

STATE OF CALIFORNIA

Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: January 7, 2008

To: The Commission
(Meeting of January 10, 2008)

From: Delaney L. Hunter, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **2008 Legislative Package**

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: Adopt package as proposed

SUMMARY: This package includes specific legislative proposals. These proposals:

1. Modify PU Code §781 to encourage installation of water meters.
2. Index CPUC rail inspector pay with FRA inspector salaries.
3. Use DMV registration process to force payment of delinquent fines owed by passenger and household goods carriers.
4. Improve the CPUC's Enforcement and Collection Process
 - a. Allow the Commission to go after the personal assets of the company's owner where fraud has occurred, give the Commission creditor status under the Uniform Fraudulent Transfer Act, and allow the Commission to prosecute under the Penal Code.
 - b. Require owner/operators of public utilities and common carriers to demonstrate their ability to pay potential penalties or restitutions upon the Commission opening an investigation.
 - c. Give the Commission judgment creditor status in the CA Code of Civil Procedure.
5. Modify SGIP to allow the Commission to determine eligible technologies.
6. Create a narrow exception in the Bagley-Keene Act to permit DDTP Advisory Board members to conduct teleconference meetings.

7. Delink Lifeline from any one carrier's basic rate and make the program technology neutral.
8. Extend and revise the Rural Telecommunications Infrastructure Grant Program to more effectively allocate funds.
9. Amend the Passenger Charter-Party Carriers Act to:
 - a. Eliminate renewal of operating authority every 3 years.
 - b. Revise the definition of "charter bus transportation."
 - c. Participate in the federal Uniform Carrier Registration plan.
10. Modify voting restrictions in specific circumstances for members of telecommunications advisory boards (High Cost Fund A and B, Lifeline, Payphone, Teleconnect).
11. Create the California Advanced Service Fund in the State Treasury

LEGISLATIVE PROPOSAL ONE – MODIFY PU CODE § 781 TO ENCOURAGE WATER METER INSTALLATION

Recommendation: Modify existing PU Code § 781 to enhance the California Public Utilities Commission’s (Commission) ability to encourage Commission-regulated water corporations to install water meters.

Statement of Problem: Currently, PU Code § 781 is written in the negative and as a limitation on the Commission’s ability to encourage water conservation through the use of meters. The code requires three of three criteria to be fulfilled before a metering program can be authorized. The Commission has been unable to implement metering programs because it is nearly impossible to meet all three criteria contained in the code.

Justification: PU Code § 781, which was enacted in 1978, is presently out of sync with the Legislature’s emphasis on water metering in the Water Code. The Legislature has recognized that water metering is good public policy that encourages water conservation and the judicious use of a precious commodity. The Water Code has been amended to require metering of all new water connections after January 1, 1992 (Water Code § 525), and the installation of water meters on or before January 1, 2013 for existing customers (Water Code § 526). Furthermore, the Water Code requires that the cost of the water meter be borne by the user of the water.

The Commission’s adopted Water Action Plan for California includes the installation of water meters, as well as other means, to effect conservation.

Proposed Amendments:

**Option #1 (Preferred)
Public Utilities Code Section 781**

The commission shall ~~not~~ **may** require any water corporation which furnishes water for residential use through five or more service connections or which serves an average of 25 or more persons per day for at least 60 days per year, ~~not~~ **or** any residential customer of such corporation, to install ~~any a~~ water meter at any water service connection between the water system of the corporation and the customer if on January 1, 1979, **or thereafter**, such service connection was unmetered **as long as** ~~except after a public hearing held within the service area of the corporation at which hearing all of the following findings have been made~~ **the following finding has been made:**

- ~~(a) Metering will be cost effective within the service area of the corporation.~~
- ~~(b) Metering will result in a significant reduction in water consumption within the service area of the corporation.~~
- ~~(c) The costs of metering will not impose an unreasonable financial burden on customers within the service area of the corporation unless it is found to be necessary to assure continuation of an adequate water supply within the service area of the corporation.~~

Option #2 (2nd Choice)
Public Utilities Code Section 781

The commission shall ~~not~~ **may** require any water corporation which furnishes water for residential use through five or more service connections or which serves an average of 25 or more persons per day for at least 60 days per year, ~~not~~ **or** any residential customer of such corporation, to install ~~any~~ **a** water meter at any water service connection between the water system of the corporation and the customer if on January 1, 1979, **or thereafter**, such service connection was unmetered ~~except after a public hearing held within the service area of the corporation at which hearing all of the following findings have been made~~ **one of the following findings have been made:**

- (a) Metering will be cost effective within the service area of the corporation.
- (b) Metering will result in a ~~significant~~ reduction in water consumption within the service area of the corporation.
- (c) The costs of metering will not impose an unreasonable financial burden on customers within the service area of the corporation unless it is found to be necessary to assure continuation of an adequate water supply within the service area of the corporation.

LEGISLATIVE PROPOSAL TWO – INDEX CPUC RAIL INSPECTOR PAY WITH FRA INSPECTOR SALARIES.

Recommendation: Index the salary level of CPUC railroad inspectors to the same salary level as those of the Federal Railroad Administration (FRA) railroad inspectors in California. Amend Public Utility Code § 309.7 with specific direction to the state controllers office (SCO) to review and annually adjust specified CPUC railroad inspector classifications to the salary level of the commensurate FRA railroad inspector classification in California.

Current CPUC Process: The Consumer Protection and Safety Division of the CPUC is the designated agency in the State of California responsible for the inspection, surveillance, accident investigation and the investigation of rights-of-way, facilities, equipment, and operations of railroads, and for enforcing state and federal laws, regulations, orders, and directives relating to transportation of persons or commodities, or both, of any nature or description by rail. Public Utility Code §§ 309.7, 315, 765.5, 1202.7, 7662, 7665 and 7711 articulate mandated inspections of track, equipment facilities and railroad operations; the establishment of a grade crossing recycling program; the collection of near-miss data; the Local Community Rail Security Act of 2006; and the production of annual reports of these activities to the legislature.

CPUC supports the largest state railroad safety program in the US, and is a regulatory partner with FRA pursuant to signed agreements in accordance with Title 49 Code of Federal Regulations Part 212. CPUC inspectors are fully sanctioned by the USDOT and certified and trained by FRA to enforce all federal safety statutes and enforcement

Definitions:

<u>CPUC</u>	<u>FRA</u>
Supervisor Operations & Safety Section	Deputy Regional Administrator, GS-14
Senior Transportation Operations Supervisor	Supervisory Railroad Specialist, GS-13
Associate Railroad Track Inspector	Track Inspector, GS-12
Associate Railroad Equipment Inspector	Motive Power/Equipment Inspector, GS-12
Associate Railroad Signal Inspector	Signal Inspector, GS-12
Associate Transportation Operations Supervisor	Operating Practice Inspector, GS-12

Statement of Problem: FRA rail inspector salary levels in California are more than \$1000/month higher than those of CPUC rail inspectors, although the assigned duties for the inspectors are nearly identical. Consequently, more than ¼ (11) of the rail inspectors hired by CPUC since 1995 have resigned in order to accept a position with the FRA in California. CPUC invests up to one year in salary and benefits to new-hire inspectors who must first be trained and certified by FRA before they are able to perform independent inspections. This substantial investment is then converted into a cash savings by FRA when they are able to hire a pre-trained, currently certified railroad inspector from CPUC.

Salary Shortfall For CPUC Railroad Safety Inspectors			
	FRA Max Annual Salary	CPUC Max Annual Salary	Salary Shortfall at CPUC
Inspector	\$89,085	\$67,684	\$21,401
Senior	\$105,939	\$74,076	\$31,863
Supervisor	\$125,193	\$85,404	\$39,789

Aside from the significant impacts to CPUC financial and administrative efforts, the shortfall of qualified CPUC railroad inspectors resulting from this revolving door has a direct impact on CPUC's ability to complete mandated inspections of railroad track, facilities and operations, as well as the completion of critical accident investigations. In real terms, CPUC has failed to complete legislatively mandated railroad inspections every year since 2002 as a direct result of staff attrition losses to FRA, representing a severe adverse impact to public safety

Proposal: Amend Public Utility Code § 309.7 with specific direction to the State Controllers Office (SCO) to review and annually adjust specified CPUC railroad inspector classifications to the salary level of the commensurate FRA railroad inspector classification in California.

Justification: CPUC has been tasked by the Legislature as the lead state agency for railroad safety, and performs duties to ensure public safety. CPUC's ability to comply with these mandates is dependent upon adequate skilled rail inspection personnel. Exit interviews with employees who have resigned have unanimously revealed that the persistent migration of highly trained railroad inspectors to the FRA is the direct result of the significant salary disparity between CPUC & FRA.

Pending DPA Action: CPUC presented DPA with a request to address this problem in 2005 and the request is still pending. Public safety needs demand that this issue be addressed and rectified.

LEGISLATIVE PROPOSAL THREE – USE DMV REGISTRATION PROCESS TO FORCE PAYMENT OF DELINQUENT FINES OWED BY PASSENGER AND HOUSEHOLD GOODS CARRIERS.

Recommendation: Amend the Vehicle Code to provide that the DMV may not register, renew or transfer the registration of any vehicle owned or leased by a passenger carrier or household goods carrier if the carrier is delinquent in the payment of a fine to the Commission.

Current CPUC Process: The Commission assesses fines against passenger carriers and household goods carriers for violations of the Public Utilities Code and Commission regulations. The Commission has delegated to its staff the authority to impose fines through an administrative citation process. The Commission also imposes fines by formal decision or resolution.

Statement of Problem: Some carriers fail to pay their citation or formal fines. Under the law, fines are imposed on licensed carriers as an alternative to suspending or revoking the carrier's license. Therefore, if a licensed carrier fails to pay a fine, its license is subject to suspension and revocation. That same leverage does not exist for carriers whose license has been suspended or revoked or unlicensed carriers. There is little the Commission can do to recover the delinquent fines short of pursuing a court judgment (which requires significant staff time and may be difficult to collect). The individual amounts owed often are not great enough to justify the expense that would be involved in pursuing legal action against the carrier.

Currently, citation fines of \$52,218 owed by 21 carriers are considered delinquent. In the case of penalties assessed by the Commission in formal matters, 13 carriers are delinquent in paying fines of \$310,800 and investigative costs of \$38,358.

Proposal: The DMV should refuse to register or to renew or transfer the registration of any vehicle that is owned or leased by a passenger carrier or household goods carrier that is delinquent in payment of a fine to the Commission. In the case of a leased vehicle, the lessor would not bear any responsibility for the delinquent fine, and upon surrender of the vehicle to the lessor, the registration could be transferred.

Justification: Fines collected by the Commission are deposited in the General Fund. Uncollected fines are a loss to the State Treasury. The Commission's failure to collect all of the fines it assesses undermines its enforcement programs. The Commission has received criticism from the State Controller's Office over this deficiency.

This proposal is consistent with state and local laws. If one owes an outstanding fine or parking ticket to a local government, one cannot register their vehicle with DMV until the fine is resolved. However, when passenger carriers and household goods movers are delinquent in paying a safety or other citation, they may renew their vehicle registration.

Proposed Amendments: We propose that amendments be made to the Vehicle Code as may be recommended by the DMV to enact this requirement. This could include revisions to Section 4760 ("Grounds Permitting Refusal") and/or Section 9800 (Lien for Fees, Taxes, and Penalties: Sale of Trip Permits").

LEGISLATIVE PROPOSAL FOUR – IMPROVED COLLECTION PROCESS

Recommendations:

- Modify existing Section 2104 of the Pub. Util. Code to eliminate the necessity of getting California Public Utilities Commission (Commission) judgments certified in Superior Court to commence the collection process. In addition, this section would be modified to allow the Commission to attach the personal assets of named individual defendants if the utility or carrier they operate fails to pay a penalty or fine.
- Modify Section 1701.2 of the Pub. Util. Code so that within seven days after the Commission issues an OII respondents would be required to demonstrate their ability to pay potential penalties or restitutions.
- Modify Sections 688.020 & 688.030 of the Code of Civil Procedure to give the Commission the status of a “judgment creditor” after rendering a final decision imposing a penalty and/or restitution on a public utility or a common carrier.

Statement of Problem: Earlier this year the Commission experienced some negative publicity about its failure to collect past due penalties. Although the Commission has collected approximately 90% of the penalties it has imposed over the past decade, the State Controller’s Office performed an audit that recommended the Commission modify and strengthen its existing collection procedures.

CPUC investigations are substantial undertaking for Commission staff, and considerable resources are required to complete and prosecute an investigation. If, after the conclusion of an investigation, the Commission finds a public utility or common carrier has violated one of its statutes, orders or requirements, it typically orders the defendant to pay a penalty and/or restitution to consumers who have been defrauded.

Justification: The Commission’s ability to effectively police the behavior of public utilities and common carriers has been undermined by the challenges it faces in collecting past due fees and penalties. Existing procedures have proven to be cumbersome and frustrating, and approximately 10% of the fines and penalties the commission has imposed over the past decade remain unpaid.

- Using the Uniform Fraudulent Transfer Act, the Commission will be in a better position to recover assets being improperly transferred to avoid paying commission-imposed fines and penalties.
- Requiring respondents to Commission investigations to demonstrate an ability to pay potential fines, penalties and/or restitution will significantly enhance the prospect of collecting such fines.
- Giving the Commission status as a judgment creditor will facilitate the Commission’s collections efforts by eliminating a potential source of challenge to the Commission’s authority to levy fines.

LEGISLATIVE PROPOSAL FIVE – MODIFY SELF GENERATION INCENTIVE PROGRAM TO ALLOW THE CPUC TO DETERMINE ELIGIBLE TECHNOLOGIES

Recommendation: Amend Section 379.6 of the Public Utilities Code to delete the requirement that Self-Generation Incentive Program (SGIP) payments only be awarded to projects using wind or fuel cell technologies by 2008 and return the decision of which technologies are eligible back to the Commission. This proposal would delete the recently enacted statutory prohibition on providing SGIP rebates for clean, gas-fired distributed generation (DG) and combined heat and power (CHP) projects after January 1, 2008 and return discretion to the Commission to determine eligible technologies as was the practice under the original SGIP.

Statement of Problem: AB 2778 (Chapter 617, Statutes of 2006) formally extends the SGIP until 2012 but limits the payment of SGIP incentives to wind and fuel cell technologies in 2008. Barring statutory change, the Commission is required to exclude other renewable technologies, greenhouse gas reducing technologies and/or clean gas-based generation from the SGIP beginning January 1, 2008. Further, specifically limiting eligible technologies leaves the Commission no flexibility in allowing new or emerging technologies into the program absent legislative authorization.

Proposal: This legislative proposal would delete paragraph (b) in 379.6 of the Public Utilities Code that limits SGIP rebates to wind and fuel-cell technologies in 2008 and would return the determination of eligible technologies back to the Commission.

Proposed Amendments: Strike Public Utilities Code 379.6 (b) as follows:

379.6. (a) (1) The commission, in consultation with the State Energy Resources Conservation and Development Commission, shall administer, until January 1, 2012, the self-generation incentive program for distributed generation resources originally established pursuant to Chapter 329 of the Statutes of 2000.

(2) Except as provided in paragraph (3), the extension of the program pursuant to Chapter 894 of the Statutes of 2003, as amended by Chapter 675 of the Statutes of 2004 and Chapter 22 of the Statutes of 2005, shall apply to all eligible technologies, as determined by the commission, until January 1, 2008.

(3) The commission shall administer solar technologies separately, after January 1, 2007, pursuant to the California Solar Initiative adopted by the commission in Decision 06-01-024.

~~(b) Commencing January 1, 2008, until January 1, 2012, eligibility for the program pursuant to paragraphs (1) and (2) of subdivision (a) shall be limited to fuel cells and wind distributed generation technologies that meet or exceed the emissions standards required under the distributed generation certification program requirements of Article 3 (commencing with Section 94200) of Subchapter 8 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations.~~

LEGISLATIVE PROPOSAL SIX – PERMIT DDTP ADVISORY BOARD MEMBERS TO CONDUCT TELECONFERENCE MEETINGS.

Recommendation: Add a new subdivision (g) to P.U. Code § 271 to create a narrow exception to the Bagley-Keene Open Meeting Act (Bagley-Keene) (Government Code §§ 11120-11132) pertaining to the CPUC’s Deaf and Disabled Telecommunications Program (DDTP). Specifically, we are recommending additional language in the P.U. Code to allow members of the DDTP’s advisory committees to meet by teleconference or videoconference, without each member who is participating by teleconference or videoconference having to be in a public location, so long as at least one location at which members are present and participating is publicly accessible.

The DDTP advisory committees are the Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC) as well as two subcommittees, the Equipment Program Advisory Committee (EPAC) and the California Relay Service Advisory Committee (CRSAC).

Current CPUC Process: All three of the DDTP’s advisory committees are “state bodies” under Bagley-Keene. (See § 11121(c).) Section 11123 of the Bagley-Keene Open Meeting Act (Bagley-Keene) sets forth the requirements for a state body to hold a meeting by teleconference. Section 11123(b)(1)(C) provides in relevant part:

Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public.

Consistent with that statutory provision, the CPUC’s Legal Division consistently has advised members of the DDTP’s advisory committees that any meeting held by teleconference (or videoconference) requires that any member participating from a remote location must also be in a location accessible to the public.

Statement of Problem: Many members of the DDTP’s three advisory committees are disabled. Some of them are dependent on assistance from care-givers or support services in order to attend DDTP advisory committee meetings. Ordinary travel for some committee members can be quite difficult because of the committee member’s specific disability. Regular attendance at monthly meetings can be extremely taxing because of problems that can and do arise as a result of a committee member’s circumstances. Many committee members cannot drive. In addition, the routine inconvenience of air, train, or bus travel is compounded when a committee member is in a wheelchair, deaf, or visually impaired. Costs can be high if a caregiver must accompany the disabled committee member.

Many of the committee members who serve on the DDTP’s advisory committees incur considerable inconvenience, and sometimes hardship, just to represent their respective communities by regularly attending monthly committee meetings. Further, because these advisory committee members are not public figures, but simply individuals volunteering their time to advise the CPUC, they are reluctant to open their homes to the public in order to participate by teleconference pursuant to the Bagley-Keene requirement.

Proposal: The proposed legislative amendment will allow some disabled members of the three DDTP advisory bodies, who serve at the request of the CPUC in order to enable the CPUC to better respond to the needs of various disabled constituencies, to participate in monthly committee meetings without having to do so from a publicly-accessible location. This accommodation is not intended to override or conflict with the Bagley-Keene mandate that meetings of a state body must take place in public. The DDTP committee meetings would still occur in a publicly-accessible location, but this amendment would enable some members who are unable to attend a particular meeting to participate more easily by teleconference.

In making this proposal, the CPUC envisions that the location where most committee members are gathered would remain publicly accessible, as it is today. In addition, other participating committee members might participate by teleconference from another location that is publicly-accessible, for example, from the Los Angeles CPUC offices. But, if a member is unable to reach a publicly-accessible location because of his or her disability, that person could participate in the meeting by teleconference without having to be in a publicly-accessible location.

Justification: The members of the TADDAC and its subcommittees are committed participants in the DDTP as a whole, and on the DDTP committees in particular. They set aside time to prepare for and to travel to the DDTP committee meetings on a monthly basis, often at greater effort and subject to greater inconvenience than individuals who are not disabled. The proposed amendment would enable these individuals, and future committee members, to participate in committee meetings on those occasions when travel to the monthly meetings is impossible or very difficult for reasons beyond the committee member's control.

Proposed Amendments: Amend § 271 to insert a subsection 271(g), which would read as follows:

Notwithstanding Government Code section 11123(b)(1)(C), the Telecommunications Access for the Deaf and Disabled Administrative Committee, and any of its subcommittees, to accommodate their disabled members, may conduct teleconference meetings at which not every teleconference location is accessible to the public, so long as one or more locations are publicly accessible.

LEGISLATIVE PROPOSAL SEVEN – MODIFY CA LIFELINE PROGRAM

Recommendation: Modify the California LifeLine program (PU Code §§ 871 et. seq.) to be a technology-neutral credit, rather than a special rate, set by the California Public Utilities Commission (Commission) to achieve its universal service goals.

Statement of Problem: California LifeLine was established in 1984 (D.84-11-028) to comply with the Moore Universal Telephone Service Act (AB 1348, Chapter 1143, Statutes 1983) to provide discounted basic telephone service to low-income households, and as a means to achieve universal service by providing affordable residential telephone service to low-income households.

Currently, the discount is provided through a special LifeLine rate linked to the carrier's residential flat-rate or measured local telephone service. Carriers are reimbursed for the difference between the special LifeLine rate and their regular rate by a surcharge on customers' telecommunications bills as determined by the Commission.

As full-pricing flexibility for communications services takes effect over the next few years, forecasting and managing the surcharge to support the LifeLine program will be difficult if the LifeLine discount continues to be linked to carriers' rates. The Commission will not be able to forecast the LifeLine program's funding needs with any accuracy due to the fact that carriers' rates may potentially fluctuate month to month depending on competitive market forces.

Justification: The Department of Finance (DOF) expects accurate forecasts of surcharge revenue and timely reimbursement of carriers for program costs in order to minimize surplus and deficit scenarios in the Commission's public purpose funds. A flat credit for LifeLine customers, determined annually by the Commission, would have the following beneficial effects:

- Would allow the Commission to accurately estimate annual LifeLine program costs for purposes of assessing a surcharge, reimbursing carriers, and managing the fund according to DOF's expectations; and
- Would allow the Commission to authorize a technology-neutral discount that could be applied to other communications services besides traditional land-line service.

**LEGISLATIVE PROPOSAL EIGHT – EXTEND AND REVISE RURAL
TELECOMMUNICATIONS INFRASTRUCTURE GRANT PROGRAM**

Recommendation: Extend the sunset on the Rural Telecommunications Infrastructure Grant Program to January 1, 2013 and remove the current per project limit of \$2.5 million to make the grant funds more accessible and easier to administer.

Statement of Problem: Assembly Bill (AB) 140 (Stats. 2001, Ch. 903) created the Rural Telecommunications Infrastructure Grant Program. AB 140, codified in Pub. Util. Code § 276.5, with a funding level capped at \$10 million per year, enables unserved communities to apply for grants of up to \$2.5 million for the construction of telecommunications infrastructure. Subsequent legislation extended the sunset to January 1, 2009. Legislation is required to once again extend the sunset.

Further, the current per project limit of \$2.5 million has served to hinder the award of grant dollars. Costs for projects of this nature are often well above \$2.5 million and the Commission has been limited in awarding grant dollars above the current cap even if no other projects come forward in a grant cycle.

Proposal: This legislative proposal would extend the Rural Telecommunications Grant Program to January 1, 2013 and would remove the current \$2.5 million per project limit.

Proposed Amendments: Modify Public Utilities Code Section 276.5 (e) and (i) as follows:

276.5. (e) The procedures developed for awarding grants shall ensure that the grants awarded do not exceed annual moneys available to support the program, that not more than one grant is awarded to a qualifying community, ~~and that no one applicant receive more than 25 percent of the designated program funds in a single fiscal year.~~

(i) This section shall remain in effect only until January 1, ~~2009~~ 2013, and as of that date is repealed, unless a later enacted statute enacted before January 1, ~~2009~~ 2013, deletes or extends that date.

LEGISLATIVE PROPOSAL NINE – MODIFICATIONS TO CHARTER PARTY CARRIERS ACT

Recommendation: The Passenger Charter-party Carriers' Act should be amended to (1) eliminate the requirement to renew operating authorities and (2) revise the definition of "charter bus transportation." Additionally, the Interstate and Foreign Motor Carriers of Household Goods and Passengers Act should be amended to authorize the Commission, through the Department of Motor Vehicles if it elects, to participate in the Uniform Carrier Registration plan. These changes would streamline the process for issuing operating authority to charter-party carriers and respond to changes in federal law.

Current CPUC Process: The Commission issues permits and certificates authorizing charter-party carriers to conduct passenger transportation services. There are six types of permits and certificates that authorize various types of services. Approximately 5,600 carriers currently hold one or more operating authorities. The initial application filing fee is \$500, except for Class A certificates, which require a \$1,500 fee. Permits and certificates must be renewed every three years, which requires an application and \$500 fee. Although the renewal application is shorter than the initial application, processing involves many of the same steps. For the most recent quarter (3rd/2007) the number of renewal applications averaged 91 per month (vs. 183 new applications per month).

The Commission previously registered interstate passenger carriers and household goods carriers who operated to, from, or through California. The federally authorized registration program was eliminated effective January 1, 2007, and replaced by a new registration program. The Commission does not currently participate in the replacement program.

Statement of Problem: The requirement to renew charter-party carrier operating authorities places a substantial burden on carriers and the Commission. If the carrier fails to timely submit the renewal application, its authority may expire, in which case it cannot legally operate. Commission enforcement resources must sometimes be directed to these cases. Carriers that operate after the expiration of their authority are subject to fines and penalties, and may have their vehicles impounded.

Since 1998, federal law has limited the states' regulation of "charter bus transportation" to safety and insurance matters. Since federal law does not define the term charter bus transportation, the Commission, initially by regulation and subsequently pursuant to statute, uses a definition that includes a vehicle with a seating capacity of "more than 10 passengers, including the driver." (The Commission was guided by the Vehicle Code definition of a "bus" in arriving at this definition.) Since the Commission's regulation of charter buses has always focused on safety and insurance, the 1998 federal law did not create any significant regulatory problems in California.

2005 federal legislation further limited the states' authority over charter bus transportation. Charter bus transportation carriers who hold a valid federal operating license and also provide intrastate charter bus transportation cannot be required by the states to renew a license to operate or to pay any other fees in connection with state regulation. The states can, however, require such carriers to obtain an initial state operating license, including payment of the associated application fee. Therefore, the definition of charter bus transportation has become significant in regard to the Commission's regulation of charter-party carriers. A 2000 federal court decision determined that absent a federal definition of charter bus transportation, the states have latitude in setting their own definition.

The 2005 federal legislation also repealed the Single State Registration System (SSRS) effective January 1, 2007. Under this program, carriers registered their interstate operations with the states. The SSRS was a base-state system, meaning the carrier would register with one state (usually its home state) for all of the states through which it intended to operate. Registration entailed filing copies of the carrier's federal operating authority and the insurance it had on file with federal authorities, and paying a fee of up to \$10 (California charged \$5) per vehicle for each state through which the carrier planned to operate. The base state would then distribute the fees collected to the other states. States used the fees to fund their transportation regulatory and safety programs.

The Commission registered passenger carriers and household goods carriers, while the DMV was responsible for registering all trucking companies (other than household goods carriers) under the SSRS. Having two California agencies registering carriers under the SSRS was problematic because many of the other participating states would forward registration fees to only a single California agency—DMV. As a consequence, the DMV often received fees from other states for passenger and household goods carriers that actually belonged to the Commission. The process by which the Commission billed and collected those fees from the DMV never worked very well. The Commission collected about \$20,000-\$25,000 annually under the SSRS (which just covered the cost of administration).

The SSRS has been replaced by the Unified Carrier Registration (UCR) plan (which is also a base-state system). The most significant differences between the SSRS and the UCR are:

- Registration now applies to private carriers as well as for-hire carriers.
- The carrier does not file a copy of its interstate operating authority and insurance with the base state.
- The fee is based solely on total fleet size, regardless of the number of states in which the carrier will operate.

The states were not ready to operate the UCR upon termination of the SSRS, but the plan is now operational. The DMV is not participating in 2007, but with the passage this year of enabling legislation (AB 1513), it plans to participate in 2008. The Commission also is not a 2007 participant. California passenger carriers and household goods carriers must therefore register in the UCR through another state that does participate.

Proposal: The requirement to renew charter-party carrier authorities should be eliminated. The application filing fee for a new authority can be raised to offset the revenue no longer collected from renewal applications. The Commission licenses approximately 1,100 household goods carriers, who are not required to renew their permits, and that program works well.

In addition, we recommend that the vehicle seating capacity threshold in the definition of charter bus transportation be raised from 10 passengers to 25 passengers. This will help to avoid possible conflict with federal law in the Commission's regulation of charter-party carriers.

With respect to participation in the UCR, we recommend legislation enabling the Commission to participate, and upon mutual agreement between the Commission and the DMV, for the DMV to process the registration applications. (Note that the SSRS was a significant program for the DMV, as will be the UCR). In the alternative, legislation can be proposed to have the DMV be the sole UCR agency in California, responsible for registering all motor carriers.

Justification: Because the Commission continuously monitors carrier insurance coverage, the requirement to renew charter-party authorities appears to provide no meaningful benefit to the public that would offset the cost to carriers and the Commission.

Eliminating the process will allow the Commission to use its staff resources more efficiently in serving the industry and the public. Elimination of renewals will also avoid a possible conflict with federal law in connection with charter bus transportation, as will revising the definition of charter bus transportation.

Enabling California to participate in the UCR for the registration of passenger carriers and household goods carriers will not generate significant revenue. It will, however, make registration more convenient for California carriers who otherwise would have to register through another state. Informally, the DMV has advised it would be receptive to registering passenger and household goods carriers as it will already have the process in place to register the vastly greater population of trucking companies subject to the UCR.

Proposed Amendments:

Amend the Passenger Charter-party Carriers' Act as follows:

Public Utilities Code

5363. (a) Any provision of the Public Utilities Act (Part 1 (commencing with Section 201) of Division 1) or of this chapter applicable to charter bus transportation that conflicts with the federal Transportation Equity Act for the 21st Century (P.L. 105-178) **or the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59)**, does not apply to charter bus transportation to the extent of that conflict. If any provision of the Public Utilities Act or of this chapter applicable to charter bus transportation, or the application thereof to any person or circumstance, is invalid as a result of federal preemption, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected thereby.

5371.1. (a) No charter-party carrier of passengers issued a class A certificate subject to this section shall be restricted as to point of origin or destination in the State of California.

(b) Every application for a certificate or permit, ~~or renewal thereof,~~ shall be accompanied by the appropriate fee as specified in Section 5373.1.

5373.1. (a) Each application for a charter-party carrier of passengers certificate or permit shall be accompanied by a filing fee as follows:

(1) Class A certificates ~~(new)~~: one thousand five hundred dollars (\$1,500).

~~(2) Class A certificates (renewal): five hundred dollars (\$500).~~

(3) Class B certificates ~~(new and renewal)~~: ~~five hundred~~ **seven hundred fifty** dollars ~~(\$500)~~ **(\$750)**.

(4) Class C certificates ~~(new and renewal)~~: ~~five hundred~~ **seven hundred fifty** dollars ~~(\$500)~~ **(\$750)**.

(5) Permits ~~(new and renewal)~~: ~~five hundred~~ **seven hundred fifty** dollars ~~(\$500)~~ **(\$750)**.

5374. (a) (1) Before a permit or certificate is issued ~~or renewed~~, the commission shall require the applicant to establish reasonable fitness and financial responsibility to initiate and conduct ~~or continue to conduct~~ the proposed ~~or existing~~ transportation services. The commission shall not issue ~~or renew~~ a permit or certificate pursuant to this chapter unless the applicant meets all of the following requirements:

(A) It is financially and organizationally capable of conducting an operation that complies with the rules and regulations of the Department of the California Highway Patrol governing highway safety.

~~5376. A permit or certificate, or renewal thereof, is effective for three years, unless suspended or revoked by the commission.~~

5378.6. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that a ~~new or renewal~~ **an** application for a charter-party carrier certificate or permit be denied either (1) for failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor carrier safety or (2) for failure to enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code, the commission shall deny the application. The department's written recommendation shall specifically indicate compliance with subdivision (b).

~~(c) Whenever the commission denies an application for renewal pursuant to subdivision (a), the commission shall furnish the charter party carrier written notice of the denial and shall hold a hearing within a reasonable time, not to exceed 21 days, after a written request is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the denial was improper or unwarranted. At the conclusion of the hearing, the commission may, in addition to any other remedy provided in this part, reverse the denial, or sustain the denial.~~

~~(d)~~ (c) Any applicant for a charter-party carrier certificate or permit denied pursuant to subdivision (a), ~~whose denial has not been reversed as a result of the hearing provided for in subdivision (c),~~ that wishes to obtain a certificate or permit shall reapply for the desired authority.

5379. After the cancellation or revocation of a permit or certificate, or during the period of its suspension, ~~or after the expiration of its permit or certificate,~~ it is unlawful for a charter-party carrier of passengers to conduct any operations as a carrier. The commission may either grant or deny an application for a new permit or certificate whenever it appears that a prior permit or certificate of the applicant has been canceled or revoked pursuant to Section 5378 or whenever it appears, after hearing, that as a prior permit or certificate holder, the applicant engaged in any of the unlawful activities set forth in Section 5378 for which his or her permit or certificate might have been canceled or revoked.

Amend the Interstate and Foreign Motor Carriers of Household Goods and Passengers Act as follows:

Public Utilities Code

3901.5 The Commission is authorized to register interstate carriers of household goods and passengers under the Federal Unified Carrier Registration Act of 2005 (P.L.109-59).

3902. **If the Commission elects to register interstate carriers pursuant to Section 3901.5,** no household goods carrier, as defined in Section 5109, shall engage in any interstate or foreign transportation of property for compensation by motor vehicle, and no motor carrier shall engage in any interstate or foreign transportation of passengers for compensation by motor vehicle, on any public highway in this state without first having registered the operation with the commission or the carrier's base registration state, if other than California, as determined in accordance with final regulations issued ~~by the Interstate Commerce Commission pursuant to the Intermodal Surface Transportation Efficiency Act of 1991 (49 U.S.C. Sec. 11506)~~ **pursuant to the Federal Unified Carrier Registration Act of 2005 (P.L. 109-59).** To register with the commission, carriers specified in this section shall comply with the following:

(1) When the operation requires authority from the ~~Interstate Commerce Commission under the Interstate Commerce Act~~ **Federal Motor Carrier Safety Administration under the Federal Unified Carrier Registration Act of 2005 (P.L. 109-59),** or authority from another federal regulatory agency, a copy of that authority shall be filed with the initial application for registration. A copy of any additions or amendments to the authority shall be filed with the commission.

(2) If the operation does not require authority from the ~~Interstate Commerce Commission under the Interstate Commerce Act~~ **Federal Motor Carrier Safety Administration under the Federal Unified Carrier Registration Act of 2005 (P.L. 109-59),** or authority from another federal regulatory agency, an affidavit of that exempt status shall be filed with the application for registration.

~~3903. Household goods carriers, as defined in Section 5109, engaged in interstate or foreign transportation or property for compensation by motor vehicle, and motor carriers engaged in interstate or foreign transportation of passengers for compensation by motor vehicle, upon any public highway in this state who had registered their authority from the Interstate Commerce Commission with the commission pursuant to former Section 3810 are not required to file another initial application as prescribed in paragraph (1) of subdivision (a) of Section 3902.~~

3903. The commission may enter into an agreement with the Department of Motor Vehicles for the processing of registration applications on behalf of the Commission.

LEGISLATIVE PROPOSAL TEN – MODIFY VOTING RESTRICTIONS IN SPECIFIC CIRCUMSTANCES FOR MEMBERS OF TELECOMMUNICATIONS ADVISORY BOARDS
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Recommendation: Amend PU Code Section 271 to modify the voting restrictions in specific circumstances for members of the Commission's telecommunications advisory boards including High Cost Fund A and B, Lifeline, Payphone, Teleconnect

Statement of Problem: Currently, there is a substantial question as to whether members of five telecommunications advisory committees are able to advise the CPUC on many matters because of Government Code section 1090. The basic principle of section 1090 is that an official may not make a contract, or participate in the making of a contract, in which he or she has a financial interest. Section 1090 has also been construed to cover the awarding of grants. In general, section 1090 prohibits a person from advising the government about a contract (or grant) from which she or her employer will receive a financial benefit.

Each of these five advisory boards advises about a specific telecommunications program that is supported by its own fund. Certain board members represent entities who may receive financial benefits from the fund about which they advise, for example, they may receive subsidy payments or discounted rates. Because the penalties for violating section 1090 are severe, many board members are reluctant to vote and participate on important matters before these boards, making it difficult for these boards to function. Each board, for example, is required to submit to the Telecommunications Division a budget for the fund about which it advises. Some board members do not participate in discussing or voting on this budget, so they do not appear to be approving payments to themselves or to the organizations which they represent, even in an oblique way, and possibly violate section 1090.

Proposal: To enable members of these committees to participate in most matters before their advisory committees, except for those that would uniquely affect the entity with which they are associated, we recommend legislation which would reduce or eliminate their risk of violating section 1090. First, we recommend legislation which would cover most of the members of the boards. Generally these members are affiliated with non-profit entities, such as consumer organizations and community-based organizations. Second, we recommend similar legislation for the members of the boards who are affiliated with telephone corporations; however, this legislation would require these members to become non-voting technical liaisons.

This proposed legislation would apply to the following five advisory boards: California High Cost Fund-A Administrative Committee, California High Cost Fund-B Administrative Committee, Universal Lifeline Telephone Service Trust Administrative Committee, Payphone Service Providers Committee, and the California Teleconnect Fund Administrative Committee. It would allow continued representation of the kinds of entities currently represented on those boards and participation by their representatives in most of the activities of these boards without violating section 1090 (except that telephone corporation representatives would become non-voting liaisons). However, the protection provided by the proposed statutory sections is not absolute. In order for this protection to apply, the member or liaison must be participating in advisory board matters that will not uniquely affect: (A) the entity with which he is affiliated or (B) the individual. For example, it would allow direct payments from the funds to go to a class of carriers; but would not permit a representative of an entity that receives grants or contracts to participate in consideration of a grant to, or contract with, that specific entity. We believe the basic legislation together with the legislation for the telephone corporations is the lowest profile way of reducing or eliminating the risk from section 1090.

Current CPUC Process: P.U. Code sections 270-281 comprise Chapter 1.5, entitled "Advisory Boards."¹ These sections created, among other things, the five advisory boards addressed by this proposed legislation. These five advisory boards are:

- California High Cost Fund-A Administrative Committee (CHCFA-AC)
- California High Cost Fund-B Administrative Committee (CHCFB-AC)
- Universal Lifeline Telephone Service Trust Administrative Committee (ULTS-AC)
- Payphone Service Providers Committee (PSPC)
- California Teleconnect Fund Administrative Committee (CTF-AC)

P.U. Code sections 270-281 also transferred to the State Treasury the monies that support the five advisory boards and the public purpose programs associated with them.

The Commission was given authority in P.U. Code Section 271(a) to determine criteria for advisory board membership and to appoint the members. P.U. Code section 271(a) provides: "In determining the qualifications of persons who will serve as members of each board, the commission shall consider the purpose of the program, and shall attempt to achieve balanced public participation, for each board. The membership of each board shall reflect, to the extent possible, and consistent with existing law, the ethnic and gender diversity of the state."

¹ Article 1.5 was enacted by Senate Bill (SB) 669 (Stats. 1999, Ch. 677) and amended by SB 742 (Stats. 2001, Ch. 118). That legislation also created the Telecommunications Access for the Deaf and Disabled Administrative Committee (TADDAC). This proposed legislation does not address the TADDAC because there are no 1090 problems with this board at this time, and we do not foresee any problems in the future.

P.U. Code sections 270-281 require each advisory board to submit an annual budget to the Commission for approval and a report describing the activities of the advisory board. Each board is to advise the Commission regarding the development, implementation, and administration of their respective program.

Proposed Amendments:

Add new P.U. Code sections 271.1 and 271.2

PU Code section 271.1 Interest in contract by member of advisory body

(a) Notwithstanding any other provision of law, no member of the advisory bodies created pursuant to sections 275, 276, 277, 279, and 280 (California High Cost Fund-A Administrative Committee, California High Cost Fund-B Administrative Committee, Universal Lifeline Telephone Service Trust Administrative Committee, Payphone Service Providers Committee, and California Teleconnect Fund Administrative Committee) shall be deemed to be “financially interested in a contract” within the meaning of section 1090 of the Government Code if all the following conditions are satisfied:

(1) The person is affiliated with a community based organization; consumer organization; senior group; school; library; religious institution; an entity that represents or provides services to the deaf and disabled community (other than a telephone corporation); hospital, health clinic or other health provider; payphone provider or association (but not including any telephone corporation that provides other than payphone provider service); or, the person receives subsidies as an individual subscriber of telecommunications services.

(2) The sole interest of the member is the fact that he is (A) affiliated with any of the entities listed above, or (B) an individual subscriber of the telecommunications services who receives subsidies.

(3) The member participates in advisory board matters that will not uniquely affect: (A) the entity with which he is affiliated or (B) the individual.

(b) For purposes of this section, being “affiliated” with an entity includes, without limitation, having any of the following relationships with the entity: employee, board member or officer of the entity, independent contractor to the entity, stockholder, member, or elected or appointed official of the entity.

(c) For purposes of this section, entities or individuals are “uniquely” affected by matters including but not limited to, anything that would direct money or discounted rates to specifically named individuals or entities. An entity or individual is not uniquely affected by a decision or recommendation to provide grants or contracts to a class of persons or entities.

PU Code section 271.2 Interest in contract by non-voting technical liaison of advisory body

(a) Notwithstanding any other provision of law, no non-voting technical liaison to any of the advisory bodies created pursuant to sections 275, 276, 277, 279, or 280 (California High Cost Fund-A Administrative Committee, California High Cost Fund-B Administrative Committee, Universal Lifeline Telephone Service Trust Administrative Committee, Payphone Service Providers Committee, or California Teleconnect Fund Administrative Committee); shall be deemed to be interested in a contract within the meaning of section 1090 of the Government Code if all the following conditions are satisfied:

(1) The person is affiliated with a telephone corporation;

(2) The sole interest of the non-voting technical liaison is the fact that he is (A) affiliated with a telephone corporation; or (B) an individual subscriber of telecommunications services who receives subsidies; and

(3) The non-voting technical liaison provides assistance regarding advisory board matters that will not uniquely affect the (A) telephone corporation with which he is affiliated or (B) the individual.

(b) For purposes of this section, "affiliated with a telephone corporation" shall include, without limitation, having any of the following relationships with the telephone corporation: employee, board member or officer of the telephone corporation, independent contractor to the telephone corporation, stockholder, member, or official of the telephone corporation.

(c) For purposes of this section, entities or individuals are "uniquely" affected by matters including, but not limited to, anything that would direct money or discounted rates to specifically named individuals or entities. An entity or individual is not uniquely affected by a decision or recommendation to provide grants or contracts to a class of persons or entities.

(d) Any non-voting technical liaison shall provide assistance regarding advisory board matters [only] at the direction of the board.

LEGISLATIVE PROPOSAL ELEVEN – CA ADVANCED SERVICES FUND

Recommendation: Create appropriate State Treasury controls for the California Advanced Services Fund (CASF) which is a new limited term universal service program to encourage broadband infrastructure be built by private companies in unserved and underserved areas of California. An amendment to the Public Utilities Code § 270 to add subsection (a)(7) the California Advanced Services Fund to the list of funds created in the State Treasury and an amendment to the Public Utilities Code to add § 275.5 to provide direction to carriers for remitting CASF collections to the Controller for deposit in the State Treasury.

Current CPUC Process: Existing law provides for various universal service programs relating to telephone corporations to be administered by the California Public Utilities Commission, and paid for in the utility rates authorized by the Commission.

These programs have existed in an explicit manner in California for almost forty years, but until 1984, they were contained within monopoly telephone carrier rate structures. From 1984 to 2000, they were placed in Commission managed trusts outside the State Treasury. In 2000, the universal service funds were moved to the State Treasury in order to implement appropriate State Treasury controls.

Under the Constitution and the Public Utilities Code Section 701, the Commission has the authority to create new universal service programs and assess surcharges on telephone ratepayers to fund those programs. Federal and state law changes have brought competition to the communications marketplace beginning in the mid-Eighties with the break up of AT&T, the introduction of numerous wireless telephone carriers, the Telecommunications Act of 1996, and the Legislature's Digital Video Competition and Infrastructure Act of 2006. As the communications market in California is marked by a high level of competition, the Commission pools the universal service assessments instead of having the utilities directly pay numerous beneficiaries. Chapter 1.5 of the Public Utilities Code was created to ensure appropriate fiscal oversight and controls over the pooling of the assessments within California.

Statement of Problem: In order to ensure the widespread availability of high-quality telecommunications and information services to all Californians, promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies, the Commission recommends that a new program be created to provide incentives to encourage private companies to deploy broadband facilities for use in provisioning advanced telecommunications (as well as voice) service in unserved and underserved areas of California.

The program is necessary to spur deployment of broadband infrastructure in heretofore unserved and underserved areas of the state. Broadband infrastructure is critical to the economic health and welfare of the state and its citizens. Broadband deployment is crucial to future productivity growth of the State, particularly in light of California being a leading center for the entertainment and high technology industries. Ubiquitous deployment of broadband is widely regarded as holding tremendous opportunities for consumers, technology providers, and content providers. Federal solutions seem unlikely.

The shift in communication volumes from fixed wireline phone service to wireless and VoIP services has been rapid and dynamic as users became used to the convenience, cost and mobility advantages of wireless, bundled long distance and local calling plans, and the very low domestic and international calling rates (sometimes offered free) of VoIP. In California alone, the number of landline telephones decreased by 2.39 million from end of year 2001 to June 2006, while the number of wireless subscribers increased by 13.34 million over the same period.

This new program directly deals with “digital divide” issues where rural, remote, low income and disadvantaged communities suffer from a lack of state-of-the-art telecommunications and information infrastructure. The Commission believes it imprudent to support only legacy landline telephone networks through the universal service programs due to the fact that communication services are being provided on an increasing basis using advanced technologies, such as cable modem systems, VoIP and wireless technologies including broadband systems. Limiting universal service support to particular technologies skews competitive forces in our intermodel marketplace where many technologies compete head-to-head. In some cases, our current landline only programs inadvertently may result in consumers in some areas not receiving advanced communication services – and the economic and social benefits that flow from such services.

Promoting deployment of additional broadband within areas that are not served at all or underserved is consistent with universal service policies aimed at bridging the “digital divide” as articulated in Pub. Util. Code §§ 709(c) and (d). While the Commission believes that solutions to the digital divide are best driven by market forces within the telecommunications and internet industry, the public sector has a role to play as well, particularly where in some places in California, the competitive market has failed to bring advanced communications to certain communities.

Proposal: The Commission designates this program as the “California Advanced Services Fund” (CASF) and it is a new universal service program. The CASF shall be administered on a technology neutral basis by the Commission, with the goal of providing a certain level of cost reimbursement for infrastructure to extend broadband coverage as defined herein to unserved and underserved areas of California, in the respective priority order.

An amendment to section 270 of the Public Utilities Code is recommended to list the new CASF program, along with the addition of specific direction in a new section of the Public Utilities Code governing the use of the funds.

This bill would, under the Public Utilities Act, require the Commission to approve an annual budget and a report describing the activities of the program, and limit the expenditure of moneys appropriated from the California Advanced Services Fund. The bill would require telephone corporations to submit to the Controller approved rate revenues for deposit in the CASF fund as created by the bill. The bill would require any unexpended revenues collected prior to the operative date of the bill to be deposited in the appropriate fund, as specified. The bill would require the Commission to conduct financial audits of the revenues of the fund, and to conduct compliance audits with regard to the program. Because, under the act, a violation of those provisions would be a crime, the bill would impose a state-mandated local program by creating new crimes.

As noted, the purpose of the CASF is to augment the deployment of broadband in unserved and underserved areas. The Commission may choose to continue the CASF surcharge for another limited time period to ensure an evolving level of benefits of advanced services are made available to all of California. The Commission should continue to work with the California Emerging Technology Fund, a non profit organization created by the Commission, to bridge the digital divide through demand aggregation projects with \$60 million in donated funds, to help identify unserved and underserved areas of California and to help develop solutions that will deliver the benefits of advanced communication services to those areas.

Justification: Deployment of broadband services in California during this decade has been slower than deployment in the rest of the nation.

Advanced communication services are important to the financial health of the state action is warranted to encourage more rapid deployment.

Funding for the deployment of broadband infrastructure in unserved and underserved areas of California is warranted for the specific purpose of closing the digital divide. The Commission has found that market failure has resulted in some portions of the state being unserved or underserved by providers, and that government action is needed to ensure this important service is available throughout California.

A new universal service mechanism, the CASF will provide important incentives to speed deployment of advanced communication services in the unserved and underserved areas of the state. The CASF will accelerate broadband deployment more rapidly than if we simply left market forces to deliver such services. In some very rural, remote and disadvantaged areas, it is possible that market forces will never deliver broadband services.

A suitable, competitively neutral, and broad-based program targeted toward broadband infrastructure is critical to ensuring a fair and equitable delivery of communication technology at affordable rates. The CASF will promote the goals of universal telephone service and reduce any disparity in the rates charged by companies.

Proposed Amendments:

Public Utilities Code § 270

- (a) The following funds are hereby created in the State Treasury:
- (1) The California High-Cost Fund-A Administrative Committee Fund.
 - (2) The California High-Cost Fund-B Administrative Committee Fund.
 - (3) The Universal Lifeline Telephone Service Trust Administrative Committee Fund.
 - (4) The Deaf and Disabled Telecommunications Program Administrative Committee Fund.
 - (5) The Payphone Service Providers Committee Fund.
 - (6) The California Teleconnect Fund Administrative Committee Fund.
 - (7) The California Advanced Services Fund.

Public Utilities Code § 275.5

(a) The Commission shall develop, implement, and administer a California Advanced Services Fund to provide for transfer payments to encourage deployment of high-quality advanced communications services to all Californians that will promote economic growth, job creation, and the substantial social benefits of advanced information and communications technologies , as provided for in commission Decision 07-12-____.

(b) All revenues collected by telephone corporations in rates authorized by the commission to fund the program specified in subdivision (a) shall be submitted to the Controller for deposit in the California Advanced Services Fund pursuant to a schedule established by the commission. All interest earned by moneys in the fund shall be deposited in the fund. Any unexpended revenues collected prior to the operative date of this section shall be submitted to the Controller for deposit in the California Advanced Services Fund.

(c) Moneys appropriated from the California Advanced Services Fund to the commission shall be utilized exclusively by the commission for the program specified in subdivision (a), including all costs of the commission associated with the administration and oversight of the program and the fund.