

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-224
Administrative Law Judge Division
March 26, 2009

RESOLUTION

RESOLUTION ALJ-224 to amend 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). The amendments update the Rules to reflect changes in the Commission's administration, provide consistency between the rules, and provide greater clarity. In addition, we codify rules for electronic filing of documents. Lastly, we amend Rule 14.6(c) regarding reduction or waiver of review of proposed decisions to correct an inadvertent error. All of the amendments are addressed separately below.

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(a)(3)

Rule 1.4(a)(2)(ii) provides that a person may become a party to a proceeding by filing "comments in a rulemaking." We amend the rule to clarify that the comments in question are in response to a rulemaking, in order to distinguish them from comments on a proposed or alternate decision (*see* Rule 14.3).

Rule 1.4(a)(3) provides that a person may become a party to a proceeding by "entering an appearance at a prehearing conference or hearing." This language is ambiguous and misleading. It is not enough to merely attend a prehearing conference or hearing in order to achieve party status; a person must make a motion. We amend Rule 1.4(a)(3) to clarify that a person may seek party status at a prehearing conference or hearing by making an oral motion.

Rule 1.4(b)(2)

Rule 1.4(b)(2) provides that a person seeking party status by protest or response to an application or a petition or comments in a rulemaking, or by motion, shall “show that the contentions [that the person would make] will be reasonably pertinent to the issues already presented.” This language of Rule 1.4(b)(2) is ambiguous. Although it requires the person to show that “the contentions” are pertinent to the proceeding, it omits to require the person to identify those contentions or to define “contentions” for the purposes of this requirement. We modify Rule 1.4(b)(2) to include the requirement that the person identify the legal and factual contentions that the person intends to present.

With this clarification, Rule 1.4(b)(2) is redundant with respect to filed protests, responses, and comments. Rule 2.6 requires protests and responses to state the factual grounds for the protest or response. (As discussed below, we modify Rule 2.6 to add “legal grounds” to this requirement.) Comments to a rulemaking, by definition, present legal and factual contentions in response to the rulemaking. We therefore modify Rule 1.4(b)(2) to limit its applicability to motions to become a party.

Rule 1.7(a)

Rule 1.7(a) directs that motions to accept a late filing attach the document that is the subject of the motion. This practice is no longer feasible under the Commission’s electronic filing and docketing processes. We amend the rule to require persons filing motions that seek leave to file another document to concurrently and separately tender to Docket Office the document that is the subject of the motion. Docket Office will file the document upon the issuance of a ruling or order authorizing its filing.

We also change the example used in the rule from “Motion for Protective Order” to “Motion to File Under Seal” consistent with prior changes to the rules that distinguish among types of protective orders and discourage the use of the indistinct term “protective order.”

Rules 1.9(a-b) and 1.10(d)

Rules 1.9(a) and 1.10(d) require service of documents on the assigned Administrative Law Judge. However, sometimes documents are filed and served in advance of an Administrative Law Judge being assigned to a proceeding. We amend Rules 1.9(a) and 1.10(d) to provide for service on the Chief Administrative Law Judge if an Administrative Law Judge is not yet assigned to the proceeding, and make other clarifying amendments to Rules 1.9(a) and (b).

Rule 1.9(e)

Rule 1.9(e) provides for the Commission's Process Office to maintain the official service list for all pending proceedings. We amend Rule 1.9(e) to identify the categories of service and the process for requesting addition to the official service list, consistent with current Commission practice.

Rule 1.9(f)

Rule 1.9(f) provides that the Administrative Law Judge may revise the official service list to make corrections and to delete inactive parties. This rule is largely redundant with Rule 1.4(c); to the extent it is not redundant, it is inconsistent with the administration of the official service list as clarified in amended Rule 1.9(e). Therefore, we delete it.

Rules 1.10(a) and (b)

Rule 1.10 provides for service by electronic mail (e-mail). Consistent with current Commission practice, we amend Rules 1.10(a) and (b) to clarify that e-mail service is only available to persons who have provided an e-mail address for the official service list, that use of e-mail service excuses persons from serving persons in the "Information Only" category of the official service list who have not provided e-mail addresses, and that use of e-mail service does not excuse persons from otherwise serving persons in the "Parties" and "State Service" categories of the official service list who have not provided e-mail addresses.

Rule 1.10(c)

Rule 1.10(c) excuses persons from re-serving, after failure of e-mail service, documents on persons listed on the official service list "for receipt of Commission documents only." As reflected in amended Rule 1.9(e), such persons are listed in the "Information Only" category of the official service list. We amend Rule 1.10(c) to substitute this terminology for consistency between the rules.

Rule 1.12

Rule 1.12 provides that an amendment to an application, protest, complaint or answer must be filed and served at least five days before the scheduled date of hearing. However, pursuant to Rule 7.3, in most proceedings the assigned Commissioner will issue a scoping memo, based on the pleadings and prehearing conference to date, determining the issues to be addressed and the schedule of the proceeding. It is therefore prudent and practical to require amendments to be filed in advance of the issuance of the scoping memo (subject, as are all of the rules, to Rule 1.2 allowing

deviations in special circumstances and for good cause shown). We amend Rule 1.12 to so require, with a minor clarifying change in response to the comments on the originally proposed amendments.

Rule 1.13

Rule 1.13 provides for the tendering and filing of documents. Resolution ALJ-188 adopted interim rules for the Commission’s Electronic Filing Pilot Period. The pilot has proven successful in reducing administrative burden and the use of natural resources, and in providing timely notice of filed documents on the Commission’s website. We therefore amend Rule 1.13 to incorporate the procedures set forth in Resolution ALJ-188, and to require utilities whose gross intrastate revenues, as reported in their most recent annual reports to the Commission, exceed \$10 million to use the electronic filing system to file all documents not otherwise prohibited or excused by the rules.

We split the rule into two separate rules: Rule 1.13 now addresses the tendering of documents, and new Rule 1.14 addresses the review and filing of such documents. Accordingly, we renumber the subsequent rules in Article 2.

Rule 1.13 as currently written provides the option of tendering documents for filing at the Commission’s office in San Diego. That office is now closed. We amend Rule 1.13 to delete its reference to the Commission’s San Diego office.

Rule 1.15 (renumbered Rule 1.16)

Rule 1.15 provides for filing fees set forth in the Table of Filing Fees at the end of the Rules. Rule 1.15 states that filings marked with an asterisk should be submitted to the “Tariff and License Branch of the Rail Safety and Carriers Division.” However, none of the filings in the table are so marked (and the referenced branch and division no longer exist as named within the Commission’s current organizational structure). We delete this statement.

We also incorporate the provision from Resolution ALJ-188 requiring filing fees for documents tendered electronically to be paid by credit card.

[New] Rule 1.18 and Rule 2.7

We originally proposed to adopt a new rule requiring persons to furnish a copy of any document filed with the Commission to each person upon request, and to delete Rule 2.7 (which limits this requirement to applications, protests, and responses to applications) as redundant with the new rule. In response to comments on the changes to the original proposed amendments discussed further below, we delete this modification.

Rule 2.6(b)

Rule 2.6(b) provides that a protest must state the facts constituting the grounds for the protest. However, the grounds for a protest may be legal rather than, or in addition to, factual. We amend Rule 2.6(b) to include the requirement that the protest state the legal grounds, if applicable.

Rule 3.2(c)

Rule 3.2(c) requires applicants for authority to increase rates to publish notice of such application in newspapers, and to “file proof of compliance.” We amend Rule 3.2(c) to specify the form of proof of compliance. Specifically, we require the applicant to file sworn verification listing the newspapers and publication dates, and including a sample of each different notice. We also require the applicant to maintain documentation of compliance and to provide it upon request.

Rule 8.1(d)(1)

Rule 8.1(d) defines “interested persons,” and subsection (1) of Rule 8.1(d) includes in that definition “any applicant, protestant, respondent, petitioner, complainant, defendant or interested person who has made a formal appearance” and “Commission staff of record.” Pursuant to Rule 1.4, these persons are parties to the proceeding. For clarity and consistency with Rule 1.4, we amend Rule 8.1(d)(1) to substitute the term “party” for the phrase listing persons who are parties.

Rule 8.2(c)(2)

Rule 8.2(c)(2) requires any person who is granted an individual *ex parte* communication meeting with a decisionmaker to notify the parties that the meeting was granted at least three days in advance of the meeting, and to provide the decisionmaker with a certificate of service of that notice at or prior to the meeting. We amend the rule to require the person to file the notice, in order to create a formal record of compliance with the rule. The formal record of notification eliminates the need for the person to provide the decisionmaker with the certificate of service of notification, and so we delete this requirement.

Rule 8.2(d)

Rules 8.4(a) and (b) provide that the *ex parte* requirements applicable to the proceeding’s preliminary categorization shall apply until the assigned Commissioner’s scoping memo issues finalizing the determination of the category. However, Rule 8.2(d) provides that the restrictions and reporting requirements applicable to *ex parte*

communications shall cease to apply if no timely responsive pleadings or request for hearing is filed, or all such pleadings are withdrawn. We amend Rule 8.2(d) to cross-reference Rule 8.4 in order to clarify that, notwithstanding Rule 8.4, the provisions of Rule 8.2(d) do indeed govern in the circumstances it identifies.

Rule 8.3(a) (renumbered Rule 8.3)

Rule 8.3(a) requires the filing of notices of *ex parte* communications. We amend the rule to clarify that a single filing may notice multiple *ex parte* communications in the same proceeding, provided that all of the notices are timely.

Rule 8.3(b)

Rule 8.3(b) provides for electronic service of notices of *ex parte* communications. However, Rule 1.9 independently requires service of all filed documents, including by electronic service pursuant to Rule 1.10. This requirement makes redundant provisions of Rule 8.3(b) provisions for electronically serving filed notices of *ex parte* communications. We therefore delete this rule.

Rule 8.3(c)

Rule 8.3(c) provides that notices of *ex parte* communications will be reported in the Commission's Daily Calendar. This rule was adopted prior to the adoption of current Rule 1.9 and Rule 8.3(b), when notices of *ex parte* communications were not required to be served. Now that notices of *ex parte* communication are served (and noticed on the docket card of the proceeding), having the Commission additionally report them in the Daily Calendar is unduly burdensome. We therefore delete this rule.

Rule 8.3(d)

Rule 8.3(d) provides that parties may obtain copies of notices of *ex parte* communications from the Commission's Central File room. This is generally true of all documents maintained in the Commission's Central File room, and there is no cause to uniquely identify this fact with respect to notices of *ex parte* communication.

Rule 8.3(d) also requires the person who filed the notice to provide a copy to a requesting person upon request. This rule was adopted prior to the adoption of current Rule 1.9 and Rule 8.3(b), when notices of *ex parte* communications were not required to be served. Now that notices of *ex parte* communication are served, to the extent that the requestor is on the official service list, requiring persons to provide copies upon request is redundant. Furthermore, as discussed previously, we adopt new Rule 1.17 to provide that all persons who file documents with the Commission must provide a copy of the document to any person upon request.

Rule 11.5(a)

Rule 11.5(a) provides that motions to seal the evidentiary record may be made at hearing. We originally proposed to amend this rule to require motions to seal the evidentiary record with respect to prepared testimony to be made no later than 10 days in advance of hearing. In response to comments on the originally proposed amendment, we delete this amendment.

Rule 11.6

Rule 11.6 provides for motions for extensions of time limits. Although the rule provides for the moving party to notify other parties of the Administrative Law Judge's grant of the extension, it does not provide for notifying the Docket Office of why it should accept the document as timely for filing. In order to inform the formal record and the Docket Office of the authority to file documents beyond previously established time limits, we amend Rule 11.6 to require the opening paragraph of the document to indicate that the Administrative Law Judge has granted the extension.

Rule 13.9

Rule 13.9 provides that the Commission may take official notice of matters that may be judicially noticed by the courts of the State of California. For clarity, we amend Rule 13.9 to refer to Evidence Code Section 450 *et seq.*, the statute governing what matters may be judicially noticed by the courts.

Rules 14.2(a) and (b)

Rules 14.2(a) and (b) provide that proposed decisions and presiding officers' decisions shall be filed with the Commission and served on "all parties." In fact, service is made on the entire official service list, which includes non-parties. We amend Rules 14.2(a) and (b) to make that clarifying correction.

Rule 14.3(c)

Rule 14.3(c) requires comments on proposed or alternative decisions to focus on factual, legal or technical errors and to make specific reference to the record. We amend the rule to clarify that assertions of legal error require specific reference to the law.

Rule 14.3(c) goes on to state that comments which merely reargue positions taken in briefs will be accorded no weight. This statement is not necessarily correct: comments which identify error with specific reference to the record or the law are fairly accorded weight, even if they reargue positions taken in briefs. More precisely, comments which will be accorded no weight are those that fail to focus on factual, legal or technical errors or that, in asserting such errors, fail to make specific reference to the record or the law. We amend the rule to make this clarification.

Rule 14.6(c)

Rule 14.6(c) provides for the reduction or waiver of public review and comment on draft resolutions, proposed decisions and alternates in the absence of an unforeseen emergency situation or stipulation by the parties. The previous version of subsection (c) (former Rule 77.7(f)) limited its application to “draft decisions” and alternates; we amended the rule to eliminate this definitional term in favor of simply stating the circumstances under which the public review and comment period may be reduced pursuant to Pub. Util. Code § 311(g)(3). (See R.06-02-011, pp. 26-27.) Upon further review and experience, we find that limiting the applicability of Rule 14.6(c) to proposed decisions in proceedings in which no hearings were conducted leads to absurd and sometimes impossible results. (For example, subsection (3) permits reduction or waiver of review of a decision on a request for review of a presiding officer’s decision, but presiding officer’s decisions by definition only issue in proceedings in which a hearing was conducted. (Rule 14.1(a).) We amend Rule 14.6(c) to eliminate this limitation (except with respect to subsection (9)), consistent with the authority provided in § 311(d) (permitting waiver of reduction or waiver of public review and comment “as otherwise provided by law”) and the last sentence of § 311(g)(3) (authorizing the Commission to establish additional categories of decisions subject to reduction or waiver of the public review and comment period in § 311, without limitation to subdivision (g)). We maintain the current limitation with respect to Rule 14.6(c)(9).

Subsection (c)(3) identifies decisions extending the deadline for resolving adjudicatory proceedings as one circumstance in which the Commission may reduce or waive the period for public review and comment; subsection (c)(10) identifies decisions extending the deadline for resolving ratesetting or quasi-legislative proceedings. We combine these subsections to make it easier to locate the rules concerning this particular subject.

Rule 15.2(b)

Rule 15.2(b) directs members of the public to submit standing orders for receipt of copies of the agenda to the Commission’s Management Service Division. The Administrative Law Judge Division has assumed responsibility for providing copies of

the agenda to the public. We therefore amend Rule 15.2(b) to direct the public to submit such requests to the Administrative Law Judge Division.

Rule 17.3

Rule 17.3 provides for requests for an award of intervenor compensation to be filed within 60 days of the issuance of the decision to which the intervenor believes it made a substantial contribution or the decision closing the proceeding. Consistent with Commission practice as affirmed by Decision (D.) 07-10-012, we amend Rule 17.3 to clarify that a request may be filed after the issuance of any decision to which the intervenor believes it made a substantial contribution until 60 days after the issuance of the decision closing the proceeding.

Rule 17.4

Rule 17.3 provides for filing requests for an award of intervenor compensation. Rule 17.4 provides for filing replies to responses to the requests. However, the rules are silent with regard to filing responses to the requests. We amend Rule 17.4 to include provisions for the filing of responses to requests for an award of intervenor compensation, pursuant to Pub. Util. Code § 1804(c).

Rule 17.4(g) (Renumbered Rule 17.4(h))

We originally proposed to amend Rule 17.4(g) to shorten the time for filing replies to responses to requests for compensation to within 5 days after service of the response. In response to comments on the originally proposed amendment, we restore the 15-day time for filing replies, but retain other non-substantive changes to the rule.

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Rule 1.3(c) defines “person” to mean a natural person or organization, while Rule 1.4 provides how a person may become a “party” to a proceeding. These terms are not interchangeable: not all persons are parties and, while many rules apply only to parties, other rules apply to all persons including those who are not parties.

In numerous places throughout the rules, the term “party” is used in the vernacular sense of “person,” rather than in the procedural sense of a formal participant in the proceeding. For example, many of the rules concerning restrictions and reporting requirements related to *ex parte* communications apply to non-party, interested persons as well as parties. Conversely, only parties have discovery rights (Article 10) and appeal rights (Article 16). For clarity and consistency, we amend the rules to replace the term “party” with the term “person” or “interested person” as appropriate. The affected rules are:

Rule 1.6(a)
Rule 1.8(c), (d)
Rule 1.9(b), (c), (e)
Rule 1.10(d)
Rule 1.11(c), (d)
Rule 2.3(c)
Rule 3.6, (h)
Rule 8.1(d)(1)
Rule 8.2(c)(2), (3)
Rule 14.2(c)(1)
Rule 18.1, Form 4

NOTICE OF PROPOSED AND CHANGED 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 January 2, 2009. In addition, on December 18, 2008, the draft resolution containing the amendments as originally proposed was mailed to all persons on the service list commonly used by the Commission for this purpose.

On February 23, 2009, the modified draft resolution noticing changes to the amendments as originally proposed was mailed to all persons on the service list, including the persons who commented on the originally proposed amendments.

COMMENTS ON ORIGINALLY PROPOSED AMENDMENTS

Comments were received from Pacific Gas and Electric Company (PG&E), San Diego Gas & Electric Company and Southern California Gas Company (jointly, SDG&E/SoCalGas), and The Utility Reform Network (TURN) on February 17, 2009.

Regarding amended Rule 1.7(a), PG&E asks us to clarify how the document that is the subject of the motion for leave to file is to be tendered, specifically, whether parties are permitted to tender the document using the electronic filing system and whether the document should be marked in any way to denote that it is being tendered subject to approval of the separate motion. We clarify that (1) such documents may be tendered using the electronic filing system, and (2) no special marking is required. Because special leave is required for the Docket Office to accept the document for filing, Docket Office will not accept it for filing until such leave is given. The concurrent tendering of the motion for leave to file the document will give notice to Docket Office that it is the

subject of the motion. As there are no special requirements beyond the instructions in the amended rule, we make no change to the amended rule.

PG&E asks that we further amend Rule 1.13(b) to permit the electronic filing of scanned and text-searchable electronic documents in the event that it is infeasible to convert the document to PDF/A format. We are unable to accommodate PG&E's request at this time due to technological constraints.

PG&E objects to proposed new Rule 1.18, which requires all persons who tender documents for filing to provide a copy to third persons upon request, on the basis that it is overly broad and potentially burdensome. As discussed further below, in response to PG&E's further comments on changes to the originally proposed amendments, we delete this proposed rule.

SDG&E/SoCalGas ask that we amend Rule 1.12 to clarify that amendments to an application, protest, complaint or answer may be filed prior to the issuance of the scoping memo without the permission of the ALJ. We make that clarification, and delete the provision that amendments may be made after that time with the ALJ's permission, as that provision is unnecessarily redundant of Rule 11.6.

SDG&E/SoCalGas propose that we further amend Rule 3.2 (1) to change the compliance period from 10 calendar days to 10 business days, and (2) change the triggering event for commencement of the compliance period from the date upon which the application is filed to the date upon which notice of the application (and the assigned docket number) first appear in the Daily Calendar. This proposed modification appears to constitute a substantial modification not sufficiently related to our initial proposal, and is therefore beyond the scope of this rulemaking. (*See* Government Code § 11346.8(c).) We therefore decline to consider it at this time.

TURN objects to amended Rule 1.4(a)(3), stating that its belief that a person is entitled to party status by merely checking the "party status" box on an appearance form. TURN is mistaken. Rule 1.4 as previously written requires a person seeking party status by "entering an appearance at a prehearing conference or hearing" (Rule 1.4(a)(3)) to do more than simply "appear;" Rule 1.4(b) requires such persons to fully disclose who they are and their interest in the proceeding and to show that the contentions will be reasonably pertinent to the issues already presented.¹ The amendment to Rule 1.4(a)(3) does not impose a new disclosure requirement, but merely clarifies that this disclosure is an oral motion.

¹ This requirement was also set forth in the earlier version of the Rule 1.4. *See* R.06-02-011 and its appendices, in particular former Rule 54.

TURN objects to these prerequisites to the grant of party status as being unnecessary, distracting, and deleterious to the goal of encouraging public participation. Party status carries with it the right to conduct discovery and to appeal Commission decisions, and there is no apparent reason that it should be granted simply on the basis of a person asking for it. TURN's suggestion that we eliminate these prerequisites appears to constitute a substantial modification not sufficiently related to our initial proposal, and is therefore beyond the scope of this rulemaking. (See Government Code § 11346.8(c).) For all these reasons, we decline to consider TURN's suggestion at this time.

TURN objects to amended Rule 1.4(b)(2), which requires persons who seek party status by motion to "state the factual and legal contentions that the person intends to make...," noting that it may be difficult to make such a statement with any great specificity. As discussed previously, persons who seek party status by filing an application, petition, or complaint or a protest or response thereto are required to state the factual and legal contentions that the person intends to make (see Rules 2.6, 4.2, and 16.4), and comments filed in a rulemaking do so by definition. We find no basis to excuse persons who seek party status by motion from this requirement.

TURN urges us not to amend Rule 8.3(c) and to instead continue publishing notices of *ex parte* communications in the Daily Calendar, as it appreciates being alerted to such activity where it has missed the notice due to faulty service or its own inadvertence, or because it is not on the service list for the proceeding. The Commission does not regularly publish notice of documents filed in a proceeding other than the initiating document and recommended decisions, and there is no apparent reason that notices of *ex parte* communications should continue to be afforded special treatment. Any person may be added to the official service list of any proceeding for electronic service of documents. All persons have access to the docket cards for all proceedings, which are maintained on the Commission's website and give notice of all filed documents (and hyperlinks to electronically filed documents.) In addition, persons who are simply interested in monitoring *ex parte* communications across all proceedings can easily do so (at least with respect to electronically filed notices of them) by using the available search tools on the Commission's website.² For all these reasons, we find that the administrative burden of publishing notices of *ex parte* communication on the Daily Calendar outweighs the incremental benefit of providing an additional means to monitor them.

TURN objects to amended Rule 11.5 which would require written motions to seal the evidentiary record with respect to prepared testimony to be made no less than 10 days

² On the CPUC's homepage www.cpuc.ca.gov, click on "Online Documents" (under "Proceeding Information"), then on "E-filed documents" (under "Search by Document Type"), then select "Ex parte" as the document type from the drop-down menu and indicate the desired filing date range.

before hearing. TURN points out that prepared testimony, particularly rebuttal testimony, may not be served more than 10 days before hearing and suggests that there may be other proceeding-specific issues that make it difficult to comply with this requirement. We delete this modification.

TURN identifies a mistaken citation in the resolution's discussion of Rule 17.3 to the decision addressing the appropriate timing for filing a request for intervenor compensation. We correct that mistake; this correction does not require a change to the amended rule.

TURN objects to the amendment to Rule 17.4(h) that would reduce the time for filing a reply to a response to a request for compensation from 15 days to five days, and states that Utility Consumers Action Network, Greenlining Institute, Disability Rights Advocates, and Consumer Federation of California join it in this section of its comments. TURN states that there is no apparent correlation between delayed decisions on intervenor compensation requests and the need to file a reply. We change the amended rule to reinstate the 15-day time for filing a reply.

COMMENTS ON CHANGES TO ORIGINALLY PROPOSED AMENDMENTS

PG&E submitted comments on the changes to the original proposed amendments on March 10, 2008.

PG&E suggests that the Commission modify proposed renumbered Rule 1.13(b)(1)(i) (which is Rule 1.13(b)(1)(ii) in the pre-amended rules) to clarify that documents that cannot be created in PDF/A format shall not be filed electronically, and to delete the unenforced requirement that the person transmitting the document provide an explanation of why the document cannot be created in PDF/A format. PG&E's suggested modifications provide greater clarity and reflect the Commission's actual practice, and we adopt them. The changes are non-substantial and do not require further opportunity for comment.

PG&E reiterates its request that the Commission eliminate proposed new Rule 1.18 and requests that, if it nevertheless decides to retain it, the Commission modify the rule to require persons to provide only electronic copies of documents. PG&E notes that the Commission's official service list rule, Rule 1.9, does not require hard-copy service of documents to persons on the official service list as "information-only"; PG&E suggests that allowing persons who are not on the official service list to request documents and, especially, allowing them to request hard copies of them may undermine Rule 1.9. We are persuaded that proposed new Rule 1.18 may inadvertently burden parties in ways that are intended to be limited by Rule 1.9. We delete this proposed new rule.

We modify proposed Rule 14.6(c)(9) to reinstate its current limitation on applicability to decisions in proceedings in which no hearings were conducted. As this change restores the effect of Rule 14.6(c)(9) as currently written, it is non-substantial and does not require further opportunity for comment.

We also make minor typographical corrections to Rules 1.9(e), (renumbered) 1.15, and 3.2(c).

FINDINGS OF FACT

1. The amendments to the Rules of Practice and Procedure (Title 20, Division 1, of the California Code of Regulations) update the Rules to reflect changes in the Commission's administration, provide consistency between the rules, and provide greater clarity.
2. Amended Rules 1.13 and 1.14 reasonably implement the Commission's program for the electronic filing of documents.

THEREFORE, IT IS ORDERED 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 the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on March 26, 2009, the following Commissioners voting favorably thereon:

/s/ PAUL CLANON

PAUL CLANON
Executive Director

MICHAEL R. PEEVEY
President
DIAN M. GRUENEICH
JOHN A. BOHN
RACHELLE B. CHONG
TIMOTHY ALAN SIMON

Commissioners

APPENDIX A

AMENDMENTS TO RULES OF PRACTICE AND PROCEDURE

Amendments as originally proposed are shown in strikethrough and underline format.

Changes made to the amendments as originally proposed are shown in double-strikethrough and double-underline format, with the following exceptions.

Current Rule 2.7, which was originally proposed to be deleted in its entirety and is no longer proposed to be deleted or amended in any way, is shown in italics.

1.4. (Rule 1.4) Participation in Proceedings

- (a) A person may become a party to a proceeding by:
 - (1) filing an application, petition, or complaint;
 - (2) filing (i) a protest or response to an application or petition, or (ii) comments in response to a rulemaking;
 - (3) ~~entering an appearance~~ 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)(~~2~~3) ~~through 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.

1.6. (Rule 1.6) Title Page Requirements

- (a) All documents tendered for filing must have a blank space of at least 1 ½ inches tall by 2 ½ 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);
 - (4) below the caption and docket number, the title of the document and the name of or shortened designation for the party 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 party 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 18.1.)

(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”).

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

1.7. (Rule 1.7) Scope of Filing

(a) Separate documents must be used to ask the Commission or the Administrative Law Judge to take essentially different types of action (e.g., a document entitled “Complaint and Motion ~~for Protective Order to File Under Seal~~” would be improper; the filing must be split up into two separate documents must be used for the complaint and for the motion). ~~Motions to accept a late filing that have a pleading attached must indicate in the title that the pleading is attached to the motion (e.g., Motion to Accept Late Comments, Comments Attached).~~ Motions that seek leave to file another document (e.g., to accept a late filing or to file a document under seal) shall be tendered concurrently and separately with the document that is the subject of the motion.

(b) Except as otherwise required or permitted by these Rules or the Commission’s decisions, general orders, or resolutions, prepared testimony shall not be filed or tendered to the Docket Office. If prepared testimony is issued in support of a filing at the time the filing is made, it shall be served (i) on the service list together with the filing, and (ii) on the Administrative Law Judge or, if none is yet assigned, on the Chief Administrative Law Judge.

Note: Authority cited: Section 1701, Public Utilities Code. 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 ~~a party~~ the person on whose behalf it is tendered for filing or by the attorney or representative of the ~~party~~ person. If the document is signed by the ~~party~~ person, it must be signed as follows:

- (1) If the ~~party~~ person is an individual or sole proprietorship, by the individual or proprietor.
- (2) If the ~~party~~ person is a corporation, trust, or association, by an officer.
- (3) If the ~~party~~ person is a partnership or limited partnership, by a partner or general partner, respectively.
- (4) If the ~~party~~ 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 ~~party~~ person, only one ~~party~~ person (or one ~~party's~~ 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 ~~parties~~ 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 ~~party~~ person in these circumstances certifies that the signer has been fully authorized by the indicated ~~parties~~ 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. If a copy of the signature page is tendered, the signer 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.

(f) The Commission may summarily deny a ~~party's~~ person's request, strike the ~~party's~~ 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) 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 making service by electronic mail (e-mail) electronically mailing the document as provided in Rule 1.10 to each person whose name is on the official service list or applicable special service list, to the assigned Administrative Law Judge, and to any other person required to be served by statute, by Commission rule or order, or by the Administrative Law Judge. Delivery may be made by handing 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. Service by 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 require more expeditious service or a particular form of service in appropriate circumstances.~~

~~(b) In the event that service cannot be completed by any of the methods described in Rule 1.9(a), the Administrative Law Judge may direct or any party may consent to service by other means not listed in this rule Rule 1.9(a) (e.g., facsimile transmission).~~

(c) A ~~party~~ 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 has attachments that are 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 party person who has previously informed the serving party 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 party 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.)

(e) 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 on the official service list to provide a current mailing address and, if relevant, current e-mail address, to the Process Office ~~for the official service list.~~ A party 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.

~~(f) The Administrative Law Judge may correct and make minor changes to the official service list and may revise the official service list to delete inactive parties. Before establishing a revised service list, the Administrative Law Judge will give each person on the existing service list notice of the proposed revision and an opportunity to respond to the proposal.~~

~~(g)~~ 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 ~~parties~~ persons.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311.5, 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 ~~Electronic mail (e-mail) service may be used~~ who have provided an e-mail address for the official service list in a the proceeding. ~~in any proceeding which has been assigned a docket number.~~

(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 ~~may~~ 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 e-mail message to all e-mail addresses shown on the official service list on the date of service. 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, (2) a brief name of the proceeding, and (3) a brief identification of the document to be served, including the name of the serving ~~party~~ 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.

~~(b) By providing an e-mail address for the official service list in a proceeding, a person consents to e-mail service in any proceeding in which the person is on an official service list. A person who has previously provided an e-mail address may withdraw consent to e-mail service in a particular proceeding by serving and filing a notice withdrawing consent to e-mail service for that proceeding. A person who does not consent to receive e-mail service in a proceeding may not use e-mail to serve documents in that proceeding.~~

~~(ed)~~ By utilizing e-mail service, the serving ~~party~~ 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 ~~party~~ person consents to the use of e-mail service, or (2) the serving ~~party~~ person determines that the cause of the failure of e-mail service has been rectified. "Failure of e-mail service" occurs when the serving ~~party~~ person receives notification, in any manner, of non-receipt of an e-mail message, or of the receiving ~~party's~~ person's inability to open or download an attached document, or of any other inability of the receiving ~~party~~ person to access the document to be served. The serving ~~party~~ person and receiving ~~party~~ person may agree to any form for re-service allowed by these rules. The serving ~~party~~ person is not required to re-serve, after failure of e-mail service, any person listed on the official service list ~~for receipt of Commission documents only~~ as Information Only.

~~(de)~~ In addition to any other requirements of this rule, the serving ~~party~~ 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.

~~(ef)~~ 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.

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

(gh) 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; Section 11104.5, Government Code.

1.11. (Rule 1.11) Verification

(a) Whenever a document is required to be verified by these rules, statute, order, or ruling, the verification must be made either by affidavit sworn or affirmed before a notary public or by declaration under penalty of perjury. When the verification is made by the person who signs the document, the verification must be separately stated and signed.

(b) The verification must be signed (see Rule 1.8(e)) and state that the contents of the document are true of the verifying person's own knowledge, except as to matters that are stated on information or belief, and as to those matters that he or she believes them to be true. (See Rule 18.1.)

(c) If these rules require a party person to verify a document, it must be verified as follows (except as provided in subsection (d)):

- (1) If the party person is an individual or sole proprietorship, by the individual or sole proprietor.
- (2) If the party person is a corporation, trust, or association, by an officer.
- (3) If a party person is a partnership or limited partnership, by a partner or general partner, respectively.
- (4) If the party person is a governmental entity, by an officer, agent, or authorized employee.

(d) A party's person's attorney or representative may verify a document on behalf of a party person if the party person is absent from the county where the attorney's or representative's office is located, or if the party for some other reason is unable to verify the document. When a document is verified by the attorney or representative, he or she must set forth in the affidavit or declaration why the verification is not made by the party person and must state that he or she has read the document and that he or she is informed and believes, and on that ground alleges, that the matters stated in it are true.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 446, Code of Civil Procedure.

1.12. (Rule 1.12) Amendments and Corrections

(a) An amendment is a document that makes a substantive change to a previously filed document. An amendment to an application, protest, complaint, or answer ~~must be filed and served at least five days before the scheduled date of hearing. All amendments thereafter to such documents and to any other documents may~~ must be filed ~~after~~ prior to the issuance of the scoping memo ~~only with the permission of the Administrative Law Judge.~~

(b) The time for filing a reply, response, protest, or answer to an amended document is calculated from the date the amendment is ~~served~~ filed. Parties who have filed a reply, response, protest or answer to the previously filed document need not file an additional reply, response, protest or answer to the amendment. If the time for filing a reply, response, protest, or answer to the original document has passed, the Administrative Law Judge may limit or prohibit any further reply, response, protest, or answer to the amended document.

(c) Minor typographical or wording corrections that do not alter the substance of a filed document or the relief requested therein are not to be filed.

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

1.13. (Rule 1.13) Tendering and Review 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) Unless otherwise directed, all 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, or at the Commission's Offices in the State Building, 1350 Front Street, San Diego. All documents ~~sent through the~~ 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 ~~or San Diego~~ office. First-class postage charges to San Francisco must be paid at the time documents are tendered to the Los Angeles ~~or San Diego~~ office. Payment of postage charges may be made by check or money order.

~~A letter transmitting documents to the Docket Office for filing is not required unless acknowledgment of the filing is requested (Rule 1.13(k)).~~

~~(b2)~~ Except for complaints (see Article 4) and applications for rehearing and their responses (see Rule 16.1), ~~any person tendering a document for filing must submit~~ 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, ~~any person tendering a document for filing must submit~~ 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 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) unless it cannot be created in that format or conversion to PDF/A format is unduly burdensome. In that event, the transmittal shall include a brief explanation of why PDF/A format is infeasible.

(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.

(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 Acknowledgement of Receipt, it is the responsibility of the person tendering the document to obtain confirmation that the Docket Office received it.

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

1.14. (Rule 1.14) Review and Filing of Tendered Documents

(ea) Tendered documents are not ~~considered~~ filed until they have been reviewed and accepted for filing by the Docket Office in San Francisco.

~~(db) If a document complies with these rules and is accepted for filing, it by the Docket Office in San Francisco, the filing will be recorded as of the date it was first tendered for filing at the Commission's San Francisco, or Los Angeles, ~~or~~ San Diego office.~~

(1) Hard copy: The Docket Office will provide an acknowledgment of the filing on request, provided the person tendering the document furnishes, at the time the document is tendered, an extra copy of the document and a self-addressed envelope with postage fully prepaid. The extra copy of the document will be stamped with the filing stamp and docket number and returned by mail.

(2) Electronic: Upon the filing of any document tendered electronically, the document will be stamped with the electronic filing stamp and, in the case of an initiating document, a docket number and the Docket Office shall electronically transmit to the person tendering the document a Confirmation of Acceptance and a link to the filed stamped copy of the document on the Commission's website. Electronically filed documents so endorsed carry the same force and effect as a manually affixed endorsement stamp.

~~(ec) If a Any tendered document ~~that~~ does not comply with applicable requirements, the Docket Office may reject the document for filing. ~~rules, Commission orders, or statutes may be rejected. Rejected documents will be returned with a statement of the reasons for the rejection.~~ Documents submitted in response to a rejected document will not be filed.~~

(1) Hard copy: The Docket Office will return the rejected document with a statement of the reasons for the rejection.

(2) Electronic: The Docket Office will electronically transmit to the person tendering the document a Notice of Rejection setting forth the grounds for rejecting the document.

~~(f) If a tendered document does not comply with applicable requirements, the Docket Office, with the consent of the person tendering the document, may retitle the document or strike part of the document, and the document as modified may be accepted for filing. The person tendering the document must notify all persons served with the document of the modification or striking.~~

~~(g) If a tendered document does not comply with applicable requirements, the person tendering the document may, in the body of the document, request waiver of the requirements to which the document does not conform. The request must state the reasons justifying the waiver. The assigned Administrative Law Judge will decide whether or not to waive the requirements as requested. If the waiver is granted, the document will be filed as of the date it was tendered for filing.~~

~~(hd)~~ If a tendered document is in substantial, but not complete, compliance with applicable requirements ~~Rules 1.5 through 1.12~~, the Docket Office may notify the person tendering the document of the defect. If the document would initiate a new proceeding, the document will be filed as of the date that the defect is cured. For all other documents, If the defect is cured within seven days of the date of this notification, the document will be filed as of the date it was tendered for filing, provided that the document was properly served as required by these rules on or before the date the document was tendered for filing.

(ie) Acceptance of a document for filing is not a final determination that the document complies with all requirements of the Commission and is not a waiver of such requirements. The Commission, the Executive Director, or the Administrative Law Judge may require amendments to a document, and the Commission or the Administrative Law Judge may entertain appropriate motions concerning the document's deficiencies.

(jf) If a document initiates a new proceeding, the proceeding will be assigned a docket number when the document is accepted for filing. The Chief Administrative Law Judge shall maintain a docket of all proceedings.

~~(k) The Docket Office will provide an acknowledgment of the filing of any document on request, provided the person tendering the document furnishes, at the time the document is tendered, an extra copy of a letter of transmittal or of the document and a self-addressed envelope with postage fully prepaid. The extra copy of the letter of transmittal or of the document will be stamped with the filing stamp and docket number and returned by mail.~~

(lg) Specific types of documents may be subject to additional requirements stated in other articles of these rules. Additional or different requirements for certain types of filings are stated in the Public Utilities Code or in the Commission's decisions, General Orders, or resolutions.

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

1.145. (Rule 1.145) Computation of Time

~~(a)~~ 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 offices are closed, the time limit is extended to include the first day thereafter.

~~(a)~~

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

1.156. (Rule 1.156) Filing Fees

Filing fees required by the Public Utilities Code are set forth in the Table of Filing Fees at the end of the Rules. If the fee in the table conflicts with the fee stated in the appropriate statute, the statute prevails. ~~Filings marked with an asterisk should be submitted to the Tariff and License Branch of the Rail Safety and Carriers Division.~~

Filing fees for documents tendered by hard copy shall be paid by check, money order or credit card. Filing fees for documents tendered electronically shall be paid by credit card.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 1001, 1007, 1008, 1036, 1904, 2754, 2756, 3902, 4006, 5136, 5371.1, 5373.1 and 5377.1, Public Utilities Code.

1.167. (Rule 1.167) Daily Calendar

A Daily Calendar of newly filed proceedings, proceedings set for hearings, submission of proceedings and newly filed recommended decisions shall be available for public inspection at the Commission's San Francisco and Los Angeles offices. The Daily Calendar shall indicate the time and place of the next three regularly scheduled Commission meetings. Electronic access to the Daily Calendar is available at the Commission's website (www.cpuc.ca.gov).

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

~~**1.18. (Rule 1.18) Copy of Document on Request**~~

~~Persons tendering filed documents must promptly furnish a copy of their filed documents to each person requesting one during the pendency of the proceeding in which the document is filed.~~

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

2.3. (Rule 2.3) Financial Statement

Wherever these rules provide that a financial statement shall be attached to the application, such statement, unless otherwise provided herein, shall be prepared as of the latest available date, and shall show the following information:

- (a) Amount and kinds of stock authorized by articles of incorporation and amount outstanding.
- (b) Terms of preference of preferred stock, whether cumulative or participating, or on dividends or assets, or otherwise.
- (c) Brief description of each security agreement, mortgage and deed of trust upon applicant's property, showing date of execution, debtor and secured party creditor, mortgagor and mortgagee and trustor and beneficiary, amount of

indebtedness authorized to be secured thereby, and amount of indebtedness actually secured, together with any sinking fund provisions.

(d) Amount of bonds authorized and issued, giving name of the public utility which issued same, describing each class separately, and giving date of issue, par value, rate of interest, date of maturity and how secured, together with amount of interest paid thereon during the last fiscal year.

(e) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last fiscal year.

(f) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by any person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.

(g) Rate and amount of dividends paid during the five previous fiscal years, and the amount of capital stock on which dividends were paid each year.

(h) 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.

Note: Authority cited: Section 1701, Public Utilities 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 the applicant and each person listed in the application as being authorized to receive service.

(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.

2.7. (Rule 2.7) Copy of Document on Request

Applicants, protestants, and parties tendering responses must promptly furnish a copy of their applications, protests, or responses to each person requesting one.

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

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 10 days after filing the application with the Commission, mail a 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 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 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. ~~Applicants shall file proof of compliance w~~ Within 10 days after publication, applicants 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 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.

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

3.6. (Rule 3.6) Transfers and Acquisitions

Applications to sell, lease or encumber utility property rights, to merge or consolidate facilities, to acquire stock of another utility, or to acquire or control a utility under Sections 851 through 854 of the Public Utilities Code shall be signed by all parties to the proposed transaction, except the lender, vendor under a conditional sales contract, or trustee under a deed of trust, unless such ~~party~~ person is a public utility. In addition, they shall contain the following information:

- (a) The character of business performed and the territory served by each applicant.
- (b) A description of the property involved in the transaction, including any franchises, permits, or operative rights; and, if the transaction is a sale, lease, assignment, merger or consolidation, a statement of the book cost and the original cost, if known, of the property involved.
- (c) Detailed reasons upon the part of each applicant for entering into the proposed transaction, and all facts warranting the same.

- (d) The agreed purchase price and the terms for payment. If a merger or consolidation, the full terms and conditions thereof.
- (e) In consolidation and merger proceedings, a financial statement as outlined in Rule 2.3. In other transfer proceedings, 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.
- (f) Copy of proposed deed, bill of sale, lease, security agreement, mortgage, or other encumbrance document, and contract or agreement therefore, if any, and copy of each plan or agreement for purchase, merger or consolidation.
- (g) If a merger or consolidation, a pro forma balance sheet giving effect thereto.
- (h) Applications that involve a certificate or operative right as vessel common carrier or passenger stage corporation shall also state, as to the seller, whether it is a party to any through routes or joint rates or fares with any other carrier, and whether operation under the rights involved is presently being conducted. If there has been any suspension or discontinuance of service during the preceding three years, the application shall state those facts and circumstances.

Note: Authority cited: Article 12, Section 2, California Constitution; and Section 1701, Public Utilities Code. Reference: Sections 1007, 1010, and 1032.

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, including categorization of a proceeding, or assignment or reassignment of a proceeding to an Administrative Law Judge,
- (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 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 applicant, protestant, respondent, petitioner, complainant, defendant, interested party who has made a formal appearance, Commission staff of record, party to the proceeding~~ or the agents or employees of any ~~of them 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.

8.2. (Rule 8.2) 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 8.3. 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 ~~party~~ interested person individually, all other parties shall be granted an individual meeting of a substantially

equal period of time with that decisionmaker. The party interested person requesting the initial individual meeting shall notify the ~~other~~ 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. ~~At the meeting, that party shall produce a certificate of service of this notification on all other parties. If the communication is by telephone, that party shall provide the decisionmaker with the certificate of service before the start of the call. The certificate may be provided by facsimile transmission or electronic mail.~~

(3) Written ex parte communications are permitted at any time provided that the party interested person making the communication serves copies of the communication on all ~~other~~ 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 8.4, ~~u~~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 8.3, 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 8.3.

(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 8.3, 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 8.3 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 8.3, 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 8.3, 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.

8.3. (Rule 8.3) Reporting Ex Parte Communications

~~(a)~~ 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 Communication" (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:

(1a) The date, time, and location of the communication, and whether it was oral, written, or a combination;

(2b) The identities of each decisionmaker (or Commissioner's personal advisor) involved, the person initiating the communication, and any persons present during such communication;

(3c) A description of the interested person's, but not the decisionmaker's (or the 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.

~~(b) Any party who has consented to e-mail service pursuant to Rule 1.10(d) shall, on the same day that it files the Notice, electronically serve it pursuant to Rule 1.10.~~

~~(c) The filing of a Notice will be reported promptly thereafter in the Commission's Daily Calendar.~~

~~(d) Parties may obtain a copy of the Notice from the Commission's Central File room or from the filing party, who must provide it to the requesting party without delay.~~

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

11.5. (Rule 11.5) Motion to Seal the Evidentiary Record

(a) Motions to seal the evidentiary record or portions thereof may be made at hearing, ~~unless the presiding officer directs otherwise except that, if the motion concerns prepared testimony pursuant to Rule 13.8(a), it shall be made by written motion no later than 10 days before hearing unless the presiding officer directs otherwise.~~

(b) If the motion to seal the evidentiary record concerns prepared testimony offered in evidence by written motion pursuant to Rule 13.8(d), it shall be made by concurrent written motion.

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

11.6. (Rule 11.6) Motion for Extension of Time

Motions for extension of time limits established in these rules or in a ruling of an Administrative Law Judge or Commissioner may be made orally, by e-mail, or by letter to the Administrative Law Judge. If other parties to the proceeding are affected by the extension, the party requesting the extension must first make a good-faith effort to ask such parties to agree to the extension. The party requesting the extension must report the results of this effort when it makes its request. If the extension is granted, the party requesting the extension shall notify all other parties to the proceeding of the extension, unless the grant of the extension is by oral ruling delivered on the record of the proceeding. If the extension is in regard to the time to file a document, the opening paragraph of

the document shall indicate that the Administrative Law Judge has granted the extension. No extensions will be granted of time requirements established by statute, unless the statute permits extension or waiver of the requirement.

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

13.9. (Rule 13.9) Official Notice of Facts

Official notice may be taken of such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 et seq.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, 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 ~~all parties~~ 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 ~~all parties~~ the official service list without undue delay, no later than 60 days after submission.

(c) 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 ~~anyone~~ person who served a protest or response to the advice letter, and any ~~third party~~ 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 ~~third party~~ 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.

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, 1701.4, Public Utilities Code.

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

(a) Parties may file comments on the 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 ~~merely reargue positions taken in briefs~~ 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.

14.6. (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, draft resolutions and alternates, where all the parties so stipulate.

(c) In the following circumstances, the Commission may reduce or waive the period for public review and comment on draft resolutions and ~~on~~ proposed decisions ~~issued in proceedings in which no hearings were conducted~~, 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 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.
- ~~(10) for a decision extending the deadline for resolving the issues raised in the scoping memo in a ratesetting or quasi-legislative proceeding.~~

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), 1701.5, Public Utilities Code; Section 11125.5, Government Code.

15.2. (Rule 15.2) Meeting Agenda

- (a) At least ten days in advance of the Commission meeting, the Commission will issue an agenda listing the items of business to be transacted or discussed by publishing it on the Commission's Internet website. The agenda is also available for viewing and photocopying (for a fee) at the Process Office.
- (b) Members of the public, other than persons who have consented to e-mail service in a proceeding pursuant to Rule 1.10, may place a standing order with

the Commission's ~~Management Services Division~~ Administrative Law Judge Division to subscribe to receive hard copies of the agenda.

(c) A matter not appearing on the agenda of a meeting will not be decided unless:

(1) The Commission determines by majority vote that an unforeseen emergency situation, as defined in the Bagley-Keene Open Meeting Act exists; or

(2) The Commission determines by a two-thirds majority (or, if less than two-thirds of the Commissioners are present, by a unanimous vote of those Commissioners present) that a need to take immediate action exists and that the need for this action came to the Commission's attention after the agenda for the meeting was issued, or

(3) As otherwise permitted by the Bagley-Keene Open Meeting Act.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 306(b and 311.5, Public Utilities Code; Sections 11125(b), 11125.3, and 11126.3(d), Government Code.

17.3. (Rule 17.3) Request for Award

A request ~~Requests~~ for an award of compensation ~~shall~~ may be filed ~~after~~ within ~~60 days of~~ the issuance of ~~the~~ a decision that resolves an issue on which the intervenor believes it made a substantial contribution ~~or~~ , but in no event later than 60 days after the issuance of the decision closing the proceeding. If an application for rehearing challenges a decision on an issue on which the intervenor believes it made a substantial contribution, the request for an award of compensation may be filed within 60 days of the issuance of the decision denying rehearing on that issue, the order or decision that resolves that issue after rehearing, or the decision closing the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1804, Public Utilities Code.

17.4. (Rule 17.4) Request for Compensation; Reply to Responses

(a) The request for compensation shall identify each issue resolved by the Commission for which the intervenor claims compensation, and shall specify the pages, findings, conclusions and/or ordering paragraphs in the Commission decision which resolve the issue.

(b) The request for compensation shall include time records of hours worked that identify:

(1) the name of the person performing the task;

(2) the specific task performed;

- (3) the issue that the task addresses, as identified by the intervenor; and
- (4) the issue that the task addresses, as identified by the scoping memo, if any.
- (c) The request for compensation shall itemize each expense for which compensation is claimed.
- (d) The request for compensation may include reasonable costs of participation in the proceeding that were incurred prior to the start of the proceeding.
- (e) The request for compensation may include reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs incurred as a result of an application for rehearing.
- (f) If the proceeding involved multiple intervenors, the request for compensation shall include a showing that the participation materially supplemented, complemented, or contributed to the presentation of any other party with similar interests, or that the participation did not overlap the presentation of other intervenors.
- (g) Responses to requests for compensation must be filed within 30 days after filing of the request.
- (h) Replies to responses to requests for compensation must be filed ~~The party may file a reply to responses to its request for compensation within 15~~ five ~~15~~ days after service filing of the response.

Note: Authority cited: Sections 1701, Public Utilities Code. Reference: Section 1804, Public Utilities Code.

18.1. (Rule 18.1) Forms

The following skeleton forms of applications, complaint, answer, protest, and certificate of service are merely illustrative. The content of a particular document will vary, depending on the subject matter and applicable rules.

1. Application
2. Complaint
3. Answer
4. Certificate of Service

Note: Authority cited: Section 1701, Public Utilities Code, and Section 2, Article XII, California Constitution. Reference: Sections 454, 1702, Public Utilities Code.

No. 4 – Certificate of Service
(See Rule 1.9)
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of [title of document, *e.g.*, “Applicant UtilCorp’s Motion to Strike” *or* “Notice of Availability of Application”] on all known parties to [proceeding number, *e.g.*, A.93-01-010] by [here describe manner of service, *e.g.*, mailing a properly addressed copy by first-class mail with postage prepaid, or transmitting an e-mail message with the document attached, etc.] to each ~~party~~ person named in the official service list [*or* appropriate special service list *or* specific ~~parties~~ persons required to be served by ruling or order, etc.]. (If more than one means of service is used, identify which ~~parties~~ persons were served by which means.)

Executed on [date] at [location], California.

[signature]

John Jones

(END OF APPENDIX A)