

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE  
STATE OF CALIFORNIA



**FILED**  
05/12/20  
03:26 PM

ADMINISTRATIVE LAW JUDGE ZHEN ZHANG, presiding

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

REPORTER'S TRANSCRIPT  
TELEPHONIC  
MAY 4, 2020  
Pages 1 - 81

Reported by: Karly Powers, CSR No. #13991

1 TELEPHONIC

2 MAY 4, 2020 - 9:04 a.m.

3 \* \* \* \* \*

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

6 Good morning, the Commission will  
7 come to order. We are now on the record.

8 I am Administrative Law Judge Zhang,  
9 the presiding officer in this proceeding.

10 This is the time and place for the Case  
11 Management Conference for Investigation  
12 18-07-009, Order Instituting Investigation on  
13 the Commission's own motion into California's  
14 One Million New Internet Users Coalition's  
15 Misuse of California Advanced Services Fund  
16 Grant Fund, and Order to Show Cause why the  
17 Commission should not impose penalties and/or  
18 other remedies for violating terms of their  
19 grant, and for refusing to return funds  
20 previously demanded by the Commission's  
21 Division.

22 This Case Management Conference is  
23 being conducted telephonically. To ensure  
24 complete, clear, and accurate court  
25 reporting, the following ground rules shall  
26 apply to this telephonic conference:

27 Parties shall speak in order  
28 announced by the Judge;

1 I will call on each person  
2 individually;

3 Parties are to announce and identify  
4 themselves each time when speaking;

5 Parties are not to interrupt each  
6 other or the Judge;

7 Parties are to mute the phone when  
8 not speaking;

9 Parties must speak slowly and  
10 enunciate. And I emphasize "over-enunciate"  
11 so that the court reporter could get a clear  
12 transcript.

13 I am now going to roll call. Will  
14 the Counsel for Consumer Protection and  
15 Enforcement Division identify him or herself  
16 for the record, and please spell your full  
17 name.

18 MS. BALDWIN: This is Vanessa Baldwin,  
19 V-a-n-e-s-s-a, Baldwin, B-a-l-d-w-i-n,  
20 Counsel for the Consumer Protection and  
21 Enforcement Division.

22 ALJ ZHANG: Will the representative for  
23 Community Union identify him or herself for  
24 the record? And please spell your full name.

25 MR. ORTEGA: Larry Ortega, L-a-r-r-y,  
26 O-r-t-e-g-a.

27 ALJ ZHANG: The agenda for today is as  
28 follows:

1                   Status of the parties after  
2           Alternative Dispute Resolution;  
3                   Identification of outstanding  
4           disputed facts to be determined at the  
5           evidentiary hearing;  
6                   Identification of any outstanding  
7           discovery issues;  
8                   Identification of any witnesses to  
9           be cross-examined at the evidentiary hearing;  
10           The schedule for this proceeding;  
11           And closing and questions.  
12           Let's get started.  
13                   Consumer Protection and Enforcement  
14           Division, which I will refer to as "CPED,"  
15           has filed a motion for approval of settlement  
16           with Korean Churches for Community  
17           Development. CPED also filed a joint motion  
18           for dismissal of Asian Pacific Community.  
19           Last Friday, CPED, Korean Churches For  
20           Community Development, Black Business  
21           Association, and the Soledad Enrichment  
22           Action-Charter Schools filed a joint motion  
23           to dismiss Black Business Association and the  
24           Soledad Enrichment Action-Charter Schools for  
25           from this proceeding.  
26                   In Community Union's Case  
27           Management Statement, it identified itself  
28           and CPUC as the remaining parties after

1 Alternative Dispute Resolution. Mr. Ortega  
2 is the President of Community Union. He has  
3 not been personally named as a respondent in  
4 this proceeding.

5 This question is directed Consumer  
6 Protection and Enforcement Division.

7 Ms. Baldwin, do you have anything  
8 to add in terms of the what appears to be the  
9 current status of this proceeding, that the  
10 only remaining party is Community Union.

11 MS. BALDWIN: No. Vanessa Baldwin on  
12 behalf of the Consumer Protection Enforcement  
13 Division. We -- Community Union is one of  
14 the remaining parties. And we have also  
15 identified Mr. Larry Ortega as another  
16 responsible party, being the President and  
17 leader of the coalition at the time.

18 ALJ ZHANG: Ms. Baldwin, is this in the  
19 Order Instituting Investigation that was  
20 filed on July 24th, 2018?

21 MS. BALDWIN: I believe -- let me pull  
22 it up, your Honor. But I do believe we had  
23 requested remedies against all the parties,  
24 including Mr. Larry Ortega, including  
25 potential sanctions depending on how the  
26 Commission had ruled. And let me pull that  
27 up right now.

28 THE REPORTER: Ms. Baldwin, if you

1 wouldn't mind speaking up, that would be  
2 great. Thank you.

3 MS. BALDWIN: Sure.

4 ALJ ZHANG: While you're looking at the  
5 investigation documents, I believe you said  
6 the investigation is against Mr. Ortega as  
7 the President of Community Union. That is  
8 not the same as against Mr. Ortega as an  
9 individual person.

10 MS. BALDWIN: That is correct. It's  
11 Mr. Ortega as the President of Community  
12 Union and as the leader --

13 ALJ ZHANG: Okay.

14 MS. BALDWIN: -- of the coalition.

15 ALJ ZHANG: Okay.

16 Mr. Ortega, do you have anything to  
17 add as to the status of this proceeding?

18 MR. ORTEGA: Larry Ortega; I do.

19 I'm not -- well, actually, a point  
20 of clarification, your Honor.

21 In terms of the question that you  
22 had asked CPED relative to the matter  
23 including me personally, I had -- in my  
24 responding papers for this case management  
25 had indicated that all of my work has been on  
26 behalf of Community Union. And that, as  
27 such, we were -- that I, personally, was  
28 protected by the laws of California as a cor

1 -- as being the President of a corporation.  
2 And I so stated in my Case Management  
3 Statement.

4 So that -- excuse me. That's number  
5 one. I just kind of wanted to point that out  
6 again. And -- which isn't really,  
7 necessarily, an addition, but just as a  
8 matter of, kind of a point of clarification.

9 And then, also, on the grounds that  
10 the settlement agreement between CPED and the  
11 Korean Churches, KCCD, who is the fiscal  
12 agent in this matter, on that basis, that  
13 would then -- it is our contention, Community  
14 Union's contention, that in strict adherence  
15 to the contract that if it is CPED's intent  
16 to settle with the fiscal agent in this  
17 matter, that then the Commission loses its  
18 jurisdictional reach to Community Union.  
19 Because there's no -- from a contractual  
20 standpoint, there's no breach that is  
21 provided for CPED. And, thus, this matter  
22 should be dismissed if it's their intent to  
23 enter into a settlement with KCCD.

24 The contract is clear in Attachment  
25 A. And it is so signed by the fiscal agent  
26 in this matter. And so --

27 ALJ ZHANG: Mr. Ortega?

28 MR. ORTEGA: Yes.

1           ALJ ZHANG: Regarding the first point,  
2 there is no argument that the investigation  
3 is against Community Union and you as the  
4 President of Community Union. CPED is not  
5 investigating you personally; only as your  
6 role as the President of Community Union.

7           Regarding your second point, all  
8 five members of the coalition entered into a  
9 contract with the PUC in order to receive  
10 grant money. This is irrespective of the  
11 fiscal agent. Every single per -- entity  
12 entered into a contract with the Commission.

13           And regarding your dispute as to the  
14 facts, we will get to that. So hold your  
15 thoughts until then.

16           Now, we will proceed to the second  
17 agenda item.

18           I have looked at the list of  
19 disputed facts. After reviewing the Case  
20 Management Statement by the parties, I have  
21 determined the following disputed facts.

22           It is really important that the  
23 parties understand these are the facts that  
24 are subject to cross-examination at the  
25 evidentiary hearings. These are the facts  
26 that are in dispute and the parties must keep  
27 in mind when they serve their testimony on  
28 the service list.



1 I have determined that the disputed  
2 facts are:

3 Number one, did Respondent,  
4 Community Union record all of its revenues  
5 and expenses in a general ledger under the  
6 generally-accepted accounting procedures?

7 Number two, what other revenues or  
8 funds did Respondent, Community Union,  
9 collect and/or receive from sources other  
10 than the California Advanced Services Fund  
11 Grant?

12 Number three, did Respondent collect  
13 or seek to collect duplicate funding from  
14 other sources and use the same expenses  
15 charged to the California Advanced Services  
16 Fund Grant?

17 Number four, did the Audit Report  
18 correctly include all allowable expenses for  
19 quarters 11, 12, and 13?

20 Number five, did the Audit Report  
21 correctly use 10 out of 13 months of expenses  
22 incurred?

23 Number six, did the Audit Report  
24 estimate numbers when it could have used  
25 actual numbers?

26 It looks like I actually have one  
27 less disputed facts. There is a total of 19.

28 Number seven, did Respondent meet

1 their performance metrics of 40 hours of  
2 technology training consistent with the work  
3 plan they proposed in their grant  
4 application?

5           Number eight, did Respondent meet  
6 activities one through seven of the work  
7 plan?

8           Number ten, did Respondents meet  
9 their performance metric for the first two  
10 years of the grant period of 790 attendees  
11 per year, in accordance with the work plan?

12           Did Respondents meet their  
13 performance metric for the first two years of  
14 the grant period graduating 65 percent or 514  
15 graduates to enter Post-New Internet Users  
16 workshops.

17           Number 11, did Respondent notify the  
18 Communications Division Director at least 30  
19 days before reducing their technology  
20 training to less than 40 hours?

21           Number 12, were the invoices  
22 submitted to the Communications Division  
23 supported -- support the reimbursements?

24           Number 13, do the time cards  
25 produced by Mr. Ortega to the State  
26 Controller's Office indicate that the  
27 described activities took place.

28           I think my numbering is off. And

1 we're on number 14.

2           Number 14, did Respondent violate  
3 Rule 1.1 when it reported 40 hours of  
4 technology training in its work plan, but  
5 actually reduced its training to less than  
6 40 hours?

7           Number 15, what facts support  
8 penalties in this proceeding?

9           Number 16, which facts indicate that  
10 Respondents should be barred from receiving  
11 future funds from Commission Public Purpose  
12 Programs?

13           Number 17, currently, what is  
14 Respondent's, Community Union's, financial  
15 position?

16           Number 18, what is Respondent's  
17 total revenue, including other grant sources,  
18 currently?

19           Number 19, what is  
20 Respondent's total expenses, currently?

21           Community Union's Case Management  
22 Statement includes factual disputes in both  
23 the "Discovery Issues" section and the  
24 "Factual Disputes" section. From the  
25 Discovery Issue section, I have included the  
26 following disputes:

27           Community Union's Discovery Issues  
28 Number 3, 10, and 11 involve the Audit

1 Report. These factual disputes have been  
2 included in the list that I just stated.

3 Community Union's Discovery Issues  
4 Number 6, Number 7, Number 8 discuss whether  
5 all activities of the work plan have been  
6 satisfied. This has also been added to the  
7 list that I just stated.

8 The Factual Disputes section of  
9 Community Union's case management statement  
10 lists ten items:

11 Number one, discusses whether  
12 Community Union on Korean Churches for  
13 Community Development is the fiscal agent.  
14 Consumer Protection and Enforcement Division  
15 has identified Korean Churches for Community  
16 Development as the fiscal agent bound by the  
17 fiscal agent agreement. Therefore, the  
18 fiscal agent agreement and whether Korean  
19 Churches for Community Development was  
20 actually the fiscal agent are not factual  
21 disputes.

22 Number two and three of the factual  
23 dispute section discusses Community Union's  
24 obligation to provide all accounting records  
25 to CPED and Community Union's liability.  
26 This is a matter of law involving an entity's  
27 liability, regardless of the fiscal agent's  
28 responsibility and will be discussed as part

1 of CPED's motion to compel discovery.

2 Therefore, this is not part of the disputed  
3 facts.

4           Number four and number six involve  
5 the contract requirements of the work plan.  
6 This is not a factual dispute as the  
7 agreement between the parties states what it  
8 states. The weight of the evidence regarding  
9 the importance of activity five will be  
10 discussed in the proposed decision.

11           Number five involves Mr. Ortega's  
12 personal liability. We just discussed this.  
13 This is a question of law. CPED agrees that  
14 Mr. Ortega is only liable in his role as the  
15 President of Community Union. This does not  
16 fall into the category of disputed facts.

17           Number seven involves issues with  
18 the Audit Report. These issues have been  
19 added to the facts -- disputed facts that I  
20 just stated. Number seven also involves the  
21 liability versus -- the liability of  
22 Community Union as compared to the liability  
23 of Korean Churches for Community Development.  
24 Again, this is an issue of law. It is not a  
25 disputed fact.

26           Number nine and number ten involve  
27 information that Community Union provided  
28 previously during the audit. To the extent

1 that they are part of the record, these do  
2 not fall into the disputed facts category.

3 Ms. Baldwin, do you have any  
4 comments?

5 MS. BALDWIN: Your Honor, Vanessa  
6 Baldwin for CPED.

7 My only addition is, I did go back  
8 and look at the OII. And on page 19, it does  
9 discuss other remedies, as appropriate,  
10 specifically that, you know, Mr. Ortega  
11 should be held accountable and reasons why  
12 and then, ultimately, leading up to what you  
13 had already mentioned about possibly imposing  
14 other equitable remedies, such as banning Mr.  
15 Ortega. But, again, it's his role as the  
16 leader and President of Community Union.

17 ALJ ZHANG: Thank you, Ms. Baldwin.

18 Do you have any comments regarding  
19 the list of disputed facts?

20 MS. BALDWIN: I do not, your Honor.

21 Thank you.

22 ALJ ZHANG: Mr. Ortega, do you have any  
23 comments regarding the list of disputed  
24 facts?

25 MR. ORTEGA: Larry Ortega for Community  
26 Union. I -- I did, your Honor.

27 In -- as you went through -- let me  
28 see here. I'm covering my notes here.

1 Excuse me just one second as I cycle through.  
2 Just one second.

3 Okay. Excuse me, your Honor, I --  
4 I'm okay. I do not have anything to add at  
5 this time.

6 ALJ ZHANG: Okay. Thank you.

7 We will move on to the agenda item  
8 Number 3 regarding discovery issues.

9 The parties' case management  
10 statements have addressed discovery concerns,  
11 such as challenges acquiring information from  
12 the opposing party or barriers to discover  
13 information that would assist in determining  
14 facts of this proceeding.

15 In Community Union's case management  
16 statement, as I already mentioned, the case  
17 management statement lists 13 discovery  
18 issues; but only some of them involve  
19 discovery. Others involve issues of law and  
20 factual disputes. Numbers 1, 2, 4, 5 and 9  
21 dispute the responsibility of California's  
22 One Million New Internet Users Coalition, the  
23 responsibility of the five member  
24 organizations, the responsibility of the  
25 fiscal agent.

26 California's One Million New  
27 Internet Users Coalition is simply a term of  
28 use to cover all five member organizations.

1 All five member organizations are named as  
2 respondents in this proceeding, because they  
3 contracted with the Commission to receive  
4 grant money in exchange for activities  
5 described in the work plan.

6 The fiscal agent has  
7 responsibilities set forth in the fiscal  
8 agent agreement. But the fiscal agent's  
9 responsibilities do not relieve any member  
10 organizations performing what was promised in  
11 the work plan. The extent to which each of  
12 the five organizations is responsible is a  
13 determination of the law. Therefore,  
14 Community Union's Discovery Issues Number 1,  
15 2, 4, 5, and 9 can be discussed in the  
16 briefs. And the briefs happen after the  
17 evidentiary hearings.

18 Regarding number 9, specifically,  
19 whether Korean Churches for Community Union  
20 Development Fiscal Agreement was actually  
21 executed, this has been discussed already.  
22 This is not a dispute of fact.

23 Community Union's discovery issue  
24 number 12 seeks emails from March 1st, 2015  
25 to June 30th, 2015 by and between Robert  
26 Wullenjohn and Communication Division's  
27 staff, also, emails between Robert Wullenjohn  
28 and the former Deputy Executive Director,



1 Ryan Dulin, regarding quarterly reimbursement  
2 requests for quarters 11, 12, and 13 by  
3 California One Million New Internet Users  
4 Coalition.

5 Community union's discovery issue  
6 number 13 seeks emails between Andrew  
7 Finlayson and Chris Prasad regarding the  
8 40-hour training misinformation. The  
9 "40-hour training misinformation" is the term  
10 used in Community Union's Case Management  
11 Statement.

12 Regarding discovery issue number 12  
13 and number 13, these are requests that it  
14 appears Community Union submitted Consumer  
15 Protection Enforcement Division.

16 This question is for Ms. Baldwin.

17 Do you know if your client has  
18 responded to Community Union's request  
19 described in Discovery Issue Number 12?

20 MS. BALDWIN: Your Honor, let me pull  
21 up -- we have not -- or my client has not  
22 received any data requests, or something  
23 similar, from Mr. Ortega, apart from this  
24 general intention in his -- and I -- excuse  
25 me -- in Community Union's case management  
26 statement to seek the information. We have  
27 not received a formal request, to date.

28 ALJ ZHANG: Ms. Baldwin, would your

1 client accept a verbal request right now?

2 MS. BALDWIN: Yes, your Honor.

3 I mean, to the extent -- if Mr.  
4 Ortega could narrow the request -- because  
5 right now he seeks all emails from the time  
6 period regarding the contract. But what, in  
7 particular, email is he seeking?

8 Is it just in regards to the work  
9 plan, or the documents that the Commission  
10 used to approve the coalition as the CAFF  
11 grantee? I guess I -- we just need a little  
12 bit more clarification on directions to  
13 contract.

14 ALJ ZHANG: Mr. Ortega, do you have  
15 more details regarding what you're seeking?

16 MR. ORTEGA: I do, your Honor. But  
17 just before I get to that, I want to just  
18 have a quick point of the clarification.

19 We did -- there was a communication  
20 that was received, I believe, from the CD's  
21 office, Communication Division's office in  
22 response to a request that we had. But it  
23 was woefully inadequate. I have that email.  
24 And I can -- I'll be happy to share it, just  
25 as a reminder to Ms. Baldwin and her team  
26 that she represents, as well as just as a  
27 matter of record for the Judge in this issue.  
28 So that was out there. That question was out

1 there.

2 As it relates to the specific  
3 question, I -- I can -- yes. To answer your  
4 question, your Honor, I can be more specific.  
5 I would not want to believe that I could do  
6 it over the phone right now. I would take  
7 some time, if I may, at -- you know, after  
8 this call, I can submit the specificity that  
9 they seek as to the details of the emails.

10 But mainly it's just that -- more  
11 than anything -- moreover than anything is  
12 the matter of did they actually receive those  
13 final quarter's reimbursement requests? And  
14 what was the communication? How were they  
15 treating it?

16 Because in the response that I had  
17 gotten from CD's office as I had mentioned in  
18 these remarks that I just started right now,  
19 in there they had -- the CD's Office,  
20 Communication Division, had indicated that  
21 they did not have the sign-in sheets that  
22 would substantiate the attendance that we had  
23 perceived in this those last two, three  
24 quarters. And so that was troubling that  
25 they did not have that. And so we -- you  
26 know, we wanted to see, like, what were they  
27 talking about at that time? I mean, what was  
28 their intent? And that would go a long way

1 in terms of substantiating kind of our  
2 position in this whole matter as a -- that  
3 this is a -- it's not in -- it's a matter of  
4 trying to, you know, get at us -- get at  
5 Community Union to punish us in some way for  
6 the work that had been completed. And there  
7 are ways to try to not pay for that work that  
8 was actually completed, so -- to try to hurt  
9 us -- which has been our contention the whole  
10 time, is that this thing has been a matter of  
11 trying to hurt Community Union and Larry  
12 Ortega, you know, personally. And that's  
13 what we intend to get at.

14 So, it would be interesting to know  
15 what they were saying when that documentation  
16 was received by CD, and then what they  
17 subsequently did with that information.

18 I'm sorry, your Honor, that was a  
19 long answer to that question. I apologize.

20 ALJ ZHANG: Ms. Baldwin, do you know if  
21 CPED has the documents -- the sign-in sheet  
22 that Mr. Ortega is referring to?

23 MS. BALDWIN: I am not certain that we  
24 have those sign-in sheets. I know we have  
25 some of the sign-in sheets.

26 ALJ ZHANG: Okay.

27 MS. BALDWIN: But I don't know if it's  
28 for the entire time period.

1 ALJ ZHANG: Okay. Mr. Ortega, please  
2 email CPED regarding your discovery request  
3 Number 12 and request Number 13.

4 MR. ORTEGA: Larry Ortega. I  
5 understand, your Honor.

6 Thank you.

7 ALJ ZHANG: Ms. Baldwin, did you have a  
8 comment?

9 MS. BALDWIN: Yes, your Honor. Thank  
10 you.

11 Mr. Ortega had mentioned that he had  
12 already sent a request -- I think, was it to  
13 CD -- for the information he seeks in Number  
14 12 as his case management statement. And I  
15 just wanted to clarify when that was sent and  
16 also to clarify that I do represent CPED and  
17 not CD. But to the extent that from this  
18 investigation forward, Mr. Ortega had reached  
19 out to CD and sought this information, if he  
20 could please copy me on it, since I am the  
21 attorney, for CPED, which some of our  
22 witnesses do include CD staff.

23 ALJ ZHANG: Okay.

24 Mr. Ortega, do you understand that  
25 this proceeding is initiated by the Consumer  
26 Protection and Enforcement Division? Ms.  
27 Baldwin represents the Consumer Protection  
28 and Enforcement Division, even though there

1 are witnesses from the Communications  
2 Division. So if you have data requests, you  
3 must submit them through Ms. Baldwin.

4 MR. ORTEGA: Yes. Your Honor, that has  
5 been my understanding.

6 ALJ ZHANG: Okay. Have you copied Ms.  
7 Baldwin in your past data requests to  
8 Communications Division?

9 MR. ORTEGA: Your Honor, I don't know.  
10 I know that Ms. Shek had previously  
11 represented CPED in this matter. So I --  
12 until I can get back to my emails to identify  
13 when and who was copied on it, I would not be  
14 able to answer that question.

15 ALJ ZHANG: Okay. It is Monday now.  
16 Do you think you can have an email detailing  
17 your request by tomorrow afternoon?

18 MR. ORTEGA: Probably by Wednesday,  
19 your Honor.

20 ALJ ZHANG: Okay. Let's do Wednesday,  
21 May 6th, by noon.

22 Does that work for you, Mr. Ortega?

23 MR. ORTEGA: Yes, I believe --  
24 Wednesday, May 6th, at noon. I believe I can  
25 make that work. Yes, your Honor.

26 ALJ ZHANG: Okay.

27 Now, I'm moving on to Consumer  
28 Protection and Enforcement Division's

1 discovery issues.

2 On March 25, 2020, CPED filed a  
3 motion to compel responses and data requests.  
4 CPED is trying to determine whether  
5 California Advanced Services Fund Grant was  
6 spent on items that were not allowed or  
7 authorized, to the extent that the One  
8 Million New Internet Users Coalition received  
9 funds from others sources for the same  
10 expenses. CPED submitted a data request to  
11 Community Union on July 21st, 2017, seeking  
12 information related to the organization's  
13 revenue and expenses.

14 On February 21st, 2020, CPED  
15 submitted a data request nearly identical to  
16 the 2017 data requests. CPED states it is  
17 disadvantaged and prejudiced by Community  
18 Union's refusal to respond and refusal to  
19 provide accounting records and source  
20 documents. Pursuant to the Commission's  
21 Rules of Practice and Procedure,  
22 Rule 11.3(b), the response shall be filed  
23 within ten days of the date that the motion  
24 was served.

25 Mr. Ortega, do you have any comments  
26 regarding your failure to respond to the two  
27 data requests, one that is from 2017?

28 MR. ORTEGA: I do, your Honor. This is

1 Larry Ortega.

2 On the -- as -- on the initial  
3 request, we did respond to CPED's requests in  
4 2017. Although, we -- we attempted -- I  
5 should say it like this. We attempted to  
6 respond. And we did not fully -- because we  
7 are not attorneys, we weren't rep -- we were  
8 representing ourselves. I was representing  
9 the agency.

10 And I had gotten some consultation  
11 from attorneys who were not familiar with the  
12 specificity to how processes and procedures  
13 work within the Commission. And we erred  
14 record in that regard. And so our response  
15 was sufficient at that time in 2017 -- as we  
16 had asked Mr. Hom, Mr. Brian Hom, in our  
17 communications, we had indicated that  
18 everything that they needed was available in  
19 our audit response. So our response to the  
20 audit that was completed by the SCO, State  
21 Controllers Office, had -- had articulated in  
22 very clear terms the answers to the questions  
23 about how did the 40 hours go from being all  
24 in class to some of it being at home where we  
25 wanted, you know, parents to actually do that  
26 information, we respond there.

27 We responded clearly in -- again,  
28 this is all in the audit response. It was a



1 hundred-page response that we felt that we  
2 detailed exactly what we had transpired and  
3 tried to bring clarity to the audit's  
4 findings. And so we went into great detail.  
5 And at that time, though in error, you know,  
6 we recognize that now, we made a mistake. We  
7 did attempt --

8 (Crosstalk.)

9 MR. ORTEGA: I'm sorry.

10 ALJ ZHANG: Mr. Ortega, I understand  
11 that your response to 2017 was sufficient.

12 How about a response to the  
13 February 21st, 2020 data request? Have you  
14 attempted to respond to the February 21st,  
15 2020 data request?

16 MR. ORTEGA: Okay. As it relates to  
17 the February 2020 data request, we have began  
18 -- and I'll start with that we are under  
19 tremendous financial duress right now as an  
20 organization, which has been, you know, asked  
21 for in terms of the discovery which we intend  
22 to show. We will show, you know, our total  
23 revenue, our total expenses for whatever --  
24 oh, one of the questions -- and I'm sorry for  
25 going back on this, your Honor.

26 What is the time frame? When you  
27 say "currently," is that like the last year?  
28 I think it's point number 18 that -- 18 and

1 number 19, you had indicated that you would  
2 want to see the total review -- but -- for  
3 Community Union, in terms of the expenses and  
4 review. I had a question as to what would be  
5 the time frame for that.

6 But, anyway, getting back to  
7 answering your question -- I apologize for  
8 that digression. But I wanted to say that  
9 we've been -- Community Union has been under  
10 tremendous financial strain, particularly  
11 now. Our principle line of business is  
12 working with schools, parents, showing  
13 parents how to utilize technology. With  
14 schools being closed now, our income  
15 essentially went to zero. We have not been  
16 able to afford an attorney in this matter and  
17 have been seeking advice, pro bono advice as  
18 we can get it.

19 But the two combined issues of the  
20 extreme financial duress that we're currently  
21 going under, as well as the COVID-19  
22 isolation orders by the Governor has not made  
23 it easy for us to get Counsel and has made it  
24 difficult for us to be timely and responsive.  
25 And we have not -- at this point, have not  
26 responded to the February 2020 data request.  
27 And even if we were compelled to do so, right  
28 now I don't even -- I mean, because we're

1 talking about five boxes of information,  
2 sign-in sheets, and applications and other  
3 receipts and data and information that would  
4 need to be copied. And that currently is  
5 just out of our financial ability. We just  
6 cannot -- do not have the means to do that  
7 right now.

8           And the timing on the February 2020  
9 data request, although it was before the  
10 COVID and the isolation orders, et cetera,  
11 we, again, have not been in a financial  
12 position to hire the legal representation  
13 that is required to get an understanding of  
14 the knees things to get an understanding of,  
15 you know, these things. And so, you know, we  
16 have not been able to respond in a timely  
17 manner to the data requests. But it has not  
18 been because of, you know, malicious intent  
19 or just our flat-out refusal. It has been a  
20 direct relation to the -- our financial  
21 ability. And that's just, you know, the  
22 bottom line. That's -- we just do not have  
23 the financial capability of -- at this moment  
24 -- at this very moment, if you were to say,  
25 Judge Zhang, that "Larry," you know, "get  
26 them those copies tomorrow or we're going to  
27 throw you in jail," or whatever, wouldn't be  
28 able to do it. Simply because we do not have

1 the financial means to make copies of five  
2 gigantic boxes of information and then mail  
3 all that information to CPED, Vanessa  
4 Baldwin, and her team.

5 So those two issues -- it's not --  
6 again, I want to be very clear, it's not a  
7 matter of an unwillingness to incorporate.  
8 It's been an inability due to the financial  
9 dress and circumstances that we're currently  
10 under right now --

11 ALJ ZHANG: Mr. Ortega --

12 MR. ORTEGA: -- and I'll stop there.

13 ALJ ZHANG: -- you have had from July  
14 of 2017 until today to produce those  
15 documents. You were aware that CPED were  
16 seeking those documents for almost three  
17 years. That has nothing to do with the  
18 current situation.

19 Ms. Baldwin, is there anything CPED  
20 can offer that would help Community Union  
21 either defer costs of printing the documents,  
22 or is there another option?

23 MS. BALDWIN: Yes, your Honor. Vanessa  
24 Baldwin with CPED.

25 We are amenable to receiving  
26 electronic copies of the documents. I think  
27 in the data request we do say it should be  
28 organized in a certain way. But that would

1 be acceptable to us. And that would avoid  
2 the need for copying, which Mr. Ortega has  
3 claimed it too burdensome.

4 ALJ ZHANG: I'm sorry. There is  
5 landscaping outside.

6 Karly, can you hear me?

7 THE REPORTER: Yes.

8 ALJ ZHANG: Okay. Great.

9 Ms. Baldwin, how about in-camera  
10 review? I'm not sure if you've discussed  
11 that with your client. But perhaps there is  
12 some kind of technology that would allow for  
13 someone from CPED to sit with Mr. Ortega  
14 through a WebEx meeting so that you can look  
15 at the documents together?

16 MS. BALDWIN: Couldn't we -- if, you  
17 know, the documents will be part of the  
18 record and entered into the evidence, I do  
19 hesitate on reviewing it via WebEx. It can  
20 lead to possibly not getting the correct  
21 information we need without the actual  
22 physical -- whether it be electronic or paper  
23 copy of the actual document.

24 ALJ ZHANG: Okay. I am suggesting the  
25 Webex as a preliminary step, and then after  
26 the document that you identified can be  
27 scanned and e-mailed. So there could be  
28 multiple steps.

1           For example, a first step could be a  
2           discussion about to the specific document.  
3           The second step would be talking some time,  
4           perhaps through Webex, where Community Union  
5           could just simply show you certain documents  
6           and you just say "Yes, specifically this  
7           page. Scan it, please email."

8           These are just suggestions. Given  
9           our timeline, given the current situation, I  
10          am asking the parties to be creative as to  
11          how they resolve their discovery disputes.

12          Ms. Baldwin, are you open to doing  
13          that?

14          MS. BALDWIN: Your Honor, let me take  
15          one minute, or so, to confer with my client.

16          ALJ ZHANG: Okay. Perhaps this is a  
17          good time to take a break.

18          Karly, is a 10- to 15-minute break  
19          right now appropriate?

20          THE REPORTER: That's perfectly fine.  
21          Thank you, your Honor.

22          ALJ ZHANG: Okay. Let's take a break.  
23          I'm going to put everyone on mute. We will  
24          reconvene at 10:10.

25          Thank you.

26          (Recess taken.)

27          ALJ ZHANG: Okay.

28          Ms. Baldwin, do you have a response

1 from your client?

2 MS. BALDWIN: Yes, your Honor.

3 We have thought about how to further  
4 accommodate Mr. Ortega's request, despite,  
5 you know, since even the time of the audit,  
6 Mr. Ortega has claimed there are voluminous  
7 documents. And they have not yet been made  
8 available, even to the auditors.

9 We are -- you know, reviewed the  
10 data requests. And there's many of the  
11 requests that don't require documents. It  
12 requires Mr. Ortega to identify information  
13 for us. And those are Questions 1, 2, 9, 10,  
14 11, in part, 13, and 15. And so, Mr. Ortega  
15 can work on those -- answering those  
16 questions without needing to provide copies  
17 or scanning documents at this time.

18 In regards to --

19 ALJ ZHANG: Okay.

20 MS. BALDWIN: Oh, go ahead.

21 ALJ ZHANG: Go ahead, Ms. Baldwin.

22 MS. BALDWIN: Okay.

23 In regards to the questions that ask  
24 for documents, you know, as much as the  
25 circumstances that Mr. Ortega claims are  
26 extremely burdensome today, again, we just --  
27 we are very, you know, frustrated on not  
28 being able, for years, to receive the

1 documents.

2 Mr. Ortega claims there are five  
3 boxes, but he -- you know, it's unknown  
4 whether all of those documents in those five  
5 boxes are needed to answer the questions in  
6 the data requests, which are all very  
7 specific. And if there are ambiguities or  
8 issues, Mr. Ortega should bring those up with  
9 us, and ask clarifying questions. But,  
10 otherwise, we believe the questions are very  
11 specific.

12 And, you know, having scanned copies  
13 is necessary for us, not only for document  
14 authentication, but also to review by our  
15 staff, as well as by our experts from the  
16 State Controllers Office.

17 ALJ ZHANG: Okay.

18 MS. BALDWIN: So we can agree -- we can  
19 agree to Webex. But that will not satisfy  
20 Mr. Ortega's production under the data  
21 request and/or any motion to compel, that is  
22 if any is granted by your Honor, only because  
23 it is not truly the production of the  
24 document itself. But we are more than happy  
25 to use Webex as an opportunity to answer any  
26 questions Mr. Ortega has regarding the  
27 request for information and request for  
28 documents. In -- you know, I think you



1 provided a good example of Mr. Ortega can  
2 hold up a document and ask, for example, does  
3 this -- "Is this responsive to Question 4,"  
4 and we can provide an answer. But we do not  
5 want to concede or accept that the Webex will  
6 satisfy the production of documents and are  
7 concerned about Mr. Ortega's continued delay  
8 in this proceeding to provide responsive  
9 documents so that we can put on a full and  
10 accurate case in this proceeding.

11 ALJ ZHANG: Okay. Do you have any  
12 other comments?

13 MS. BALDWIN: Nothing further, your  
14 Honor, on this matter.

15 ALJ ZHANG: Okay.

16 Mr. Ortega, the Commission's Rules  
17 of Practice and Procedure, Rule 11.3(b)  
18 requires you to respond to any Motion to  
19 Compel Discovery. Your response was due on  
20 Saturday, April the 4th. And because that's  
21 a weekend, according to Rule 1.15, the  
22 response was due the following business day,  
23 Monday, April 6th, 2020. We did not receive  
24 a response. Therefore, we're giving you  
25 the opportunity to respond to the motion  
26 today. You previously stated why you have  
27 not answered CPED's data request.

28 Do you have any additional comments

1 before I rule on CPED's motion?

2 MR. ORTEGA: I do, your Honor.

3 I wasn't sure the numbering that --  
4 Ms. Baldwin had indicated numbers 1, 2, 9,  
5 13, and 15. Was that -- I didn't pick up on  
6 what was the source of those elements or  
7 those items.

8 ALJ ZHANG: Those are the questions  
9 from CPED that --

10 MR. ORTEGA: Oh, I see.

11 (Crosstalk.)

12 ALJ ZHANG: Those are questions that  
13 are nearly identical to the 2017 Data  
14 Request. You had three years to think about  
15 these questions.

16 Mr. Ortega, do you have any other  
17 comments before I rule?

18 MR. ORTEGA: I have -- I actually have  
19 some questions, your Honor, before -- before  
20 you -- before you did rule.

21 But I do want to offer that none of  
22 the -- though the time has ran, as you state,  
23 your Honor, that -- as long as from the first  
24 time that the data request was submitted, I  
25 would ask for leniency from the Court, your  
26 Honor, in that we were not attempting in any  
27 way to -- in a malicious manner to not  
28 respond. We -- as I indicated, we thought we

1 had responded in 2017. That was deficient.  
2 We apologize for that.

3 And as far as the February 2020  
4 request, again, we were without Counsel. And  
5 we had attempted, given the financial  
6 struggles that we've been a part of this  
7 whole time frame from the beginning of the  
8 year until now -- which is, you know, extreme  
9 now, our financial situation. And so we had  
10 attempted to try to get clarity as to how to  
11 proceed in responding. We actually had  
12 understood, your Honor -- just as a matter of  
13 explanation and not an excuse.

14 But we had understood that discovery  
15 was going to be kind of the rule of the day  
16 and that once we were in this proceeding,  
17 that that would dictate how we could respond  
18 to the data request. It was -- in no time  
19 were we trying to do it in a malicious  
20 manner. We were simply waiting for the  
21 Court's decision -- to my understanding, from  
22 a layman's standpoint -- for the Court's  
23 decision as a matter of -- to dictate how  
24 discovery would happen. And at that point,  
25 we would be able to exchange the necessary  
26 documents, et cetera.

27 The last point, your Honor, if I  
28 could just say, is that those -- some items

1 have been requested from CPED. Our case,  
2 which is going to -- Community Union's case,  
3 which is going to require those five boxes.  
4 I think Ms. Baldwin was correct in stating  
5 that perhaps all of the information that's in  
6 those five boxes may not be needed to answer  
7 those questions that she had or that CPED is  
8 requesting. That is true. That could be  
9 true.

10 But those five boxes will go -- and  
11 they need to be copied. CPED needs to be  
12 copied. Those five boxes will go a long way  
13 to presenting our case as it relates to the  
14 contract being completed and, you know,  
15 documenting in detail the number of people  
16 that were participating, the number of hours  
17 that they participated, you know, some over  
18 3,300 applications, personal applications  
19 that were submitted by the students that we  
20 had served during the contract period. So  
21 there's a lot of information that we intend  
22 to provide.

23 I don't think that we're going to be  
24 given a fair hearing or proceeding in this  
25 matter if we are not able to copy that  
26 information. So from a financial standpoint,  
27 we're precluded from actually presenting the  
28 best case possible at this time. I'm not

1 saying that this is going to be our permanent  
2 situation. But the way that it is right now,  
3 you know, we need at least another 90 days  
4 before we can get to a spot where we think we  
5 can be able to copy and produce all the  
6 documentation that is needed to have -- to  
7 have our side well-articulated and fairly  
8 included in the record, your Honor. So I'll  
9 stop there.

10 Thank you.

11 ALJ ZHANG: I understand that this is a  
12 difficult time for all parties involved. It  
13 is not easy for CPED to travel. It's not  
14 easy for Mr. Ortega to make copies. It's not  
15 easy to put together the paperwork that is  
16 required in this case.

17 Even though these challenges are  
18 before us, this case has been ongoing since  
19 2018. We are required by California statute  
20 to resolve this within a year. And we have  
21 extended the statutory deadline already. I  
22 am not going to extend the statutory deadline  
23 any further.

24 I think we will get to the schedule  
25 later on. But we need to finish this  
26 proceeding. And that means cooperating in  
27 discovery. I know that this is difficult  
28 without Counsel. And we are making our best

1 attempts to accommodate Community Union.

2 And, Mr. Ortega, you heard Ms.  
3 Baldwin describe the steps that CPED is  
4 willing to take in order to make this process  
5 easier for you. Whether all five boxes are  
6 required for you -- for Community Union to  
7 prove its case, that is up to you. Due  
8 process requires CPED to have notice of all  
9 of the information you intend to present at  
10 the evidentiary hearings.

11 As such, I order Community Union to  
12 respond to CPED's February 21st, 2020, data  
13 request. The response will be in two stages:

14 On May 15th, Friday, Community Union  
15 will answer each question in the  
16 February 21st, 2020 data request. Each  
17 question shall have an answer that addresses  
18 the topic of the question. And if the answer  
19 is available simply by writing the response,  
20 then, Community Union will do that. If  
21 additional documents are required for that  
22 response, that would be the second stage.

23 So, Mr. Ortega, do you understand  
24 that on May 15th, you are to submit a written  
25 response to all the questions stated in the  
26 February 21st, 2020 data request?

27 MR. ORTEGA: Larry Ortega. Yes, I do,  
28 your Honor.

1 ALJ ZHANG: This does not require you  
2 to spend any money on copies.

3 Do you understand?

4 MR. ORTEGA: I understand, your Honor.  
5 Yes, I do. Larry Ortega.

6 ALJ ZHANG: So if there's a question  
7 you don't understand, you may reach out to  
8 Ms. Baldwin beforehand. And she might be  
9 able to answer your question. If it is  
10 information that you do not have, then you  
11 simply state in the answer, "I don't have  
12 this information."

13 Do you have any questions about the  
14 first stage of response on May 15th?

15 MR. ORTEGA: I do not, your Honor. No  
16 questions.

17 ALJ ZHANG: The second stage of the  
18 response will involve you and CPED working  
19 together to determine the best way to look  
20 through the documents.

21 Ms. Baldwin, after you receive the  
22 written answers on May 15th, please reach out  
23 to Mr. Ortega to determine the best way to  
24 organize and identify the document that CPED  
25 is interested in.

26 Ms. Baldwin, could you do that?

27 MS. BALDWIN: Yes, your Honor. I just  
28 want to clarify, when we say "The best way to

1 organize and provide," you know, we're open  
2 and willing to have that conversation of, you  
3 know, "Here are the accounting records we  
4 asked for," and, hopefully, Mr. Ortega will  
5 say, "Yes, I have those records. They are in  
6 paper form." And so, you know, we can offer  
7 "Well, can you provide those electronically?"  
8 My concern is if Mr. Ortega cannot, for some  
9 reason, what avenues do we have and what time  
10 frame can this all, you know, take place in?

11 And then the other alternative --  
12 so, you know, hopefully, the documents can be  
13 scanned without too much trouble. I guess  
14 I'm having some -- a little bit of  
15 uncertainty on why the documents can't be  
16 provided electronically and scanned. I  
17 mean --

18 ALJ ZHANG: The point --

19 MS. BALDWIN: -- I'm just hoping --

20 (Crosstalk.)

21 ALJ ZHANG: The point of the two-stage  
22 production is so that the amount of records  
23 could be reduced and further specified. I  
24 don't believe that every single sheet of  
25 paper in five boxes is necessary for the  
26 proceeding. If it is, then you can come back  
27 and ask me what the next steps should be.

28 MS. BALDWIN: Understood, your Honor.



1 Thank you.

2 ALJ ZHANG: Mr. Ortega, I expect you to  
3 fully cooperate with CPED in your  
4 communications, in responding to the  
5 questions. None of that costs any money.

6 MR. ORTEGA: Larry Ortega. Yes, your  
7 Honor. That is my intent.

8 I -- and what means would we be able  
9 to come back in front of you, should -- I  
10 mean, because I know that the information I'm  
11 intending to provide in order to tell the  
12 story, a synopsis or summary could be  
13 provided. But I'm not sure procedurally how  
14 -- do we get back in front you via motion?  
15 How would -- in terms of to determine how  
16 much of the box is actually needed; right?  
17 How much of the stuff of what is in those  
18 five boxes is needed? Once we get to that  
19 stage, how -- and I'm saying -- and we  
20 determine that -- Community Union determines  
21 that it's going to be in our best interest to  
22 provide the whole thing in this case, how do  
23 we get back in front of you? Procedurally,  
24 how do we do that?

25 I mean, it sounds like you're  
26 opening the door, your Honor, to crossing  
27 that bring when we get there. But how would  
28 we make that happen?

1 ALJ ZHANG: So, agenda number four is  
2 about the schedule. And we will get to that  
3 after we finish agenda number three, which is  
4 where we are. Excuse me. Agenda number five  
5 is regarding the schedule. And agenda number  
6 four is regarding the witnesses. So we will  
7 discuss that in a moment.

8 MS. BALDWIN: Your Honor, Vanessa  
9 Baldwin. If I may add one point?

10 ALJ ZHANG: Yes, please. Go ahead.

11 MS. BALDWIN: Thank you, your Honor.

12 We are concerned as Mr. Ortega notes  
13 the five boxes and potentially the five boxes  
14 being necessary for his case and/or, perhaps,  
15 responsive to the data requests, I want to  
16 caution that a response to the data request  
17 in the nature of this -- "These documents can  
18 be found in any of the five boxes I  
19 referenced during their case management  
20 conference" is not an adequate answer from  
21 our perspective. Those five boxes and those  
22 documents need to be reviewed by Mr. Ortega  
23 in advance to providing answers to the data  
24 request so that he can specifically identify  
25 which documents are responsive to which  
26 questions, rather than blanketly referring to  
27 those five boxes -- which he has referred to  
28 for years since the auditors have asked for

1 documents from Mr. Ortega.

2 And so my concern is, there needs to  
3 be specificity and actually identified  
4 documents when Mr. Ortega responds to data  
5 request questions.

6 ALJ ZHANG: Mr. Ortega, do you  
7 understand what CPED just described, as far  
8 as the answers that they expect on May 15th?

9 MR. ORTEGA: Yes, of course. Larry  
10 Ortega. Yes.

11 ALJ ZHANG: Ms. Baldwin, I believe Mr.  
12 Ortega stated that he understands what CPED  
13 is requesting. And he intends to answer the  
14 questions with specificity and identifying  
15 supporting information from his records.

16 MS. BALDWIN: Thank you.

17 ALJ ZHANG: Following Mr. Ortega's  
18 answers on May 15th, the parties will  
19 communicate regarding which documents should  
20 be scanned and provided to CPED. I will  
21 leave that up to the parties to determine the  
22 best way to do it, phone calls, Webex. And I  
23 hope CPED is considerate of Mr. Ortega's  
24 position of being a pro se litigant and  
25 currently under financial challenges.

26 If there are further issues  
27 regarding the February 21st, 2020 data  
28 request, the parties will file a motion

1 stating what is sufficient in the answer to  
2 CPED.

3 Are there any comments from CPED  
4 before I move on to Agenda Item Number 4?

5 MS. BALDWIN: No, your Honor.

6 Thank you.

7 ALJ ZHANG: Are there any comments from  
8 Community Union before I move on to Agenda  
9 Number 4?

10 MR. ORTEGA: Larry Ortega. Yes, your  
11 Honor. I'm not sure if this is the  
12 appropriate time, so I apologize.

13 But I did want to -- and you did  
14 mention this in your ruling in denying my  
15 request for rescheduling of today's case  
16 management conference. You did mention the  
17 question that I'm going to be bringing up  
18 right now. But I just -- for the record, I  
19 wanted the record to reflect that it is  
20 Community Union's intent to protest the  
21 settlement agreement by and between CPED and  
22 Korean Churches for Community Development,  
23 the fiscal agents in this matter.

24 And I'm not sure if that needed to  
25 be discussed or presented in the previous  
26 cross-examination relative to evidentiary  
27 cross-examination. So -- I mean, those are  
28 my only comments, your Honor. Sorry.

1           ALJ ZHANG: We will get to your motion,  
2 Mr. Ortega, when you file the motion opposing  
3 the proposed settlement. Are you stating  
4 that you are requesting the Court to address  
5 the issue of Korean Churches Community  
6 Development right now?

7           MR. ORTEGA: No, your Honor. No, your  
8 Honor. Larry Ortega. No, your Honor. I'm  
9 not. I just -- I felt compelled to bring  
10 that up right now. Sorry.

11           ALJ ZHANG: Okay. You must file a  
12 motion with supporting documents in order for  
13 the Commission to address the issues. The  
14 email is inadequate. You cannot email and  
15 attach documents asking the Court to do  
16 something.

17           MR. ORTEGA: I understand, your Honor.

18           ALJ ZHANG: Mr. Ortega, when you file  
19 the motion, we will address it. And we will  
20 also address any relevant issue that involves  
21 the evidentiary hearing, that involve  
22 exhibits, that involve witnesses. So I  
23 assure you that we will address it. But you  
24 must file the motion.

25           MR. ORTEGA: Understood.

26           ALJ ZHANG: So, moving on to agenda  
27 Item Number 4 regarding witnesses.

28                   CPED named the following people as

1 witnesses in its case management statement.

2 There are four people.

3 Brian Hom, who is a regulatory  
4 analyst for CPED. His last name is spelled  
5 H-o-m.

6 Chris Prassad, last name spelled  
7 P-r-a-s-s-a-d, who is a former Audit Manager  
8 at the State Agency Audits Bureau of the  
9 Office of State Controllers Division of  
10 Audits. Mr. Prassad is currently at  
11 California Department of Justice.

12 Andrew Finlayson, spelled  
13 F-i-n-l-a-y-s-o-n, at the Bureau Chiefs of  
14 the Office of State Controller Division of  
15 Audits.

16 Lastly, Rob Osborn, O-s-b-o-r-n,  
17 Director of Communications Division.

18 Counsel for CPED, will all of these  
19 people be available for cross-examination at  
20 the evidentiary hearing?

21 MS. BALDWIN: Your Honor, Vanessa  
22 Baldwin for CPED. That is correct. As well  
23 as two other witnesses from the  
24 Communication's Division that you have not  
25 listed that I can provide right now.

26 ALJ ZHANG: Okay.

27 MS. BALDWIN: The first is Devla Singh.  
28 Her name is spelled D-e-v-l-a, last name,

1 S-i-n-g-h.

2 The second is Selena Huang. First  
3 name, S-E-L-E-N-A. Last name, H-u-a-n-g.

4 ALJ ZHANG: Okay.

5 Mr. Ortega, before I go on to your  
6 list of witnesses, do you have any comments  
7 regarding CPED's witnesses?

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

9 ALJ ZHANG: I find that the witnesses  
10 identified by Consumer Protection and  
11 Enforcement Division to be relevant to this  
12 proceeding. They shall be available at the  
13 evidentiary hearing for cross-examination by  
14 Community Union.

15 Next, Community Union named the  
16 following people in his case management  
17 statement:

18 Mr. Robert Wullenjohn,  
19 W-u-l-l-e-n-j-o-h-n.

20 Ryan Dulin, D-u-l-i-n.

21 Andrew Finlayson, same as the person  
22 identified by CPED.

23 Chris Prasad, also identified by  
24 CPED.

25 Brian Hom, also identified by CPED.

26 Jeanette Lo.

27 Hyepin Im. Last name is spelled  
28 I-m.

1 Neri Rivas, R-i-v-a-s.

2 Debra Janes, J-a-n-e-s.

3 Ron Vera, V-e-r-a.

4 Nathan Arias, A-r-i-a-s.

5 And Jane Does Number 1 through 10,  
6 graduating parents or students of the One  
7 Million New Internet Users Training Program.

8 Because Rob Osborn will be available  
9 for cross-examination, Mr. Osborn represents  
10 the institutional knowledge of the  
11 Communication's Division. Therefore, Robert  
12 Wullenjohn and Ryan Dulin do not have to be  
13 present, as they would be cumulative  
14 witnesses. Andrew Finlayson, Chris Prasad,  
15 and Brian Hom are already available.

16 Regarding Jeanette Lo, Mr. Ortega,  
17 please explain why she is necessary for your  
18 proceeding or your case.

19 MR. ORTEGA: Larry Ortega.

20 I -- as I had indicated in my  
21 response to this case management conference,  
22 there has been -- dependent upon who -- which  
23 party you talk to, there's different versions  
24 of the stories that continue to come out.  
25 And I wanted to align Mr. Hom's -- his  
26 testimony against Ms. Lo's testimony, in that  
27 I believe that there will be contradictory  
28 testimony. And, by that, allowing me to



1     impeach either one of them or both of them as  
2     it relates to their understanding of the  
3     contract and, specifically, on activity five  
4     where the contention is that the 40 hours'  
5     worth of training represents the entirety of  
6     the contract.

7             I believe that in hearing both of  
8     them, your Honor, you will see that they  
9     themselves are either not able to articulate  
10    what the interpretation of that contract is  
11    or that their commentary will be  
12    contradictory in some form. So that will go  
13    to -- it's a matter of presenting my case in  
14    that manner, your Honor.

15            ALJ ZHANG: And, Ms. Baldwin, do you  
16    have any comments from CPED?

17            MS. BALDWIN: Yes, your Honor. Vanessa  
18    Baldwin with CPED.

19            We do believe it is duplicative to  
20    include Ms. Lo in addition to Brian. Brian  
21    is a CPED witness and has provided testimony  
22    in the form of his staff report on behalf of  
23    CPED already. And so we don't see  
24    Jeannette's -- Ms. Lo's testimony as  
25    necessary to the extent that Mr. Ortega wants  
26    to call Ms. Lo, that is fine. But, you know,  
27    she doesn't have the personal knowledge to  
28    the same extent that Mr. Hom does, who is the

1 author and the witness for the staff report  
2 for CPED's testimony.

3 ALJ ZHANG: Mr. Ortega, I am not going  
4 to request Ms. Lo to be present at the  
5 evidentiary hearing at this time. If you  
6 believe after receiving the testimony, which  
7 we will discuss as the next agenda item, we  
8 will -- we can revisit that. But as CPED  
9 just stated, Mr. Hom is the witness with the  
10 knowledge who is involved in this case.

11 Also, Commission resources does not  
12 lend itself to having duplicative witnesses  
13 present when it is not immediately clear why  
14 Ms. Lo would be helpful. We could revisit  
15 this issue later on, if you wish.

16 Regarding the remaining people  
17 identified in your case management statement,  
18 when you submit Direct Testimony, and you  
19 choose to attach affidavits from people who  
20 support your description of your version of  
21 events, those people must be available for  
22 cross-examination in order to meet the due  
23 process requirements of trial.

24 Do you know if Hyepin Im, Neri  
25 Rivas, Debra Janes, Ron Vera, Nathan Arias,  
26 are going to be available for  
27 cross-examination?

28 MR. ORTEGA: Under -- your Honor, Larry

1 Ortega.

2 Under what timeframe are we talking  
3 about? And what -- okay. So a couple  
4 requests for points of clarification. As a  
5 matter of being available for  
6 cross-examination, is that something that can  
7 happen over the telephone? Or is that  
8 somewhere that someone has to actually show  
9 up in a court of law to be made available  
10 that way?

11 ALJ ZHANG: We have allowed witnesses  
12 to present via Webex because of the Corona  
13 Virus 19. Usually, we would not. And when  
14 we talk about to the schedule next, we will  
15 talk about the time frame.

16 But, right now, regarding the  
17 witnesses that you have named, I am  
18 emphasizing that those witnesses, if you  
19 request support -- supporting affidavits from  
20 the witnesses to add to your case, due  
21 process requires that you make them available  
22 for cross-examination at the evidentiary  
23 hearing. That is why we're talking about it  
24 during this agenda item. And I understand  
25 you have other questions regarding the  
26 schedule.

27 But, right now, do you understand  
28 that when you provide statements from certain

1 witnesses, that CPED is entitled to  
2 cross-examination them?

3 MR. ORTEGA: Larry Ortega, your Honor.  
4 Yes, I do understand that.

5 ALJ ZHANG: And, vice versa, you are  
6 entitled cross-examine the witnesses that  
7 sponsor exhibits for CPED; for example,  
8 Mr. Hom.

9 Is that clear to you?

10 MR. ORTEGA: Yes, your Honor. Larry  
11 Ortega. Yes, it is.

12 ALJ ZHANG: Okay. So, we will talk  
13 about your direct testimony in which you  
14 might have supporting statements from any of  
15 the witness that you have named. At this  
16 time, I don't believe there's any reason to  
17 object to the other witnesses that you have  
18 named.

19 Ms. Baldwin, does your client have  
20 any objections to the other witnesses that  
21 Community Union has named?

22 MS. BALDWIN: Yes, your Honor. Vanessa  
23 Baldwin with CPED.

24 Mainly, our -- the basis of our  
25 objection is because we're unclear on the  
26 purpose and the testimony for these  
27 witnesses. And it sounds like we'll be  
28 discussing that. But it would be important

1 to have an idea in a summary of what each  
2 witness is expected to testify to and what  
3 they have personal knowledge of, as well as  
4 identification of those witnesses. Because  
5 right now number 12 identifies 10 Jane Does  
6 that we don't have, you know, names for, we  
7 can't contact them in advance to do any  
8 discovery. And similar to some of the other  
9 names, like Mr. Ron Vera, we don't have any  
10 knowledge of him, of his participation thus  
11 far, or what his personal knowledge is of  
12 this matter, let alone, you know, his contact  
13 information.

14 ALJ ZHANG: I think Mr. Ortega provided  
15 some descriptions in his case management  
16 statement. That would be a starting point  
17 for CPED to gain knowledge as to who these  
18 people are. Regarding the Jane Does, I think  
19 the Jane Does would need to be identified as  
20 soon as possible so that CPED could do  
21 discovery if necessary.

22 And, Mr. Ortega, when we discuss the  
23 testimony, you must provide the contact  
24 information of your witnesses. And that will  
25 be the next topic.

26 Does CPED have any other comments?

27 MS. BALDWIN: Yes, your Honor. Just to  
28 clarify -- Vanessa Baldwin with CPED.

1           We did review the case management  
2 statement from Mr. Ortega. And just to add  
3 to that, Neri Rivas and Debra Janes, who were  
4 both identified by Mr. Ortega, as well as Ron  
5 Vera, are not discussed in the case  
6 management statement in particular. So it  
7 would be helpful to get Mr. Ortega's -- even  
8 a short summary of why they are a relevant  
9 witness, for instance. In addition,  
10 actually, Nathan Arias is also not  
11 specifically identified as what the purpose  
12 of his testimony would be for at this time.

13           ALJ ZHANG: Are you suggesting that he  
14 provide the information before he submits his  
15 Direct Testimony?

16           MS. BALDWIN: I leave that up to the  
17 Judge. But it would be helpful to  
18 understanding the purpose of the these  
19 witnesses, as well as our ability to continue  
20 or even start discovery, if we choose to do  
21 so, by inquiring Neri, Debra, and Ron, the  
22 witnesses they are calling, in advance to  
23 understand their knowledge further. And so  
24 it would be helpful for our discovery process  
25 to have even a short amount of information of  
26 why he deemed these people relevant and what  
27 personal knowledge they have --

28           ALJ ZHANG: Okay.

1 MS. BALDWIN: -- in advance. Sorry.

2 ALJ ZHANG: I have listed Hyepin Im,  
3 Debra Janes, Neri Rivas, Ron Vera, Nathan  
4 Arias, and Jane Does.

5 I believe CPED already knows who  
6 Hyepin Im is; is that correct?

7 MS. BALDWIN: That is correct.

8 ALJ ZHANG: Do you need a summary from  
9 Hyepin Im?

10 MS. BALDWIN: No, we do not.

11 ALJ ZHANG: Okay.

12 Mr. Ortega, could you provide  
13 additional information on Ms. Neri Rivas,  
14 Debra Janes, Ron Vera, Nathan Arias, and the  
15 Jane Does?

16 MR. ORTEGA: Larry Ortega. Yes, your  
17 Honor, I can. And I would, also -- your  
18 Honor, the -- the matter -- part of the case  
19 -- part of this investigation, rather, a lot  
20 of it is for our defense and our explanation  
21 as to what has actually transpired, as a lot  
22 of it has to deal with the integrity of some  
23 of these individuals. And although I  
24 understand it is the Court's order that  
25 Mr. Osborn would represent the Communications  
26 Division's knowledge, it will not -- it does  
27 not allow for Community Union to lay before  
28 the Court the various interpretations of the

1 contract and the processes by which the  
2 auditor says that they did not receive  
3 information or by which how the auditor says  
4 that they came to the discovery of the  
5 40 hours issue, et cetera.

6           So it is important to show that  
7 there's inconsistency within the  
8 Communications Division as it relates to how  
9 they were managing the One Million NIU  
10 contract and that it was inconsistent. And  
11 that is part of the reason why perhaps some  
12 of the documentation may have been lost or  
13 was thought to have never been received.

14           And so, in saying that, your Honor,  
15 there are three other witnesses. Again, they  
16 come from Communications Division that are  
17 not listed on the Case Management summary  
18 that we had provided. But we would like them  
19 to be considered to be added on the basis  
20 that the integrity of the testimony from the  
21 particular entity, in this case,  
22 Communications Division is necessary to know  
23 how each of these individuals -- how their  
24 testimony relates to contract interpretation,  
25 whether or not they've received documents or  
26 not, what the, you know, guidance really that  
27 they provided during this time frame.

28           So there's three other witnesses



1 that I would love -- that I would like to be  
2 a part of it. But they are from the  
3 Communications Division. And those people  
4 are -- in addition, that since CPED had added  
5 Devla Singh, Devla Singh was the last grant  
6 assistant that we had from the Communications  
7 Division. She was the last one. So she saw  
8 the information at the end.

9 There are three others that were in  
10 front of her that had -- that were identified  
11 as our assistants during the management of  
12 this contract whose testimony would be  
13 relevant as it relates to how information was  
14 being asked for. So in the case of --  
15 there's these three people, if I can provide  
16 the names. And I'll provide the spelling in  
17 a minute.

18 But, Angel Asham, Zeniada Conway,  
19 and Penney Legakis, those three individuals  
20 were our grant managers. One of the grant  
21 managers we had over the period of the grant  
22 contract. And each one had their own  
23 particular set of rules that they wanted us  
24 to follow and set of documentation that they  
25 wanted us to submit.

26 And although Mr. Osborn has been  
27 designated as the representative, I don't  
28 think he's going to have the particulars as

1 it relates to how, you know, Ms. Legakis and  
2 Ms. Conway and Ms. Asham had understood their  
3 own, kind of, manner in collecting  
4 information. So I would ask the Court to  
5 allow for these three additional witnesses to  
6 be questioned on that basis.

7 And I'll stop there, your Honor.

8 THE REPORTER: Can I please get the  
9 spelling for those three people?

10 MR. ORTEGA: Yes. To the best of my  
11 knowledge -- I don't have Angel's spelling,  
12 her last name. But Angel is spelled  
13 A-n-g-e-l. And then Asham is A-s-h-a-m.

14 And then the next person is Zeniada  
15 Conway, Z-, as in "Zebra," e-n-i-a-d-a,  
16 Conway, C-o-n-w-a-y.

17 And the last one is Penney Legakis.  
18 First name Penney, P-e-n-n-e-y, last name  
19 Legakis, L-e-g-a-k-i-s.

20 THE REPORTER: Thank you.

21 (Telephone line silence.)

22 THE REPORTER: Hello?

23 MR. ORTEGA: Yes.

24 MS. BALDWIN: Yes.

25 THE REPORTER: Okay. Everything cut  
26 out. Did I miss something, Judge?

27 ALJ ZHANG: Yes. I think I  
28 accidentally muted myself.

1 THE REPORTER: No problem.

2 ALJ ZHANG: I wanted to address the  
3 list of witnesses. CPED is now on notice  
4 that Community Union may wish to  
5 cross-examine the three witnesses that he  
6 just identified. But we will address these  
7 three witnesses later on.

8 Right now, I want to make sure that  
9 Mr. Ortega will give to CPED a description of  
10 Neri Rivas, Debra Janes, Ron Vera, Nathan  
11 Arias, and the Jane Does.

12 Mr. Ortega, do you know when you  
13 would be able to provide the additional  
14 information to CPED?

15 MR. ORTEGA: Yes. Probably, if we can  
16 go with the same -- Larry Ortega. If we can  
17 go with the same deadline of Wednesday at  
18 noon, I think I'll be able to meet that  
19 deadline, your Honor.

20 Thank you.

21 ALJ ZHANG: That would be Wednesday,  
22 May 6th, at noon. Okay.

23 MS. BALDWIN: Your Honor, Vanessa  
24 Baldwin. If I could just say one quick  
25 question?

26 ALJ ZHANG: Yes.

27 MS. BALDWIN: Thank you. Vanessa  
28 Baldwin, CPED.

1           I just wanted to clarify, is it also  
2 possible for Mr. Ortega to provide the  
3 contact information for these folks? I do  
4 have Nathan's. But I don't have the other  
5 contact information for the other names that  
6 he has listed.

7           ALJ ZHANG: Mr. Ortega, please provide  
8 the contact information of your witnesses.

9           MR. ORTEGA: Larry Ortega. Understood,  
10 your Honor.

11          ALJ ZHANG: Okay. We are now moving on  
12 to the schedule.

13                 As part of the schedule, the parties  
14 are to submit written testimony. And this is  
15 where we will discuss the most of Community  
16 Union's questions about witnesses and  
17 documentation. Usually, written testimony  
18 involves a formal narrative of a party  
19 statement of the case. Attached to the  
20 formal narrative are often affidavits at a  
21 live person's evidentiary hearing.

22                 Because the direct written testimony  
23 has already been submitted and made known to  
24 the parties, the evidentiary hearings will  
25 only involve cross-examination. That's why  
26 it's important that the opening testimony  
27 include the witnesses who are supporting that  
28 testimony and those witnesses are identified,

1 so that the opposing party has an opportunity  
2 to reflect the testimony and also request to  
3 cross-examine them at the live person's  
4 hearing.

5           Mr. Ortega, I understand that your  
6 organization is pro se and there are  
7 financial constraints and these formalities  
8 can be confusing. I am not requiring you to  
9 submit a formal testimony. It is adequate if  
10 you can set forth a narrative of your case.  
11 And the statement of the case can be  
12 supported by a signed declaration under  
13 penalty of perjury by you as the President of  
14 Community Union.

15           There can also be letters in support  
16 of your case from other entities, as long as  
17 that support is accompanied by a signed  
18 declaration under penalty of perjury. The  
19 other people or entities who submit  
20 supporting statements must be available for  
21 cross-examination if CPED requests.

22           In short, Community Union, in place  
23 of direct testimony, may submit a narrative  
24 statement. And a narrative statement would  
25 be titled "Declaration of Larry Ortega for  
26 Community Union." And then at the end of the  
27 narrative statement, it must state "I declare  
28 under penalty of perjury that the foregoing is

1 true and correct." The next line will state  
2 "executed on X date," your location, and your  
3 signature.

4 Mr. Ortega, do you understand those  
5 instructions for your statement of the case?

6 MR. ORTEGA: I do, your Honor. Larry  
7 Ortega, I do.

8 ALJ ZHANG: Do you have any questions  
9 regarding what that would look like for you  
10 to prepare?

11 MR. ORTEGA: At this -- Larry Ortega.

12 At this time, your Honor, I do not.  
13 But I'm going to need time to digest. But I  
14 think I got it -- I think I got what you had  
15 indicated. So I should be okay.

16 ALJ ZHANG: Okay. Well, there are  
17 three requirements.

18 First, that your narrative be titled  
19 "Declaration of Larry Ortega for Community  
20 Union." The second requirement is, "I  
21 declare under penalty of perjury that the  
22 foregoing is true and correct." So that  
23 statement must be in the narrative statement.  
24 And then the third requirement is a line that  
25 states, "Executed on 'blank date'," your  
26 location, and your signature.

27 You can write your statement of the  
28 case. And then follow it by an attestation

1 that you declare under the penalty of perjury  
2 that everything stated is true and correct.

3 MR. ORTEGA: Larry Ortega. I  
4 understand. Thank you, your Honor. Sorry.

5 ALJ ZHANG: Okay.

6 I think you intend on having  
7 witnesses that support your statement of the  
8 case. When they submit something in writing,  
9 you have to attach it to your narrative. And  
10 they also have to have an attestation at the  
11 end that states that everything is true and  
12 correct under the penalty of perjury, along  
13 with their signature.

14 Do you understand?

15 MR. ORTEGA: I understand, your Honor.

16 ALJ ZHANG: So those should be  
17 submitted together, the Community Union's  
18 narrative statement of the case with  
19 supporting statements.

20 Mr. Ortega, do you understand?

21 MR. ORTEGA: I do understand, your  
22 Honor.

23 ALJ ZHANG: Okay.

24 Ms. Baldwin, do you have any  
25 comments regarding my instructions just now?

26 MS. BALDWIN: Vanessa Baldwin with  
27 CPED.

28 I do not. I do have a comment

1 regarding the schedule. But I will reserve  
2 that for when it's appropriate.

3 ALJ ZHANG: Okay. I wanted to discuss  
4 the testimony and how to make the process  
5 easier for Community Union before I got into  
6 the schedule. So now we are ready to go over  
7 the schedule. I provided the schedule to the  
8 parties before this Case Management  
9 Conference. And it is as follows:

10 The joint stipulated facts is due on  
11 May 19th, 2020.

12 Community Union's opening testimony  
13 served will be due on May 19th, 2020. And  
14 this is going to be Community Union's  
15 narrative statement with whatever supporting  
16 documents and affidavits that Mr. Ortega  
17 wishes to attach.

18 Next, consumer protection and  
19 Enforcement Division's reply testimony will  
20 be served on June 2nd.

21 And then Community Union will have  
22 another opportunity to submit a narrative.  
23 And this one will be the rebuttal. The  
24 rebuttal will be due on June 16th. The  
25 discovery cutoff will also be June 16th.

26 The hearing for cross-examination of  
27 witnesses will occur on June 24th, 25th, and  
28 26th. Right now, it's scheduled for a



1 courtroom in LA. I don't anticipate that to  
2 change. But given the current state of  
3 remote hearings, it is possible that if the  
4 governor does not lift the stay-at-home  
5 orders, then well proceed with a remote  
6 hearing.

7 Concurrent opening briefs are due on  
8 July 8th. The concurrent reply briefs is due  
9 on July 22nd. These two items are relevant  
10 to Mr. Ortega's previous question about when  
11 you can present arguments.

12 After the evidentiary hearings and  
13 all the evidence has been known to both  
14 parties, the briefs is where the arguments  
15 are made, including factual arguments and  
16 legal arguments.

17 Ms. Baldwin, do you have any  
18 comments regarding the schedule?

19 MS. BALDWIN: Yes, your Honor. Vanessa  
20 Baldwin with CPED.

21 We do -- regarding the first  
22 deadline, I'll start with from the top of the  
23 schedule and work downwards. Regarding the  
24 first deadline for joint stipulated facts by  
25 May 15th. We are concerned about being able  
26 to work with Mr. Ortega to develop those  
27 stipulated facts by that date, and was  
28 seeking from the Judge any guidance on -- or,

1 perhaps, deadlines for each party to produce  
2 what they believe are the facts that are  
3 notice disputed by May 19th. We're just  
4 concerned about being able to collaborate and  
5 develop that by then. I --

6 ALJ ZHANG: I think if there aren't any  
7 joint stipulated facts by May 19th, I -- I  
8 don't see how extending the time would help  
9 develop more stipulated facts.

10 MS. BALDWIN: I agree. But -- oh, go  
11 ahead. Sorry.

12 (Crosstalk.)

13 ALJ ZHANG: Why don't CPED, after  
14 reviewing Mr. Ortega's response on May 15th,  
15 send me an update as to whether you believe  
16 there will be stipulated facts. If there  
17 aren't any, then we don't need to change the  
18 schedule.

19 MS. BALDWIN: That's understandable.

20 Thank you.

21 (Crosstalk.)

22 MS. BALDWIN: Oh, go ahead.

23 ALJ ZHANG: Is May 18th okay for CPED  
24 to update me as to whether there will be  
25 stipulated facts?

26 MS. BALDWIN: We will do our best to  
27 meet that date. And if not, let you know  
28 what our progress is.

1 ALJ ZHANG: Okay.

2 Mr. Ortega, do you understand that  
3 for the joint stipulated facts, CPED needs  
4 your responses by May 15th?

5 MR. ORTEGA: Your Honor -- Larry  
6 Ortega, your Honor.

7 I was wondering -- I was wondering  
8 if it would be possible for CPED, Ms.  
9 Baldwin, to provide an example of what these  
10 joint stipulated -- like, what is her -- what  
11 would be an example of an objective that she  
12 would want to get at, as far as what the  
13 joint stipulated facts are? What is an  
14 example of that for her?

15 ALJ ZHANG: I can give you an example  
16 of a stipulated fact. In proceedings before  
17 the Commission, we often have utilities.  
18 Sometimes a stipulated fact is, "PG&E  
19 provides electric services to customers."  
20 Sometimes a stipulated fact is, "The outage  
21 happened on January 1st, 2018."

22 Both parties must agree to the words  
23 that are entered into the joint stipulated  
24 facts. Sometimes, it's simple. Sometimes,  
25 it's complicated. Sometimes the parties do  
26 not agree to any facts, and they don't submit  
27 a list of joint stipulated facts.

28 Mr. Ortega, do you need any other

1 examples?

2 MR. ORTEGA: Thank you, your Honor.  
3 That suffices. Thank you.

4 ALJ ZHANG: Ms. Baldwin, do you have  
5 any other comments regarding the schedule?

6 MS. BALDWIN: Thank you, your Honor.  
7 Vanessa Baldwin with CPED.

8 CPED does seek to supplement its  
9 testimony or staff report. And it is -- that  
10 information relies on data request  
11 information we are now in the process of  
12 gathering and analyzing and that we have been  
13 for several weeks. And we seek to request  
14 that the schedule be modified so that we can  
15 present that supplemental testimony in the  
16 form of a staff report before defendant's  
17 file their opening testimony.

18 ALJ ZHANG: When do you anticipate the  
19 supplemental staff report being ready?

20 MS. BALDWIN: The earliest we can do so  
21 is by June 1st, if possible.

22 ALJ ZHANG: If I move the schedule  
23 based on the supplemental staff report, then  
24 that means there's only approximately three  
25 and a half weeks before trial.

26 Is CPED okay with that?

27 That means all the other activities  
28 have to be squeezed into those three weeks.

1 MS. BALDWIN: This information is  
2 necessary for our case in chief. We can  
3 submit it at a later date. But that will not  
4 give -- well, we can submit it at a later  
5 date and then defendants will be able to  
6 respond to that information in their rebuttal  
7 testimony on June 16th.

8 ALJ ZHANG: I thought your request was  
9 to submit the supplemental staff report  
10 before Community Union filed opening  
11 testimony?

12 MS. BALDWIN: Correct. I think that  
13 probably would be the most ideal way. And  
14 that way, they can respond in their opening.  
15 But if we don't need to change the schedule,  
16 but you allowed for CPED to provide  
17 supplemental testimony any time up until  
18 rebuttal -- defendant's rebuttal, that would  
19 suffice, as well.

20 ALJ ZHANG: If the report is ready on  
21 June 1st, that means Community Union has  
22 about 15 days to rebut what is in the report.

23 Mr. Ortega, do you anticipate  
24 needing more time to rebut to the  
25 supplemental staff report?

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

28 I have several objections to the --

1 in the manner in which this additional  
2 supplemental staff report will be provided.  
3 I do like the idea that it should be provided  
4 before my opening testimony. If my opening  
5 testimony is going to be at the date that has  
6 been set, May 19th, then I think that -- so  
7 we're not wasting a lot of time. Apparently,  
8 it's incredibly important to CPED to get that  
9 supplemental staff report in.

10 I would ask that they have that  
11 available before I would be obliged to  
12 providing my opening testimony. I don't  
13 think that it's enough time. And the second  
14 thing, I don't believe that it would be  
15 enough time. I mean, I don't know the nature  
16 of the supplemental staff report. And so I  
17 would not be able to answer your second  
18 question as to, "Is that going to be enough  
19 time?" I don't know until I actually have an  
20 opportunity to review that information.

21 ALJ ZHANG: I am not changing the trial  
22 dates of June 24th, 25th, and 26th. That  
23 means, looking at the calendar, before  
24 June 24th, if the parties want to change the  
25 schedule, the events would all end up in the  
26 three weeks before. So that's your option.

27 So the alternative would be  
28 June 1st, CPED file its supplemental staff

1 report.

2 Friday, June 5th, Community Union  
3 serve its opening testimony.

4 June 12th, CPED submit its reply  
5 testimony.

6 And then June 17th, Community Union  
7 can serve its rebuttal.

8 CPED do you have any comments on the  
9 alternative schedule?

10 MS. BALDWIN: Your Honor, Vanessa  
11 Baldwin with CPED.

12 I haven't had a chance to confer  
13 with my clients yet regarding an accelerated  
14 schedule of that nature, evident, as you  
15 noted, being concerned that it does press up  
16 against hearing preparation. So I'm trying  
17 to find a balance of the two.

18 ALJ ZHANG: Okay.

19 Mr. Ortega, do you have any comments  
20 regarding the alternative schedule that I  
21 just stated?

22 MR. ORTEGA: I find that that proposal  
23 is fine for -- to -- and fair to be able to  
24 provide the initial opening testimony, as  
25 well as having the document in hand that CPED  
26 wishes to provide as the supplemental report.  
27 So, I'm fine with that.

28 ALJ ZHANG: CPED, would you like ten

1 minutes to confer with your client?

2 MS. BALDWIN: Yes, your Honor. Maybe  
3 just give me five minutes, if possible.

4 ALJ ZHANG: Okay. Let's go off the  
5 record. We will reconvene at 11:35. Putting  
6 everyone on mute.

7 (Off the record.)

8 (Recess taken.)

9 ALJ ZHANG: We are now back on the  
10 record.

11 Ms. Baldwin, during the break, did  
12 you have a chance to speak with your client?

13 MS. BALDWIN: Yes, your Honor. Vanessa  
14 Baldwin with CPED.

15 Our preference is to not modify the  
16 and schedule, because we understand needing  
17 to resolve this matter. At the same time, we  
18 are trying to balance that with the lack of  
19 information from Mr. Ortega, thus far, in  
20 responds to our data requests. And, you  
21 know, our concern about trying to move  
22 forward without that information.

23 As much as I understand the schedule  
24 you provided will permit us to work together  
25 to obtain that information, we're concerned  
26 about providing the necessary -- how to  
27 provide the necessary information, if we get  
28 information relevant before -- or within the



1 time table. And so this includes not only  
2 the information that I talked about in the  
3 supplemental testimony, but also in documents  
4 relevant that we may want to introduce into  
5 the record, as a result of the data request  
6 that Mr. Ortega will be responding to. And  
7 so it kind of goes to the general question of  
8 how do we go about including that  
9 information.

10 I do know that in other proceedings,  
11 the parties have been allowed to update or  
12 submit supplemental testimony on only those  
13 isolated pieces, and that responses by  
14 defendants or respondents can also be allowed  
15 and permitted based on, of course, only those  
16 isolated issues. And perhaps that's one way  
17 of moving forward. But I wanted to share our  
18 general concern to figure out a path forward.

19 ALJ ZHANG: Okay. I am not changing  
20 the schedule.

21 That means the joint stipulated  
22 facts are due on May 19th. That means  
23 Community Union's opening testimony is due on  
24 May 19th, as well.

25 We anticipate CPED providing  
26 Supplemental Staff Report on June 1st.

27 CPED's reply testimony is due  
28 June 2nd.

1           Community Union's rebuttal testimony  
2           is due June 16th.

3           If between June 1st and June 16th,  
4           Community Union does not believe there is  
5           enough time to address what is discussed in  
6           the supplemental staff report, then at the  
7           time, Community Union will submit a motion to  
8           modify the schedule. Right now, Community  
9           Union's rebuttal is due on June 16th.

10           Do the parties have any questions  
11           regarding the schedule?

12           Mr. Ortega?

13           MR. ORTEGA: I -- Larry Ortega. I do,  
14           your Honor. In setting my -- I believe it  
15           prejudices my opening testimony by not having  
16           the supplemental staff report by CPED. And I  
17           would ask for the Court's indulgence in  
18           perhaps allowing for Community Union to  
19           submit that after my opening -- the Community  
20           Union's opening statement after the  
21           supplemental staff report has been received.  
22           So that --

23           (Crosstalk.)

24           MR. ORTEGA: Sorry.

25           ALJ ZHANG: Your rebuttal testimony,  
26           due on June 16th, can also address the  
27           June 1st staff report. After you receive the  
28           June 1st staff report, if you believe you

1 cannot rebut what is in the staff report, you  
2 can file a motion. Because you still have  
3 three weeks between June 1st and June 16th to  
4 consider what was stated and discussed in the  
5 staff report.

6 I am not changing the schedule right  
7 now. In closing, I will afford each of you  
8 the opportunity to speak on any issue I did  
9 not address today or that you want to bring  
10 to my attention. You may use this  
11 opportunity to ask questions, as well.

12 Counsel for CPED, do you have any  
13 questions or other matters you would like to  
14 address?

15 MS. BALDWIN: Vanessa Baldwin with  
16 CPED. No, your Honor, I do not have any  
17 other procedural issues to address at this  
18 time.

19 I think the main open item for us to  
20 resolve and attempt to resolve with Mr.  
21 Ortega is the responses to the data requests.  
22 And, mainly, when I talk about responses, I  
23 mean the production of documents via  
24 electronic means so that we can review for  
25 authenticity and review for relevance and  
26 determine whether those documents are, or  
27 should be, included in the record for this  
28 proceeding.

1                   And so we hope to come to a timely  
2 resolution. But if not, as you indicated, we  
3 will notify your Honor and request for  
4 another avenue to resolve the dispute and the  
5 lack of production of documents.

6                   ALJ ZHANG: I understand from Mr.  
7 Ortega's participation today that he is going  
8 to be cooperative. And he will work with  
9 CPED in order to give the information that is  
10 requested in the data request. If that does  
11 not happen, CPED has other options, such as  
12 motions to strike. And there is always  
13 Rule 1 violations, where a party does not  
14 obey commission process. There are also  
15 other consequences to trying to bring  
16 last-minute witnesses for unauthenticated  
17 documents. I think CPED will be able to ask  
18 for further remedy in the future.

19                   I believe Mr. Ortega promised that  
20 on Wednesday, May 6th, he is going to give a  
21 summary of the witnesses that he has  
22 identified, and their contact information.  
23 Mr. Ortega has stated on the record that he  
24 is going to respond in writing to the data  
25 request by May 15th. Therefore, by May 18th,  
26 CPED would be able to update me as to whether  
27 there will be any stipulated facts.

28                   I think this is the best way forward

1 at this time. We need to proceed in order to  
2 resolve this case.

3 Ms. Baldwin, do you have any other  
4 questions?

5 MS. BALDWIN: No, your Honor. Thank  
6 you.

7 ALJ ZHANG: I also wanted to note that  
8 Mr. Ortega identified three additional  
9 witnesses. As Mr. Ortega is preparing his  
10 direct testimony, which is due on May 19th,  
11 he can make note of those witnesses in his  
12 direct testimony of people that he continues  
13 to wish to cross-examine. And CPED the  
14 address that in their rebuttal testimony.

15 Mr. Ortega, do you have any  
16 questions or other matters you would like to  
17 address today?

18 MR. ORTEGA: Yes, your Honor. Larry  
19 Ortega, your Honor. Yes, I do.

20 First, I wanted to start with thank  
21 you so much for your help and assistance in  
22 trying to get this matter resolved. No one  
23 -- Community Union's -- as far as Community  
24 Union is concerned, wants to have this matter  
25 resolved more than we do. We believe that we  
26 have been the target of some unethical  
27 circumstance that we intend to show and  
28 demonstrate for your Honor.

1           We, also, at the same time that  
2 we're attempting to, you know, try to get  
3 this behind us and clarify the record as to  
4 what actually transpired in the service and  
5 providing the service that we did. It's also  
6 balanced against the incredible weight, your  
7 Honor, and I appreciate -- I just wanted to  
8 thank you very much from the bottom of my  
9 heart, appreciate you understanding that we  
10 are not a PG&E or a Southern California  
11 Edison, to which these proceedings were  
12 designed to kind of handle.

13           I mean, this is a gigantic  
14 undertaking from a small non-profit  
15 organization like ours whose income is less  
16 than 50,000 annually over the last couple of  
17 years here. So it's just -- it's an  
18 incredible weight. But it's something that  
19 we understand that we're, you know, trying to  
20 progress through here to clear our name. And  
21 it was why, you know, the key reason why we  
22 were not able to reach agreement in ADR,  
23 which will be articulated in the future, was  
24 because there was fault that was going to be  
25 lied on our name, and that our name was going  
26 to be part of a settlement agreement that  
27 said there was maybe not -- they wouldn't say  
28 specifically no wrongdoing. However, it

1 wouldn't say that there wasn't any wrong  
2 doing --

3 MS. BALDWIN: Mr. Ortega --

4 MR. ORTEGA: Yeah.

5 MS. BALDWIN: I'm sorry to interrupt.  
6 But I think it's inappropriate for you to  
7 mention specifics during our settlement.

8 ALJ ZHANG: Mr. Ortega --

9 (Crosstalk.)

10 MS. BALDWIN: Sorry to interrupt.

11 ALJ ZHANG: Mr. Ortega, Ms. Baldwin is  
12 correct. Alternative Dispute Resolution  
13 information is confidential. That's why  
14 parties enter into Alternative Dispute  
15 Resolution process. Please do not discuss  
16 what happened during the Alternative Dispute  
17 Resolution discussions. It's confidential.

18 MR. ORTEGA: My apologies, your Honor.  
19 My apologies.

20 All that to simply state that  
21 there's the great weight of this whole entire  
22 process that is upon us, and that I  
23 appreciate your willingness to have  
24 flexibility in this proceeding. And I wanted  
25 to simply just, you know, to thank you for  
26 that. And I look forward to trying to get  
27 this matter behind us. And I appreciate the  
28 -- your understanding on this matter.

1                   And we will -- as I stated again in  
2 opening remarks, is that we'll be filing an  
3 opposition to the settlement agreement  
4 against KCCD. And essentially, I guess, your  
5 Honor, that's all I wanted to say.

6                   ALJ ZHANG: Ms. Hearing Reporter, I  
7 believe we are supposed to talk about how the  
8 parties will acquire a transcript.

9                   (Reporter clarification.)

10                  ALJ ZHANG: Yes. Let's go off the  
11 record so you can discuss that with the  
12 parties.

13                  (Off the record.)

14                  ALJ ZHANG: Okay. Let's go back on the  
15 record.

16                         When we were off the record, we  
17 discussed how the parties may acquire a copy  
18 of the transcript.

19                         Thank you for your participation  
20 today. We are adjourned. We are off the  
21 record.

22                                 (Whereupon, at the hour of 11:53  
23 a.m., this matter having been  
24 concluded, the Commission then  
25 adjourned.)

26   \* \* \* \* \*

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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE  
STATE OF CALIFORNIA

CERTIFICATION OF TRANSCRIPT OF PROCEEDING  
I, KARLY POWERS, CERTIFIED SHORTHAND REPORTER  
NO. 13991, 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 MAY 4, 2020.

I FURTHER CERTIFY THAT I HAVE NO INTEREST IN THE  
EVENTS OF THE MATTER OR THE OUTCOME OF THE PROCEEDING.  
EXECUTED THIS MAY 11, 2020.

  
\_\_\_\_\_  
KARLY POWERS  
CSR NO. #13991

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