

STATE OF CALIFORNIA

Public Utilities Commission  
San Francisco

**M e m o r a n d u m**

**Date:** April 16, 2003

**To:** The Commission  
(Meeting of April 17)

**From:** Alan LoFaso  
Office of Governmental Affairs (OGA) — Sacramento

**Subject:** **AB 1735 (Assembly Utilities and Commerce Committee) –**  
Public Utilities Commission: ratesetting and quasi-legislative cases

As introduced March 5, 2003

**Recommendation:** Support if amended

**Summary:** This bill would require the CPUC to resolve a ratesetting or quasi-legislative case within 18 months of filing, unless the CPUC makes an order extending the deadline with written findings as to the reason the proceeding cannot be completed by the deadline.

**Analysis:** Existing law states legislative intent that the commission establish reasonable time periods for the resolution of proceedings, that it meet those deadlines, and that those deadlines not exceed 18 months and be consistent with the rate case plans, whichever is shorter. (Section 1 (uncodified) of Chapter 856, Statutes of 1996.)

Existing law requires the commission, beginning in 1999, to submit an annual report to the Legislature on the number of cases where resolution exceeded the time periods prescribed in scoping memos and the days that commissioners presided in hearings. (Section 13 (uncodified) of Chapter 856, Statutes of 1996.)

Existing law also requires the commission to resolve adjudicatory cases within 12 months of initiation unless the commission makes findings why that deadline cannot be met and issues an order extending that deadline. (PU Code §1701.2(d).)

This bill would specifically mandate the commission to resolve a ratesetting or quasi-legislative case within 18 months of the date of filing, unless the commission makes a written determination that the deadline cannot be met, including findings as to the reason, and issues and order extending the deadline.

This bill would also provide that parties shall have an opportunity for final oral argument, if a rehearing of a ratesetting or quasi-legislative case is granted.

In its recent SB 960 Section 13 report, the commission detailed 108 open proceedings beyond the SB 960 guidelines. Of these proceedings, 102 proceedings (94%) are ratesetting or quasi-judicial proceedings. The SB 960 report found that about 10 proceedings (9%) exceeded the SB 960 guidelines as a result of being given insufficient priority.

However, the SB 960 report found that at least one decision had been issued in 49 (45%) of these proceedings, indicating that they were not completed within 18 months because the commission was actively working on very complex issues throughout these proceedings.

Many of the long-running cases were subject to:

- a. Long running industry restructuring matters;
- b. PG&E Bankruptcy matters (7 proceedings);
- c. External factors such as environmental reviews, settlement negotiations, awaiting action from other governmental agencies (22 proceedings);
- d. Dependence on issues that must be resolved in other proceedings (20 proceedings).

**Amendments:**

1. A significant number of proceedings address very complex issues, which can be expected to produce several decisions. At the outset, it is usually clear that, while these proceedings will resolve issues well within SB 960 timelines, other more complex issues will rely on an extended record and take longer than 18 months to resolve. Therefore, this bill should be amended to allow the commission to identify those proceedings at the outset and exempt them from the required timeline.

On page 2, line 7, after “deadline” the following should be inserted: “or if a written determination is made by the assigned commissioner in the scoping memo required in subdivision (b) of Section 1701.1”

2. The bill’s guarantee of an oral argument to parties granted a rehearing in ratesetting and quasi-judicial cases exceeds the normal procedures for rehearing in these types of proceedings. Commission rules grant rehearing under specific circumstances (see CPUC Rules of Practice and Procedure, Rule 86.3(a)). Otherwise, the purpose of applications for rehearing are to provide for expeditious correction of errors by the commission (see CPUC Rules of Practice and Procedure, Rule 86.1). The commission should retain its ability to expeditiously manage rehearings. Therefore, the final sentence in proposed PU Code § 1701.5 should be stricken.

Accordingly, the bill should be amended as follows:

1701.5. The commission shall resolve a ratesetting or quasi-legislative case within 18 months of the date of filing, unless the commission makes a written determination that the deadline cannot be met, including findings as to the reason, and issues an order extending the deadline *or if a written determination is made by the assigned commissioner in the scoping memo required in subdivision (b) of Section 1701.1.* ~~If a rehearing of a ratesetting or quasi-legislative case is granted, the parties shall have an opportunity for final oral argument.~~

**Legislative History:** SB 960 (Leonard), Chapter 856, Statutes of 1996 – Enacted specified statutory procedural requirements for the commission, including but not limited to, specified timelines, legislative intent, and reporting requirements.

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**Date:** April 16, 2003

**BILL LANGUAGE:**

BILL NUMBER: AB 1735    INTRODUCED  
                  BILL TEXT

INTRODUCED BY    Committee on Utilities and Commerce (Reyes (Chair),  
Calderon, Canciamilla, Diaz, Jerome Horton, Levine, Nunez, and  
Ridley-Thomas)

MARCH 5, 2003

An act to add Section 1701.5 to the Public Utilities Code,  
relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1735, as introduced, Committee on Utilities and Commerce.  
Public Utilities Commission: ratesetting and quasi-legislative cases.

Under the Public Utilities Act, the Public Utilities Commission has regulatory authority over public utilities and is authorized to conduct investigations and conduct proceedings. Existing law authorizes the commission to determine whether a proceeding requires a hearing, and if so, to determine whether the matter requires a quasi-legislative, an adjudication, or a ratesetting hearing, authorizes the commission to assign one or more commissioners and administrative law judges to oversee cases, and prescribes separate procedures for proceedings that the commission determines are either quasi-legislative, adjudication, or ratesetting cases. Adjudication matters are required to be resolved within 12 months of initiation unless the commission makes findings why that deadline cannot be met and issues an order extending that deadline. In a ratesetting or quasi-legislative hearing, the commission is required to issue a final decision not later than 60 days after the issuance of a proposed decision, except that under extraordinary circumstances the commission may extend the time for issuance of a final decision for a reasonable period.

This bill would require the commission to resolve a ratesetting or quasi-legislative case within 18 months of the date of filing, unless the commission makes a written determination the deadline cannot be met and issues an order extending that deadline. The bill would require, if a rehearing of a ratesetting or quasi-legislative case is granted, that the parties have an opportunity for final oral argument.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1701.5 is added to the Public Utilities Code,  
to read:

1701.5. The commission shall resolve a ratesetting or quasi-legislative case within 18 months of the date of filing, unless the commission makes a written determination that the deadline cannot be met, including findings as to the reason, and issues an

order extending the deadline. If a rehearing of a ratesetting or quasi-legislative case is granted, the parties shall have an opportunity for final oral argument.