

AMENDED IN ASSEMBLY APRIL 26, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1157

Introduced by Assembly Member Ruskin

February 23, 2007

An act to amend Sections 305, 307, 308, and 1802 of, ~~and to repeal and add Section 305 to,~~ the Public Utilities Code, relating to the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 1157, as amended, Ruskin. Public Utilities Commission.

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities, as defined. The California Constitution grants the commission certain general powers over all public utilities, subject to control by the Legislature, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. Existing law requires the Governor to designate the president of the commission from among its members and requires the president to direct the executive director, the attorney, and other staff of the commission, except for Division of Ratepayer Advocates.

This bill would require the Governor to appoint, subject to the approval of the Senate, a president of the commission from among its members. The bill would repeal the requirement that the president direct commission staff.

~~This bill would require the members of the commission to elect one of the commissioners as president, and would authorize the commission to appoint an attorney and an executive director.~~

(2) Existing law provides compensation for reasonable advocate’s fees, reasonable expert witness fees, and other reasonable costs to public utility customers, as defined, for participation or intervention in any proceeding of the commission where the customer’s participation makes a substantial contribution to the proceedings of the commission. A public utility “customer” excludes any state, federal, or local government agency, any publicly owned public utility, or any entity that, in the commission’s opinion, was established or formed by a local government entity for the purpose of participating in a commission proceeding.

This bill would include in the definition of a “customer,” a participant representing a labor organization, an environmental organization, or any organization that has promoting the public interest as a primary purpose. The bill would exclude from the definition of a “customer” any state, federal, or local government agency, any publicly owned public utility unless the agency or utility is appearing as *parens patriae* on behalf of residents of the agency or the customers of a utility that purchases utility service from another public utility, including an irrigation or water district that purchases electricity from an electrical corporation.

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

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

1 ~~SECTION 1. Section 305 of the Public Utilities Code is~~
2 ~~repealed.~~
3 ~~SEC. 2. Section 305 is added to the Public Utilities Code, to~~
4 ~~read:~~
5 ~~305. The commissioners shall elect one of the commissioners~~
6 ~~president of the commission. The president shall preside at all~~
7 ~~meetings and sessions of the commission.~~
8 ~~SECTION 1. Section 305 of the Public Utilities Code is~~
9 ~~amended to read:~~
10 ~~305. The Governor shall designate appoint, subject to the~~
11 ~~approval of the Senate, a president of the commission from among~~
12 ~~the members of the commission. The president shall direct the~~
13 ~~executive director, the attorney, and other staff of the commission,~~
14 ~~except for the staff of the division described in Section 309.5, in~~
15 ~~the performance of their duties, in accordance with commission~~

1 ~~policies and guidelines.~~ The president shall preside at all meetings
2 and sessions of the commission.

3 ~~SEC. 3.~~

4 *SEC. 2.* Section 307 of the Public Utilities Code is amended
5 to read:

6 307. (a) The commission may appoint as attorney to the
7 commission an attorney at law of this state, who shall hold office
8 during the pleasure of the commission.

9 (b) The attorney shall represent and appear for the people of the
10 State of California and the commission in all actions and
11 proceedings involving any question under this part or under any
12 order or act of the commission. If directed to do so by the
13 commission, the attorney shall intervene, if possible, in any action
14 or proceeding in which any such question is involved.

15 (c) The attorney shall commence, prosecute, and expedite the
16 final determination of all actions and proceedings directed or
17 authorized by the commission, advise the commission and each
18 commissioner, when so requested, in regard to all matters in
19 connection with the powers and duties of the commission and the
20 members thereof, and generally perform all duties and services as
21 attorney to the commission that the commission may require of
22 him or her.

23 ~~SEC. 4.~~

24 *SEC. 3.* Section 308 of the Public Utilities Code is amended
25 to read:

26 308. (a) The commission shall appoint an executive director,
27 who shall hold office during its pleasure. The executive director
28 shall be responsible for the commission's executive and
29 administrative duties and shall organize, coordinate, supervise,
30 and direct the operations and affairs of the commission and
31 expedite all matters within the commission's jurisdiction.

32 (b) The executive director shall keep a full and true record of
33 all proceedings of the commission, issue all necessary process,
34 writs, warrants, and notices, and perform such other duties as the
35 commission prescribes. The commission may authorize the
36 executive director to dismiss complaints or applications when all
37 parties are in agreement thereto, in accordance with rules that the
38 commission may prescribe.

1 (c) The commission may appoint assistant executive directors
2 who may serve warrants and other process in any county or city
3 and county of this state.

4 ~~SEC. 5.~~

5 *SEC. 4.* Section 1802 of the Public Utilities Code is amended
6 to read:

7 1802. As used in this article:

8 (a) “Compensation” means payment for all or part, as determined
9 by the commission, of reasonable advocate’s fees, reasonable
10 expert witness fees, and other reasonable costs of preparation for
11 and participation in a proceeding, and includes the fees and costs
12 of obtaining an award under this article and of obtaining judicial
13 review, if any.

14 (b) (1) “Customer” means any of the following:

15 (A) A participant representing consumers, customers, or
16 subscribers of any electrical, gas, telephone, telegraph, or water
17 corporation that is subject to the jurisdiction of the commission.

18 (B) A representative who has been authorized by a customer.

19 (C) A representative of a group or organization authorized
20 pursuant to its articles of incorporation or bylaws to represent the
21 interests of residential customers, or to represent small commercial
22 customers who receive bundled electric service from an electrical
23 corporation.

24 (D) A participant representing a labor organization, an
25 environmental organization, or any organization that has promoting
26 the public interest as a primary purpose, including organizations
27 serving or protecting the interests of low-income customers, senior
28 citizens, and individuals or groups protected by antidiscrimination
29 laws.

30 (2) “Customer” does not include any state, federal, or local
31 government agency, or any publicly owned public utility, unless
32 the agency or utility is appearing as *parens patriae* on behalf of
33 residents of the agency or the customers of a utility that purchases
34 utility service from another public utility, including an irrigation
35 or water district that purchases electricity from an electrical
36 corporation.

37 (c) “Expert witness fees” means recorded or billed costs incurred
38 by a customer for an expert witness.

39 (d) “Other reasonable costs” means reasonable out-of-pocket
40 expenses directly incurred by a customer that are directly related

1 to the contentions or recommendations made by the customer that
2 resulted in a substantial contribution.

3 (e) “Party” means any interested party, respondent public utility,
4 or commission staff in a hearing or proceeding.

5 (f) “Proceeding” means an application, complaint, or
6 investigation, rulemaking, alternative dispute resolution procedures
7 in lieu of formal proceedings as may be sponsored or endorsed by
8 the commission, or other formal proceeding before the commission.

9 (g) “Significant financial hardship” means either that the
10 customer cannot afford, without undue hardship, to pay the costs
11 of effective participation, including advocate’s fees, expert witness
12 fees, and other reasonable costs of participation, or that, in the case
13 of a group or organization, the economic interest of the individual
14 members of the group or organization is small in comparison to
15 the costs of effective participation in the proceeding.

16 (h) “Small commercial customer” means any nonresidential
17 customer with a maximum peak demand of less than 50 kilowatts.
18 The commission may establish rules to modify or change the
19 definition of “small commercial customer,” including use of criteria
20 other than a peak demand threshold, if the commission determines
21 that the modification or change will promote participation in
22 proceedings at the commission by organizations representing small
23 businesses, without incorporating large commercial and industrial
24 customers.

25 (i) “Substantial contribution” means that, in the judgment of
26 the commission, the customer’s presentation has substantially
27 assisted the commission in the making of its order or decision
28 because the order or decision has adopted in whole or in part one
29 or more factual contentions, legal contentions, or specific policy
30 or procedural recommendations presented by the customer. Where
31 the customer’s participation has resulted in a substantial
32 contribution, even if the decision adopts that customer’s contention
33 or recommendations only in part, the commission may award the
34 customer compensation for all reasonable advocate’s fees,
35 reasonable expert fees, and other reasonable costs incurred by the
36 customer in preparing or presenting that contention or
37 recommendation.

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