that can disable our defense in this matter. Nonetheless, I thought it pertinent the court was aware of exactly what was happening. The court has asked for elaboration on what these struggles (hardships) were about in a previous ruling in this proceeding and we ask ALJ Zhang to accept these details in response that question.
  - a. The pro-bono counsel also advised CU that the quickest exit from this proceeding would be a settlement agreement with CPED. CU's position is that grave errors have been committed by CPUC's Communications Division, the Auditor and CPED.
  - b. CU intends to show with clear and convincing evidence that they brought over \$1,000,000 in value to the contract in their execution of the Work Plan. CU will prove they have successfully completed all targets for all Activities delineated in the Work Plan and should be paid for work completed, approximately \$80,000.
  - c. From the responses to the questions CU submitted to CPED, it is now Communications Division's position that they no longer have the physical sign-in sheets from persons attending CU courses in Quarters 11, 12 and 13. Yet we have emails from Communications Division acknowledging sign-in sheets were received. We intend to cure this mishap via affidavits from each of the students attending the courses in those periods.

**CU's Response to CPED's Data Request**

- CU submitted its written responses to CPED on 5/26, late due to reasons cited above.
- CPED asks CU to provide 108 remaining details on courses conducted. This information is not readily available in the format of the 34 submitted to CPED during the Webex call on 5/21.
  - First, CU objects to this request on the grounds that course information is related specifically and exclusively to Activity 5 which represents only 15% of the total funding per the approved budget.
  - Second, the task of providing details on 108 courses will take approximately 40 man-hours to complete. This arguably is more work than the value of such information, again, given that it only represents 15% of the total funding.



**ATTACHMENT C**

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Investigation 18-07-009

**DECLARATION OF VICKY ZHONG**

My name is Vicky Zhong and I am a Public Utilities Regulatory Analyst in the Consumer Protection and Enforcement Division of the California Public Utilities Commission (Commission). I have personal knowledge of the facts stated herein.

1. During my research relating to the Commission's Order Instituting Investigation, I.18-07-009 proceeding, I discovered Mr. Larry Ortega lists Western State School of Law as part of his educational background on LinkedIn.com.
2. I took a screenshot of Mr. Larry Ortega's LinkedIn profile, which is publicly available and attached herein to this declaration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct to the best of my knowledge.

Executed on May 29, 2020, at San Francisco, California.

/s/ *VICKY ZHONG*

---

Vicky Zhong

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Open Investigations x Larry Ortega - Founder and P... x

https://www.linkedin.com/in/larry-ortega-00656314

60%

10:13 AM 5/29/2020

LinkedIn People Larry Ortega

**Larry Ortega**  
 Founder One Million NUJ  
 Greater Los Angeles Area 500+ connections

Community Union, Inc.  
 California State Polytechnic University-Pomona  
 Personal Website IF

**About**

One Million NUJ is a collaboration of community based organizations, schools, civic, and business entities coming together to increase economic and education opportunities in underserved communities. Beginning in California and Florida, NUJ has created partnerships that has allowed it to create, sustain and continue to expand permanent Internet access points in low-income communities, with a goal of training One Million NUJ/One Internet Users.

This is accomplished by maximizing the utilization of existing resources in schools, non-profit organizations and civic entities. In so doing, billions of dollars have been estimated as the price in the Social Investment.

We are committed to protecting our economic future markets by increasing the number of high school graduates, while simultaneously decreasing the percentage of people living at or below the poverty line.

We improve high school graduation by introducing and training parents to utilize e-books to better guide their children to academic success. Parents become increasingly more engaged as the e-book NUJ introduces to them. Byproducts to NUJ are enhanced economic opportunities and expanded entrepreneurial opportunities.

The company since its inception in 1995, the dawn of the digital explosion, has graduated over 25,000 students from its programs, and has a statewide footprint, spanning from southern California into Silicon Valley.

NUJ desires to be in every school throughout the country and will do so by continuing to be cutting-edge in the identification, development and promotion of e-books for end-users (parents).

**Articles by Larry**

Did Time Warner Cable over-bill customers...for 15 YEARS?!!  
 By Larry Ortega  
 May 11, 2018

Charter Time Warner Cable Merger spells disaster for community  
 By Larry Ortega  
 March 10, 2018

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**Did Time Warner Cable over-bill customers...for 15 YEARS?!!**  
 By Larry Ortega  
 May 11, 2018

**Charter Time Warner Cable Merger spells disaster for community**  
 By Larry Ortega  
 March 10, 2018

**L.A. Times: James Mileads Public by Implying Charter has a Plan THEY DON'T**  
 By Larry Ortega  
 February 1, 2018

**Activity**

Photo Liked by Larry Ortega

I will miss my dear friend advocate Aubry Stone.  
 Liked by Larry Ortega

Looking to help the environment from the comfort of your home? Some homeowners policies offer Eco-Rebuild coverage, which helps pay for replacing...  
 Liked by Larry Ortega

**Experience**

Founder and President  
 Community Union, Inc.  
 Jun 1993 - Present · 27 years  
 Greater Los Angeles Area

**Education**

California State Polytechnic University-Pomona  
 Bachelor's degree · Computer Information Systems

Western State School of Law

**Others named Larry Ortega**

- Larry Ortega
- Larry Ortega
- Larry Ortega
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- Harriet Blaine