BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Public Advocates Office’s Investigation of Communications Pertaining to the Wildfire Mitigation Plan of Pacific Gas and Electric Company.

ADMINISTRATIVE LAW JUDGE RULING GRANTING, IN PART, CAL ADVOCATES’ NOVEMBER 30, 2021 MOTION TO COMPEL

This ruling grants, in part, the November 30, 2021 motion of the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) for an order compelling data request responses and imposing sanctions on Pacific Gas and Electric Company (PG&E). PG&E is directed to comply with the ruling by responding to the data request within 10 days. No sanctions are imposed.

1. Background

On September 30, 2021, Cal Advocates issued a data request to PG&E with responses due October 14, 2021. The data request sought, among other things, certain communications between PG&E and both the California Natural Resource Agency’s Office of Energy Infrastructure Safety (OEIS) and the California Public Utilities Commission (Commission). The data request sought this information for the time period since and including July 1, 2021 regarding wildfire safety and mitigation topics including, but not limited to, the approval of PG&E’s 2021 Wildfire Mitigation Plan (WMP). Cal Advocates issued the data

The data request included the following five questions:

**Question 1:** Please provide a list of all meetings and presentations held since July 1, 2021 between PG&E and the Office of Energy Infrastructure Safety (Office of Energy Safety) related to wildfire safety or wildfire mitigation efforts.

**Question 2:** Please provide the dates of all meetings and presentations held since July 1, 2021 between PG&E and any Commissioners of the CPUC or staff of the Commissioners of the CPUC, related to wildfire safety or wildfire mitigation efforts.

**Question 3:** For all meetings and presentations listed in response to Question 1 and Question 2, please provide relevant materials.

**Question 4:** Please provide copies of any data requests and PG&E’s responses, if any, resulting from any meetings and presentations listed in response to Question 1 from the Office of Energy Safety, the CPUC Wildfire Safety Division, a CPUC Commissioner’s Office, and a staff member of a division of the CPUC, except for Cal Advocates.

**Question 5:** Please provide copies of any data requests and PG&E’s responses, if any, resulting from any meetings and presentations listed in response to Question 2 from the Office of Energy Safety, the CPUC Wildfire Safety Division, a CPUC Commissioner’s Office, and a staff member of a division of the CPUC, except for Cal Advocates.

PG&E initially objected to each of the five questions as overly broad, burdensome, and not relevant. PG&E also objected on the basis that some of the questions sought communications subject to the Commission’s *ex parte* notice.
requirements and, therefore, were already available to Cal Advocates through public sources.

After several meet and confer discussions, PG&E agreed to disclose materials related to its communications with the Commission. PG&E continued its objection to disclose communications with the OEIS on the basis that OEIS is part of a separate regulatory agency and, therefore, not subject to Cal Advocates’ discovery authority.


2. Discussion

2.1. September 30, 2021 Data Request

Cal Advocates argues that under Commission decisions and state law, PG&E must respond to the September 30, 2021 data request and supports its argument with Pub. Util. Code § 314(a), which provides that each officer or person employed by the commission, which includes Cal Advocates, “may, at any time, inspect the accounts, books, papers, and documents of any public utility.” Cal Advocates also relies on Pub. Util. Code § 309.5(e), which states that Cal Advocates “may compel the production or disclosure of any information it deems necessary to perform its duties from any entity regulated by the commission.” Cal Advocates argues that the responses to the data request, which seek information about communications between PG&E and OEIS, is necessary
to perform its duties, including to support safe and reliable operation of the utility’s facilities and protecting ratepayers against unreasonable costs.\(^1\)

PG&E opposes the motion to compel on the basis that Cal Advocates has not adequately explained how the data request is relevant to Cal Advocates’ statutory authority.\(^2\) Furthermore, PG&E argues that this data request falls outside of Cal Advocates’ statutory authority because it concerns the PG&E’s communications with another state regulatory office, OEIS. PG&E argued that the data request represented an improper attempt by Cal Advocates to oversee OEIS’s actions.

This ruling finds that Cal Advocates that the information sought by the data request falls within its statutory authority under Pub. Util. Code §§ 314(a) and 309.5(a). Cal Advocates’ mandate includes advocating for the lowest possible monthly bills for customers of California’s regulated utilities consistent with safety, reliability, and the state’s environmental goals. To achieve those goals, it is well-established that Cal Advocates has broad rights to access the records of regulated investor-owned utilities, including PG&E. In addition, in carrying out its statutory duties, Cal Advocates’ work could extend beyond areas under the Commission’s regulatory oversight into other areas affecting a utility’s operations. The PG&E 2021 WMP, which is reviewed by OEIS, is an example of an area related to the operations of a Commission regulated utility that does not fit neatly within the oversight of a single state agency but is an appropriate area

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\(^1\) Pub. Util. Code § 309.5(a) sets forth the authority of Cal Advocates “to represent and advocate on behalf of the interests of public utility customers and subscribers within the jurisdiction of the commission.” The goal of this office, according to statute, “shall be to obtain the lowest possible rate for service consistent with reliable and safe service levels.” (Ibid.)

\(^2\) PG&E’s opposition also refers to arguments about alleged *ex parte* violations in Cal Advocates motion. Because the communications involving Commissioner’s offices are no longer at issue in this dispute, no need exists to address these arguments.
for Cal Advocates to review. Moreover, PG&E provides no authority suggesting that the statutory authority of the Commission’s staff, including Cal Advocates, to access records of a Commission regulated utility ends when the utility engages in communications with state agencies other than the Commission. In this regard, PG&E’s argument that the data request exceeds Cal Advocates’ statutory authority is unconvincing.3

Furthermore, contrary to PG&E’s argument, Cal Advocates is not required to provide further explanation of the data request’s relevance before PG&E is required to comply. The underlying subject of this data request is PG&E’s 2021 WMP. Given the impacts the 2021 WMP on PG&E’s customers, both in terms of safety in the event of wildfires and also, to some extent, costs for implementing these safety plans (costs which may be passed on to ratepayers), the data request as it relates to the WMP is relevant to Cal Advocates mandate to advocate for “the lowest possible rate for service” while maintaining “reliable and safe service.”4

For these reasons, PG&E is directed to provide responses to the data request on or before 15 days of the date of this ruling.

2.2. Request for Sanctions

Cal Advocates argues that sanction should be imposed because PG&E acted in bad faith by failing to provide an adequate legal basis for refusing to comply with the data request. Cal Advocates also claims that PG&E engaged in

3 Cal Advocates’ motion to compel also requests an order requiring PG&E to disclose information about communications with certain Commission staff. PG&E represents in its opposition that all information relating to communications with Commission staff have been provided to Cal Advocates. For this reason, this aspect of the motion to compel is not addressed here.

obstructionist behavior both during this dispute and in previous similar situations.

PG&E responds that Cal Advocates’ accusations of bad faith are misplaced. It argues that it raised legitimate objections to the relevance of the data request. PG&E also argues that it did not act improperly in the meet and confer process and notes that they were able to resolve other aspects of the dispute. Finally, PG&E states that Cal Advocates’ motion to compel presents a picture that PG&E acted in bad faith without acknowledging other cooperative behavior on PG&E’s part.

In this instance, PG&E’s actions do not appear to justify sanctions. California civil discovery law, which is a useful guide here, provides for a variety of sanctions for the misuse of the discovery process but these examples do not support sanctions in this instance. Examples of misuse of the discovery process include “failing to respond or submit to authorized discovery, providing evasive discovery responses, disobeying a court order to provide discovery, unsuccessfully making or opposing discovery motions without substantial justification, and failing to meet and confer in good faith to resolve a discovery dispute when required by statute to do so.” 5 Cal Advocates did not state that PG&E took any such actions in asserting objections to the data request. For these reasons, no sanctions are imposed.

**IT IS RULED** that:

1. Cal Advocates’ November 30, 2021 motion to compel responses by PG&E to the September 30, 2021 data request is granted;

2. Cal Advocates’ November 30, 2021 motion for sanctions is denied; and

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3. PG&E shall provide complete responses to the September 30, 2021 data request to Cal Advocates on or before 15 days of the date of this ruling.
   
   Dated ________________, at San Francisco, California.

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Regina M. DeAngelis
Administrative Law Judge