

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Bruce Anthony and Nancy Ellen von Herrmann,

Complainants,

vs.

Pacific Gas and Electric Company,

Defendant.

Case 03-07-047
(Filed July 30, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUIRING THAT PARTIES MEET AND CONFER
AND SCHEDULING PREHEARING CONFERENCE**

On July 30, 2003, Bruce Anthony von Herrmann and Nancy Ellen von Herrmann (von Herrmann) filed the above-captioned complaint against Pacific Gas and Electric Company (PG&E) alleging that PG&E trespassed on their property, despite being asked to leave, when the utility did not have a recorded easement on the property. In addition, when the von Herrmanns asked the PG&E crew to leave their property, PG&E refused and a PG&E employee allowed the incident to escalate to the point that the employee physically assaulted Mr. Von Herrmann. The complaint asks the Commission to:

- (1) establish a policy regarding entrance onto private property; and
- (2) establish a training program for PG&E employees to deal with customer situations such as the one involving the von Herrmanns.

The von Herrmanns do not allege that PG&E's alleged activities violated any law or any order or rule of the Commission.

PG&E was notified on August 26, 2003, that this complaint had been filed against it and was directed that an answer was due within 30 days of August 26, 2003. Although PG&E's answer is not yet due, this notice of a Prehearing Conference (PHC) is being served on the parties so as to give them adequate notice of the hearing and opportunity for additional settlement discussions. Any defenses that PG&E raises in its answer will be within the scope of this proceeding.

The proceeding has been categorized as adjudicatory, requiring hearings. A proposed schedule for the evidentiary hearings will be established at the PHC.

Meet and Confer

Pursuant to Rule 49 of the Commission's Rules of Practice and Procedure (Rules), I direct the parties to meet and confer.¹ Consistent with Rule 49, parties should discuss the particulars set forth below and PG&E should prepare and file a joint case management statement (JCMS), or a proposed settlement agreement, within 10 days of such a meeting, but no later than close of business on October 6, 2003.²

In particular, the parties should use this opportunity to see if they can reach agreement on (1) whether PG&E has a policy in place to address situations where a property owner asks PG&E to vacate the private property; (2) whether

¹ The parties may meet telephonically if it is more convenient for them than in an in-person meeting.

² Administrative Law Judge (ALJ) Brown must receive the JCMS electronically, at CAB@cpuc.ca.gov by 5 p.m. on Friday, October 6, 2003.

PG&E has a policy in place, and a training plan, to ensure that its employees are trained in dealing with customers in volatile situations such as the one referenced in the complaint; and (3) whether PG&E's supervisors and or managers are trained to prevent situations from escalating to verbal and physical assaults on property owners and/or customers.

Most importantly, the parties should see if they can reach a settlement in this matter. If a settlement is not probable, the parties should discuss whether mediation or arbitration might be a preferable procedure for resolution of the complaint.

If the parties cannot reach a settlement, they should fulfill the requirements of Rule 49, and draft the JCMS as a PHC statement. PG&E should draft the JCMS, and the von Herrmanns should indicate their consensus with the JCMS, or indicate areas of disagreement. The JCMS should also include a proposed schedule for evidentiary hearings and the service of prepared testimony. The parties are reminded that pursuant to Pub. Util. Code § 1701.2(d), an adjudicatory case must be resolved within 12 months of initiation. Therefore, the parties are urged to initiate discovery, if discovery is necessary in this case, as soon as PG&E's answer is served.

Prehearing Conference

A PHC is scheduled for October 8, 2003, at 10 a.m., in the Commission's Courtroom located at 505 Van Ness Avenue (corner of McAllister), San Francisco, California. If the parties submit a proposed settlement by the close of business on October 6, 2003, the PHC will be taken off calendar.

Conference Call

If the parties have any interlocutory issues, for example, scheduling problems or discovery disputes, that need resolution during the course of the proceeding, please call (415) 703-2971 or e-mail (CAB@cpuc.ca.gov) the assigned

ALJ Carol Brown and a conference call will be scheduled. In addition, if the parties want to pursue alternative dispute resolution methods such as arbitration or mediation, ALJ Brown will facilitate the process.

Service

It is Commission practice that all appearances must serve all parties and state service participants on the service list. Rule 2.3(b) provides that the ALJ may direct that service be made by electronic means. I will require all appearances that can provide the Commission with an electronic mail address to serve documents in this proceeding by electronic mail, and in turn, to accept service by electronic mail. Service by electronic mail will be used in lieu of paper mail where an electronic address has been provided. Any appearance, or state service participant, who has not provided an electronic mail address shall serve and take service by paper mail. Service by mail is described in Rule 2.3(a).

This ruling does not change the rules regarding the tendering of documents for filing. Documents for filing must be tendered in paper form, as described in Rules 2, et seq. Service on the Commission, including the assigned ALJ and Commissioner, may be by electronic mail. My e-mail address is CAB@cpuc.ca.gov.

Electronic Service Protocols

A sender may serve a document by electronic mail by attaching the document to a note. The subject of the note accompanying the document should include the proceeding number and identify the party sending the document. Within the note, the word processing program used for the document should be noted. If the electronic mail is returned to the sender, or the recipient indicates to the sender that it cannot open the document, the sender shall immediately serve that party by paper mail. Documents saved and sent in Microsoft Word 6.0 are readily opened by most recipients.

Therefore, **IT IS RULED** that:

1. Parties shall meet and confer informally and shall file a joint case management statement, or proposed settlement agreement, within 10 days of such a meeting, but no later than the close of business on October 6, 2003.
2. A prehearing conference in this proceeding will be held at 10 a.m., on October 8, 2003, at the Commission's Courtroom in San Francisco.
3. All appearances that have provided the Commission with an electronic mail address shall serve documents in this proceeding by electronic mail, and in turn, shall accept service by electronic mail. Service by electronic mail will be used in lieu of paper mail where an electronic address has been provided. The electronic service protocols described in this ruling shall be observed.
4. Any appearance that has not provided an electronic mail address shall serve and take service by paper mail.

Dated September 17, 2003, at San Francisco, California.

/s/ CAROL A. BROWN

Carol A. Brown
Administrative Law Judge

