

AMENDED IN ASSEMBLY APRIL 26, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1157**

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**Introduced by Assembly Member Ruskin**

February 23, 2007

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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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