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July 13, 2020

Via Email

ALJ Sophia J. Park
California Public Utilities Commission
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sophia.park@cpuc.ca.gov

Re: Comments on Draft Resolution ALJ-381

Dear Administrative Law Judge Park:

We are writing on behalf of the Coalition of California Utility Employees (“CUE”) to provide comments on Draft Resolution ALJ-381, which proposes modifications to the Commission’s Rules of Practice and Procedure. CUE’s comments focus on the proposed amendments to Rule 12.1.

CUE is a coalition of labor unions whose approximately 43,000 members work at nearly all the California utilities, both publicly and privately owned. CUE’s coalition union members make up the on-the-ground workforce of California utilities. CUE has participated in proceedings before the Commission for more than 25 years.

Rule 12.1 governs settlements in Commission proceedings. Specifically, Rule 12.1 requires a motion for approval of a proposed settlement to include “the factual and legal considerations adequate to advise the Commission of the scope of the settlement.” Draft Resolution ALJ-381 proposes to add a requirement to Rule 12.1(a) that a motion for approval of a proposed settlement also include “any separate agreements or financial relationship between parties outside the scope of the proposed settlement but related to issues in the proposed settlement.”¹ The Draft Resolution would also modify Rule 12.1(d) to allow the Commission to “reject

¹ Draft Resolution ALJ-381, p. A-30.
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any proposed settlement for failure to disclose” this information.² The Draft Resolution states that these modifications to Rule 12.1 would provide the Commission “the opportunity to consider all relevant information when evaluating whether a proposed settlement before the Commission is in the public interest.”³

CUE supports the Commission having all information necessary to evaluate the merits of a proposed settlement. However, we are concerned that, because the proposed amendments to Rule 12.1 are very broad, the amendments could inadvertently sweep in routine labor and management activities that are not the goal of this rule.

A utility and a union representing the utility’s employees enter into dozens of letter agreements every year to modify the main collective bargaining agreement. These agreements are often made to deal with changing circumstances. For example, the International Brotherhood of Electrical Workers Local 1245, which represents approximately 12,000 PG&E employees, recently entered into agreements with PG&E to cover compensation for employees sequestered at critical facilities to ensure continued operation during the COVID-19 pandemic. Utilities and unions also, for example, often make revisions to work rules to ensure the safety of employees. Since utilities are fully regulated and these agreements affect the work done by utilities, these types of agreements could, arguably, be related to a general rate case settlement.

But these types of agreements are not really within the scope of what the proposed Rule 12.1 amendments are trying to achieve – full disclosure of secret parts of a settlement that the Commission does not know about but should. Regular, ongoing and frequent amendments to collective bargaining agreements are only tangentially related to Commission proceedings and they are not secret – they are publicly available. By amending Rule 12.1, we assume that the Commission is not trying to seek a box full of agreements simply because they are tangentially related to the operation or finances of a utility.

CUE recommends that the proposed amendment to Rule 12.1(a) include the following sentence to clarify that collective bargaining agreements between a utility and a union representing the utility’s employees are not subject to the rule:

² *Id.*, p. A-31.

³ *Id.*, p. 10.

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Matters addressed in a collective bargaining agreement between a utility and a union representing its employees are not considered a separate agreement or financial relationship.

With this additional sentence, the Commission will achieve the goal of having all information pertinent to a settlement without inadvertently bringing in routine labor and management activities that are not the goal of this rule. The amended Rule 12.1(a) would read:

The motion shall contain a statement of the factual and legal considerations adequate to advise the Commission of the scope of the settlement, including any separate agreements or financial relationship between parties outside the scope of the proposed settlement but related to issues in the proposed settlement, and of the grounds on which adoption is urged. *Matters addressed in a collective bargaining agreement between a utility and a union representing its employees are not considered a separate agreement or financial relationship.* Resolution shall be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings.

Thank you for considering these comments.

Sincerely,



Rachael E. Koss

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