

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-260
Administrative Law Judge Division
February 24, 2011

RESOLUTION

RESOLUTION ALJ-260. Amends the Rules of Practice and Procedure (Title 20, Division 1, of the California Code of Regulations)

Summary

This resolution approves amendments to the Commission's Rules of Practice and Procedure (Title 20, Division 1, of the California Code of Regulations) as set forth in Appendix A. The amendments update the Rules to reflect changes in the Commission's administration, to streamline certain procedures, and to provide greater clarity as specifically discussed below.

Notice of these amendments, and comment on them, are governed by Government Code §§ 11346.4 and 11351, and California Code of Regulations, Title 1, §§ 1-120. Notice of these amendments as originally proposed was published in the California Regulatory Notice Register on October 22, 2010. Pursuant to Pub. Util. Code § 311(h), these amendments shall be submitted to the Office of Administrative Law for review and publication in the California Code of Regulations, and for transmittal to the Secretary of State.

Rule 1.4, Participation in Proceedings**Rule 16.2, Parties Eligible to File Applications for Rehearing**

As currently written, Rule 1.4 provides that the filing of an "application" and a response to an "application" confers party status on the filer. Pursuant to Pub. Util. Code § 1731 and Rule 16.2, only parties to the underlying proceeding are eligible to file applications for rehearing; consistent with this statute and rule, it is reasonable to likewise limit eligibility to file responses to applications for rehearing to parties. We amend Rule 1.4 to clarify that the referenced applications exclude applications for rehearing, and amend Rule 16.2 to clarify that only parties are eligible to file responses to applications for rehearing. We note that Rule 1.4(a)(4) allows any person to move for party status; this amendment would not limit the ability of persons to file a motion pursuant to

Rule 1.4(a)(4) in order to become eligible to file an application for rehearing or response to an application for rehearing.

Rule 1.5, Form and Size of Tendered Documents

Rule 1.5 provides that documents tendered for filing must use type that is no smaller than 10 points, and is silent on the use of margins. For greater ease of reading and consistent with the California Rules of Court, we amend Rule 1.5 to require the use of type that is no smaller than 12 points, left margins that are at least one inch from the left edge of the page, and right margins that are at least ½ inch from the right edge of the page.

Rule 1.6, Title Page Requirements

Rule 1.6 addresses title page requirements for filed documents. For administrative purposes and to provide readier access to important information, we amend Rule 1.6 to clarify that a space must be provided for the Commission's placement of a docket number in a new proceeding, and to require the title page of documents of more than 20 pages to include identifying and contact information of the person tendering the document and the date of signing.

Rule 1.8, Signatures

We amend Rule 1.8 to address the signature requirement in the context of electronic filing, by specifying the use of electronic or mechanical signatures on the tendered signature page in such case.

Rule 1.9, Service Generally

We amend Rule 1.9 to clarify that, consistent with long-standing practice and procedure, all documents tendered for filing must be served on the official service list for the proceeding.

We further amend Rule 1.9 to require electronic service of documents that have been electronically tendered for filing. Electronic service is more efficient than service by first-class mail; to the extent that a party electronically tenders a document for filing, there is no apparent reason that it should not likewise electronically serve the document.

We correct a typographical error with respect to the determination of completeness of service by first-class mail.

We eliminate the requirement that persons requesting addition or changes to the official service list serve a copy of such request on the official service list. In view of the fact that the Commission's Process Office maintains the official service list, which is readily available to all persons on the Commission's website, this requirement is unnecessary and unduly burdensome.

Rule 1.10, Electronic Mail Service

We amend Rule 1.10 to provide that the certificate of service and service list shall be attached to the e-mail message as a separate document. This will save resources by allowing persons to print the electronically served document without printing the official service list.

Rule 1.13, Tendering of Document for Filing

Pursuant to Rule 2.4, an application for authority to undertake projects that are subject to the California Environmental Quality Act must include a Proponent's Environmental Assessment (PEA). PEAs are typically very voluminous. We amend Rule 1.13(a)(2) and Rule 2.4(b) to allow applicants to tender the requisite copies of the PEA in CD-ROM/DVD format.

We also amend Rule 1.13(a)(2) to delete the obsolete cross-reference to Rule 16.1, regarding number of copies to be tendered for applications for rehearing.

Consistent with the above amendment to Rule 1.10, we amend Rule 1.13(b) to provide that the certificate of service and service list shall be transmitted as a separate attachment. This will save resources by allowing the Commission to publish the documents on the website as separate documents, which in turn will allow persons to print them separately.

In addition, we amend Rule 1.13 to clarify the procedure for accepting electronic filings in the event of technical failures of the Commission's electronic filing system.

Rule 1.15, Computation of Time

We amend Rule 1.15 to clarify that an act must occur by 5:00 p.m. in order to be deemed performed on that day.

Rule 2.4, CEQA Compliance

Consistent with the above amendment to Rule 1.13(a)(2), we amend Rule 2.4(b) to allow applicants to tender the requisite copies of the PEA in CD-ROM/DVD format.

Rule 2.5, Fees for Recovery of Costs in Preparing EIR

We correct a typographical error in Rule 2.5(a).

Rule 2.6, Protests, Responses, and Replies

Rule 2.6(a) requires service of protests, responses and replies to applications on each person listed in the certificate of service of the application. This requirement is a deviation from the otherwise applicable requirement that filed documents must be served on the official service list for the proceeding (see Rule 1.9) and is unduly burdensome. First, an applicant's discretionary decision to serve its application on persons not required by rule or law should not impose a duty on protestants and

respondents to do likewise. Second, where an applicant is required by rule or law to serve its application on designated persons, that service suffices to alert those persons to the initiation of the proceeding; to the extent that such persons wish to be apprised of activity in the proceeding, the docket card for the proceeding is posted on the Commission's website and readily identifies parties to the proceeding and access to (or, if not electronically filed, notice of) their formal filings. We therefore modify Rule 2.6 to eliminate this requirement.

Rule 3.1, Construction or Extension of Facilities

We correct the cross references in Rule 3.1(n)(2)(B) to former Rule 23 to reflect the correct references.

Rule 3.2, Authority to Increase Rates

Rule 3.2(b) requires applicants to provide notice of requested rate increases to the State, cities and counties that are affected by it. We edit the subsection to substitute the term "serve" for "mail" in order to avoid the misimpression that service must be by first-class mail and not e-mail, consistent with Rule 1.9 ("Service Generally"), and make other minor, non-substantive editorial changes for clarity.

Rule 3.2(b), as well as Rule 3.2(c) which requires applicants to publish notice of requested rate increases in a newspaper, require applicants to provide the required notice within 10 days after filing the application. We amend subsections (b) and (c) to increase the time for compliance from 10 days to 20 days after filing the application. In practice, applicants generally consult with the Commission's Public Advisor as to the contents of the notice. This additional time will afford applicants and the Commission's Public Advisor greater opportunity to consult regarding the contents of the required notice.

Rule 3.2(c) requires applicants to publish notice of requested rate increases in a local newspaper stating that the application may be examined at the Commission's San Francisco and Los Angeles offices. We amend the subsection to eliminate the option of examining applications at the Commission's Los Angeles office, as that option is no longer administratively available.

Rule 3.2(d) requires applicants to provide notice of requested rate increases to their customers as inserts to their bills. We amend the subsection to permit applicants to provide the notice required in this subsection electronically to customers that receive their bills electronically.

As currently written, a separate proof of compliance is required for subsections (c) and (d), and none is required for subsection (b). We add Rule 3.2(e) to require proof of compliance with subsection (b), and consolidate the requisite proof of compliance for all three subsections into a single proof of compliance requirement that is due within

20 days of compliance with the last event (i.e., mailing customer notice pursuant to subsection (d)). This amendment streamlines the requirement.

Rule 4.1, Who May Complain

We amend Rule 4.1 to reflect Pub. Util. Code § 625, which permits a public utility that offers competitive services to file a complaint for a finding by the Commission that condemnation of a property for the purpose of competing with another entity in the offering of those competitive services would serve the public interest.

Rule 4.2(b), Form and Content of Complaints

We amend Rule 4.2(b) to allow electronic tendering of complaints (as well as hard-copy), and to eliminate the requirement to tender additional copies. The Commission's current internal processes obviate the need for hard copies.

Rule 4.3, Service of Complaints and Instructions to Answer

We amend Rule 4.3 to delete the provision that the Docket Office shall serve amendments to complaints on the defendant. Pursuant to Rule 1.9, in order to be accepted for filing, an amendment to a complaint must be served on the official service list. Therefore, this provision is unnecessary and unduly burdensome.

Rule 7.2, Prehearing Conference

We amend Rule 7.2 to provide a target date range for the setting of prehearing conference. This amendment provides practitioners with greater clarity with regard to standard procedure and reasonable expectations for when a prehearing conference will be held.

Rule 7.2 describes the circumstances in which a prehearing conference will be set. We amend Rule 7.2 to clarify that, in the absence of those circumstances, the assigned Commissioner has the discretion *not* to set a prehearing conference.

Rule 8.1, Definitions

We amend the definition of "ex parte communication" to clarify that the public hearing, workshop or other public forum that does not give rise to ex parte communications is one that has been noticed by ruling or order in the proceeding.

Rule 8.5, Communications with Advisors

Rule 8.5 addresses the restrictions and reporting requirements regarding communications with advisors. For greater clarity, we move this rule to a more prominent position (renumbered Rule 8.2) and renumber the other rules in Article 8 accordingly.

Rule 10.2, Subpoenas

Rule 10.2(a) provides that parties may direct requests for issuance of a subpoena to the Executive Director at the Commission's Los Angeles office. The Commission's Executive Director no longer maintains an office at the Commission's Los Angeles office. We amend the rule to eliminate the option of requesting the issuance of a subpoena from the Executive Director at the Los Angeles office.

Rule 13.7, Exhibits

By providing that parties may offer into evidence other material and relevant portions of a document, other portions of which have been offered into evidence, Rule 13.7(c) contemplates that only material and relevant portions of documents shall be offered into evidence. We amend the rule to make this contemplation explicit and mandatory.

Rule 14.1, Definitions

We amend the rule to make minor clarifying edits. However, we withdraw our originally proposed changes to the last sentence of Rule 14.1(d). The intent in making the originally proposed changes to this sentence was not to change the meaning of the rule or the rights of the parties. On further reflection, it appears that the originally proposed changes to the sentence could potentially change the meaning of the rule. In order to avoid that potential, we withdraw our originally proposed changes to the sentence.

Rule 14.2, Issuance of Recommended Decision

We amend to rule to explicitly provide for the issuance of alternate decisions and alternates to draft resolutions, consistent with long-standing practice.

Rule 14.5, Comment on Draft or Alternate Resolution

As currently written, Rule 14.5 requires service of comments on draft or alternate resolution on all Commissioners, the Chief Administrative Law Judge, and the General Counsel. This requirement exceeds the service requirements for comments on proposed or alternate decisions and, in any event, serves no compelling purpose. We therefore amend the rule to eliminate this requirement.

Rule 14.6, Reduction or Waiver of Review

Rule 14.6(b) provides that the Commission may reduce or waive the period for public review and comment on recommended decisions "where all parties so stipulate." However, as a technical matter, there are no "parties" in matters related to draft resolutions. We therefore amend Rule 14.6(b) to identify the persons who must stipulate to reduction or waiver for purposes of draft and alternate resolutions.

We also correct a typographical error in Rule 14.6(c)(9). As originally proposed, we changed the word "regulate" to "regulation." On further reflection, it appears that the more appropriate correction is to change the word to "regulatee," and we make that modification to the originally proposed amendments.

Rule 16.1, Application for Rehearing

As currently written, the rules provide for resolution of motions in pending proceedings by either the assigned administrative law judge or the designated Law and Motion Administrative Law Judge. (Article 11.) Once a decision has issued, however, motions with regard to applications for rehearing of the decision are not appropriately resolved by the assigned administrative law judge. We therefore amend Rule 16.1 to provide that such motions will be directed to the Chief Administrative Law Judge.

Rule 16.6, Extension of Time to Comply

Rule 16.6 requires persons to serve requests for extension of time to comply with a Commission decision or order on the Chief Administrative Law Judge. We amend the rule to identify an e-mail address on which to serve the Administrative Law Judge Division. This amendment will improve our administration of such requests.

In addition, we amend the rule to require the person requesting the extension of time to attach to such request a certificate of service on the official service list. This amendment will allow us to verify compliance with the rule.

Table of Filing Fees

We amend the Table of Filing Fees at the end of the Rules to add the filing fee adopted in Decision 10-09-017 pursuant to Pub. Util. Code § 1013, and to correct the cross reference to Rule 1.16.

Notice of Proposed Amendments

Notice of these amendments, and comment on them, are governed by Government Code §§ 11346.4 and 11351, and California Code of Regulations, Title 1, §§ 1-120. Notice of these amendments as originally proposed was published in the California Regulatory Notice Register on October 15, 2010. In addition, on October 7, 2010, the draft resolution containing the amendments as originally proposed was mailed to all persons on the service list used by the Commission for this purpose.

The modified draft resolution, containing modifications to the text of the originally proposed amendments, was mailed to the service list on January 10, 2011.

The draft resolution was further revised to withdraw the originally proposed amendment to the last sentence of Rule 14.1(d), and to change the correction to the typographical error in Rule 14.6(c)(9). This further-revised draft resolution was mailed to the service list on February 1, 2011.

Comments on Originally Proposed Amendments

Comments on the originally proposed amendments were received on or before December 6, 2010, from:

- California Farm Bureau Federation

- L. Jan Reid
- Manatt, Phelps & Phillips
- The Utility Reform Network (TURN)
- Southern California Edison Company, Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Gas Company, Verizon California Inc., and California Association of Competitive Telecommunications Companies (jointly, the “Joint Commenting Parties”)
- The Greenlining Institute
- Jacqueline Ayer
- California Water Association
- Coalition of California Utility Employees
- Great Oaks Water Company

Several commenters noted that, while the discussion in the draft resolution described certain proposed changes to Rules 14.3 and 14.5 regarding the opportunity to comment on alternate recommended decisions under specified circumstances, the text of the proposed amendments included no such changes. This discussion in the draft resolution was inadvertent and has been deleted, consistent with the text of the proposed amendments.

The California Farm Bureau Federation, Manatt, Phelps & Phillips, the Joint Commenting Parties and the Coalition of California Utility Employees oppose the originally proposed amendments to Rules 8.3 and 8.5 shortening of time for filing notices of ex parte communications, on the basis that compliance with the shortened time would be unduly burdensome. By email dated December 16, 2010, we forwarded their comments to the service list and solicited further comments in response to them; responsive comments were received on December 31, 2010, from the firm of Goodin, MacBride, Squeri, Day & Lamprey, LLP, who added their opposition to the proposal, and from L. Jan Reid, who supports it. As Reid’s comments note, the proposal would increase the fairness of the Commission’s ratemaking proceedings by providing all parties a greater opportunity to timely and effectively respond to ex parte communications, especially those made shortly before Commission meetings, and we share Mr. Reid’s opinion that most parties, particularly the commenters opposing the proposal, have sufficient resources to ably comply with a one-day notice requirement. Nevertheless, as we have not as yet sufficiently considered the broad-based assertion that it would be unduly burdensome, we will not undertake it at this time.

The Joint Commenting Parties oppose the originally proposed amendments to Rule 8.2(d) and proposed new Rule 8.7 that would clarify that the assigned Commissioner has the discretion to impose greater restrictions on ex parte communications than otherwise required by the rules, on the basis that the changes are confusing and potentially unlawful. Specifically, the Joint Commenting Parties note that Pub. Util. Code § 1701.4(b) expressly provides, “Ex parte communications shall be

permitted without any restrictions” in quasi-legislative cases. While we are not persuaded that we lack the discretion to impose restrictions in quasi-legislative cases if particular circumstances warrant it, we decline to decide the issue now in the abstract and, therefore, will not undertake the rule change at this time. The Commission has on several occasions imposed greater restrictions than otherwise required by the rules (see, e.g., April 21, 2010, Administrative Law Judge Ruling in C.97-04-025 et al. and June 1, 2007, Joint Ruling in A.06-11-005), and will continue to do so as appropriate.

California Water Association, the Joint Commenting Parties, TURN, and Manatt, Phelps & Phillips suggests that, in order to account for the proposed amendment to Rule 1.5 increasing the font size requirement from 10 to 12 point, the page limitations on opening and reply comments contained in Rule 14.3 should be increased. As Reid notes in his December 31, 2010, comments, most practitioners, including most of the commenters who request a commensurate increase in the page limitations, currently use 12 point font size in their opening and reply comments. We find no compelling reason to increase the page limitations.

Manatt, Phelps & Phillips suggests that Rule 1.5 be amended to exempt footnotes, graphs, etc. from the 12 point font size requirement. This change is reasonable and is sufficiently related to the originally proposed change to Rule 1.5, and we adopt it.

TURN and Jacqueline Ayer oppose the proposed amendment to Rule 1.15 which would provide that acts must be performed by 5:00 p.m. in order to be deemed as having been performed on that day (although TURN does not object to it with respect to documents that are filed with the Commission’s Docket Office.) Ayer objects that the proposed amendment effectively shortens the “day” by 30 percent. Similarly, TURN reasons that the 5:00 p.m. deadline would undercut one of the benefits of conducting business electronically, which is the ability to operate beyond the traditional time constraints, and notes that the federal courts and many federal agencies accept electronically tendered filings until midnight on the due date. The commenters’ objections to a 5:00 p.m. deadline are not compelling. The purpose of the proposed amendment is to establish a common understanding of the deadline by which an act must be performed. It is not evident that an 11:59 p.m. deadline affords parties greater ability to conduct business after 5:00 p.m. than a 5:00 p.m. deadline. Indeed, 5:00 p.m. service allows parties and decisionmakers the rest of the “day” to review electronically served documents. As TURN notes, in instances where the difference between a service deadline of 5:00 p.m. and midnight are significant, the administrative law judge or assigned commissioner can require midnight service by ruling.

L. Jan Reid opposes the proposed amendment to Rule 1.10 requiring the certificate of service and service list to be attached to an e-mail message as a separate document on the basis that it is unnecessarily burdensome to reproduce the Excel version of the official service list in a certificate of service that is created in a Word file, and then

convert it to PDF Archive format as required for electronic filing. After receiving clarification that only the e-mail addresses contained in the Excel version of the official service list (not the entire Excel spreadsheet) must be included in the certificate of service, Reid withdraws his opposition.

Great Oaks Water Company proposes additional changes that are unrelated to the originally proposed amendments, specifically a change to Rule 1.4 regarding party status for persons who purport to represent other persons; increased restrictions on ex parte communications addressed in Article 8; a change to Rules 13.4 and 13.11 to provide that applicants shall open and close the briefing (as opposed to expressing a preference for concurrent opening and closing briefs); and a change to Rule 13.6(a) to provide that Commission proceedings will be governed under the California Evidence Code. These proposed changes are unrelated to the originally proposed changes to the rules and therefore beyond the permissible scope of this rulemaking as governed by Government Code § 11346.4 and California Code of Regulations, Title 1, §§ 1-120.

Manatt, Phelps & Phillips proposes a change to Rules 1.4 and 1.9 to provide for listing multiple representatives of the same party as “parties” on the official service list (rather than as “information only”), in order that they may receive hard copy service of documents if they decline to provide e-mail addresses. (Under the current rules, hard copy service of documents that are otherwise served electronically is only required with respect to persons listed as “parties” who decline to provide e-mail addresses.). This proposed change is unrelated to the originally proposed changes to the rules and therefore beyond the permissible scope of this rulemaking as governed by Government Code § 11346.4 and California Code of Regulations, Title 1, §§ 1-120.

Comments on Modifications to Originally Proposed Amendments

Comments on the modifications to the text of the originally proposed amendments were received from Dan Carroll on January 24, 2011, and from L. Jan Reid on January 25, 2011.

Carroll commented in opposition to the originally proposed amendment to (renumbered) Rule 8.4 that would reduce the time for filing notices of ex parte communications from three days to one day, supporting the modification to the originally proposed amendment that would withdraw that change.

Reid opposes the modification to the originally proposed amendment that would withdraw the originally proposed changes to (renumbered) Rule 8.4 reducing the time for filing notices of ex parte communication from three days to one day. Reid argues that the broad opposition is not a legal basis on which to refrain from undertaking this change which, as we have noted, would increase the fairness of the Commission’s ratemaking proceedings. We clarify that it is the broad assertion of undue burden,

which we have not as yet sufficiently considered, that is the basis upon which we refrain from undertaking this change at this time.

Reid comments on the originally proposed amendments to Rule 1.13(b)(4) that would deem the electronic filing system to be subject to a technical failure on a given day if it is unable to accept filings continuously or intermittently over the course of more than one hour after 12:00 noon that day; Reid proposes that the time be changed to 3:00 p.m. Reid's comment on the originally proposed amendment is untimely and not compelling.

Reid comments on the originally proposed amendments to Rule 14.2(c) that would expressly provide, consistent with current practice, that an alternate shall be filed and served without undue delay; Reid proposed that the rule be amended to specify a maximum time limit by which the alternate must be filed and served. Reid's comment on the originally proposed amendment is untimely and not compelling.

Reid recommends certain non-substantive, editorial changes to the discussion regarding his comments on the originally proposed amendment to Rule 1.10. The discussion is sufficient as written.

Comments on Further Modifications to Originally Proposed Amendments

No comments on the further modifications to the text of the originally proposed amendments were received.

IT IS RESOLVED that:

1. The amendments to the Rules of Practice and Procedure, as shown in the attached Appendix A, are adopted.
2. The Chief Administrative Law Judge shall take all appropriate steps to submit the newly adopted rules to the Office of Administrative Law pursuant to Pub. Util. Code § 311(h) for purposes of approval and printing them in the California Code of Regulations, thereby giving them effect.
3. This resolution is effective today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on _____, the following Commissioners approving it:

PAUL CLANON
Executive Director

APPENDIX A
AMENDMENTS TO RULES OF PRACTICE AND PROCEDURE

1.4. (Rule 1.4) Participation in Proceedings.

(a) A person may become a party to a proceeding by:

(1) filing an application (other than an application for rehearing pursuant to Rule 16.1), petition, or complaint;

(2) filing (i) a protest or response to an application (other than an application for rehearing pursuant to Rule 16.1) or petition, or
(ii) comments in response to a rulemaking;

(3) making an oral motion to become a party at a prehearing conference or hearing; or

(4) filing a motion to become a party.

(b) A person seeking party status by motion pursuant to subsection (a)(3) or (a)(4) of this rule shall:

(1) fully disclose the persons or entities in whose behalf the filing, appearance or motion is made, and the interest of such persons or entities in the proceeding; and

(2) state the factual and legal contentions that the person intends to make and show that the contentions will be reasonably pertinent to the issues already presented.

(c) The assigned Administrative Law Judge may, where circumstances warrant, deny party status or limit the degree to which a party may participate in the proceeding.

(d) Any person named as a defendant to a complaint, or as a respondent to an investigation or a rulemaking, is a party to the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

1.5. (Rule 1.5) Form and Size of Tendered Documents.

Documents tendered for filing must be typewritten, printed, or reproduced on paper 8 1/2 inches wide and 11 inches long. Any larger attachments must be legibly reduced or folded to the same size. The body text type must be no smaller than ~~10~~ 12 points. The impression must use 1 1/2-line or double

spacing, except that footnotes and quotations in excess of a few lines may be single-spaced. Both sides of the paper may be used. The left margin must be at least one inch from the left edge of the page and the right margin at last ½ inch from the right edge of the page. A document of more than one page must be bound on the left side or upper left-hand corner. If a transmittal letter is submitted (see Rule 1.13(a)), it must not be bound to the tendered document. All copies must be clear and permanently legible.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

1.6. (Rule 1.6) Title Page Requirements.

(a) All documents tendered for filing must have a blank space of at least 1 1/2 inches tall by 2 1/2 inches wide in the upper right-hand corner for a docket stamp and must show on the first page:

(1) at the top, the heading "BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA";

(2) in the upper left below the heading, the caption for the proceeding;

(3) to the right of the caption, the docket number (if one has been assigned) or a space for the docket number (if the document initiates a new proceeding);

(4) below the caption and docket number, the title of the document and the name of or shortened designation for the person tendering the document.

~~The title page may extend to additional pages if these required items cannot be set forth on one page. The name, mailing address, telephone number, and, if available, electronic mail address and facsimile transmission number of the person authorized to receive service and other communications on behalf of the person tendering the document must be set forth either on the title page of the document or following the signature at the end of the document (see Rule 1.8). Documents initiating new proceedings must leave a space to the right of the caption for the docket number. (See Rule 1.8.1.)~~

(b) Persons and corporations regulated by the Commission must include their assigned Case Information System (CIS) Identification Number in the captions of documents initiating new proceedings and in the titles of other documents filed in existing cases (e.g., "Application of Pacific Bell (U 1001 C) for Rehearing of Decision 91-01-001").

(c) For documents of more than 20 pages, the title page shall set forth the name, mailing address, telephone number, and, if available, electronic mail address of the person authorized to receive service and other communications on behalf of the person tendering the document, and date of signing. For documents of 20 pages or less, this information may be set forth following the signature at the end of the document (see Rule 1.8).

(d) The title page may extend to additional pages if these required items cannot be set forth on one page.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

1.8. (Rule 1.8) Signatures.

(a) A document tendered for filing must have a signature at the end of the document and must state the date of signing, the signer's address, the signer's telephone number, and (if consenting to service by electronic mail) the signer's electronic mail address.

(b) A signature on a document tendered for filing certifies that the signer has read the document and knows its contents; that to the signer's best knowledge, information, and belief, formed after reasonable inquiry, the facts are true as stated; that any legal contentions are warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law; that the document is not tendered for any improper purpose; and that the signer has full power and authority to sign the document. (See Rule 1.1.)

(c) A document tendered for filing must be signed either by the person on whose behalf it is tendered for filing or by the attorney or representative of the person. If the document is signed by the person, it must be signed as follows:

(1) If the person is an individual or sole proprietorship, by the individual or proprietor.

(2) If the person is a corporation, trust, or association, by an officer.

(3) If the person is a partnership or limited partnership, by a partner or general partner, respectively.

(4) If the person is a governmental entity, by an officer, agent, or authorized employee.

(d) If a document is tendered for filing on behalf of more than one person, only one person (or one person's attorney or representative) need sign the document unless otherwise required by these rules. The title or first paragraph of the document must identify all persons on whose behalf the document is tendered and state their Case Information System Identification Numbers, if applicable (see Rule 1.6(b)). The signature of a person in these circumstances certifies that the signer has been fully authorized by the indicated persons to sign and tender the document and to make the representations stated in subsection (b) on their behalf.

(e) Except as otherwise required in these rules or applicable statute, ~~either the original signature page or a copy of the original signature page is acceptable for tendering for filing in hard copy, and a signature page containing a signature made by electronic or mechanical means is acceptable for tendering for electronic filing, provided that~~ if a copy of the signature page is tendered, the signer must retain the original signature page with handwritten signature, and produces it at the Administrative Law Judge's request, until the Commission's final decision in the proceeding is no longer subject to judicial review.

(f) The Commission may summarily deny a person's request, strike the person's pleadings, or impose other appropriate sanctions for willful violation of subsections (b) or (d) of this rule. The Commission may seek appropriate disciplinary action against an attorney for a willful violation of subsections (b) or (d) of this rule.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

1.9. (Rule 1.9) Service Generally.

(a) Except as otherwise provided in these rules or applicable statute, a requirement to serve a document means that a copy of the document must be served on each person whose name is on the official service list for the proceeding and on the assigned Administrative Law Judge (or, if none is yet assigned, on the Chief Administrative Law Judge).

(b) Except as otherwise provided in these rules or applicable statute, all documents that are tendered for filing pursuant to Rule 1.13 must be served.

(c) Service of a document may be effected by personally delivering a copy of the document to the person or leaving it in a place where the person may reasonably be expected to obtain actual and timely receipt, mailing a copy of

the document by first-class mail, or electronically mailing the document as provided in Rule 1.10, except that documents that are electronically tendered for filing as provided in Rule 1.14 must be served by e-mail as provided in Rule 1.10. Service by first-class mail ~~e-mail~~ is complete when the document is deposited in the mail. Service by e-mail is complete when the e-mail message is transmitted, subject to Rule 1.10(e). The Administrative Law Judge may direct or any party may consent to service by other means not listed in this rule (e.g., facsimile transmission).

(ed) A person may serve a Notice of Availability in lieu of all or part of the document to be served:

- (1) if the entire document, including attachments, exceeds 50 pages; or
- (2) if a document or part of the document is not reproducible in electronic format, or would cause the entire e-mail message, including all attachments, to exceed 3.5 megabytes in size, or would be likely to cause e-mail service to fail for any other reason; or
- (3) if the document is made available at a particular Uniform Resource Locator (URL) on the World Wide Web in a readable, downloadable, printable, and searchable format, unless use of such formats is infeasible; or
- (4) with the prior permission of the assigned Commissioner or Administrative Law Judge; except that the document must be served on any person who has previously informed the serving person of its desire to receive the document.

The Notice must comply with Rule 1.6(a), and shall state the document's exact title and summarize its contents, and provide the name, telephone number, and e-mail address, if any, of the person to whom requests for the document should be directed. The document shall be served within one business day after receipt of any such request.

If the document is made available at a particular URL, the Notice of Availability must contain a complete and accurate transcription of the URL or a hyperlink to the URL at which the document is available, and must state the date on which the document was made available at that URL. Such document must be maintained at that URL until the date of the final decision in the proceeding. If changes to the web site change the URL for the document, the serving person must serve and file a notice of the new URL.

(d) A copy of the certificate of service must be attached to each copy of the document (or Notice of Availability) served and to each copy filed with the

Commission. If a Notice of Availability is served, a copy of the Notice must also be attached to each copy of the document filed with the Commission. The certificate of service must state: (1) the exact title of the document served, (2) the place, date, and manner of service, and (3) the name of the person making the service. The certificate filed with the original of the document must be signed by the person making the service (see Rule 1.8(e)). The certificate filed with the original of the document must also include a list of the names, addresses, and, where relevant, the e-mail addresses of the persons and entities served and must indicate whether they received the complete document or a Notice of Availability. (See Rule 18.1, Form No. 4.)

(ef) The Process Office shall maintain the official service list for each pending proceeding and post the service list on the Commission's web site. The official service list shall include the following categories:

- (1) Parties, as determined pursuant to Rule 1.4,
- (2) State Service, for service of all documents (available to California State employees only), and
- (3) Information Only, for electronic service of all documents only, unless otherwise directed by the Administrative Law Judge.

Persons will be added to the official service list, either as State Service or Information Only, upon request to the Process Office. It is the responsibility of each person or entity on the service list to provide a current mailing address and, if relevant, current e-mail address, to the Process Office. A person may change its mailing address or e-mail address for service or its designation of a person for service by sending a written notice to the Process Office ~~and serving a copy of the notice on each person on the official service list.~~

(fg) The Administrative Law Judge may establish a special service list that includes some, but not all, persons on the official service list for service of documents related to a portion of a proceeding, provided that all persons on the official service list are afforded the opportunity to be included on the special service list. A special service list may be established, for example, for one phase of a multi-phase proceeding or for documents related to issues that are of interest only to certain persons.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. References: Sections 311.5 and 1704, Public Utilities Code.

1.10. (Rule 1.10) Electronic Mail Service.

(a) By providing an electronic mail (e-mail) address for the official service list in a proceeding, a person consents to e-mail service of documents in the proceeding, and may use e-mail to serve documents on persons who have provided an e-mail address for the official service list in the proceeding.

(b) Documents served by e-mail need not be otherwise served on persons who appear in the "Information Only" category of the official service list and have not provided an e-mail address for the official service list. Nothing in this rule excuses persons from serving copies of documents on persons who appear in the "Parties" and "State Service" categories of the official service list and have not provided an e-mail address for the official service list.

(c) E-mail service shall be made by sending the document, a link to the filed version of the document, or the Notice of Availability (see Rule 1.9(c)), as an attachment to an e-mail message to all e-mail addresses shown on the official service list on the date of service. The certificate of service and service list shall be attached to the e-mail message as a separate document. Documents must be in readable, downloadable, printable, and searchable formats, unless use of such formats is infeasible. The subject line of the e-mail message must include in the following order (1) the docket number of the proceeding, (2) a brief name of the proceeding, and (3) a brief identification of the document to be served, including the name of the serving person. The text of the e-mail message must identify the electronic format of the document (e.g., PDF, Excel), whether the e-mail message is one of multiple e-mail messages transmitting the document or documents to be served and, if so, how many e-mails, and the name, telephone number, e-mail address, and facsimile transmission number of the person to whom problems with receipt of the document to be served should be directed. The total size of a single e-mail message and all documents attached to it may not exceed 3.5 megabytes.

(d) By utilizing e-mail service, the serving person agrees, in the event of failure of e-mail service, to re-serve the document, no later than the business day after the business day on which notice of the failure of e-mail service is received by the serving party, by any means authorized by these rules, provided that e-mail service may be used for re-service only if (1) the receiving person consents to the use of e-mail service, or (2) the serving person determines that the cause of the failure of e-mail service has been rectified. "Failure of e-mail service" occurs when the serving person receives notification, in any manner, of non-receipt of an e-mail message, or of the receiving person's inability to open or download an attached document, or of any other inability of the receiving person to access the document to be served. The serving person and receiving person may agree to any form for

re-service allowed by these rules. The serving person is not required to re-serve, after failure of e-mail service, any person listed on the official service list as Information Only.

(e) In addition to any other requirements of this rule, the serving person must provide a paper copy of all documents served by e-mail service to the assigned Administrative Law Judge (or, if none is yet assigned, to the Chief Administrative Law Judge), unless the Administrative Law Judge orders otherwise.

(f) The Commission may serve any document in a proceeding by e-mail service, and/or by making it available at a particular URL, unless doing so would be contrary to state or federal law.

(g) Nothing in this rule alters any of the rules governing filing of documents with the Commission.

(h) The assigned Commissioner or Administrative Law Judge may issue any order consistent with these rules to govern e-mail service in a particular proceeding.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311.5, Public Utilities Code; and Section 11104.5, Government Code.

1.13. (Rule 1.13) Tendering of Document for Filing.

Documents may be tendered for filing in hard copy or electronically, as follows, except that a utility whose gross intrastate revenues, as reported in the utility's most recent annual report to the Commission, exceed \$10 million shall electronically file all documents unless otherwise prohibited or excused by these rules:

(a) Hard copy:

(1) Documents must be tendered for filing at the Commission's Docket Office at the State Building, 505 Van Ness Avenue, San Francisco, California 94102, or at the Commission's Offices in the State Building, 320 West 4th Street, Suite 500, Los Angeles. All documents tendered by mail must be addressed to the Commission's Docket Office in San Francisco. Only hand-delivered documents will be accepted by the Los Angeles office. First-class postage charges to San Francisco must be paid at the time documents are tendered to the Los Angeles office. Payment of postage charges may be made by check or money order.

(2) Except for Proponent's Environmental Assessments (see Rule 2.4(b)) and complaints (see Article 4) ~~and applications for rehearing (see Rule 16.1)~~, an original and six exact copies of the document (including any attachments but not including the transmittal letter, if any) shall be tendered. After assignment of the proceeding to an Administrative Law Judge, an original and three copies of the document shall be tendered.

In lieu of the original, one additional copy of the document may be tendered. If a copy is tendered instead of the original, the person tendering the document must retain the original, and produce it at the Administrative Law Judge's request, until the Commission's final decision in the proceeding is no longer subject to judicial review.

(b) Electronic:

(1) Documents must be transmitted to the Docket Office using the Electronic Filing System on the Commission's website at <http://www.cpuc.ca.gov/PUC/efiling>.

(i) Documents must be transmitted in PDF Archive format (PDF/A).

(ii) A single transmission may not exceed 20.0 megabytes in size. Documents tendered in a transmission that exceeds this limit shall not be filed electronically.

(iii) The certificate of service and service list must be transmitted with the document as a separate attachment.

(2) Electronically tendered documents will not be filed under seal. Documents which a person seeks leave to file under seal (Rule 11.4) must be tendered by hard copy. However, redacted versions of such documents may be electronically tendered for filing.

(3) A Notice of Acknowledgment of Receipt of the document is immediately available to the person tendering the document confirming the date and time of receipt of the document by the Docket Office for review. In the absence of a Notice of Acknowledgment of Receipt, it is the responsibility of the person tendering the document to obtain confirmation that the Docket Office received it.

(4) The Docket Office shall deem the electronic filing system to be subject to a technical failure on a given day if it is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon that day, in which case filings due that day shall be deemed filed that day if they are filed the next day the system is able to accept filings.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

1.15. (Rule 1.15) Computation of Time.

When a statute or Commission decision, rule, order, or ruling sets a time limit for performance of an act, the time is computed by excluding the first day (i.e., the day of the act or event from which the designated time begins to run) and including the last day. If the last day falls on a Saturday, Sunday, holiday or other day when the Commission officers are closed, the time limit is extended to include the first day thereafter. If an act occurs after 5:00 p.m., it is deemed as having been performed on the next day.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 12, Code of Civil Procedure.

2.4. (Rule 2.4) CEQA Compliance.

(a) Applications for authority to undertake any projects that are subject to the California Environmental Quality Act of 1970, Public Resources Code Sections 21000 et seq. (CEQA) and the guidelines for implementation of CEQA, California Administrative Code Sections 15000 et seq., shall be consistent with these codes and this rule.

(b) Any application for authority to undertake a project that is not statutorily or categorically exempt from CEQA requirements shall include a Proponent's Environmental Assessment (PEA). The PEA shall include all information and studies required under the Commission's Information and Criteria List adopted pursuant to Chapter 1200 of the Statutes of 1977 (Government Code Sections 65940 through 65942), which is published on the Commission's Internet website. The original and three copies of the PEA shall be tendered with the application, the copies of which may be tendered for filing in a CD-ROM/DVD format.

(c) Any application for authority to undertake a project that is statutorily or categorically exempt from CEQA requirements shall so state, with citation to the relevant authority.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

2.5. (Rule 2.5) Fees for Recovery of Costs in Preparing EIR.

(a) For any project where the Commission is the lead agency responsible for preparing the Environmental Impact Report (EIR) ~~to~~ or Negative Declaration, the proponent shall be charged a fee to recover the Commission's actual cost of preparing the EIR or Negative Declaration. A deposit shall be charged the proponent as set forth below:

A deposit of thirty dollars (\$30) for each one thousand dollars (\$1,000) of the estimated capital cost of the project up to one hundred thousand dollars (\$100,000), ten dollars (\$10) for each one thousand dollars (\$1,000) over one hundred thousand dollars (\$100,000) and up to one million dollars (\$1,000,000), five dollars (\$5) for each one thousand dollars (\$1,000) over one million dollars (\$1,000,000) and up to five million dollars (\$5,000,000), two dollars (\$2) for each one thousand dollars (\$1,000) over five million dollars (\$5,000,000) and up to ten million dollars (\$10,000,000), one dollar (\$1) for each one thousand dollars (\$1,000) over ten million dollars (\$10,000,000) and up to one hundred million dollars (\$100,000,000), and fifty cents (\$0.50) for each one thousand dollars (\$1,000) over one hundred million dollars (\$100,000,000). A minimum deposit of five hundred dollars (\$500) shall be charged for projects with an estimated capital cost of sixteen thousand dollars (\$16,000) or less.

If a project lacks a capital cost basis, the Commission, assigned Commissioner, or Administrative Law Judge shall determine, as early as possible, the deposit to be charged.

(b) The deposit shall be collected whenever an EIR or Negative Declaration is requested or required. The costs of preparing the EIR or Negative Declaration shall be paid from such deposits.

(c) Proponent shall pay the applicable deposit in progressive payments due as follows: One-third of the deposit at the time the application or pleading is filed, an additional one-third no later than 120 days after the time the application or pleading is filed, and the remaining one-third no later than 180 days after the time the application or pleading is filed. Failure to remit full payment of the deposit no later than 180 days after the time the application or pleading is filed may subject the proponent to a fine not exceeding 10 percent of the outstanding amount due. If the costs exceed such deposit the proponent shall pay for such excess costs within 20 days of the date stated on the Commission's bill for any excess costs. If the costs are less than the deposit paid by the proponent, the excess shall be refunded to the proponent.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 21165, Public Resources Code.

2.6. (Rule 2.6) Protests, Responses, and Replies.

(a) Unless otherwise provided by rule, decision, or General Order, a protest or response must be filed within 30 days of the date the notice of the filing of the application first appears in the Daily Calendar, ~~and shall be concurrently served on each person listed in the certificate of service of the application.~~

(b) A protest objecting to the granting, in whole or in part, of the authority sought in an application must state the facts or law constituting the grounds for the protest, the effect of the application on the protestant, and the reasons the protestant believes the application, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the application.

(c) Any person may file a response that does not object to the authority sought in an application, but nevertheless presents information that the person tendering the response believes would be useful to the Commission in acting on the application.

(d) Any person protesting or responding to an application shall state in the protest or response any comments or objections regarding the applicant's statement on the proposed category, need for hearing, issues to be considered, and proposed schedule. Any alternative proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding).

(e) An applicant may file replies to protests and responses within 10 days of the last day for filing protests and responses, unless the Administrative Law Judge sets a different date. Replies must be served on all protestants, all parties tendering responses, and the assigned Administrative Law Judge.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

3.1. (Rule 3.1) Construction or Extension of Facilities.

Applications, under Section 1001 of the Public Utilities Code, to construct or extend facilities shall contain the following information:

(a) A full description of the proposed construction or extension, and the manner in which the same will be constructed.

(b) The names and addresses of all utilities, corporations, persons or other entities, whether publicly or privately operated, with which the proposed construction is likely to compete, and of the cities or counties within which service will be rendered in the exercise of the requested certificate.

Whenever a public utility applies to the Commission to extend or establish its water service within a county water district, a public utility or municipal utility district, or other water or utility district, or any area served by such district, such district shall also be named, if it furnishes a like service. The application shall contain a certification that a copy of the application has been served upon or mailed to each such person named.

(c) A map of suitable scale showing the location or route of the proposed construction or extension, and its relation to other public utilities, corporations, persons, or entities with which the same is likely to compete.

(d) A statement identifying the franchises and such health and safety permits as the appropriate public authorities have required or may require for the proposed construction or extension.

(e) Facts showing that public convenience and necessity require, or will require, the proposed construction or extension, and its operation.

(f) A statement detailing the estimated cost of the proposed construction or extension and the estimated annual costs, both fixed and operating associated therewith. In the case of a utility which has not yet commenced service or which has been rendering service for less than twelve months, the applicant shall file as a part of the application supporting statements or exhibits showing that the proposed construction is in the public interest and whether it is economically feasible.

(g) Statements or exhibits showing the financial ability of the applicant to render the proposed service together with information regarding the manner in which applicant proposes to finance the cost of the proposed construction or extension.

(h) A statement of the proposed rates to be charged for service to be rendered by means of such construction or extension. If the application proposes any increase in rates, it shall comply with Rule 3.2(a).

(i) A statement corresponding to the statement required by Section 2 of General Order No. 104-A, as to all known matters which both (a) are designated by said section for inclusion in the annual report but occurred or were proposed subsequent to the period covered by the last previous annual report filed by the applicant and (b) are, or will be, connected with the construction or extension proposed in the application; or, if no such matters are known to have so occurred or are then known to be proposed, a statement to that effect; provided, that an applicant whose capital stock, or that of its parent company, is listed on a "national securities exchange," as defined in the Securities Exchange Act of 1934 (15 U.S.C. 78(a) et seq.), in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company if not previously filed with the Commission, provided, further, that an applicant whose capital stock, or that of its parent company, is registered with the Securities and Exchange Commission (SEC) pursuant to the provisions of Section 12-(g) of said Securities Exchange Act of 1934, in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company containing the information required by the rules of the SEC if not previously filed with the Commission.

(j) In the case of a telephone utility, the estimated number of customers and their requirements for the first and fifth years in the future.

(k) In the case of a gas utility seeking authority to construct a pipeline:

(1) Regarding the volumes of gas to be transported:

(A) A statement of the volumes to be transported via the proposed pipeline including information on the quality of gas and the maximum daily and annual average daily delivery rates.

(B) A statement that copies of summaries of all contracts for delivery and receipt of gas to be transported via the proposed pipeline and information on the reserves and delivery life pertaining thereto will be made available for inspection on a confidential basis by the Commission or any authorized employee thereof. The terms and provisions of individual contracts for gas supply and data as to reserves or delivery life of individual gas suppliers shall not be required to be stated in the application or in the record of the proceedings, and if disclosed to the commission or to any officer or

employee of the Commission on a confidential bases as herein provided, shall not be made public or be open to public inspection.

(2) A summary of the economic feasibility, the market requirements and other information showing the need for the new pipeline and supply.

(3) Where the gas to be transported through the pipeline is to be purchased by the applicant from, or transported by the applicant for, an out-of-state supplier:

(A) A copy of the proposed tariff under which the gas will be purchased or transported.

(B) A statement that the out-of-state pipeline supplier has agreed: (1) to file with this Commission copies of annual reports which it files with the Federal Power Commission; (2) to file with this Commission monthly statements of its revenues, expenses and rate base components; (3) to file with this Commission copies of its tariffs as filed from time to time with the Federal Power Commission; and (4) at all times to permit this Commission or its staff reasonable opportunity for field inspection of facilities and examination of books and records, plus assurance that reasonable requests for operating information otherwise prepared in the course of business will be supplied in connection with any proceeding before the Federal Power Commission.

(l) In the case of an electric utility proposing to construct an electric generating plant:

(1) Load and resource data setting forth recorded and estimated loads (energy and demands), available capacity and energy, and margins for two years actual and three years estimated, on an average year basis.

(2) Existing rated and effective operating capacity of generating plants and the planned additions for a three-year period.

(3) Estimated capital and operating costs of power to be generated by the proposed plant for all competitive fuels which may be used under legislative restrictions in the proposed plant.

(4) For any nuclear plant, a statement indicating that the requisite safety and other license approvals have been obtained or will be applied for, and that a copy of the application to this Commission has been furnished to the State Coordinator of Atomic Energy Development and Radiation Protection.

(m) In the case of a water utility:

(1) An estimate of the number of customers and the requirements for water for the first and fifth years in the future, and the ultimate future development anticipated by applicant, together with a description of the proposed normal, and emergency standby, water facilities for production, storage and pressure to serve the area for which the certificate is sought.

(2) A statement of the estimated operating revenues and estimated expenses, by major classes, including taxes and depreciation, for the first and fifth years in the future attributable to operations in the proposed area.

(3) If the applicant has operated as a water utility elsewhere in the State of California for a period in excess of one year prior to filing the application, a general statement of the operating plans for the proposed area, including a statement whether a new area will be served by existing personnel or will constitute a separate district to be served by new personnel. If the applicant has not operated as a water utility elsewhere in the State of California for a period in excess of one year prior to filing the application, a description of the operating plans for the proposed area, including, to the extent available, but not necessarily limited to, such items as qualifications of management and operating personnel, proposed operating pressures for the system, plans for water treatment, availability of utility personnel to customers, billing procedures, emergency operation plans and provision for handling customer complaints.

(n) In the case of an application by a water utility in an area in which the facilities have already been constructed, extended or installed:

(1) A detailed statement of the amount and basis of the original cost (estimated if not known) of all plant and of the depreciation reserve applicable thereto.

(2) If the facilities have been rendering service in the area for which the certificate is sought, and

(A) The rates proposed are the same as the tariff rates in the district which includes the area to be certificated, the application shall also include a summary of earnings on a depreciated rate base with respect to such area for the test period or periods upon which applicant bases its justification for the rates to be applied in such area; otherwise

(B) The application shall also comply with Rule ~~233.2~~, including the furnishing of the information specified in subsections (a)(5) and (6)(e) and ~~(f)~~ thereof but made applicable to the proposed rates; provided, however, the information required by subsections (a)(2) and (3)(b) and ~~(c)~~ thereof need be furnished only when increases are proposed.

(o) Such additional information and data as may be necessary to a full understanding of the situation.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1001, Public Utilities Code.

3.2. (Rule 3.2) Authority to Increase Rates.

(a) Applications for authority to increase rates, or to implement changes that would result in increased rates, shall contain the following data, either in the body of the application or as exhibits annexed thereto or accompanying the application:

(1) A balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.

(2) A statement of the presently effective rates, fares, tolls, rentals, or charges which are proposed to be increased, or of the classification, contract, practice, or rule proposed to be altered. Such statement need not be in tariff form.

(3) A statement of the proposed increases or changes which will result in increases, which applicant requests authority to make effective. Such statement need not be in tariff form, but shall set forth the proposed rate structure with reasonable clarity. Except as to carriers, the statement shall also show the amount of proposed gross revenues, together with the percentage of increase, if in excess of one percent, estimated to result from the proposed rates. In the case of common carriers, where a general rate increase application is filed, the statement shall include an estimate of the amount of additional annual gross revenue estimated to result from the increase, which shall be based on the amount of involved traffic handled for the preceding calendar year and shall indicate the percentage by which such estimate exceeds the gross revenues on the involved traffic for the preceding calendar year, if more than one percent. In the case of gas, electric, telephone, telegraph, water and heat utilities, the proposed revenue increase,

including the percentage of increase, if in excess of one percent, shall be shown by appropriate rate classifications. If the percentage of increase in revenue is one percent or less, applicant shall so state in its application.

(4) A general rate increase application shall contain a general description of applicant's property and equipment, or reference to such description in a recent prior application, and a statement of the original cost thereof, together with a statement of the depreciation reserve applicable thereto. If it is impossible to state original cost, the facts creating such impossibility shall be set forth.

(5) A summary of earnings (rate of return summary) on a depreciated rate base for the test period or periods upon which applicant bases its justification for an increase. If adjusted or estimated results are shown for successive periods, they should be on a consistent basis. Wherever adjusted results are shown, the recorded results for the same periods should also be shown.

(6) In rate applications involving a utility having more than one department, district or exchange, the earnings results should be presented for the total utility operations for the company, as well as for the part of the operation for which rate increases are sought.

(7) The application of a gas, electric, telephone, telegraph, water or heat utility for a general rate increase shall contain a statement by the applicant as to which of the optional methods provided in the Internal Revenue Code applicant has elected to employ in computing the depreciation deduction for the purpose of determining its federal income tax payments, and whether applicant has used the same method or methods in calculating federal income taxes for the test period for rate fixing purposes.

(8) The application of a gas, electric, telephone, telegraph, water or heat utility for a general rate increase shall contain a statement corresponding to the statement required by Section 2 of General Order No. 104-A, as to all known matters designated by said section for inclusion in the annual report but occurring or proposed subsequent to the period covered by the last annual report filed by applicant; or, if no such matters are known to have so occurred or are known to be then proposed, a statement to that effect; provided, that an applicant whose capital stock, or that of its parent company, is listed on a "national securities exchange," as defined in the Securities Exchange Act of 1934 (15 U.S.C. 78(a) et seq.) in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent

company if not previously filed with the Commission, provided, further, that an applicant whose capital stock, or that of its parent company, is registered with the Securities and Exchange Commission (SEC) pursuant to the provisions of Section 12(g) of said Securities Exchange Act of 1934, in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company containing the information required by the rules of the SEC if not previously filed with the Commission.

(9) In a general rate increase application involving a telephone utility having an annual operating revenue exceeding \$25,000, the rate of return on a depreciated rate base shall be shown separately for its aggregate exchange operations, for its toll operations, and for the total telephone utility operations of applicant.

(10) The application of electrical, gas, heat, telephone, water, or sewer system corporations shall separately state whether or not the increase reflects and passes through to customers only increased costs to the corporation for the services or commodities furnished by it.

(b) Applicants for authority to increase rates shall, within ~~40~~ 20 days after filing the application with the Commission, ~~mail a~~ serve notice to the following stating in general terms the proposed increases in rates or fares: (1) ~~the State, by mailing to~~ the Attorney General and the Department of General Services, when the State is a customer or subscriber whose rates or fares would be affected by the proposed increase; (2) ~~each county, by mailing to~~ the County Counsel (or District Attorney if the county has no County Counsel) and County Clerk, and ~~each city, by mailing to~~ the City Attorney and City Clerk, listed in the current Roster published by the Secretary of State in each county and city in which the proposed increase is to be made effective; and (3) any other persons whom applicant deems appropriate or as may be required by the Commission.

(c) Gas, electric, telephone, telegraph, water or heat utilities, within ~~ten~~ 20 days after the filing of the application, shall publish at least once in a newspaper of general circulation in the county in which the increases are proposed to be made effective a notice, in general terms, of the proposed increases in rates. Such notice shall state that a copy of said application and related exhibits may be examined at the offices of the California Public Utilities Commission in San Francisco ~~or Los Angeles~~ and in such offices of the applicant as are specified in the notice, and shall state the locations of such offices. ~~Within 10 days after publication, applicant shall file a sworn~~

~~verification listing the newspapers and publication dates, and including a sample of each different notice.~~ Applicants shall maintain documentation of compliance with this subsection, and shall provide it to any person upon request.

(d) Electric, gas, heat, telephone, water, or sewer system corporations, within 45 days, if the corporation operates on a 30-day billing cycle, or within 75 days, if the corporation operates on a 60-day or longer billing cycle, after the filing of an application to increase any rate of charge, other than a change reflecting and passing through to customers only new costs to the corporation which do not result in changes in revenue allocation, for the services or commodities furnished by it, shall furnish to its customers affected by the proposed increase notice of its application either by electronically linking to such notice for customers that receive their bills electronically or, for customers that receive their bills by mail, by mailing such notice postage prepaid to such customers or by including such notice with the regular bill for charges transmitted to such customers. The notice shall state the amount of the proposed rate change expressed in both dollar and percentage terms for the entire rate change as well as for each customer classification, a brief statement of the reasons the change is required or sought, and the mailing, and if available, the e-mail, address of the Commission to which any customer inquiries may be directed regarding how to participate in, or receive further notices regarding the date, time, and place of any hearing on the application, and the mailing address of the corporation to which any customer inquiries may be directed. ~~Applicants shall file proof of compliance within 10 days after mailing.~~

(e) Applicants shall file proof of compliance with the notice requirements of subsections (b), (c) and (d) within 20 days after compliance with the last of these subsections that is applicable. Proof of compliance with subsection (c) shall include a sworn verification listing the newspapers and publication dates, and including a sample of each different notice.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 454, Public Utilities Code.

4.1. (Rule 4.1) Who May Complain.

(a) A complaint may be filed by:

- (1) any corporation or person, chamber of commerce, board of trade, labor organization, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, setting forth any act or thing done or omitted to be done by any public utility including any rule or charge

heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission; or

(2) any local government, alleging that a holder of a state franchise to construct and operate video service pursuant to Public Utilities Code Section 5800 et seq. is in violation of Section 5890; or

(3) a public utility that offers competitive services, for a finding by the Commission that condemnation of a property for the purpose of competing with another entity in the offering of those competitive services would serve the public interest, pursuant to Public Utilities Code Section 625.

(b) No complaint shall be entertained by the Commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water, or telephone corporation, unless it be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city or city and county within which the alleged violation occurred, or by not less than 25 actual or prospective consumers or purchasers of such gas, electric, water, or telephone service.

Note: Authority cited: Section 1702, Public Utilities Code. Reference: Sections 625, 1702 and 5890(g), Public Utilities Code.

4.2. (Rule 4.2) Form and Contents of Complaint.

(a) Complaints shall state the full name, address and telephone number of each complainant and his attorney, if any, and of each defendant. The specific act complained of shall be set forth in ordinary and concise language. The complaint shall be so drawn as to completely advise the defendant and the Commission of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired. At least one complainant must verify the complaint and any amendments thereto. (See Rule 1.11.) The complaint shall state the proposed category for the proceeding, the need for hearing, the issues to be considered, and a proposed schedule. The proposed schedule shall be consistent with the categorization of the proceeding, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding). (See Article 7.)

(b) ~~An original plus six exact copies of a complaint or amendment thereto, plus one additional copy for each named defendant, shall be tendered to the Commission for filing.~~ Documents may be tendered for filing in hard copy or

electronically as provided in Rule 1.13, except that only the original document (and no copies) shall be tendered for filing in hard copy.

(c) A complaint which does not allege that the matter has first been brought to the staff for informal resolution may be referred to the staff to attempt to resolve the matter informally.

Note: Authority cited: Section 1702, Public Utilities Code. Reference: Sections 1702 and 1707, Public Utilities Code.

4.3. (Rule 4.3) Service of Complaints and Instructions to Answer.

When a complaint ~~or amendment~~ is accepted for filing (see Rule 1.13), the Docket Office shall serve on each defendant (a) a copy of the complaint ~~or amendment~~ and (b) instructions to answer, with a copy to the complainant, indicating (1) the date when the defendant's answer shall be filed and served, and (2) the Administrative Law Judge assigned to the proceeding. The instructions to answer shall also indicate the category of the proceeding and the preliminary determination of need for hearing, as determined by the Chief Administrative Law Judge in consultation with the President of the Commission.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1, Public Utilities Code.

7.2. (Rule 7.2) Prehearing Conference.

(a) In any proceeding in which it is preliminarily determined that a hearing is needed, the assigned Commissioner shall set a prehearing conference for 45 to 60 days after the initiation of the proceeding or as soon as practicable after the Commission makes the assignment. The ruling setting the prehearing conference may also set a date for filing and serving prehearing conference statements. Such statements may address the schedule, the issues to be considered, and any other matter specified in the ruling setting the prehearing conference.

(b) The assigned Commissioner has the discretion not to set a prehearing conference in any proceeding in which it is preliminarily determined that a hearing is not needed and (1) in a proceeding initiated by application, complaint, or order instituting investigation, no timely protest, answer, or response is filed, or (2) in any proceeding initiated by Commission order, no timely request for hearing is filed.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(b), Public Utilities Code.

8.1. (Rule 8.1) Definitions.

For purposes of this Article, the following definitions apply:

(a) "Commission staff of record" includes staff from the Division of Ratepayer Advocates assigned to the proceeding, staff from the Consumer Protection and Safety Division assigned to an adjudicatory proceeding or to a ratesetting proceeding initiated by complaint, and any other staff assigned to an adjudicatory proceeding in an advocacy capacity.

"Commission staff of record" does not include the following staff when and to the extent they are acting in an advisory capacity to the Commission with respect to a formal proceeding: (1) staff from any of the industry divisions; or (2) staff from the Consumer Protection and Safety Division in a quasi-legislative proceeding, or in a ratesetting proceeding not initiated by complaint.

(b) "Decisionmaker" means any Commissioner, the Chief Administrative Law Judge, any Assistant Chief Administrative Law Judge, the assigned Administrative Law Judge, or the Law and Motion Administrative Law Judge.

(c) "Ex parte communication" means a written communication (including a communication by letter or electronic medium) or oral communication (including a communication by telephone or in person) that:

- (1) concerns any substantive issue in a formal proceeding,
- (2) takes place between an interested person and a decisionmaker, and
- (3) does not occur in a public hearing, workshop, or other public forum ~~established~~ noticed by ruling or order in the proceeding, or on the record of the proceeding.

Communications regarding the schedule, location, or format for hearings, filing dates, identity of parties, and other such nonsubstantive information are procedural inquiries, not ex parte communications.

(d) "Interested person" means any of the following:

- (1) any party to the proceeding or the agents or employees of any party, including persons receiving consideration to represent any of them;
- (2) any person with a financial interest, as described in Article I (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code, in a matter at issue before the Commission, or such

person's agents or employees, including persons receiving consideration to represent such a person; or

(3) a representative acting on behalf of any formally organized civic, environmental, neighborhood, business, labor, trade, or similar association who intends to influence the decision of a Commission member on a matter before the Commission, even if that association is not a party to the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(c)(4), Public Utilities Code.

8.2. (Rule 8.2) Communications with Advisors.

Communications with Commissioners' personal advisors are subject to all of the restrictions on, and reporting requirements applicable to, ex parte communications, except that oral communications in ratesetting proceedings are permitted without the restrictions of Rule 8.3(c)(1) and (2).

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(c)(4), Public Utilities Code.

8.23. (Rule 8.23) Ex Parte Requirements.

(a) In any quasi-legislative proceeding, ex parte communications are allowed without restriction or reporting requirement.

(b) In any adjudicatory proceeding, ex parte communications are prohibited.

(c) In any ratesetting proceeding, ex parte communications are subject to the reporting requirements set forth in Rule 8.34. In addition, the following restrictions apply:

(1) All-party meetings: Oral ex parte communications are permitted at any time with a Commissioner provided that the Commissioner involved (i) invites all parties to attend the meeting or sets up a conference call in which all parties may participate, and (ii) gives notice of this meeting or call as soon as possible, but no less than three days before the meeting or call.

(2) Individual oral communications: If a decisionmaker grants an ex parte communication meeting or call to any interested person individually, all other parties shall be granted an individual meeting of a substantially equal period of time with that decisionmaker. The interested person requesting the initial individual meeting shall notify the

parties that its request has been granted, and shall file a certificate of service of this notification, at least three days before the meeting or call.

(3) Written ex parte communications are permitted at any time provided that the interested person making the communication serves copies of the communication on all parties on the same day the communication is sent to a decisionmaker.

(4) Ratesetting Deliberative Meetings and Ex Parte Prohibitions:

(A) The Commission may prohibit ex parte communications for a period beginning not more than 14 days before the day of the Commission Business Meeting at which the decision in the proceeding is scheduled for Commission action, during which period the Commission may hold a Ratesetting Deliberative Meeting. If the decision is held, the Commission may permit such communications for the first half of the hold period, and may prohibit such communications for the second half of the period, provided that the period of prohibition shall begin not more than 14 days before the day of the Business Meeting to which the decision is held.

(B) In proceedings in which a Ratesetting Deliberative Meeting has been scheduled, ex parte communications are prohibited from the day of the Ratesetting Deliberative Meeting at which the decision in the proceeding is scheduled to be discussed through the conclusion of the Business Meeting at which the decision is scheduled for Commission action.

(d) Notwithstanding Rule 8.45, unless otherwise directed by the assigned Administrative Law Judge with the approval of the assigned Commissioner, the provisions of subsections (b) and (c) of this rule, and any reporting requirements under Rule 8.34, shall cease to apply, and ex parte communications shall be permitted, in any proceeding in which (1) no timely answer, response, protest, or request for hearing is filed, (2) all such responsive pleadings are withdrawn, or (3) a scoping memo has issued determining that a hearing is not needed in the proceeding.

(e) Ex parte communications concerning categorization of a given proceeding are permitted, but must be reported pursuant to Rule 8.34.

(f) Ex parte communications regarding the assignment of a proceeding to a particular Administrative Law Judge, or reassignment of a proceeding to another Administrative Law Judge, are prohibited. For purposes of this rule, "ex parte communications" include communications between an Administrative Law Judge and other decisionmakers about a motion for reassignment of a proceeding assigned to that Administrative Law Judge.

(g) The requirements of this rule, and any reporting requirements under Rule 8.3, shall apply until (1) the date when the Commission serves the decision finally resolving any application for rehearing, or (2) where the period to apply for rehearing has expired and no application for rehearing has been filed.

(h) Upon the filing of a petition for modification, the requirements of this rule, and any reporting requirements under Rule 8.34, that applied to the proceeding in which the decision that would be modified was issued shall apply until and unless (1) no timely response, protest or request for hearing is filed, (2) all such responsive pleadings are withdrawn, or (3) a scoping memo has issued determining that a hearing is not needed in the proceeding or that a different category shall apply.

(i) Where a proceeding is remanded to the Commission by a court or where the Commission re-opens a proceeding, the requirements of this rule and any reporting requirements under Rule 8.34 that previously applied to the proceeding shall apply until and unless a Commission order or a scoping memo has issued determining that a hearing is not needed in the proceeding or that a different category shall apply.

(j) When the Commission determines that there has been a violation of this rule or of Rule 8.34, the Commission may impose penalties and sanctions, or make any other order, as it deems appropriate to ensure the integrity of the record and to protect the public interest.

(k) The Commission shall render its decision based on the evidence of record. Ex parte communications, and any notice filed pursuant to Rule 8.34, are not a part of the record of the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701.1(a), 1701.2(b), 1701.3(c) and 1701.4(b), Public Utilities Code.

8.34. (Rule 8.34) Reporting Ex Parte Communications.

Ex parte communications that are subject to these reporting requirements shall be reported by the interested person, regardless of whether the communication was initiated by the interested person. A "Notice of Ex Parte Communications" (Notice) shall be filed with the Commission's San Francisco Docket Office within three working days of the communication. The Notice may address multiple ex parte communications in the same proceeding, provided that notice of each communication identified therein is timely. The Notice shall include the following information:

- (a) The date, time, and location of the communication, and whether it was oral, written, or a combination;
- (b) The identities of each decisionmaker (or Commissioner's personal advisor) involved, the person initiating the communication, and any persons present during such communication;
- (c) A description of the interested person's, but not the decisionmaker's (or Commissioner's personal advisor's), communication and its content, to which description shall be attached a copy of any written, audiovisual, or other material used for or during the communication.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(c)(4)(C)(i)-(iii), Public Utilities Code.

8.45. (Rule 8.45) Ex Parte Requirements Prior to Final Categorization.

(a) Applications.

(1) The ex parte requirements applicable to ratesetting proceedings shall apply from the date the application is filed through the date of the Commission's preliminary determination of category pursuant to Rule 7.1(a).

(2) The ex parte requirements applicable to the category preliminarily determined by the Commission pursuant to Rule 7.1(a) shall apply until the date of the assigned Commissioner's scoping memo finalizing the determination of categorization pursuant to Rule 7.3.

(b) Rulemakings. The ex parte requirements applicable to the category preliminarily determined by the Commission pursuant to Rule 7.1(d) shall apply until the date of the assigned Commissioner's ruling on scoping memo finalizing the determination of category pursuant to Rule 7.3.

(c) Complaints. The ex parte requirements applicable to adjudicatory proceedings shall apply until the date of service of the instructions to answer finalizing the determination of category pursuant to Rule 7.1(b).

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(c)(4), Public Utilities Code.

~~8.5. (Rule 8.5) Communications with Advisors.~~

~~Communications with Commissioners' personal advisors are subject to all of the restrictions on, and reporting requirements applicable to, ex parte communications, except that oral communications in ratesetting proceedings are permitted without the restrictions of Rule 8.2(c)(1) and (2).~~

~~—Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(c)(4), Public Utilities Code.~~

8.6. (Rule 8.6) Requirements in Proceedings Filed Before January 1, 1998.

The following requirements apply to proceedings filed before January 1, 1998:

(a) In any investigation or complaint where the order instituting investigation or complaint raises the alleged violation of any provision of law or Commission order or rule, ex parte communications and communications with Commissioners' personal advisors are prohibited after the proceeding has been submitted to the Commission.

(b) Ex parte communications and communications with Commissioners' personal advisors are permitted, and shall not be reported, in rulemakings and in investigations consolidated with rulemakings to the extent that the investigation raises the identical issues raised in the rulemaking.

(c) All other ex parte communications and communications with Commissioners' personal advisors are permitted, and are subject to the reporting requirements of Rule 8.34.

(d) The Commission, or the assigned Administrative Law Judge with the approval of the assigned Commissioner, may issue a ruling tailoring these requirements to the needs of any specific proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.1(c)(4), Public Utilities Code.

10.2. (Rule 10.2) Subpoenas.

(a) A party may request the issuance of a subpoena to direct the attendance of a non-party witness or to direct the production of documents or other things under the non-party witness's control. Requests may be made to the Administrative Law Judge assigned to the proceeding. If no Administrative Law Judge is assigned to the proceeding, requests may be made to the Executive Director at the Commission's San Francisco or Los Angeles office.

Subpoenas may be issued by the Commission, each Commissioner, the Executive Director, the Assistant Executive Director, or the Administrative Law Judge.

(b) When it is issued, the subpoena will be signed and sealed but will otherwise be blank. All appropriate portions of the blank subpoena must be completed by the party before it is served.

(c) If the subpoena seeks the production of documents or other things, it must be served with a copy of an affidavit showing good cause for the production of the documents or other things described in the subpoena, specify the exact documents or things to be produced, set forth in full detail the materiality of the requested documents or things to the issues raised in the proceeding, and state that the requested documents or things are in the possession or under the control of the witness. The party requesting production of the documents or other things must retain the original affidavit, and produce it at the request of the Administrative Law Judge, until either all requested documents or other things have been produced or all motions related to the subpoena have been finally resolved.

(d) Service of a subpoena must be made by delivering a copy to the witness personally, giving or offering to the witness at the same time, if demanded by him or her, the fees to which he or she is entitled under Public Utilities Code Section 1791 (see Government Code Section 68093). The service must be made early enough to allow the witness a reasonable time for preparation and travel to the place of attendance. Service may be made by any person.

(e) The provisions of Section 1985.3 of the Code of Civil Procedure apply to subpoenas of a consumer's personal records, as defined by Section 1985.3(a) of the Code of Civil Procedure.

(f) Anyone who disobeys a subpoena issued pursuant to this rule may be found to be in contempt of superior court and punished accordingly, as provided in Public Utilities Code Sections 1792 and 1793. In appropriate circumstances, such disobedience may be found to be a violation of Rule 1.1, punishable as contempt of the Commission under Public Utilities Code Section 2113.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 1792, 1793 and 2113, Public Utilities Code; Section 1991, Code of Civil Procedure.

8 1/2x 13 inches in size, or bound or folded to that approximate size. Wherever practicable, the sheets of each exhibit should be numbered, and rate comparisons and other figures shall be set forth in tabular form. Copies of exhibits must be clear and permanently legible. The top sheet of an exhibit must have a blank space two inches high by four inches wide to accommodate the Commission's exhibit stamp.

(b) When exhibits are offered in evidence, the original plus one copy shall be furnished to the presiding officer and one copy to the reporter and to each party, unless the presiding officer directs otherwise.

(c) Documentary exhibits shall be limited to those portions of the document that are relevant and material to the proceeding.

(d) If relevant and material matter offered in evidence is embraced in a document containing other matter, parties shall be afforded opportunity to examine the document, and to offer in evidence other portions thereof believed material and relevant.

~~(e)~~ All documents that are prepared, directly or indirectly, by the party offering them into evidence shall be certified under penalty of perjury by the person preparing or in charge of preparing them as being true and correct, unless the person preparing them is dead or has been declared incompetent, in which case any other person having knowledge of such statements of fact may certify such documents.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

14.1. (Rule 14.1) Definitions.

For purposes of this article, the following definitions shall apply:

(a) "Presiding officer's decision" is a recommended decision that is proposed by the presiding officer in an adjudicatory proceeding in which evidentiary hearings have been conducted.

(b) "Proposed decision" is a recommended decision, other than a presiding officer's decision as defined in subsection (a), that is proposed by (1) the presiding officer or (2) where there is not a presiding officer, the assigned Administrative Law Judge or the assigned Commissioner in a ratesetting, quasi-legislative, or adjudicatory proceeding.

(c) "Draft resolution" is a recommended resolution that is proposed by a Commission director.

(d) "Alternate" means a substantive revision by a Commissioner to a proposed recommended decision not proposed by that Commissioner or to a draft resolution not proposed by that Commissioner which revision either:

(1) materially changes the resolution of a contested issue, or

(2) makes any substantive addition to the findings of fact, conclusions of law, or ordering paragraphs.

"Alternate" also means a recommended decision prepared by the assigned Administrative Law Judge in a ratesetting proceeding where the assigned Commissioner is the presiding officer.

A substantive revision to a proposed decision or draft resolution is not an "alternate" if the revision does no more than make changes suggested in prior comments on the proposed decision or draft resolution, or in a prior alternate to the proposed decision or draft resolution.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 311, Public Utilities Code.

14.2. (Rule 14.2) Issuance of Recommended Decision.

(a) A proposed decision shall be filed with the Commission and served on the official service list without undue delay, not later than 90 days after submission.

(b) A presiding officer's decision shall be filed with the Commission and

served on the official service list without undue delay, no later than 60 days after submission.

(c) An alternate to a proposed decision shall be filed with the Commission and served on the official service list without undue delay.

(ed) A draft resolution shall not be filed with the Commission, but shall be served as follows, and on other persons as the Commission deems appropriate:

(1) A draft resolution disposing of an advice letter shall be served on the utility that proposed the advice letter, on any person who served a protest or response to the advice letter, and any person whose name and interest in the relief sought appears on the face of the advice letter (as where the advice letter seeks approval of a contract or deviation for the benefit of such person);

(2) A draft resolution disposing of a request for disclosure of documents in the Commission's possession shall be served on (A) the person who requested the disclosure, (B) any Commission regulate about which information protected by Public Utilities Code Section 583 would be disclosed if the request were granted, and (C) any person (whether or not a Commission regulate) who, pursuant to protective order, had submitted information to the Commission, which information would be disclosed if the request were granted;

(3) A draft resolution disposing of one or more requests for motor carrier operating authority shall be served on any person whose request would be denied, in whole or part, and any person protesting a request, regardless of whether the resolution would sustain the protest;

(4) A draft resolution establishing a rule or setting a fee schedule for a class of Commission-regulated entities shall be served on any person providing written comment solicited by Commission staff (e.g., at a workshop or by letter) for purposes of preparing the draft resolution.

An alternate to a draft resolution shall be served consistent with the service of the draft resolution.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311(d), 311(f), 1701.1, 1701.3 and 1701.4, Public Utilities Code.

14.3. (Rule 14.3) Comments on Proposed or Alternate Decision.

(a) Parties may file comments on ~~the~~ a proposed or alternate decision within 20 days of the date of its service on the parties.

(b) Except in general rate cases, major plant addition proceedings, and major generic investigations, comments shall be limited to 15 pages in length. Comments in general rate cases, major plant addition proceedings, and major generic investigations shall not exceed 25 pages. Comments shall include a subject index listing the recommended changes to the proposed or alternate decision, a table of authorities and an appendix setting forth proposed findings of fact and conclusions of law. The subject index, table of authorities, and appendix do not count against the page limit.

(c) Comments shall focus on factual, legal or technical errors in the proposed or alternate decision and in citing such errors shall make specific references to the record or applicable law. Comments which fail to do so will be accorded no weight. Comments proposing specific changes to the proposed or alternate decision shall include supporting findings of fact and conclusions of law.

(d) Replies to comments may be filed within five days after the last day for filing comments and shall be limited to identifying misrepresentations of law, fact or condition of the record contained in the comments of other parties. Replies shall not exceed five pages in length.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311(d), Public Utilities Code.

14.5. (Rule 14.5) Comment on Draft or Alternate Resolution.

Any person may comment on a draft or alternate resolution by serving (but not filing) comments on the director of the Commission division that issued the draft resolution by no later than ten days before the Commission meeting when the draft or alternate resolution is first scheduled for consideration (as indicated on the first page of the draft or alternate resolution).

Comments shall be concurrently served on ~~all Commissioners, the Chief Administrative Law Judge, the General Counsel,~~ and either (a) all persons shown on the service list appended to the draft or alternate resolution, if any, or (b) in accordance with the instructions accompanying the notice of the resolution as an agenda item in the Commission's Daily Calendar.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311(e) and 311(g), Public Utilities Code.

14.6. (Rule 14.6) Reduction or Waiver of Review.

(a) In an unforeseen emergency situation, the Commission may reduce or waive the period for public review and comment on proposed decisions, draft resolutions, and alternates. "Unforeseen emergency situation" means a matter that requires action or a decision by the Commission more quickly than would be permitted if advance publication were made on the regular meeting agenda. Examples include, but are not limited to:

- (1) Activities that severely impair or threaten to severely impair public health or safety.
- (2) Crippling disasters that severely impair public health or safety.
- (3) Administrative disciplinary matters, including, but not limited to, consideration of proposed decisions and stipulations, and pending litigation, that require immediate attention.
- (4) Consideration of applications for licenses or certificates for which a decision must be made in less than ten days.
- (5) Consideration of proposed legislation that requires immediate attention due to legislative action that may be taken before the next regularly scheduled Commission meeting, or due to time limitations imposed by law.
- (6) Requests for relief based on extraordinary conditions in which time is of the essence.
- (7) Deadlines for Commission action imposed by legislative bodies, courts, other administrative bodies or tribunals, the office of the Governor, or a legislator.
- (8) Unusual matters that cannot be disposed of by normal procedures if the duties of the Commission are to be fulfilled.

A rate increase is not an unforeseen emergency situation.

(b) The Commission may reduce or waive the period for public review and comment on proposed decisions and their alternates, ~~draft resolutions and alternates~~, where all the parties so stipulate, and on draft resolutions and their alternates, where all persons identified in subsection (1), (2), (3) or (4) of Rule 14.2(d) so stipulate.

(c) In the following circumstances, the Commission may reduce or waive the period for public review and comment on draft resolutions and proposed decisions, and may reduce but not waive the period for public review and comment on alternates to them:

(1) in a matter where temporary injunctive relief is under consideration.

(2) in an uncontested matter where the decision grants the relief requested.

(3) for a decision on a request for review of the presiding officer's decision in an adjudicatory proceeding.

(4) for a decision extending the deadline for resolving adjudicatory proceedings (Public Utilities Code Section 1701.2(d)) or for resolving the issues raised in the scoping memo in a ratesetting or quasi-legislative proceeding (Public Utilities Code Section 1701.5).

(5) for a decision under the state arbitration provisions of the federal Telecommunications Act of 1996.

(6) for a decision on a request for compensation pursuant to Public Utilities Code Section 1801 et seq.

(7) for a decision authorizing disclosure of documents in the Commission's possession when such disclosure is pursuant to subpoena.

(8) for a decision under a federal or California statute (such as the California Environmental Quality Act or the Administrative Procedure Act) that both makes comprehensive provision for public review and comment in the decision-making process and sets a deadline from initiation of the proceeding within which the Commission must resolve the proceeding.

(9) for a decision in a proceeding in which no hearings were conducted where the Commission determines, on the motion of a party or on its own motion, that public necessity requires reduction or waiver of the 30-day period for public review and comment. For purposes of this subsection, "public necessity" refers to circumstances in which the public interest in the Commission adopting a decision before expiration of the 30-day review and comment period clearly outweighs the public interest

in having the full 30-day period for review and comment. "Public necessity" includes, without limitation, circumstances where failure to adopt a decision before expiration of the 30-day review and comment period would place the Commission or a Commission ~~regulate~~ regulatee in violation of applicable law, or where such failure would cause significant harm to public health or welfare. When acting pursuant to this subsection, the Commission will provide such reduced period for public review and comment as is consistent with the public necessity requiring reduction or waiver.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 306(b), 311(e), 311(g), 1701.2(d) and 1701.5, Public Utilities Code; and Section 11125.5, Government Code.

16.1. (Rule 16.1) Application for Rehearing.

(a) Application for rehearing of a Commission order or decision shall be filed within 30 days after the date the Commission mails the order or decision, or within 10 days of mailing in the case of an order relating to (1) security transactions and the transfer or encumbrance of utility property as described in Public Utilities Code Section 1731(b), or (2) the Department of Water Resources as described in Public Utilities Code Section 1731(c).

(b) Filing of an application for rehearing shall not excuse compliance with an order or a decision. An application filed ten or more days before the effective date of an order suspends the order until the petition is granted or denied. Absent further Commission order, this suspension will lapse after 60 days. The Commission may extend the suspension period.

(c) Applications for rehearing shall set forth specifically the grounds on which the applicant considers the order or decision of the Commission to be unlawful or erroneous, and must make specific references to the record or law. The purpose of an application for rehearing is to alert the Commission to a legal error, so that the Commission may correct it expeditiously.

(d) A response to an application for rehearing is not necessary. Any response may be filed and served no later than fifteen days after the day the application for rehearing was filed. In instances of multiple applications for rehearing the response may be to all such applications, and may be filed 15 days after the last application for rehearing was filed. The Commission is not obligated to withhold a decision on an application for rehearing to allow time for a response to be filed.

(e) Motions related to applications for rehearing shall be directed to the Chief Administrative Law Judge for resolution.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1731, 1732, 1733 and 1735, Public Utilities Code.

16.2. (Rule 16.2) Parties Eligible to File Applications for Rehearing and Responses.

(a) For purposes of filing an application for rehearing in a formal proceeding, "parties" include any person who is a party pursuant to Rule 1.4.

(b) For purposes of filing an application for rehearing of a resolution, "parties" include any person described in paragraphs (1) through (4) of Rule 14.2(c) and any person servicing who has served written comments on a draft or alternate resolution pursuant to Rule 14.5.

(c) Except as may be specifically authorized by statute, a person may not become a party by filing an application for rehearing or a response to an application for rehearing.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 1731, 1732, 1733 and 1735, Public Utilities Code.

16.6. (Rule 16.6) Extension of Time to Comply.

Requests for extension of time to comply with a Commission decision or order may be made by letter or e-mail to the Executive Director, with a copy served at the same time on all parties to the proceeding and on the Chief Administrative Law Judge Division (by letter to the Chief Administrative Law Judge, or by e-mail to aljextensionrequests@cpuc.ca.gov). A copy of the certificate of service must be attached to the letter or e-mail. The e-mail, the letter, or a facsimile of the letter, must be received by the Executive Director at least three business days before the existing date for compliance. If the Executive Director grants the extension, the party requesting the extension must promptly inform all parties to the proceeding of the extension and must state in the opening paragraph of the document that the Executive Director has authorized the extension.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1708, Public Utilities Code.

Table of Filing Fees
(See Rule 1.156)

Type of Filing	Type of Utility	Fee	PU Code Reference
Application for Certificate of Public Convenience and Necessity (CPCN)	Passenger stage corporation UNLESS already operating in the immediate vicinity under the Commission's jurisdiction	\$500	§1036(a)
	All others, including street railroads, gas corporations, electric corporations, telegraph corporations, telephone corporations, water corporations, and common carrier vessels	\$75	§§1001, 1007, 1008, 1904(a)
Application to sell, mortgage, Lease, assign, transfer, or encumber a CPCN	Passenger stage corporation	\$300	§1036(b)
	All others, including street railroads, gas corporations, electric corporations, telegraph corporations, telephone corporations, water corporations, and common carrier vessels	\$75	§1904(a)
Application to register	Interstate highway carrier of household goods or passengers	\$5 per vehicle, plus \$25 for carriers exempt from ICC regulation	§3902(a)(3)z Res. TL-18582 Res. TL-18520
	Private carrier of passengers	\$35 initial registration \$30 renewal	§4006
<u>Application for registration license</u>	<u>Non-dominant interexchange carrier</u>	<u>\$250</u>	<u>§1013</u> <u>Decision 10-09-017</u>
Application for permit	Household goods carrier	\$500	§5136
	Charter-party carrier of passengers	\$500 plus \$15 per tour bus to a maximum of \$6,500	§5373.1(a), (b)
Application for issuance or renewal of Class A certificate	Charter-party carrier of passengers	\$1,500 (new) \$500 (renewal) plus \$15 per tour bus up to a maximum of \$6,500	§§5371.1(b), 5373.1(a)(1)-(2), (b)
Application for issuance or renewal of Class B certificate	Charter-party carrier of passenger	\$500 plus \$15 per tour bus up to a maximum of \$6,500	§§5371.1(b), 5373.1(a)(3), (b)
Application for issuance or renewal of Class C certificate	Charter-party carrier of passengers	\$500 plus \$15 per tour bus to a maximum of \$6,500	§§5371.1(b), 5373.1(a)(4), (b)
Application to sell, lease, assign, or otherwise transfer or encumber a certificate	Charter-party carrier of passengers	\$300	§5377.1

Type of Filing	Type of Utility	Fee	PU Code Reference
Application to transfer permit	Household goods carrier	\$150 or \$25 for transfer after death of permittee and after court approval of distribution of estate, or if no probate or court distribution necessary	§5136

(END OF APPENDIX A)