

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN SENATE JULY 16, 2015

AMENDED IN SENATE JULY 8, 2015

AMENDED IN SENATE JUNE 18, 2015

AMENDED IN ASSEMBLY JUNE 1, 2015

AMENDED IN ASSEMBLY MAY 14, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 825

Introduced by Assembly Members Rendon and Mark Stone

February 26, 2015

An act to *add Article 5 (commencing with Section 8548.9.1) to Chapter 6.5 of Division 1 of Title 2 of the Government Code, and to amend Sections 306, 311.5, 314.5, 583, 1701.1, and 1701.2 of, to amend and renumber Section 309.1 of, to add Section 468 to, and to add Article 1.5 (commencing with Section 720) to Chapter 4 of Part 1 of Division 1 of, the Public Utilities Code, relating to the Public Utilities Commission.*

LEGISLATIVE COUNSEL'S DIGEST

AB 825, as amended, Rendon. Public Utilities Commission.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, gas corporations, heat corporations, telegraph corporations, telephone corporations, and water corporations. ~~The Public Utilities~~

~~Act provides that the office of the commission be in the City and County of San Francisco, that the office always be open, legal holidays and nonjudicial days excepted, that the commission hold its sessions at least once in each calendar month in the City and County of San Francisco, and authorizes the commission to also meet at those other times and places as may be expedient and necessary for the proper performance of its duties. The Public Utilities Act requires that meetings of the commission be open and public in accordance with the provisions of a specified state open meeting law. The California Constitution authorizes the commission to establish rules, examine records, and prescribe a uniform system of accounts for all public utilities. The Public Utilities Act requires the commission to inspect and audit the books and records of electrical corporations, gas corporations, heat corporations, telegraph corporations, telephone corporations, and water corporations for regulatory and tax purposes. An inspection and audit is required to be done at least every 3 years if the utility has over 1,000 customers and at least every 5 years if the utility has 1,000 or fewer customers. The act requires that reports of the inspections and audit and other pertinent information be furnished to the State Board of Equalization for use in the assessment of the public utilities.~~

~~This bill would require that each commissioner hold office hours and be available to meet with members of the public at least once a month in San Francisco or Los Angeles.~~

~~(2) The California Constitution authorizes the commission to establish rules, examine records, and prescribe a uniform system of accounts for all public utilities. The Public Utilities Act requires the commission to inspect and audit the books and records of electrical corporations, gas corporations, heat corporations, telegraph corporations, telephone corporations, and water corporations for regulatory and tax purposes. An inspection and audit is required to be done at least every 3 years if the utility has over 1,000 customers and at least every 5 years if the utility has 1,000 or fewer customers. The act requires that reports of the inspections and audit and other pertinent information be furnished to the State Board of Equalization for use in the assessment of the public utilities.~~

~~This bill would delete the requirement that the reports of the inspections and audit and other pertinent information be furnished to the State Board of Equalization for use in the assessment of the public utilities and instead require that the inspections and audit and other pertinent information be posted on the commission's Internet Web site.~~

~~(3)~~

(2) Existing law authorizes the commission to fix the rates and charges for every public utility and requires that those rates and charges be just and reasonable. Existing law, with certain exceptions, prohibits a public utility from changing any rate, except upon a showing before the commission and a finding by the commission that the new rate is justified. With certain exceptions, whenever any electrical, gas, heat, telephone, water, or sewer system corporation files an application to change any rate for the services or commodities furnished by it, existing law requires that the corporation furnish its customers notice of its application to the commission for approval of the new rate. This notice requirement does not apply to any rate change proposed by a corporation pursuant to an advice letter submitted to the commission filed pursuant to commission-established procedures for advice letters.

This bill would require each public utility that submits an application to change its rates to include in its application a summary of the application that can be understood by the utility's ratepayers. The bill would require that this summary and the application be posted on the commission's Internet Web site and, if the utility has an Internet Web site, to be posted on the utility's Internet Web site. Each public utility that maintains an Internet Web site would additionally be required to include on that site contact information for a utility official who can discuss the nature of the rate application.

~~(4)~~

(3) Every public utility is required by existing law to furnish such reports as the commission may require. No information furnished to the commission by a public utility, except those matters specifically required to be open to public inspection, are open to public inspection or made public except by order of the commission or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission who divulges any information in violation of these provisions is guilty of a misdemeanor.

This bill would provide that if in a proceeding before the commission, a public utility, or subsidiary, affiliate, or holding company, files a pleading, report, or other document with the commission that is claimed to contain confidential information, it would be required to concurrently file a public version of the pleading, report, or other document with the commission that contains sufficient information for any other party to the proceeding to understand the nature of its contents. The bill would authorize any party to the proceeding to file a motion to make public a

pleading, report, or other document filed under a claim of confidentiality. The bill would require an administrative law judge assigned to the proceeding or the assigned commissioner to hold a hearing on the motion and determine whether the pleading, report, or other document should be made public. The bill would authorize any party to seek review of the ruling or order of the administrative law judge or assigned commissioner on the motion by filing a motion for rehearing de novo before the full commission within 30 days of the date the ruling or order on the motion was issued.

~~(5)~~

(4) Existing law requires the commission to publish and maintain certain documents and information, including making available on the commission's Internet Web site, the commission's annual work plan, general orders, and Rules of Practice and Procedure, the proposed and alternate proposed decisions and resolutions, the agenda, agenda item documents, rulings of the commission, and adopted decisions and resolutions of the commission. Included in the materials that the commission is required to publish and maintain on its Internet Web site are docket cards that list by title and date of filing or issuance all documents filed and all decisions or rulings issued in those proceedings.

This bill would require that each document that the commission distributes to any service-of-process list be docketed and identified on the commission's Internet Web site.

~~(6)~~

(5) Existing law requires the commission to establish an office of the public advisor and to appoint a public advisor. Existing law requires the 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.

This bill would add legislative findings and declarations relative to improving the transparency of commission regulatory activities. The bill would require the public advisor to be responsible for ensuring that the activities of the commission are transparent to the public consistent with these legislative findings and directions, the California Public Records Act, the Bagley-Keene Open Meeting Act, and other specified matter. The bill would require the public advisor to have independent responsibility for overseeing the commission's Internet Web site and would require the commission to post on its Internet Web site a summary, as specified, of all electricity procurement contracts entered into by an electrical corporation during the previous 3 years, the

expenses of which the commission has approved as being just and reasonable, a list of all proceedings involving public utilities then pending before the commission with information, in summary form, as to the amount of any rate increase being sought, both in cumulative amount and by unit or other means billed to ratepayers, transcripts and available summaries of documents, evidence, testimony and proceedings before the commission or its administration law judges that are not subject to confidentiality, a list of all requests submitted to the commission pursuant to the California Public Records Act, and all advice letters approved by the commission. The bill would require the public advisor to update, maintain, and post the commission's service-of-process lists on the commission's Internet Web site in an electronic form that may be used by any party to complete service of process. The bill would require the commission to open a proceeding to reexamine a specified decision relative to confidentiality of electric procurement data and to modify the commission's confidentiality practices and procedures consistent with specified requirements. The bill would ~~require the California State Auditor to appoint an inspector general for the commission who would be authorized to audit and investigate the commission's activities and report any finding to the Legislature.~~ *establish the Inspector General for the Public Utilities Commission within the California State Auditor's Office to conduct oversight review and assess, audit, investigate, and report on the policies, practices, and procedures of the commission under the guidance, direction, supervision, and authority of the State Auditor.*

(7)

(6) Existing law requires the commission to determine whether a proceeding requires a hearing and, if so, to determine whether the matter requires a quasi-legislative, an adjudication, or a ratesetting hearing. Upon initiating a hearing, the commission is required to assign one or more commissioners to oversee the case and an administrative law judge where appropriate. Existing law requires the assigned commissioner to schedule a prehearing conference and to issue, by order or ruling, a scoping memo that describes the issues to be considered and the applicable timetable for resolution.

This bill would require the assigned commissioner to convene an all-parties meeting as soon as practicable after the parties in a proceeding are known to discuss the substantive matter to be decided in the proceeding and prospects for resolving issues that would otherwise be

litigated. The bill would require an assigned commissioner to attend all hearings in a proceeding.

(8)

(7) Existing law prohibits an officer, employee, or agent of the commission that is personally involved in the prosecution, or in the supervision of the prosecution, of an adjudication case from participating in the decision of the case or in the decision of any factually related adjudicatory proceeding. Existing law permits an officer, employee, or agent of the commission that is personally involved in the prosecution, or in the supervision of the prosecution, of an adjudication case to participate in reaching a settlement of the case, but prohibits the officer, employee, or agent from participating in the decision of the commission to accept or reject the settlement, except as a witness or counsel in an open hearing or a specified closed hearing.

This bill would prohibit an attorney that is prosecuting a matter before the commission from meeting with any commissioner regarding the matter that the attorney is prosecuting unless all parties are present.

(9)

(8) Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because certain provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 ~~SECTION 1. Section 306 of the Public Utilities Code is~~
2 ~~amended to read:~~
3 ~~306. (a) The office of the commission shall be in the City and~~
4 ~~County of San Francisco. The office shall always be open, legal~~
5 ~~holidays and nonjudicial days excepted. The commission shall~~

1 hold its sessions at least once in each calendar month in the City
2 and County of San Francisco. The commission may also meet at
3 such other times and in such other places as may be expedient and
4 necessary for the proper performance of its duties, and for that
5 purpose may rent quarters or offices.

6 (b) ~~(1)~~ The meetings of the commission shall be open and public
7 in accordance with the provisions of Article 9 (commencing with
8 Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of
9 the Government Code.

10 (2) In addition to the requirements of Section 11125 of the
11 Government Code, the commission shall include in its notice of
12 meetings the agenda of business to be transacted, and no item of
13 business shall be added to the agenda subsequent to the notice in
14 the absence of an unforeseen emergency situation. A rate increase
15 shall not constitute an unforeseen emergency situation. As used
16 in this subdivision, "meeting" shall include all investigations,
17 proceedings, and showings required by law to be open and public.

18 (3) In addition to scheduled meetings that are open to the public,
19 each commissioner shall hold office hours and be available to meet
20 with members of the public at least once a month in San Francisco
21 or Los Angeles.

22 (e) The commission shall have a seal, bearing the inscription
23 "Public Utilities Commission State of California." The seal shall
24 be affixed to all writs and authentications of copies of records and
25 to such other instruments as the commission shall direct.

26 (d) The commission may procure all necessary books, maps,
27 charts, stationery, instruments, office furniture, apparatus, and
28 appliances.

29 SECTION 1. Article 5 (commencing with Section 8548.9.1) is
30 added to Chapter 6.5 of Division 1 of Title 2 of the Government
31 Code, to read:

32
33 *Article 5. Inspector General: Public Utilities*

34
35 8548.9.1. (a) There is hereby established, within the California
36 State Auditor's Office, the Inspector General for the Public Utilities
37 Commission.

38 (b) For purposes of this article, "inspector general" means the
39 Inspector General for the Public Utilities Commission and
40 "commission" means the Public Utilities Commission.

1 (c) *The inspector general shall be appointed by the State*
2 *Auditor.*

3 8548.9.2. *The inspector general shall, at the direction of the*
4 *State Auditor, conduct oversight review and assess, audit,*
5 *investigate, and report on the policies, practices, and procedures*
6 *of the commission. Subject to the approval of the State Auditor,*
7 *the inspector general may maintain a permanent office at a*
8 *commission location, provided by the commission, and shall be*
9 *provided with sufficient staff and support by the State Auditor to*
10 *carry out the duties of the position.*

11 8548.9.3. (a) *The inspector general shall conduct his or her*
12 *duties under the guidance, direction, supervision, and authority*
13 *of the State Auditor. In conducting his or her work, the inspector*
14 *general is subject to all of the requirements of this chapter,*
15 *including, but not limited to, the access and confidentiality*
16 *provisions specified in Sections 8545 and 8545.1 and the*
17 *Government Auditing Standards published by the Comptroller*
18 *General of the United States, as specified in Section 8546.1.*
19 *However, the inspector general may decide, without further*
20 *approval except from the State Auditor, to audit or investigate and*
21 *report on commission matters based on his or her preliminary*
22 *assessment that commission activities require his or her*
23 *investigation.*

24 (b) *For any stage of a review, assessment, audit, or*
25 *investigation, the inspector general may utilize all of the authority*
26 *granted under this chapter, including, but not limited to, the*
27 *authority to examine and reproduce records pursuant to Section*
28 *8545.2, the authority to administer oaths, certify official acts, and*
29 *issue subpoenas pursuant to Section 8545.4, and the authority to*
30 *receive confidential reports of improper governmental activities*
31 *pursuant to Article 3 (commencing with Section 8547).*

32 8548.9.4. *Notwithstanding Section 8544.5, upon appropriation*
33 *by the Legislature, the California State Auditor shall recover the*
34 *costs for the inspector general's activities from reimbursement*
35 *fees paid pursuant to Chapter 2.5 (commencing with Section 401)*
36 *of Part 1 of Division 1 of the Public Utilities Code.*

37 SEC. 2. Section 309.1 of the Public Utilities Code is amended
38 and renumbered to read:

39 305.5. The Governor may appoint one adviser for each member
40 of the commission upon the request of the commission member.

1 Each adviser shall receive a salary fixed by the commission with
2 the approval of the Department of Human Resources. The total
3 number of advisers exempt from civil service shall not exceed
4 five.

5 SEC. 3. Section 311.5 of the Public Utilities Code is amended
6 to read:

7 311.5. (a) (1) Prior to commencement of any meeting at which
8 commissioners vote on items on the public agenda the commission
9 shall make available to the public copies of the agenda, and upon
10 request, any agenda item documents that are proposed to be
11 considered by the commission for action or decision at a
12 commission meeting.

13 (2) In addition, the commission shall publish the agenda, agenda
14 item documents, and adopted decisions in a manner that makes
15 copies of them easily available to the public, including publishing
16 those documents on the Internet. Publication of the agenda and
17 agenda item documents shall occur on the Internet at the same
18 time as the written agenda and agenda item documents are made
19 available to the public.

20 (b) The commission shall publish and maintain the following
21 documents on the Internet:

22 (1) Each of the commission's proposed and alternate proposed
23 decisions and resolutions, until the decision or resolution is adopted
24 and published.

25 (2) Each of the commission's adopted decisions and resolutions.
26 The publication shall occur within 10 days of the adoption of each
27 decision or resolution by the commission.

28 (3) The then-current version of the commission's general orders
29 and Rules of Practice and Procedure.

30 (4) Each of the commission's rulings. The commission shall
31 maintain those rulings on its Internet Web site until final
32 disposition, including disposition of any judicial appeals, of the
33 respective proceedings in which the rulings were issued.

34 (5) A docket card that lists, by title and date of filing or issuance,
35 all documents filed and all decisions or rulings issued in those
36 proceedings. The commission shall maintain the docket card until
37 final disposition, including disposition of any judicial appeals, of
38 the corresponding proceedings. Each document that the commission
39 distributes to any service-of-process list shall be docketed and
40 identified on the commission's Internet Web site.

1 SEC. 4. Section 314.5 of the Public Utilities Code is amended
2 to read:

3 314.5. The commission shall inspect and audit the books and
4 records for regulatory and tax purposes (a) at least once in every
5 three years in the case of every electrical, gas, heat, telegraph,
6 telephone, and water corporation serving over 1,000 customers,
7 and (b) at least once in every five years in the case of every
8 electrical, gas, heat, telegraph, telephone, and water corporation
9 serving 1,000 or fewer customers. An audit conducted in
10 connection with a rate proceeding shall be deemed to fulfill the
11 requirements of this section. Reports of the inspections and audits
12 and other pertinent information shall be posted on the commission's
13 Internet Web site.

14 SEC. 5. Section 468 is added to the Public Utilities Code, to
15 read:

16 468. (a) Each public utility that submits an application to
17 change its rates shall include in its application a summary of the
18 application that can be understood by the utility's ratepayers. This
19 summary and the application shall be posted on the commission's
20 Internet Web site and, if the utility has an Internet Web site, shall
21 be posted on the utility's Internet Web site.

22 (b) Each public utility that maintains an Internet Web site shall
23 include on that site contact information for a utility official who
24 can discuss the nature of the rate application. If the rate application
25 includes different rates depending upon the utility's service
26 territory, the contact information shall identify a utility official
27 who can discuss the nature of the rate application for each separate
28 service territory. The utility official shall also be qualified to
29 discuss, in general terms, the operation of the utility in each service
30 territory.

31 SEC. 6. Section 583 of the Public Utilities Code is amended
32 to read:

33 583. (a) No information furnished to the commission by a
34 public utility, or any business that is a subsidiary or affiliate of a
35 public utility, or a corporation that holds a controlling interest in
36 a public utility, except those matters specifically required to be
37 open to public inspection by this part, shall be open to public
38 inspection or made public except on order of the commission, or
39 by the commission or a commissioner in the course of a hearing
40 or proceeding. Any present or former officer or employee of the

1 commission who divulges that information is guilty of a
2 misdemeanor.

3 (b) If in a proceeding before the commission, a public utility,
4 or any business that is a subsidiary or affiliate of a public utility,
5 or a corporation that holds a controlling interest in a public utility,
6 files a pleading, report, or other document with the commission
7 that is claimed to contain confidential information, a public version
8 of the pleading, report, or other document that contains sufficient
9 information for any other party to the proceeding to understand
10 the nature of its contents shall be concurrently filed with the
11 commission. An administrative law judge assigned to the
12 proceeding, the assigned commissioner, or the commission may
13 determine the sufficiency of the information contained in the public
14 version of the pleading, report, or other document.

15 (c) Any party to a proceeding before the commission may file
16 a motion to make public a pleading, report, or other document filed
17 by a public utility, or any business that is a subsidiary or affiliate
18 of a public utility, or a corporation that holds a controlling interest
19 in a public utility, under a claim of confidentiality. An
20 administrative law judge assigned to the proceeding or the assigned
21 commissioner shall hold a hearing on the motion and determine
22 whether the pleading, report, or other document should be made
23 public. In determining the motion, the administrative law judge or
24 assigned commissioner shall make written findings and
25 conclusions.

26 (d) At any public hearing, an assigned administrative law judge
27 may provide direction to the parties in a proceeding as to what
28 types of information may be filed with the commission under a
29 claim of confidentiality.

30 (e) No ruling or order entered pursuant to subdivision (c) shall
31 be considered a ruling or order of the commission or a
32 commissioner unless it reflects an examination of the specific
33 information or documents to be made public or opened to public
34 inspection. Any party may seek review of a ruling or order issued
35 pursuant to subdivision (c) to the full commission by filing a
36 motion for rehearing de novo by the full commission within 30
37 days of the date the ruling or order on the motion was issued, and
38 the pleading, report, or other document shall remain confidential
39 while the motion for rehearing is pending. When a motion for
40 rehearing de novo is filed, the full commission shall make the final

1 determination of the motion to make public a pleading, report, or
2 other document filed under claim of confidentiality.

3 SEC. 7. Article 1.5 (commencing with Section 720) is added
4 to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code,
5 to read:

6
7 Article 1.5. Transparency of Commission Regulatory Activities

8
9 720. The Legislature finds and declares all of the following:

10 (a) Transparency in how the commission operates and makes
11 its decisions is critical to gaining and retaining the confidence of
12 the public at large and serving the public utility ratepayers affected
13 by the commission’s decisions.

14 (b) The activities of private entities that provide essential
15 services to the public and that have dedicated their property to the
16 service of the public are defined as public utilities in the California
17 Constitution, subject to the control by the Legislature.

18 (c) The services provided by public utilities are essential to the
19 proper operation of our economy and fundamentally affect every
20 California family and business.

21 (d) Under the California Constitution, the commission is granted
22 authority to establish its own procedures subject to statute and due
23 process and to establish rules for public utilities, and the Legislature
24 has plenary authority to confer additional authority and jurisdiction
25 upon the commission and to establish the manner and scope of
26 review of commission action in a court of record.

27 (e) Because the California Constitution provides special
28 consideration to public utilities and to the commission that
29 regulates those public utilities, it is essential to give the public the
30 ability to monitor the functioning of the commission and its actions.

31 (f) The greater and more unfettered the public official’s power,
32 the greater the public’s interest in monitoring the exercise of that
33 power.

34 (g) Access to information concerning the conduct of the public’s
35 business by the commission is a fundamental and necessary right
36 for every person in the state.

37 (h) Information concerning services provided by public utilities
38 is of the highest public interest, including information about quality
39 and reliability of service to the public and information about costs
40 and profits.

1 (i) While confidentiality of information submitted by a public
2 utility may be necessary in some cases, as provided in Section 583,
3 the activities and decisions of the commission should remain as
4 transparent as reasonably possible.

5 721. The commission shall open a proceeding to reexamine
6 Decision 06-06-066 (June 29, 2006) Interim Opinion Implementing
7 Senate Bill 1488, Relating to Confidentiality of Electric
8 Procurement Data Submitted to the Commission, as modified by
9 Decision 07-05-032 (May 3, 2007), Order Modifying Decision
10 (D.) 06-06-066 and Denying Rehearing of the Decision, as
11 Modified, and shall modify the commission's confidentiality
12 practices and procedures consistent with the requirements of
13 Section 724.

14 722. (a) The public advisor of the commission, appointed
15 pursuant to Section 321, shall have responsibility for ensuring that
16 the activities of the commission are transparent to the public as
17 provided by law, including, but not limited to, the California Public
18 Records Act (Chapter 3.5 (commencing with Section 6250) of
19 Division 7 of Title 1 of the Government Code), the Bagley-Keene
20 Open Meeting Act (Article 9 (commencing with Section 11120)
21 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
22 Code), and this article.

23 ~~(b) The commission shall provide funding for the costs of the~~
24 ~~office of the public advisor from reimbursement fees paid pursuant~~
25 ~~to Chapter 2.5 (commencing with Section 401).~~

26 ~~(e)~~

27 (b) The public advisor shall develop and make available
28 easy-to-understand guides for the public to participate in
29 commission proceedings.

30 ~~(d)~~

31 (c) The public advisor shall update, maintain, and post the
32 commission's service-of-process lists on the commission's Internet
33 Web site in an electronic form that may be used by any party to
34 complete service of process.

35 ~~723. The California State Auditor shall appoint to the staff of~~
36 ~~the California State Auditor's Office an inspector general for the~~
37 ~~commission, which shall report any findings to the Legislature.~~
38 ~~The inspector general shall have authority, including the authorities~~
39 ~~of the California State Auditor, to audit and investigate the~~
40 ~~commission's activities based on information it receives. The~~

1 ~~California State Auditor may recover the costs for the inspector~~
 2 ~~general's activities from reimbursement fees paid pursuant to~~
 3 ~~Chapter 2.5 (commencing with Section 401).~~
 4 ~~724.~~

5 723. (a) The public advisor of the commission shall have
 6 independent responsibility for overseeing the commission's Internet
 7 Web site, in order to ensure adequate transparency in the
 8 information provided to the public.

9 (b) The commission shall make available to the public on its
 10 Internet Web site all of the following information:

11 (1) A summary of all electricity procurement contracts entered
 12 into by an electrical corporation during the previous three years,
 13 the expenses of which the commission, if applicable, has approved
 14 as being just and reasonable. The summary shall include
 15 information as to the name of the generating facility, its location,
 16 the electricity or electricity products procured, the fuel or energy
 17 source used to generate the electricity, the estimated total expense
 18 that the electrical corporation will incur pursuant to the contract,
 19 the estimated cost by unit of energy that the electrical corporation
 20 will incur pursuant to the contract, when, if applicable, the contract
 21 was approved by the commission, and, if applicable, the decision
 22 or resolution approving the contract. Information on costs and
 23 expenses of the contract shall not be posted until the later of when
 24 the electrical corporation has completed the legal transactions
 25 required to acquire the electricity or electricity products, or one
 26 year after the commission approves the contract, if applicable.

27 (2) A list of all proceedings involving public utilities then
 28 pending before the commission with information, in summary
 29 form, as to the amount of any rate increase being sought, both in
 30 cumulative amount and by unit or other means billed to ratepayers.

31 (3) Transcripts and available summaries of documents, evidence,
 32 testimony, and proceedings before the commission or its
 33 administrative law judges that are not subject to confidentiality
 34 pursuant to Section 583, or with confidential portions ~~redacted~~
 35 *redacted, consistent with Section 1706.*

36 (4) A list of all requests submitted to the commission pursuant
 37 to the California Public Records Act (Chapter 3.5 (commencing
 38 with Section 6250) of Division 7 of Title 1 of the Government
 39 Code).

40 (5) Advice letters approved by the commission.

1 SEC. 8. Section 1701.1 of the Public Utilities Code is amended
2 to read:

3 1701.1. (a) The commission, consistent with due process,
4 public policy, and statutory requirements, shall determine whether
5 a proceeding requires a hearing. The commission shall determine
6 whether the matter requires a quasi-legislative, an adjudication,
7 or a ratesetting hearing. The commission's decision as to the nature
8 of the proceeding shall be subject to a request for rehearing within
9 10 days of the date of that decision. If that decision is not appealed
10 to the commission within that time period it shall not be
11 subsequently subject to judicial review. Only those parties who
12 have requested a rehearing within that time period shall
13 subsequently have standing for judicial review and that review
14 shall only be available at the conclusion of the proceeding. The
15 commission shall render its decision regarding the rehearing within
16 30 days. The commission shall establish regulations regarding ex
17 parte communication on case categorization issues.

18 (b) (1) The commission upon initiating a hearing shall assign
19 one or more commissioners to oversee the case and an
20 administrative law judge where appropriate. The assigned
21 commissioner shall schedule a prehearing conference. The assigned
22 commissioner shall prepare and issue by order or ruling a scoping
23 memo that describes the issues to be considered and the applicable
24 timetable for resolution.

25 (2) The assigned commissioner shall convene an all-parties
26 meeting as soon as practicable after the parties in the proceeding
27 are known to discuss the substantive matter to be decided in the
28 proceeding and prospects for resolving issues that would otherwise
29 be litigated.

30 (3) The assigned commissioner shall attend all hearings in a
31 proceeding.

32 (c) (1) Quasi-legislative cases, for purposes of this article, are
33 cases that establish policy, including, but not limited to,
34 rulemakings and investigations which may establish rules affecting
35 an entire industry.

36 (2) Adjudication cases, for purposes of this article, are
37 enforcement cases and complaints except those challenging the
38 reasonableness of any rates or charges as specified in Section 1702.

39 (3) Ratesetting cases, for purposes of this article, are cases in
40 which rates are established for a specific company, including, but

1 not limited to, general rate cases, performance-based ratemaking,
2 and other ratesetting mechanisms.

3 (4) “Ex parte communication,” for purposes of this article,
4 means any oral or written communication between a decisionmaker
5 and a person with an interest in a matter before the commission
6 concerning substantive, but not procedural issues, that does not
7 occur in a public hearing, workshop, or other public proceeding,
8 or on the official record of the proceeding on the matter. “Person
9 with an interest,” for purposes of this article, means any of the
10 following:

11 (A) Any applicant, an agent or an employee of the applicant,
12 or a person receiving consideration for representing the applicant,
13 or a participant in the proceeding on any matter before the
14 commission.

15 (B) Any person with a financial interest, as described in Article
16 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the
17 Government Code, in a matter before the commission, or an agent
18 or employee of the person with a financial interest, or a person
19 receiving consideration for representing the person with a financial
20 interest.

21 (C) A representative acting on behalf of any civic,
22 environmental, neighborhood, business, labor, trade, or similar
23 organization who intends to influence the decision of a commission
24 member on a matter before the commission.

25 The commission shall by regulation adopt and publish a
26 definition of decisionmakers and persons for purposes of this
27 section, along with any requirements for written reporting of ex
28 parte communications and appropriate sanctions for noncompliance
29 with any rule proscribing ex parte communications. The regulation
30 shall provide that reportable communications shall be reported by
31 the party, whether the communication was initiated by the party
32 or the decisionmaker. Communications shall be reported within
33 three working days of the communication by filing a “Notice of
34 Ex Parte Communication” with the commission in accordance
35 with the procedures established by the commission for the service
36 of that notice. The notice shall include the following information:

37 (i) The date, time, and location of the communication, and
38 whether it was oral, written, or a combination.

1 (ii) The identity of the recipient and the person initiating the
2 communication, as well as the identity of any persons present
3 during the communication.

4 (iii) A description of the party's, but not the decisionmaker's,
5 communication and its content, to which shall be attached a copy
6 of any written material or text used during the communication.

7 SEC. 9. Section 1701.2 of the Public Utilities Code is amended
8 to read:

9 1701.2. (a) If the commission pursuant to Section 1701.1 has
10 determined that an adjudication case requires a hearing, the
11 procedures prescribed by this section shall be applicable. The
12 assigned commissioner or the assigned administrative law judge
13 shall hear the case in the manner described in the scoping memo.
14 The scoping memo shall designate whether the assigned
15 commissioner or the assigned administrative law judge shall preside
16 in the case. The commission shall provide by rule for peremptory
17 challenges and challenges for cause of the administrative law judge.
18 Challenges for cause shall include, but not be limited to, financial
19 interests and prejudice. The rule shall provide that all parties are
20 entitled to one peremptory challenge of the assignment of the
21 administrative law judge in all cases. All parties are entitled to
22 unlimited peremptory challenges in any case in which the
23 administrative law judge has within the previous 12 months served
24 in any capacity in an advocacy position at the commission, been
25 employed by a regulated public utility, or has represented a party
26 or has been a party of interest in the case. The assigned
27 commissioner or the administrative law judge shall prepare and
28 file a decision setting forth recommendations, findings, and
29 conclusions. The decision shall be filed with the commission and
30 served upon all parties to the action or proceeding without undue
31 delay, not later than 60 days after the matter has been submitted
32 for decision. The decision of the assigned commissioner or the
33 administrative law judge shall become the decision of the
34 commission if no further action is taken within 30 days. Any
35 interested party may appeal the decision to the commission,
36 provided that the appeal is made within 30 days of the issuance of
37 the decision. The commission may itself initiate a review of the
38 proposed decision on any grounds. The commission decision shall
39 be based on the record developed by the assigned commissioner
40 or the administrative law judge. A decision different from that of

1 the assigned commissioner or the administrative law judge shall
2 be accompanied by a written explanation of each of the changes
3 made to the decision.

4 (b) (1) Notwithstanding Section 307, an officer, employee, or
5 agent of the commission that is personally involved in the
6 prosecution or in the supervision of the prosecution of an
7 adjudication case before the commission shall not participate in
8 the decision of the case, or in the decision of any factually related
9 adjudicatory proceeding, including participation in or advising the
10 commission as to findings of fact, conclusions of law, or orders.
11 An officer, employee, or agent of the commission that is personally
12 involved in the prosecution or in the supervision of the prosecution
13 of an adjudication case may participate in reaching a settlement
14 of the case, but shall not participate in the decision of the
15 commission to accept or reject the settlement, except as a witness
16 or counsel in an open hearing or a hearing closed pursuant to
17 subdivision (d). The Legislature finds that the commission performs
18 both prosecutorial and adjudicatory functions in an adjudication
19 case and declares its intent that an officer, employee, or agent of
20 the commission, including its attorneys, may perform only one of
21 those functions in any adjudication case or factually related
22 adjudicatory proceeding.

23 (2) An attorney that is prosecuting a matter before the
24 commission shall not meet with any commissioner regarding the
25 matter that the attorney is prosecuting unless all parties are present.

26 (c) Ex parte communications shall be prohibited in adjudication
27 cases.

28 (d) Notwithstanding any other law, the commission may meet
29 in a closed hearing to consider the decision that is being appealed.
30 The vote on the appeal shall be in a public meeting and shall be
31 accompanied with an explanation of the appeal decision.

32 (e) Adjudication cases shall be resolved within 12 months of
33 initiation unless the commission makes findings why that deadline
34 cannot be met and issues an order extending that deadline. In the
35 event that a rehearing of an adjudication case is granted, the parties
36 shall have an opportunity for final oral argument.

37 (f) (1) The commission may determine that the respondent
38 lacks, or may lack, the ability to pay potential penalties or fines
39 or to pay restitution that may be ordered by the commission.

1 (2) If the commission determines that a respondent lacks, or
2 may lack, the ability to pay, the commission may order the
3 respondent to demonstrate, to the satisfaction of the commission,
4 sufficient ability to pay potential penalties, fines, or restitution that
5 may be ordered by the commission. The respondent shall
6 demonstrate the ability to pay, or make other financial
7 arrangements satisfactory to the commission, within seven days
8 of the commission commencing an adjudication case. The
9 commission may delegate to the attorney to the commission the
10 determination of whether a sufficient showing has been made by
11 the respondent of an ability to pay.

12 (3) Within seven days of the commission's determination of the
13 respondent's ability to pay potential penalties, fines, or restitution,
14 the respondent shall be entitled to an impartial review by an
15 administrative law judge of the sufficiency of the showing made
16 by the respondent of the respondent's ability to pay. The review
17 by an administrative law judge of the ability of the respondent to
18 pay shall become part of the record of the adjudication and is
19 subject to the commission's consideration in its order resolving
20 the adjudication case. The administrative law judge may enter
21 temporary orders modifying any financial requirement made of
22 the respondent pending the review by the administrative law judge.

23 (4) A respondent that is a public utility regulated under a rate
24 of return or rate of margin regulatory structure or that has gross
25 annual revenues of more than one hundred million dollars
26 (\$100,000,000) generated within California is presumed to be able
27 to pay potential penalties or fines or to pay restitution that may be
28 ordered by the commission, and, therefore, paragraphs (1) to (3),
29 inclusive, do not apply to that respondent.

30 SEC. 10. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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