

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

Investigation 18-07-009

COMMUNITY UNION, INC.'S MOTION FOR AN EXTENSION OF TIME FOR DISCOVERY CUT-OFF

Pursuant to Rule 11.6 of the Rules of Practice and Procedure of the California Public Utilities Commission (CPUC), Community Union, Inc. respectfully makes a *Motion for an Extension of Time for Discovery Cut-Off*.

By this Motion, Community Union amends its Motion previously filed on June 15, 2020, and respectfully requests that ALJ Zhang grant Community Union an extension of time for Discovery. Community Union requests Discovery cut-off to be June 19, 2020.

Community Union's right to due process is impeded through the preclusion of Discovery. At the time CPED files their Supplemental Staff Report, Community Union is requesting from ALJ Zhang that Discovery be extended to June 19, 2020. Without the ability for Discovery on new facts introduced in the Supplemental Staff Report, Community Union will be at a disadvantaged, particularly in light of what new evidence Discovery has currently revealed as described below. CPED, by their own statement during the last Status Conference said the Supplemental Staff Report will support their Chief in Case. CPED has filed the Supplemental Staff Report at or about 7:00 p.m. on June 16, 2020.

Today in the morning, June 16, 2020, upon following-up on CPED's partial Data Request Responses, Community Union found three (3) more reasons why Discovery Cut-off of June 16, 2020 unfairly prejudices Community Union's due process, Discovery on new evidence. Community Union asks ALJ Zhang to reconsider moving the date of the Evidentiary Hearing out 30 days so as to allow for due process. Community Union respectfully requests ALJ Zhang for an additional thirty days for the Evidentiary Hearing due to new evidence discovered as follows, via CPED's partial responses to Community Union's Data Request:

1. Specifically an email communication by and between Mr. John C. Baker, Manager of Communications Division (CD), CPUC, and a Mr. Steve Blum, Executive Director of the Central Coast Broadband Consortia, a fellow consortia CASF recipient, funded during the same cycle as California's One Million NIU; we found cause to seek additional emails by and between Mr. Blum and Mr. Baker and asked CPED for these emails; the email (see Exhibit A), due to its casual nature: "Don't know any details about it -- right now all I can say is WTF?", wrote Mr. Blum - shows this communication most likely is one of many others regarding the smearing of our consortia's work and reputation. Subsequent to this email communication Mr. Blum published an article with the following headline "Broadband consortium accused of making "false reports", CPUC wants \$244,000 back". Mr. Blum's article was all one-sided and included nothing relative to a balanced reporting on the matter. It was a "*hit piece*" against California's One Million NIU.
2. Mr. Baker in this email communication (See Exhibit A) states that "Devla never went to Anaheim, it was downtown L.A." However, in the original Staff Report filed with this OII, Devla says she went to Anaheim. The matter of impeaching Devla's testimony is dependent on other emails surrounding the timeframe of her trip to Anaheim (L.A.). Community Union had not known about this email prior to receiving it from CPED and respectfully requests the opportunity

for Discovery on all emails 30 days before and 30 days after Devla's trip to Anaheim (L.A.). Community Union needs more time for Discovery on this and other emails by and between Devla and other CD management and staff.

3. Community Union reached-out this morning to other consortia leaders and was told that CD staff had given specific instruction to them (other consortia leaders, who shall remain anonymous until their identities can be protected from possible backlash from CD) to "black ball" (our words) the California One Million NIU consortia. Meaning, not to side with points of view our consortia shared, or to not work with our consortia - in anyway under the CASF contract. This despite our consortia's tremendous success in this endeavor.
 - a. Knowing now that the CD's office was unethically engaging Other Consortia Leaders in apparent smear campaigns, and encouraging "black balling" against California's One Million NIU, we need to know from other consortia leaders and staff within the CD at the time, what was being said/communicated. The possibility that CD staff/management would engage in such unethical behavior goes to credibility (Impeachment of Testimony) they lend to their accusations about California's One Million NIU, and can only be accomplished with more Discovery based on this new evidence.

Finally, there is a Discovery dispute by and between CPED and Community Union in that CPED is apparently using an arbitrary filtering system relative to emails asked for in Community Union's Data Request. Specifically, Community Union asked for all emails by and between Robert Wullenjohn and CD staff/Ryan Dulin from March – June 2015. We had also asked and intended to receive all communications regarding NIU submission of reimbursement requests quarters 11, 12 and 13. To date we do not have those communications to which we have copies of emails sent to CD staff members Devla Singh and Penny Legakis on those Quarterly (11, 12 and 13) Reimbursements Requests. CPED has provided no communications showing CD staff's receipt of our submission of Quarterly Reimbursements Requests.

Community Union is very clear on ALJ Zhang's intent to finish this OII matter before her, but in light of this new evidence and the fact that CPED has only partially responded to our Data Requests through their use of an arbitrary filtering system of CD communications, Community Union intends to file a motion in the name of Due Process to reschedule the Evidentiary Hearing, and continue Discovery to a date and time ALJ Zhang deems fair and appropriate in light of this new evidence.

Community Union has located a majority of the MOU's (Memorandum of Understandings) associated to the Other Funding contributions made to the contract and is now in the process of properly scanning, labeling and ordering per CPED's request during our most recent Status Conference.

Community Union has found resources that will assist in the scanning of the remaining bank statements due CPED. We anticipate to have this completed by 8:00 p.m. on June 16, 2020.

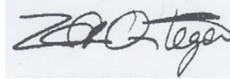
Community Union has found the emails requested by CPED in regards to Community Union seeking KCCD's signature for Declaration Page included in the Quarterly Reimbursement Packages - have been deleted. Community Union requested from Network Solutions, the email hosting company at the time, to recover those emails. Network Solutions advised us this morning they are unable to recover deleted emails. These emails represent evidence that Ms. Hyepin Im of Korean Churches for Community Development received a full packet of detailed information prior to signing the Quarterly Declaration she signed as part of the Quarterly Reimbursement Package.

In response to CPED's Data Request #12, Community Union advised CPED there were well over 1,000 emails relating to the CASF contract from various email accounts (persons) working on the CASF contract and asked CPED if they could refine their request to a sample set. CPED declined and said to give them everything. Community Union objects to this request. Community Union will provide available emails we do have sent to Ms. Im for signature approving of Reimbursement packages.

As has been articulated in Community Union's previous requests for extension of time, we are under extreme financial challenges during the Covid-19 shut down of schools and businesses, it is simply the very best we can do, but have found the means to deliver most or all of what CPED has requested. Community Union asked CPED on June 15, 2020 would they consider extending the Discovery cut-off. They declined.

For the foregoing reasons, Community Union respectfully request ALJ Zhang grant the Motion and extend the time for Discovery Cut-off to Friday, June 19, 2020 as requested herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "LA Ortega", is displayed within a light gray rectangular box.

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Dated: June 16, 2020