

Assembly Bill No. 825

Passed the Assembly September 11, 2015

Chief Clerk of the Assembly

Passed the Senate September 10, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, 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, 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 as reasonably possible and consistent with law. The bill would require the public advisor to 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, all advice letters approved by the 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, 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 conference as soon as practicable after the 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 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 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 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.

(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.

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

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

Article 5. Inspector General: Public Utilities

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

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

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

8548.9.2. The inspector general shall, at the direction of the State Auditor, conduct oversight review and assess, audit, investigate, and report on the policies, practices, and procedures of the commission. Subject to the approval of the State Auditor,

the inspector general may maintain a permanent office at a commission location, provided by the commission, and shall be provided with sufficient staff and support by the State Auditor to carry out the duties of the position.

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

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

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

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

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

(2) In addition, the commission shall publish the agenda, agenda item documents, and adopted decisions in a manner that makes

copies of them easily available to the public, including publishing those documents on the Internet. Publication of the agenda and agenda item documents shall occur on the Internet at the same time as the written agenda and agenda item documents are made available to the public.

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

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

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

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

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

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

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

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

(2) In addition, the commission shall publish the agenda, agenda item documents, and adopted decisions in a manner that makes copies of them easily available to the public, including publishing those documents on the Internet. Publication of the agenda and agenda item documents shall occur on the Internet at the same

time as the written agenda and agenda item documents are made available to the public.

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

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

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

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

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

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

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

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

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

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

314.5. The commission shall inspect and audit the books and records for regulatory and tax purposes (a) at least once in every three years in the case of every electrical, gas, heat, telegraph, telephone, and water corporation serving over 1,000 customers,

and (b) at least once in every five years in the case of every electrical, gas, heat, telegraph, telephone, and water corporation serving 1,000 or fewer customers. An audit conducted in connection with a rate proceeding shall be deemed to fulfill the requirements of this section. Reports of the inspections and audits and other pertinent information shall be posted on the commission's Internet Web site.

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

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

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

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

583. (a) No information furnished to the commission by a public utility, or any business that is a subsidiary or affiliate of a public utility, or a corporation that holds a controlling interest in a public utility, except those matters specifically required to be open to public inspection by this part, shall be open to public inspection or made public except on order of the commission, or by 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 that information is guilty of a misdemeanor.

(b) If in a proceeding before the commission, a public utility, or any business that is a subsidiary or affiliate of a public utility, or a corporation that holds a controlling interest in a public utility, files a pleading, report, or other document with the commission

that is claimed to contain confidential information, a public version of the pleading, report, or other document that contains sufficient information for any other party to the proceeding to understand the nature of its contents shall be concurrently filed with the commission. An administrative law judge assigned to the proceeding, the assigned commissioner, or the commission may determine the sufficiency of the information contained in the public version of the pleading, report, or other document.

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

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

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

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

Article 1.5. Transparency of Commission Regulatory Activities

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

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

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

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

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

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

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

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

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

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

721. The commission shall open a proceeding to reexamine Decision 06-06-066 (June 29, 2006) Interim Opinion Implementing

Senate Bill 1488, Relating to Confidentiality of Electric Procurement Data Submitted to the Commission, as modified by Decision 07-05-032 (May 3, 2007), Order Modifying Decision (D.) 06-06-066 and Denying Rehearing of the Decision, as Modified, and shall modify the commission's confidentiality practices and procedures consistent with the requirements of Section 724.

722. (a) The public advisor of the commission, appointed pursuant to Section 321, shall have responsibility for ensuring that the activities of the commission are as transparent to the public as reasonably possible and consistent with law.

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

(c) The public advisor shall 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.

723. (a) The public advisor of the commission shall work with all divisions to ensure that the commission's Internet Web site provides adequate transparency in the information provided to the public.

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

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

(2) 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.

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

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

(5) Advice letters approved by the commission.

(6) Calendars of each commissioner.

724. (a) In matters requiring a hearing pursuant to Section 1701.1, the commission shall 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. Discussion at all-party conferences may rely on evidence in the record and shall not rely on evidence outside the evidentiary record existing at the time of the all-party conference.

(b) The assigned commissioner, and not the assigned administrative law judge, shall convene an all-party conference as soon as practicable after the 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. This requirement may be satisfied by a pre-hearing conference convened by the assigned commissioner.

(c) The commission shall hold an all-party conference on the record before a quorum of commissioners, after the proposed decision is issued in all contested cases, unless all parties waive this requirement and a majority of commissioners concur with that waiver. An all-party conference held pursuant to Section 1701.2 may satisfy the requirement of this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

(c) The commission shall 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. The assigned commissioner, or a quorum of the commission, shall convene and attend each public participation proceeding. The rules, consistent with due process, shall provide for the submission of comments from the public prior to submission of the issues to be decided to the commission for its decision and permit consideration by the commission of the public comments in reaching its decisions. The rules shall provide for the parties to the proceeding to have one opportunity to respond to any public comments included in the record of proceedings.

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

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

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

1706. (a) A complete record of all proceedings and testimony before the commission or any commissioner on any formal hearing shall be taken down by a reporter appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. The commission shall 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.

(b) In case of an action to review any order or decision of the commission, a transcript of that testimony, together with all exhibits or copies thereof introduced, and of the pleadings, record, and proceedings in the cause, shall constitute the record of the commission, but if the petitioner and the commission stipulate that certain questions alone and a specified portion only of the evidence shall be certified to the Supreme Court or the court of appeal for its judgment, the stipulation and the questions and the evidence therein specified shall constitute the record on review. The provisions of this section shall not apply to hearings held pursuant to Section 1702.1.

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

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

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

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

SEC. 11. Section 7.5 of this bill incorporates amendments to Section 1701 of the Public Utilities Code proposed by both this bill and Senate Bill 48. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2016, (2) each bill amends Section 1701 of the Public Utilities Code, and (3) this bill is enacted after Senate Bill 48, in which case Section 7 of this bill shall not become operative.

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

Approved _____, 2015

Governor