

AMENDED IN SENATE SEPTEMBER 4, 2015  
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**

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**Introduced by Assembly Members Rendon and Mark Stone**

February 26, 2015

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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 311.5, 314.5, 583, ~~1701.1, and 1701.2 of, to amend and renumber Section 309.1~~ 1701, 1706, and 1710 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 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.

(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.

(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.

(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. *The bill would require the commission to adopt rules providing for posting on its Internet Web site of all comments, workshop reports, hearing exhibits, including the*

*exhibit number assigned and whether the exhibit has been offered and received in evidence, hearing transcripts, and other documentary information included in the record of its proceedings.*

(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 *as 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: as reasonably possible and consistent with law.* The bill would require the public advisor to ~~have independent responsibility for overseeing the commission's Internet Web site and work with all divisions of the commission to ensure that the commission's Internet Web site provides adequate transparency in the information provided to the public.~~ *The bill 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.~~ *commission, and the calendars of each commissioner.* 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 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.

(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~~ *would, in matters the commission has determined require a hearing, require the commission to use all-party conferences as a tool for listening to the parties' perspectives on the most important issues and to facilitate public discussion between and among parties and commissioners. The bill would require that discussions at an all-party conference not rely on evidence outside the evidentiary record existing at the time of the all-party conference. The bill would require the assigned commissioner to convene an all-parties-meeting conference as soon as practicable after the parties in a proceeding are known prehearing conference, and before completing the scoping memo, 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. the commission to hold an all-party conference before a quorum of commissioners, after a proposed decision is issued in all contested cases, unless all parties waive this requirement and a majority of commissioners concur with that waiver. The bill would require that a transcript be kept for each all-party conference and that the transcript be made a part of the record of the proceeding.*

(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 or other staff member who has served as a prosecutor or advocate at any stage of an adjudicatory proceeding~~ before the commission from meeting with any commissioner regarding the matter ~~that the attorney is prosecuting~~ in which the attorney or staff member has served unless all parties are present.

(8) *This bill would require the commission to adopt rules providing for comments from the public, including comments made at noticed public participation hearings of the commission, to be included in the record of its proceedings and would require that the assigned commissioner, or a quorum of the commission, convene and attend each public participation proceeding.*

(9) *This bill would incorporate additional changes in Sections 311.5 and 1701 of the Public Utilities Code, proposed by SB 48, to be operative only if SB 48 and this bill are both chaptered and become effective on or before January 1, 2016, and this bill is chaptered last.*

~~(8)~~

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

4  
5 Article 5. Inspector General: Public Utilities  
6

7 8548.9.1. (a) There is hereby established, within the California  
8 State Auditor’s Office, the Inspector General for the Public Utilities  
9 Commission.

10 (b) For purposes of this article, “inspector general” means the  
11 Inspector General for the Public Utilities Commission and  
12 “commission” means the Public Utilities Commission.

13 (c) The inspector general shall be appointed by the State Auditor.

14 8548.9.2. The inspector general shall, at the direction of the  
15 State Auditor, conduct oversight review and assess, audit,  
16 investigate, and report on the policies, practices, and procedures  
17 of the commission. Subject to the approval of the State Auditor,  
18 the inspector general may maintain a permanent office at a  
19 commission location, provided by the commission, and shall be  
20 provided with sufficient staff and support by the State Auditor to  
21 carry out the duties of the position.

22 8548.9.3. (a) The inspector general shall conduct his or her  
23 duties under the guidance, direction, supervision, and authority of  
24 the State Auditor. In conducting his or her work, the inspector  
25 general is subject to all of the requirements of this chapter,  
26 including, but not limited to, the access and confidentiality  
27 provisions specified in Sections 8545 and 8545.1 and the  
28 Government Auditing Standards published by the Comptroller  
29 General of the United States, as specified in Section 8546.1.  
30 However, the inspector general may decide, without further  
31 approval except from the State Auditor, to audit or investigate and  
32 report on commission matters based on his or her preliminary  
33 assessment that commission activities require his or her  
34 investigation.

35 (b) For any stage of a review, assessment, audit, or investigation,  
36 the inspector general may utilize all of the authority granted under  
37 this chapter, including, but not limited to, the authority to examine  
38 and reproduce records pursuant to Section 8545.2, the authority

1 to administer oaths, certify official acts, and issue subpoenas  
2 pursuant to Section 8545.4, and the authority to receive confidential  
3 reports of improper governmental activities pursuant to Article 3  
4 (commencing with Section 8547).

5 8548.9.4. Notwithstanding Section 8544.5, upon appropriation  
6 by the Legislature, the California State Auditor shall recover the  
7 costs for the inspector general’s activities from reimbursement  
8 fees paid pursuant to Chapter 2.5 (commencing with Section 401)  
9 of Part 1 of Division 1 of the Public Utilities Code.

10 ~~SEC. 2. Section 309.1 of the Public Utilities Code is amended~~  
11 ~~and renumbered to read:~~

12 ~~305.5. The Governor may appoint one adviser for each member~~  
13 ~~of the commission upon the request of the commission member.~~  
14 ~~Each adviser shall receive a salary fixed by the commission with~~  
15 ~~the approval of the Department of Human Resources. The total~~  
16 ~~number of advisers exempt from civil service shall not exceed~~  
17 ~~five.~~

18 ~~SEC. 3.~~

19 ~~SEC. 2. Section 311.5 of the Public Utilities Code is amended~~  
20 ~~to read:~~

21 311.5. (a) (1) Prior to commencement of any meeting at which  
22 commissioners vote on items on the public ~~agenda~~ *agenda*, the  
23 commission shall make available to the public copies of the agenda,  
24 and upon request, any agenda item documents that are proposed  
25 to be considered by the commission for action or decision at a  
26 commission meeting.

27 (2) In addition, the commission shall publish the agenda, agenda  
28 item documents, and adopted decisions in a manner that makes  
29 copies of them easily available to the public, including publishing  
30 those documents on the Internet. Publication of the agenda and  
31 agenda item documents shall occur on the Internet at the same  
32 time as the written agenda and agenda item documents are made  
33 available to the public.

34 (b) The commission shall publish and maintain the following  
35 documents on the Internet:

36 (1) Each of the commission’s proposed and alternate proposed  
37 decisions and resolutions, until the decision or resolution is adopted  
38 and published.

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

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

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

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

17 *SEC. 2.5. Section 311.5 of the Public Utilities Code is amended*  
18 *to read:*

19 311.5. (a) (1) Prior to commencement of any meeting at which  
20 commissioners vote on items on the public ~~agenda~~ agenda, the  
21 commission shall make available to the public copies of the agenda,  
22 and upon request, any agenda item documents that are proposed  
23 to be considered by the commission for action or decision at a  
24 commission meeting.

25 (2) In addition, the commission shall publish the agenda, agenda  
26 item documents, and adopted decisions in a manner that makes  
27 copies of them easily available to the public, including publishing  
28 those documents on the Internet. Publication of the agenda and  
29 agenda item documents shall occur on the Internet at the same  
30 time as the written agenda and agenda item documents are made  
31 available to the public.

32 (b) The commission shall publish and maintain the following  
33 documents on the Internet:

34 (1) Each of the commission's proposed and alternate proposed  
35 decisions and resolutions, until the decision or resolution is adopted  
36 and published.

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

1 (3) The then-current version of the commission’s general orders  
2 and Rules of Practice and Procedure.

3 (4) Each of the commission’s rulings. The commission shall  
4 maintain those rulings on its Internet Web site until final  
5 disposition, including disposition of any judicial appeals, of the  
6 respective proceedings in which the rulings were issued.

7 (5) A docket card that lists, by title and date of filing or issuance,  
8 all documents filed and all decisions or rulings issued in those  
9 ~~proceedings~~. *proceedings, including the public versions of all*  
10 *prepared written testimony and advice letter filings, protests, and*  
11 *responses*. The commission shall maintain the docket card until  
12 final disposition, including disposition of any judicial appeals, of  
13 the corresponding proceedings. *Each document that the commission*  
14 *distributes to any service-of-process list shall be docketed and*  
15 *identified on the commission’s Internet Web site.*

16 (c) *The commission shall make the following information*  
17 *available on the Internet:*

18 (1) *Information on how members of the public and ratepayers*  
19 *can gain access to the commission’s ratemaking process and to*  
20 *information regarding the specific matters to be decided.*

21 (2) *Information on the operation of the office of the public*  
22 *advisor established in Section 321 and how the public advisor can*  
23 *connect members of the public to persons responsible for specific*  
24 *cases and matters to be decided.*

25 ~~SEC. 4.~~

26 SEC. 3. Section 314.5 of the Public Utilities Code is amended  
27 to read:

28 314.5. The commission shall inspect and audit the books and  
29 records for regulatory and tax purposes (a) at least once in every  
30 three years in the case of every electrical, gas, heat, telegraph,  
31 telephone, and water corporation serving over 1,000 customers,  
32 and (b) at least once in every five years in the case of every  
33 electrical, gas, heat, telegraph, telephone, and water corporation  
34 serving 1,000 or fewer customers. An audit conducted in  
35 connection with a rate proceeding shall be deemed to fulfill the  
36 requirements of this section. Reports of the inspections and audits  
37 and other pertinent information shall be posted on the commission’s  
38 Internet Web site.

1 ~~SEC. 5.~~

2 *SEC. 4.* Section 468 is added to the Public Utilities Code, to  
3 read:

4 468. (a) Each public utility that submits an application to  
5 change its rates shall include in its application a summary of the  
6 application that can be understood by the utility's ratepayers. This  
7 summary and the application shall be posted on the commission's  
8 Internet Web site and, if the utility has an Internet Web site, shall  
9 be posted on the utility's Internet Web site.

10 (b) Each public utility that maintains an Internet Web site shall  
11 include on that site contact information for a utility official who  
12 can discuss the nature of the rate application. If the rate application  
13 includes different rates depending upon the utility's service  
14 territory, the contact information shall identify a utility official  
15 who can discuss the nature of the rate application for each separate  
16 service territory. The utility official shall also be qualified to  
17 discuss, in general terms, the operation of the utility in each service  
18 territory.

19 ~~SEC. 6.~~

20 *SEC. 5.* Section 583 of the Public Utilities Code is amended  
21 to read:

22 583. (a) No information furnished to the commission by a  
23 public utility, or any business that is a subsidiary or affiliate of a  
24 public utility, or a corporation that holds a controlling interest in  
25 a public utility, except those matters specifically required to be  
26 open to public inspection by this part, shall be open to public  
27 inspection or made public except on order of the commission, or  
28 by the commission or a commissioner in the course of a hearing  
29 or proceeding. Any present or former officer or employee of the  
30 commission who divulges that information is guilty of a  
31 misdemeanor.

32 (b) If in a proceeding before the commission, a public utility,  
33 or any business that is a subsidiary or affiliate of a public utility,  
34 or a corporation that holds a controlling interest in a public utility,  
35 files a pleading, report, or other document with the commission  
36 that is claimed to contain confidential information, a public version  
37 of the pleading, report, or other document that contains sufficient  
38 information for any other party to the proceeding to understand  
39 the nature of its contents shall be concurrently filed with the  
40 commission. An administrative law judge assigned to the

1 proceeding, the assigned commissioner, or the commission may  
2 determine the sufficiency of the information contained in the public  
3 version of the pleading, report, or other document.

4 (c) Any party to a proceeding before the commission may file  
5 a motion to make public a pleading, report, or other document filed  
6 by a public utility, or any business that is a subsidiary or affiliate  
7 of a public utility, or a corporation that holds a controlling interest  
8 in a public utility, under a claim of confidentiality. An  
9 administrative law judge assigned to the proceeding or the assigned  
10 commissioner shall hold a hearing on the motion and determine  
11 whether the pleading, report, or other document should be made  
12 public. In determining the motion, the administrative law judge or  
13 assigned commissioner shall make written findings and  
14 conclusions.

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

19 (e) No ruling or order entered pursuant to subdivision (c) shall  
20 be considered a ruling or order of the commission or a  
21 commissioner unless it reflects an examination of the specific  
22 information or documents to be made public or opened to public  
23 inspection. Any party may seek review of a ruling or order issued  
24 pursuant to subdivision (c) to the full commission by filing a  
25 motion for rehearing de novo by the full commission within 30  
26 days of the date the ruling or order on the motion was issued, and  
27 the pleading, report, or other document shall remain confidential  
28 while the motion for rehearing is pending. When a motion for  
29 rehearing de novo is filed, the full commission shall make the final  
30 determination of the motion to make public a pleading, report, or  
31 other document filed under claim of confidentiality.

32 ~~SEC. 7.~~

33 *SEC. 6.* Article 1.5 (commencing with Section 720) is added  
34 to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code,  
35 to read:

36  
37 Article 1.5. Transparency of Commission Regulatory Activities

38  
39 720. The Legislature finds and declares all of the following:

1 (a) Transparency in how the commission operates and makes  
2 its decisions is critical to gaining and retaining the confidence of  
3 the public at large and serving the public utility ratepayers affected  
4 by the commission's decisions.

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

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

12 (d) Under the California Constitution, the commission is granted  
13 authority to establish its own procedures subject to statute and due  
14 process and to establish rules for public utilities, and the Legislature  
15 has plenary authority to confer additional authority and jurisdiction  
16 upon the commission and to establish the manner and scope of  
17 review of commission action in a court of record.

18 (e) Because the California Constitution provides special  
19 consideration to public utilities and to the commission that  
20 regulates those public utilities, it is essential to give the public the  
21 ability to monitor the functioning of the commission and its actions.

22 (f) The greater and more unfettered the public official's power,  
23 the greater the public's interest in monitoring the exercise of that  
24 power.

25 (g) Access to information concerning the conduct of the public's  
26 business by the commission is a fundamental and necessary right  
27 for every person in the state.

28 (h) Information concerning services provided by public utilities  
29 is of the highest public interest, including information about quality  
30 and reliability of service to the public and information about costs  
31 and profits.

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

36 721. The commission shall open a proceeding to reexamine  
37 Decision 06-06-066 (June 29, 2006) Interim Opinion Implementing  
38 Senate Bill 1488, Relating to Confidentiality of Electric  
39 Procurement Data Submitted to the Commission, as modified by  
40 Decision 07-05-032 (May 3, 2007), Order Modifying Decision

1 (D.) 06-06-066 and Denying Rehearing of the Decision, as  
2 Modified, and shall modify the commission's confidentiality  
3 practices and procedures consistent with the requirements of  
4 Section 724.

5 722. (a) The public advisor of the commission, appointed  
6 pursuant to Section 321, shall have responsibility for ensuring that  
7 the activities of the commission are *as* transparent to the public as  
8 ~~provided by law, including, but not limited to, the California Public~~  
9 ~~Records Act (Chapter 3.5 (commencing with Section 6250) of~~  
10 ~~Division 7 of Title 1 of the Government Code), the Bagley-Keene~~  
11 ~~Open Meeting Act (Article 9 (commencing with Section 11120)~~  
12 ~~of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government~~  
13 ~~Code), and this article; *reasonably possible and consistent with*~~  
14 ~~*law.*~~

15 (b) The public advisor shall develop and make available  
16 easy-to-understand guides for the public to participate in  
17 commission proceedings.

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

22 723. (a) The public advisor of the commission shall ~~have~~  
23 ~~independent responsibility for overseeing work with all divisions~~  
24 ~~to ensure that the commission's Internet Web site, in order to~~  
25 ~~ensure site provides adequate transparency in the information~~  
26 ~~provided to the public.~~

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

29 (1) A summary of all electricity procurement contracts entered  
30 into by an electrical corporation during the previous three years,  
31 the expenses of which the commission, if applicable, has approved  
32 as being just and reasonable. The summary shall include  
33 information as to the name of the generating facility, its location,  
34 the electricity or electricity products procured, the fuel or energy  
35 source used to generate the electricity, the estimated total expense  
36 that the electrical corporation will incur pursuant to the contract,  
37 the estimated cost by unit of energy that the electrical corporation  
38 will incur pursuant to the contract, when, if applicable, the contract  
39 was approved by the commission, and, if applicable, the decision  
40 or resolution approving the contract. Information on costs and

1 expenses of the contract shall not be posted until the later of when  
2 the electrical corporation has completed the legal transactions  
3 required to acquire the electricity or electricity products, or one  
4 year after the commission approves the contract, if applicable.

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

9 (3) Transcripts and available summaries of documents, evidence,  
10 testimony, and proceedings before the commission or its  
11 administrative law judges that are not subject to confidentiality  
12 pursuant to Section 583, or with confidential portions redacted,  
13 consistent with Section 1706.

14 (4) A list of all requests submitted to the commission pursuant  
15 to the California Public Records Act (Chapter 3.5 (commencing  
16 with Section 6250) of Division 7 of Title 1 of the Government  
17 Code).

18 (5) Advice letters approved by the commission.

19 (6) *Calendars of each commissioner.*

20 724. (a) *In matters requiring a hearing pursuant to Section*  
21 *1701.1, the commission shall use all-party conferences as a tool*  
22 *for listening to the parties' perspectives on the most important*  
23 *issues and to facilitate public discussion between and among*  
24 *parties and commissioners. Discussion at all-party conferences*  
25 *may rely on evidence in the record and shall not rely on evidence*  
26 *outside the evidentiary record existing at the time of the all-party*  
27 *conference.*

28 (b) *The assigned commissioner, and not the assigned*  
29 *administrative law judge, shall convene an all-party conference*  
30 *as soon as practicable after the prehearing conference, and before*  
31 *completing the scoping memo, to discuss the substantive matter*  
32 *to be decided in the proceeding and prospects for resolving issues*  
33 *that would otherwise be litigated. This requirement may be satisfied*  
34 *by a pre-hearing conference convened by the assigned*  
35 *commissioner.*

36 (c) *The commission shall hold an all-party conference on the*  
37 *record before a quorum of commissioners, after the proposed*  
38 *decision is issued in all contested cases, unless all parties waive*  
39 *this requirement and a majority of commissioners concur with that*

1 waiver. An all-party conference held pursuant to Section 1701.2  
2 may satisfy the requirement of this subdivision.

3 (d) A transcript shall be kept for each all-party conference and  
4 made a part of the record of the proceeding.

5 (e) The commission shall establish rules providing for all-party  
6 conferences. The rules shall provide for the broadest participation  
7 by parties to the proceeding that the commission can reasonably  
8 accommodate, consistent with the commission’s other duties and  
9 responsibilities.

10 725. An attorney or other staff member who has served as a  
11 prosecutor or advocate at any stage of an adjudicatory proceeding  
12 before the commission shall not meet with any commissioner  
13 regarding the matter in which the attorney or staff member has  
14 served unless all parties are present.

15 SEC. 7. Section 1701 of the Public Utilities Code is amended  
16 to read:

17 1701. (a) All hearings, investigations, and proceedings shall  
18 be governed by this part and by rules of practice and procedure  
19 adopted by the commission, and in the conduct thereof the technical  
20 rules of evidence need not be applied. ~~No~~

21 (b) No informality in any hearing, investigation, or proceeding  
22 or in the manner of taking testimony shall invalidate any order,  
23 decision or rule made, approved, or confirmed by the commission.

24 (c) The commission shall adopt rules providing for comments  
25 from the public, including comments made at noticed public  
26 participation hearings of the commission, to be included in the  
27 evidentiary record of its proceedings. The assigned commissioner,  
28 or a quorum of the commission, shall convene and attend each  
29 public participation proceeding. The rules, consistent with due  
30 process, shall provide for the submission of comments from the  
31 public prior to submission of the issues to be decided to the  
32 commission for its decision and permit consideration by the  
33 commission of the public comments in reaching its decisions. The  
34 rules shall provide for the parties to the proceeding to have one  
35 opportunity to respond to any public comments included in the  
36 record of proceedings.

37 (d) Upon request of a local elected official in the region affected  
38 by a contested matter, the commission shall convene a public  
39 participation hearing in that region.

40 (b)

1 (e) Notwithstanding Section 11425.10 of the Government Code,  
2 Chapter 4.5 (commencing with Section 11400) of Part 1 of Division  
3 3 of Title 2 of the Government Code does not apply to a hearing  
4 by the commission under this code.

5 *SEC. 7.5. Section 1701 of the Public Utilities Code is amended*  
6 *to read:*

7 1701. (a) All hearings, investigations, and proceedings shall  
8 be governed by this part and by rules of practice and procedure  
9 adopted by the commission, and in the conduct thereof the technical  
10 rules of evidence need not be applied. ~~Ne~~

11 (b) No informality in any hearing, investigation, or proceeding  
12 or in the manner of taking testimony shall invalidate any order,  
13 decision or rule made, approved, or confirmed by the commission.

14 (c) *The commission shall adopt rules providing for comments*  
15 *from the public, including comments made at noticed public*  
16 *participation hearings of the commission, to be included in the*  
17 *record of its proceedings. The assigned commissioner, or a quorum*  
18 *of the commission, shall convene and attend each public*  
19 *participation proceeding. The rules, consistent with due process,*  
20 *shall provide for the submission of comments from the public prior*  
21 *to submission of the issues to be decided to the commission for its*  
22 *decision and permit consideration by the commission of the public*  
23 *comments in reaching its decisions. The rules shall provide for*  
24 *the parties to the proceeding to have one opportunity to respond*  
25 *to any public comments included in the record of proceedings.*

26 (d) *Upon request of a local elected official in the region affected*  
27 *by a contested matter, the commission shall convene a public*  
28 *participation hearing in that region.*

29 ~~(b)~~

30 (e) Notwithstanding Section 11425.10 of the Government Code,  
31 *Articles 1 through 15, inclusive, of Chapter 4.5 (commencing with*  
32 *Section 11400) of Part 1 of Division 3 of Title 2 of the Government*  
33 *Code does do not apply to a hearing by the commission under this*  
34 *code. The Administrative Adjudication Code of Ethics (Article 16*  
35 *(commencing with Section 11475) of Chapter 4.5 of Part 1 of*  
36 *Division 3 of Title 2 of the Government Code) shall apply to*  
37 *administrative law judges of the commission.*

38 ~~SEC. 8. Section 1701.1 of the Public Utilities Code is amended~~  
39 ~~to read:~~

1 1701.1. ~~(a) The commission, consistent with due process,~~  
2 ~~public policy, and statutory requirements, shall determine whether~~  
3 ~~a proceeding requires a hearing. The commission shall determine~~  
4 ~~whether the matter requires a quasi-legislative, an adjudication,~~  
5 ~~or a ratesetting hearing. The commission's decision as to the nature~~  
6 ~~of the proceeding shall be subject to a request for rehearing within~~  
7 ~~10 days of the date of that decision. If that decision is not appealed~~  
8 ~~to the commission within that time period it shall not be~~  
9 ~~subsequently subject to judicial review. Only those parties who~~  
10 ~~have requested a rehearing within that time period shall~~  
11 ~~subsequently have standing for judicial review and that review~~  
12 ~~shall only be available at the conclusion of the proceeding. The~~  
13 ~~commission shall render its decision regarding the rehearing within~~  
14 ~~30 days. The commission shall establish regulations regarding ex~~  
15 ~~parte communication on case categorization issues.~~

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

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

28 ~~(3) The assigned commissioner shall attend all hearings in a~~  
29 ~~proceeding.~~

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

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

37 ~~(3) Ratesetting cases, for purposes of this article, are cases in~~  
38 ~~which rates are established for a specific company, including, but~~  
39 ~~not limited to, general rate cases, performance-based ratemaking,~~  
40 ~~and other ratesetting mechanisms.~~

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

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

13 (B) ~~Any person with a financial interest, as described in Article~~  
14 ~~1 (commencing with Section 87100) of Chapter 7 of Title 9 of the~~  
15 ~~Government Code, in a matter before the commission, or an agent~~  
16 ~~or employee of the person with a financial interest, or a person~~  
17 ~~receiving consideration for representing the person with a financial~~  
18 ~~interest.~~

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

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

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

37 (ii) ~~The identity of the recipient and the person initiating the~~  
38 ~~communication, as well as the identity of any persons present~~  
39 ~~during the communication.~~

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

4 SEC. 9. ~~Section 1701.2 of the Public Utilities Code is amended~~  
5 ~~to read:~~

6 ~~1701.2. (a) If the commission pursuant to Section 1701.1 has~~  
7 ~~determined that an adjudication case requires a hearing, the~~  
8 ~~procedures prescribed by this section shall be applicable. The~~  
9 ~~assigned commissioner or the assigned administrative law judge~~  
10 ~~shall hear the case in the manner described in the scoping memo.~~  
11 ~~The scoping memo shall designate whether the assigned~~  
12 ~~commissioner or the assigned administrative law judge shall preside~~  
13 ~~in the case. The commission shall provide by rule for peremptory~~  
14 ~~challenges and challenges for cause of the administrative law judge.~~  
15 ~~Challenges for cause shall include, but not be limited to, financial~~  
16 ~~interests and prejudice. The rule shall provide that all parties are~~  
17 ~~entitled to one peremptory challenge of the assignment of the~~  
18 ~~administrative law judge in all cases. All parties are entitled to~~  
19 ~~unlimited peremptory challenges in any case in which the~~  
20 ~~administrative law judge has within the previous 12 months served~~  
21 ~~in any capacity in an advocacy position at the commission, been~~  
22 ~~employed by a regulated public utility, or has represented a party~~  
23 ~~or has been a party of interest in the case. The assigned~~  
24 ~~commissioner or the administrative law judge shall prepare and~~  
25 ~~file a decision setting forth recommendations, findings, and~~  
26 ~~conclusions. The decision shall be filed with the commission and~~  
27 ~~served upon all parties to the action or proceeding without undue~~  
28 ~~delay, not later than 60 days after the matter has been submitted~~  
29 ~~for decision. The decision of the assigned commissioner or the~~  
30 ~~administrative law judge shall become the decision of the~~  
31 ~~commission if no further action is taken within 30 days. Any~~  
32 ~~interested party may appeal the decision to the commission,~~  
33 ~~provided that the appeal is made within 30 days of the issuance of~~  
34 ~~the decision. The commission may itself initiate a review of the~~  
35 ~~proposed decision on any grounds. The commission decision shall~~  
36 ~~be based on the record developed by the assigned commissioner~~  
37 ~~or the administrative law judge. A decision different from that of~~  
38 ~~the assigned commissioner or the administrative law judge shall~~  
39 ~~be accompanied by a written explanation of each of the changes~~  
40 ~~made to the decision.~~

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

20 ~~(2) An attorney that is prosecuting a matter before the~~  
21 ~~commission shall not meet with any commissioner regarding the~~  
22 ~~matter that the attorney is prosecuting unless all parties are present.~~

23 ~~(e) Ex parte communications shall be prohibited in adjudication~~  
24 ~~cases.~~

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

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

34 ~~(f) (1) The commission may determine that the respondent~~  
35 ~~lacks, or may lack, the ability to pay potential penalties or fines~~  
36 ~~or to pay restitution that may be ordered by the commission.~~

37 ~~(2) If the commission determines that a respondent lacks, or~~  
38 ~~may lack, the ability to pay, the commission may order the~~  
39 ~~respondent to demonstrate, to the satisfaction of the commission,~~  
40 ~~sufficient ability to pay potential penalties, fines, or restitution that~~

1 may be ordered by the commission. The respondent shall  
 2 demonstrate the ability to pay, or make other financial  
 3 arrangements satisfactory to the commission, within seven days  
 4 of the commission commencing an adjudication case. The  
 5 commission may delegate to the attorney to the commission the  
 6 determination of whether a sufficient showing has been made by  
 7 the respondent of an ability to pay.

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

19 (4) A respondent that is a public utility regulated under a rate  
 20 of return or rate of margin regulatory structure or that has gross  
 21 annual revenues of more than one hundred million dollars  
 22 (\$100,000,000) generated within California is presumed to be able  
 23 to pay potential penalties or fines or to pay restitution that may be  
 24 ordered by the commission, and, therefore, paragraphs (1) to (3),  
 25 inclusive, do not apply to that respondent.

26 *SEC. 8. Section 1706 of the Public Utilities Code is amended*  
 27 *to read:*

28 1706. (a) A complete record of all proceedings and testimony  
 29 before the commission or any commissioner on any formal hearing  
 30 shall be taken down by a reporter appointed by the commission,  
 31 and the parties shall be entitled to be heard in person or by attorney.  
 32 ~~In~~ *The commission shall adopt rules providing for posting on its*  
 33 *Internet Web site of all comments, workshop reports, hearing*  
 34 *exhibits, including the exhibit number assigned and whether the*  
 35 *exhibit has been offered and received in evidence, hearing*  
 36 *transcripts, and other documentary information included in the*  
 37 *record of its proceedings.*

38 (b) *In case of an action to review any order or decision of the*  
 39 *commission, a transcript of that testimony, together with all*  
 40 *exhibits or copies thereof introduced, and of the pleadings, record,*

1 and proceedings in the cause, shall constitute the record of the  
2 commission, but if the petitioner and the commission stipulate that  
3 certain questions alone and a specified portion only of the evidence  
4 shall be certified to the Supreme Court or the court of appeal for  
5 its judgment, the stipulation and the questions and the evidence  
6 therein specified shall constitute the record on review. The  
7 provisions of this section shall not apply to hearings held pursuant  
8 to Section 1702.1.

9 *SEC. 9. Section 1710 of the Public Utilities Code is amended*  
10 *to read:*

11 1710. ~~No~~-(a) *Except as otherwise provided for by Section*  
12 *1701, no documents or records of a public utility or person or*  
13 *corporation which purport to be statements of fact shall be admitted*  
14 *into evidence or shall serve as any basis for the testimony of any*  
15 *witness, unless the documents or records have been certified under*  
16 *penalty of perjury by the person preparing or in charge of preparing*  
17 *them as being true and correct. If the person preparing them is*  
18 *dead or has been declared incompetent, any other person having*  
19 *knowledge of such statements of fact may certify the records. If*  
20 *certification pursuant to this section is not possible for any reason,*  
21 *the documents or records shall not be admitted into evidence unless*  
22 *admissible under the Evidence Code.*

23 ~~This~~

24 (b) *This section shall not apply to any documents not prepared,*  
25 *directly or indirectly, by, or under the supervision or direction of,*  
26 *the public utility or person or corporation offering the documents*  
27 *into evidence.*

28 *SEC. 10. Section 2.5 of this bill incorporates amendments to*  
29 *Section 311.5 of the Public Utilities Code proposed by both this*  
30 *bill and Senate Bill 48. It shall only become operative if (1) both*  
31 *bills are enacted and become effective on or before January 1,*  
32 *2016, (2) each bill amends Section 311.5 of the Public Utilities*  
33 *Code, and (3) this bill is enacted after Senate Bill 48, in which*  
34 *case Section 2 of this bill shall not become operative.*

35 *SEC. 11. Section 7.5 of this bill incorporates amendments to*  
36 *Section 1701 of the Public Utilities Code proposed by both this*  
37 *bill and Senate Bill 48. It shall only become operative if (1) both*  
38 *bills are enacted and become effective on or before January 1,*  
39 *2016, (2) each bill amends Section 1701 of the Public Utilities*

1 Code, and (3) this bill is enacted after Senate Bill 48, in which  
2 case Section 7 of this bill shall not become operative.

3 ~~SEC. 10.~~

4 SEC. 12. No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution because  
6 the only costs that may be incurred by a local agency or school  
7 district will be incurred because this act creates a new crime or  
8 infraction, eliminates a crime or infraction, or changes the penalty  
9 for a crime or infraction, within the meaning of Section 17556 of  
10 the Government Code, or changes the definition of a crime within  
11 the meaning of Section 6 of Article XIII B of the California  
12 Constitution.