

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JUNE 22, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE APRIL 13, 2010

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1414

Introduced by Senator Kehoe

February 19, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

corporation or person unless the corporation or person has filed an application to the CPUC for a rehearing within a specified amount of time after the date of issuance of the order or decision.

Existing law provides that any application for a rehearing made 10 days or more before the effective date of a CPUC order as to which a rehearing is sought, shall be either granted or denied before the effective date of the order, or the order is suspended until the application is granted or denied. Existing law provides that, absent a further order of the CPUC, the suspension ceases after 60 days, the order becomes effective, and the party making the application is authorized to take the application as having been denied.

Beginning July 1, 2011, for an application for rehearing made 10 days or more before the effective date of the CPUC order as to which a rehearing is sought, this bill would delete the provision that the suspension ceases after 60 days if the application is not granted or denied before its effective date, thereby indefinitely suspending the effective date of the order until the CPUC either grants or denies the application.

(2) Existing law provides that if the application for rehearing is made less than 10 days before the effective date of the order as to which a rehearing is sought, and the application is not granted within 60 days, the party making the application is authorized to take the application as having been denied, unless the effective date of the order is extended for the period of the pendency of the application.

Beginning July 1, 2011, for an application for rehearing made less than 10 days before the effective date of the CPUC order as to which a rehearing is sought, this bill would require that the application be acted upon within 60 days. The bill would authorize the commission, by order, to extend the period for acting upon the application for rehearing, but would prohibit any single order from extending that period for more than an additional 120 days. The bill would authorize the applicant, beginning 61 days following the filing of the application, to treat the application as having been denied, ~~unless the order extending the period within which the commission may act on the application provides that the effective date of the order for which rehearing is sought is extended until the commission acts to grant or deny the application regardless of any order of extension.~~ The bill would provide that, absent the consent of the applicant, if the application is not acted upon within one year, the application is denied by operation of law.

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

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

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

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

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

1 SECTION 1. Section 321.6 of the Public Utilities Code is
2 amended to read:

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

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

24 (b) Produce a complete accounting of its transactions and
25 proceedings for the preceding year, together with other facts,
26 suggestions, and recommendations that it deems of value to the
27 people of the state and a statement that specifies the activities and
28 achievements of the commission in reducing the costs of, and rates
29 for, energy, including electricity, for state agriculture and other
30 rural energy consumers.

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

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

8 SEC. 2. Section 1733 of the Public Utilities Code is amended
9 to read:

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

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

25 (c) This section shall apply to an application for rehearing filed
26 on or before June 30, 2011.

27 (d) This section shall remain in effect only until December 31,
28 2012, and as of that date is repealed, unless a later enacted statute,
29 that is enacted before December 31, 2012, deletes or extends that
30 date.

31 SEC. 3. Section 1733 is added to the Public Utilities Code, to
32 read:

33 1733. (a) Any application for a rehearing made 10 days or
34 more before the effective date of the order as to which a rehearing
35 is sought shall be either granted or denied before the effective date,
36 or the order shall be suspended until the application is granted or
37 denied.

38 (b) Any application for a rehearing made within less than 10
39 days before the effective date of the order as to which a rehearing
40 is sought shall be acted upon within 60 days. The commission, by

1 order, may extend the 60-day period for acting upon the
2 application, but any single order shall not extend that period for
3 more than an additional 120 days. ~~Unless the order of extension~~
4 ~~provides that the effective date of the order for which rehearing is~~
5 ~~sought is extended until the commission acts to grant or deny the~~
6 ~~application~~ *Regardless of any order of extension*, beginning 61
7 days following the filing of the application, the applicant may treat
8 the application as having been denied. The commission shall not
9 extend the period for acting on the application beyond one year
10 after the day on which the application was filed unless the applicant
11 consents to the extension. Absent the consent of the applicant, if
12 the commission has not acted upon the application within one year,
13 the application is denied by operation of law.
14 (c) This section shall apply to an application for rehearing filed
15 on or after July 1, 2011.