

AMENDED IN SENATE JANUARY 4, 2006

SENATE BILL

No. 951

Introduced by Senator Escutia

February 22, 2005

An act to amend ~~Sections 1801, 1803, and 1804~~ *Section 1801* of the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 951, as amended, Escutia. Public Utilities Commission: compensation for participants and intervenors.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. The existing Public Utilities Act provides compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers for participation or intervention in any proceeding of the commission based, in part, upon whether the intervenor would experience significant financial hardship.

This bill would provide that the provisions pertaining to participant and intervenor compensation are to be liberally construed to promote participation and would ~~require the commission to award additional compensation for reasonable costs incurred in organizing and publicizing opportunities for participation in commission hearings or proceedings, or in forming and coordinating coalitions to participate in commission hearings or proceedings.~~

~~Existing law authorizes an administrative law judge assigned to a commission hearing or proceeding to issue a ruling addressing issues raised by a notice of intent to claim compensation. Existing law requires the commission to establish an office of the public advisor to~~

~~assist members of the public and ratepayers who desire to testify before or present information to the commission in any hearing or proceeding of the commission open to the public.~~

~~This bill would require consultation with the public advisor before an administrative law judge issues a ruling addressing issues raised by a notice of intent to claim compensation.~~

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

The people of the State of California do enact as follows:

1 SECTION 1. (a) *The Legislature declares that the Public*
 2 *Utilities Commission should protect the interest of consumers in*
 3 *fair and stable rates and charges and adequate service quality,*
 4 *and should encourage public participation in pursuit of these*
 5 *goals.*

6 (b) *The Legislature declares that public participation in the*
 7 *utility regulation activities at the Public Utilities Commission*
 8 *should be enhanced by all of the following:*

9 (1) *Providing financial and technical support for activities*
 10 *that enable community-based organizations to initiate actions*
 11 *that bring the concerns of underrepresented groups before the*
 12 *commission, including small businesses, minority communities,*
 13 *senior citizens, non-English-speaking communities, immigrant*
 14 *communities, and low-income communities.*

15 (2) *Ensuring that proceedings at other agencies and public*
 16 *benefit corporations that result in decisions affecting the actions*
 17 *of the commission, including proceedings of the Independent*
 18 *System Operator and the State Energy Resources Conservation*
 19 *and Development Commission, reflect a well-articulated*
 20 *consumer point of view.*

21 (3) *Simplifying the process for, and removing technical*
 22 *obstacles to, qualification for participation or intervenor's fees*
 23 *and expenses pursuant to Article 5 (commencing with Section*
 24 *1801) of Chapter 9 of Part 1 of Division 1 of the Public Utilities*
 25 *Code.*

26 SECTION 1.

27 SEC. 2. Section 1801 of the Public Utilities Code is amended
 28 to read:

1 1801. (a) The purpose of this article is to provide
2 compensation for reasonable advocate's fees, reasonable expert
3 witness fees, and other reasonable costs to public utility
4 customers of participation or intervention in any proceeding of
5 the commission.

6 ~~(b) The Legislature finds and declares that participation of~~
7 ~~members of the public in commission proceedings should be~~
8 ~~promoted and encouraged, and that reimbursing participants for~~
9 ~~the costs of participating in commission proceedings, where that~~
10 ~~participation substantially contributes to orders and decisions of~~
11 ~~the commission, is in the public interest.~~

12 ~~(c)~~

13 (b) The provisions of this article are to be liberally construed
14 to effectuate the intent of the Legislature and to promote the
15 public interest.

16 SEC. 2. Section 1803 of the Public Utilities Code is amended
17 to read:

18 1803. ~~The commission shall award compensation for the~~
19 ~~reasonable costs of advocate's fees, expert witness fees, costs~~
20 ~~incurred in organizing and publicizing opportunities for~~
21 ~~participation in commission hearings or proceedings, or in~~
22 ~~forming and coordinating coalitions, and other reasonable costs~~
23 ~~of preparation for and participation in a hearing or proceeding to~~
24 ~~any customer who complies with Section 1804 and satisfies both~~
25 ~~of the following requirements:~~

26 (a) ~~The customer's presentation makes a substantial~~
27 ~~contribution to the adoption, in whole or in part, of the~~
28 ~~commission's order or decision.~~

29 (b) ~~Participation or intervention without an award of fees or~~
30 ~~costs imposes a significant financial hardship.~~

31 SEC. 3. Section 1804 of the Public Utilities Code is amended
32 to read:

33 1804. (a) (1) ~~A customer who intends to seek an award~~
34 ~~under this article shall, within 30 days after the prehearing~~
35 ~~conference is held, file and serve on all parties to the proceeding~~
36 ~~a notice of intent to claim compensation. In cases where no~~
37 ~~prehearing conference is scheduled or where the commission~~
38 ~~anticipates that the proceeding will take less than 30 days, the~~
39 ~~commission may determine the procedure to be used in filing~~
40 ~~these requests. In cases where the schedule would not reasonably~~

1 allow parties to identify issues within the timeframe set forth
2 above, or where new issues emerge subsequent to the time set for
3 filing, the commission may determine an appropriate procedure
4 for accepting new or revised notices of intent.

5 (2) (A) The notice of intent to claim compensation shall
6 include both of the following:

7 (i) A statement of the nature and extent of the customer's
8 planned participation in the proceeding as far as it is possible to
9 set it out when the notice of intent is filed.

10 (ii) An itemized estimate of the compensation that the
11 customer expects to request, given the likely duration of the
12 proceeding as it appears at the time.

13 (B) The notice of intent may also include a showing by the
14 customer that participation in the hearing or proceeding would
15 pose a significant financial hardship. Alternatively, such a
16 showing shall be included in the request submitted pursuant to
17 subdivision (c).

18 (C) Within 15 days after service of the notice of intent to claim
19 compensation, the administrative law judge may direct the staff,
20 and may permit any other interested party, to file a statement
21 responding to the notice.

22 (b) (1) If the customer's showing of significant financial
23 hardship was included in the notice filed pursuant to subdivision
24 (a), the administrative law judge, in consultation with the
25 assigned commissioner, shall issue within 30 days thereafter a
26 preliminary ruling addressing whether the customer will be
27 eligible for an award of compensation. The ruling shall address
28 whether a showing of significant financial hardship has been
29 made. A finding of significant financial hardship shall create a
30 rebuttable presumption of eligibility for compensation in other
31 commission proceedings commencing within one year of the date
32 of that finding.

33 (2) After consultation with the public advisor, the
34 administrative law judge may issue a ruling addressing issues
35 raised by the notice of intent to claim compensation. The ruling
36 may point out similar positions, areas of potential synergies or
37 commonalities in showings, unrealistic expectation for
38 compensation, and any other matter that may affect the
39 customer's ultimate claim for compensation. A finding of
40 significant financial hardship in no way ensures compensation.

1 The failure of the customer to identify a specific issue in the
2 notice of intent or to precisely estimate potential compensation
3 shall not preclude an award of reasonable compensation if a
4 substantial contribution is made.

5 (e) Following issuance of a final order or decision by the
6 commission in the hearing or proceeding, a customer who has
7 been found, pursuant to subdivision (b), to be eligible for an
8 award of compensation may file within 60 days a request for an
9 award. The request shall include at a minimum a detailed
10 description of services and expenditures and a description of the
11 customer's substantial contribution to the hearing or proceeding.
12 Within 30 days after service of the request, the commission staff
13 may file, and any other party may file, a response to the request.

14 (d) The commission may audit the records and books of the
15 customer to the extent necessary to verify the basis for the award.
16 The commission shall preserve the confidentiality of the
17 customer's records in making its audit. Within 20 days after
18 completion of the audit, if any, the commission shall direct that
19 an audit report shall be prepared and filed. Any other party may
20 file a response to the audit report within 20 days thereafter.

21 (e) Within 75 days after the filing of a request for
22 compensation pursuant to subdivision (e), or within 50 days after
23 the filing of an audit report, whichever occurs later, the
24 commission shall issue a decision that determines whether or not
25 the customer has made a substantial contribution to the final
26 order or decision in the hearing or proceeding. If the commission
27 finds that the customer requesting compensation has made a
28 substantial contribution, the commission shall describe this
29 substantial contribution and shall determine the amount of
30 compensation to be paid pursuant to Section 1806.