

STATE OF CALIFORNIA



MEMORANDUM

Date: June 26, 2002

To: **The Commission (Meeting of June 27, 2002)**

From: **Commissioners Geoffrey F. Brown and Michael R. Peevey**
Public Utilities Commission – San Francisco

Subject: Revised Draft *CR-2 Commission Policies and Guidelines regarding the Commission Public Agenda and Decision document notations and Public Communications pursuant to, inter alia, Public Utilities Code Section 305*

The California Public Utilities Commission, pursuant to its inherent power to govern itself and Public Utilities Code §305, does hereby promulgate the following Public Agenda Policies and Guidelines.

1. An item appearing on the public agenda shall be voted upon, withdrawn or continued to a commission meeting date certain. A list of items appearing on the public agenda that are continued to future meetings (“held list”) shall be made available to the public the day before each commission meeting along with the date of the meeting to which the items (except for executive session items) are continued. The held list may be updated as a result of public discussion (or non-public discussion, in the case of executive session items) during the course of the commission meeting. **(This paragraph was adopted at the Commission Meeting of May 16, 2002.)**(Capitalization changed subsequent to 5/16/02)
2. An item appearing on the held list, as modified during a commission meeting, shall be set for the public agenda on the commission meeting date indicated on the held list. In the event that no date is clearly designated on the held list, the item shall be set for the next meeting and shall be so reflected in the public agenda therefor. **(This paragraph was adopted at the Commission Meeting of May 16, 2002.)**(Capitalization changed subsequent to 5/16/02)
3. Except when the return date and reasons for a hold are stated at a commission meeting, a commissioner shall state in written form the date of return to the agenda and the reason therefor on an item each time a hold is requested. This hold list and the reasons therefor shall be made available to the public (except for executive session items) on

the commission's web site as soon as practicable. No individual commissioner may hold any public agenda or executive session item on more than two occasions, except for stated extraordinary circumstances.

4. Each item on the commission's public agenda shall state the initial date the matter appeared on the public agenda, each date the item previously appeared on the agenda, and the applicable categorization for *ex parte* rule purposes.
5. All cover sheets on decisions, resolutions, memoranda, and other matters pertaining to public agenda items shall state in a consistent position (as designated by the chief administrative law judge) the current agenda placement number (e.g., CA-7 or H-3), the date of the meeting at which it is to be considered, the applicable categorization for *ex parte* rule purposes and its agenda identification number.
6. All decisions, draft decisions and proposed decisions shall state the name of any assigned commissioner and administrative law judge. In the event that a decision reflects a result or opinion with which the administrative law judge (or other hearing officer) disagrees, the opinion shall reflect such disagreement but shall nonetheless designate the person who served as hearing officer.
7. Only the assigned commissioner (as defined in Public Utilities Code §§311, 1701.1, 1701.2, and 1701.4) may place such an assigned matter on the agenda, except that any commissioner may place the matter on the agenda for status report and/or discussion. The right of any commissioner to place any other matter (e.g., resolutions, legislative items, personnel matters, management and commissioner reports, external agency matters, appeals, potential and actual litigation, rehearings, originating orders initiating investigations (OIs), originating orders initiating rulemaking (OIRs), and new matters) on the agenda for discussion or action by the commission shall not be abrogated. Two commissioners' assent shall be required to place on the agenda an assignment or reassignment of a proceeding and a majority of commissioners voting may so reassign. Placement of matters on the agenda pursuant to this section shall comport with due process requirements, the rules of the commission, and the Bagley-Keene Open Meeting Act (Government Code §11120 *et seq.*). Nothing in this provision shall be deemed to restrict the commission's power to delegate to divisions or designated employees the power to place matters on the agenda.
8. All executive session meetings shall be recorded electronically, or by tape recorder and the recordings shall be made maintained for at least one year. Recordings shall be made available to a commissioner on request (Government Code Section §11126.1).
9. Any letter or other written communication that represents a significant policy statement by a commissioner or director level staff member to a government agency, government official or media representative made on behalf of the Public Utilities Commission shall be made available to all other commissioners contemporaneously with its being sent. This rule does not apply to routine business correspondence, routine legal filings and routine data and information requests.

10. Any report submitted on behalf of the commission to the legislature, individual legislators, or the governor's office shall be made available to all other commissioners two business days prior to release to the intended recipient. Confidential correspondence reflecting the opinion of an individual commissioner, not made on behalf of the commission, shall not be subject to this provision.
- ~~12.~~ 11. These policies and guidelines shall be permanently posted on the commission's web site under the title "Policies and Guidelines." These policies and guidelines are effective as of June 27, 2002. Items 4 and 5 shall go into effect upon the report of the chief administrative law judge to the commission that his administrative resources permit such compliance or October 31, 2002, whichever is sooner.