State of California
California Public Utilities Commission

Rules of Practice and Procedure

California Code of Regulations
Title 20, Division 1, Chapter 1

California Public Utilities Commission

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TITLE 20. PUBLIC UTILITIES AND ENERGY

DIVISION 1. PUBLIC UTILITIES COMMISSION

CHAPTER 1. RULES OF PRACTICE AND PROCEDURE

ARTICLE 1. GENERAL PROVISIONS

1.1. (Rule 1.1) Ethics.

Any person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of this State; to maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges; and never to mislead the Commission or its staff by an artifice or false statement of fact or law.

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

1.2. (Rule 1.2) Construction.

These rules shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented. In special cases and for good cause shown, and within the extent permitted by statute, the Commission may permit deviations from the rules.

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

1.3. (Rule 1.3) Definitions.

(a) "Adjudicatory" proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

(b) "Category," "categorization," or "categorized" refers to the procedure whereby a proceeding is determined to be an "adjudicatory," "ratesetting," or "quasi-legislative" proceeding.

(c) "Person" means a natural person or organization.

(d) "Quasi-legislative" proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.

(e) "Ratesetting" proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). "Ratesetting" proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. Other proceedings may be categorized as ratesetting, as described in Rule 7.1(e)(2).

(f) "Scoping memo" means an order or ruling describing the issues to be considered in a proceeding and the timetable for resolving the proceeding, as described in Rule 7.3.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701.1(a), 1701.1(c)(1)-(4), Public Utilities Code.

1.4. (Rule 1.4) Participation in Proceedings.

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

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

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

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

(4) filing a motion to become a party.

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

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

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

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

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

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

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

Documents tendered for filing must be typewritten, printed, or reproduced on paper 8 1/2 inches wide and 11 inches long. Any larger attachments must be legibly reduced or folded to the same size. The body text type must be no smaller than 12 points and footnote text type must be no smaller than 11 points. The impression must use 1 1/2-line or double spacing, except that footnotes and quotations in excess of a few lines may be single-spaced. Both sides of the paper must be used, where practicable. Pages must be numbered. The left margin must be at least one inch from the left edge of the page and the right margin at last ½ inch from the right edge of the page. A document of more than one page must be bound on the left side or upper left-hand corner. If a transmittal letter is submitted (see Rule 1.13(a)), it must not be bound to the tendered document. All copies must be clear and permanently legible.

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

1.6. (Rule 1.6) Title Page Requirements.

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

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

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

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

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

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

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

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

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

1.7. (Rule 1.7) Scope of Filing.

(a) Separate documents must be used address unrelated subjects or to ask the Commission or the Administrative Law Judge to take essentially different types of action (e.g., a document entitled "Complaint and Motion to File Under Seal" would be improper; two separate documents must be used for the complaint and for the motion). Motions that seek leave to file another document (e.g., to accept a later 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 the person on whose behalf it is tendered for filing or by the attorney or representative of the person. If the document is signed by the person, it must be signed as follows:

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

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

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

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

(d) If a document is tendered for filing on behalf of more than one person, only one person (or one person's attorney or representative) need sign the document unless otherwise required by these rules. The title or first

paragraph of the document must identify all persons on whose behalf the document is tendered and state their Case Information System Identification Numbers, if applicable (see Rule 1.6(b)). The signature of a person in these circumstances certifies that the signer has been fully authorized by the indicated persons to sign and tender the document and to make the representations stated in subsection (b) on their behalf.

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

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

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

1.9. (Rule 1.9) Service Generally.

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

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

(c) Service of a document may be effected by personally delivering a copy of the document to the person or leaving it in a place where the person may reasonably be expected to obtain actual and timely receipt, mailing a copy of the document by first-class mail, or electronically mailing the document as provided in Rule 1.10, except that documents that are electronically tendered for filing as provided in Rule 1.14 must be served by e-mail as provided in Rule 1.10. Service by first-class mail is complete when the

document is deposited in the mail. Service by e-mail is complete when the e-mail message is transmitted, subject to Rule 1.10(e). The Administrative Law Judge may direct or any party may consent to service by other means not listed in this rule (e.g., facsimile transmission).

(d) A person may serve a Notice of Availability in lieu of hard copy service under this rule or e-mail service under Rule 1.10:

(1) if the entire document, including attachments, exceeds 50 pages; or

(2) if a document or part of the document is not reproducible in electronic format, or would cause the entire e-mail message, including all attachments, to exceed 3.5 megabytes in size, or would be likely to cause e-mail service to fail for any other reason; or

(3) if the document is made available at a particular Uniform Resource Locator (URL) on the World Wide Web in a readable, downloadable, printable, and searchable format, unless use of such formats is infeasible; or

(4) with the prior permission of the assigned Commissioner or Administrative Law Judge; except that the document must be served on any person who has previously informed the serving person of its desire to receive the document.

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

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

(e) 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 caption for the proceeding, (2)

the docket number (if one has been assigned), (3) the exact title of the document served, (4) the place, date, and manner of service, and (5) 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.)

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

(1) Parties, as determined pursuant to Rule 1.4,

(2) State Service, for service of all documents (available to California State employees only), and

(3) Information Only, for electronic service of all documents only, unless otherwise directed by the Administrative Law Judge.

Persons will be added to the official service list, either as State Service or Information Only, upon request to the Process Office. It is the responsibility of each person or entity on the official service list to ensure that its designated person for service, mailing address and/or e-mail address shown on the official service list are current and accurate. A person may change its mailing address or e-mail address for service or its designation of a person for service by sending a written notice to the Process Office.

(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 persons.

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

1.10. (Rule 1.10) Electronic Mail Service.

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

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

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

(d) By utilizing e-mail service, the serving person agrees, in the event of failure of e-mail service, to re-serve the document, no later than the business day after the business day on which notice of the failure of e-mail service is received by the serving party. The serving person is not required to re-serve, after failure of e-mail service, any person listed on the official service list as Information Only.

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

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

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

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

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

1.11. (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 person to verify a document, it must be verified as follows (except as provided in subsection (d)):

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

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

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

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

(d) A person's attorney or representative may verify a document on behalf of a person if the 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 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 prior to the issuance of the scoping memo.

(b) The time for filing a reply, response, protest, or answer to an amended document is calculated from the date the amendment is 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. Reference: Section 1701, Public Utilities Code.

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

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

(a) Hard copy:

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

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

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

(b) Electronic:

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

(i) Documents must be transmitted in PDF Archive format (PDF/A). This PDF document must be searchable unless creation of a searchable document 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.

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

(2) Electronically tendered documents will not be filed under seal. Documents which a person seeks leave to file under seal (Rule 11.4)

must be tendered by hard copy. However, redacted versions of such documents may be electronically tendered for filing.

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

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

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

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

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

(b) If a document is accepted for filing, it will be recorded as of the date it was first tendered for filing at the Commission's San Francisco or Los Angeles 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, it 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.

(c) If a tendered document does not comply with applicable requirements, the Docket Office may reject the document for filing. 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 ground for rejecting the document.

(d) If a tendered document is in substantial, but not complete, compliance with applicable requirements, 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.

(e) 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.

(f) 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.

(g) 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. Reference: Section 1701, Public Utilities Code.

1.15. (Rule 1.15) Computation of Time.

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

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

1.16. (Rule 1.16) 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.

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.

1.17. (Rule 1.17) 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. Reference: Section 1701, Public Utilities Code.

ARTICLE 2. APPLICATIONS GENERALLY

2.1. (Rule 2.1) Contents.

All applications shall state clearly and concisely the authorization or relief sought; shall cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought; shall be verified by at least one applicant (see Rule 1.11); and, in addition to specific requirements for particular types of applications, shall state the following:

(a) The exact legal name of each applicant and the location of principal place of business, and if an applicant is a corporation, trust, association, or other organized group, the State under the laws of which such applicant was created or organized.

(b) The name, title, address, telephone number, facsimile transmission number, and, if the applicant consents to e-mail service, the e-mail address, of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon applicant.

(c) The proposed category for the proceeding, the need for hearing, the issues to be considered, and a proposed schedule. (See Article 7.) The 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).

(d) Such additional information as may be required by the Commission in a particular proceeding.

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

2.2. (Rule 2.2) Organization and Qualification to Transact Business.

All applicants other than natural persons shall submit with their applications a copy of the entity's organizing documents and evidence of the applicant's qualification to transact business in California. If current documentation has previously been filed with the Commission, the application need only make specific reference to such filing.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 167 and 15010.5, Corporations 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 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. Reference: Section 1701, Public Utilities Code.

2.4. (Rule 2.4) CEQA Compliance.

(a) Applications for authority to undertake any projects that are subject to the California Environmental Quality Act of 1970, Public Resources Code Sections 21000 et seq. (CEQA) and the guidelines for implementation of CEQA, California Code of Regulations, Title 14, Sections 15000 et seq., shall be consistent with these codes and this rule.

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

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

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

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

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

A deposit of thirty dollars ($30) for each one thousand dollars ($1,000) of the estimated capital cost of the project up to one hundred thousand dollars ($100,000), ten dollars ($10) for each one thousand dollars ($1,000) over one hundred thousand dollars ($100,000) and up to one million dollars ($1,000,000), five dollars ($5) for each one thousand dollars ($1,000) over one million dollars ($1,000,000) and up to five million dollars ($5,000,000), two dollars ($2) for each one thousand

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

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

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

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

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

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

(a) Unless otherwise provided by rule, decision, or General Order, a protest or response must be filed within 30 days of the date the notice of the filing of the application first appears in the Daily Calendar.

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

state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the application.

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

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

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

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

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. Reference: Section 1701, Public Utilities Code.

ARTICLE 3. PARTICULAR APPLICATIONS

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

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

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

(b) The names and addresses of all utilities, corporations, persons or other entities, whether publicly or privately operated, with which the proposed construction is likely to compete, and of the cities or counties within which service will be rendered in the exercise of the requested certificate. Whenever a public utility applies to the Commission to extend or establish its water service within a county water district, a public utility or municipal utility district, or other water or utility district, or any area served by such district, such district shall also be named, if it furnishes a like service. The application shall contain a certification that a copy of the application has been served upon or mailed to each such person named.

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

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

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

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

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

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

(i) A statement corresponding to the statement required by Section 2 of General Order No. 104-A, as to all known matters which both (a) are

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(m) In the case of a water utility:

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

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

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

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

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

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

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

(B) The application shall also comply with Rule 3.2, including the furnishing of the information specified in subsections (a)(5) and (6) thereof but made applicable to the proposed rates; provided, however, the information required by subsections (a)(2) and (3) thereof need be furnished only when increases are proposed.

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

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

3.2. (Rule 3.2) Authority to Increase Rates.

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

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

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

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

(4) A general rate increase application shall contain a general description of applicant's property and equipment, or reference to such description in a recent prior application, and a statement of the original cost thereof, together with a statement of the depreciation reserve applicable thereto.

If it is impossible to state original cost, the facts creating such impossibility shall be set forth.

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

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

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

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

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

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

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

(c) Gas, electric, telephone, telegraph, water or heat utilities, within 20 days after the filing of the application, shall publish at least once in a newspaper of general circulation in the county in which the increases are proposed to be made effective a notice, in general terms, of the proposed increases in rates. Such notice shall state that a copy of said application and related exhibits may be examined at the offices of the California Public Utilities Commission in San Francisco and in such offices of the applicant as are specified in the notice, and shall state the locations of such offices. Applicants shall maintain documentation of compliance with this subsection, and shall provide it to any person upon request.

(d) Electric, gas, heat, telephone, water, or sewer system corporations, within 45 days, if the corporation operates on a 30-day billing cycle, or within 75 days, if the corporation operates on a 60-day or longer billing cycle, after the filing of an application to increase any rate of charge, other than a change reflecting and passing through to customers only new costs to the corporation which do not result in changes in revenue allocation, for the services or commodities furnished by it, shall furnish to its customers affected by the proposed increase notice of its application either by

electronically linking to such notice for customers that receive their bills electronically or, for customers that receive their bills by mail, by mailing such notice postage prepaid or including such notice with the regular bill. 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.

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

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

3.3. (Rule 3.3) Certificate to Operate.

(a) Applications for a certificate to operate as a vessel common carrier or passenger stage corporation shall contain the following information:

(1) The type of service applicant seeks to perform or that is being performed by applicant, a general description of it, and a reference to the authority under which existing service is performed.

(2) The specific authority requested and the particular statutory provision under which the certificate is requested.

(3) The areas and points where the applicant will be holding out service, by county, fixed termini, and regular route, if appropriate. If the applicant intends to serve one or more commercial airports, this information must include each airport proposed to be served.

(4) A map or sketch of the route and points to be served, drawn to suitable indicated scale, and showing present and proposed operation by distinctive coloring or marking.

(5) A list of the base fares to be charged, and a statement indicating whether or not the applicant is aware of existing competitors who offer the same or substantially similar services. In addition, all proposed discounted

fares must be disclosed as part of this list. Applications for certificates need not contain tariffs, but shall indicate the level and nature of proposed rates and rules, as required herein, and may refer to tariffs on file with or issued by the Commission.

(6) A statement indicating the frequency of the proposed service. If "on call" service is proposed, the application shall set forth conditions under which such service would be performed.

(7) The kind and approximate number of units of equipment to be employed in the proposed service.

(8) A statement of financial ability to render the proposed service.

(9) Facts showing that the proposed operation is required by public convenience and necessity, as defined by Public Utilities Code Section 1032. Pursuant to Section 1032 of the Public Utilities Code, the applicant must show:

(a) That the applicant is financially and organizationally capable of conducting an operation that complies with the rules and regulations of the Department of the California Highway Patrol (CHP) governing highway safety;

(b) That the applicant is committed to observing federal and state hours of service regulations;

(c) That the applicant has a preventive maintenance program in effect for its passenger vehicles that conforms to CHP regulations found under Title 13 of the California Code of Regulations (CCR);

(d) That the applicant institutes a program to monitor the driving records of those operating vehicles that require Class B driver's licenses;

(e) That the applicant has a safety education and training program in effect for all employees and subcarriers;

(f) That the applicant agrees to maintain its passenger vehicles in safe operating condition and in compliance with motor vehicle safety laws and regulations; and

(g) That the applicant has filed with the Commission proof of workers' compensation insurance coverage or a statement as required by Public Utilities Code Section 460.7.

(b) Every applicant for a passenger stage certificate shall forward a notice of the application to each city and county governmental entity and regional transportation planning agency within whose boundaries passengers will be loaded or unloaded. This notice shall inform parties that a complete copy of the application may be made available on the website of the California Public Utilities Commission and, if not made available online, that a copy of the application can obtained by contacting the applicant or the California Public Utilities Commission and requesting a paper copy. A certificate of service shall be filed with the application.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 460.7, 701, 1007, 1032 and 1701, Public Utilities Code.

3.4. (Rule 3.4) Abandon Passenger Stage Service.

Applications for authority to abandon passenger stage service, or reduce service to less than one trip per day (excluding Saturday and Sunday), shall include the following information: NOTE: If more than one point, route, or route segment is included in the application, the indicated data are to be separately stated for each point, route, or route segment.

(a) A listing of points, routes, and route segments to be abandoned, including identification and a brief description of any other passenger transportation service available at the points or along the routes affected.

(b) Maps to scale showing each point, route, and route segment to be abandoned.

(c) Current and proposed timetables covering the affected points and routes.

(d) Current and proposed certificate authorities covering the affected points and routes.

(e) Traffic data for a recent representative period, showing numbers of interstate and intrastate passengers (by classification if more than one type of ticket is sold) destined to and originating from each point to be abandoned; also package express shipments similarly stated.

(f) Description of the fares and rates applicable to the affected services.

(g) Calculation of the annual interstate and intrastate passenger, express, and other revenues which accrue as a result of the service to be abandoned, along with an explanation of how the revenues were calculated and of any

assumptions underlying the calculations.

(h) Calculations of route miles, annual bus miles, and schedule operating time to be eliminated for each point, route, or route segment to be abandoned.

(i) Calculation in the Uniform System of Accounts for Common and Contract Motor Carriers of Passengers, of the variable costs of operating each affected service, with an explanation of how the costs were calculated, and of any assumptions underlying the calculations (assumptions should be consistent with those used to calculate revenues). Any labor costs included shall also be separately identified and described.

(j) Description of any present operating subsidies or financial assistance applicable to the affected service, including identification of source, amounts, duration, and any significant terms or conditions applicable; also description of any proposals or discussions with respect to operating subsidies or financial assistance which have occurred during the year preceding the filing of the application.

(k) Any additional evidence or legal argument applicant believes to be relevant to the application.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 454, 818, 851, 852 and 1031, Public Utilities Code.

3.5. (Rule 3.5) Debt and Equity.

Applications to issue stock or evidences of indebtedness, or to assume liabilities, under Sections 816 through 830 of the Public Utilities Code shall contain the following information:

(a) A general description of applicant's property and its field of operation, the original cost of its property and equipment, individually or by class, and the cost thereof to applicant and the depreciation and amortization reserves applicable to such property and equipment, individually or by class. If it is impossible to state original cost, the facts creating such impossibility shall be stated.

(b) The amount and kind of stock, or other evidence of interest or ownership, which applicant desires to issue, and, if preferred, the nature and extent of the preference; the amount of bonds, notes or other evidences of indebtedness which applicant desires to issue, with terms, rate of interest, and whether and how to be secured; the amount and description of the

indebtedness which applicant desires to assume.

(c) The purposes for which the securities are to be issued:

(1) If for property acquisition, a detailed description thereof, the consideration to be paid therefor, and the method of arriving at the amount.

(2) If for construction, completion, extension or improvement of facilities, a description thereof in reasonable detail, the cost or estimated cost thereof, and the reason or necessity for the expenditures.

(3) If for improvement of service, a statement of the character of the improvements proposed, or if for maintenance of service, a statement of the reasons why service should be maintained from capital.

(4) If for discharge or refunding of obligations, a full description of the obligations to be discharged or refunded, including the character, principal amount, discount or premium applicable thereto, date of incurrence, date of maturity, rate of interest, and other material facts concerning such obligations, together with a statement showing the purposes for which such obligations had been incurred, or the proceeds expended, and the Commission's decisions, if any, authorizing the incurrence of such obligations.

(5) If for the financing of the acquisition and installation of electrical and plumbing appliances and agricultural equipment which are sold by other than a public utility, for use within the service area of the public utility, a statement of the reason or necessity for such financing.

(6) If for reorganization or readjustment of indebtedness or capitalization, or for retirement or exchange of securities, a full description of the indebtedness or capitalization to be readjusted or exchanged; complete terms and conditions of the merger, consolidation, exchange or other reorganization; a pro forma balance sheet, if possible, giving effect to such reorganization, readjustment or exchange; and a statement of the reason or necessity for the transaction.

(7) If for reimbursement of moneys actually expended from income, or from any other moneys in the treasury, a general description of the expenditures for which reimbursement is sought, the source of such expenditures, the periods during which such expenditures were made, and the reason or necessity for such reimbursement.

(d) A complete description of the obligation or liability to be assumed by applicant as guarantor, indorser, surety or otherwise, the consideration to be

received by applicant, and the reason or necessity for such action.

(e) 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 then known to be proposed, a statement to that effect; provided, that an applicant whose capital stock, or that of its parent company, is listed on a "national securities exchange," as defined in the Securities Exchange Act of 1934 (15 U.S.C. 78(a) et seq.), in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company if not previously filed with the Commission, provided, further, that an applicant whose capital stock, or that of its parent company, is registered with the Securities and Exchange Commission (SEC) pursuant to the provisions of Section 12 (g) of said Securities Exchange Act of 1934, in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company containing the information required by the rules of the SEC if not previously filed with the Commission.

(f) Copy of deeds of trust, security agreements, mortgages, conditional sales contracts, notes or other instruments (excluding stock certificates) defining the terms of the proposed securities. If the same have already been filed, the application need only make specific reference to such filings.

(g) Copy of each plan, offer or agreement for the reorganization or readjustment of indebtedness or capitalization or for the retirement or exchange of securities.

Note: Authority cited: Section 1701, Public Utilities Code; and Article 12, Section 2, California Constitution. Reference: Section 829, Public Utilities Code.

3.6. (Rule 3.6) Transfers and Acquisitions.

Applications to sell, lease or encumber utility property or 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 person is a public utility. In addition, they shall contain the following data:

(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 therefor, 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.

3.7. (Rule 3.7) Public Road Across Railroad.

Applications to construct a public road, highway, or street across a railroad must be made by the municipal, county, state, or other governmental authority which proposes the construction. Such applications shall be served

on the affected railroad corporations, and shall contain the following information:

(a) The rail milepost and either a legal description of the location of the proposed crossing or a location description using a coordinate system that has accuracy comparable to a legal description.

(b) Crossing identification numbers of the nearest existing public crossing on each side of the proposed crossing. (Numbers may be obtained from the crossing sign at the crossing, or from the office of the railroad.)

(c) If the proposed crossing is at-grade,

(1) a statement showing the public need to be served by the proposed crossing;

(2) a statement showing why a separation of grades is not practicable; and

(3) a statement showing the signs, signals, or other crossing warning devises which applicant recommends be provided at the proposed crossing.

(d) A map of suitable scale (50 to 200 feet per inch) showing accurate locations of all streets, roads, property lines, tracks, buildings, structures or other obstructions to view for a distance of at least 400 feet along the railroad and 200 feet along the highway in each direction from the proposed crossing. Such map shall show the character of surface or pavement and width of same, either existing or proposed, on the street or road adjacent to the proposed crossing and on each side thereof.

(e) A map of suitable scale (1,000 to 3,000 feet per inch) showing the relation of the proposed crossing to existing roads and railroads in the general vicinity of the proposed crossing.

(f) A profile showing the ground line and grade line and rate of grades of approach on all highways and railroads affected by the proposed crossing.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1201, 1201.1 and 1202, Public Utilities Code.

3.8. (Rule 3.8) Alter or Relocate Existing Railroad Crossing.

An application to alter or relocate an existing railroad crossing shall comply

with Rule 3.7, except that it shall state the crossing identification number of the affected crossing, instead of the nearest crossings, and shall state if the affected crossing will remain within the existing right-of-way.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1201, 1201.1 and 1202, Public Utilities Code.

3.9. (Rule 3.9) Railroad Across Public Road.

An application to construct a railroad across a public road, highway or street shall be served on the municipal, county, state or other governmental authority having jurisdiction and control over the highway or charged with its construction and maintenance, and shall include, in addition to the information required by Rule 3.7, the following information:

(a) A copy of the franchise or permit, if any be requisite, from the authority having jurisdiction, which allows the railroad to cross the public road, highway, or street involved. If such franchise or permit has already been filed, the application need only make specific reference to such filing.

(b) The proposed crossing identification number.

(c) The map referred to in Rule 3.7(d) shall also show, by distinct colorings or lines, all new tracks or changes in existing tracks, within the limits of the drawing, which are to be made in connection with the construction of the proposed crossing.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1201, 1201.1 and 1202, Public Utilities Code.

3.10. (Rule 3.10) Railroad Across Railroad.

Applications to construct a railroad or street railroad across a railroad or street railroad shall be served on the affected railroad or street railroad corporations, and shall contain the following:

(a) The rail milepost and either a legal description of the location of the proposed crossing or a location description using a coordinate system that has accuracy comparable to a legal description.

(b) A map of suitable scale (50 to 200 feet per inch) showing accurate locations of all streets, roads, property lines, tracks, buildings, structures or other obstructions to view in the immediate vicinity.

(c) A map of suitable scale (1,000 to 3,000 feet per inch) showing the relation of the proposed crossing to existing railroads in the general vicinity.

(d) A profile showing the ground line and grade line of approaches on all railroads affected.

(e) A true copy of the contract executed by the parties, or other evidence that the carrier to be crossed is willing that the crossing be installed.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1201, 1201.1 and 1202, Public Utilities Code.

3.11. (Rule 3.11) Light-Rail Transit System Crossings.

Applications to construct crossings or intersections of a light-rail transit system and a public road, street, highway or railroad pursuant to General Order 143-B, Section 9.08, shall comply with the appropriate requirements of Rules 3.7 through 3.10.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 778 and 99152, Public Utilities Code.

3.12. (Rule 3.12) Exemption from Underground Rules.

Applications for exemption from the rules in Decision 80864 (74 CPUC 454) for undergrounding electric and telephone lines shall include the following information:

(a) A statement of facts justifying exemption from undergrounding rules.

(b) The name of the development or subdivision, if any.

(c) A map showing the location of the project and any related development or subdivision.

(d) A legal description, as recorded, of the subdivision or property to which the lines will be extended.

(e) The length of the line extension proposed.

(f) The names of the public utilities that will provide service via the line extension.

(g) Whether the deviation from underground requirements will be permanent or temporary, and, if temporary, the approximate period such facilities will be in place before permanent underground facilities are constructed.

(h) Whether electric or telephone lines can be installed in joint trenches with water, gas, or sewer lines.

(i) Whether a Master Plan, Preliminary Map, or Tentative Map was filed pursuant to the Subdivision Map Act before May 5, 1970, the date of filing, and the agency in which the document was filed.

(j) The minimum parcel size within the subdivision or development.

(k) Whether deed restrictions allow more than one single-family dwelling or accommodation on each parcel or any portions of parcels of less than three acres.

(l) Any unusual environmental circumstances which would cause:

(1) Injury or danger to persons.

(2) Landslides, soil erosion, or exposure of trenches.

(3) Widespread, long-term, or permanent destruction of vegetation.

(4) Serious property damage.

(5) Hindrance to other construction or excessive relocation costs in the case of a temporary deviation.

(m) The identity of scenic highways, state or national parks, or any other areas determined by any governmental agency to be of unusual scenic value to the public within 1,000 feet of the proposed overhead lines; a description of the part of the highway, park, or area within 1,000 feet of the line; and a statement whether the lines will be visible from the highway, park, or area.

(n) Estimates of the costs of undergrounding electric and telephone lines, assuming joint trenching, and of constructing the lines overhead.

(o) Copies of the following documents:

(1) Environmental Impact Statement, Environmental Impact Report, or Negative Declaration prepared by any public agency having permit authority over the project.

(2) Local ordinances requiring undergrounding.

(3) Local ordinances or land use plans permitting parcels of less than 3 acres.

(4) Local ordinances allowing more than one single-family dwelling or accommodation on each parcel or portion of a parcel of less than 3 acres.

(5) Applications to the utilities for service, all correspondence pertaining to those applications, and a statement whether an agreement to provide overhead service was concluded with the utility before May 5, 1972.

(6) A list of other public agencies (federal, state, regional, county, district, or municipal) from which approval either has been obtained or will be required, and a summary of any action taken by those agencies with respect to the project.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 320, Public Utilities Code.

ARTICLE 4. COMPLAINTS

4.1. (Rule 4.1) Who May Complain.

(a) A complaint may be filed by:

(1) any corporation or person, chamber of commerce, board of trade, labor organization, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, setting forth any act or thing done or omitted to be done by any public utility including any rule or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission; or

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

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

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

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

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

(a) Complaints shall state the full name, address and telephone number of each complainant and his attorney, if any, and of each defendant. The specific act complained of shall be set forth in ordinary and concise language. The complaint shall be so drawn as to completely advise the

defendant and the Commission of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired. At least one complainant must verify the complaint and any amendments thereto. (See Rule 1.11.) The complaint shall state the proposed category for the proceeding, the need for hearing, the issues to be considered, and a proposed schedule. The proposed schedule shall be consistent with the categorization of the proceeding, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding). (See Article 7.)

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

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

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

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

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

4.4. (Rule 4.4) Answers.

The answer must admit or deny each material allegation in the complaint and shall set forth any new matter constituting a defense. Its purpose is to fully advise the complainant and the Commission of the nature of the defense. At least one of the defendants filing an answer must verify it, but if more than one answer is filed in response to a complaint against multiple defendants, each answer must be separately verified. (See Rule 1.11.)

The answer should also set forth any defects in the complaint which require amendment or clarification. Failure to indicate jurisdictional defects does not

waive these defects and shall not prevent a motion to dismiss made thereafter.

The answer must state any comments or objections regarding the complainant's statement on the need for hearing, issues to be considered, and proposed schedule. The proposed schedule shall be consistent with the categorization of the proceeding, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding). (See Article 7.)

Answers must include the full name, address, and telephone number of defendant and the defendant's attorney, if any, and indicate service on all complainants.

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

4.5. (Rule 4.5) Expedited Complaint Procedure.

(a) This procedure is applicable to complaints against any electric, gas, water, heat, or telephone company where the amount of money claimed does not exceed the jurisdictional limit of the small claims court referenced in Pub. Util. Code § 1702.1.

(b) No attorney at law shall represent any party other than himself under the Expedited Complaint Procedure.

(c) No pleading other than a complaint and answer is necessary.

(d) A hearing without a reporter shall be held within 30 days after the answer is filed.

(e) Separately stated findings of fact and conclusions of law will not be made, but the decision may set forth a brief summary of the facts.

(f) Complaints calendared under the Expedited Complaint Procedure are exempt from the categorizing and scoping requirements of Article 7 and the requirements of Article 8 regarding communications with decisionmakers and Commissioners' advisors.

(g) The Commission or the presiding officer, when the public interest so requires, may at any time prior to the filing of a decision terminate the Expedited Complaint Procedure and recalendar the matter for hearing under the Commission's regular procedure.

(h) The parties shall have the right to file applications for rehearing pursuant to Section 1731 of the Public Utilities Code. If the Commission grants an application for rehearing, the rehearing shall be conducted under the Commission's regular hearing procedure.

(i) Decisions rendered pursuant to the Expedited Complaint Procedure shall not be considered as precedent or binding on the Commission or the courts of this state.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1702.1, Public Utilities Code.

ARTICLE 5. INVESTIGATIONS

5.1. (Rule 5.1) Investigations.

The Commission may at any time institute investigations on its own motion. Orders instituting investigation shall indicate the nature of the matters to be investigated.

Investigations directed at specific utilities or regulated entities will be served on them. However, investigations affecting as a class railroads, pipelines, passenger stage corporations, charter-party carriers, or vessels may only be noticed on the Daily Calendar.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 701, 703, 705, 728, 728.5, 729, 730, 3502, 3541, 5102 and 5112, Public Utilities Code.

5.2. (Rule 5.2) Responses to Investigations.

A respondent need not file a response to the investigatory order unless so directed therein.

Any person filing a response to an order instituting investigation shall state in the response any objections to the preliminary scoping memo regarding the need for hearing, issues to be considered, or schedule. Any recommended changes to the proposed schedule shall be consistent with the category of the proceeding, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding). (See Article 7.)

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

ARTICLE 6. RULEMAKING

6.1. (Rule 6.1) Rulemaking.

The Commission may at any time institute rulemaking proceedings on its own motion (a) to adopt, repeal, or amend rules, regulations, and guidelines for a class of public utilities or of other regulated entities; (b) to amend the Commission's Rules of Practice and Procedure; or (c) to modify prior Commission decisions which were adopted by rulemaking.

Rulemaking proceedings shall be noticed on the Daily Calendar. Orders instituting rulemaking shall be served on all respondents and known interested persons.

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

6.2. (Rule 6.2) Comments.

Any person filing comments on an order instituting rulemaking shall state any objections to the preliminary scoping memo regarding the category, need for hearing, issues to be considered, or schedule. Any recommended changes to the proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 18 months or less (ratesetting or quasi-legislative proceeding).

All comments which contain factual assertions shall be verified. Unverified factual assertions will be given only the weight of argument.

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

6.3. (Rule 6.3) Petition for Rulemaking.

(a) Pursuant to this rule, any person may petition the Commission under Public Utilities Code Section 1708.5 to adopt, amend, or repeal a regulation. The proposed regulation must apply to an entire class of entities or activities over which the Commission has jurisdiction and must apply to future

conduct.

(b) Form and Content. A petition must concisely state the justification for the requested relief, and if adoption or amendment of a regulation is sought, the petition must include specific proposed wording for that regulation. In addition, a petition must state whether the issues raised in the petition have, to the petitioner's knowledge, ever been litigated before the Commission, and if so, when and how the Commission resolved the issues, including the name and case number of the proceeding (if known). A petition that contains factual assertions must be verified. Unverified factual assertions will be given only the weight of argument. The caption of a petition must contain the following wording: "Petition to adopt, amend, or repeal a regulation pursuant to Pub. Util. Code § 1708.5."

(c) Service and Filing. Petitions must be served upon Executive Director, Chief Administrative Law Judge, Director of the appropriate industry division, and Public Advisor. Prior to filing, petitioners must consult with the Public Advisor to identify any additional persons upon whom to serve the petition. If a petition would result in the modification of a prior Commission order or decision, then the petition must also be served on all parties to the proceeding or proceedings in which the decision that would be modified was issued. The assigned Administrative Law Judge may direct the petitioner to serve the petition on additional persons.

(d) Responses and Replies. Responses to a petition must be filed and served on all parties who were served with the petition within 30 days of the date that the petition was served, unless the assigned Administrative Law Judge sets a different date. The petitioner and any other party may reply to responses to the petition. Replies must be filed and served within 10 days of the last day for filing responses, unless the Administrative Law Judge sets a different date.

(e) The requirements of Article 8 regarding communications with decisionmakers and Commissioners' advisors do not apply to petitions for rulemaking.

(f) The Commission will not entertain a petition for rulemaking on an issue that the Commission has acted on or decided not to act on within the preceding 12 months.

Note: Authority cited: Sections 1701 and 1708.5, Public Utilities Code. Reference: Section 1708.5, Public Utilities Code.

ARTICLE 7. CATEGORIZING AND SCOPING PROCEEDINGS

7.1. (Rule 7.1) Categorization, Need for Hearing.

(a) Applications. By resolution at each Commission business meeting, the Commission shall preliminarily determine, for each proceeding initiated by application filed on or after the Commission's prior business meeting, the category of the proceeding and the need for hearing. The preliminary determination may be held for one Commission business meeting if the time of filing did not permit an informed determination. The preliminary determination is not appealable, but shall be confirmed or changed by assigned Commissioner's ruling pursuant to Rule 7.3, and such ruling as to the category is subject to appeal under Rule 7.6.

(b) Complaints. For each proceeding initiated by complaint, the Chief Administrative Law Judge, in consultation with the President of the Commission, shall determine the category of the proceeding and shall preliminarily determine the need for hearing. These determinations will be stated in the instructions to answer. The determination as to the category is appealable under Rule 7.6.

(c) Investigations. An order instituting investigation shall determine the category of the proceeding, preliminarily determine the need for hearing, and attach a preliminary scoping memo. The order, only as to the category, is appealable under the procedures in Rule 7.6.

(d) Rulemakings. An order instituting rulemaking shall preliminarily determine the category and need for hearing, and shall attach a preliminary scoping memo. The preliminary determination is not appealable, but shall be confirmed or changed by assigned Commissioner's ruling pursuant to Rule 7.3, and such ruling as to the category is subject to appeal under Rule 7.6.

(e) Commission Discretion in Categorization.

(1) When a proceeding may fit more than one category as defined in Rules 1.3(a), (d) and (e), the Commission may determine which category appears most suitable to the proceeding, or may divide the subject matter of the proceeding into different phases or one or more new proceedings.

(2) When a proceeding does not clearly fit into any of the categories as defined in Rules 1.3(a), (d), and (e), the proceeding will be conducted under the rules applicable to the ratesetting category unless and until the

Commission determines that the rules applicable to one of the other categories, or some hybrid of the rules, are best suited to the proceeding.

(3) In exercising its discretion under this rule, the Commission shall so categorize a proceeding and shall make such other procedural orders as best to enable the Commission to achieve a full, timely, and effective resolution of the substantive issues presented in the proceeding.

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

7.2. (Rule 7.2) Prehearing Conference.

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

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

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

7.3. (Rule 7.3) Scoping Memos.

(a) At or after the prehearing conference (if one is held), the assigned Commissioner shall issue the scoping memo for the proceeding, which shall determine the schedule (with projected submission date) and issues to be addressed. In an adjudicatory proceeding, the scoping memo shall also designate the presiding officer. In a proceeding initiated by application or order instituting rulemaking, the scoping memo shall also determine the category and need for hearing.

(b) The assigned Commissioner has the discretion not to issue a scoping memo in any proceeding in which it is preliminarily determined that a

hearing is not needed and (1) in a proceeding initiated by application, complaint, or order instituting investigation, no timely protest, answer, or response is filed, or (2) in any proceeding initiated by Commission order, no timely request for hearing is filed.

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

7.4. (Rule 7.4) Consolidation.

Proceedings involving related questions of law or fact may be consolidated.

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

7.5. (Rule 7.5) Changes to Preliminary Determinations.

If the assigned Commissioner, pursuant to Rule 7.3(a), changes the preliminary determination on need for hearing, the assigned Commissioner's ruling shall be placed on the Commission's Consent Agenda for approval of that change.

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

7.6. (Rule 7.6) Appeals of Categorization.

(a) Any party may file and serve an appeal to the Commission, no later than 10 days after the date of: (1) an assigned Commissioner's ruling on category pursuant to Rule 7.3(a); (2) the instructions to answer pursuant to Rule 7.1(b); or (3) an order investigation pursuant to Rule 7.1(c). Such appeal shall state why the designated category is wrong as a matter of law or policy. The appeal shall be served on the Commission's General Counsel, the Chief Administrative Law Judge, the President of the Commission, and all persons who were served with the ruling, instructions to answer, or order.

(b) Any party, no later than 15 days after the date of a categorization from which timely appeal has been taken pursuant to subsection (a) of this rule, may file and serve a response to the appeal. The response shall be served on the appellant and on all persons who were served with the ruling, instructions to answer, or order. The Commission is not obligated to withhold a decision on an appeal to allow time for responses. Replies to responses are not permitted.

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

ARTICLE 8. COMMUNICATIONS WITH DECISIONMAKERS AND ADVISORS

8.1. (Rule 8.1) Definitions.

For purposes of this Article, the following definitions apply:

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

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

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

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

(1) concerns any substantive issue in a formal proceeding,

(2) takes place between an interested person and a decisionmaker, and

(3) does not occur in a public hearing, workshop, or other public forum noticed by ruling or order in the proceeding, or on the record of the proceeding.

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

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

(1) any party to the proceeding or the agents or employees of any party, including persons receiving consideration to represent any of them;

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

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

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

8.2. (Rule 8.2) Communications with Advisors.

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

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

8.3. (Rule 8.3) 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 8.4. In addition, the following restrictions apply:

(1) All-party meetings: Oral ex parte communications are permitted at any time with a Commissioner provided that the Commissioner involved (i) invites all parties to attend the meeting or sets up a conference call in which all parties may participate, and (ii) gives notice of this meeting or

call as soon as possible, but no less than three days before the meeting or call.

(2) Individual oral communications: If a decisionmaker grants an ex parte communication meeting or call to any interested person individually, all other parties shall be granted an individual meeting of a substantially equal period of time with that decisionmaker. The interested person requesting the initial individual meeting shall notify the parties that its request has been granted, and shall file a certificate of service of this notification, at least three days before the meeting or call.

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

(4) Ratesetting Deliberative Meetings and Ex Parte Prohibitions:

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

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

(d) Notwithstanding Rule 8.5, 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 8.4, 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 8.4.

(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 8.4, 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 8.4, 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 8.4 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 8.4, 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 8.4, 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.

8.4. (Rule 8.4) Reporting Ex Parte Communications.

Ex parte communications that are subject to these reporting requirements shall be reported by the interested person, regardless of whether the communication was initiated by the interested person. Notice of ex parte communications shall be filed within three working days of the communication. The notice may address multiple ex parte communications in the same proceeding, provided that notice of each communication identified therein is timely. The notice shall include the following information:

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

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

(c) A description of the interested person's, but not the decisionmaker's (or Commissioner's personal advisor's), communication and its content, to which description shall be attached a copy of any written, audiovisual, or other material used for or during the communication.

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

8.5. (Rule 8.5) Ex Parte Requirements Prior to Final Categorization.

(a) Applications.

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

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

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

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

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

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

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

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

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

(c) All other ex parte communications and communications with Commissioners' personal advisors are permitted, and are subject to the reporting requirements of Rule 8.4.

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

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

ARTICLE 9. ADMINISTRATIVE LAW JUDGES

9.1. (Rule 9.1) Authority.

The Administrative Law Judge may administer oaths; issue subpoenas; receive evidence; hold appropriate conferences before or during hearings; rule upon all objections or motions which do not involve final determination of proceedings; receive offers of proof; hear argument; and fix the time for the filing of briefs. The Administrative Law Judge may take such other action as may be necessary and appropriate to the discharge of his duties, consistent with the statutory or other authorities under which the Commission functions and with the rules and policies of the Commission.

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

9.2. (Rule 9.2) Motion for Reassignment on Peremptory Challenge.

(a) A party to a proceeding preliminarily or finally determined to be adjudicatory may file a motion, once only, for automatic reassignment of that proceeding to another Administrative Law Judge in accordance with the provisions of this subsection. The motion shall be filed and served on all parties, and on the Chief Administrative Law Judge and the President of the Commission. The motion shall be supported by declaration under penalty of perjury (or affidavit by an out-of-state person) in substantially the following form:

> _____, [declares under penalty of perjury:] That [s]he is [a party] [attorney for a party] to the above-captioned adjudicatory proceeding. That [declarant] believes that [s]he cannot have a [fair] [expeditious] hearing before Administrative Law Judge [to whom the proceeding is assigned]. That declarant [or the party declarant represents] has not filed, pursuant to Rule 9.2, any prior motion for reassignment on peremptory challenge in the proceeding. Dated _____, at _____, California.
> _____ [Signature]

Where there is more than one complainant or similar party, or more than one defendant or similar party, only one peremptory challenge for each side may be made, and the declaration shall include a showing that either (1) no previous peremptory challenge has been filed in the proceeding, or (2) the interests of the moving party are substantially adverse to those of any party who previously moved for reassignment under this rule.

(b) A party to a proceeding preliminarily or finally determined to be ratesetting, or a person filing a concurrent motion to become a party under Rule 1.4(a)(4), may file a motion, once only, for reassignment of that proceeding to another Administrative Law Judge in accordance with the provisions of this subsection; however, no more than two reassignments pursuant to this subsection shall be permitted in the same proceeding. The motion shall be filed and served as provided in subsection (a) of this rule, and shall be supported by a declaration similar in form and substance to that set forth in subsection (a) of this rule.

(c) Any motion filed pursuant to this rule shall be filed no later than 10 days after the date of the notice of the assignment or ruling, if any, on reassignment.

(d) The Chief Administrative Law Judge shall issue either a ruling reassigning the proceeding to another Administrative Law Judge or, in consultation with the President of the Commission, a ruling explaining why the motion is not proper under this rule.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.3. (Rule 9.3) Motion for Reassignment for Prior Service.

(a) Irrespective of the limits in Rule 9.2 on number of motions for reassignment, a party may move for reassignment in any adjudicatory proceeding or ratesetting proceeding in which the assigned Administrative Law Judge (1) has, within the previous 12 months, served in any capacity in an advocacy position at the Commission or been employed by a regulated public utility, or (2) has been a party or served in a representative capacity in the proceeding.

(b) A motion under this subsection shall be supported by declaration under penalty of perjury (or affidavit by an out-of-state person) setting forth the factual basis for the motion, and shall be filed and served as provided in Rule 9.2(a).

(c) Any motion filed pursuant to this rule shall be filed no later than 10 days after the date of the notice of the assignment.

(d) The Chief Administrative Law Judge shall issue either a ruling reassigning the proceeding to another Administrative Law Judge or, in consultation with

the President of the Commission, a ruling explaining the basis for denial of the motion.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.4. (Rule 9.4) Motion for Reassignment for Cause.

(a) Irrespective of the limits in Rule 9.2 on number of motions for reassignment, a party may move for reassignment in any proceeding in which the assigned Administrative Law Judge:

(1) has a financial interest in the subject matter in a proceeding or in a party to the proceeding. An Administrative Law Judge shall be deemed to have a financial interest if:

(A) A spouse or minor child living in the Administrative Law Judge's household has a financial interest; or

(B) The Administrative Law Judge or his or her spouse is a fiduciary who has a financial interest.

(2) has bias, prejudice, or interest in the proceeding.

(b) A motion filed pursuant to this rule shall be supported by a declaration under penalty of perjury (or affidavit by an out-of-state person) setting forth the factual basis for the motion, and shall be filed and served as provided in Rule 9.2(a).

(c) A motion filed pursuant to this rule shall be filed at the earliest practicable opportunity and in any event no later than 10 days after the date the party discovered or should have discovered facts set forth in the declaration filed pursuant to this rule.

(d) Any written response by the assigned Administrative Law Judge to a motion for reassignment for cause shall be filed and served in the proceeding where the motion was filed.

(e) The Chief Administrative Law Judge, in consultation with the President of the Commission, and after considering any response from the assigned Administrative Law Judge, shall issue a ruling addressing the motion.

(f) For the purposes of this rule, "financial interest" means ownership of more than a 1 percent legal or equitable interest in a party, or a legal or equitable interest in a party of a fair market value in excess of one thousand

five hundred dollars ($1,500), or a relationship as director, advisor or other active participant in the affairs of a party, except as follows:

(1) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in those securities held by the organization unless the Administrative Law Judge participates in the management of the fund.

(2) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.

(3) The proprietary interest of a policyholder in a mutual insurance company, or a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.5. (Rule 9.5) Circumstances Not Constituting Cause.

It shall not be cause for reassignment for cause that the Administrative Law Judge:

(a) Is or is not a member of a racial, ethnic, religious, sexual or similar group and the proceeding involves the rights of such a group.

(b) Has experience, technical competence, or specialized knowledge of or has in any capacity expressed a view on a legal, factual or policy issue presented in the proceeding, except as provided in Rule 9.3.

(c) Has, as a representative or public official participated in the drafting of laws or regulations or in the effort to pass or defeat laws or regulations, the meaning, effect, or application of which is in issue in the proceeding unless the Administrative Law Judge believes that the prior involvement was such as to prevent the Administrative Law Judge from exercising unbiased and impartial judgment in the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.6. (Rule 9.6) Administrative Law Judge's Request for Reassignment.

The Administrative Law Judge shall request reassignment and withdraw from a proceeding in which there are grounds for reassignment for cause unless the parties waive the reassignment pursuant to Rule 9.7.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.7. (Rule 9.7) Waiver.

An Administrative Law Judge, after determining that there is basis for his or her reassignment for cause, shall disclose the basis on the record, and may ask the parties whether they wish to waive the reassignment. A waiver of reassignment shall recite the basis for reassignment and is effective only when signed by all parties, and included in the record. The Administrative Law Judge shall not seek to induce a waiver and shall avoid any effort to discover which representatives or parties favored or opposed a waiver of reassignment.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

9.8. (Rule 9.8) Prior Rulings.

If a proceeding is reassigned, the rulings made up to that time shall not be set aside in the absence of good cause.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2, Public Utilities Code.

ARTICLE 10. DISCOVERY

10.1. (Rule 10.1) Discovery from Parties.

Without limitation to the rights of the Commission or its staff under Pub. Util. Code Sections 309.5 and 314, any party may obtain discovery from any other party regarding any matter, not privileged, that is relevant to the subject matter involved in the pending proceeding, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence, unless the burden, expense, or

intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence.

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

10.2. (Rule 10.2) Subpoenas.

(a) A party may request the issuance of a subpoena to direct the attendance of a non-party witness or to direct the production of documents or other things under the non-party witness's control. Requests may be made to the Administrative Law Judge assigned to the proceeding. If no Administrative Law Judge is assigned to the proceeding, requests may be made to the Executive Director. Subpoenas may be issued by the Commission, each Commissioner, the Executive Director, the Assistant Executive Director, or the Administrative Law Judge.

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

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

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

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

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

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

10.3. (Rule 10.3) Computer Model Documentation.

(a) Any party who sponsors testimony or exhibits which are based in whole, or in part, on a computer model shall provide to any party upon request, the following information:

(1) A description of the source of all input data;

(2) The complete set of input data (input file) as used in the sponsoring party's computer run(s);

(3) Documentation sufficient for an experienced professional to understand the basic logical processes linking the input data to the output, including but not limited to a manual which includes:

(A) A complete list of variables (input record types), input record formats, and a description of how input files are created and data entered as used in the sponsoring party's computer model(s).

(B) A complete description of how the model operates and its logic. This description may make use of equations, algorithms, flow charts, or other descriptive techniques.

(C) A description of a diagnostics and output report formats as necessary to understand the model's operation.

(4) A complete set of output files relied on to prepare or support the testimony or exhibits; and

(5) A description of post-processing requirements of the model output.

(b) If a sponsoring party modifies its computer model or the data base, and sponsors the modified results in the proceeding, such party shall provide the

modified model or data to any requesting party who has previously requested access to the original model or data base.

(c) Parties shall maintain copies of computer models and data bases in unmodified form until 90 days after the date of issuance of the Commission's last order or decision in the proceeding, including order or decision on application for rehearing, to the extent that those computer models and data bases continue to provide the basis, in whole or in part, for their showing.

Note: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821-1822, Public Utilities Code.

10.4. (Rule 10.4) Computer Model and Data Base Access.

(a) Any party seeking access to a computer model or data base shall serve on the sponsoring party a written explanation of why it requests access to the information and how its request relates to its interest or position in the proceeding.

(b) Any sponsoring party shall provide timely and reasonable access to, and explanation of, that computer model or data base to all parties complying with subsection (a).

(c) If a party requests access to a data base, the sponsoring party may, at its election, either

(1) provide such access on its own computer,

(2) perform any data sorts requested by the requesting party,

(3) make the data base available to the requesting party to run on the requesting party's own computer, or

(4) make the data base available through an external computer service.

(d) If a party requests access to a computer model, the sponsoring party, may at its election, either

(1) make the requested runs on its own computer,

(2) make the model available to the requesting party to run on that party's own computer, or

(3) have the requested model run produced for the requesting party by an external computer service.

(e) The sponsoring party is not required to modify its computer model or data base in order to accommodate a request, or to install its model on the requesting party's computer, or to provide detailed training on how to operate the model beyond provision of written documentation. The sponsoring party is not required to provide a remote terminal or other direct physical link to its computer for use by the requesting party. The sponsoring party may take reasonable precautions to preclude access to other software or data not applicable to the specific model or data base being used.

(f) Within five business days of receipt of a request from a requesting party pursuant to this Rule, the sponsoring party shall indicate whether the request is clear and complete and shall provide the requesting party a written estimate of the date of completion of the response.

Note: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821-1822, Public Utilities Code.

ARTICLE 11. LAW AND MOTION

11.1. (Rule 11.1) Motions.

(a) A motion is a request for the Commission or the Administrative Law Judge to take a specific action related to an open proceeding before the Commission.

(b) A motion may be made at any time during the pendency of a proceeding by any party to the proceeding. A motion may also be made by a person who is not a party if it is accompanied by a motion, pursuant to Rule 1.4, to become a party.

(c) Written motions must be filed and served. The Administrative Law Judge may permit an oral motion to be made during a hearing or conference.

(d) A motion must concisely state the facts and law supporting the motion and the specific relief or ruling requested.

(e) Responses to written motions must be filed and served within 15 days of the date that the motion was served, except as otherwise provided in these Rules or unless the Administrative Law Judge sets a different date. Responses to oral motions may be made as permitted by the Administrative Law Judge.

(f) With the permission of the Administrative Law Judge, the moving party may reply to responses to the motion. Written replies must be filed and served within 10 days of the last day for filing responses under subsection (e) unless the Administrative Law Judge sets a different date. A written reply must state in the opening paragraph that the Administrative Law Judge has authorized its filing and must state the date and the manner in which the authorization was given (i.e., in writing, by telephone conversation, etc.).

(g) Nothing in this rule prevents the Commission or the Administrative Law Judge from ruling on a motion before responses or replies are filed.

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

11.2. (Rule 11.2) Motion to Dismiss.

A motion to dismiss a proceeding based on the pleadings (other than a motion based upon a lack of jurisdiction) shall be made no later than five days prior to the first day of hearing.

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

11.3. (Rule 11.3) Motion to Compel or Limit Discovery.

(a) A motion to compel or limit discovery is not eligible for resolution unless the parties to the dispute have previously met and conferred in a good faith effort to informally resolve the dispute. The motion shall state facts showing a good faith attempt at an informal resolution of the discovery dispute presented by the motion, and shall attach a proposed ruling that clearly indicates the relief requested.

(b) Responses to motions to compel or limit discovery shall be filed and served within 10 days of the date that the motion was served.

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

11.4. (Rule 11.4) Motion for Leave to File Under Seal.

(a) A motion for leave to file under seal shall attach a proposed ruling that clearly indicates the relief requested.

(b) Responses to motions to file pleadings, or portions of pleading, under seal shall be filed and served within 10 days of the date that the motion was served.

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

(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. Reference: 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.

11.7. (Rule 11.7) Referral to Law and Motion Judge.

The assigned Administrative Law Judge may refer motions for the resolution of discovery disputes to a designated Law and Motion Administrative Law Judge.

The Law and Motion Administrative Law Judge shall preside over discovery matters referred to him or her by the assigned Administrative Law Judge. The Law and Motion Administrative Law Judge may set law and motion hearings and take such other action as may be necessary and appropriate to the discharge of his or her duties. Rulings under this procedure will be deemed to be rulings in the proceeding in which the motions are filed.

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

ARTICLE 12. SETTLEMENTS

12.1. (Rule 12.1) Proposal of Settlements.

(a) Parties may, by written motion any time after the first prehearing conference and within 30 days after the last day of hearing, propose settlements on the resolution of any material issue of law or fact or on a mutually agreeable outcome to the proceeding. Settlements need not be joined by all parties; however, settlements in applications must be signed by the applicant and, in complaints, by the complainant and defendant.

The motion shall contain a statement of the factual and legal considerations adequate to advise the Commission of the scope of the settlement and of the grounds on which adoption is urged. Resolution shall be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings.

When a settlement pertains to a proceeding under a Rate Case Plan or other proceeding in which a comparison exhibit would ordinarily be filed, the motion must be supported by a comparison exhibit indicating the impact of the settlement in relation to the utility's application and, if the participating staff supports the settlement, in relation to the issues staff contested, or would have contested, in a hearing.

(b) Prior to signing any settlement, the settling parties shall convene at least one conference with notice and opportunity to participate provided to all

parties for the purpose of discussing settlements in the proceeding. Notice of the date, time, and place shall be served on all parties at least seven (7) days in advance of the conference. Notice of any subsequent settlement conferences may be oral, may occur less than seven days in advance, and may be limited to prior conference attendees and those parties specifically requesting notice.

Attendance at any settlement conference shall be limited to the parties and their representatives.

(c) Settlements should ordinarily not include deadlines for Commission approval; however, in the rare case where delay beyond a certain date would invalidate the basis for the proposal, the timing urgency must be clearly stated and fully justified in the motion.

(d) The Commission will not approve settlements, whether contested or uncontested, unless the settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

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

12.2. (Rule 12.2) Comments.

Parties may file comments contesting all or part of the settlement within 30 days of the date that the motion for adoption of settlement was served.

Comments must specify the portions of the settlement that the party opposes, the legal basis of its opposition, and the factual issues that it contests. If the contesting party asserts that hearing is required by law, the party shall provide appropriate citation and specify the material contested facts that would require a hearing. Any failure by a party to file comments constitutes waiver by that party of all objections to the settlement, including the right to hearing.

Parties may file reply comments within 15 days after the last day for filing comments.

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

12.3. (Rule 12.3) Hearing Where Contested.

If there are no material contested issues of fact, or if the contested issue is one of law, the Commission may decline to set hearing.

If a hearing is set, it will be scheduled as soon after the close of the comment period as reasonably possible. Discovery will be permitted and should be well underway prior to the close of the comment period. Parties to the settlement must provide one or more witnesses to testify concerning the contested issues. Contesting parties may present evidence and testimony on the contested issues.

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

12.4. (Rule 12.4) Rejection of Settlement.

The Commission may reject a proposed settlement whenever it determines that the settlement is not in the public interest. Upon rejection of the settlement, the Commission may take various steps, including the following:

(a) Hold hearings on the underlying issues, in which case the parties to the settlement may either withdraw it or offer it as joint testimony,

(b) Allow the parties time to renegotiate the settlement,

(c) Propose alternative terms to the parties to the settlement which are acceptable to the Commission and allow the parties reasonable time within which to elect to accept such terms or to request other relief.

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

12.5. (Rule 12.5) Adoption Binding, Not Precedential.

Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

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

12.6. (Rule 12.6) Confidentiality and Inadmissibility.

No discussion, admission, concession or offer to settle, whether oral or written, made during any negotiation on a settlement shall be subject to discovery, or admissible in any evidentiary hearing against any participant who objects to its admission. Participating parties and their representatives shall hold such discussions, admissions, concessions, and offers to settle confidential and shall not disclose them outside the negotiations without the consent of the parties participating in the negotiations.

If a settlement is not adopted by the Commission, the terms of the proposed settlement is also inadmissible unless their admission is agreed to by all parties joining in the proposal.

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

12.7. (Rule 12.7) Applicability.

Exhibits may be sponsored by two or more parties in a Commission hearing as joint testimony without application of these rules.

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

ARTICLE 13. HEARINGS, EVIDENCE, BRIEFS AND SUBMISSION

13.1. (Rule 13.1) Notice.

(a) The Commission shall give notice of evidentiary hearing not less than ten days before the date of hearing, unless it finds that public necessity requires hearing at an earlier date.

(b) Whenever any electrical, gas, heat, telephone, water, or sewer system utility files an application to increase any rate, the utility shall give notice of hearing, not less than five nor more than 30 days before the date of hearing, to entities or persons who may be affected thereby, by posting notice in public places and by publishing notice in a newspaper or newspapers of general circulation in the area or areas concerned, of the time, date, and place of hearing. Proof of publication and sample copies of the notices shall be filed within 10 days after publication.

(c) In addition to the notice required by this rule, parties shall provide such notice of hearing as the presiding officer may designate.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1704, Public Utilities Code.

13.2. (Rule 13.2) Presiding Officer.

When evidence is to be taken in a hearing, the assigned Commissioner or assigned Administrative Law Judge shall preside, as follows:

(a) In an adjudicatory proceeding, the presiding officer shall be either the assigned Commissioner or the assigned Administrative Law Judge, as designated in the scoping memo.

(b) In a ratesetting proceeding, the presiding officer shall be either the assigned Commissioner or the assigned Administrative Law Judge, as designated by the assigned Commissioner prior to the first hearing.

(c) In a quasi-legislative proceeding, the assigned Commissioner shall be the presiding officer.

(d) Where the assigned Commissioner is designated as the presiding officer pursuant to this rule, and is absent, the assigned Administrative Law Judge shall preside at hearing to the extent permitted by law.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1704, Public Utilities Code.

13.3. (Rule 13.3) Assigned Commissioner Presence.

(a) In any ratesetting proceeding, the assigned Commissioner shall be present at the closing argument, if any, and, if designated as presiding officer, shall be present for more than one-half of the hearing days.

(b) In any ratesetting proceeding, a party may request the presence of the assigned Commissioner at a hearing or specific portion of a hearing. The request may be made in a pleading or a prehearing conference statement. Alternatively, the request may be made by filing and serving on all parties a letter to the assigned Commissioner, with a copy to the assigned Administrative Law Judge. The request should be made as far as possible in advance of the hearing, and should specify (1) the witnesses and/or issues for which the assigned Commissioner's presence is requested, (2) the party's

best estimate of the dates when such witnesses and subject matter will be heard, and (3) the reasons why the assigned Commissioner's presence is requested. The assigned Commissioner has sole discretion to grant or deny, in whole or in part, any such request. Any request that is filed five or fewer business days before the date when the subject hearing begins may be rejected as untimely.

(c) In quasi-legislative proceedings, the assigned Commissioner shall be present for hearing on legislative facts (general facts that help the Commission decide questions of law and policy and discretion), but need not be present for hearing on adjudicative facts (facts that answer questions such as who did what, where, when, how, why, with what motive or intent).

(d) For purposes of this rule, "present" or "presence" at a hearing or argument means physical attendance in the hearing room, sufficient to familiarize the attending Commissioner with the substance of the evidence, testimony, or argument for which the Commissioner's presence is required or requested.

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

13.4. (Rule 13.4) Order of Procedure.

In hearings on complaints, applications and petitions, the complainant, applicant, or petitioner shall open and close. In hearings on investigation proceedings where filed rates or rules which do not result in an increase have been suspended, the respondent shall open and close. In other investigation proceedings, the Commission's staff shall open and close. Intervenors shall follow the parties in whose behalf the intervention is made. The presiding officer, where circumstances warrant, may vary the order of presentation.

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

13.5. (Rule 13.5) Limiting Number of Witnesses.

To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue.

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

13.6. (Rule 13.6) Evidence.

(a) Although technical rules of evidence ordinarily need not be applied in hearings before the Commission, substantial rights of the parties shall be preserved.

(b) When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly.

(c) The Commission may review evidentiary rulings in determining the matter on its merits. In extraordinary circumstances, where prompt decision by the Commission is necessary to promote substantial justice, the assigned Commissioner or Administrative Law Judge may refer evidentiary rulings to the Commission for determination.

(d) Formal exceptions to rulings are unnecessary and need not be taken.

(e) An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained.

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

13.7. (Rule 13.7) Exhibits.

(a) Exhibits and copies of exhibits shall be legible and either prepared on paper not exceeding 8 ½ x 13 inches in size, or folded to that approximate size. Exhibits of two or more pages shall be bound or stapled and, wherever practicable, the pages of each exhibit shall be numbered. Exhibits that contain multiple chapters or attachments shall include a table of contents. Rate comparisons and other figures shall be set forth in tabular form. The top sheet of an exhibit must have a blank space two inches high by four inches wide to accommodate the Commission's exhibit stamp.

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

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

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

believed material and relevant.

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

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

13.8. (Rule 13.8) Prepared Testimony.

(a) Prepared testimony may be offered in evidence as an exhibit in lieu of oral testimony under direct examination, provided that copies shall have been served upon all parties prior to hearing and pursuant to the schedule adopted in the proceeding. Prepared testimony shall constitute the entirety of the witness's direct testimony, and shall include any exhibits to be offered in support of the testimony and, in the case of an expert witness, a statement of the witness's qualifications.

(b) Direct testimony in addition to the prepared testimony previously served, other than the correction of minor typographical or wording errors that do not alter the substance of the prepared testimony, will not be accepted into evidence unless the sponsoring party shows good cause why the additional testimony could not have been served with the prepared testimony or should otherwise be admitted. Corrections to minor typographical or wording errors in prepared testimony may be offered in evidence as an exhibit in lieu of oral testimony under direct examination.

(c) In the absence of an evidentiary hearing, prepared testimony may be offered into evidence by written motion or by oral motion at a prehearing conference, if any. If the offer is by written motion, the prepared testimony shall not be filed with the motion, but shall be concurrently served with the motion. Two copies shall be served on the Administrative Law Judge or, if none is yet assigned, on the Chief Administrative Law Judge. The motion shall include a declaration under penalty of perjury by the person preparing or in charge of preparing the prepared testimony as being true and correct, unless the person preparing them is dead or has been declared incompetent, in which case any other person having knowledge of such statements of fact may certify such documents.

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

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.

13.10. (Rule 13.10) Additional Evidence.

The Administrative Law Judge or presiding officer, as applicable, may require the production of further evidence upon any issue. Upon agreement of the parties, the presiding officer may authorize the receipt of specific documentary evidence as a part of the record within a fixed time after the hearing is adjourned, reserving exhibit numbers therefor.

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

13.11. (Rule 13.11) Closing Briefs.

The Administrative Law Judge or presiding officer, as applicable, may fix the time for the filing of briefs. Concurrent briefs are preferable. Factual statements must be supported by identified evidence of record. Citations to the transcript must indicate the transcript page number(s) and identify the party and witness sponsoring the cited testimony. Citations to exhibits must indicate the exhibit number and exhibit page number. A brief of more than 20 pages shall contain a subject index, a table of authorities, and a summary of the briefing party's recommendations following the table of authorities.

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

13.12. (Rule 13.12) Oral Argument in Adjudicatory Proceeding.

In any adjudicatory proceeding, if an application for rehearing is granted, the parties shall have an opportunity for final oral argument before the

presiding officer, if a party so requests within the time and in the manner specified.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.2(d), Public Utilities Code.

13.13. (Rule 13.13) Oral Argument Before Commission.

(a) The Commission may, on its own motion or upon recommendation of the assigned Commissioner or Administrative Law Judge, direct the presentation of oral argument before it.

(b) In ratesetting and quasi-legislative proceedings in which hearings were held, a party has the right to make a final oral argument before the Commission, provided that the party makes such request in its closing brief or, if closing briefs are not permitted by the scoping memo, within the time and in the manner specified in the scoping memo or later ruling in the proceeding. A quorum of the Commission shall be present; however, a Commissioner may be present by teleconference to the extent permitted by the Bagley-Keene Open Meeting Act.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701.3(d) and 1701.4(c), Public Utilities Code.

13.14. (Rule 13.14) Submission and Reopening of Record.

(a) A proceeding shall stand submitted for decision by the Commission after the taking of evidence, the filing of briefs, and the presentation of oral argument as may have been prescribed.

(b) A motion to set aside submission and reopen the record for the taking of additional evidence, or for consideration of a settlement under Article 12 shall specify the facts claimed to constitute grounds in justification thereof, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. It shall contain a brief statement of proposed additional evidence, and explain why such evidence was not previously adduced.

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

ARTICLE 14. RECOMMENDED DECISIONS

14.1. (Rule 14.1) Definitions.

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

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

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

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

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

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

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

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

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

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

14.2. (Rule 14.2) Issuance of Recommended Decision.

(a) A proposed decision shall be filed no later than 90 days after submission. In a ratesetting case that requires a hearing, an alternate proposed decision by the assigned commissioner or assigned administrative law judge shall be filed concurrently with the proposed decision.

(b) A presiding officer's decision shall be filed no later than 60 days after submission.

(c) An alternate proposed decision shall be filed without undue delay.

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

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

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

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

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

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

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

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

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

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

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

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

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

14.4. (Rule 14.4) Appeal and Review of Presiding Officer's Decision.

(a) Any party may file an appeal of the presiding officer's decision within 30 days of the date the decision is served.

(b) Any Commissioner may request review of the presiding officer's decision

by filing a request for review within 30 days of the date the decision is served.

(c) Appeals and requests for review shall set forth specifically the grounds on which the appellant or requestor believes the presiding officer's decision to be unlawful or erroneous. Vague assertions as to the record or the law, without citation, may be accorded little weight.

(d) Any party may file its response no later than 15 days after the date the appeal or request for review was filed. In cases of multiple appeals or requests for review, the response may be to all such filings and may be filed 15 days after the last such appeal or request for review was filed. Replies to responses are not permitted. The Commission is not obligated to withhold a decision on an appeal or request for review to allow time for responses to be filed.

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

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

Any person may comment on a draft or alternate draft resolution by serving (but not filing) comments on the Commission by no later than ten days before the Commission meeting when the draft or alternate resolution is first scheduled for consideration (as indicated on the first page of the draft or alternate resolution) in accordance with the instructions accompanying the notice of the draft or alternate draft resolution in the Commission's Daily Calendar.

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

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

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

(1) Activities that severely impair or threaten to severely impair public health or safety.

(2) Crippling disasters that severely impair public health or safety.

(3) Administrative disciplinary matters, including, but not limited to, consideration of proposed decisions and stipulations, and pending litigation, that require immediate attention.

(4) Consideration of applications for licenses or certificates for which a decision must be made in less than ten days.

(5) Consideration of proposed legislation that requires immediate attention due to legislative action that may be taken before the next regularly scheduled Commission meeting, or due to time limitations imposed by law.

(6) Requests for relief based on extraordinary conditions in which time is of the essence.

(7) Deadlines for Commission action imposed by legislative bodies, courts, other administrative bodies or tribunals, the office of the Governor, or a legislator.

(8) Unusual matters that cannot be disposed of by normal procedures if the duties of the Commission are to be fulfilled.

A rate increase is not an unforeseen emergency situation.

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

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

(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 regulatee in violation of applicable law, or where such failure would cause significant harm to public health or welfare. When acting pursuant to this subsection, the Commission will provide such reduced period for public review and comment as is consistent with the public necessity requiring reduction or waiver.

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

14.7. (Rule 14.7) Exemptions.

(a) No public review or comment is required for (1) a resolution on an advice

letter filing or decision on an uncontested matter where the filing or matter pertains solely to one or more water corporations as defined in Public Utilities Code Section 241, (2) an order instituting investigation or rulemaking, (3) a categorization resolution under Public Utilities Code Sections 1701.1 through 1701.4, or (4) an order, including a decision on an appeal from the presiding officer's decision in an adjudicatory proceeding, that the Commission is authorized by law to consider in executive session.

(b) Except to the extent that the Commission finds it is required by the public interest in a particular case, this article does not apply to the decision of the assigned Administrative Law Judge in a complaint under the expedited complaint procedure.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311(f) and 1702.1, Public Utilities Code.

ARTICLE 15. COMMISSION DECISIONS

15.1. (Rule 15.1) Commission Meetings.

(a) Commission Business Meetings shall be held on a regularly scheduled basis to consider and vote on decisions and orders and to take such other action as the Commission deems appropriate. Commission Business Meetings are open to the public, but the Commission may hold closed sessions as part of a regular or special meeting, as permitted by law.

(b) In a ratesetting proceeding where a hearing was held, the Commission may hold a Ratesetting Deliberative Meeting to consider its decision in closed session.

(c) Notice of the time and place of these meetings will appear in the Commission's Daily Calendar.

(d) No unscheduled meeting to take action will be held unless: (1) the Commission determines by majority vote, at a meeting prior to the emergency meeting or at the beginning of the emergency meeting, that an unforeseen emergency situation, as defined in the Bagley-Keene Open Meeting Act, exists, or (2) wherever otherwise permitted by the Bagley-Keene Open Meeting Act.

(e) If an alternate is mailed less than 30 days before the Commission

meeting at which the proposed decision or draft resolution is scheduled to be considered, the items will continue to be listed on the Commission's agenda, but will be held to the extent necessary to comply with Public Utilities Code Section 311(e).

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 306 and 311(e), Public Utilities Code; and Sections 11123, 11125.4, 11125.5 and 11126, 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 Central Files 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 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;

(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.

15.3. (Rule 15.3) Agenda Item Documents.

(a) Before each Commission meeting, the Commission will make available to the public all draft orders, proposed and draft decisions and their alternates, draft resolutions and their alternates, and written reports appearing on the agenda, except those documents relating to items the Commission considers during its closed session, by publishing them on the Commission's Internet web site.

(b) Agenda item documents are also available for viewing and photocopying (for a fee) at the Commission's Central Files in San Francisco and at the Commission's Los Angeles and San Diego offices, and may be available in certain of the Commission's field offices. If agenda item documents are not ready when the agenda is issued, they will be available at no charge at 9 a.m. on the day and at the location of the Commission meeting.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311.5, Public Utilities Code; Section 11125.1, Government Code.

15.4. (Rule 15.4) Decision in Ratesetting or Quasi-Legislative Proceeding.

The Commission shall vote on its decision in a ratesetting or quasi-legislative proceeding not later than 60 days after issuance of a proposed or draft decision. The Commission may extend the deadline for a reasonable period under extraordinary circumstances. The 60-day deadline shall be extended for 30 days if any alternate decision is proposed. Decisions shall become effective 20 days after issuance, unless otherwise provided therein.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701.3(e), 1701.4(d), 1705 and 1731(a), Public Utilities Code.

15.5. (Rule 15.5) Decision in Adjudicatory Proceeding.

In an adjudicatory proceeding in which a hearing was held:

(a) The decision of the presiding officer shall become the decision of the Commission if no appeal or request for review is timely filed pursuant to Rule 14.4. The Commission's Daily Calendar shall notice each decision of a presiding officer that has become the decision of the Commission, the proceeding so decided, and the effective date of the decision.

(b) The Commission may meet in closed session to consider the decision of

the presiding officer that is under appeal pursuant to Rule 14.4. The vote on the appeal or a request for review shall be in a public meeting and shall be accompanied by an explanation of the Commission's decision, which shall be based on the record developed by the presiding officer. A decision different from that of the presiding officer shall include or be accompanied by a written explanation of each of the changes made to the presiding officer's decision. The decision shall become effective 20 days after issuance, unless otherwise provided therein.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 311(d), 1701.2(a), 1701.2(c) and 1705, Public Utilities Code.

15.6. (Rule 15.6) Service of Decisions and Orders.

Decisions and orders shall be served on all parties by the Executive Director's office, unless doing so would be contrary to state or federal law.

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

ARTICLE 16. REHEARING, MODIFICATION AND TIME TO COMPLY

16.1. (Rule 16.1) Application for Rehearing.

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

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

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

to a legal error, so that the Commission may correct it expeditiously.

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

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

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

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

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

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

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

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

16.3. (Rule 16.3) Oral Arguments on Application for Rehearing.

(a) If the applicant for rehearing seeks oral argument, it should request it in the application for rehearing. The request for oral argument should explain how oral argument will materially assist the Commission in resolving the application, and demonstrate that the application raises issues of major significance for the Commission because the challenged order or decision:

(1) adopts new Commission precedent or departs from existing Commission precedent without adequate explanation;

(2) changes or refines existing Commission precedent;

(3) presents legal issues of exceptional controversy, complexity, or public importance; and/or

(4) raises questions of first impression that are likely to have significant precedential impact.

These criteria are not exclusive. The Commission has complete discretion to determine the appropriateness of oral argument in any particular matter. Arguments must be based only on the evidence in the record. Oral argument is not part of the evidentiary record.

(b) Any party responding to an application for rehearing may make its own request, or respond to the rehearing applicant's request, for oral argument; if it does either, the party must comment on why the issues raised meet or do not meet the criteria stated in subsection (a).

(c) The President has the discretion to grant the request for oral argument, if any. At the request of any other Commissioner, the President's determination will be placed on the Commissioner's meeting agenda for consideration by the full Commission.

(d) Oral argument will be scheduled in a manner that will not unduly delay the resolution of the application for rehearing. At least ten days prior to the oral argument, the Commission will serve all parties to the proceeding with a notice of the oral argument, which may set forth the issues to be addressed at the argument, the order of presentation, time limitations, and other appropriate procedural matters. Normally, no more than one hour will be allowed for oral argument in any particular proceeding.

(e) Participation in the oral argument will ordinarily be limited to those parties who have filed or responded to the application for rehearing. Other parties to the proceeding may participate with the permission or at the invitation of the Commission. Requests to participate should be directed to the General Counsel and should be made at least seven days before the date set for oral argument.

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

16.4. (Rule 16.4) Petition for Modification.

(a) A petition for modification asks the Commission to make changes to an issued decision. Filing a petition for modification does not preserve the party's appellate rights; an application for rehearing (see Rule 16.1) is the vehicle to request rehearing and preserve a party's appellate rights.

(b) A petition for modification of a Commission decision must concisely state the justification for the requested relief and must propose specific wording to carry out all requested modifications to the decision. Any factual allegations must be supported with specific citations to the record in the proceeding or to matters that may be officially noticed. Allegations of new or changed facts must be supported by an appropriate declaration or affidavit.

(c) A petition for modification must be filed and served on all parties to the proceeding or proceedings in which the decision proposed to be modified was made. If more than one year has elapsed since the effective date of the decision, the Administrative Law Judge may direct the petitioner to serve the petition on other persons.

(d) Except as provided in this subsection, a petition for modification must be filed and served within one year of the effective date of the decision proposed to be modified. If more than one year has elapsed, the petition must also explain why the petition could not have been presented within one year of the effective date of the decision. If the Commission determines that the late submission has not been justified, it may on that ground issue a summary denial of the petition.

(e) If the petitioner was not a party to the proceeding in which the decision proposed to be modified was issued, the petition must state specifically how the petitioner is affected by the decision and why the petitioner did not participate in the proceeding earlier.

(f) Responses to petitions for modification must be filed within 30 days of the date that the petition was filed. Responses must be served on the petitioner and on all parties who were served with the petition.

(g) With the permission of the Administrative Law Judge, the petitioner may reply to responses to the petition. Replies must be filed and served within 10 days of the last day for filing responses, unless the Administrative Law Judge sets a different date. A reply must state in the opening paragraph that the Administrative Law Judge has authorized its filing and must state the date and the manner in which the authorization was given (i.e., in writing, by telephone conversation, etc.).

(h) Unless otherwise ordered by the Commission, the filing of a petition for modification does not stay or excuse compliance with the order of the decision proposed to be modified. The decision remains in effect until the effective date of any decision modifying the decision.

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

16.5. (Rule 16.5) Correction of Obvious Errors.

Correction of obvious typographical errors or omissions in Commission decisions may be requested by letter to the Executive Director, with a copy sent at the same time to all parties to the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1708, Public Utilities Code.

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

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

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

ARTICLE 17. COMPENSATING INTERVENORS

17.1. (Rule 17.1) Notice of Intent to Claim Compensation.

(a) A notice of intent to claim compensation may be filed:

(1) in a proceeding in which a prehearing conference is held, any time after the start of the proceeding until 30 days after the prehearing conference.

(2) if it has been preliminarily determined that a hearing is not needed, any time after the start of the proceeding until 30 days after the time for filing responsive pleadings (e.g., protests, responses, answers, or comments). If a prehearing conference is later held, the notice may be filed pursuant to subsection (a)(1).

(3) in a petition for rulemaking, any time after the petition is filed until 30 days after the time for filing responses. If the petitioner intends to request compensation, the petition itself may include a notice of intent. If a prehearing conference is later held, the notice may be filed pursuant to subsection (a)(1).

(4) in a proceeding where the Commission anticipates that the proceeding will take less than 30 days, by any deadline that may be established by the Administrative Law Judge.

(b) An amended notice of intent may be filed within 15 days after the issuance of the scoping memo in the proceeding.

(c) The notice of intent shall identify all issues on which the intervenor intends to participate and seek compensation, and shall separately state the expected budget for participating on each issue. The notice of intent may include a category of general costs not attributable to a particular issue.

(d) The notice of intent shall provide either (1) verification of the intervenor's customer status pursuant to Public Utilities Code Section 1802(b)(1)(A) or (B), or (2) a copy of articles of incorporation or bylaws demonstrating the intervenor's customer status pursuant to Public Utilities Code Section 1802(b)(1)(C). If current articles or bylaws have already been filed with the Commission, the notice of intent need only make a specific reference to such filings.

(e) The notice of intent shall state the intervenor's economic interest in the proceeding, as that interest relates to the issues on which the intervenor

intends to participate.

(f) An intervenor who intends to request compensation for costs of judicial review shall file a supplemental notice of intent within 30 days after the date that the intervenor first appears or files a pleading in the judicial review proceeding. The supplemental notice of intent shall identify the issues upon which the intervenor intends to participate in judicial review, and an itemized estimate of the compensation that the intervenor expects to request by reference to those identified issues. If the intervenor intends to support the Commission's decision on review, the supplemental notice of intent shall include a showing of why the intervenor expects that its participation in judicial review will supplement, complement or contribute to the Commission's defense of its decision.

(g) Responses to notices of intent to claim compensation shall be filed within 15 days of service of the notice.

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

17.2. (Rule 17.2) Eligibility in Phased Proceedings.

A party found eligible for an award of compensation in one phase of a proceeding remains eligible in later phases, including any rehearing, in the same proceeding.

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

17.3. (Rule 17.3) Request for Award.

A request for an award of compensation may be filed after the issuance of a decision that resolves an issue on which the intervenor believes it made a substantial contribution, 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 within 15 days after filing of the response.

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

ARTICLE 18. FORMS

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 and 1702, Public Utilities Code.

No. 1 — Application

(See Articles 1 and 2)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOHN JONES (Jones Rapid Transit) to operate bus service between San Francisco and South San Francisco; to establish fares; and to issue a $10,000 note.	Application No. _____ (Commission will insert number)

APPLICATION

The application of (exact legal name, mailing address and telephone number of each applicant) respectfully shows:

1. That communications in regard to this application are to be addressed to (name, title, and address).
2. (Here, and in succeeding numbered paragraphs, set forth the specific facts required by the applicable rules, together with additional facts deemed material.)

WHEREFORE, applicant requests an order (here state clearly and concisely the specific authorization sought by applicant).

Dated at _____, California, this _____ day of _____, 20____.

_____

(Signature of applicant)

_____

(Signature, address, telephone number, facsimile transmission number, and e-mail address (if consenting to e-mail service) of attorney, if any)

VERIFICATION*

(See Rule 1.11)

(Where applicant is an individual)

I am the applicant in the above-entitled matter; the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.

(Date) (Name of city)

_____(Applicant)

* Where execution occurs outside California, verification must be made in accordance with the law of the state where execution occurs.

VERIFICATION

(See Rule 1.11)

(Where Applicant is a Corporation)

I am an officer of the applicant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.

(Date) (Name of city)

_____

(Signature and Title of Corporate Officer)

(Where applicant is absent from

County of Attorney's Office)

I am the attorney for the applicant herein; said applicant is absent from the County of _____, California, where I have my office, and I make this verification for said applicant for that reason; the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.

(Date) (Name of city)

_____

(Attorney for Applicant)

No. 2 – Complaint

(See Articles 1 and 4)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

(**B**) _____)

_____)

_____)

_____)

_____)

(Fill in Complainant (s) name)

vs.

(**C**) _____)

_____)

_____)

_____)

_____)

(Fill in Defendant (s) name)

CASE _____

(for Commission use only)

(**A**) Have you tried to resolve this matter informally with the Commission's Consumer Affairs staff?

_____/_____

YES NO

Has staff responded to your complaint?

_____/_____

YES NO

Did you appeal to the Consumer Affairs Manager?

_____/_____

YES NO

Do you have money on deposit with the Commission?

_____/_____/$_____

YES NO AMOUNT

Is your service now disconnected?

_____/_____

YES NO

COMPLAINT

(**D**) The complaint of _____

(Insert exact legal name, mailing address and telephone number of each complainant)

_____

_____

respectfully shows that:

(**E**) 1. Defendant(s)_____

(Insert full name and address of each defendant)

_____

_____

(**F**) 2. Explain fully and clearly the details of your complaint. (Attach additional pages if necessary.)

_____

_____

_____

_____

_____

(**G**) 3. Scoping Memo Information

(a) The proposed category for the Complaint is (check one):

ρ adjudicatory

ρ ratesetting (if the complaint challenges the reasonableness of a rate)

(b) Are hearings needed? YES NO

(c) The issues to be considered are:

_____

_____

_____

_____

_____

(d) The proposed schedule for resolving the complaint within 12 months (if categorized as adjudicatory) or 18 months (if categorized as ratesetting) is as follows:

Prehearing Conference: 30 to 40 days from the date of filing of the Complaint.

Hearing: 50 to 70 days from the date of filing of the Complaint.

Explain here if you propose a schedule different from the above guidelines.

_____

_____

_____

_____

(H) Wherefore, complainant(s) request(s) an order: State clearly the exact relief desired. (Attach additional pages if necessary)

_____

_____

_____

_____

_____

_____

(I) **OPTIONAL:** I/we would like to receive the answer and other filings of the defendant(s) and information and notices from the Commission by electronic mail (e-mail). My/our e-mail address(es) is/are:

_____.

(J) Dated _____, California, this _____ day of _____, 20 _____

(city) (date) (month) (year)

_____
(Signature of each complainant)

_____

_____

_____

(Signature, address, telephone number, facsimile transmission number, and, if the representative consents to e-mail service, the e-mail address, of representative, if any)

_____

_____

_____

_____

VERIFICATION
(For Individual or Partnerships)

I am (one of) the complainant(s) in the above-entitled matter; the statements in the foregoing document are true of my knowledge, except as to matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

(**K**) Executed on _____, at _____, California.
(date) (city)

(If more than one complainant, only one need sign) _____
(Complainant)

VERIFICATION
(For a Corporation)

I am an officer of the complaining corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to the matters which are therein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

(**L**) Executed on _____, at _____, California.
(date) (city)

(Signature and Title of Corporate Officer) _____

_____

_____

(**M**) FILE the original complaint plus 6 copies, plus 1 copy for each named defendant, with the Commission.

(**N**) MAIL TO: California Public Utilities Commission
Attn: Docket Office
505 Van Ness Avenue, Room 2001
San Francisco, CA 94102

No. 3—Answer

(See Article 1 and Rule 4.4)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

John A. Jones, Complainant, vs. Smith Public Utility System, a corporation, Defendant.	Case No. _____ (Insert number of complaint)

ANSWER

Defendant (exact legal name, mailing address and telephone number of each defendant joining in answer), for answer to the above complaint, respectfully shows:

1. (Here, and in succeeding numbered paragraphs, admit or deny material allegations of the complaint, and set forth any matters constituting a defense.)

WHEREFORE, defendant requests that the complaint be dismissed (or other appropriate request).

Dated at _____, California, this _____ day of _____, 20____.

_____

(Signature of each defendant joining in answer)

_____

_____

(Signature, address, telephone number, facsimile transmission number, and e-mail address (if consenting to e-mail service) of attorney, if any)

VERIFICATION

Use appropriate form of verification as set forth following Form 1, substituting "defendant" for "applicant."

No. 4—Certificate of Service

(See Rule 1.9)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

John A. Jones, Complainant, vs. Smith Public Utility System, a corporation, Defendant.	Case No. _____ (Insert number of complaint)

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 person named in the official service list [*or* appropriate special service list *or* specific persons required to be served by ruling or order, etc.]. (If more than one means of service is used, identify which persons were served by which means.)

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

[signature]
John Jones

Table of Filing Fees
(See Rule 1.156)

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

Type of Filing	Type of Utility	Fee	PU Code Reference
Application to sell, lease, assign, or otherwise transfer or encumber a certificate	Charter-party carrier of passengers	$300	§5377.1
Application to transfer permit	Household goods carrier	$150 or $25 for transfer after death of permittee and after court approval of distribution of estate, or if no probate or court distribution necessary	§5136