

AMENDED IN ASSEMBLY AUGUST 20, 2010
AMENDED IN ASSEMBLY AUGUST 17, 2010
AMENDED IN ASSEMBLY AUGUST 2, 2010
AMENDED IN ASSEMBLY JUNE 22, 2010
AMENDED IN SENATE JUNE 1, 2010
AMENDED IN SENATE APRIL 27, 2010
AMENDED IN SENATE APRIL 13, 2010
AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1414

Introduced by Senator Kehoe

February 19, 2010

An act to amend ~~Section 321.6 of, and to amend, repeal, and add Section Sections 321.6 and 1733 of, the Public Utilities Code, relating to the Public Utilities Commission.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1414, as amended, Kehoe. Public Utilities Commission: procedures: rehearings.

(1) Under existing law, the Public Utilities Commission (CPUC) has regulatory authority over public utilities and can establish its own procedures, subject to statutory limitations or directions and constitutional requirements of due process. Existing law authorizes any party to an action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected by an order or decision of the CPUC, to apply for a rehearing with respect to

any matter determined in the action or proceeding and specified in the application for rehearing. Existing law prohibits a cause of action arising out of any order or decision of the CPUC from accruing in a court to a corporation or person unless the corporation or person has filed an application to the CPUC for a rehearing within a specified amount of time after the date of issuance of the order or decision.

Existing law provides that any application for a rehearing made 10 days or more before the effective date of a CPUC order as to which a rehearing is sought, shall be either granted or denied before the effective date of the order, or the order is suspended until the application is granted or denied. Existing law provides that, absent a further order of the CPUC, the suspension ceases after 60 days, the order becomes effective, and the party making the application is authorized to take the application as having been denied. Existing law provides that if the application for rehearing is made less than 10 days before the effective date of the order as to which a rehearing is sought, and the application is not granted within 60 days, the party making the application is authorized to take the application as having been denied, unless the effective date of the order is extended for the period of the pendency of the application.

~~This bill would provide that, beginning January 1, 2011, for an application for rehearing made less than 10 days before the effective date of the CPUC order as to which a rehearing is sought, this bill would require that the application be acted upon within 120 days. The bill would authorize the commission, by order, to extend the period for acting upon the application for rehearing, but would prohibit any single order from extending that period for more than an additional 120 days. The bill would authorize the applicant, beginning 61 days following the filing of the application, to treat the application as having been denied regardless of any order of extension, unless the effective date of the order as to which the rehearing is sought is extended for the period of the pendency of the application.~~

For applications for rehearing filed on or after January 1, 2011, if the commission has not acted on the application within 120 days, this bill would authorize the commission, by order, to extend the period for acting on the application, but would prohibit any single order to extend the period for more than an additional 120 days.

(2) Existing law requires the CPUC to submit an annual report on the number of cases where resolution exceeded the time periods

prescribed in scoping memos and the days that commissioners presided in hearings.

This bill would additionally require the CPUC to include data on the disposition of applications for rehearing in that report.

This bill would incorporate additional changes to Section 321.6 of the Public Utilities Code, proposed by AB 2769, to be operative only if AB 2769 and this bill are both chaptered and become effective on or before January 1, 2011, and this bill is chaptered last.

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 321.6 of the Public Utilities Code is
2 amended to read:

3 321.6. The commission shall do all of the following:

4 (a) Develop, publish, and annually update an annual work plan
5 that describes in clear detail the scheduled ratemaking proceedings
6 and other decisions that may be considered by the commission
7 during the calendar year. The plan shall include, but is not limited
8 to, information on how members of the public and ratepayers can
9 gain access to the commission’s ratemaking process and
10 information regarding the specific matters to be decided. The plan
11 shall also include information on the operation of the office of the
12 public advisor and identify the names and telephone numbers of
13 those contact persons responsible for specific cases and matters
14 to be decided. The plan shall also include a statement that specifies
15 activities that the commission proposes to reduce the costs of, and
16 rates for, energy, including electricity, and for improving the
17 competitive opportunities for state agriculture and other rural
18 energy consumers. The commission shall post the plan under the
19 Official Documents area of its Internet Web site and shall develop
20 a program to disseminate the information in the plan utilizing
21 computer mailing lists to provide regular updates on the
22 information to those members of the public and organizations
23 which request that information.

24 (b) Produce a complete accounting of its transactions and
25 proceedings for the preceding year, together with other facts,
26 suggestions, and recommendations that it deems of value to the
27 people of the state and a statement that specifies the activities and

1 achievements of the commission in reducing the costs of, and rates
2 for, energy, including electricity, for state agriculture and other
3 rural energy consumers.

4 (c) Create a report on the number of cases where resolution
5 exceeded the time periods prescribed in scoping memos, data on
6 the disposition of applications for rehearing, and the days that
7 commissioners presided in hearings.

8 (d) Submit annually the plan, accounting, and report required
9 by subdivisions (a), (b), and (c) to the Governor and Legislature
10 no later than February 1 of each year.

11 ~~SEC. 2. Section 1733 of the Public Utilities Code is amended~~
12 ~~to read:~~

13 ~~1733. (a) Any application for a rehearing made 10 days or~~
14 ~~more before the effective date of the order as to which a rehearing~~
15 ~~is sought, shall be either granted or denied before the effective~~
16 ~~date, or the order shall stand suspended until the application is~~
17 ~~granted or denied; but, absent further order of the commission the~~
18 ~~order shall not stand so suspended for more than 60 days after the~~
19 ~~date of filing of the application, at which time the suspension shall~~
20 ~~lapse, the order shall become effective, and the application may~~
21 ~~be taken by the party making it to be denied.~~

22 ~~(b) Any application for a rehearing made within less than 10~~
23 ~~days before the effective date of the order as to which a rehearing~~
24 ~~is sought, and not granted within 60 days, may be taken by the~~
25 ~~party making the application to be denied, unless the effective date~~
26 ~~of the order is extended for the period of the pendency of the~~
27 ~~application.~~

28 ~~(c) This section shall apply to an application for rehearing filed~~
29 ~~on or before December 31, 2010.~~

30 ~~(d) This section shall remain in effect only until December 31,~~
31 ~~2012, and as of that date is repealed, unless a later enacted statute,~~
32 ~~that is enacted before December 31, 2012, deletes or extends that~~
33 ~~date.~~

34 ~~SEC. 3. Section 1733 is added to the Public Utilities Code, to~~
35 ~~read:~~

36 ~~1733. (a) Any application for a rehearing made 10 days or~~
37 ~~more before the effective date of the order as to which a rehearing~~
38 ~~is sought shall be either granted or denied before the effective date,~~
39 ~~or the order shall be suspended until the application is granted or~~
40 ~~denied; but, absent further order of the commission, the order shall~~

1 not stand so suspended for more than 60 days after the date of
2 filing of the application, at which time the suspension shall lapse;
3 the order shall become effective, and the application may be taken
4 by the party making it to be denied.

5 (b) Any application for a rehearing made within less than 10
6 days before the effective date of the order as to which a rehearing
7 is sought shall be acted upon within 120 days. The commission,
8 by order, may extend the 120-day period for acting upon the
9 application, but any single order shall not extend that period for
10 more than an additional 120 days. Regardless of any order of
11 extension, unless the effective date of the order as to which the
12 rehearing is sought is extended for the period of the pendency of
13 the application, beginning 61 days following the filing of the
14 application, the applicant may treat the application as having been
15 denied.

16 (c) This section shall apply to an application for rehearing filed
17 on or after January 1, 2011.

18 *SEC. 2. Section 321.6 of the Public Utilities Code is amended*
19 *to read:*

20 321.6. (a) The commission shall do all of the following:

21 (a)

22 (1) Develop, publish, and annually update an annual ~~work plan~~
23 *workplan* that describes in clear detail the scheduled ratemaking
24 proceedings and other decisions that may be considered by the
25 commission during the calendar year. The plan shall include, but
26 is not limited to, information on how members of the public and
27 ratepayers can gain access to the commission's ratemaking process
28 and information regarding the specific matters to be decided. The
29 plan shall also include information on the operation of the office
30 of the public advisor and identify the names and telephone numbers
31 of those contact persons responsible for specific cases and matters
32 to be decided. The plan shall also include a statement that specifies
33 activities that the commission proposes to reduce the costs of, and
34 rates for, energy, including electricity, and for improving the
35 competitive opportunities for state agriculture and other rural
36 energy consumers. The commission shall post the plan under the
37 Official Documents area of its Internet Web site and shall develop
38 a program to disseminate the information in the plan utilizing
39 computer mailing lists to provide regular updates on the

1 information to those members of the public and organizations
2 which request that information.

3 ~~(b)~~

4 (2) Produce a complete accounting of its transactions and
5 proceedings for the preceding year, together with other facts,
6 suggestions, and recommendations that it deems of value to the
7 people of the state and a statement that specifies the activities and
8 achievements of the commission in reducing the costs of, and rates
9 for, energy, including electricity, for state agriculture and other
10 rural energy consumers.

11 ~~(e)~~

12 (3) Create a report on the number of cases where resolution
13 exceeded the time periods prescribed in scoping memos, *data on*
14 *the disposition of applications for rehearing*, and the days that
15 commissioners presided in hearings.

16 ~~(d)~~

17 (4) Submit annually the plan, accounting, and report required
18 by subdivisions ~~(a), (b), and (e)~~ paragraphs (1), (2), and (3) to the
19 Governor and Legislature no later than February 1 of each year.

20 *(b) The president of the commission shall annually appear*
21 *before the appropriate policy committees of the Senate and*
22 *Assembly to report on the annual workplan access guide of the*
23 *commission required pursuant to this section.*

24 *(c) The president of the commission shall annually appear before*
25 *the appropriate policy committees of the Senate and Assembly to*
26 *report on the annual report of the commission on the number of*
27 *cases where resolution exceeded the time periods prescribed in*
28 *scoping memos and the days that commissioners presided in*
29 *hearings, pursuant to Section 13 of Chapter 856 of the Statutes of*
30 *1996.*

31 *SEC. 3. Section 1733 of the Public Utilities Code is amended*
32 *to read:*

33 1733. (a) Any application for a rehearing ~~made~~ *filed* 10 days
34 or more before the effective date of the order as to which a
35 rehearing is sought; shall be either granted or denied before the
36 effective date, or the order shall stand suspended until the
37 application is granted or ~~denied; but, absent~~ *denied. Absent* further
38 order of the commission, the order shall not stand so suspended
39 for more than 60 days after the date of filing of the application, at
40 which time the suspension shall lapse, the order shall become

1 effective, and the application may be taken by the party making it
2 to be denied.

3 (b) Any application for a rehearing ~~made~~ *filed* within less than
4 10 days before the effective date of the order as to which a
5 rehearing is sought, and not granted within 60 days, may *thereafter*
6 be taken by the party making the application to be denied, unless
7 the effective date of the order is extended for the period of the
8 pendency of the application.

9 (c) *For any application filed January 1, 2011, or thereafter, if*
10 *the commission has not acted on an application for rehearing*
11 *within 120 days, the commission, by order, may extend the period*
12 *for action upon the application, but any single order shall not*
13 *extend the period for more than an additional 120 days.*

14 *SEC. 4. Section 2 of this bill incorporates amendments to*
15 *Section 321.6 of the Public Utilities Code proposed by both this*
16 *bill and AB 2769. It shall only become operative if (1) both bills*
17 *are enacted and become effective on or before January 1, 2011,*
18 *(2) each bill amends Section 321.6 of the Public Utilities Code,*
19 *and (3) this bill is enacted after AB 2769, in which case Section 2*
20 *of this bill shall not become operative.*