PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

May 14, 2020 **Agenda ID #18447**

This is the draft Resolution of the Administrative Law Judge division regarding approving amendments to the Rules of Practice and Procedure. It will not appear on the Commission's agenda sooner than 45 days from the date it is published in the California Regulatory Notice Register. The Commission may act then, or it may postpone action until later. Only when the Commission acts does the resolution become effective.

Pursuant to Government Code §§ 11346.4 and 11351, and California Code of Regulations, Title 1, §§ 1-120, notice of these proposed amendments will be published in the California Regulatory Notice Register. This publication starts the 45-day notice and comment period, which closes at 5:00 p.m. on the 45th day after publication. The Daily Calendar notice will be updated as soon as practicable to reflect the date of publication in the California Regulatory Notice Register. This 45-day notice and comment period satisfies the notice and comment requirements of Pub. Util. Code § 311. Any person may submit written comments concerning the proposed rule amendments to ALJ Sophia J. Park by email to 18447 Sophia.Park@cpuc.ca.gov or by post at California Public Utilities Commission, 505 Van Ness Ave., San Francisco, CA 94102.

/s/ ANNE E. SIMON
Anne E. Simon
Chief Administrative Law Judge

AES:avs

Attachment

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-381
Administrative Law Judge Division
August 6, 2020

R E S O L U T I O N

RESOLUTION ALJ-381. Approves modifications to the Rules of Practice and Procedure (Title 20, Division 1, of the California Code of Regulations)

SUMMARY

This resolution approves modifications to the Commission's Rules of Practice and Procedure (Title 20, Division 1, of the California Code of Regulations) as set forth in Attachment A.[1] The modifications implement statutory amendments pursuant to Senate Bill 1358 (Stats. 2018, ch. 519) and Assembly Bill 1054 (Stats. 2019, ch. 79), reflect changes in the Commission's administration, streamline procedures, promote transparency and accessibility, and provide greater clarity as specifically discussed below.

Pursuant to Pub. Util. Code § 311(h), these modifications shall be submitted to the Office of Administrative Law for review and publication in the California Code of Regulations, and for transmittal to the Secretary of State.

DISCUSSION

1. Determination on Need for Hearing

Rule 7.1 (Categorization, Need for Hearing) as currently written implements former Section 1701.1(a),[2] which prior to Senate Bill (SB) 1358 (Stats. 2018, ch. 519) required the Commission to determine "consistent with due process, public policy, and statutory requirements, whether a quasi-legislative, adjudication, or ratesetting proceeding requires a hearing."

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[1] The proposed insertions and deletions to the current Rules of Practice and Procedure are shown in underline and ~~strikethrough~~, respectively.

[2] All section references are to the Public Utilities Code, unless otherwise specified.

SB 1358 modified Section 1701.1 to require the assigned Commissioner, rather than the Commission, to determine, as part of the scoping memo, whether the proceeding requires a hearing.

The following modifications are proposed to conform to this new requirement in SB 1358:

(1) Amend Rule 4.3 (Service of Complaints and Instructions to Answer) to delete the requirement that the instructions to answer a complaint include a preliminary determination of the need for hearing;

(2) Amend Rule 5.2 (Responses to Investigations) to delete the requirement that a response to an order instituting investigation shall state any objections to the preliminary scoping memo regarding the need for hearing;

(3) Amend Rule 6.2 (Comments) to delete the requirement that comments on an order instituting rulemaking shall state any objections to the preliminary scoping memo regarding the need for hearing;

(4) Amend Rule 7.1 to delete all provisions requiring the Commission to make a preliminary determination on the need for hearing;

(5) Amend Rule 7.3 (Scoping Memos) to require the assigned Commissioner to make a determination on the need for hearing in the scoping memo; and

(6) Delete rule 7.5 (Changes to Preliminary Determinations), which sets forth a procedure for an assigned Commissioner to change the Commission's preliminary determination on the need for hearing.

2. Rules Regarding Catastrophic Wildfire Proceeding

a. New Catastrophic Wildfire Proceeding Category

Prior to Assembly Bill (AB) 1054 (Stats. 2019, ch. 79), there were three categories of Commission proceedings: adjudicatory, ratesetting, and quasi-legislative. AB 1054 amended Section 1701.1(a) to add a new "catastrophic wildfire" proceeding category and added Section 1701.1(d)(4) to define this new proceeding category.

The proposed modifications to Rule 1.3 add "catastrophic wildfire" as a new proceeding category and define this new category consistent with the definition

provided in AB 1054. Since the definitions presented in Rule 1.3 are provided in alphabetical order, the addition of this definition results in the renumbering of the subsections of the rule.

The addition of the "catastrophic wildfire" proceeding category to Rule 1.3 also results in modifications being made to references to Rule 1.3 contained in Rule 7.1(e), which addresses Commission discretion in categorizing proceedings.

b. Ex Parte Requirements for Catastrophic Wildfire Proceedings

AB 1054 sets forth rules governing ex parte communications that occur in a catastrophic wildfire proceeding. As amended by AB 1054, sections 1701.1(e)(3) and 1701.3(h)(1) provide that the same reporting requirements that apply to ratesetting proceedings shall apply to catastrophic wildfire proceedings. As amended by AB 1054, Section 1701.1(e)(7)(A) specifies that communications that occur at conferences that are within the scope of a catastrophic wildfire proceeding are subject to ex parte reporting requirements.

Modifications are proposed to Rules 8.2, 8.3, and 8.5 to reflect AB 1054's requirements regarding ex parte communications that occur in catastrophic wildfire proceedings.

c. Procedures for Catastrophic Wildfire Proceedings

AB 1054 establishes procedures for catastrophic wildfire proceedings that differ from those that apply to other types of proceeding, including the following:

(1) Section 1701.8(b)(4)(B) requires a proposed decision in a catastrophic wildfire proceeding to be issued no later than 12 months after the filing date of the application. The proposed modifications to Rules 2.1(c) and 2.6(d) reflect this deadline.

(2) Section 1701.8(b)(3) requires that a prehearing conference be noticed within 15 days of the filing of the application and held within 25 days of the filing date. Subsection (c) is added to Rule 7.2 to reflect these new requirements.

(3) Section 1701.8(b)(4) requires a scoping memorandum to be issued within 30 days of the filing of the application in a catastrophic wildfire proceeding. The proposed modification to Rule 7.3 reflects this requirement.

(4) Section 1701.8(b)(2) requires the assigned Commissioner to act as the presiding officer in a catastrophic wildfire proceeding. Rule 13.2 designates who will be the presiding officer in

various types of proceedings. Consistent with Section 1701.8(b)(2), the proposed modification to Rule 13.2 designates the assigned Commissioner as the presiding officer in catastrophic wildfire proceedings and renumbers subsections of the rule.

(5) Section 311(g)(2) provides that the assigned Commissioner may reduce comment on a catastrophic wildfire to no less than 15 days. The proposed addition to Rule 14.6, which addresses reduction or waiver of the period for public review and comment of proposed decisions, draft resolutions, and their alternates, reflects this new statutory provision.

3. Quasi-Legislative Proceedings (Rule 1.3 and New Rule 7.5)

The proposed revisions to Rule 1.3 and new Rule 7.5 would better define and distinguish quasi-legislative proceedings from other types of Commission proceedings and standardize procedural requirements. The proposed revisions identify the primary public engagement and information-sharing tools in a quasi-legislative proceeding: staff reports, workshops, and public engagement workshops. The proposed revisions would provide transparency and better inform the public about how quasi-legislative proceedings work.

4. Certificates of Service for Electronic Mail Service (Rule 1.10)

Rule 1.9(e) provides that each document or Notice of Availability filed with the Commission must include the certificate of service but does not require that the certificate of service be served. Rule 1.9(e) had previously required that a copy of the certificate of service be attached to each copy of a document that is served. The Commission eliminated this requirement in Resolution ALJ-344 finding the requirement to be unnecessary given that the certificate of service is on record with the Commission and publicly available on the electronic docket card for the proceeding.[3]

Rule 1.10(c), which addresses e-mail service, still requires that the certificate of service be attached to the e-mail message as a separate document when a document is being served by e-mail. The proposed modification to Rule 1.10(c) eliminates this requirement to be consistent with current Rule 1.9(e) and Resolution ALJ-344.

5. Re-Service of Documents (Rule 1.10)

In the event of failure of e-mail service, current Rule 1.10(d) requires the serving party to re-serve the document, no later than the business day after the business day on which

[3] Resolution ALJ-344 at 8.

the notice of the failure of e-mail service is received by the serving party. This requirement is administratively burdensome for parties. It is the responsibility of the person requesting e-mail service to provide a valid e-mail address. Therefore, the proposed modification to Rule 1.10 would delete Rule 1.10(d) and renumber the subsequent subsections of the rule.

6. Filing Documents at the Commission's Los Angeles Office (Rules 1.13 and 1.14)

Rule 1.13 provides that documents may be tendered for filing in hard copy at the Commission's San Francisco or Los Angeles offices. Documents tendered for filing at the Los Angeles office must be hand-delivered and first-class postage charges to San Francisco must be paid at the time documents are tendered to the Los Angeles office.

In practice, no documents have been tendered for filing at the Los Angeles office for many years. Therefore, it does not appear necessary to have a rule and procedure in place for accepting filed documents in the Los Angeles office.

The proposed modification to Rule 1.13 eliminates the ability to file documents in Los Angeles. The proposed modification to Rule 1.14, which addresses the recorded date for an accepted filing, also reflects that documents will no longer be accepted for filing at the Los Angeles office.

7. Public Participation in Proceedings (New Rule 1.18)

In order to promote public engagement in Commission proceedings, new Rule 1.18 allows members of the public to submit written comment electronically on the Commission's website. This rule also sets out new requirements to ensure that public input will be accorded due weight consistently across all proceedings. It requires that all written public comment in a ratesetting or quasi-legislative proceeding be entered into the record of that proceeding and considered by the Presiding Officer in arriving at a decision. Relevant public comment will be summarized in the body of a final decision in order to highlight issues raised by members of the public. Additionally, parties may cite and respond to public comment in their submissions.

These new provisions are intended to encourage members of the public to more closely engage in Commission proceedings, allowing the Commission to arrive at informed decisions that fully consider the interests of everyone impacted. The Presiding Officer will have the discretion to disregard any comments not relevant to issues in the proceeding's scoping memo in order to guard against misuse of the rule.

8. Applications Involving the California Environmental Quality Act (Rules 2.4 and 2.5)

As currently written, Rule 2.4(b) requires an applicant requesting authority to undertake a project that is subject to the California Environmental Quality Act (CEQA) to tender the original and three copies of the Proponent's Environmental Assessment (PEA) when filing the application. As the PEA is filed with the application, and as the Commission has increasingly relied on electronic filing of applications, this additional service requirement is no longer required, and the proposed rule modification eliminates this requirement.

As currently written, Rule 2.4(b) requires the PEA to conform with the Commission's Information and Criteria List published on the Commission's website. For energy infrastructure projects, the required information and criteria include that specified in the Guidelines for Energy Project Applications Requiring CEQA Compliance: Pre-filing and Proponent's Environmental Assessments, which is also published on the website. The proposed rule modification adds this reference for clarity and convenience.

Rule 2.5(a) provides that the Commission shall charge the proponent of a project that is subject to CEQA a fee to recover the Commission's actual cost of performing the required environmental review. The proposed modification to Rule 2.5(a) would clarify that the fee includes the Commission's cost of ensuring compliance with the environmental review. In addition, the proposed modification would correct the authority cited and reference in the note to rule.

9. Copy of Document on Request (Rule 2.7)

The proposed modification to Rule 2.7 clarifies that applicants, protestants, and parties must provide an electronic copy of their applications, protests, or responses upon request. Use of electronic copies makes Commission processes more effective and allows documents to be shared more quickly.

10. Executive Director Order Dismissing Applications and Complaints (New Rule 2.8 and Rule 4.5)

Pursuant to Section 308(b), the Commission may adopt rules that "authorize the executive director to dismiss complaints or applications when all parties are in agreement." As authorized by this statute, Commission Resolution A-4638 (1977) provides that the Executive Director may issue an order dismissing a complaint or application when all parties are in agreement. Resolution A-4638 requires that the

agreement of the parties "be evidenced by a written stipulation or by a letter signed by the complainant, applicant, or petitioner, or by his attorney or representative."[4]

Current Rule 4.5 promulgates Resolution A-4638 as a rule with respect to complaints and authorizes the Executive Director to dismiss a complaint "[u]pon motion by all parties stipulating to the dismissal." There is currently no parallel rule with respect to applications. New Rule 2.8 is proposed to address the voluntary dismissal of applications.

The evidence of the agreement of the parties required by current Rule 4.5 and Resolution A-4638 is overly restrictive in light of the requirements of Section 308 and may be impracticable in proceedings with a large number of parties. If a party files a motion to dismiss an application or complaint, all parties have notice of and the opportunity to respond to the motion, and the motion is unopposed by any other party, it is reasonable to infer that all parties are in agreement as to the dismissal. The proposed modification to Rule 4.5 and proposed new Rule 2.8 authorize the Executive Director to dismiss a complaint or application upon an unopposed motion for a dismissal by the complainant or applicant or upon stipulation of all of the parties to the proceeding to the dismissal.

11. <u>Requests for Expedited Schedule (New Rule 2.9)</u>

New Rule 2.9 establishes a streamlined process to ensure that applications that concern time-sensitive matters with public safety or major financial implications can be resolved expeditiously.

In order to ensure that only applications that truly merit an expedited schedule are treated as such, and ensure the best possible use of Commission resources, requests for an expedited schedule will only be granted in exceptional cases, and at the sole discretion of the assigned Commissioner. The applicant must demonstrate that the application concerns a public safety threat or a major direct financial impact to customers justifying an expedited schedule. This will ensure that an appropriately narrow set of applications are accorded expedited treatment.

The rule establishes a standardized timeline so that expedited proceedings move forward at a consistent and predictable pace. Specifically, the rule sets out a prescribed schedule for noticing and holding a prehearing conference and for issuance of a scoping memo, which are the initial procedural milestones in a proceeding. The assigned Commissioner may take comments from parties regarding the designation of a proceeding as expedited at the prehearing conference.

[4] Resolution A-4638 at Ordering Paragraph 2.

Under current rules, ratesetting and quasi-legislative proceedings must be resolved within 18 months of initiation. In expedited proceedings, a proposed decision will be issued within 12 months from the date of the application. Recognizing that unanticipated factors may necessitate a different schedule, the rule specifies that the assigned Commissioner has the discretion to deviate from this standardized schedule, and to extend the proceeding beyond 12 months.

The rule specifies that applications with a request for an expedited schedule must be clearly labeled as such to ensure that they can be easily identified. It also prescribes a page limit for the justification for such requests so that they can be promptly reviewed and resolved.

12. Tribal Land Transfer Policy (Rule 3.6)

On December 5, 2019, the Commission adopted a Tribal Land Transfer Policy that, among other things, requires applications that involve the sale of real property within a California Native American Tribe's ancestral territories to document that the applicant has notified the Tribal Chairman of such Tribe to assess the Tribe's interest in acquiring the real property. The proposed modifications to Rule 3.6 implement this policy and correct references in the note to the rule.

13. Complaints by Mobilehome Park Tenants (Rule 4.1)

A mobilehome park that provides water service only to its tenants from water supplies and facilities that it owns is not a water corporation. Subject to certain conditions, Section 2705.6 grants the Commission jurisdiction to hear complaints filed by current and former tenants of a mobilehome park that set forth claims that the water rates charged by the park are not just and reasonable or that the service is inadequate.

Current Rule 4.1 sets forth who may file complaints before the Commission but does not include that former and current tenants of a mobilehome park may file a complaint against the park regarding their water rates and service. In conformance with Section 2705.6, the proposed modification to Rule 4.1 specifies that mobilehome park tenants may file such complaints.

14. Prehearing Conferences (Rule 7.2)

Rule 7.2 provides the process whereby the assigned Commissioner schedules a prehearing conference in a proceeding before the Commission.

The proposed modifications to Rule 7.2(a) clarify the timeframe for the actual date of the prehearing conference, requiring that the prehearing conference be held between 45 and 60 days after the initiation of the proceeding or as soon as practicable after the

Commission makes the assignment. Additionally, allowing parties to participate remotely in prehearing conferences encourages greater participation in Commission proceedings, saves travel costs for participants, and may cut down on greenhouse gas emissions caused by transportation.

15. Renaming of the Office of Ratepayer Advocates (Rule 8.1)

The Office of Ratepayer Advocates was renamed the Public Advocate's Office of the Public Utilities Commission pursuant to SB 854 (Stats. 2018, ch. 51). The proposed modification to Rule 8.1(d) deletes the reference to the Office of Ratepayer Advocates.

16. Reporting Requirement for Written Ex Parte Communications (Rule 8.2)

Rule 8.2(c)(3)(B) provides that written ex parte communications in a ratesetting proceeding are not subject to the reporting requirements set forth in Rule 8.4. On the other hand, Rule 8.2(h) requires that all prohibited communications must be reported pursuant to Rule 8.4 and it is possible for a written ex parte communication to be a prohibited communication. Pursuant to Rule 8.2(c)(3)(A), a written ex parte communication in a ratesetting proceeding is permissible only if the communication is concurrently served on all parties on the same day that it is sent to a decisionmaker. The proposed modification to Rule 8.2(c)(3)(B) harmonizes the rule with Rules 8.2(c)(3)(A) and 8.4 and clarifies that only written ex parte communications permissible under Rule 8.2(c)(3)(A) are not subject to the reporting requirements set forth in Rule 8.4.

17. Ratesetting Deliberative Meetings and Ex Parte Prohibitions (Rule 8.2)

Current Rule 8.2(c)(4) prescribes when the Commission may establish a "quiet period" in a ratesetting proceeding during which ex parte communications are prohibited and the Commission may hold a ratesetting deliberative meeting. The current rule reflects the requirements of former Section 1701.3(h)(6), which have been superseded by recent amendments to the statute enacted by SB 1358 and AB 1054. For example, prior to SB 1358 and AB 1054, former Section 1701.3(h)(6) required that a "quiet period" not exceed 14 days but there is no such requirement in the current statute.

The proposed modification to Rule 8.2(c) deletes language that reflects superseded statutory requirements and adds language to reflect the current statutory requirements, which prohibit oral and written ex parte communications in a ratesetting or catastrophic wildfire proceeding during any "quiet period" established by the Commission pursuant to Section 1701.3(h)(6)(A).

18. Ex Parte Notices (Rule 8.4)

The proposed modifications to Rule 8.4 clarify that a notice of ex parte communication by an interested person or a decisionmaker may address more than one proceeding in a single notice, provided that the communication applies to more than one proceeding and that the notice is filed in each applicable proceeding. The proposed modifications also clarify the requirements for serving ex parte communications on the decisionmakers who participated in the communication.

19. Discovery from Parties (Rule 10.1)

Rule 10.1 provides the process for parties to Commission proceedings to obtain discovery from any other party in the pending proceeding.

The proposed modifications to Rule 10.1 would state that parties may ask the assigned Administrative Law Judge to require service of all discovery on all parties. This will provide an efficient means for parties to obtain copies of discovery requests and responses without having to serve separate requests on their own.

20. Settlements Outside of a Commission Proceeding (Rule 12.1)

Rule 12.1 governing settlements currently does not require disclosure of separate agreements or financial relationships between the parties that are outside the scope of the proposed settlement but related to issues in the proposed settlement. Under the current rule, decisionmakers may not have the opportunity to consider all relevant information when evaluating whether a proposed settlement before the Commission is in the public interest. The outside settlement or financial relationship may be material to the Commission's evaluation of a proposed settlement, and disclosure by party motion will aid that evaluation. The proposed modifications to Rules 12.1(a) and (d) require the disclosure of such separate agreements or financial relationships.

21. Notice of Hearing (Rule 13.1)

Under current Rule 13.1(b), a utility that files an application to increase any rate is required to give notice of a hearing between 5 and 30 days before the date of the hearing by posting notice of the hearing in public places and publishing the notice in newspapers of general circulation in the area or areas concerned. In requiring such notice, the rule does not distinguish between evidentiary and public participation hearings.

An evidentiary hearing provides an opportunity for parties to a proceeding to present witnesses for direct and cross examination and to offer evidence into the record. Only parties to a proceeding may participate in evidentiary hearings. With the exception of a

customer that may be a party to a proceeding, customers rarely, if ever, attend evidentiary hearings.

As indicated by its name, a public participation hearing (PPH) provides a meaningful opportunity for the public to participate in the proceeding. A PPH is a formal hearing for the Commission to hear from the public and the utility's customers and the transcript of a PPH is included as part of the proceeding record.

The Commission proposes to modify the notice requirement in Rule 13.1(b) to apply only to PPHs and to correct the reference cited in the note to the rule. It is essential for PPHs to be broadly noticed given that these are hearings in which the utility's customers and the general public can participate. In contrast, the effort and expense of such notices for evidentiary hearings are not warranted given that persons that are not parties to the proceeding cannot participate and rarely attend the hearings. There is no statutory requirement for customers to be notified of evidentiary hearings in the manner specified in Rule 13.1(b).

If a utility files an application to increase a rate, the utility must still publish the notice of the proposed increase in newspapers of general circulation in affected areas and in bill inserts pursuant to Rules 3.2(c) and (d), respectively. Among other things, Rule 3.2(d) requires that the bill insert include information regarding how to participate in the proceeding and how to receive further notices regarding the date, time, and place of any hearing on the application. Therefore, customers and other members of the public that wish to receive updates on the utility's application, including the setting of any evidentiary hearing, have means of doing so.

22. <u>Assigned Commissioner Presence (Rule 13.3)</u>

Rule 13.3 provides requirements regarding assigned Commissioner presence during hearings and closing arguments that occur in Commission proceedings.

The Commission proposes to delete Rule 13.3(c), which requires that the assigned Commissioner shall be present for hearings on legislative facts but need not be present for hearings on adjudicative facts. This requirement is no longer required by Section 1701. The deletion of subsection (c) results in the renumbering of subsections of the rule. The rule is also modified to update the references in the note to the rule.

The proposed modification to Rule 13.3(d) includes remote participation in the definition of "present" or "presence" at a hearing room or argument. This proposed modification is consistent with proposed modifications to Rule 7.2 allowing parties to remotely participate in prehearing conferences and the Commission's desire to more broadly promote remote participation whenever possible. Allowing both parties and assigned Commissioners to participate remotely in hearings encourages greater

participation in Commission proceedings, saves travel costs for participants, and may cut down on greenhouse gas emissions caused by transportation.

23. Evidence (Rule 13.6)

Rule 13.6 presents the standards for admissibility and use of evidence in hearings before the Commission.

The proposed modifications to Rule 13.6 clarify that "technical rules of evidence" include rules of evidence created by statute, found in the common law, or adopted by any court. The proposed modifications are designed to ease the admission and use of relevant evidence in administrative hearings at the Commission, distinguishing these rules from the restrictions applied in court proceedings, while still ensuring the integrity of the evidence and protecting the rights of the parties.

24. Duty to Meet and Confer (New Rule 13.9)

New Rule 13.9 establishes a new meet and confer process. Requiring parties to meet and confer after rebuttal testimony is served can help resolve proceedings expeditiously by creating the opportunity for parties to narrow contested facts and issues and explore the possibility of a settlement prior to evidentiary hearings. Parties to Commission proceedings are not currently precluded from meeting and conferring to achieve these objectives. However, standardizing this requirement in all Commission proceedings will create predictability and uniformity. California civil courts, the Federal Energy Regulatory Commission, and other regulatory agencies have similar requirements.

The proposed provision has been drafted to allow for a flexible approach. It authorizes the assigned Administrative Law Judge or Presiding Officer in a proceeding to modify the meet and confer requirement as needed, including the timing of the process. The requirement to notify all parties of the date, time, and location in advance of the meet and confer is intended to create transparency and ensure that all parties have the opportunity to participate. The addition of new Rule 13.9 would renumber current Rule 13.9 (Official Notice of Facts) and all subsequent rules in Article 13.

25. Oral Argument Before Commission (Rule 13.13)

Rule 13.13 states that a party has the right to make an oral argument before the Commission in ratesetting and quasi-legislative proceedings. However, pursuant to Sections 1701.3(a) and (i) and 1701.4(a) and (i), this right only arises in cases where the assigned Commissioner has determined that a hearing is needed.

The proposed modification to Rule 13.13 would amend the rule consistent with these statutes.

26. Issuance of Recommended Decision (Rule 14.2)

The proposed modifications to Rule 14.2 require electronic service of revised proposed decisions and proposed decisions that grant the relief requested in uncontested matters. Rule 14.2 is also modified to correct the numbering for one of the subsections and the references cited in the note to the rule.

Requiring electronic service of revised proposed decisions will promote transparency and improve public accessibility to Commission documents. Currently, parties can access revised proposed decisions when they are published electronically on the Commission's Recently Published Documents page. However, that page does not have the Information Technology (IT) functionality to search or sort results, which makes finding documents challenging. This additional step of requiring electronic service of revised decisions will allow the public to more easily track and understand the proposals that are voted on at Commission meetings.

Serving proposed decisions that grant the relief requested in uncontested matters provides notice to the parties that the proposed decision has been issued, thereby increasing transparency.

The Commission will request a later effective date for this single revision only. This later implementation date will allow time to improve the Commission's IT systems that are needed to accomplish this task.

27. Comment on Proposed or Alternate Decision (Rule 14.3)

Rule 14.3 provides that comments on a proposed or alternate decision shall be limited to 15 pages except in "general rate cases, major plant addition proceedings, and major generic investigations," in which case comments are limited to 25 pages.

It is unclear what would constitute a major plant addition proceeding or major generic investigation. Moreover, to the extent that an investigation is categorized as adjudicatory, there are no comments on a proposed decision but rather a request for review or appeal of a Presiding Officer's Decision pursuant to Rule 14.4. Therefore, the proposed modifications to Rule 14.3 delete the terms "major plant addition proceedings" and "major generic investigations."

In addition, the title of the rule is edited to make it consistent with Rule 14.5.

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

As currently written, the time for filing comments on draft or alternate draft resolutions runs from the date that the item appears in the Commission's Daily Calendar, which may or may not be the same date that the item is mailed and published on the Commission's website. The proposed modification to Rule 14.5 would make the time for filing comments run from the date that the item is mailed and published on the Commission's website, which provides greater certainty and consistency with Rule 14.3 (Comments on Draft or Alternate Decision).

29. Availability of Commission Agenda Item Documents (Rule 15.3)

As currently written, Rule 15.3(b) states that agenda item documents are available for viewing and photocopying (for a fee) at the Commission's San Francisco, Los Angeles, and San Diego offices, and may be available in certain of the Commission's field offices.

With the exception of documents relating to items the Commission considers during its closed session, all agenda items are published on the Commission's Internet web site. Therefore, there is no practical need for hard copies of the agenda item documents to be available at each of these offices. Furthermore, the San Diego office was closed several years ago.

The proposed modification to Rule 15.3 reflects actual practice and clarifies where hard copies of agenda item documents may be obtained.

30. Deletion of Term "Draft Decision" (Rules 15.3 and 15.4)

As currently written, Rules 15.3 (Agenda Item Documents) and 15.4 (Decision in Ratesetting or Quasi-Legislative Proceeding) reference the term "draft decision." The term "draft decision" is a term that is no longer in use by the Commission. When the Commission undertook a revision to the Commission's Rules of Practice and Procedure in 2006, the Commission noted:

> Rule 77.7(f), as currently written, provides that "draft decisions" and their alternates may have the public review and comment period reduced or waived under certain circumstances. ... However, the rules do not adequately define the term "draft decision" or distinguish it from the related term "proposed decision." ... We therefore propose to eliminate the term "draft decision" and to edit the rule to simply state the circumstances under which the public review and comment period may be reduced.

(Order Instituting Rulemaking 06-02-011 at 27.)

Although the Commission eliminated the term "draft decision" from some rules, references to the term remain in the current version of the rules. The proposed modifications to Rules 15.3 and 15.4 delete these remaining references. In addition, modifications are proposed to the authority cited for Rule 15.4 to correct inaccurate citations.

31. Decision in Adjudicatory Proceeding (Rule 15.5)

SB 215 (Stats. 2016, ch. 807) amended Section 1701.2 to provide for a decision of the presiding officer in all adjudicatory proceedings regardless of whether a hearing was held. The proposed modification would amend Rule 15.5 accordingly. In addition, modifications are proposed to the authority cited for Rule 15.5 to correct inaccurate citations.

32. Page Limits for Rehearing Applications (Rule 16.1)

Rule 16.1(c) explains that: "The purpose of an application for rehearing is to alert the Commission to a legal error, so that the commission may correct it expeditiously." In order to make the rehearing process more efficient, to encourage parties to focus their arguments, and to reduce the burden on the Commission, the proposed modification to Rule 16.1 establishes a page limit of 50 pages for applications for rehearing and responses to applications for rehearing.

The proposed 50-page limit is consistent with briefing limits for the California Courts of Appeal and Supreme Court, and is therefore, proposed as a reasonable restriction. The California Courts of Appeals and Supreme Court currently have a briefing limit of 14,000 words, including footnotes, or 50 pages if produced on a typewriter. (California Rules of Court 8.204(c), 8.520(c).)

33. Correct Typos/Update Titles/Make Wording Consistent

We modify Rules 1.4, 1.9(d)(3), 7.6(a), 8.2(c)(2)(B), 11.5(b), 14.4(c), and authority cited for Rule 14.4 to correct references and typographical and semantical errors, update titles, edit the rules for clarity, and delete superfluous language.

NOTICE OF PROPOSED MODIFICATIONS

Notice of these modifications, and comment on them, are governed by Government Code §§ 11346.4 and 11351, and California Code of Regulations, Title 1, §§ 1-120. Notice of these modifications as originally proposed was published in the California Regulatory Notice Register on _____. In addition, on _____, the draft resolution containing the proposed modifications was electronically mailed to all persons on the

service list maintained by the Commission for this purpose.

COMMENTS

Comments on the proposed modifications were received on _____ from _____.

IT IS RESOLVED that:

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

   This resolution is effective today.

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

_____

Executive Director

APPENDIX A

PROPOSED MODIFICATIONS TO RULES OF PRACTICE AND PROCEDURE

The proposed insertions and deletions to the current Rules of Practice and Procedure are shown in underline and ~~strikethrough~~, respectively.

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) "Catastrophic wildfire" proceedings are proceedings in which an electrical corporation files an application to recover costs and expenses pursuant to Public Utilities Code Section 451 or 451.1 related to a covered wildfire as defined in Public Utilities Code Section 1701.8.

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

~~(c)~~(d) "Financial interest" means that the action or decision on the matter will have a direct and significant financial impact, distinguishable from its impact on the public generally or a significant segment of the public, as described in Article 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code.

~~(d)~~(e) "Person" means a natural person or organization.

~~(e)~~(f) "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, even if those proceedings have an incidental effect on ratepayer costs.

~~(f)~~(g) "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).

~~(g)~~(h) "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 and 1701.1, Public Utilities Code.

1.4. (Rule 1.4) ~~Participation in Proceedings~~Party Status.

(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 an order instituting 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.

1.9. (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~~internet 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) Each copy of the document (or Notice of Availability) filed with the Commission must include the certificate of service. It is not required to include the certificate of service with service of the document. 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, and

(2) 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 as 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, 1701 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.~~

(d)~~(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.

(e)~~(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.

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

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

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

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

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

(a) Hard copy:

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

(2) Except for Proponent's Environmental Assessments (see Rule 2.4(b)) and complaints (see Article 4), 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 1.5 gigabytes 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, in the case of an initiating document, a docket number and the Docket Office shall electronically transmit to the person tendering the document a Confirmation of Acceptance and a link to the filed stamped copy of the document on the Commission's website. Electronically filed documents so endorsed carry the same force and effect as a manually affixed endorsement stamp.

(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.

1.18. (Rule 1.18) Public Participation in Proceedings

Any member of the public may submit written comment in any Commission ratesetting or quasi-legislative proceeding using the "Public Comment" tab of the online Docket Card for that proceeding on the Commission's website.

(a) All written public comment submitted in a ratesetting or quasi-legislative proceeding will be entered into the record of that proceeding and reviewed and considered by the Presiding Officer.

(b) Relevant written comment submitted in a ratesetting or quasi-legislative proceeding will be summarized in the body of the final decision issued in that proceeding.

(c) Parties may respond to, and cite to, any public comment submitted in a ratesetting or quasi-legislative proceeding in their submissions to the Commission in that proceeding.

(d) The assigned Commissioner and/or Administrative Law Judge may invite parties to a proceeding to comment on any matter identified in public comment submitted in that ratesetting or quasi-legislative proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701 and 1701.1(g), Public Utilities Code.

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 including relevant safety considerations, 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) or deadline for issuance of a proposed decision within 12 months or less (catastrophic wildfire proceeding).

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

Note: Authority cited: Sections 1701 and 1701.8, 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. If the proposed project is an energy infrastructure project, the applicant shall prepare the PEA in accordance with the Guidelines for Energy Project Applications Requiring CEQA Compliance: Pre-filing and Proponent's Environmental Assessments, 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 and of monitoring construction to ensure compliance with the EIR or Negative Declaration in the event that the application is approved. 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 ~~1~~701, Public Utilities Code. Reference: Section ~~21165~~701, Public ~~Resources~~Utilities Code.

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

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

(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) or deadline for issuance of a proposed decision within 12 months or less (catastrophic wildfire 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: Sections 1701 and 1701.8, 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 an electronic 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.

2.8. (Rule 2.8) Voluntary Dismissal of Application.

Upon an unopposed motion for dismissal of an application by the applicant or stipulation by all parties to the dismissal of an application, the Executive Director may issue an order dismissing the application.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 308 and 1701, Public Utilities Code.

2.9. (Rule 2.9) Requests for Expedited Schedule

(a) An application may be submitted to the Commission with a request for an expedited schedule.

(b) Notwithstanding Rule 1.7(a), the title page of an application requesting an expedited schedule shall contain the caption "Request for Expedited Schedule" below the title of the application. Such application shall include an attachment, not exceeding 3 pages, titled "Request for Expedited Schedule."

(c) The assigned Commissioner may grant a request for an expedited schedule if the attachment demonstrates, referencing specific facts, that special circumstances necessitate expedited action by the Commission, and that the requested relief concerns a threat to public safety or a major direct financial impact to customers that justifies an expedited schedule.

(d) Requests for an expedited schedule shall be granted at the sole discretion of the assigned Commissioner, and only in exceptional circumstances.

(e) In an expedited proceeding, the assigned Commissioner and/or Administrative Law Judge shall notice a prehearing conference no later than 20 days from the date of preliminary categorization of the proceeding under Rule 7.1(a), and hold a prehearing conference no later than 30 days from the date of preliminary categorization. The notice shall inform parties that the proceeding has been designated as expedited and the assigned Commissioner may take comments from parties regarding the designation of the proceeding as expedited at the prehearing conference. In an expedited proceeding, a scoping memo shall be issued no later than 45 days from the date of preliminary categorization.

(f) The assigned Commissioner may, at their discretion, provide a different schedule.

(g) In an expedited proceeding, the scoping memo shall include a date for issuance of a proposed decision which is no later than 12 months after the application was filed.

(h) The assigned Commissioner may extend the date for issuance of a proposed decision in an expedited proceeding.

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

(i) Applications that involve the sale of real property within a California Native American Tribe's ancestral territories, as recognized by the Native American Heritage Commission, shall comply with the notice and

communication requirements set forth in the Commission's Tribal Land Policy and any Implementing Guidelines.

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

4.1. (Rule 4.1) Who May Complain.

(a) A complaint may be filed by:

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

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

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

(4) former or current tenants of a mobilehome park, for a finding that the rates charged by the mobilehome park for water service are not just and reasonable or that the water service provided by the mobilehome park is inadequate, pursuant to Public Utilities Code Section 2705.6.

(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, 2705.6 and 5890(g), 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.

4.5. (Rule 4.5) Voluntary Dismissal of Complaint.

Upon an unopposed motion for a dismissal of a complaint by the complainant or stipulation by all parties ~~stipulating~~ to the dismissal of a complaint, the Executive Director may issue an order dismissing the complaint~~granting such motion~~.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 308 and 1701, 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.

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.

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 will be stated in the instructions to answer and 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), (b), (f), ~~(d)~~ and (e~~g~~), 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), (b), (f), ~~(d)~~ and (~~e~~g), 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) ~~The assigned Commissioner shall set a~~A prehearing conference in an adjudicatory or ratesetting proceeding shall be held between ~~for~~ 45 ~~to~~and 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 shall provide details for remote participation and 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 a quasi-legislative proceeding.

(c) The assigned Commissioner shall notice a prehearing conference within 15 days of the initiation of a catastrophic wildfire proceeding and hold the prehearing conference within 25 days of the initiation of a catastrophic wildfire proceeding.

Note: Authority cited: Sections 1701 and 1701.8, Public Utilities Code. Reference: Sections 1701 and 1701.1, Public Utilities Code.

7.3. (Rule 7.3) Scoping Memos.

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, and need for hearing. In an adjudicatory or ratesetting proceeding in which there is evidentiary hearing, 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~~. In a catastrophic wildfire proceeding, the assigned Commissioner shall issue the scoping memo within 30 days of the filing of the application.

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

7.5. (Rule 7.5) ~~Changes to Preliminary Determinations.~~Quasi-Legislative Proceedings.

~~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.~~

(a) Quasi-legislative proceedings need not include hearings but shall include the following components:

(1) An assigned Commissioner's ruling or an industry division staff report setting forth recommendations on how to resolve the issues identified in the scoping memo;

(2) At least one workshop providing an opportunity for the parties to the proceeding to have an interactive discussion on issues identified in the scoping memo either in person or via remote participation; and

(3) At least one public engagement workshop to ensure that the issues are presented to members of the public who are not parties to the proceeding and members of the public have the opportunity to provide input into those issues.

(b) The assigned Commissioner may choose to modify these requirements in the scoping memo.

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

7.6. (Rule 7.6) Appeals of Categorization.

(a) Any party may file and serve an appeal regarding the categorization of a proceeding 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); (3) an order

instituting investigation pursuant to Rule 7.1(c); or (4) any subsequent ruling that expands the scope of the proceeding. 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: Sections 1701 and 1701.1, Public Utilities Code.

8.1. (Rule 8.1) Definitions.

For purposes of this Article, the following definitions apply:

(a) "Decisionmaker" means any Commissioner, the Chief Administrative Law Judge, any Assistant Chief Administrative Law Judge, the policy or legal advisory staff assigned to a Commissioner's office, the assigned Administrative Law Judge, or the Law and Motion Administrative Law Judge.

(b) "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 issue in a formal proceeding, other than procedural matters,

(2) takes place between an interested person and a decisionmaker, whether from the interested person to the decisionmaker or from the decisionmaker to the interested person or a combination thereof, and

(3) does not occur in a public hearing, workshop, or other public forum, that has been noticed to the official service list or on the record of the proceeding.

"Ex parte communications" include communications that are one-way from a decisionmaker to an interested person, except as provided in Rule 8.3(b).

(c) "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 in a matter at issue before the Commission, or such person's agents or employees, including persons receiving consideration to represent such a person;

(3) a representative acting on behalf of any formally organized civic, environmental, neighborhood, business, labor, trade, or similar organization 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; or

(4) a person involved in issuing credit ratings or advising entities or persons who invest in shares or operations of any party to a proceeding.

(d) "Party" includes ~~staff from the Office of Ratepayer Advocates assigned to the proceeding and~~ any ~~other~~ Commission staff assigned to a proceeding in an advocacy capacity.

(e) "Procedural matter" means:

(1) an inquiry regarding the proceeding schedule, location or format of a hearing or other event in the proceeding, general Commission practice, or the requirements of the Rules of Practice and Procedure, provided that the person making the inquiry reasonably believes that the subject of the inquiry is not in controversy;

(2) a discussion of issues related to submission, filing or service of a document;

(3) a request for a specific procedural action, so long as the parties are included in the communication; or

(4) an inquiry pertaining to the forms and requirements for filing an intervenor compensation notice of intent or request for compensation.

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

8.2. (Rule 8.2) Ex Parte Requirements.

(a) In any quasi-legislative proceeding, ex parte communications are allowed

without restriction or reporting requirement.

(b) In any adjudicatory proceeding, ex parte communications and communications concerning procedural matters between interested persons and decisionmakers other than the assigned Administrative Law Judge are prohibited.

(c) In any ratesetting or catastrophic wildfire proceeding, ex parte communications are permitted if consistent with the following requirements:

(1) All-party meetings:

(A) 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 working days before the meeting or call.

(B) Oral ex parte communications at all-party meetings are not subject to the reporting requirements set forth in Rule 8.4.

(2) Individual oral ex parte communications:

(A) If a decisionmaker, other than the policy or legal advisory staff assigned to a Commissioner's office, grants an ex parte communication meeting or call to any interested person individually or to a group of interested persons outside of an all-party meeting, all other parties shall be granted an individual meeting of a substantially equal period of time with that decisionmaker.

(B) If a decisionmaker grants an ex parte communication meeting or call to any interested person individually or to a group of interested persons outside of an all-party meeting, the interested person requesting the initial individual meeting shall notify the parties that its request has been granted, and shall file this notification, at least three working days before the meeting or call. A single notification on behalf of a group of interested persons will suffice.

(C) Individual oral ex parte communications are not permitted during the three working days before the Commission's scheduled vote on the decision in the proceeding and extending until after the Commission's voting meeting concludes.

(D) Individual oral ex parte communications are subject to the reporting requirements set forth in Rule 8.4.

(3) Written ex parte communications:

(A) 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.

(B) Written ex parte communications permissible under Rule 8.2(c)(3)(A) are not subject to the reporting requirements set forth in Rule 8.4.

(4) No oral or written ex parte communications may occur during any "quiet period" established pursuant to Public Utilities Code Section 1701.3(h)(6)(A). ~~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 subsections (a) and (c) of this rule, the assigned Commissioner may issue a ruling to restrict or prohibit ex parte communications in a quasi-legislative~~, or~~ ratesetting, or catastrophic wildfire proceeding or to require reporting of ex parte communications in a quasi-legislative proceeding.

(e) Ex parte communications concerning categorization of a given proceeding are permitted, but must be reported pursuant to Rule 8.3.

(f) Ex parte communications regarding the assignment of a proceeding to a particular Commissioner or Administrative Law Judge, or reassignment of a

proceeding to another Commissioner or Administrative Law Judge, are prohibited.

(g) Ex parte communications that are one-way from a decisionmaker to an interested person are banned.

(h) If a prohibited communication occurs, the interested person shall report it pursuant to Rule 8.4.

(i) 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.

(j) 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 a scoping memo has issued determining that a different category shall apply.

(k) 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 different category shall apply.

(l) When the Commission determines that there has been a violation of this rule or of Rule 8.3, the Commission may impose penalties and sanctions, or make any other order, including but not limited to:

> (i) penalty of from $500 up to $50,000 for each offense, except that, if the person or entity that committed the violation may obtain financial benefits that exceed this maximum penalty, the Commission may impose a penalty up to the amount of those benefits. If the violation consists of engaging in a prohibited ex parte communication, each day that the violation is not disclosed to the Commission and to parties to the proceeding is a separate violation.
>
> (ii) adverse consequences in the subject proceeding or in other Commission proceedings.

In determining the appropriate penalties or sanctions, the Commission shall consider (i) the harm caused by virtue of the violation, (ii) the person's or entity's conduct in preventing, detecting, correcting, disclosing, and

rectifying the violation, (iii) the amount of penalty that will achieve the objective of deterrence based on the person's or entity's financial resources, (iv) penalties or sanctions that the Commission has imposed under reasonably comparable factual circumstances, and (v) the totality of circumstances from the perspective of the public interest.

(m) The Commission shall render its decision based on the evidence of record. Ex parte communications, and any notice filed pursuant to Rule 8.3, are not a part of the evidentiary record of the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701, 1701.1, 1701.2, 1701.3 and 1701.4, Public Utilities Code.

8.3. (Rule 8.3) Communications at Conferences.

This rule governs communications concerning any issue in an adjudicatory, ~~or~~ ratesetting, or catastrophic wildfire proceeding between interested persons and decisionmakers at a conference.

(a) Individual oral ex parte communications are subject to the otherwise-applicable requirements of Rule 8.2. Pursuant to Rule 8.2(b), communications regarding adjudicatory proceedings are prohibited and the limited exceptions set forth in (b) and (c) apply only to ratesetting and catastrophic wildfire proceedings.

(b) A decisionmaker's presentation or dialogue during a question and answer session where the audience includes an interested person is not a one-way ex parte communication.

(c) An interested person's presentation or dialogue during a question and answer session where the audience includes a decisionmaker is not an ex parte communication subject to Rule 8.2(c)(2) but must be reported in the same manner as an ex parte communication pursuant to Rule 8.4(a).

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

8.4. (Rule 8.4) Reporting Ex Parte Communications.

(a) Ex parte communications that are subject to these reporting requirements shall be reported by the interested person, regardless of whether the communication was initiated by the interested person. Notice of ex parte communications shall be filed no more than three working days after the communication and, in addition to the service requirements of Rule 1.9, shall be served electronically on the decisionmakers who participated in

the communication. The notice may address multiple ex parte communications in the same proceeding, provided that notice of each communication identified therein is timely. A single notice may address an ex parte communication that applies to more than one proceeding, provided that the notice is filed in each applicable proceeding. The notice shall include the following information:

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

(2) The identities of each decisionmaker involved, the person initiating the communication, and any persons present during such communication;

(3) The topic of the communication, the applicable proceeding numbers, and a description of the interested person's, but not the decisionmaker's, communication including a summary of all of the points or arguments made in the communication, together with any request, recommendation, or advice provided to the decisionmaker, to which description shall be attached a copy of any written, audiovisual, or other material used for or during the communication.

(b) If an ex parte communication is not disclosed as required by Rule 8.2 and this rule until after the Commission has issued a decision on the matter to which the communication pertained, a party not participating in the communication may file a petition to rescind or modify the decision. A petition filed pursuant to this rule shall be filed no later than 30 days after the date the ex parte communication is disclosed.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701 and 1701.1, 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 or catastrophic wildfire 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.

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. Where it would aid in efficiency and transparency, parties may request that the assigned Administrative Law Judge establish a process whereby discovery requests and non-confidential responses from parties are appropriately distributed to other parties in the proceeding.

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 or other material 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.

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, including any separate agreements or financial relationship between parties outside the scope of the proposed settlement but related to issues in the proposed 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, unless all parties stipulate to reduce the time or waive the need for service. 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. The Commission may reject any proposed settlement for failure to disclose the information required pursuant to subsection (a) of this rule.

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

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 any public participation hearing that may be set in the proceeding, not less than five nor more than 30 days before the date of the public participation 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~~1~~, 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) In a catastrophic wildfire proceeding, the assigned Commissioner shall be the presiding officer, and the assigned Administrative Law Judge shall assist in conducting the proceeding.

~~(d)~~(e) 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: Sections 1701 and 1701.8, 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~~c) For purposes of this rule, "present" or "presence" at a hearing or argument means physical attendance in the hearing room or remote participation, 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~~b~~) ~~and 1701.4(a)~~, Public Utilities Code.

13.6. (Rule 13.6) Evidence.

(a) In hearings before the Commission,~~Although~~ the technical rules of evidence, whether statutory, common law, or adopted by court, ~~ordinarily~~ need not be applied ~~in hearings before the Commission, substantial rights of the parties shall be preserved~~. Although evidence need not be excluded merely by application of rules governing admissibility, competency, weight, or foundation in the record, the rights of parties to meaningfully participate in the proceeding and to public policy protections 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.

13.9. (Rule 13.9) Duty to Meet and Confer.

(a) Unless the assigned Commissioner or assigned Administrative Law Judge orders otherwise, no later than 10 calendar days after the submission of rebuttal testimony the parties must meet and confer, in person or via remote participation to consider the following:

(1) Identifying and, if possible, informally resolving any anticipated motions;

(2) Identifying the facts and issues in the case that are uncontested and may be the subject of stipulation;

(3) Identifying the facts and issues in the case that are in dispute;

(4) Determining whether the contested issues in the case can be narrowed; and

(5) Determining whether settlement is possible.

(b) Notice of the date, time, and place shall be served on all parties in advance of the meet and confer, unless all parties stipulate to waive the need for service. Parties shall notice the service list after the meet and confer has been held.

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

13.~~9~~10. (Rule 13.~~9~~10) 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~~11. (Rule 13.~~10~~11) 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~~12. (Rule 13.~~11~~12) 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~~13. (Rule 13.~~12~~13) 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: Sections 1701 and 1701.2, Public Utilities Code.

13.~~13~~14. (Rule 13.~~13~~14) 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 the assigned Commissioner has determined that a hearing is required, a party has the right to make an oral argument before the Commission, provided that the party makes such request by motion no later than the time for filing opening briefs or, if opening 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, 1701.3 and 1701.4, Public Utilities Code.

13.~~14~~15. (Rule 13.~~14~~15) 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 for the taking of additional evidence or argument, 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.

14.2. (Rule 14.2) Issuance of Recommended Decision.

(a) A proposed decision shall be filed no later than 90 days after submission.

(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.

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

(e) Revised proposed decisions and revised alternate proposed decisions pursuant to Rule 14.1(d) shall be served on the official service list for that proceeding upon publication and prior to the Commission meeting where the proposed decision or alternate proposed decision appears on the agenda for that meeting. Failure to serve a revised proposed decision or revised alternate proposed decision shall not constitute grounds for legal error or invalidating a Commission decision.

(f) A proposed decision that grants the relief requested in an uncontested matter, pursuant to Rule 14.6(c)(2) shall be served on the official service list for that proceeding.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 311(d), 311(~~f~~g), 1701, 1701.1, 1701.2, 1701.3 and 1701.4, Public Utilities Code.

14.3. (Rule 14.3) Comment~~s~~ 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 (d~~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 within 20 days of the date of its ~~notice in the Commission's Daily Calendar~~ mailing and publication on the Commission's website and in accordance with the instructions accompanying the notice.

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

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

(a) In an unforeseen emergency situation, the Commission may reduce or waive the period for public review and comment on proposed decisions, draft

resolutions, and 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(i)) 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 on a motion for disqualification of a Commissioner.

(10) 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.

(11) in a catastrophic wildfire proceeding to a period of no less than 15 days at the discretion of the assigned Commissioner.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 306, 311 and 1701, Public Utilities Code; and Section 11125.5, 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 on the day and at the location of the Commission meeting, no later than the start of the 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(~~j~~e), 1701.4(e~~d~~), and 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(d~~a~~), 1701.2(e~~c~~) and 1705, Public Utilities Code.

16.1. (Rule 16.1) Application for Rehearing.

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

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

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

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

(e) An application for rehearing or a response to an application for rehearing shall not exceed 50 pages.

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

(End of Appendix A)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RESOLUTION ALJ-381. Approves modifications to the Rules of Practice and Procedure (Title 20, Division 1, of the California Code of Regulations).

INFORMATION REGARDING SERVICE

I have electronically served all persons on the attached service list, which consists of persons who have subscribed to the Rules-Update list for notification of proposed changes to the Rules of Practice and Procedure (https://ia.cpuc.ca.gov/rulesupdate/).

Dated May 14, 2020, at Napa, California.

/s/ ANTONINA V. SWANSEN
Antonina V. Swansen

N O T I C E

Persons may subscribe to receive notices of proposed changes to the Commission's Rules of Practice and Procedure at: https://ia.cpuc.ca.gov/rulesupdate/.

* *

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074 or TDD# (415) 703-2032 five working days in advance of the event

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