

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA



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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 CONSUMER PROTECTION AND ENFORCEMENT DIVISION  
FOR EXTENSION OF TIME TO SUBMIT SUPPLEMENTAL REPORT**

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May 29, 2020

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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 Supplemental Report* (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 Respondents' failure to comply with the Administrative Law Judge's (ALJ) Ruling to respond to CPED's data requests in a timely and full manner.

**II. PROCEDURAL HISTORY**

Larry Ortega and Community Union Inc.<sup>1</sup> (Respondents) have not complied in full with the Administrative Law Judge's (ALJ) ruling requiring Respondents to provide responses and information to CPED's data requests propounded on July 21, 2017 and again on February 21, 2020 (data request).

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<sup>1</sup> Community Union Inc. is a member of California's One Million New Internet Users Coalition (NIU Coalition) and Mr. Larry Ortega is the founder of both Community Union, Inc. and the NIU Coalition. OII, p. 2.

After CPED filed its *Motion Compelling Responses to Data Requests from Larry Ortega and Community Union Inc.* on March 25, 2020, ALJ Zhang granted CPED's Motion in part by requiring Respondents to answer each data request question by May 15 2020 (Motion to Compel).<sup>2</sup> On May 15, 2020, Respondents filed a *Motion Requesting Extension of Time* requesting until May 18, 2020 citing to "extreme financial challenges." ALJ Zhang granted Respondents' motion for an extension of time allowing Respondents until May 19, 2020 to answer the data requests.<sup>3</sup> The ALJ also noted that Respondents do not explain how their financial challenges have prevented them from providing responses to CPED's data request and admonished Respondents for their delay in filing a request for additional time.

While Respondents finally provided to CPED some responses and documents on May 26, 2020, almost a week after the initial due date, Respondents' submission has been piecemeal, thus making it very cumbersome for CPED staff to review and determine the completeness of what Respondents submitted. On May 21, 2020, pursuant to the ALJ's request at the May 4, 2020 Status Conference, CPED coordinated a WebEx meeting with Respondents to discuss a process for providing responsive documents to CPED's data request. At that meeting, Respondents provided verbal responses to some data request questions and then sent CPED multiple emails containing electronic documents along with written explanations. CPED also reminded Respondents that verbal explanations and/or piecemeal email communications were not a substitute for a full written response required pursuant to the ALJ's May 4, 2020 ruling granting CPED's Motion to Compel.<sup>4</sup>

Later, on May 26, 2020, regarding data request number no. 7 which asks for "all supporting documentation relating to each respondents' revenues (e.g. grants) from March 1, 2012 through March 1, 2015", Respondents noted, "It will take 3-4 hours to

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<sup>2</sup> Transcript, May 4, 2020 Status Conference, p. 38, lns. 14-22.

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

<sup>4</sup> See, Attachment A, *Email from CPED's attorney to ALJ Zhang, I1807009 Update on Procedural Items*, dated May 22, 2020.

locate a sample set of the MOU's and check stubs paid on the other funding detail."<sup>5</sup>

Aside from this comment, Respondents have not provided full and complete responsive documents to this data request. Respondents have also not provided responsive documents to data request no. 13 which ask Respondents to "Identify all grants ever granted to either respondent or that respondent received grant money from." Data request no. 13 also asks Respondents to identify the name of the grantor, name of grantee, grant amount awarded to respondent, grant amount received by respondent, time period of grant, and the terms of the grant.<sup>6</sup> As of the date of this Motion, Respondents have not identified or provided to CPED the outstanding documents.

### **III. DISCUSSION**

Respondents continue to stall and delay the Commission's Order Instituting Investigation (OII) and CPED's related efforts to conduct discovery. Despite numerous attempts, both informally and formally, over the past three years to obtain responses to CPED's data request, Respondents have only now started to respond in-part. Respondents' obstructionist conduct have impeded CPED's efforts to present a complete picture of Respondents total revenues and expenses at the time when they received reimbursement for California Advanced Services Fund (CASF) related activities. CPED has made efforts to work cooperatively with Respondents. Due to Respondents' delay, CPED requests an extension of time to submit its Supplemental Report, currently due June 1, 2020.<sup>7</sup> At the earliest, CPED requests that it be allowed to submit its Supplemental Report two weeks after Respondents have submitted full and complete responses to the data request.

CPED's Supplemental Report is dependent, in part, on complete responses to CPED's data request, specifically data request nos. 7 and 13 which request

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<sup>5</sup> See, Attachment B, "Data Request CPED" attached to Email from Larry Ortega to ALJ Zhang "Data Request Response Attached, Re: I1807009 Update on Procedural Items" dated May 26, 2020.

<sup>6</sup> See, Attachment L (CPED's February 21, 2020 Data Request) to CPED's *Motion of the Consumer Protection and Enforcement Division Compelling Responses to Data Requests From Larry Ortega and Community Union Inc. And Shortening Time for Response*, March 25, 2020.

<sup>7</sup> See, I.18-07-009, *Email Ruling Updating the Schedule*, dated May 5, 2020.

documentation supporting all of Respondents other revenue sources at the time of the CASF grant. As noted previously in CPED's Motion to Compel, information regarding Respondents' total revenues and expenses is relevant evidence to determine the extent to which Respondents were reimbursed from other funding sources for the same expenses that it sought Commission reimbursement for.<sup>8</sup> CPED is prejudiced by Respondents' efforts to delay because it prevents CPED from analyzing information relevant to the Commission's OII and ultimately obstructs the Commission from enforcing its laws.

Respondents have had ample time to fully and completely respond to CPED's data requests. Apart from having more than three years to provide responsive information and documents, Respondents were again granted latitude until May 15, 2020 and then again until May 19, 2020. While Respondents claim "financial hardship," they have not demonstrated or provided supporting documentation evidencing the extent of their alleged financial hardship. Moreover, Respondents' excuse of "financial hardship" should not be given any further credence where Respondents have defied and violated the Commission's procedural rules and requirements. Importantly, Respondents pro se status does not relieve them of their obligations to comply with the law.

#### **IV. CONCLUSION**

For the reasons set forth in this Motion, CPED respectfully requests that the Commission extend CPED's date for supplemental testimony to two weeks after Respondents submit full and complete responses and documentation to CPED's February 21, 2020 data request.

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<sup>8</sup> *Motion of the Consumer Protection and Enforcement Division Compelling Responses to Data Requests from Larry Ortega and Community Union Inc. and Shortening Time for Response*, dated March 25, 2020 (CPED's Motion to Compel), p. 8.

Respectfully submitted,

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