

1-20-1992

State of California Public Utilities Commission Rules of Practice and Procedure

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**STATE OF CALIFORNIA
PUBLIC UTILITIES COMMISSION**

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**RULES OF
PRACTICE AND PROCEDURE**

**Latest Revision Record
January 20, 1992**

Division 1. Public Utilities Commission

(Originally Printed 3-22-45)

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DIVISION 1. PUBLIC UTILITIES COMMISSION

(Originally Printed 3-22-45)

Chapter 1. Rules of Practice and Procedure

Article 1. Code of Ethics

1. (Rule 1) Code of Ethics.

Any person who signs a pleading or brief, enters an appearance at a hearing, or transacts business with the Commission, by such act represents that he is authorized to do so and agrees to comply with the laws of this State; to maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges; and never to mislead the Commission or its staff by an artifice or false statement of fact or law.

NOTE: Authority cited for Chapter 1: Public Utilities Code (Stats. 1951, Ch. 764 as amended), particularly Section 1701 thereof.

HISTORY:

1. Amendment filed 7-19-77; designated effective 6-28-77 by Resolution A-4690, see Section 11445, Government Code (Register 77, No. 30). For prior history, see Register 67, No. 22.

Article 1.5. Ex Parte Communications In Commission Proceedings

1.1. (Rule 1.1) Definitions.

For purpose of this Article, the following definitions apply:

(a) "Commencement of a proceeding" is the tender to the Commission of a notice of intention, the filing with the Commission of an application or complaint, or the adoption by the Commission of an order instituting investigation (OII).

(b) "Commission Staff of Record" means:

(1) All members of the staff organization or division created pursuant to Public Utilities Code Section 309.5, except those temporarily assigned to other staff organizations or divisions; and

(2) Members of other staff organizations or divisions not specifically covered under Section 309.5, who are appearing as advocates or as witnesses for a particular party in covered proceedings, but excluding other members of such staff organizations or divisions. The Executive Director, General Counsel, and Division Directors (except the director of the staff division created pursuant to Section 309.5) are not Commission Staff of Record.

(c) "Covered Proceeding" is any formal proceeding other than a rulemaking, or an OII consolidated with a rulemaking to the extent that the OII raises the identical issues raised in the rulemaking. An OII is otherwise a covered proceeding. Except for OIIs, if no timely answer or protest or request for hearing is filed in response to a pleading initiating a covered proceeding, the proceeding ceases to be covered. If an answer or protest is withdrawn, the proceeding ceases to be a covered proceeding. However, if there has been a request for hearing, the proceeding remains covered until the request has been denied.

(d) "Date of Issuance of a Final Order" is:

(1) The date when the Commission mails the decision after rehearing or denying rehearing; or

(2) Where the period to apply for rehearing has expired and no application for rehearing has been filed, the last date for filing an application for rehearing under Public Utilities Code Section 1731. However, where a decision does not close a docket, there has been no issuance of a final order with respect to any issues that remain pending in the proceeding.

(e) "Decisionmaker" means any Commissioner, Commissioner's Personal Advisor(s), the Chief Administrative Law Judge, any Assistant Chief Administrative Law Judge, and any Administrative Law Judge assigned to the proceeding.

(f) Enforcement-related proceedings are those OIIs and complaint proceedings where:

(1) The order instituting investigation, or

(2) The complaint raises the alleged violation of any provision of law, or of any order or rule of the Commission. Complaints solely challenging the "reasonableness of any rates or charges" pursuant to Public Utilities Code Section 1702 are not enforcement-related proceedings.

(g) "Ex parte communication" means a written or oral communication on any substantive issue in a covered proceeding, between a party and a decisionmaker, off the record and without opportunity for all parties to participate in the communication.

(h) "Party" means any applicant, protestant, respondent, petitioner, complainant, defendant, interested party who has made a formal appearance in the proceeding, or Commission staff of record in covered proceedings, and their agent(s) or employees(s). A member of the public who is not acting as the agent or employee of a party is not a party.

(i) "Submission of a proceeding" is as described in Rule 77 of the Commission's Rules of Practice and Procedure.

HISTORY:

1. New section submitted to OAL: for filing with the Secretary of State pursuant to Government Code Section 11351 filed 12-4-91; operative 1-20-92 (Register 91, No. 51).

1.2. (Rule 1.2) The Record.

The Commission shall render its decision based on the evidence of record. Any notice filed pursuant to Rule 1.4 is not a part of the record of the proceeding. The record is closed for the receipt of evidence after the proceeding is submitted under Rule 77, unless it is reopened under Rule 84.

HISTORY:

1. New section submitted to OAL: for filing with the Secretary of State pursuant to Government Code Section 11351 filed 12-4-91; operative 1-20-92 (Register 91, No. 51).

1.3. (Rule 1.3) Applicable Proceedings.

(a) In any enforcement-related proceeding, no decisionmaker shall have any oral or written ex parte communication with any party to the proceeding

concerning any substantive issue involved in the proceeding, unless the communication is reported within three working days in accordance with the reporting requirements set forth in Rule 1.4. Communications limited to the hearing schedule, location, and format, filing dates and identity of parties are procedural inquiries which need not be reported. This rule shall apply from the commencement of such proceeding to its submission to the Commission. After such proceeding has been submitted to the Commission, and until the date of issuance of a final order in such proceeding, ex parte communications between parties and decisionmakers concerning any substantive issue involved in the proceeding are prohibited.

(b) In all other covered proceedings, any oral or written ex parte communication between a decisionmaker and any party to the proceeding concerning any substantive issue involved in the proceeding, shall be reported within three working days, in accordance with the reporting requirements set forth in Rule 1.4. These reporting requirements shall apply from the commencement of the proceeding to the date of issuance of a final order in that proceeding.

(c) Where proceedings covered by subsections (a) and (b) above are consolidated, the ALJ shall by ruling prior to the date of submission determine the extent to which the prohibition provisions of subsection (a) shall apply.

HISTORY:

1. New section submitted to OAL: for filing with the Secretary of State pursuant to Government Code Section 11351 filed 12-4-91; operative 1-20-92 (Register 91, No. 51).

1.4. (Rule 1.4) Reporting Ex Parte Communications.

(a) Reportable communications shall be reported by the party, whether the communication was initiated by the party or the decisionmaker. They shall be reported within three working days of the communication by filing (but not serving) the original and 12 copies of a "Notice of Ex Parte Communication" (Notice) with the Commission's San Francisco Docket Office. Such Notice shall be provided simultaneously to the assigned ALJ. The Notice shall include the following information:

(1) The date, time, and location of the communication, and whether it was oral, written, or a combination;

(2) The identity of the recipient(s) and the person(s) initiating the communication, as well as the identity of any persons present during such communication;

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

(b) The filing of a Notice will be reported promptly thereafter in the Commission's Daily Calendar.

(c) Parties may obtain a copy of the Notice and any attachments from the Commission's Central File room or from the filing party, who must provide it to the requesting party without delay.

HISTORY:

1. New section submitted to OAL: for filing with the Secretary of State pursuant to Government Code Section 11351 filed 12-4-91; operative 1-20-92 (Register 91, No. 51).

1.5. (Rule 1.5) Sanctions.

The Commission may impose such penalties and sanctions, or make any other order, as it deems appropriate to ensure the integrity of the formal record and to protect the public interest.

HISTORY:

1. New section submitted to OAL: for filing with the Secretary of State pursuant to Government Code Section 11351 filed 12-4-91; operative 1-20-92 (Register 91, No. 51).

1.6. (Rule 1.6) Specific Proceedings.

In augmentation of the provisions of this article, the Commission, or the assigned Administrative Law Judge with the approval of the assigned Commissioner, may issue an ex parte communications ruling tailored to the needs of any specific proceeding.

HISTORY:

1. New section submitted to OAL: for filing with the Secretary of State pursuant to Government Code Section 11351 filed 12-4-91; operative 1-20-92 (Register 91, No. 51).

1.7. (Rule 1.7) Applicability.

This article applies to all covered proceedings (as set forth in Rule 1.3) pending on the date it is effective, and to all covered proceedings commenced on or after the date it is effective.

HISTORY:

1. New section submitted to OAL: for filing with the Secretary of State pursuant to Government Code Section 11351 filed 12-4-91; operative 1-20-92 (Register 91, No. 51).

Article 2. Formal Requirements for All Pleadings and Briefs

2. (Rule 2) Form and Size.

Pleadings and briefs shall be typewritten or printed upon paper 8 1/2" wide and 11" long, and exhibits annexed thereto shall be folded to the same size. Unless printed, the impression shall be on one side of the paper only and shall be double-spaced, except that footnotes and quotations in excess of a few lines may be single-spaced. Pleadings shall be bound on the left side. Reproductions may be by any process, provided all copies are clear and permanently legible. (See Rule 75.)

HISTORY:

1. Amendment filed 1-27-71; designated effective 7-1-71 (Register 71, No. 5).

3. (Rule 3) Title and Docket Number.

All documents presented for filing shall show the caption for the proceeding, the docket number, and the title of the document, and leave sufficient space in the upper right-hand corner for a time and date stamp.

Documents initiating new proceedings shall leave a space for the docket number.

HISTORY:

1. Amendment filed 10-10-75; designated effective 9-30-75 by Resolution A-4415, see Section 11445, Gov. Code (Register 75, No. 41).

3.5. (Rule 3.5) Case Information System Identification Number.

Persons and corporations regulated by the Commission shall include their assigned Case Information System (CIS) Identification Number:

- (a) In the captions of their initial pleadings, and
- (b) In the titles of other pleadings filed in existing cases, e.g., Application of Pacific Bell (CIS Identification Number) for Rehearing of Decision 81-01-001.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 701, Public Utilities Code.

HISTORY:

1. New section filed 9-20-84; designated effective 8-1-84 by Resolution ALJ-152, see Government Code, Section 11351 (Register 84, No. 38).

4. (Rule 4) Signatures.

The original of each application, petition, complaint, answer, or amendment shall be signed in ink by each party thereto. If such party is a corporation or association, the pleading may be signed by an officer thereof. Any attorney for or representative of a party shall also sign such pleading, and show his address and telephone number.

Motions, notices, briefs, and petitions for rehearing may be signed by an attorney or representative.

4.5. (Rule 4.5) Certificate of Service.

Whenever this Chapter requires a certificate of service, such certificate shall be attached to the document served, and the original certificate filed with the Commission shall include a list of the names and addresses of the persons and entities served.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

5. (Rule 5) Verification.

Applications or amendments thereto shall be verified by each applicant. Complaints or amendments thereto shall be verified by at least one complainant. Answers shall be verified by at least one of the defendants filing the same. If the party filing the pleading is a corporation or association, the pleading may be verified by an officer thereof.

Verification may be made before a notary public or by certification or declaration under the penalty of perjury.

6. (Rule 6) Signature and Verification by Attorney.

Except in transfer proceedings (see Rule 35), the attorney for a party may sign and verify a pleading if such party is absent from the county where the attorney has his office, or from some cause is unable

to sign and verify such pleading. When a pleading is signed and verified by the attorney, he shall set forth in the affidavit the reasons why the verification is not made by such party.

7. (Rule 7) Copies.

Unless otherwise required by the Commission, and except as to complaints (see Rule 11), there shall be filed with the Commission an original and twelve conformed copies of each pleading, or amendment thereof, and the original and twelve copies of each brief or petition for rehearing or petition for leave to intervene.

8. (Rule 8) Amended Pleadings.

Amendments to pleadings, and amended pleadings, may be filed before hearing, provided they are served upon all known interested parties, filed at least five days before the hearing, and contain a certification of service. Thereafter, pleadings may be amended as permitted, or directed, by the Commission or the presiding officer.

Article 2.5. Protests—Requests for Hearing

8.1. (Rule 8.1) Definition.

A protest is a formal pleading containing: (a) an objection to the granting in whole or in part, of the authority sought in an application or petition for modification, (b) a request for a public hearing, and (c) an offer of the evidence which the protestant would sponsor or elicit at a public hearing.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

HISTORY:

1. New Article 2.5 (Sections 8.1-8.8) filed 12-31-80, designated effective 8-1-80 by Resolution No. ALJ-136, see Section 11445, Government Code (Register 81, No. 1).

8.2. (Rule 8.2) Effect of Filing.

The filing of a protest does not insure that a public hearing will be held; the content of the protest is determinative. The Commission may calendar matters for hearing on its own motion.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

8.3. (Rule 8.3) Time for Filing.

Unless otherwise provided by rule or General Order, a protest shall be filed within 30 days after the latest of the following dates:

(a) The date that copies of the application or petition, or notices thereof, were mailed to other persons, as evidenced by a certificate of service by mail;

(b) The date that notice of the filing of the application or petition first appears in the Daily Calendar, or the Commission's Transportation Calendar for common carrier certificate applications subject to Rule 15.1; or

(c) The date that notice of the filing of the application or petition first appears in the Federal Register.

When subsection (c) is invoked, the protest shall include the date the notice first appeared in the Federal Register.

NOTE: Authority cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764; and Section 2, Article XII, California Constitution. Reference: Section 701, Public Utilities Code.

HISTORY:

1. Amendment filed 3-10-81; designated effective 3-20-81 by Resolution No. ALJ-141, see Section 11445, Government Code (Register 81, No. 11).
2. Amendment of subsection (b) filed 5-21-85; designated effective 10-17-84, see Government Code Section 11351 (Register 85, No. 21).

8.4. (Rule 8.4) Content.

In addition to being drafted to comply with Rules 2, 3, 4, 6, and 7, a protest shall state:

(a) The protestant's full name, mailing address, and telephone number.

(b) The facts constituting the grounds for the protest, the effect of the application or petition upon the protestant, and why the application or petition, or a part thereof, may not be justified.

(c) The facts the protestant would develop at a public hearing, which could result in the denial of the application or petition for modification, in whole or in part.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

8.5. (Rule 8.5) Service of Protest.

One copy of each protest shall, concurrently with filing, be served upon each applicant's or petitioner's attorney or agent, or upon the applicant or petitioner, if no attorney or agent is named in the application or petition. Service shall be made personally or by depositing in the United States mail a sealed envelope with first-class postage prepaid, containing a true copy of the documents to be served, and addressed to the person to be served by mail at the address listed in the application or petition. A certificate of service shall be attached to the protest and shall list the persons served.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

8.6. (Rule 8.6) Copy of Pleading upon Request.

Applicants, petitioners, and protestants shall promptly furnish a copy of their pleadings to each person requesting them.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

8.7. (Rule 8.7) Applicability.

In addition to persons, corporations, and government agencies, Article 2.5 shall apply to the Commission staff.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

8.8. (Rule 8.8) Cross References.

- (a) Form and Size of Pleadings—Rule 2
- (b) Caption, Title of Pleading, and Docket Number—Rule 3
- (c) Signatures—Rules 4 and 6

(d) Copies to be Filed—Rule 7

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

Article 3. Complaints and Commission Investigations

9. (Rule 9) Who May Complain.

(a) A complaint may be filed by any corporation or person, chamber of commerce, board of trade, labor organization, or any civic, commercial, mercantile, traffic, agricultural or manufacturing association or organization, or any body politic or municipal corporation, setting forth any act or thing done or omitted to be done by any public utility including any rule or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation, of any provision of law or of any order or rule of the Commission.

No complaint shall be entertained by the Commission, except upon its own motion, as to the reasonableness of any rates or charges of any gas, electrical, water, or telephone corporation, unless it be signed by the mayor or the president or chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city or city and county within which the alleged violation occurred, or by not less than 25 actual or prospective consumers or purchasers of such gas, electric, water, or telephone service. (See P.U. Code, Sec. 1702.)

(b) A complaint may be filed by any interested party, as described in paragraph (a) hereof, setting forth any rate, charge, or provision affecting any rate or charge, of any highway permit carrier, in violation, or claimed to be in violation, of any provision of law (including P.U. Code, Section 3662) or of any order or rule of the Commission, except as provided below.

(c) No complaint shall be entertained by the Commission as to the reasonableness of any rate, charge, or provision of a highway carrier if such rate has been specifically found to be reasonable by the Commission, unless the complaint sets forth relevant factors which have changed since the Commission made such finding.

NOTE: Authority and reference cited: Section 1702, Public Utilities Code; Statutes 1977, Ch. 1091.

HISTORY:

1. New subsections (b) and (c) filed 2-4-81; designated effective 2-21-81 by Resolution No. ALJ-138, see Section 11445, Government Code (Register 81, No. 6).

10. (Rule 10) Form and Contents of Complaint.

In addition to being drafted to comply with Rules 2 through 8, complaints shall state the full name, address and telephone number of each complainant and his attorney, if any, and of each defendant. The specific act complained of shall be set forth in ordinary and concise language. The complaint shall be so drawn as to completely advise the defendant and the Commission of the facts constituting the grounds of the complaint, the injury complained of, and the exact relief which is desired. (See Public Utilities Code, Secs. 1702 and 1707.)

A complaint which does not allege that the matter has first been brought to the staff for informal resolution may be referred to the staff to attempt to resolve the matter informally.

HISTORY:

1. Amendment filed 10-20-75; designated effective 10-7-75 by Resolution A-4445, see Section 11445, Gov. Code (Register 75, No. 43).

10.1. (Rule 10.1) Form and Contents of Complaint (Radio/Telephone Utilities).

In addition, when both the complainant and defendant are radiotelephone utilities, and the complaint alleges unlawful or improper actions or intentions by the defendant, each and every allegation will be documented, and each utility involved will submit a current balance sheet together with an income and expense statement showing the nature and type of operating expenses for the past 12 months. If the matter has been referred to the staff, consideration will be given as to whether the complaint is anti-competitive in nature when both complainant and defendant serve an area common to each. Furthermore, the Commission will not entertain complaints of service area invasion where there are only minor overlaps of service area. Overlaps will be considered minor where the overlap does not exceed 10% of service area of either utility and does not provide substantial coverage of additional major communities.

HISTORY:

1. New section filed 4-10-78; designated effective 3-24-78 by Decision 88513 in Case 10210, see Section 11445, Government Code (Register 78, No. 15).

11. (Rule 11) Copies.

An original plus twelve conformed copies of a complaint or amendment thereto, plus two additional copies for each named defendant, shall be presented to the Commission for filing.

HISTORY:

1. Amendment filed 10-10-75; designated effective 9-30-75 by Resolution A-4416, see Section 11445, Gov. Code (Register 75, No. 41).

12. (Rule 12) Service of Complaints.

When a complaint or amendment is accepted for filing (See Rules 46 and 47), the Docket Office shall serve a copy on each defendant. (P.U. Code Secs. 8, 1704).

HISTORY:

1. Amendment filed 2-20-76; designated effective 2-10-76 by Resolution A-4507, see Section 11445, Gov. Code (Register 76, No. 8).
2. Amendment filed 5-6-76; designated effective 2-10-76 by Resolution A-4507, see Section 11445, Gov. Code (Register 76, No. 19).

13. (Rule 13) Time for Answers.

Within thirty days after the date of service of the complaint, the defendant shall answer the complaint. The Commission, the Chief Administrative Law Judge, or the presiding officer may require the filing of an answer within a shorter time.

Requests for an extension of time to answer shall be directed to the Chief Administrative Law Judge,

or the presiding officer, in writing, and a copy shall be served on all parties. The request shall indicate complainant's acquiescence to the extension of time or the measures taken by defendant in his unsuccessful effort to obtain acquiescence. The Chief Administrative Law Judge, or the presiding officer, shall notify the parties of his ruling.

If an amendment to a complaint is filed before receipt of the answer, the defendant's time to answer the complaint shall be thirty days from the date of service of the amendment, unless otherwise directed. Amendments to a complaint made subsequent to the filing of an answer need not be answered.

HISTORY:

1. Amendment filed 2-20-76; designated effective 2-10-76 by Resolution A-4508, see Section 11445, Gov. Code (Register 76, No. 8).
2. Amendment filed 7-19-77; designated effective 6-28-77 by Resolution A-4690, see Section 11445, Government Code (Register 77, No. 30).

13.1. (Rule 13.1) Contents of Answers.

The answer must admit or deny each material allegation in the complaint and shall set forth any new matter constituting a defense. Its purpose is to fully advise the complainant and the Commission of the nature of the defense. It should also set forth any defects in the complaint which require amendment or clarification. Failure to indicate jurisdictional defects does not waive these defects and shall not prevent a motion to dismiss made thereafter.

Answers must comply with the requirements of Rules 2 through 8, and include the full name, address, and telephone number of defendant and his attorney, if any, and indicate service on all complainants.

NOTE: Authority cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 2-20-76; designated effective 2-10-76 by Resolution A-4508, see Section 11445, Gov. Code (Register 76, No. 8).

13.2. (Rule 13.2) Expedited Complaint Procedure.

(a) This procedure is applicable to complaints against any electric, gas, water, heat, or telephone company where the amount of money claimed does not exceed the jurisdictional limit of the small claims court as set forth in subdivision (a) of section 116.2 of the Code of Civil Procedure.

(b) No attorney at law shall represent any party other than himself under the Expedited Complaint Procedure.

(c) No pleading other than a complaint and answer is necessary.

(d) A hearing without a reporter shall be held within 30 days after the answer is filed.

(e) Separately stated findings of fact and conclusions of law will not be made, but the decision may set forth a brief summary of the facts.

(f) Complainants and defendants shall comply with all rules dealing with complaints. (Rules 9, 10, 11, 12, 13, and 13.1.) Use of the Expedited Complaint Procedure does not excuse compliance with any applicable rule in the Commission's Rules of Practice and Procedure.

(g) The Commission or the presiding officer, when the public interest so requires, may at any time prior to the filing of a decision terminate the Expedited Complaint Procedure and recalendar the matter for hearing under the Commission's regular procedure.

(h) The parties shall have the right to file applications for rehearing pursuant to Section 1731 of the Public Utilities Code. If the Commission grants an application for rehearing, the rehearing shall be conducted under the Commission's regular hearing procedure.

(i) Decisions rendered pursuant to the Expedited Complaint Procedure shall not be considered as precedent or binding on the Commission or the courts of this state.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1702.1, Public Utilities Code.

HISTORY:

1. New section filed 11-29-76; effective thirtieth day thereafter (Register 76, No. 49).
2. Amendment filed 1-19-78; designated effective 1-1-78 by Resolution No. ALJ-129, see Section 11445, Government Code (Register 78, No. 3).
3. Amendment of subsection (a) filed 1-23-87; designated effective 12-17-86 by Decision 86-12-055, see Government Code Section 11351 (Register 87, No. 5).

14. (Rule 14). Commission Investigations.

The Commission may at any time institute investigations on its own motion. Orders instituting investigation shall indicate the nature of the matters to be investigated, and will be served upon the person or entity being investigated. A respondent need not file a pleading in response to the investigatory order unless so directed therein.

Notice of Commission-instituted investigations directed at specific utilities or regulated entities will be served on them. However, investigation proceedings affecting as a class highway carriers, railroads, express corporations, freight forwarders, pipelines, passenger stage corporations, charter-party carriers, or vessels will be noticed only on the Daily Calendar and the Daily Transportation Calendar. The order instituting the proceeding, in addition to being noticed on such calendars, may be mailed with the Daily Transportation Calendar, or the Calendar may state how to obtain a copy from the Commission staff.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 701, 703, 705, 728, 728.5, 729, 730, 3502, 3541, 5102 and 5112, Public Utilities Code.

HISTORY:

1. Amendment filed 6-30-82; designated effective 7-1-82 by Resolution No. ALJ-147, see Government Code Section 11351 (Register 82, No. 27).
2. Amendment submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

Article 3.5. Rulemaking

14.1. (Rule 14.1) Definition.

Rulemaking is a formal Commission proceeding in which written proposals, comments, or exceptions are used instead of evidentiary hearings.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

HISTORY:

1. New Article 3.5 (Sections 14.1-14.6) filed 12-31-80; designated effective 8-1-80 by Resolution No. ALJ-136, see Section 11445, Government Code (Register 81, No. 1).
2. Repealer of Article 3.5 (Sections 14.1-14.6) filed 3-10-81; designated effective 3-10-81 by Resolution No. ALJ-142, see Section 11445, Government Code (Register 81, No. 11).
3. Reinstatement of Article 3.5 (Sections 14.1-14.6) filed 6-12-81 following request by agency letter of May 26, 1981 (Register 81, No. 24).

14.2. (Rule 14.2) Scope of Rulemaking.

The Commission may elect to apply rulemaking to the following types of formal proceedings:

(a) Proceedings to establish rules, regulations, and guidelines for a class of public utilities or of other regulated entities.

(b) Proceedings to consider the adoption, repeal, or amendment of General Orders.

(c) Proceedings on ratemaking for any class of public utilities or of other regulated entities.

(d) Proceedings which may modify prior Commission decisions which were adopted by rulemaking.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

14.3. (Rule 14.3) Notice of Rulemaking.

Rulemaking proceedings when instituted shall be noticed on the commission's Daily Calendar. Rulemaking proceedings shall be designated as Orders Instituting Rulemaking (OIR). The Order Instituting Rulemaking shall be served by the Executive Director on all respondents and known interested parties.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

14.4. (Rule 14.4) Rulemaking Procedures.

(a) Rulemaking may be instituted either by the Commission proposing rules, regulations, guidelines, or rates or by the Commission instituting a proceeding for the express purpose of receiving proposals.

(b) The time allowed to submit proposals, comments, or exceptions will be specified either in the Order Instituting Rulemaking or thereafter by the Assigned Commissioner and/or Administrative Law Judge. The Commission may permit respondents and interested parties the opportunity to make oral argument regarding proposals after their written proposals, comments, or exceptions have been filed.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

14.5. (Rule 14.5) Form of Proposals, Comments, and Exceptions.

All proposals, comments, and exceptions submitted by respondents and interested parties shall be tendered for filing to the Docket Office with a certificate of service indicating service by mail on all known interested parties. Rules 2, 3, 4, and 7 shall apply to all pleadings filed in rulemaking proceedings. All pleadings which contain factual assertions shall be

verified. Unverified factual assertions will be given only the weight of argument.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

14.6. (Rule 14.6) Cross-References.

- (a) Form and Size of Pleadings—Rule 2
- (b) Caption, Title of Pleading, and Docket Number—Rule 3
- (c) Signature—Rule 4
- (d) Verification—Rule 5
- (e) Signature and Verification by Attorney—Rule 6
- (f) Copies to be Filed—Rule 7

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes 1951, Ch. 764.

Article 4. Applications Generally

15. (Rule 15) Contents.

All applications shall state clearly and concisely the authorization or relief sought; shall cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought; and, in addition to specific requirements for particular types of applications (see Rules 18 through 41), shall state the following:

(a) The exact legal name of each applicant and the location of principal place of business, and if an applicant is a corporation, trust, association, or other organized group, the State under the laws of which such applicant was created or organized.

(b) The name, title, address and telephone number of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon applicant.

(c) Such additional information as may be required by the Commission in a particular proceeding.

(d) Applications for ex parte action shall set forth the basis for such request, and those seeking the granting of relief pending full hearing shall set forth the necessity for such relief.

(e) In addition to otherwise complying with these rules, each application for authority to abandon passenger stage service, or reduce service to less than one trip per day (excluding Saturday and Sunday), shall include the following exhibits:

NOTE: If more than one point, route, or route segment is included in the application, the indicated data are to be separately stated for each point, route, or route segment.

Exhibit 1. Points and Routes Affected—a listing of points, routes, and route segments to be abandoned, including identification and a brief description of any other passenger transportation service available at the points or along the routes affected.

Exhibit 2. Maps—maps to scale showing each point, route, and route segment to be abandoned.

Exhibit 3. Timetables—copies of current and proposed timetables covering the affected points and routes.

Exhibit 4. Authority—copies of current and proposed certificate authorities covering the affected points and routes.

Exhibit 5. Traffic—traffic data for a recent representative period, showing numbers of interstate and intrastate passengers (by classification if more than one type of ticket is sold) destined to and originating from each point to be abandoned; also package express shipments similarly stated.

Exhibit 6. Fares and Rates—description of the fares and rates applicable to the affected services.

Exhibit 7. Revenues—calculation of the annual interstate and intrastate passenger, express, and other revenues which accrue as a result of the service to be abandoned, along with an explanation of how the revenues were calculated and of any assumptions underlying the calculations.

Exhibit 8. Operating Statistics—calculations of route miles, annual bus miles, and schedule operating time to be eliminated for each point, route, or route segment to be abandoned.

Exhibit 9. Expenses—calculation in the Uniform System of Accounts for Common and Contract Motor Carriers of Passengers, of the variable costs of operating each affected service, with an explanation of how the costs were calculated, and of any assumptions underlying the calculations (assumptions should be consistent with those used to calculate revenues). Any labor costs included shall also be separately identified and described.

Exhibit 10. Financial Assistance—description of any present operating subsidies or financial assistance applicable to the affected service, including identification of source, amounts, duration, and any significant terms or conditions applicable; also description of any proposals or discussions with respect to operating subsidies or financial assistance which have occurred during the year preceding the filing of the application.

Exhibit 11. Additional Evidence—any additional evidence or legal argument applicant believes to be relevant to the application.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 454, 818, 851, 852, 1001-1011, 1031 and 1063, Public Utilities Code.

HISTORY:

1. New subsection (e) filed 5-1-81; designated effective 5-7-81 by Resolution No. ALJ-145, see Section 11445, Government Code (Register 81, No. 18).
2. New subsection (f) filed 2-8-83; designated effective 2-2-83 by Resolution No. PE-452, Government Code Section 11351 (Register 83, No. 7).
3. Repealer of subsection (e) and relettering of former subsection (f) to subsection (e) filed 5-1-87; designated effective 4-22-87 by Decision No.87-04-072, Government Code Section 11351 (Register 87, No. 20).

15.1. (Rule 15.1) Notice of Particular Transportation Applications.

Notice requirements for specific applications and other pleadings are contained in the applicable Rules. However, the Commission's Daily Transportation Calendar, (available starting July 1, 1982 from the Commission's Documents Office in San Fran-

cisco), will publish notice of applications filed. Publication in the Daily Transportation Calendar constitutes notice of filing to potentially affected competitors, customers, and interested parties for the following applications:

(a) Applications for any highway common carrier, cement carrier, cement contract carrier, dump truck carrier, express corporation, or freight forwarder for operating authority, to extend or transfer such operating authority, or to transfer control under Public Utilities Code Section 854.

(b) Applications or other filings to increase, reduce, or adjust rates of highway carriers, railroads, express corporations, freight forwarders, or pipelines (except deviations from established minimum rates; see Rule 42.1).

(c) Applications for passenger stage corporation or vessel operating authority, to extend or transfer operating authority, or to transfer control under Public Utilities Code Section 854.

(d) Applications for charter-party carrier certificates, or to extend and/or modify such certificates, or to transfer such certificates.

The Daily Transportation Calendar will list the applicant's address and telephone number when listing the above applications. Applicants shall furnish or mail a copy of the application or filing to any person making a request, or to any other persons as the Commission may direct.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 242, 452, 454(b), 854, 1010, 1032, 1062, 3662, 5191, 5372 and 5377.1, Public Utilities Code.

HISTORY:

1. New section filed 6-30-82; designated effective 7-1-82 by Resolution No. ALJ-147, see Government Code Section 11351 (Register 82, No. 27).
2. Amendment of subsection (b) submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

16. (Rule 16) Articles of Incorporation.

(a) If applicant is a domestic corporation, as defined by Section 167 of the Corporations Code, a copy of its current articles of incorporation, certified by the California Secretary of State, shall be annexed to the original of the application, but need not be annexed to copies of the application. If a corporate applicant is not a domestic corporation, as so defined, a properly certified current copy of its articles of incorporation, and a copy of its certificate of qualification to transact intrastate business certified by the California Secretary of State, shall be annexed to the original of the application, but need not be annexed to copies of the application. If current articles or certificates of qualification have already been filed, the application need only make a specific reference to such filings.

(b) If applicant is a partnership, a copy of its current partnership agreement shall be annexed to the original application, but need not be annexed to copies of the application. If a current partnership agreement has already been filed, the application need only make specific reference to such filing. In

lieu of filing the partnership agreement, applicant may file a current statement of partnership recorded pursuant to Section 15010.5 of the Corporations Code, or a current certificate of limited partnership recorded pursuant to Section 15502 of the Corporations Code, as appropriate.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 167 and 15010.5, Corporations Code.

HISTORY:

1. Amendment submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

17. (Rule 17) Financial Statement.

Wherever these rules provide that a financial statement shall be annexed to the application, such statement, unless otherwise provided herein, shall be prepared as of the latest available date, and shall show the following information:

(a) Amount and kinds of stock authorized by articles of incorporation and amount outstanding.

(b) Terms of preference of preferred stock, whether cumulative or participating, or on dividends or assets, or otherwise.

(c) Brief description of each security agreement, mortgage and deed of trust upon applicant's property, showing date of execution, debtor and secured party, mortgagor and mortgagee and trustor and beneficiary, amount of indebtedness authorized to be secured thereby, and amount of indebtedness actually secured, together with any sinking fund provisions.

(d) Amount of bonds authorized and issued, giving name of the public utility which issued same, describing each class separately, and giving date of issue, par value, rate of interest, date of maturity and how secured, together with amount of interest paid thereon during the last fiscal year.

(e) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last fiscal year.

(f) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by any person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.

(g) Rate and amount of dividends paid during the five previous fiscal years, and the amount of capital stock on which dividends were paid each year.

(h) A balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.

17.1. (Rule 17.1) Special Procedure for Implementation of the California Environmental Quality Act of 1970. (Preparation and Submission of Environmental Impact Reports.)

(a) General. This rule has been developed and adopted pursuant to the California Environmental Quality Act of 1970, Public Resources Code Sections 21000 et seq. (CEQA), and the guidelines for implementation of CEQA promulgated by the Office of the Secretary for Resources, California Administrative Code Sections 15000 et seq. (EIR Guidelines.) The Commission hereby adopts and shall adhere to the principles, objectives, definitions, criteria and procedures of CEQA, the EIR Guidelines, and the additional provisions of this rule.

(b) Objectives.

(1) To carry out the legislative intent expressed in CEQA, Public Resources Code Sections 21000 and 21001, and specifically:

(2) To ensure that environmental issues are thoroughly, expertly, and objectively considered within a reasonable period of time, so that environmental costs and benefits will assume their proper and co-equal place beside the economic, social, and technological issues before the Commission, and so that there will not be undue delays in the Commission's decision-making process.

(3) To assess in detail, as early as possible, the potential environmental impact of a project in order that adverse effects are avoided, alternatives are investigated, and environmental quality is restored or enhanced, to the fullest extent possible.

(4) To achieve an appropriate accommodation between these procedures and the Commission's existing planning, review, and decision-making process.

(c) Applicability. This rule shall apply to CEQA for which Commission approval is required by law, except projects for which an application must be filed with the California Energy Resources Conservation and Development Commission pursuant to Public Resources Code, Section 25500.

(d) Proponent's Environmental Assessment. The proponent of any project subject to this rule shall include with the application for such project an environmental assessment which shall be referred to as the Proponent's Environmental Assessment (PEA). The PEA shall be employed by the Commission to quickly focus on any impacts of the project which may be of concern, and may be used as an aid in preparing the Commission's Initial Study to determine whether to prepare a Negative Declaration or an Environmental Impact Report. Where it is found that CEQA requires such analysis and documentation the PEA may be employed in the preparation thereof.

(1) Form and Content. If it can be seen with certainty that there is no possibility that the project in question may have a significant adverse effect on the environment, the project PEA should be limited to a statement of this conclusion and any additional

explanation or information which may be necessary for an independent assessment of such issue by the Commission. If it cannot be seen with certainty that there is no possibility that the project in question may have a significant adverse effect on the environment, then the PEA shall include all information and studies required by the Commission Information and Criteria List applicable to the project, and shall be submitted in the format specified in such list.

(2) Filing. The PEA shall be filed as a separate exhibit accompanying the application or pleading. It need not be physically attached thereto. The proponent shall file an original, twelve conformed copies and such additional copies of its PEA as may be required by the Commission for the review process.

(3) Commission Information and Criteria Lists. The Commission shall adopt and revise as necessary a list specifying in detail the information and studies which will be required from proponents of projects subject to this rule. These information lists shall also contain criteria which the Commission will apply in order to determine the completeness of PEAs. These lists shall be contained within the Commission's Information and Criteria List adopted pursuant to Chapter 1200 of the Statutes of 1977 (Government Code Sections 65940 through 65942), and shall be made available to the public upon request from Commission staff.

(e) Motions. Appropriate motions may be made in any proceeding subject to this rule.

(1) Such Motions include but are not limited to:

(A) Motion for determination of whether the Commission is the Lead Agency for purposes of CEQA and this rule;

(B) Motion for determination of who is the proponent of the project at issue;

(C) Motion for a public hearing under section (g);

(D) Motion for an expedited hearing under section (g) (2);

(E) Motion for the determination of the reasonableness of the deposit or fee required under section (j).

(2) A motion for determination of whether the proceeding involves a project subject to or exempt from CEQA and this rule may be made pursuant to Rule 17.2.

(3) A motion made under Section (e) filed in a proceeding seeking ex parte action or prior to hearing in other proceedings shall be served upon all parties upon which service of the application, complaint, order instituting investigation, or other order was made or required to be made. If a motion is made during the course of a hearing, it shall be served on all parties of record.

(4) The Commission staff and all other parties upon whom the motion is required to be served shall have 10 calendar days in which to respond unless the presiding officer or Administrative Law Judge for good cause shown otherwise orders.

(f) Preparation of Environmental Documents. The procedures for preparation of environmental

documents required under CEQA and the EIR Guidelines shall be as prescribed in CEQA, the EIR Guidelines, and the additional provisions of this rule.

(1) Negative Declarations.

(A) Notice of the preparation of a Negative Declaration shall be given by direct mail to all organizations and individuals having previously requested such notice, and to owners of land, under, or on which the project may be located, and owners of land adjacent thereto. Notice shall also be given to the general public by advertisement, not less than once a week, two weeks successively in a newspaper or newspapers of general circulation in the county or counties in which the project will be located.

(B) Negative Declarations shall be completed and adopted within 105 days of the date on which the project application is accepted as complete.

(C) Negative Declarations shall be available for public comment not less than 30 days prior to project approval should the project be approved.

(2) Draft EIRs.

(A) The proponent's PEA reviewed, corrected, amended and independently evaluated and analyzed by the staff may become the Commission's Draft EIR.

(B) Notice of Completion of the Draft EIR shall be given by direct mail to the county and municipal planning commissions and the county and municipal legislative bodies for each county or city affected by the project, the state highway engineer, other organizations and individuals having previously requested notification, and to owners of land under, or on which the project may be located, and owners of land adjacent thereto. Notice shall also be given to the general public by advertisement, not less than once a week, two weeks successively in a newspaper or newspapers of general circulation in the county or counties in which the project will be located.

(3) Final EIRs.

(A) Final EIRs shall be completed and certified within one year of the date on which the project application is accepted as complete.

(B) Copies of the Final EIR shall be served upon all parties to the proceeding.

(4) Public Availability of Environmental Documents. Copies of PEAs, Initial Studies, Negative Declarations, Draft EIRs, Final EIRs, and any other public environmental documents shall be available to members of the public who may be charged their actual cost of reproduction and handling.

(5) Extensions of Time. Consistent with the intent and purposes of CEQA, and Chapter 1200 Statutes 1977 (Government Code Sections 65920 et seq.), and to the extent permitted by CEQA, Chapter 1200, and the EIR Guidelines, reasonable extensions of time periods specified in CEQA, Chapter 1200, the EIR Guidelines, and in this rule may be granted. Such extensions include extensions of time periods specified in sections (f) (1) (B) and (f) (3) of this rule.

(g) Hearings. Unless the Commission, presiding officer or Administrative Law Judge by order otherwise provides, public hearings shall be held upon

each Negative Declaration and each Draft EIR for which a protest or motion under section (e) (1) (C) or (e) (1) (D) of this rule is received.

(1) Ex Parte Proceedings. If no protest or motion under section (e) is received within 30 days following the notice of completion of the Draft EIR or the notice of preparation of the Negative Declaration, the Final EIR or Negative Declaration may be completed and certified or completed and adopted without public hearing.

(2) Expedited Hearings on Environmental Issues. Any public hearing held concerning environmental issues may by order of the Commission, the presiding officer, or Administrative Law Judge be expedited for the purpose of facilitating agency compliance with the time constraints imposed upon Commission application processing by Chapter 1200 Statutes 1977 (Government Code Sections 65950, 65951, and 65952) and rules 17.1 (f) (1) (B) and (f) (3) through the implementation of such procedures as may in the discretion of the Commission, the presiding officer or Administrative Law Judge be found necessary and appropriate. Such procedures may include but need not be limited to any, or any combination of the following:

(A) Limitations on the time allotted to each party;

(B) Limitations upon the scope of the issues and testimony;

(C) Limitation or elimination of cross-examination.

(3) Notice. Any public hearing held shall be held not less than 45 calendar days after the Draft EIR has been made available for public inspection and comment, and no less than 21 calendar days after the Negative Declaration has been made available.

(4) Evidence. Evidence in support of the project based upon the proponent's PEA shall be presented by the proponent at any hearing ordered by the Commission. All other parties may offer evidence in support of their environmental positions. Comments received through the consultation process shall be made a part of the record in the proceeding and shall be utilized to the maximum extent permissible under the Commission rules.

(h) Categorical Exemptions.

(1) The following specific projects are within the classes of projects which the Secretary for Resources has exempted from the EIR requirements of CEQA:

(A) Class 1 Exemptions.

1. Restoration and repair of existing structures when they have deteriorated or are damaged, in order to meet current standards of public health and safety under the rules of the Commission or other public authority, where the damage is not substantial and did not result from an environmental hazard.

2. The operation, repair, maintenance, or minor alteration of existing facilities used to convey or distribute electric power, natural gas, water, or other substance.

3. The maintenance of landscaping around utility facilities.

4. The maintenance of native growth around utility facilities.

5. Alteration in railroad crossing protection.

6. Minor railroad crossing alterations as described in Guidelines Section 15101 (c) and (f), including, but not limited to filings under General Order No. 88.

7. Installation of new railroad-highway signals or signs.

8. Abandonment, removal, or replacement of the following railroad facilities: (a) stock corrals, (b) tracks, or (c) platforms.

9. Deviation requests filed under General Orders Nos. 26-b and 118 as to clearances and walkways.

(B) Class 2 Exemptions.

1. The replacement or reconstruction, including reductoring of existing utility structures and facilities where the new structure or facility will be located on the same site as the replaced structure or facility and will have substantially the same purpose and capacity as the structure replaced.

2. Minor reconstruction or repair of railroad crossings or separations.

(C) Class 3 Exemptions.

1. Stores and offices for utility purposes if designed for an occupant load of 20 persons or less, if not in conjunction with the building of two or more such structures.

2. Water main, sewage, electrical, gas, and other utility extensions of reasonable length to serve such construction.

3. Accessory (appurtenant) structures to utility structures including garages, carports, patios, and fences.

(D) Class 4 Exemptions. New gardening or landscaping in conjunction with utility facilities or structures not to include the removal of mature, scenic trees, the filling of earth into previously excavated land, with material compatible with the natural features of the site, and minor temporary uses of land having negligible or not permanent effect on the environment.

(E) Class 5 Exemptions. Projects which require the issuance of street opening permits to permit minor alterations in land use limitations.

(F) Class 6 Exemptions. The preparation and filing of basic data, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. This includes the filing of informational reports with the Commission.

(G) Class 7 Exemptions. Commission decision-making activities which are intended to assure the maintenance, restoration, or enhancement of a natural resource, where procedures for the protection of the environment have been included.

(H) Class 8 Exemptions. Commission decision-making activities if they consist of action taken to assure the maintenance, restoration, enhancement, or protection of the environment, such as, in connection with the issuance of instructions or orders having to do with existing utility facilities, where

procedures for the protection of the environment have been included. Construction activities are not included in this exemption.

(I) Class 21 Exemptions. Commission activities which consist of enforcing or revoking a lease, permit, certificate or other entitlement which activities do not ordinarily involve significant effects on the environment.

(i) Lead Agency Determinations.

(1) The Commission is the lead agency for the following stationary utility projects:

(A) Electric transmission lines and generation plants under General Order No. 131-B, over which the Energy Resources Conservation and Development Commission does not have primary jurisdiction.

(B) Gas storage facilities and major gas transmission lines.

(C) New and noncontiguous utility facility projects (independent of subdivisions).

(D) Radiotelephone utility facilities.

(E) Telephone service area expansions.

(F) Proceedings directly related to new construction of utility facilities.

(G) Applications for exemptions from undergrounding requirements, except where the electric or telephone distribution lines are incidental to a development project over which a city, county, or other political subdivision has the primary decision-making responsibility.

(2) The Commission is the lead agency in certification proceedings involving passenger stage and railroad corporations, passenger air and highway common carriers, Class B charter-party carriers of passengers, and vessels.

(3) The Commission is the lead agency for railroad projects involving a grade separation, new street crossing, new railroad track crossing, or railroad crossing relocation or widening project, except that where the project is to be carried out by a state or local public agency.

(j) Fees for Recovery of Costs Incurred in Preparing EIRs.

(1) For any project where the Commission is the lead agency responsible for preparing the EIR to Negative Declaration the proponent shall be charged a fee to recover the actual cost of the Commission in preparing the EIR or Negative Declaration. A deposit shall be charged the proponent as set forth below:

A deposit of thirty dollars (\$30) for each one thousand dollars (\$1,000) of the estimated capital cost of the project up to one hundred thousand dollars (\$100,000), ten dollars (\$10) for each one thousand dollars (\$1,000) over one hundred thousand dollars (\$100,000) and up to one million dollars (\$1,000,000), five dollars (\$5) for each one thousand dollars (\$1,000) over one million dollars (\$1,000,000) and up to five million dollars (\$5,000,000), two dollars (\$2) for each one thousand dollars (\$1,000) over five million dollars (\$5,000,000) and up to ten million

dollars (\$10,000,000), one dollar (\$1) for each one thousand dollars (\$1,000) over ten million dollars (\$10,000,000) and up to one hundred million dollars (\$100,000,000), and fifty cents (\$0.50) for each one thousand dollars (\$1,000) over one hundred million dollars (\$100,000,000). A minimum deposit of five hundred dollars (\$500) shall be charged for projects with an estimated capital cost of sixteen thousand dollars (\$16,000) or less.

If a project lacks a capital cost basis, the Commission, presiding officer, or Administrative Law Judge shall determine, as early as possible, the deposit to be charged.

(2) The deposit shall be collected whenever an EIR or Negative Declaration is requested or required. The costs of preparing the EIR or Negative Declaration shall be paid from such deposits.

(3) Proponent shall pay the applicable deposit in progressive payments due as follows: One-third of the deposit at the time the application or pleading is filed, an additional one-third no later than 120 days after the time the application or pleading is filed, and the remaining one-third no later than 180 days after the time the application or pleading is filed. Failure to remit full payment of the deposit no later than 180 days after the time the application or pleading is filed may subject the proponent to a fine not exceeding 10 percent of the outstanding amount due. If the costs exceed such deposit the proponent shall pay for such excess costs within 20 days of the date stated on the Commission's bill for any excess costs. If the costs are less than the deposit paid by the proponent, the excess shall be refunded to the proponent.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 21165, Public Resources Code.

HISTORY:

1. Amendment filed 9-1-77; designated effective 9-12-77 by Resolution No. A-4694, see Section 11445, Government Code (Register 77, No. 36). For prior history, see Registers 77, No. 7 and 76, No. 20.
2. Amendment filed 7-13-79; designated effective 1-30-79 by Public Utilities Commission Decision No. 89905, see Section 11445, Government Code (Register 79, No. 28).
3. Repealer and new subsection (i) filed 8-13-81; designated effective 6-19-81 by Resolution No. ALJ-143, see Section 11445, Government Code (Register 81, No. 33).
4. Editorial correction of HISTORY NOTE No. 2 (Register 82, No. 11).
5. Amendment of subsection (d) (3) submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

17.2. (Rule 17.2) Motion for Determination of Applicability of CEQA.

Any party may file in any proceeding before the Commission a motion for determination of whether the proceeding involves a project subject to or exempt from the California Environmental Quality Act of 1970, Public Resources Code, Sections 21000 et seq., and Rule 17.1.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 21000 et seq., Public Resources Code.

HISTORY:

1. New section filed 7-13-79; designated effective 1-30-79 by Public Utilities Commission Decision No. 89905, see Section 11445, Government Code (Register 79, No. 28).

2. Editorial correction of HISTORY NOTE No. 1 (Register 82, No. 11).

17.3. (Rule 17.3) Review and Approval of Development Projects.

Review of development projects within the meaning of Chapter 1200 of the Statutes of 1977 (Government Code Sections 65920 et seq.) shall be in accord with the procedures and requirements of that chapter, the Permit Guidelines promulgated by the Office of Planning and Research (State Administrative Manual Sections 1070 et seq.), and applicable rules and procedures of the Commission. Commission Information and Criteria Lists for applications subject to Chapter 1200, Statutes 1977 shall be available from the Commission staff.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 65920 et seq., Government Code.

HISTORY:

1. New section filed 7-13-79; designated effective 1-30-79 by Public Utilities Commission Decision No. 89905, see Section 11445, Government Code (Register 79, No. 28).
2. Editorial correction of HISTORY NOTE No. 1 (Register 82, No. 11).
3. Amendment submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

Article 5. Applications for Certificates of Public Convenience and Necessity

18. (Rule 18) Construction or Extension.

(Electric or street railroad, gas, electric, telephone, telegraph, or water utility.) This rule applies to applications, under Section 1001 of the Public Utilities Code, by any new public utility for a certificate to begin the construction of its plant or system, or by an existing public utility to begin construction of an extension of such a character as to require certification under Section 1001 of the Public Utilities Code. (See Rule 37.) In addition to being drafted to comply with Rules 2 through 8, 15 and 16, such applications shall contain the following data, either in the body of the application or in exhibits attached thereto:

(a) A full description of the proposed construction or extension, and the manner in which the same will be constructed.

(b) The names and addresses of all utilities, corporations, persons or other entities, whether publicly or privately operated, with which the proposed construction is likely to compete, and of the cities or counties within which service will be rendered in the exercise of the requested certificate. Whenever a public utility applies to the Commission to extend or establish its water service within a county water district, a public utility or municipal utility district, or other water or utility district, or any area served by such district, such district shall also be named, if it furnishes a like service. The application shall contain a certification that a copy of the application has been served upon or mailed to each such party named.

(c) A map of suitable scale showing the location or route of the proposed construction or extension, and

its relation to other public utilities, corporations, persons, or entities with which the same is likely to compete.

(d) A statement identifying the franchises and such health and safety permits as the appropriate public authorities have required or may require for the proposed construction or extension.

(e) Facts showing that public convenience and necessity require, or will require, the proposed construction or extension, and its operation.

(f) A statement detailing the estimated cost of the proposed construction or extension and the estimated annual costs, both fixed and operating associated therewith. In the case of a utility which has not yet commenced service or which has been rendering service for less than twelve months, the applicant shall file as a part of the application supporting statements or exhibits showing that the proposed construction is in the public interest and whether it is economically feasible.

(g) Statements or exhibits showing the financial ability of the applicant to render the proposed service together with information regarding the manner in which applicant proposes to finance the cost of the proposed construction or extension.

(h) A statement of the proposed rates to be charged for service to be rendered by means of such construction or extension. If any increase in rates is proposed, comply with Rule 23.

(i) A statement corresponding to the statement required by Section 2 of General Order No. 104-A, as to all known matters which both (a) are designated by said section for inclusion in the annual report but occurred or were proposed subsequent to the period covered by the last previous annual report filed by the applicant and (b) are, or will be, connected with the construction or extension proposed in the application; or, if no such matters are known to have so occurred or are then known to be proposed, a statement to that effect; provided, that an applicant whose capital stock, or that of its parent company, is listed on a "national securities exchange," as defined in the Securities Exchange Act of 1934 (15 U.S.C. 78(a) et seq.), in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company if not previously filed with the Commission, provided, further, that an applicant whose capital stock, or that of its parent company, is registered with the Securities and Exchange Commission (S.E.C.) pursuant to the provisions of Section 12 (g) of said Securities Exchange Act of 1934, in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company containing the information required by the rules of the S.E.C. if not previously filed with the Commission.

(j) In the case of a telephone utility, the estimated number of customers and their requirements for the first and fifth years in the future.

(k) In the case of a gas utility seeking authority to construct a pipeline:

(1) Regarding the volumes of gas to be transported:

(A) A statement of the volumes to be transported via the proposed pipeline including information on the quality of gas and the maximum daily and annual average daily delivery rates.

(B) A statement that copies of summaries of all contracts for delivery and receipt of gas to be transported via the proposed pipeline and information on the reserves and delivery life pertaining thereto will be made available for inspection on a confidential basis by the Commission or any authorized employee thereof. The terms and provisions of individual contracts for gas supply and data as to reserves or delivery life of individual gas suppliers shall not be required to be stated in the application or in the record of the proceedings, and if disclosed to the commission or to any officer or employee of the Commission on a confidential bases as herein provided, shall not be made public or be open to public inspection.

(2) A summary of the economic feasibility, the market requirements and other information showing the need for the new pipeline and supply.

(3) Where the gas to be transported through the pipeline is to be purchased by the applicant from, or transported by the applicant for, an out-of-state supplier:

(A) A copy of the proposed tariff under which the gas will be purchased or transported.

(B) A statement that the out-of-state pipeline supplier has agreed: (1) to file with this Commission copies of annual reports which it files with the Federal Power Commission; (2) to file with this Commission monthly statements of its revenues, expenses and rate base components; (3) to file with this Commission copies of its tariffs as filed from time to time with the Federal Power Commission; and (4) at all times to permit this Commission or its staff reasonable opportunity for field inspection of facilities and examination of books and records, plus assurance that reasonable requests for operating information otherwise prepared in the course of business will be supplied in connection with any proceeding before the Federal Power Commission.

(l) In the case of an electric utility proposing to construct an electric generating plant:

(1) Load and resource data setting forth recorded and estimated loads (energy and demands), available capacity and energy, and margins for two years actual and three years estimated, on an average year basis.

(2) Existing rated and effective operating capacity of generating plants and the planned additions for a three-year period.

(3) Estimated capital and operating costs of power to be generated by the proposed plant for all competitive fuels which may be used under legislative restrictions in the proposed plant.

(4) For any nuclear plant, a statement indicating that the requisite safety and other license approvals have been obtained or will be applied for, and that a copy of the application to this Commission has been furnished to the State Coordinator of Atomic Energy Development and Radiation Protection.

(m) In the case of a water utility:

(1) An estimate of the number of customers and the requirements for water for the first and fifth years in the future, and the ultimate future development anticipated by applicant, together with a description of the proposed normal, and emergency standby, water facilities for production, storage and pressure to serve the area for which the certificate is sought.

(2) A statement of the estimated operating revenues and estimated expenses, by major classes, including taxes and depreciation, for the first and fifth years in the future attributable to operations in the proposed area.

(3) If the applicant has operated as a water utility elsewhere in the State of California for a period in excess of one year prior to filing the application, a general statement of the operating plans for the proposed area, including a statement whether a new area will be served by existing personnel or will constitute a separate district to be served by new personnel. If the applicant has not operated as a water utility elsewhere in the State of California for a period in excess of one year prior to filing the application, a description of the operating plans for the proposed area, including, to the extent available, but not necessarily limited to, such items as qualifications of management and operating personnel, proposed operating pressures for the system, plans for water treatment, availability of utility personnel to customers, billing procedures, emergency operation plans and provision for handling customer complaints.

(n) In the case of an application by a water utility in an area in which the facilities have already been constructed, extended or installed:

(1) A detailed statement of the amount and basis of the original cost (estimated if not known) of all plant and of the depreciation reserve applicable thereto.

(2) If the facilities have been rendering service in the area for which the certificate is sought, and

(A) The rates proposed are the same as the tariff rates in the district which includes the area to be certificated, the application shall also include a summary of earnings on a depreciated rate base with respect to such area for the test period or periods upon which applicant bases its justification for the rates to be applied in such area; otherwise

(B) The application shall also comply with Rule 23, including the furnishing of the information specified in subsections (e) and (f) thereof but made applicable to the proposed rates; provided, however, the information required by subsections (b) and (c) thereof need be furnished only when increases are proposed.

(o) In the case of an application to furnish one-way paging or two-way mobile radiotelephone service (other than cellular mobile radiotelephone service), the following requirements apply in addition to those enumerated in rules 1 through 8, 15 through 17.1, and (a), (b), (d), first sentence of (f), (g), (h), and (i) above:

(1) When the applicant obtains the relevant construction permit from the Federal Communications Commission (FCC) it shall, no later than 30 days after the grant of the relevant construction permit(s), submit its application, including a legible copy of the engineering data submitted to the FCC and a legible copy of its FCC permit(s), to this Commission. The proposed new service area, or the effect of changed facilities on the utility(s) existing service area, if any, will be shown on a fully legible engineered service area contour map, of suitable scale, prepared in accordance with the applicable criteria set forth in 47 CFR 22. The use of aeronautical charts for this purpose is unacceptable.

(2) Each application shall address the following matters in a substantial manner and with particularity, consistent with the scope of the authorization sought:

(A) Demonstration that the proposed service is responsive to public need and demand.

(B) Technical feasibility of the proposed system and the technical competence of the applicant.

(C) Description of the proposed service including terms, conditions, area of coverage, quality, and features of service, and differences from any service presently provided in the proposed service area.

(D) Financial responsibility of the applicant.

(E) Economic feasibility of the proposed service in the market to be served.

(F) Present operations of the applicant and affiliated companies.

(3) Should an existing utility protest such application, the burden shall rest with the protestant to show that the application should not be granted by affirmatively establishing that granting the application will so damage existing service or the particular marketplace as to deprive the public of adequate service. The protest shall conform to Rules 8.1 through 8.8 of the Commission's Rules of Practice and Procedure. A service map of protestant's claimed service area shall be filed with the protest. Protests of a general or nonspecific nature will not be sufficient to warrant consideration by the Commission.

(4) Should an existing utility propose to provide service in an area contiguous to its authorized service area and not presently receiving radiotelephone service by any utility, an application for a certificate need not be made, but the engineering data required in (1) above shall be provided to the Commission staff.

(5) Should an existing utility propose an extension of service area which it believes to be minor in nature, but to which (4) above is inapplicable, it shall

submit the relevant engineering data to the Commission staff, with a written request for determination of the necessity for a certificate application. Reply will be by letter from an authorized representative of the Commission staff. In general, an extension will be considered minor if it does not overlap the radio service area of another utility by more than 10% of either utility's radio service area and also does not provide substantial coverage of additional major communities.

(6) Actions as described in (4) or (5) above, or actions such as construction of fill-in transmitting facilities which do not affect service area boundaries, shall be described in tariff revisions which shall be promptly filed by the utility.

(p) Such additional information and data as may be necessary to a full understanding of the situation.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1001, Public Utilities Code.

HISTORY:

1. Amendment of subsection (o) and new subsection (p) filed 4-10-78; designated effective 3-24-78 by Decision 88513 in Case 10210, see Section 11445, Government Code (Register 78, No. 15).
2. Repealer and new subsection (o) filed 9-20-84; designated effective 8-1-84 by Resolution ALJ-153, see Government Code Section 11351 (Register 84, No. 38).
3. Amendment of subsection (o) (5) submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

19. (Rule 19) Exercise Franchise Rights.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Statutes of 1979, Chapter 1064.

HISTORY:

1. Repealer filed 10-15-80; designated effective 10-16-80 (Register 80, No. 42).

20. (Rule 20) Exercise Franchise Rights Not Yet Secured.

NOTE: Authority cited: Section 1701, Public Utilities Code; Statutes of 1979, Chapter 1064.

HISTORY:

1. Repealer filed 10-15-80; designated effective 10-16-80 (Register 80, No. 42).

21. (Rule 21) Common Carrier Certificates.

All applications for common carrier certificates shall comply with Rules 2 through 8, 15, and 16. Highway common carrier applications shall be filed on the proper form available from the license section of the tariff and license branch of the Transportation Division. Vessel common carrier, express corporation, freight forwarder, passenger stage corporation, cement carrier, and highway common carrier applications shall contain the following data, either in the body of the application or in attached exhibits:

(a) The type of service being performed by applicant, a general description of it, and a reference to the authority under which existing service is performed.

(b) The specific authority requested and the particular statutory provision under which the certificate is requested.

(c) If a carrier of property, a description of specified commodities proposed to be transported, and, if general commodities with exceptions are proposed to be transported, a statement specifying such exceptions.

(d) The geographical scope of the proposed operation, including the termini and other points proposed to be served, and a concise narrative description of the proposed route.

(e) A map or sketch of the route and points to be served, drawn to suitable indicated scale, and showing present and proposed operation by distinctive coloring or marking.

(f) A statement of the rates or fares proposed to be charged and rules governing service. Applications for certificates need not contain tariffs, but shall indicate the level and nature of proposed rates and rules and may refer to tariffs on file with or issued by the Commission.

(g) A statement indicating the frequency of the proposed service. If "on call" service is proposed, the application shall set forth conditions under which such service would be performed.

(h) The kind and approximate number of units of equipment to be employed in the proposed service.

(i) A statement of financial ability to render the proposed service.

(j) Facts showing that the proposed operation is required by public convenience and necessity.

(k) Every applicant for a passenger stage certificate shall forward a copy of the application to each public transit operator operating in any portion of the territory sought to be served by the applicant. The applicant shall also mail a notice that the application has been filed with the Commission to all city and county governmental entities and regional transportation planning agencies within whose boundaries passengers will be loaded or unloaded. This notice shall state in general terms the authority sought, including the proposed routes, schedules, fares and equipment. Said notice shall also state that a copy of the application and related exhibits will be furnished by applicant upon written request. A copy of the notice and a certificate of service shall be filed with the application.

(l) Applicants shall mail or give a copy of their application to any potential competitor, governmental entity, or interested party requesting a copy, and to any persons upon direction by the Commission or other Rules.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Sections 701, 1007, 1010, 1032, 1062 and 1701, Public Utilities Code.

HISTORY:

1. Amendment of subsection (f) filed 10-10-75; designated effective 9-30-75 by Resolution A-4417, see Section 11445, Gov. Code (Register 75, No. 41).
2. Amendment of subsection (f) filed 3-2-76; designated effective 9-30-75 by Resolution A-4417, see Section 11445, Gov. Code (Register 76, No. 10).
3. Amendment of subsection (f), repealer of subsection (g) and consecutive relettering of subsections (h)-(l) filed 8-13-81;

- designated effective 6-4-81 by Resolution No. ALJ-146, see Section 11445, Government Code (Register 81, No. 33).
4. Amendment filed 6-30-82; designated effective 7-1-82 by Resolution No. ALJ-147, see Government Code Section 11351 (Register 82, No. 27).
 5. Amendment of subsection (k) filed 5-21-85; designated effective 10-17-84, see Government Code Section 11351 (Register 85, No. 21).
 6. Amendment of subsection (k) filed 1-23-87; designated effective 12-17-86 by Decision 86-12-055, see Government Code Section 11351 (Register 87, No. 5).
 7. Amendment filed 5-1-87; designated effective 4-22-87 by Decision No. 87-04-072, Government Code Section 11351 (Register 87, No. 20).

21.1. (Rule 21.1) Highway Common Carrier Certificates.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1032 and 1062, Public Utilities Code.

HISTORY:

1. New section filed 8-13-81; designated effective 6-4-81 by Resolution No. ALJ-146, see Section 11445, Government Code (Register 81, No. 33).
2. Repealer filed 6-30-82; designated effective 7-1-82 by Resolution No. ALJ-147, see Government Code Section 11351 (Register 82, No. 27).

21.2. (Rule 21.2) Passenger Stage Corporation Certificates.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1032 and 1062, Public Utilities Code.

HISTORY:

1. New section filed 8-13-81; designated effective 6-4-81 by Resolution No. ALJ-146, see Section 11445, Government Code (Register 81, No. 33).
2. Repealer filed 6-30-82; designated effective 7-1-82 by Resolution No. ALJ-147, see Government Code Section 11351 (Register 82, No. 27).

22. (Rule 22) Warehouses.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Chapter 1063 (Statutes of 1980).

HISTORY:

1. Repealer filed 8-13-81; designated effective 6-4-81 by Resolution No. ALJ-146, see Section 11445, Government Code (Register 81, No. 33).

Article 6. Applications for Authority to Increase Rates

23. (Rule 23) Rate Increase Applications. (P.U. Code, Sec. 454).

This rule applies to applications for authority to raise any rate, fare, toll, rental or charge, or so to alter any classification, contract, practice, or rule as to result in such an increase. In addition to being drafted to comply with Rules 2 through 8, 15 and 16, such applications shall contain the following data, either in the body of the application or as exhibits annexed thereto or accompanying the application:

(a) A balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.

(b) A statement of the presently effective rates, fares, tolls, rentals, or charges which are proposed to be increased, or of the classification, contract, prac-

tice, or rule proposed to be altered. Such statement need not be in tariff form.

(c) A statement of the proposed increases or changes which will result in increases, which applicant requests authority to make effective. Such statement need not be in tariff form, but shall set forth the proposed rate structure with reasonable clarity. Except as to carriers, the statement shall also show the amount of proposed gross revenues, together with the percentage of increase, if in excess of one percent, estimated to result from the proposed rates. In the case of carriers, where a general rate increase application is filed, the statement shall include an estimate of the amount of additional annual gross revenue estimated to result from the increase, which shall be based on the amount of involved traffic handled for the preceding calendar year and shall indicate the percentage by which such estimate exceeds the gross revenues on the involved traffic for the preceding calendar year, if more than one percent. In the case of gas, electric, telephone, telegraph, water and heat utilities, the proposed revenue increase, including the percentage of increase, if in excess of one percent, shall be shown by appropriate rate classifications. If the percentage of increase in revenue is one percent or less, applicant shall so state in its application.

(d) A general rate increase application shall contain a general description of applicant's property and equipment, or reference to such description in a recent prior application, and a statement of the original cost thereof, together with a statement of the depreciation reserve applicable thereto. If it is impossible to state original cost, the facts creating such impossibility shall be set forth.

(e) A summary of earnings (rate of return summary) on a depreciated rate base for the test period or periods upon which applicant bases its justification for an increase. If adjusted or estimated results are shown for successive periods they should be on a consistent basis. Wherever adjusted results are shown, the recorded results for the same periods should also be shown.

(f) In rate applications involving a utility having more than one department, district or exchange, the earnings results should be presented for the total utility operations for the company, as well as for the part of the operations for which rate increases are sought.

(g) Applicant's exhibits must accompany the application and applicant shall state the date it will be ready to proceed with its showing.

(h) The application of a gas, electric, telephone, telegraph, water or heat utility for a general rate increase shall contain a statement by the applicant as to which of the optional methods provided in the Internal Revenue Code applicant has elected to employ in computing the depreciation deduction for the purpose of determining its federal income tax payments, and whether applicant has used the same

method or methods in calculating federal income taxes for the test period for rate fixing purposes.

(i) The application of a gas, electric, telephone, telegraph, water or heat utility for a general rate increase shall contain a statement corresponding to the statement required by Section 2 of General Order No. 104-A, as to all known matters designated by said section for inclusion in the annual report but occurring or proposed subsequent to the period covered by the last annual report filed by applicant; or, if no such matters are known to have so occurred or are known to be then proposed, a statement to that effect; provided, that an applicant whose capital stock, or that of its parent company, is listed on a "national securities exchange," as defined in the Securities Exchange Act of 1934 (15 U.S.C. 78(a) et seq.) in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company if not previously filed with the Commission, provided, further, that an applicant whose capital stock, or that of its parent company, is registered with the Securities and Exchange Commission (S.E.C.) pursuant to the provisions of Section 12(g) of said Securities Exchange Act of 1934, in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company containing the information required by the rules of the S.E.C. if not previously filed with the Commission.

(j) In a general rate increase application involving a telephone utility having an annual operating revenue exceeding \$25,000, the rate of return on a depreciated rate base shall be shown separately for its aggregate exchange operations, for its toll operations, and for the total telephone utility operations of applicant.

(k) In the event that applicant desires to revise the level of rates shown in its original application before hearing on the same, the applicant shall file an Amendment to Application in accordance with Rule 8. Such amendment shall contain a complete revised statement of proposed changes as required by subsection (c) hereof, and the information required by subsections (e), (f) and (j) shall also be revised accordingly.

(l) The application of electrical, gas, heat, telephone, water, or sewer system corporations shall separately state whether or not the increase reflects and passes through to customers only increased costs to the corporation for the services or commodities furnished by it.

NOTE: Authority cited: Section 1701, Public Utilities Code.

HISTORY:

1. New subsection (l) filed 5-18-73; designated effective 9-12-73 (Register 73, No. 20).
2. Repealer of subsection (l) filed 1-18-74; effective thirtieth day thereafter (Register 74, No. 3). Note: Filing states that Resolution L-149, dated January 3, 1974, which rescinds subsection (l) is effective January 3, 1974.

23.1. (Rule 23.1) Compliance with the Economic Stabilization Act of 1970.

NOTE: Authority cited: Section 1701, Public Utilities Code. Additional authority cited: Resolution No. A-4157.

HISTORY:

1. New section filed 5-18-73; designated effective 6-27-72 (Register 73, No. 20).
2. Amendment of subsections (A) (5) (c) and (B) (5) (b) filed 5-18-73; designated effective 7-25-72 (Register 73, No. 20).
3. Repealer filed 8-31-73; effective thirtieth day thereafter (Register 73, No. 35). Note: Filing states that Resolution A-4157, dated August 21, 1973, which rescinds Rule 23.1 is effective August 22, 1973.

24. (Rule 24) Service of Rate Increase Applications.

If the applicant for an authorization to increase rates is a gas, electric, telephone, telegraph, water, or heat utility, or, with respect to passenger fares a street railroad corporation, a passenger stage corporation, a railroad corporation, a vessel common carrier or a passenger air carrier, applicant shall name in its application and, within ten days after filing its application with the Commission, mail a notice to the following stating in general terms the proposed increases in rates or fares: (1) the State, by mailing to the Attorney General and the Department of General Services, when the State is a customer or subscriber whose rates or fares would be affected by the proposed increase; (2) each county, by mailing to the County Counsel (or District Attorney if the county has no County Counsel) and County Clerk, and each city, by mailing to the City Attorney and City Clerk, listed in the current Roster published by the Secretary of State within, from, to, or in which the proposed increase is to be made effective; and (3) any other parties whom applicant deems appropriate. Applicant shall promptly notify the Commission of such mailing. Said notice shall also state that a copy of the application and related exhibits will be furnished by applicant upon written request. Applicant shall also mail copies of said application and related exhibits to such parties and within such times as may be required by the Commission.

Gas, electric, telephone, telegraph, water or heat utilities, within ten days after the filing of the application, shall publish at least once in a newspaper of general circulation in the county within, from or to which the increases are proposed to be made effective a notice, in general terms, of the proposed increases in rates or fares. Such notice shall state that a copy of said application and related exhibits may be examined at the offices of the California Public Utilities Commission in San Francisco or Los Angeles and in such offices of the applicant as are specified in the notice, and shall state the locations of such offices. Proof of such publication shall be filed with the Commission at or prior to the opening of such hearing as may be had upon the application.

Electric, gas, heat, telephone, water, or sewer system corporations, within 45 days, if the corporation operates on a 30-day billing cycle, or within 75 days, if the corporation operates on a 60-day or longer billing cycle, after the filing of an application to

increase any rate of charge, other than an increase reflecting and passing through to customers only increased costs to the corporation, for the services or commodities furnished by it, shall furnish to its customers affected by the proposed increase notice of its application either by mailing such notice postage prepaid to such customers or by including such notice with the regular bill for charges transmitted to such customers. The notice shall state the amount of the proposed increase expressed in both dollar and percentage terms, a brief statement of the reasons the increase is required or sought, and the mailing address of the Commission to which any customer inquiries relative to the proposed increase, including a request by the customer to receive notice of the date, time, and place of any hearing on the application, may be directed.

HISTORY:

1. Amendment filed 9-24-74; effective thirtieth day thereafter (Register 74, No. 39). Note: Filing states Resolution No. A-4304 dated September 17, 1974, which amends Rule 24, is effective September 17, 1974.

**Article 7. Applications of Common Carriers
to Increase Rates Under the Shortened
Procedure Tariff Docket**

(See P.U. Code, Sec. 454, 2d Paragraph)

This article applies to applications of common carriers to increase any rate or so alter any classification, contract, practice or rule as to result in any increase in any rate under the Shortened Procedure Tariff Docket as hereinafter described in this article. Applications and protests under this article are subject to Rules 2, 3 and 7 of Article 2 but are not subject to the other provisions of Article 2 nor the provisions of Article 4 or Article 6.

25. (Rule 25) Applications Under the Shortened Procedure Tariff Docket.

Applications may not be processed under the Shortened Procedure Tariff Docket unless the application shows that, in the knowledge and belief of applicant, the proposed increases:

- (a) Do not require public hearing and the application contains a statement of the facts and circumstances upon which such belief is based, and
- (b) Would not increase applicant's California intrastate gross revenue by as much as one percent.

26. (Rule 26) Verification or Certification and Signatures.

The original of each application shall be verified under oath or certified under penalty of perjury, and shall be signed by the applicant, a responsible officer thereof, or by an agent to whom power of attorney has been given. Applications concerning joint rates or fares shall be signed by or on behalf of all carriers participating therein.

27. (Rule 27) Contents.

Applications shall state clearly and concisely the authority or relief sought and:

- (a) The legal name, mailing address and telephone number of the applicant. If the carriers are numerous, and constitute all the participants of the specified tariff, they may be identified by reference to the tariff.

- (b) The present rates, fares, charges or rules which are proposed to be changed and those proposed to be established.

- (c) Clearly, specifically, and in detail, the justification in support of each authority sought.

- (d) The position of interested parties regarding the application insofar as known to applicant.

28. (Rule 28) Copy of Application upon Request.

Applicant shall promptly furnish a copy of the application to each interested party making a written request therefor to applicant.

29. (Rule 29) Processing and Notice.

The filing of Shortened Procedure Tariff Docket applications shall be listed in the daily calendar. (Rule 48.)

The listing shall identify the applicant and the type of application and briefly state the authority sought and the date of filing. Action on an application shall be withheld for thirty days subsequent to the first date of listing in said calendar.

30. (Rule 30) Protests.

Anyone interested may file a protest which shall:

- (a) State the protestant's full name, mailing address and telephone number.

- (b) State the facts constituting the grounds for protest and show how protestant is affected and why the proposed increase may not be justified.

- (c) State the names of each applicant or its attorney or agent upon whom a copy of the protest is being served pursuant to Rule 31.

- (d) Be verified under oath or certified under penalty of perjury and be signed by protestant or its attorney.

- (e) Be addressed to the California Public Utilities Commission, State Building, San Francisco, California 94102.

- (f) Be forwarded so as to reach the Commission not later than the thirtieth day following the listing of the application in the daily calendar.

31. (Rule 31) Service.

One copy of each protest shall simultaneously be served upon each applicant or its attorney or agent. Service shall be made personally or by deposit in the United States mail of a sealed envelope with first class postage prepaid, containing a true copy of the documents to be served and addressed to the party to be served at the last known address of such party.

32. (Rule 32) Copy of Protest upon Request.

Protestant shall promptly furnish a copy of the protest to each party making a written request therefor to protestant.

Article 8. Applications to Issue Stock
or Evidences of Indebtedness,
or to Assume Liabilities

33. (Rule 33) Contents.

This article applies to applications under Sections 816-830 of the Public Utilities Code. In addition to being drafted to comply with Rules 2 through 8, 15 and 16, such applications shall contain the following data, either in the body of the application or in exhibits attached thereto:

(a) A general description of applicant's property and its field of operation, the original cost of its property and equipment, individually or by class, and the cost thereof to applicant and the depreciation and amortization reserves applicable to such property and equipment, individually or by class. If it is impossible to state original cost, the facts creating such impossibility shall be stated.

(b) The amount and kind of stock, or other evidence of interest or ownership, which applicant desires to issue, and, if preferred, the nature and extent of the preference; the amount of bonds, notes or other evidences of indebtedness which applicant desires to issue, with terms, rate of interest, and whether and how to be secured; the amount and description of the indebtedness which applicant desires to assume.

(c) The purposes for which the securities are to be issued:

(1) If for property acquisition, a detailed description thereof, the consideration to be paid therefor, and the method of arriving at the amount.

(2) If for construction, completion, extension or improvement of facilities, a description thereof in reasonable detail, the cost or estimated cost thereof, and the reason or necessity for the expenditures.

(3) If for improvement of service, a statement of the character of the improvements proposed, or if for maintenance of service, a statement of the reasons why service should be maintained from capital.

(4) If for discharge or refunding of obligations, a full description of the obligations to be discharged or refunded, including the character, principal amount, discount or premium applicable thereto, date of incurrence, date of maturity, rate of interest, and other material facts concerning such obligations, together with a statement showing the purposes for which such obligations had been incurred, or the proceeds expended, and the Commission's decisions, if any, authorizing the incurrence of such obligations.

(5) If for the financing of the acquisition and installation of electrical and plumbing appliances and agricultural equipment which are sold by other than a public utility, for use within the service area of the public utility, a statement of the reason or necessity for such financing.

(6) If for reorganization or readjustment of indebtedness or capitalization, or for retirement or exchange of securities, a full description of the indebtedness or capitalization to be readjusted or

exchanged; complete terms and conditions of the merger, consolidation, exchange or other reorganization; a pro forma balance sheet, if possible, giving effect to such reorganization, readjustment or exchange; and a statement of the reason or necessity for the transaction.

(7) If for reimbursement of moneys actually expended from income, or from any other moneys in the treasury, a general description of the expenditures for which reimbursement is sought, the source of such expenditures, the periods during which such expenditures were made, and the reason or necessity for such reimbursement.

(d) A complete description of the obligation or liability to be assumed by applicant as guarantor, indorser, surety or otherwise, the consideration to be received by applicant, and the reason or necessity for such action.

(e) A statement corresponding to the statement required by Section 2 of General Order No. 104-A, as to all known matters designated by said section for inclusion in the annual report but occurring or proposed subsequent to the period covered by the last annual report filed by applicant; or if no such matters are known to have so occurred or are then known to be proposed, a statement to that effect; provided, that an applicant whose capital stock, or that of its parent company, is listed on a "national securities exchange," as defined in the Securities Exchange Act of 1934 (15 U.S.C. 78(a) et seq.), in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company if not previously filed with the Commission, provided, further, that an applicant whose capital stock, or that of its parent company, is registered with the Securities and Exchange Commission (S.E.C.) pursuant to the provisions of Section 12 (g) of said Securities Exchange Act of 1934, in lieu of the statement required by this rule shall include in the application a copy of the latest proxy statement sent to stockholders by it or its parent company containing the information required by the rules of the S.E.C. if not previously filed with the Commission.

(f) Other pertinent facts. The filing of additional information may be required by the Commission in particular instances.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Article 12, Section 2, California Constitution. Reference: Section 829, Public Utilities Code.

HISTORY:

1. New subsection (g) filed 10-20-82; designated effective 10-20-82 by Resolution 18161, see Government Code Section 11351 (Register 82, No. 43).
2. Repealer of subsection (g) filed 5-1-87; designated effective 4-22-87 by Decision No. 87-04-072, Government Code Section 11351 (Register 87, No. 20).

34. (Rule 34) Exhibits.

With the application shall be filed:

(a) Articles of incorporation and effective amendments. (See Rule 16.)

(b) Financial statement. (See Rule 17.)

(c) Copy of deeds of trust, security agreements, mortgages, conditional sales contracts, notes or other instruments (excluding stock certificates) defining the terms of the proposed securities. If the same have already been filed, the application need only make specific reference to such filings.

(d) Copy of each plan, offer or agreement for the reorganization or readjustment of indebtedness or capitalization or for the retirement or exchange of securities.

Article 9. Applications to Sell, Lease or Encumber Utility Property or Rights; to Merge or Consolidate Facilities; to Acquire Stock of Another Utility; or to Acquire or Control a Utility

35. (Rule 35) Contents.

This article applies to applications under Sections 851-854 of the Public Utilities Code.

In addition to being drafted to comply with Rules 2 through 8, 15 and 16, such applications shall be signed by all parties to the proposed transaction, except the lender, vendor under a conditional sales contract, or trustee under a deed of trust, unless such party is a public utility. In addition, they shall contain the following data:

(a) The character of business performed and the territory served by each applicant.

(b) A description of the property involved in the transaction, including any franchises, permits, or operative rights; and, if the transaction is a sale, lease, assignment, merger or consolidation, a statement of the book cost and the original cost, if known, of the property involved.

(c) Detailed reasons upon the part of each applicant for entering into the proposed transaction, and all facts warranting the same.

(d) The agreed purchase price and the terms for payment. If a merger or consolidation, the full terms and conditions thereof.

(e) Other pertinent facts. The filing of additional information may be required by the Commission in particular cases.

HISTORY:

1. Amendment filed 10-10-75; designated effective 9-30-75 by Resolution A-4418, see Section 11445, Gov. Code (Register 75, No. 41).

36. (Rule 36) Exhibits.

With the application shall be filed:

(a) In consolidation and merger proceedings, a financial statement as outlined in Rule 17. In other transfer proceedings, a balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.

(b) Copy of proposed deed, bill of sale, lease, security agreement, mortgage, or other encumbrance document, and contract or agreement there-

for, if any, and copy of each plan or agreement for purchase, merger or consolidation.

(c) If a merger or consolidation, a pro forma balance sheet giving effect thereto.

37. (Rule 37) Additional Requirements for Carriers.

This rule applies to applications that involve a certificate or operative right under Sections 1005-1010, 1031-1036, or 1061-1067 of the Public Utilities Code.

Highway common carrier applications shall be filed on the proper form available from the license section of the tariff and license branch of the Transportation Division. All applications that involve a certificate or operative right as vessel common carrier, express corporation, freight forwarder, passenger stage corporation, cement carrier, or highway common carrier shall contain the following data:

(a) The territory or points served, the nature of the service, and the effect of the transaction upon present operations or rights of the applicant carrier.

(b) As to the seller, whether it is a party to any through routes or joint rates or fares with any other carrier, and whether operation under the rights involved is presently being conducted. If there has been any suspension or discontinuance of service during the preceding three years, the application shall state those facts and circumstances.

(c) In an application to transfer a cement carrier certificate, evidence such as a freight bill or bill of lading showing that the authority to be transferred has been exercised within the twelve months immediately preceding the date of filing. (See P.U. Code Section 1065.2.)

NOTE: Authority cited: Article 12, Section 2, California Constitution; and Section 1701, Public Utilities Code. Reference: Sections 1007, 1010, 1032 and 1062.

HISTORY:

1. New subsection (c) filed 2-20-76; designated effective 2-10-76 by Resolution A-4491, see Section 11445, Gov. Code (Register 76, No. 8).
2. Amendment filed 7-12-82; designated effective 6-15-82 by Resolution ALJ-148, see Government Code Section 11351 (Register 82, No. 29).
3. Amendment filed 5-1-87; designated effective 4-22-87 by Decision No. 87-04-072, Government Code Section 11351 (Register 87, No. 20).

Article 10. Applications to Construct, Alter or Abolish Railroad Crossings

This article applies to applications under Sections 1201-1205 of the Public Utilities Code, and the requirements hereof are in addition to Rules 2 through 8, 15, and 16.

38. (Rule 38) To Construct a Public Highway Across a Railroad.

Applications to construct a public road, highway, or street across a railroad must be made by the municipal, county, state, or other governmental authority which proposes the construction, and shall contain the following data:

(a) A legal description of the location of the proposed crossing.

(b) Crossing numbers of the nearest existing public crossing on each side of the proposed crossing. (Numbers may be obtained from the crossing sign at the crossing, or from the office of the railroad.)

(c) A statement showing the public need to be served by the proposed crossing.

(d) If the proposed crossing is at grade, a statement showing why a separation of grades is not practicable.

(e) A statement showing the signs, signals, or other protection which applicant recommends be provided at the proposed crossing.

(f) A map of suitable scale (50 to 200 feet per inch) showing accurate locations of all streets, roads, property lines, tracks, buildings, structures or other obstructions to view for a distance of at least 400 feet along the railroad and 200 feet along the highway in each direction from the proposed crossing. Such map shall show the character of surface or pavement and width of same, either existing or proposed, on the street or road adjacent to the proposed crossing and on each side thereof.

(g) A map of suitable scale (1,000 to 3,000 feet per inch) showing the relation of the proposed crossing to existing roads and railroads in the general vicinity of the proposed crossing.

(h) A profile showing the ground line and grade line and rate of grades of approach on all highways and railroads affected by the proposed crossing.

(i) A certificate showing that a copy of the application has been served by mail on the affected railroad corporations.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New subsection (i) filed 3-10-81; designated effective 3-20-81 by Resolution No. ALJ-140, see Section 11445, Government Code (Register 81, No. 11).

39. (Rule 39) To Widen or Relocate an Existing Crossing.

When the political subdivision or governmental authority having jurisdiction desires to widen, relocate, or otherwise alter an existing crossing, the application shall show the information required by Rule 38, supra, except that the crossing number of the crossing proposed to be altered shall be stated, instead of the information required by Rule 38(b).

40. (Rule 40) To Construct a Railroad Track Across a Public Highway.

When a railroad desires to construct a track across a public road, highway or street, it shall mail a copy of its application to the municipal, county, state or other governmental authority having jurisdiction and control over the highway or charged with its construction and maintenance. The original thereof shall contain a certification of such mailing. Such application shall comply with Rule 38(a), (c), (d), (e), (f), (g), and (h), and shall also contain the following information:

(a) There shall be attached to the original application a certified copy of the franchise or permit, if

any be requisite, from the authority having jurisdiction, which gives to the railroad the right to cross the highway involved, and a copy thereof shall be attached to each copy of the application. If such franchise or permit has already been filed, the application need only make specific reference to such filing.

(b) The proposed crossing number shall be stated.

(c) The map referred to in Rule 38(f) shall also show, by distinct colorings or lines, all new tracks or changes in existing tracks, within the limits of the drawing, which are to be made in connection with the construction of the proposed crossing.

41. (Rule 41) To Construct a Railroad or Street Railroad Across a Railroad or Street Railroad.

Applications to construct a railroad track across a railroad or street railroad shall also contain the following:

(a) A map of suitable scale (50 to 200 feet per inch) showing accurate locations of all streets, roads, property lines, tracks, buildings, structures or other obstructions to view in the immediate vicinity.

(b) A map of suitable scale (1,000 to 3,000 feet per inch) showing the relation of the proposed crossing to existing railroads in the general vicinity.

(c) A profile showing the ground line and grade line of approaches on all railroads affected.

(d) A true copy of the contract executed by the parties, or other evidence that the carrier to be crossed is willing that the crossing be installed.

(e) A certificate showing that a copy of the application has been served by mail on the affected railroad corporations.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New subsection (e) filed 3-10-81; designated effective 3-20-81 by Resolution No. ALJ-140, see Section 11445, Government Code (Register 81, No. 11).

Article 11. Other Applications or Petitions

42. (Rule 42) Generally.

(a) Applications and pleadings relating to matters not specifically mentioned in these rules shall be in compliance with Rules 2 through 8, 15 and 16. Inquiries may be directed to the Executive Director of the Commission. An application for authorization to modify the subject matter of a previous related proceeding may incorporate such proceeding by reference.

(b) Except as otherwise specifically provided in this Chapter, this rule governs the service of motions and the timing and service of responses to motions. Motions and responses shall comply with Rules 2, 3, 3.5, 4, 4.5, and 7, shall be filed and served on all parties, and shall contain a certificate of service. Responses to motions shall be filed and served within 15 days of the date that the motion was served, unless the admin-

istrative law judge assigned to the proceeding sets a different date for responses.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

HISTORY:

1. Change without regulatory effect filed 6-2-88; operative 6-2-88 (Register 88, No. 24).
2. Amendment submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

42.1. (Rule 42.1) Deviations from Established Minimum Rates.

(a) Original Deviations. Transportation performed under operating conditions which are unusually favorable, or are substantially different from those considered in establishing the minimum rates, may justify authority from the Commission to assess a rate lower than the established minimum rate for such transportation.

(1) Applications under Section 3666 and 5195. A carrier seeking to assess less than an established minimum rate must file an application which shows its overall financial condition, as well as the transportation conditions that will permit profitable operations to be performed under the proposed rate. The special circumstances under which the particular transportation will be performed should be shown, such as:

1. High frequency of trips
2. Heavy loadweights
3. Available loading and unloading facilities
4. Efficient loading and unloading procedures
5. Special lightweight equipment
6. Any other favorable operating conditions

The cost of performing the service for which a rate lower than minimum is proposed should be shown in appropriate terms, i.e., cost per mile, cost per 100 pounds, cost per load, or cost per hour. The anticipated revenue yield of the transportation to be performed at the sought rate should be measured against the total cost developed for that transportation.

Copies of a sample application form and instructions are available at Commission offices. Copies of the application must be served on all carriers known to be providing this service, and a certificate of service showing the individual carriers served shall be attached to the application. Furthermore, copies of the application must be served on any party who makes a written request for the application, within five (5) calendar days from the postmark on said written request. Depositing a properly addressed and stamped copy of the application in the United States mail shall constitute such service.

(2) Petitions under Section 452. The filing must be made as a petition in the appropriate minimum rate case and shall include all information required by Rule 42.(a) plus a showing that the needs of commerce or the public interest require the requested deviation.

(b) Renewal of Deviations. A carrier seeking renewal of its deviation authority should show its overall operating results and its experience with the particular operations involving the deviation. It should be shown that either increases in operating expenses would be covered by expected revenues or suitable increases in the deviation rate should be requested.

Renewal of existing deviations authorized under Sections 3666 and 5195 are filed under the Special Deviation Docket. Copies of a sample application form and instructions are available at Commission offices.

Renewal of existing deviations authorized under Section 452 are filed under the normal procedure governing all applications. Copies of a sample application form and instructions are available at Commission offices.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 452, 3666 and 5195, Public Utilities Code.

HISTORY:

1. New section filed 3-16-78; designated effective 2-22-78 by Resolution No. L-198. See Section 11445, Government Code (Register 78, No. 11).
2. Amendment of subsection (a) (1) filed 7-13-79; designated effective 7-25-78 by Resolution No. L-199, see Section 11445, Government Code (Register 79, No. 28).
3. Amendment of subsections (a) (1) and (b) submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).
4. Editorial correction of subsection (b) (Register 89, No. 1).

42.2. (Rule 42.2) Protests to Deviations.

(a) Form and Contents of Protest to Minimum Rate Deviations. A protest to an application or petition for authority to assess less than the established minimum rate (s) under Sections 452, 3666, and 5195 of the Public Utilities Code may be filed by any person or entity. The specific facts upon which the protest is based shall be set forth in ordinary and concise language. The protest shall be so drawn as to completely advise the applicant or petitioner and the Commission of the facts constituting the grounds of the protest, the injury complained of and the exact relief which is desired. The protest shall be verified and contain a certificate of service as required by Rules 2 through 8 of the Rules of Practice and Procedure.

A protest to a deviation must be received by the Commission within 20 days of the publication of the filing of the application or petition to deviate in the Commission calendar.

(b) Procedure Upon Filing of Protest. An applicant or petitioner shall be allowed 20 days from the date of the certificate of service of the protest to file in writing any objections or comments it has to the protest, or additional information. The Commission may then, without further argument and without hearing, grant or deny the proposed deviation, or set the matter for hearing. It may also grant the proposed deviation on an interim basis, subject to cancellation or modification after hearing.

HISTORY:

1. New section filed 3-16-78; designated effective 2-22-78 by Resolution No. L-198. See Section 11445, Government Code (Register 78, No. 11).

43. (Rule 43) Petitions for Modification or for Extension of Time or Effective Date.

Petitions for modification of a Commission decision, or for an extension of time to comply with a Commission order or for an extension of an effective date of a Commission order shall indicate the reasons justifying relief and shall contain a certificate of service on all parties. Petitions for modification, other than in highway carrier tariff matters, shall only be filed to make minor changes in a Commission decision or order. Other desired changes shall be by application for rehearing or by a new application. Requests for extension of time to comply with decisions or orders may also be made by letter to the Executive Director. The letter shall indicate that a copy has been sent to all parties.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

HISTORY:

1. Amendment filed 10-10-75; designated effective 9-30-75 by Resolution A-4419. See Section 11445, Gov. Code (Register 75, No. 41).
2. Change without regulatory effect filed 6-2-88; operative 6-2-88 (Register 88, No. 24).

Article 11.5. Applications for Exemption from Undergrounding Rules**43.1. (Rule 43.1) Purpose.**

The purpose of this article is to set standards for the filing of applications for exemption from the rules in Decision No. 80864 (74 CPUC 454) for undergrounding electric and telephone lines.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 320, Public Utilities Code.

HISTORY:

1. New Article 11.5 (Sections 43.1-43.8) filed 8-13-81; designated effective 6-19-81 by Resolution ALJ-143, see Section 11445, Government Code (Register 81, No. 33).

43.2. (Rule 43.2) Other Rules.

Applications shall be drafted to comply with Rules 2 through 8, 15, 16, and 17.1.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 320, Public Utilities Code.

43.3. (Rule 43.3) Description of Project.

Applications shall contain the following information about the project:

- (a) The name of the development or subdivision, if any.
- (b) A map showing the location of the project and any related development or subdivision.
- (c) A legal description, as recorded, of the subdivision or property to which the lines will be extended.
- (d) The length of the line extension proposed.
- (e) The names of the public utilities that will provide service via the line extension.

(f) Whether the deviation from underground requirements will be permanent or temporary, and, if temporary, the approximate period such facilities will be in place before permanent underground facilities are constructed.

(g) Whether electric or telephone lines can be installed in joint trenches with water, gas, or sewer lines.

(h) Whether a Master Plan, Preliminary Map, or Tentative Map was filed pursuant to the Subdivision Map Act before May 5, 1970, the date of filing, and the agency in which the document was filed.

(i) The minimum parcel size within the subdivision or development.

(j) Whether deed restrictions allow more than one single-family dwelling or accommodation on each parcel or any portions of parcels of less than three acres.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 320, Public Utilities Code.

HISTORY:

1. Editorial correction of subsection (h) filed 10-6-83 (Register 83, No. 41).

43.4. (Rule 43.4) Terrain and Environmental Setting.

Applications shall contain the following information about the project's terrain and environmental setting:

(a) The information required by Rule 17.1(d) in the Proponent's Environmental Assessment, when the Commission is the lead agency.

(b) Any unusual environmental circumstances which would cause:

- (1) Injury or danger to persons.
- (2) Landslides, soil erosion, or exposure of trenches.
- (3) Widespread, long-term, or permanent destruction of vegetation.
- (4) Serious property damage.
- (5) Hindrance to other construction or excessive relocation costs in the case of a temporary deviation.

(c) The identity of scenic highways, state or national parks, or any other areas determined by any governmental agency to be of unusual scenic value to the public within 1,000 feet of the proposed overhead lines; a description of the part of the highway, park, or area within 1,000 feet of the line; and a statement whether the lines will be visible from the highway, park, or area.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 320, Public Utilities Code.

43.5. (Rule 43.5) Estimates of Costs.

The application shall include estimates of the costs of undergrounding electric and telephone lines, assuming joint trenching, and of constructing the lines overhead.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 320, Public Utilities Code.

43.6. (Rule 43.6) Justification.

The application shall include a statement of facts justifying exemption from undergrounding rules.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 320, Public Utilities Code.

43.7. (Rule 43.7) Documentation.

The applicant shall attach to the application copies of the following documents:

(a) Environmental Impact Statement, Environmental Impact Report, or Negative Declaration prepared by any public agency having permit authority over the project.

(b) Local ordinances requiring undergrounding.

(c) Local ordinances or land use plans permitting parcels of less than 3 acres.

(d) Local ordinances allowing more than one single-family dwelling or accommodation on each parcel or portion of a parcel of less than 3 acres.

(e) Applications to the utilities for service, all correspondence pertaining to those applications, and a statement whether an agreement to provide overhead service was concluded with the utility before May 5, 1972.

(f) A list of other public agencies (federal, state, regional, county, district, or municipal) from which approval either has been obtained or will be required, and a summary of any action taken by those agencies with respect to the project.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 320, Public Utilities Code.

43.8. (Rule 43.8) Cross-References.

(a) Rule 2—Form and Size of Application.

(b) Rule 3—Title, Caption, and Docket Number.

(c) Rule 4—Signatures.

(d) Rule 5—Verification.

(e) Rule 6—Signature and Verification by Attorney.

(f) Rule 7—Copies.

(g) Rule 8—Amended Pleadings.

(h) Rule 15—Contents of Applications Generally.

(i) Rule 16—Articles of Incorporation.

(j) Rule 17.1—Preparation and Submission of Environmental Impact Reports.

(k) P.U. Code Section 320—Undergrounding Electric and Telephone Lines near Scenic Highways.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Section 320, Public Utilities Code.

Article 12. Filing, Docket, and Daily Calendar

44. (Rule 44) Time and Place of Filing.

Unless otherwise directed, all documents shall be received in the Commission's Docket Office in San Francisco, Los Angeles, or San Diego.

Only hand-delivered documents shall be received by the Los Angeles or San Diego office. First-class postage charges to San Francisco shall be paid at the time documents are tendered to the Los Angeles or San Diego office. Payment of postage charges may be made by personal check or money order. All docu-

ments sent through the mail shall be directed only to the Commission's Docket Office in San Francisco.

Documents received are not considered filed until they have been reviewed for compliance with the Commission's Rules of Practice and Procedure, General Orders and the Public Utilities Code and accepted for filing by the Docket Office in San Francisco.

A document accepted for filing by the Docket Office in San Francisco will be recorded as filed as of the date it was first received by the Commission at its San Francisco, Los Angeles or San Diego office. Rejected documents will be returned to the sender with a statement of the reasons for such rejection.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. Amendment filed 10-10-75; designated effective, 9-30-75 by Resolution A-4420, see Section 11445, Gov. Code (Register 75, No. 41).
2. Amendment filed 11-17-78; designated effective 11-2-78 by Resolution M-4702. See Section 11445, Government Code (Register 78, No. 46).
3. Amendment submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

44.1. (Rule 44.1) Acknowledgments.

Any person who desires an acknowledgment of the filing of any document must so request and must furnish, at the time of filing, an extra copy of the letter of transmittal or of the document, and a self-addressed envelope with postage fully prepaid. The extra copy of the letter of transmittal or of the document will be stamped with the filing stamp and proceeding number and returned by mail to the party tendering the document for filing.

NOTE: Authority cited: Section 1701, Public Utilities Code.

HISTORY:

1. Renumbering from Section 44.1 to Section 44.2 filed 12-8-78; designated effective 11-30-78 by Resolution ALJ-130. See Section 11445, Government Code. (Register 78, No. 49). For history of former Section 44.1, see Register 75, No. 41.
2. New section filed 12-8-78; designated effective 11-30-78 by Resolution ALJ-130. See Section 11445, Government Code (Register 78, No. 49).

44.2. (Rule 44.2) Computation of Time.

The time within which any document may be filed, as provided by any rule or statute or direction of the Commission, the Executive Director, or the presiding officer, shall be so computed as to exclude the first day and include the last day; provided, that when the last day of any such period falls on Saturday, Sunday or a holiday under the laws of this State, the computation of time shall omit such day and include the first business day thereafter.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 10-10-75; designated effective 9-30-75 by Resolution A-4421, see Section 11445, Gov. Code (Register 75, No. 41).

2. Renumbering from Section 44.1 to Section 44.2 filed 12-8-78; designated effective 11-30-78 by Resolution ALJ-130. See Section 11445, Government Code (Register 78, No. 49).
3. Change without regulatory effect filed 6-2-88; operative 6-2-88 (Register 88, No. 24).

45. (Rule 45) Filing Fees.

The following filing fees are required by the Public Utilities Code, or otherwise:

(a) Express Corporations and Freight Forwarders.

(1) Section 1010(b). Each application for a certificate of public convenience and necessity under this section shall be accompanied by a fee of \$500.00.

(2) Section 1010(c). A fee of \$150.00 shall accompany an application to sell, mortgage, lease, assign, transfer, or otherwise encumber a certificate under this section.

(b) Passenger Stage Corporations.

(1) Section 1036(a). Each application for a certificate of public convenience and necessity under this section shall be accompanied by a fee of \$500 unless the applicant is already operating in the immediate vicinity under the jurisdiction of the Commission, in which case the fee shall be \$75.00, pursuant to Section 1904(a).

(2) Section 1036(b). Each application to sell, lease, assign, or otherwise transfer or encumber a passenger stage certificate of public convenience and necessity shall be accompanied by a fee of \$300.00.

(c) Highway Common Carriers and Cement Carriers.

(1) Section 1064. Each application for a certificate of public convenience and necessity under this section shall be accompanied by a fee of \$500.00.

(2) Section 1064.1. A fee of \$150.00 shall accompany an application to acquire or control any highway common carrier or cement carrier or to transfer, lease, mortgage, assign, sell or otherwise encumber any certificate under this section.

(d) Street Railroads, Gas Corporations, Electric Corporations, Telegraph Corporations, Telephone Corporations, Water Corporations, and Common Carrier Vessels.

Sections 1001, 1002, 1007, and 1904(a). A fee of \$75.00 shall accompany each application for a certificate of public convenience and necessity or for the mortgage, lease, transfer, or assignment thereof under these sections.

(e) Passenger Air Carriers.

(1) Section 2754. Each application for a certificate of public convenience and necessity under this section shall be accompanied by a fee of \$150.00.

(2) Section 2756. Each application to sell, mortgage, lease, assign, transfer or otherwise encumber a certificate under this section shall be accompanied by a fee of \$150.00.

(f) Interstate Motor Carrier Operations.

Section 3911. Each application to register an interstate motor carrier operation, whether or not such operation requires authority from the Interstate Commerce Commission, shall be accompanied by a

fee of \$25.00. A fee of \$10.00 shall accompany any additions or amendments to an authority from the Interstate Commerce Commission.

(g) Motor Transportation Brokers.

Section 4842. Each application for a motor transportation broker license or for renewal thereof shall be accompanied by a fee of \$500.00.

(h) Highway Contract Carriers, Agricultural Carriers, Heavy-Specialized Carriers, Tank Truck Carriers, Vacuum Truck Carriers, Cement Contract Carriers, Dump Truck Carriers, and Livestock Carriers.

(1) Section 5004. Each application for a permit, except for a seasonal permit, shall be accompanied by a fee of \$500.00. Each application for a seasonal permit or temporary dump truck carrier permit shall be accompanied by a fee of \$25.00. Each application to acquire or control a highway permit carrier or to sell, mortgage, lease, assign, transfer, or otherwise encumber a permit shall be accompanied by a fee of \$150.00, except that for an application to transfer after the death of a permittee and after court approval of the distribution of the estate, or when it is not necessary to probate the will or distribute the estate through court, the fee is \$25.00.

(2) Section 3771. Each request to suspend a permit shall be accompanied by a fee of \$50.00.

(i) Household Goods Carriers.

Section 5136. Each application for the issuance of a permit shall be accompanied by a fee of \$500.00. The fee for an application to transfer is \$150.00, except after the death of a permittee and after court approval of the distribution of the estate, or when it is not necessary to probate the will or distribute the estate through court, the fee is \$25.00.

(j) Charter-Party Carriers of Passengers.

(1) Section 5373. Each annual application for a permit shall be accompanied by a fee of \$300. Each annual renewal of a certificate shall be accompanied by a fee of \$300.

(2) Section 5373.1. Initial applications for a certificate or permit shall be accompanied by a fee of:

- (A) \$500 for a class A certificate,
- (B) \$500 for a class B certificate,
- (C) \$500 for permits.

(3) Section 5377.1. A transfer fee for a certificate is \$50.00.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1001, 1002, 1007, 1010, 1036, 1064, 1064.1, 1904, 2754, 2756, 3771, 3911, 4842, 5136, 5373, 5373.1 and 5377.1, Public Utilities Code.

HISTORY:

1. Repealer and new section filed 6-26-73; effective thirtieth day thereafter (Register 73, No. 26). Note: filing states that new Rule 45 is to become effective "on and after June 12, 1973."
2. Amendment of subsections (b) and (j) filed 1-23-87; designated effective 12-17-86 by Decision 86-12-055, see Government Code Section 11351 (Register 87, No. 5).
3. Amendment of subsections (c), (d), (h) and repealer of subsection (k) filed 5-1-87; designated effective 4-22-87 by Decision No. 8-04-072, Government Code Section 11351 (Register 87, No. 20).

4. Amendment of subsection (b) submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

46. (Rule 46) Rejection of Documents.

Documents which are not in substantial compliance with these rules, Commission orders, or applicable statutes may be rejected. If rejected, such papers will be returned with an indication of the deficiencies therein. Tendered documents which have been rejected shall not be entered on the Commission's docket. Acceptance of a document for filing is not a determination that the document complies with all requirements of the Commission and is not a waiver of such requirements. The Commission, the Executive Director, or the presiding officer may require amendments of a document and the Commission or the presiding officer may entertain appropriate petitions or motions in connection therewith.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

HISTORY:

1. Amendment filed 10-10-75; designated effective 9-30-75 by Resolution A-4422, see Section 11445, Gov. Code (Register 75, No. 41).
2. Change without regulatory effect filed 6-2-88; operative 6-2-88 (Register 88, No. 24).
3. Change without regulatory effect filed 6-20-88; operative 6-20-88 (Register 88, No. 28).

47. (Rule 47) Docket.

The Chief Administrative Law Judge shall maintain a docket of all proceedings and each new proceeding shall be assigned an appropriate docket number. The docket number will be assigned after preliminary review of the document by the docket office. If this review is not completed on the day the document is presented, the document, if accepted, will be filed as of the date presented. Assignment of a docket number constitutes acceptance of the document for filing.

HISTORY:

1. Amendment filed 7-24-75; designated effective 7-15-75 by Resolution No. L-167, see Section 11445, Gov. Code (Register 75, No. 30).
2. Amendment filed 2-20-76; designated effective 2-10-76 by Resolution A-4503, see Section 11445, Gov. Code (Register 76, No. 8).
3. Amendment filed 7-19-77; designated effective 6-28-77 by Resolution A-4690, see Section 11445, Government Code (Register 77, No. 30).

48. (Rule 48) Daily Calendar.

A daily calendar of newly filed proceedings and proceedings set for hearing shall be available for public inspection at the offices of the Executive Director in San Francisco and Los Angeles. The daily calendar shall indicate the time and place of the next three regularly scheduled Commission meetings. (See Rule 81.5.) Printed copies of such calendar may be obtained by subscription at such price as may be established by the Commission.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

HISTORY:

1. Amendment filed 10-10-75; designated effective 9-30-75 by Resolution A-4423, see Section 11445, Gov. Code (Register 75, No. 41).
2. Change without regulatory effect filed 6-2-88; operative 6-2-88 (Register 88 No. 24).

Article 13. Prehearing Procedure and Exchange of Exhibits

49. (Rule 49) Prehearing Conference.

A presiding officer may hold a prehearing conference for the purposes of formulating or simplifying the issues, arranging for the exchange of proposed exhibits or prepared expert testimony, limitation of number of witnesses, and such other matters as may expedite orderly conduct and disposition of the proceeding.

50. (Rule 50) Facts Disclosed Privileged.

Facts disclosed in prehearing conferences are privileged. Except by agreement, they shall not be used against participating parties, before the Commission or elsewhere, unless proved by evidence other than that employed in disclosing such facts.

Article 13.5. Stipulations and Settlements

51. (Rule 51) Definitions.

The following definitions apply for purposes of this article:

(a) "Party or Parties" means any person on whose behalf an appearance has been filed in the proceeding.

(b) "Commission Proceeding" means an application, complaint, investigation or rulemaking before the California Public Utilities Commission.

(c) "Settlement" means an agreement between some or all of the parties to a Commission proceeding on a mutually acceptable outcome to the proceedings. In addition to other parties to an agreement, settlements in applications must be signed by the applicant and in complaints, by the complainant and defendant.

(d) "Stipulation" means an agreement between some or all of the parties to a Commission proceeding on the resolution of any issue of law or fact material to the proceeding.

(e) "Contested" describes a stipulation or settlement that is opposed in whole or part, as provided in this article, by any of the parties to the proceeding in which such stipulation or settlement is proposed for adoption by the Commission.

(f) "Uncontested" describes a stipulation or settlement that (1) is filed concurrently by all parties to the proceeding in which such stipulation or settlement is proposed for adoption by the Commission, or (2) is not contested by any party to the proceeding within the comment period after service of the stipulation or settlement on all parties to the proceeding.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47). For history of former Section 51, see Registers 74, No. 39 and 74, No. 3.

51.1. (Rule 51.1) Proposal of Settlements or Stipulations.

(a) Parties to a Commission proceeding may stipulate to the resolution of any issue of law or fact material to the proceeding, or may settle on a mutually acceptable outcome to the proceeding, with or without resolving material issues. Resolution shall be limited to the issues in that proceeding and shall not extend to substantive issues which may come before the Commission in other or future proceedings.

(b) Prior to signing any stipulation or settlement, the settling parties shall convene at least one conference with notice and opportunity to participate provided to all parties for the purpose of discussing stipulations and settlements in a given proceeding. Written notice of the date, time, and place shall be furnished at least seven (7) days in advance to all parties to the proceeding. Notice of any subsequent meetings may be oral, may occur less than seven days in advance, and may be limited to prior conference attendees and those parties specifically requesting notice.

(c) Attendance at any stipulation or settlement conference or discussion conducted outside the public hearing room shall be limited to the parties to a proceeding and their representatives.

Parties may by written motion propose stipulations or settlements for adoption by the Commission in accordance with this article. The motion shall contain a statement of the factual and legal considerations adequate to advise the Commission and parties not expressly joining the agreement of its scope and of the grounds on which adoption is urged.

When a settlement pertains to a proceeding under the Rate Case Plan or other proceeding in which a comparison exhibit would ordinarily be filed, the settlement must be supported by a comparison exhibit indicating the impact of the settlement in relation to the utility's application. If the participating staff supports the settlement, it must prepare a similar exhibit indicating the impact of the proposal in relation to the issues it contested, or would have contested, in a hearing.

(d) Stipulations and settlements should ordinarily not include deadlines for Commission approval; however, in the rare case where delay beyond a certain date would invalidate the basis for the proposal, the timing urgency must be clearly stated and fully justified in the motion.

(e) The Commission will not approve stipulations or settlements, whether contested or uncontested, unless the stipulation or settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

51.2. (Rule 51.2) Timing.

Parties to a Commission proceeding may propose a stipulation or settlement for adoption by the Commission (1) any time after the first prehearing conference and (2) within 30 days after the last day of hearing.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

51.3. (Rule 51.3) Filing.

Parties proposing a stipulation or settlement for adoption by the Commission shall concurrently file their proposal in accordance with the rules applicable to pleadings (See Article 2), and shall serve the proposal on all parties to the proceeding.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

51.4. (Rule 51.4) Comment Period.

Whenever a party to a proceeding does not expressly join in a stipulation or settlement proposed for adoption by the Commission in that proceeding, such party shall have 30 days from the date of mailing of the stipulation or settlement within which to file comments contesting all or part of the stipulation or settlement, and shall serve such comments on all parties to the proceeding. Parties shall have 15 days after the comments are filed within which to file reply comments. The assigned administrative law judge may extend the comment and/or response period on motion and for good cause.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

51.5. (Rule 51.5) Contents of Comments.

A party contesting a proposed stipulation or settlement must specify in its comments the portions of the stipulation or settlement that it opposes, the legal basis of its opposition, and the factual issues that it contests. Parties should indicate the extent of their planned participation at any hearing. If the contesting party asserts that hearing is required by law, appropriate citation shall be provided. Any failure by a party to file comments constitutes waiver by that party of all objections to the stipulation or settlement, including the right to hearing to the extent that such hearing is not otherwise required by law.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

51.6. (Rule 51.6) Contested Stipulations and Settlements.

(a) If the stipulation or settlement is contested, pursuant to Rule 51.4, in whole or in part on any material issue of fact by any party, the Commission will schedule a hearing on the contested issue(s) as soon after the close of the comment period as reasonably possible. Discovery will be permitted and should be well underway prior to the close of the comment period. Parties to the stipulation or settlement must provide one or more witnesses to testify concerning the contested issues and to undergo cross-examination by contesting parties. Contesting parties may present evidence and testimony on the contested issues.

(b) The Commission may decline to set hearing in any case where the contested issue of fact is not material or where the contested issue is one of law. In the latter case, opportunity for briefs will be provided.

To ensure that the process of considering stipulations and settlements is in the public interest, opportunity may also be provided for additional pre-hearing conferences and any other procedure deemed reasonable to develop the record on which the Commission will base its decision.

(c) Stipulations may be accepted on the record in any proceeding and the assigned administrative law judge may waive application of these rules to the stipulation upon motion and for good cause shown.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

51.7. (Rule 51.7) Commission Rejection of a Stipulation or Settlement.

The Commission may reject a proposed stipulation or settlement without hearing whenever it determines that the stipulation or settlement is not in the public interest. Upon rejection of the settlement, the Commission may take various steps, including the following:

1. Hold hearings on the underlying issues, in which case the parties to the stipulation may either withdraw it or offer it as joint testimony,

2. Allow the parties time to renegotiate the settlement,

3. Propose alternative terms to the parties to the settlement which are acceptable to the Commission and allow the parties reasonable time within which to elect to accept such terms or to request other relief.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

51.8. (Rule 51.8) Adoption Binding, Not Precedential.

Commission adoption of a stipulation or settlement is binding on all parties to the proceeding in which

the stipulation or settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

51.9. (Rule 51.9) Inadmissibility.

No discussion, admission, concession or offer to stipulate or settle, whether oral or written, made during any negotiation on a stipulation or settlement shall be subject to discovery, or admissible in any evidentiary hearing against any participant who objects to its admission. Participating parties and their representatives shall hold such discussions, admissions, concessions, and offers to stipulate or settle confidential and shall not disclose them outside the negotiations without the consent of the parties participating in the negotiations.

If a stipulation or settlement is not adopted by the Commission, the terms of the proposed stipulation or settlement are also inadmissible unless their admission is agreed to by all parties joining in the proposal.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

51.10. (Rule 51.10) Applicability.

These rules shall apply on and after the effective date of the decision promulgating them in all formal proceedings involving gas, electric, telephone, and Class A water utilities.

In proceedings where all parties join in the proposed stipulation or settlement, a motion for waiver of these rules may be filed. Such motion should demonstrate that the public interest will not be impaired by the waiver of these rules.

Any party in other proceedings before the Commission may file a motion showing good cause for applying these rules to settlements or stipulations in a particular matter. Such motion shall demonstrate that it is in the public interest to apply these rules in that proceeding. Protests to the motion may be oral or written.

Exhibits may be sponsored by two or more parties in a Commission hearing as joint testimony without application of these rules.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

Article 14. Hearings**52. (Rule 52) Notice.**

(1) In complaint or investigation proceedings, the Commission shall give notice of hearing not less than

ten days before the date of hearing, unless it be found that public necessity requires hearing at an earlier date. Comparable notice ordinarily will be given when hearings are held in application proceedings. (See P.U. Code Section 1704.)

(2) Whenever any electrical, gas, heat, telephone, water, or sewer system utility files an application to increase any rate, the utility shall give notice of hearing, not less than five nor more than 30 days before the date of hearing, to entities or persons who may be affected thereby, by posting notice in public places and by publishing notice in a newspaper or newspapers of general circulation in the area or areas concerned, of the time, date, and place of hearing. Proof of publication and sample copies of the notices shall be filed at or before the hearing.

(3) In addition to the notice required by this rule, parties shall provide such notice of hearing as the presiding officer may designate. Sample copies of the notices shall be filed at or before the hearing.

HISTORY:

1. Amendment filed 1-18-74; effective thirtieth day thereafter (Register 74, No. 3). Filing states that Resolution DE-119, dated January 8, 1974, amending Rule 52, is effective January 8, 1974.
2. Amendment filed 9-24-74; effective thirtieth day thereafter (Register 74, No. 39). Note: Filing states Resolution No. A-4304 dated September 17, 1974, which amends Rule 52, is effective September 17, 1974.

53. (Rule 53) Intervention.

In a complaint proceeding petitions to intervene and become a party thereto shall be in writing, shall set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the relief sought. Such a petition shall be served and filed by petitioner at least five days before the proceeding is called for hearing, except for good cause shown. If petitioner seeks a broadening of the issues and shows that they would not thereby be unduly broadened, the petition shall be served and filed by petitioner at least ten days, and the parties may serve and file replies at least five days, before the matter is called for hearing.

Leave will not be granted except on averments which are reasonably pertinent to the issues already presented, but do not unduly broaden them. If leave is granted, the petitioner thereby becomes an intervenor and a party to the proceeding to the degree indicated by the order allowing intervention, or by the presiding officer at the hearing.

54. (Rule 54) Participation Without Intervention.

In an investigation or application proceeding, or in such a proceeding when heard on a consolidated record with a complaint proceeding, an appearance may be entered at the hearing without filing a pleading, if no affirmative relief is sought, if there is full disclosure of the persons or entities in whose behalf the appearance is to be entered, if the interest of such persons or entities in the proceeding and the position intended to be taken are stated fairly, and if the contentions will be reasonably pertinent to the

issues already presented and any right to broaden them unduly is disclaimed.

A person or entity in whose behalf an appearance is entered in this manner becomes a party to and may participate in the proceeding to the degree indicated by the presiding officer.

55. (Rule 55) Consolidation.

Proceedings involving related questions of law or fact may be consolidated.

56. (Rule 56) Motion to Dismiss.

A motion to dismiss (other than a motion based upon a lack of jurisdiction) any proceeding before this Commission, which is based upon the pleadings or any matter occurring before the first day of hearing may only be made upon five days' written notice thereof duly filed and served upon all parties to the proceeding and all other parties upon whom service of copies of the pleadings are therein shown to have been made.

57. (Rule 57) Order of Procedure.

In hearings on complaints, applications and petitions, the complainant, applicant, or petitioner shall open and close.

In hearings on investigation proceedings where filed rates or rules which do not result in an increase have been suspended, the respondent shall open and close. In other investigation proceedings, the Commission's staff shall open and close. Interveners shall follow the parties in whose behalf the intervention is made. The presiding officer, where circumstances warrant, may vary the order of presentation.

58. (Rule 58) Limiting Number of Witnesses.

To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue.

Article 15. Subpoenas

59. (Rule 59) Issuance.

Requests for subpoenas and subpoenas duces tecum should be made to the Executive Director in San Francisco or Los Angeles. The subpoena or subpoena duces tecum shall be issued, signed and sealed, but otherwise in blank. In appropriate circumstances requests for subpoenas and subpoenas duces tecum may be made to the Commission, a Commissioner, an Assistant Executive Director, or an Administrative Law Judge.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

HISTORY:

1. Amendment filed 5-14-76; effective thirtieth day thereafter (Register 76, No. 20). Note: Filing states Resolution No. A-4536 dated April 27, 1976, which amends Rule 59, is effective April 27, 1976.
2. Amendment filed 7-19-77; designated effective 6-28-77 by Resolution A-4690, see Section 11445, Government Code (Register 77, No. 30).
3. Change without regulatory effect filed 6-2-88; operative 6-2-88 (Register 88, No. 24).

60. (Rule 60) Contents and Service.

A subpoena or subpoena duces tecum shall only be served on behalf of a party. Before service all appropriate portions of the blank subpoena or subpoena duces tecum shall be completed, and the name, address, and telephone number of the requesting party shall be included.

Service of subpoenas or subpoenas duces tecum shall be in accordance with the provisions of the Code of Civil Procedure. (See CCP Sec. 1985, et seq.)

HISTORY:

1. Amendment filed 5-14-76; effective thirtieth day thereafter (Register 76, No. 20). Note: Filing states Resolution No. A-4536 dated April 27, 1976, which amends Rule 60, is effective April 27, 1976.

60.1. (Rule 60.1) Affidavit in Support of Subpoena Duces Tecum.

A copy of an affidavit shall be served with a subpoena duces tecum showing good cause for the production of the matters described in such subpoena, specifying the exact matters desired to be produced, setting forth in full detail the relevance thereof to the issues involved in the proceeding, and stating that the witness has the desired matters in his possession or under his control. The original affidavit in support of the subpoena duces tecum shall be filed prior to the time the documents are due to be produced.

NOTE: Authority cited: Section 1701, Public Utilities Code.

HISTORY:

1. New rule filed 5-14-76; effective thirtieth day thereafter (Register 76, No. 20). Note: Filing states Resolution No. A-4536 dated April 27, 1976, adding Rule 60.1 i. effective April 27, 1976.

61. (Rule 61) Motions to Quash or for Protective Orders.

An original and one copy of a motion to quash a subpoena or subpoena duces tecum or for a protective order may be filed prior to the time that appearance or production is required. A certificate of service indicating service on the party who obtained the subpoena or subpoena duces tecum shall accompany the motion. The presiding officer may require service on additional parties. The presiding officer shall then give such notice of the procedure he intends to follow on the motion as time permits. If no notice is feasible, argument on the motion shall be heard at the time that appearance or production is required.

If time does not permit filing a motion it may be submitted to the presiding officer or made orally at a hearing.

Motions must contain the legal basis for the motion and any supporting authorities.

HISTORY:

1. Amendment filed 5-14-76; effective thirtieth day thereafter (Register 76, No. 20). Note: Filing states Resolution No. A-4536 dated April 27, 1976, which amends Rule 61, is effective April 27, 1976.

Article 16. Presiding Officers**62. (Rule 62) Designation.**

When evidence is to be taken in a proceeding before the Commission, one or more of the Commissioners, or an Administrative Law Judge, may preside at the hearing.

HISTORY:

1. Amendment filed 7-19-77; designated effective 6-28-77 by Resolution A-4690, see Section 11445, Government Code (Register 77, No. 30).

63. (Rule 63) Authority.

The presiding officer may set hearings and control the course thereof; administer oaths; issue subpoenas; receive evidence; hold appropriate conferences before or during hearings; rule upon all objections or motions which do not involve final determination of proceedings; receive offers of proof; hear argument; and fix the time for the filing of briefs. He may take such other action as may be necessary and appropriate to the discharge of his duties, consistent with the statutory or other authorities under which the Commission functions and with the rules and policies of the Commission.

Article 17. Evidence**64. (Rule 64) Form and Admissibility.**

Although technical rules of evidence ordinarily need not be applied in hearings before the Commission, substantial rights of the parties shall be preserved.

65. (Rule 65) Rulings.

The presiding officer shall rule on the admissibility of all evidence. Such rulings may be reviewed by the Commission in determining the matter on its merits. In extraordinary circumstances, where prompt decision by the Commission is necessary to promote substantial justice, the presiding officer may refer the matter to the Commission for determination.

66. (Rule 66) Objections and Exceptions.

When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. Formal exceptions to rulings are unnecessary and need not be taken.

67. (Rule 67) Offer of Proof.

An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained.

68. (Rule 68) Prepared Testimony.

With the approval of the presiding officer, a witness may read into the record his or her testimony on direct examination. Before any prepared testimony is read, unless excused by the presiding officer, the witness shall deliver copies to the presiding officer, the reporter, and all counsel or parties. Admissibility shall be subject to the rules governing oral testimony. If the presiding officer deems that substantial saving in time will result, and where the parties so agree, prepared testimony may be identi-

fied and accepted as an exhibit or copied into the record without reading, provided that copies shall have been served upon all parties and the Commission ten days before the hearing or such prior service is waived.

Prepared testimony of more than 20 pages must contain a subject index.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. Amendment submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

69. (Rule 69) Documentary Evidence.

(a) If relevant and material matter offered in evidence is embraced in a document containing other matter, the party offering it shall designate specifically the matter so offered. If other matter in the document would unnecessarily encumber the record, the document will not be received in evidence, but at the discretion of the presiding officer, the relevant and material matter may be read into the record or copies thereof received as an exhibit. Other parties shall be afforded opportunity to examine the document, and to offer in evidence other portions thereof believed material and relevant.

(b) Certification of Documents. 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 such document or records have been certified under penalty of perjury by the person preparing or in charge of preparing them as being true and correct, unless the person preparing them is dead or has been declared incompetent, in which case any other person having knowledge of such statements of fact may certify such 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. 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 such documents into evidence.

HISTORY:

1. New subsection (b) filed 8-17-77; designated effective 8-8-77 by Resolution A-4692, see Section 11445, Government Code (Register 77, No. 34).

70. (Rule 70) Exhibits.

Exhibits shall be legible and either prepared on paper not exceeding 8 1/2 x 13 inches in size, or bound or folded to that approximate size. Wherever practicable, the sheets of each exhibit should be numbered, and rate comparisons and other figures shall be set forth in tabular form. Copies of exhibits must be clear and permanently legible. The top sheet of an exhibit must have a blank space two inches high by four inches wide to accommodate the Commission's exhibit stamp.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. Amendment submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

71. (Rule 71) Copies.

When exhibits are offered in evidence, the original shall be furnished to the presiding officer and a copy to the reporter and to each party, unless the presiding officer directs otherwise.

72. (Rule 72) Commission Records.

If any matter contained in a document on file as a public record with the Commission is offered in evidence, unless directed otherwise by the presiding officer, such document need not be produced as an exhibit, but may be received in evidence by reference, provided that the particular portions of such document are specifically identified and are competent, relevant and material. If testimony in proceedings other than the one being heard is offered in evidence, a copy thereof shall be presented as an exhibit, unless otherwise ordered by the presiding officer.

73. (Rule 73) Official Notice of Facts.

Official notice may be taken of such matters as may be judicially noticed by the courts of the State of California.

74. (Rule 74) Additional Evidence.

At the hearing, the presiding officer may require the production of further evidence upon any issue. Upon agreement of the parties, he may authorize the filing of specific documentary evidence as a part of the record within a fixed time after submission reserving exhibit numbers therefor.

Article 17.1. Access to Computer Models

74.1. (Rule 74.1) Purpose.

The purpose of this article is to establish procedures relating to the use of computer models for developing exhibits or testimony and the access to computer models for cross-examination or rebuttal.

NOTE: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821-1822, Public Utilities Code.

74.2. (Rule 74.2) Definitions.

When used in this Article, whether in the singular or in the plural, the following terms shall have the following meanings:

(a) "Access" means the ability of a party to examine, use or verify any other party's computer model or data base that is the basis for the other party's testimony or exhibits to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence.

(b) "Computer model" means a computer program created to simulate or otherwise represent some physical phenomenon or utility function, by using input data and producing output based on those data.

(c) "Computer program" means a set of instructions which directs a computer to follow a specific processing sequence.

(d) "Input data" means the data to be processed by the computer in a computer run.

(e) "Output data" means the data resulting from a computer run.

(f) "Party" means any person who has filed an appearance in the proceeding, or who has indicated an intention to file an appearance at the first opportunity.

(g) "Proceeding" means any application, investigation, rulemaking, or complaint before the Commission.

(h) "Run" means an execution by a computer of a computer program resulting in output.

(i) "Sponsoring party" means a party sponsoring testimony or an exhibit that is based in whole or in part on a computer model.

(j) "Verification" or "verify" means to assess the extent to which a computer model mimics reality, and may include checking or testing:

(1) The reliability of the computer equipment used to input the data, process it, and produce output;

(2) The manner and accuracy of inputting data into the computer model;

(3) The reliability and accuracy of computer model used for processing data; and

(4) The sensitivity of the output of the computer model to changes in its input data.

NOTE: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821-1822, Public Utilities Code.

74.3. (Rule 74.3) Computer Model Equations, Input, and Documentation.

(a) Any party who submits testimony or exhibits in a hearing or proceeding which are based in whole, or in part, on a computer model shall provide to all parties, the following information:

(1) A description of the source of all input data;

(2) The complete set of input data (input file) as used in the sponsoring party's computer run(s);

(3) Documentation sufficient for an experienced professional to understand the basic logical processes linking the input data to the output, including but not limited to a manual which includes:

(i) A complete list of variables (input record types), input record formats, and a description of how input files are created and data entered as used in the sponsoring party's computer model(s).

(ii) A complete description of how the model operates and its logic. This description may make use of equations, algorithms, flow charts, or other descriptive techniques.

(iii) A description of a diagnostics and output report formats as necessary to understand the model's operation.

(4) A complete set of output files relied on to prepare or support the testimony or exhibits; and

(5) A description of post-processing requirements of the model output.

(b) The information specified in subsection (a) shall be submitted either as part of the testimony or exhibit or included in workpapers. Such workpapers shall be available to any party upon request at the time the testimony or exhibit is first served or filed.

NOTE: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821-1822, Public Utilities Code.

74.4. (Rule 74.4) Computer Model and Data Base Access.

(a) Each party to a proceeding which intends to seek access to a computer model or data base pursuant to Rule 74.4, when it first requests access, shall serve on the sponsoring party a written explanation of why it requests access to the information and how its request relates to its interest or position in the proceedings.

(b) In addition to the documentation required by Rule 74.3, each party using a computer model or data base which is the basis, in whole or in part, for its testimony or exhibits in a proceeding shall provide reasonable access to, and explanation of, that computer model or data base to all parties complying with Rule 74.4(a). Immediately upon service of any testimony or exhibit, any computer model or data base that is used for the testimony or exhibit shall be reasonably accessible to the Commission staff and other parties complying with Rule 74.4 (a).

(c) If a party requests access to a data base, the sponsoring party may, at its election, either (i) provide such access on its own computer, (ii) perform any data sorts requested by the requesting party, (iii) make the data base available to the requesting party to run on the requesting party's own computer, or (iv) make the data base available through an external computer service.

(d) If a party requests access to a computer model, the sponsoring party, may at its election, either (i) make the requested runs on its own computer, (ii) make the model available to the requesting party to run on that party's own computer, or (iii) have the requested model run produced for the requesting party by an external computer service.

(e) Requests for access pursuant to subsections (c) and (d) shall be limited to a reasonable number of runs as agreed to by sponsoring and requesting parties. If the parties are unable to agree, the sponsoring party may seek relief pursuant to Rule 74.6 before providing such access.

(f) The sponsoring party, in providing access pursuant to subsections (c) and (d), is not required to modify its computer model or data base in order to accommodate a request, or to install its model on the requesting party's computer, or to provide detailed training on how to operate the model beyond provision of written documentation. The sponsoring party is not required to provide a remote terminal or other direct physical link to its computer for use by the requesting party. The sponsoring party may take reasonable precautions to preclude access to other software or data not applicable to the specific model or data base being used.

(g) Within five business days of receipt of a request from a requesting party pursuant to this Rule, the sponsoring party shall indicate whether the request is clear and complete and shall provide the requesting party a written estimate of the date of completion of the response. If the requesting party deems the time estimate unacceptable, it may make a motion for expedited response pursuant to Rule 74.6.

NOTE: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821-1822, Public Utilities Code.

74.5. (Rule 74.5) Model and Data Modifications.

(a) Except as provided in subsection (b), a party shall be required to maintain copies of computer models and data bases in unmodified form throughout the length of a proceeding if they continue to provide the basis, in whole or in part, for that party's showing. For purposes of this article, the length of a proceedings shall be considered to extend 90 days after the date of issuance of the Commission's last order or decision in the proceeding, including any order or decision on applications for rehearing filed in accordance with Rule 85 of the Commission's Rules of Practice and Procedure.

(b) Where a party's computer model provides the basis, in whole or in part, for its showing in a proceeding, and notwithstanding subsection (a), such party may thereafter modify the computer model or the data, and may introduce the results so produced in the proceeding, on the condition that such party has provided timely access to the modified model or data to any requesting party who has previously requested access to the original model or data. Each party who relies on the modified model or data shall provide the modification to all parties at least 10 calendar days prior to its use in the proceeding.

NOTE: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821-1822, Public Utilities Code.

74.6. (Rule 74.6) Relief of Parties.

(a) Any party may make a motion seeking relief concerning a dispute regarding access to computer models or data bases under the Commission's current practices governing discovery disputes. Such motion shall be made in writing, shall be served upon all parties to the proceeding, and shall state clearly and concisely the grounds and authority for the requested relief. The grounds and extent of available relief are the same as those that excuse or limit the obligation to respond to other types of discovery requests. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each presented by the motion.

(b) Responses to a motion under Rule 74.6(a) shall be filed and served within 15 days of the date the motion was served.

NOTE: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821-1822, Public Utilities Code.

74.7. (Rule 74.7) Confidential and Proprietary Information.

Each sponsoring party who objects to providing access to any computer model, data base, or other information which is used in a computer model pursuant to this article, on the grounds that the requested material is confidential, proprietary, or subject to a licensing agreement, shall file a motion for a protective order. The motion shall be filed concurrently with the service of the testimony or exhibit which is based in whole, or in part, upon the matters to be protected. Any party may file and serve an answer to the motion for a protective order within 15 days after such motion was served. The assigned administrative law judge, for good cause shown, may make any ruling to protect confidential, proprietary or licensed information from unwarranted disclosure.

NOTE: Authority cited: Section 1822(d), Public Utilities Code. Reference: Sections 1821-1822, Public Utilities Code.

Article 18. Briefs and Oral Arguments

75. (Rule 75) Briefs.

The presiding officer may fix the time for the filing of briefs. Concurrent briefs are preferable. Exhibits may be reproduced in an appendix to a brief. Citations to the transcript in a proceeding must indicate the transcript page number(s) and identify the party and witness sponsoring the cited testimony. A brief of more than twenty pages shall contain a subject index, a table of authorities, and a summary of the briefing party's recommendations following the table of authorities. Requests for extension of time to file briefs must be made to the Commission in writing, and a copy served upon or mailed to the other parties to the proceeding. Ordinarily, when a matter has been submitted on concurrent briefs, extensions will not be granted unless a stipulation is filed with the Commission. The original of each brief shall contain a certification that copies have been served upon or mailed to each party or the party's attorney.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. Amendment submitted to OAL for filing with the Secretary of State pursuant to Government Code Section 11351 filed 9-19-88 (Register 88, No. 39).

76. (Rule 76) Oral Argument.

If the Commission or the presiding officer is of the opinion that the complexity or importance of the issues so warrant, the Commission or the presiding officer may direct or permit the presentation of oral argument.

HISTORY:

1. Editorial correction relocating Section 76 in Article 18 (Register 82, No. 43).

Article 18.5. Rules for Implementation of
PURPA Section 122(a) (2)

76.01. (Rule 76.01) Purpose.

The purpose of this article is to establish procedures for awarding reasonable fees and costs to consumers of electric utilities pursuant to PURPA Section 122(a) (2).

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: PL 95-617.

HISTORY:

1. New Article 18.5 (Sections 76.01-76.10) filed 8-13-80; designated effective 7-27-80 by Public Utilities Commission Decision No. 91909, see Section 11445, Government Code (Register 80, No. 33).

76.02. (Rule 76.02) Definitions.

When used in this article:

(a) "PURPA" means Public Utility Regulatory Policies Act of 1978.

(b) "Compensation" means reasonable attorneys' fees, expert witness fees, and other reasonable costs.

(c) "PURPA position" means a factual contention, legal contention, or specific recommendation promoting one of the following PURPA purposes and relating to one or more of the following PURPA subtitle B standards:

(1) PURPA purposes:

(A) Conservation of energy supplied by electric utilities

(B) Optimization of the efficiency of use of facilities

(C) Equitable rates to electric consumers

(2) PURPA Ratemaking Standards:

(A) Cost of Service—S 111(d) (1)

(B) Declining Block Rates—S 111(d) (2)

(C) Time-of-Day Rates—S 111(d) (3)

(D) Seasonal Rates—S 111(d) (4)

(E) Interruptible Rates—S 111(d) (5)

(F) Load Management Techniques—S 111(d) (6)

(3) Other PURPA Standards:

(A) Master Metering—S 113(b) (1)

(B) Automatic Adjustment Clauses—S 113(b) (2)

(C) Information to Consumers—S 113(b) (3)

(D) Procedures for Termination of Electric Service—S 113(d) (4)

(E) Advertising—S 113(d) (5)

(d) "Consumer" means any retail electric consumer of an electric utility, any authorized representative of such a consumer, or any representative of a group or organization authorized, pursuant to articles of incorporation or by-laws, to represent the interests of consumers.

(e) "Expert witness fees" means recorded or billed costs incurred by a consumer for an expert witness with respect to a PURPA issue.

(f) "Other reasonable costs" means reasonable out-of-pocket expenses incurred by a consumer with respect to a PURPA issue not exceeding twenty-five percent (25%) of the total of reasonable attorneys' fees and expert witness fees awarded.

(g) "Party" shall mean any interested party, respondent, utility, or Commission staff of record in a proceeding.

(h) "Proceeding" shall mean any application, case, investigation, or other procedure of the Commission related to or involving electric rates or rate design which is initiated after the date the rules herein become effective and in which a PURPA position is considered.

(i) "Reasonable fees" shall be computed at prevailing market rates for persons of comparable training and experience who are offering similar services. In no event shall such fees exceed those paid by the Commission or the utility, whichever is greater, for persons of comparable training and experience who are offering similar services.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: PL 95-617.

HISTORY:

1. Amendment of subsection (h) filed 2-11-81; designated effective 1-6-81 by Decision No. 91909, see Section 11445, Government Code (Register 81, No. 7).

76.03. (Rule 76.03) Consumer's Request.

Within 30 days of the first prehearing conference in a proceeding or within 45 days after the close of the evidentiary record, the consumer shall file with the Commission's Docket Office and serve on the parties known or contemplated at that time a Request for Finding of Eligibility for Compensation, in compliance with Rules 2, 3, 4, 6, and 7, and with an attached certificate of service by mail on appearances. In cases where no prehearing conference is scheduled or where the ALJ anticipates the proceeding will take less than 30 days, the ALJ shall determine the procedure to be used for filing petitions for reimbursement. In all cases, the petition for reimbursement must set forth the following:

(a) A showing that, but for the ability to receive compensation under these rules, participation or intervention in the proceeding may be a significant financial hardship for such consumer. Such showing shall include a specific budget for the representation and a summary description of the finances of the consumer which distinguishes between grant funds committed to specific projects and discretionary funds.

(b) A statement of the PURPA issues which the consumer intends to raise in the proceeding, together with a statement of the consumer's position on each such issue.

(c) A showing addressing representation of persons with the same or similar interests by a common legal representative.

(d) An estimate of the compensation to which the consumer believes it may be entitled to at any stage of the proceeding and the basis for such estimate, including a budget.

(e) For a consumer who claims to represent the interests of other consumers, a showing which includes the articles of incorporation, by-laws, membership structure, composition of Board of Directors,

and newsletter circulation, if any, along with a summary description of the previous work of the consumer.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: PL 95-617.

HISTORY:

1. Amendment filed 2-11-81; designated effective 1-6-81 by Decision No. 91909, see Section 11445, Government Code (Register 81, No. 7).
2. Amendment filed 3-27-85; designated effective 3-8-85, see Section 11351, Government Code (Register 85, No. 13).

76.04. (Rule 76.04) Showing of Other Parties.

Except as provided by the ALJ in accordance with Rule 76.03, the Commission staff shall file with the Commission's Docket Office a statement within ten days after the consumer's filing or 30 days after the commencement of the proceeding, whichever occurs later, declaring whether it intends to take a position different from the consumer. Any other party may file comments on a consumer's request within ten days after the request is filed. The filings under this Rule shall comply with Rules 2, 3, 4, 6, and 7, and be accompanied by a certificate of service on appearances by mail.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: PL 95-617.

HISTORY:

1. Amendment filed 2-11-81; designated effective 1-6-81 by Decision No. 91909, see Section 11445, Government Code (Register 81, No. 7).

76.05. (Rule 76.05) Commission Ruling.

The Commission shall issue a ruling as to the following items:

(a) Whether or not the consumer has met its burden of showing "significant financial hardship" pursuant to Rule 76.05(c).

(b) A designation, if appropriate, of the "common legal representative" to represent persons with the same or similar interests as provided for in PURPA Section 122(a)(2), which designation shall be binding for the remainder of the proceeding.

(c) Whether or not "Significant financial hardship" has been shown by consumers

(1) who have, or represent, an interest

(A) which would not otherwise be adequately represented in the proceeding, and

(B) representation of which is necessary for a fair determination in the proceeding, and

(C) who are, or represent an interest which is, unable to effectively participate or intervene in the proceeding because such persons cannot afford to pay reasonable attorneys' fees, expert witness fees, and other reasonable costs of preparing for, and participating or intervening in, such proceeding (including fees and costs of obtaining judicial review of such proceeding).

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: PL 95-617.

HISTORY:

1. Amendment filed 3-27-85; designated effective 3-8-85, see Section 11351, Government Code (Register 85, No. 13).

76.06. (Rule 76.06) Compensation Filings of Consumer.

Following issuance of a Commission order or decision during a proceeding pursuant to Rule 76.05 a consumer may file a request for compensation with the Docket Office. The filing shall comply with Rules 2, 3, 4, 6, and 7, and shall have a certificate of service by mail on appearances attached. Such request shall include a detailed description of hourly services and expenditures or invoices for which compensation is sought. To the extent possible, this breakdown of services and expenses should be related to specific PURPA issues. The request shall also describe how the consumer has substantially contributed to the adoption, in whole or in part, in a Commission order or decision, of a PURPA position advocated by the consumer related to a PURPA standard. "Substantial contribution" shall be that contribution which, in the judgment of the Commission, substantially assists the Commission to promote a PURPA purpose in a manner relating to a PURPA standard by the adoption, at least in part, of the consumer's position. A showing of substantial contribution shall include, but not be limited to, a demonstration that the Commission's order or decision has adopted factual contention(s), legal contention(s), and/or specific recommendation(s) presented by the consumer.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: PL 95-617.

HISTORY:

1. Amendment filed 2-11-81; designated effective 1-6-81 by Decision No. 91909, see Section 11445, Government Code (Register 81, No. 7).

76.07. (Rule 76.07) Staff Audit of Consumer's Records.

At the direction of the Commission, the Commission staff may audit the records and books of the consumer to the extent necessary to verify that compensation sought is reasonable. Within twenty days after completion of the audit, if any, an audit report shall be filed with the Commission.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: PL 95-617.

76.08. (Rule 76.08) Commission Decision.

Within 75 days of the filing of a request for compensation or within 50 days after the filing of the staff audit report, if any, the Commission shall issue a decision describing the contribution found to have been made and the compensation awarded.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: PL 95-617.

HISTORY:

1. Amendment filed 3-27-85; designated effective 3-8-85, see Section 11351, Government Code (Register 85, No. 13).

76.09. (Rule 76.09) Payment of Compensation.

The electric utility shall pay any award of compensation to the consumer within 30 days after the Commission's decision is issued, unless a timely application for rehearing with respect to the issue of compensation is filed, in which case no payment will

be required until an order denying rehearing or an order after rehearing is issued.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: PL 95-617.

76.10. (Rule 76.10) Consumer Request After Hearings Commence.

(a) A consumer who has not requested a finding of eligibility for compensation pursuant to Rule 76.03 may make such a request after hearings have begun. Such request shall not be granted unless all the requirements of Rule 76.03 are met and the consumer can demonstrate that absent participation by the consumer, an important issue relating to a PURPA standard has not or will be adequately considered in the proceeding. In no event may such a request be filed after Day 110 in an electric rate case subject to the Regulatory Lag Plan as adopted by Resolution No. M-4706 (adopted June 5, 1979).

(b) A request pursuant to this Rule shall be filed within five days of the date of the appearance by the consumer in the proceeding. Any comment by the staff or any party, in the nature of that described in Rule 76.04, shall be filed within five working days of the consumer's request. A ruling in the nature of that described in Rule 76.05 shall at the first regularly scheduled conference after the filing of the consumer's request. All filings pursuant to this Rule shall comply with Rules 2, 3, 4, 6, and 7 and shall have a certificate of service on appearances by mail attached.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: PL 95-617.

76.11. Provisions for Reimbursement.

For cases which were pending on the date these rules became effective, where the rules concerning time for filing requests for eligibility and reimbursement, the time for filing responses thereto, and time for a Commission decision thereon cannot be met, parties may file requests for reimbursement in compliance with all of the remaining rules. Such requests must be filed within 60 days of the date the order adopting this rule is made effective. The Commission will consider all such requests on an individual basis. The exception established by this rule is not applicable to cases in which a decision on the relevant PURPA issue or issues was issued prior to July 28, 1980.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code; Stats. 1947, Ch. 1425.

HISTORY:

1. New section filed 2-11-81; designated effective 1-6-81 by Decision No. 91909, see Section 11445, Government Code (Register 81, No. 7).

Article 18.6. Procedure for Awarding Compensation to Public Participants in Commission Proceedings

76.21. (Rule 76.21) Purpose.

The purpose of this article is to establish procedures for awarding reasonable fees and costs to

participants in proceedings before this Commission that were initiated on or before December 31, 1984.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

HISTORY:

1. New Article 18.6 (Sections 76.21-76.32) filed 5-5-83; designated effective 5-6-83 pursuant to Government Code Section 11351 (Register 83, No. 19).
2. Amendment filed 3-27-85; designated effective 3-8-85, see Section 11351, Government Code (Register 85, No. 13).

76.22. (Rule 76.22) Definitions.

(a) "Compensation" means reasonable advocate fees, expert witness fees, and other reasonable costs.

(b) "Issue" means an issue relating to the rates, charges, service, facilities, practices, or operations of one or more of the public utilities of this State that are regulated by this Commission.

(c) "Position" means a factual contention, legal contention, or specific recommendation by a party relating to an issue to be addressed in a Commission proceeding.

(d) "Participant" means any individual, group of individuals, organization, association, partnership, or corporation taking part or intending to take part in a Commission proceeding. For the purpose of these rules the term participant does not include governmental entities nor any entity which, in the Commission's reasoned opinion, was established or formed by a governmental entity for the purpose of participating in a Commission proceeding.

(e) "Expert Witness Fees" means recorded costs incurred in connection with a commission proceeding by a participant with respect to an issue and confirmed by the Commission to be reasonable.

(f) "Other Reasonable Costs" shall include out-of-pocket expenses incurred by the participant with respect to an issue but shall not normally exceed 25% of the reasonable advocate fees and expert witness fees awarded. The burden of establishing that any costs incurred were reasonable is on the participant.

(g) "Party" means any interested party, respondent, utility, complainant, protestant, or Commission staff of record in a proceeding.

(h) "Proceeding" means any application, case, investigation, rulemaking, or other formal matter before the Commission.

(i) "Reasonable Fees" means fees recorded by the participant in support of its participation in a proceeding. Reasonableness shall be computed at the prevailing market rates for persons of comparable training and experience who are offering similar services. In no event shall such fees (as distinguished from employee salaries) exceed those paid by the Commission or the utility, whichever is greater, for persons of comparable training and experience who are offering similar services.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

HISTORY:

1. Amendment of subsection (d) filed 1-27-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 5).

76.23. (Rule 76.23) Participant's Request.

As soon after the commencement of a proceeding as is reasonably possible, but in any event before the beginning of evidentiary hearings in the proceeding, or after evidentiary hearings are completed, the participant shall file with the Commission's Docket Office and serve on all the parties to the proceeding a Notice of Intent to Claim Compensation, in compliance with Rules 2, 3, 4, 5, 6, and 7 and with an attached certificate of service by mail on appearances. In all cases, the Notice of Intent must set forth the following:

(a) A showing that, but for the ability to receive compensation under these rules, participation or intervention in the proceeding may be a significant financial hardship for such participant. Such showing should address the factors set forth in Rule 76.25(a)(1) or (2). A summary description of the finances for the participant should distinguish between grant funds committed to specific projects and discretionary funds. If the Commission has determined that the participant has met its burden of showing financial hardship previously in the same calendar year, participant shall make reference to that decision by number to satisfy this requirement.

(b) In every case, a specific budget for the participation shall be filed showing the total compensation which the participant believes it may be entitled to the basis for such estimate, and the extent of financial commitment to the participation. If at any time during the proceeding changes in the issues, scope, or positions of parties cause a fluctuation of more than 20%, plus or minus, in the estimated budget, the participant shall file an amended budget and serve it on all parties.

(c) A statement of the nature and extent of planned participation in the proceeding as far as it is possible to set it out when the Notice of Intent to Claim Compensation is filed.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

HISTORY:

1. Amendment of first paragraph filed 1-27-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 5).

76.24. (Rule 76.24) Showing of Other Parties.

The Commission staff and any other party to the proceeding may file a statement within 15 days after the participant's filing commenting on any portion of that filing and making appropriate recommendations to the Commission. The filings under this Rule shall comply with Rules 2, 3, 4, 5, 6, and 7 and be accompanied by a certificate of service by mail on appearances.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

HISTORY:

1. Amendment filed 1-27-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 5).

76.25. (Rule 76.25) Commission Ruling.

Within 45 days after the comments of staff and other parties are due, the Commission shall issue a decision ruling on:

(a) Whether the participant has met its burden of showing significant financial hardship in this proceeding or in a prior proceeding in the same calendar year. This can be shown by participants:

(1) Who have, or represent an interest:

(A) Which would not otherwise be adequately represented in the proceeding, and

(B) Whose representation is necessary for a fair determination in the proceeding, and

(C) Who have, or represent an interest but are unable to participate effectively in the proceeding because such person(s) cannot afford to pay reasonable advocate fees, expert witness fees, and/or other reasonable costs of preparing for, and participating in such proceeding (including fees and costs of obtaining judicial review of such proceeding), or

(2) Who, in the case of a group or organization, demonstrate that the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. Such showing shall constitute a prima facie demonstration of need as required by Rule 76.25(a)(1)(C).

The Commission may also point out similar positions, areas of potential duplication in showings, unrealistic expectations for compensation, and any other matter of which it is aware which would affect the participant's ultimate claim for compensation. Failure of the Commission to point out similar positions or potential duplication or any other potential impact on the ultimate claim for compensation shall not imply approval of any claim for compensation. A finding of significant financial hardship in no way ensures compensation.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

76.26. (Rule 76.26) Compensation Filings of Participant.

Within 30 days following the issuance of a Commission order or decision for which a ruling under Rule 76.25 has been made, a participant may file a request for compensation with the Docket Office. The filing shall comply with Rules 2, 3, 4, 5, 6, and 7 and shall have attached a certificate of service by mail on appearances. Such a request shall include a detailed description of hourly services and expenditures or invoices for which compensation is sought. This breakdown of services and expenses shall be related to specific issues. The request shall also describe how the participant has substantially contributed to the adoption, in whole or in part, in a Commission order or decision, of an issue. In order to be eligible for compensation, a participant must raise

a different issue, present or elicit new or different evidence, raise new or different arguments in support of a position or take a different position from that of the staff and any other party.

In proceedings where some or all of the relief sought by a participant is obtained without a Commission order or decision the participant may be entitled to compensation by clearly establishing a causal relationship between its participation and such relief.

“Substantial contribution” shall be that contribution which, in the judgment of the Commission, greatly assists the Commission to promote a public purpose in a matter relating to an issue by the adoption, at least in part, of the participant’s position. A showing of substantial contribution shall include, but need not be limited to, a demonstration that the Commission’s order or decision has adopted factual contention(s), legal contention(s), and/or specific recommendation(s) presented by the participant. A showing should also include an analysis of other factors which may affect the appropriate amount of the award. These factors include, but are not necessarily limited, to the following:

1. Time and labor expended in the participation.
2. The novelty and difficulty of the issues presented.
3. The skill required to participate effectively.
4. The preclusion of other employment due to participation in this matter.
5. The customary fee.
6. Whether the fee is fixed or contingent.
7. Time constraints imposed by the proceeding.
8. The amount involved and the results obtained.
9. The experience, reputation, and ability of the participants.

10. Awards in similar cases.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

HISTORY:

1. Amendment of first paragraph filed 1-27-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 5).

76.27. (Rule 76.27) Staff Audit of Participant’s Records.

At the direction of the assigned ALJ, the Commission staff may audit the record and books of the participant to the extent necessary to verify the compensation sought is reasonable. Within 20 days after completion of the audit, if any, an audit report shall be filed with the Commission and served on all parties.

In addition to, or in lieu of an audit, the ALJ may request additional information from the participant in order to clarify or substantiate the amount of the compensation.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

76.28. (Rule 76.28) Protests.

Within 30 days of the filing of a request for compensation or within 20 days after the filing of the staff audit, if any, whichever is later, the Commission staff or any other party may file a protest with the Commission’s Docket Office. The filings under this Rule shall comply with Rules 2, 3, 4, 5, 6, and 7 and be accompanied by a certificate of service by mail on parties.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

HISTORY:

1. Amendment filed 1-27-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 5).

76.29. (Rule 76.29) Commission Decision.

As soon after the filing of a request for compensation or as soon after the filing of an audit report or protests, if any, as is reasonably possible, the Commission shall issue a decision describing the contribution found to have been made by the participant and the compensation to be awarded. The decision shall specify the basis for finding a substantial contribution and for setting the attendant award of compensation.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

76.30. (Rule 76.30) Payment of Compensation.

(a) The utility shall pay any award of compensation to the participant within 45 days after the Commission’s decision becomes effective.

(b) If additional costs are incurred as a result of an application for rehearing on the issue of compensation, the participant may file an amended claim setting forth these costs and substantiating them in the same manner as the original claim.

(c) The amount of this payment shall be assigned to a deferred expense account for recovery in the utility’s next general rate case, attrition allowance, or other proceeding changing base rates. Such recovery shall be the amount authorized by the Commission for payment and shall be had without further litigation of the reasonableness of the amount. Such recovery shall not include interest.

(d) In case of an award in a proceeding involving more than one utility, payment will be made by each utility in a proportion to be determined by the Commission.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

76.31. (Rule 76.31) Participant Request After Hearing.

(a) A participant who has not requested a finding of eligibility for compensation under Rule 76.23 may make such a request after evidentiary hearings have begun. Such request shall not be granted unless good cause for the late request is shown and unless the requirements of Rule 76.23 are met and unless the participant can demonstrate that, absent participa-

tion by the participant, an important issue has not or will not be adequately considered in the proceeding.

(b) A request under the Rule shall be filed within five days of the date of the appearance by the participant in the proceeding. Comments by the staff or any party, in the nature of that described in Rule 76.25, shall be made within 20 days after the filing of the participant's request. All filings under this Rule shall comply with Rules 2, 3, 4, 5, 6, and 7 and shall have attached a certificate of service by mail on parties.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

HISTORY:

1. Amendment of subsection (b) filed 1-27-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 5).

76.32. (Rule 76.32) Application of Rules to Pending and Prospective Proceedings.

These rules will apply to issues raised subsequent to the effective date of the order promulgating these rules in any pending cases, applications, investigations, and rulemakings, and to all cases, applications, and investigations filed on or after the effective date of the order promulgating these rules, without regard to the formal status of the matter on the effective date of these rules. A proceeding will be deemed initiated on the date an application or complaint is filed or an order instituting investigation is issued. Times for filing various requests and responses set forth in these rules shall be adhered to except that any Commission decision on the requests will be held in abeyance until these rules become effective.

NOTE: Authority cited: Section 1701, Public Utilities Code; and California Constitution, Article XII, Section 2. Reference: Decision 93724 in Application 59308.

HISTORY:

1. Amendment of section heading filed 1-27-86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 5).

Article 18.7. Intervenor's Fees and Expenses

76.51. (Rule 76.51) Purpose.

The purpose of this article is to provide compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers of participation or intervention in any proceeding of the Commission initiated on or after January 1, 1985, to modify a rate or establish a fact or rule that may influence a rate.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. New Article 18.7 (Sections 76.51-76.62) filed 3-27-85; designated effective 3-8-85, see Section 11351, Government Code (Register 85, No. 13).
2. Amendment filed 8-23-85; effective thirtieth day thereafter (Register 85, No. 34).
3. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

76.52. (Rule 76.52) Definitions.

(a) "Compensation" means payment for all or part, as determined by the Commission, of reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs of participation or intervention in a hearing or proceeding for the purpose of modifying a rate or establishing a fact or rule that may influence a rate, and includes the fees and costs of obtaining judicial review, if any.

(b) "Expert witness fees" means recorded or billed costs incurred by a customer for an expert witness.

(c) "Other reasonable costs" means reasonable out-of-pocket expenses incurred by a customer not exceeding 25% of the total of reasonable advocate's fees and expert witness fees awarded.

(d) "Party" means any interested party, respondent, public utility, or Commission staff in a hearing or proceeding for the purpose of modifying a rate or establishing a fact or rule that may influence a rate.

(e) "Customer" means any participant representing consumers, customers, or subscribers of any electrical, gas, telephone, telegraph, or water corporation subject to the jurisdiction of the Commission; any representative who has been authorized by a customer, or any representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential customers, but does not include any state, federal, or local government agency, or any publicly owned public utility, or any entity which in the Commission's opinion was established or formed by a local government entity for the purpose of participating in a Commission proceeding.

(f) "Significant financial hardship" means both of the following:

(1) That, in the judgment of the Commission, the customer has or represents an interest not otherwise adequately represented, representation of which is necessary for a fair determination of the proceeding; and,

(2) Either that the customer cannot afford to pay the costs of effective participation, including advocate's fees, expert witness fees, and other reasonable costs of participation and the cost of obtaining judicial review, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding.

(g) "Substantial contribution" means that, in the judgment of the Commission, the customer's presentation has substantially assisted the Commission in the making of its order or decision because the order or decision had adopted in whole or in part one or more factual contentions, legal contentions, or specific policy or procedural recommendations presented by the customer.

(h) "Final order or decision" means an order or decision that resolves the issue(s) for which compensation is sought. The filing of an application for rehearing shall not alter the finality of an order or

decision for the limited purpose of applying the 30-day filing deadline for a request for compensation as set forth in Rule 76.56. However, if rehearing is granted with respect to an issue for which compensation is sought, no ruling on that portion of the request will be issued until the rehearing is completed.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

76.53. (Rule 76.53) Requirements for Awards.

The Commission may award reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs of participation or intervention in a hearing or proceeding for the purpose of modifying a rate or establishing a fact or rule that may influence a rate to any customer who complies with Rule 76.54 and satisfies all of the following requirements:

(a) The customer's presentation makes a substantial contribution to the adoption, in whole or in part, of the Commission's order or decision.

(b) Participation or intervention without an award of fees or costs imposes a significant financial hardship.

(c) The customer's presentation does not materially duplicate the contribution or presentation of any other party to the proceeding. If in the Commission's opinion there is such duplication, any compensation to which the customer would otherwise be entitled may be reduced in proportion to the amount of duplication of effort. Customers are encouraged to file requests as soon as possible in the progress of the proceeding.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

76.54. (Rule 76.54) Request for Finding of Eligibility.

(a) Within 30 days of the first prehearing conference or within 45 days after the close of the evidentiary record, a customer seeking an award under this article shall file with the Commission's Docket Office and serve on all parties to the hearing or proceeding a Request for Finding of Eligibility for Compensation, in compliance with Rules 2, 3, 4, 5, 6, and 7, with an attached certificate of service by mail on all parties. The request shall include:

(1) A showing by the customer that participation in the hearing or proceeding would pose a significant financial hardship. A summary of the finances of the customer shall distinguish between grant funds committed to specific projects and discretionary funds. If the customer has met its burden of showing financial hardship in the same calendar year, as determined by the Commission under Rule 76.05, 76.25, or 76.55, the customer shall make reference to that decision by number to satisfy this requirement;

(2) A statement of issues that the customer intends to raise in the hearing or proceeding;

(3) An estimate of the compensation that will be sought;

(4) A budget for the customer's presentation; and,

(b) Within 30 days after service of the request, any party may file a response to the request, including a discussion of the appropriateness of a common legal representative.

(c) In cases where no prehearing conference is scheduled or where the Commission anticipates that the proceeding will take less than 30 days, the request shall be filed no later than 45 days after the close of the evidentiary record. For good cause shown the ALJ may establish a different deadline for the filing of the request upon motion of any party.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Amendment of subsection (a) filed 8-23-85; effective thirtieth day thereafter (Register 85, No. 34).
2. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).
3. Change without regulatory effect of subsection (a) (3) and (a) (4) filed 4-12-88; operative 4-12-88 (Register 88, No. 17).

76.55. (Rule 76.55) Ruling on Eligibility.

The Commission shall issue a ruling determining whether the customer is eligible for an award of compensation. The ruling shall address whether a showing of significant financial hardship has been made and may include a discussion of whether it is determined appropriate to designate a common legal representative pursuant to Rule 76.59.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

76.56. (Rule 76.56) Request for Compensation.

Following issuance of a final order or decision by the Commission in the hearing or proceeding, a customer who has been found by the Commission, pursuant to Rule 76.55, to be eligible for an award of compensation may file within 30 days a request for an award. The request shall include, at a minimum, a detailed description of services and expenditures and a description of the customer's substantial contribution to the hearing or proceeding. The request shall comply with Rules 2, 3, 4, 5, 6, and 7 and shall have attached a certificate of service by mail on all parties. Within 30 days after service of the request, the Commission staff may file, and any other party may file, a response to the request. The customer may file within 15 days thereafter a reply to any such response.

If additional costs are incurred as a result of an application for rehearing on the issue of compensation, the customer may file an amended request in compliance with these rules.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

76.57. (Rule 76.57) Audit of Records.

The Commission may audit the records and books of the customer to the extent necessary to verify the basis for the award. The Commission shall preserve the confidentiality of the customer's records in making its audit. Within 20 days after completion of the audit, if any, the Commission shall direct that an audit report shall be prepared, filed, and served on all parties. Any other party may file a response to the audit report within 20 days thereafter.

In addition to, or in lieu of, an audit, the ALJ may request additional information from the customer in order to clarify or substantiate the amount of the compensation.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

76.58. (Rule 76.58) Decision Awarding Compensation.

Within 75 days after the filing of a request for compensation pursuant to Rule 76.56, or within 50 days after the filing of an audit report, whichever occurs later, the Commission shall issue a decision that determines whether or not the customer has made a substantial contribution to the final order or decision in the hearing or proceeding. If the Commission finds that the customer requesting compensation has made a substantial contribution, the Commission shall describe this substantial contribution and shall determine the amount of compensation to be paid pursuant to Rule 76.60.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

76.59. (Rule 76.59) Common Legal Representative.

The Commission may, as specified in Rules 76.54 and 76.55, designate, if determined appropriate, a common legal representative. In cases where the Commission designates a common legal representative, no compensation shall be awarded to customers with the same or similar interests who participate or intervene in the hearing or proceeding.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

76.60. (Rule 76.60) Computation of Compensation.

The computation of compensation awarded pursuant to Rule 76.58 shall take into consideration the compensation paid to persons of comparable training and experience who offer similar services. The compensation awarded may not, in any case, exceed the market value of services paid by the Commission

or the public utility, whichever is greater, to persons of comparable training and experience who are offering similar services.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

76.61. (Rule 76.61) Payment of Award.

Any award made under this article shall be paid by the public utility which is the subject of the hearing, investigation, or proceeding, as determined by the Commission, within 30 days. Notwithstanding any other provision of law, any award paid by a public utility pursuant to this article shall be allowed by the Commission as an expense for the purpose of establishing rates of the public utility by way of a dollar-for-dollar adjustment to rates imposed by the Commission immediately on the determination of the amount of the award, so that the amount of the award shall be fully recovered within one year from the date of the award.

For the purposes of this rule the phrase "within 30 days" shall mean the later of the following:

(a) within 30 days after the Commission issues its decision, unless the utility files a timely application for rehearing on an issue for which compensation is sought by the customer, in which case no payment shall be required until the later of 30 days after a decision on rehearing or 30 days after judicial review is completed; or,

(b) within 30 days after the Commission issues its decision awarding compensation, unless the utility files a timely application for rehearing of that decision, in which case no payment shall be required until the later of 30 days after a decision on rehearing or 30 days after judicial review is completed.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

76.62. (Rule 76.62) Delay or Obstruction.

The Commission shall deny any award to any customer who attempts to delay or obstruct the orderly and timely fulfillment of the Commission's responsibilities.

NOTE: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1801-1808, Public Utilities Code (Stats. 1984, Chapter 297).

HISTORY:

1. Editorial correction of NOTE filed 9-30-85 (Register 85, No. 40).

Article 19. Decisions and Proposed Reports**77. (Rule 77) Issuance of Decisions.**

A proceeding shall stand submitted for decision by the Commission after the taking of evidence, and the filing of such briefs or the presentation of such oral argument as may have been prescribed by the Commission or the presiding officer.

77.1. (Rule 77.1) Filing Proposed Decision.

The Administrative Law Judge shall prepare a proposed decision, whether interim or final, setting forth the recommendations, findings and conclusions. After discussion with the assigned commissioner, the proposed decision of the administrative law judge shall be filed with the Commission and served on all parties without undue delay, not later than 90 days after submission.

This procedure will apply to all matters which have been heard, except those initiated by customer or subscriber complaint unless the Commission finds that such procedure is required in the public interest in a particular case.

Applicants in matters involving passenger buses, sewer utilities, or vessels may make an oral or written motion to waive the filing of and comment on the proposed decision. Any party objecting to such waiver will have the burden of demonstrating that such filing and comment is in the public interest.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311, Public Utilities Code.

HISTORY:

1. New section filed 1-22-87; effective upon filing (Register 87, No. 4).

77.2. (Rule 77.2) Time for Filing Comments.

Parties may file comments on the proposed decision within 20 days of its date of mailing. An original and 12 copies of the comments with a certificate of service shall be filed with the Docket Office and copies shall be served on all parties. The administrative law judge shall be served separately.

An applicant may file a motion for an extension of the comment period if it accepts the burden of any resulting delay. Any other party requesting an extension of time to comment must show that the benefits of the extension outweigh the burdens of the delay.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311, Public Utilities Code.

HISTORY:

1. New section filed 1-22-87; effective upon filing (Register 87, No. 4).

77.3. (Rule 77.3) Scope of Comments.

Except in general rate cases, major plant addition proceedings, and major generic investigations, comments shall be limited to 15 pages in length plus a subject index listing the recommended changes to the proposed decision, a table of authorities and an appendix setting forth proposed findings of fact and conclusions of law. Comments in general rate cases, major plant addition proceedings, and major generic investigations shall not exceed 25 pages.

Comments shall focus on factual, legal or technical errors in the proposed decision and in citing such errors shall make specific references to the record. Comments which merely reargue positions taken in briefs will be accorded no weight and are not to be filed.

New factual information, untested by cross-examination, shall not be included in comments and shall not be relied on as the basis for assertions made in post publication comments.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311, Public Utilities Code.

HISTORY:

1. New section filed 1-22-87; effective upon filing (Register 87, No. 4).

77.4. (Rule 77.4) Specific Changes Proposed in Comments.

Comments proposing specific changes to the proposed decision shall include supporting findings of fact and conclusions of law.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311, Public Utilities Code.

HISTORY:

1. New section filed 1-22-87; effective upon filing (Register 87, No. 4).

77.5. (Rule 77.5) Late-Filed Comments and Replies to Comments.

Late-filed comments will ordinarily be rejected. However, in extraordinary circumstances a motion for leave to file late may be filed. An accompanying declaration under penalty of perjury shall be submitted setting forth all the reasons for the late filing.

Replies to comments may be filed five days after comments are filed and shall be limited to identifying misrepresentations of law, fact or condition of the record contained in the comments of other parties. Replies shall not exceed five pages in length, and shall be filed and served as set forth in Rule 77.2.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 311, Public Utilities Code.

HISTORY:

1. New section filed 1-22-87; effective upon filing (Register 87, No. 4).

78. (Rule 78) Petition for Proposed Report.**HISTORY:**

1. Repealer filed 1-22-87; effective upon filing (Register 87, No. 4).

79. (Rule 79) Proposed Reports.**HISTORY:**

1. Repealer filed 1-22-87; effective upon filing (Register 87, No. 4).

80. (Rule 80) Exceptions.**HISTORY:**

1. Repealer filed 1-22-87; effective upon filing (Register 87, No. 4).

81. (Rule 81) Replies to Exceptions.**HISTORY:**

1. Repealer filed 1-22-87; effective upon filing (Register 87, No. 4).

81.5. (Rule 81.5) Commission Meetings.

Commission meetings shall be held on a regularly scheduled basis for the purpose of considering and signing decisions and orders and taking such other action as the Commission deems appropriate. The time and place of these meetings will appear daily in the Commission calendar at least three weeks in advance. The meetings are open to the public. An

agenda of the meeting is available from the Executive Director on request. No unscheduled meeting to take action shall be held, and no matter not on the agenda of a meeting shall be decided, unless there is a determination by the Commission of an unforeseen emergency condition.

Unforeseen emergency condition is defined as a matter brought to the attention of the Commission which requires decision or action by the Commission more promptly than would be permitted if advance publication were made on the regular meeting agenda. Examples of such matters are requests for relief based on extraordinary conditions in which time is of the essence; deadlines imposed on the Commission by legislative bodies, the courts, other administrative bodies or tribunals, the office of the Governor, or a legislator; or some unusual matter which cannot be disposed of by normal procedure if the duties of the Commission are to be fulfilled.

NOTE: Authority cited: Section 1701, Public Utilities Code.

HISTORY:

1. New rule filed 2-21-75; effective thirtieth day thereafter (Register 75, No. 8). Note: Filing states Resolution No. L-163 dated February 4, 1975, adding Rule 81.5 is effective February 4, 1975.
2. New rule refiled 2-24-75; effective thirtieth day thereafter (Register 75, No. 8). Note: Filing states Resolution No. L-163 dated February 11, 1975, adding Rule 81.5 is effective February 11, 1975.
3. Change without regulatory effect filed 6-2-88; operative 6-2-88 (Register 88, No. 24).

82. (Rule 82) Service of Orders.

Decisions and orders shall be served by the Executive Director's office by mailing copies thereof to the parties of record. When service is not accomplished by mail, it may be effected by personal delivery of a copy thereof. When a party to an application proceeding has appeared by a representative, service upon such representative shall be deemed to be service upon the party.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

HISTORY:

1. Change without regulatory effect filed 6-2-88; operative 6-2-88 (Register 88, No. 24).

83. (Rule 83) Effective Date.

Decisions and orders in complaint or investigation proceedings shall become effective twenty days after service thereof, unless otherwise provided therein. Decisions and orders in other proceedings shall become effective twenty days after issuance thereof, unless otherwise provided therein.

Article 20. Reopening Proceedings

84. (Rule 84) Petition to Set Aside Submission.

After conclusion of hearings, but before issuance of a decision, a party to the proceeding may serve on all other parties, and file with the Commission, a petition to set aside submission and reopen the proceeding for the taking of additional evidence, or for consideration of a settlement or stipulation under Article 13.5. Such petition shall specify the facts

claimed to constitute grounds in justification thereof, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing. It shall contain a brief statement of proposed additional evidence, and explain why such evidence was not previously adduced.

NOTE: Authority and reference cited: Section 1701, Public Utilities Code.

HISTORY:

1. Amendment filed 11-14-88; operative 11-14-88 (Register 88, No. 47).

Article 21. Rehearings

85. (Rule 85) Time.

Application for rehearing of a Commission order or decision shall be served on all parties and accompanied by a certificate of service. The application shall be filed within 30 days after the date of issuance, or within 10 days after the date of issuance in the case of an order relating to security transactions and the transfer or encumbrance of utility property. For purposes of this rule, "date of issuance" means the date when the Commission mails the order or decision to the parties to the action or proceeding.

NOTE: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1731, Public Utilities Code.

HISTORY:

1. Amendment filed 10-10-75; designated effective 9-30-75 by Resolution A-4424, see Section 11445, Gov. Code (Register 75, No. 41).
2. Amendment filed 2-11-77; effective thirtieth day thereafter (Register 77, No. 7). Note: Filing states that Resolution DE-126, adopted 1-25-77, amending Rule 85, is effective 2-14-77.
3. Amendment filed 1-23-87; designated effective 12-17-86 by Decision 86-12-055, See Government Code Section 11351 (Register 87, No. 5).

86. (Rule 86) Effect of Filing.

Mere filing of an application for rehearing shall not excuse compliance with an order or a decision. (See P.U. Code Sec. 1735.) An application filed ten or more days before the effective date of an order suspends the order until the petition is granted or denied. Absent further Commission order, this suspension will lapse after 60 days. The Commission may extend the suspension period. (See P.U. Code, Sec. 1733.)

HISTORY:

1. Amendment filed 10-10-75; designated effective 9-30-75 by Resolution A-4425, see Section 11445, Gov. Code (Register 75, No. 41).

86.1. (Rule 86.1) Contents.

Applications for rehearing shall set forth specifically the grounds on which applicant considers the order or decision of the Commission to be unlawful or erroneous. Applicants are cautioned that vague assertions as to the record or the law, without citation, may be accorded little attention. The purpose of an application for rehearing is to alert the Commission to an error, so that error may be corrected expeditiously by the Commission.

NOTE: Authority cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 10-10-75; designated effective 9-30-75 by Resolution A-4426, see Section 11445, Gov. Code (Register 75, No. 41).

86.2. (Rule 86.2) Response.

A response to an application for rehearing is not necessary. Any response may be filed no later than fifteen days after the day the application for rehearing was filed. In instances of multiple applications for rehearing the response may be to all such applications, and may be filed fifteen days after the last application for rehearing was filed. The Commission is not obligated to withhold a decision on an application for rehearing to allow time for a response to be filed.

NOTE: Authority cited: Section 1701, Public Utilities Code.

HISTORY:

1. New section filed 10-10-75; designated effective 9-30-75 by Resolution A-4427, see Section 11445, Gov. Code (Register 75, No. 41).

Article 22. Rules**87. (Rule 87) Construction and Amendment.**

These rules shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented. In special cases and for good cause shown, the Commission may permit deviations from the rules. Rules may be amended at any time by the Commission.

Article 23. Forms**88. (Rule 88) Forms.**

The following skeleton forms of applications, complaint, answer and protest are merely illustrative as to general form. The content of a particular pleading will vary, depending upon the subject matter and applicable procedural rules.

1. Application
2. Complaint
3. Answer
4. Application—Shortened Procedure Tariff Docket
5. Protest—Shortened Procedure Tariff Docket

No. 1—Application
(See Rules 2-8 and 15-43)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of JOHN JONES (Jones Rapid Transit) to operate bus service between San Francisco and South San Francisco; to establish fares; and to issue a \$10,000 note.	} Application No. <hr style="width: 100px; margin-left: 0;"/> (Commission will insert number)
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APPLICATION

The application of (exact legal name, mailing address and telephone number of each applicant) respectfully shows:

1. That communications in regard to this application are to be addressed to (name, title, and address).
2. (Here, and in succeeding numbered paragraphs, set forth the specific facts required by the applicable rules, together with additional facts deemed material).

WHEREFORE, applicant requests an order (here state clearly and concisely the specific authorization sought by applicant).

Dated at _____, California, this _____ day of _____, 19____.

(Signature of applicant)

(Signature, address and telephone number of attorney, if any)

VERIFICATION*
(See Rules 5 and 6)
(Where Applicant is an individual)

I am the applicant in the above-entitled matter, the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.
(Date) (Name of city)

(Applicant)

*Where execution occurs outside California, verification must be made in accordance with the law of the state where execution occurs.

No. 1—Application—Continued

VERIFICATION

(See Rules 5 and 6)

(Where Applicant is a Corporation)

I am an officer of the applicant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to the matters which are herein stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.
(Date) (Name of city)

(Signature and Title of Corporate Officer)

(Where Applicant is absent from
County of Attorney's Office)

I am the attorney for the applicant herein; said applicant is absent from the County of _____, California, where I have my office, and I make this verification for said applicant for that reason; the statements in the foregoing documents are true of my own knowledge except as to the matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____ at _____, California.
(Date) (Name of city)

(Attorney for Applicant)

No. 2—Complaint
(See Rules 2-8 and 9-11)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

John A. Jones, vs. Smith Public Utility System, a corporation,	Complainant, Defendant.	Case No. <hr/> (Commission will insert number)
--	--	---

COMPLAINT

The complaint of (exact legal name, mailing address and telephone number of each complainant) respectfully shows:

1. That defendant is (full name and address of each defendant).
2. (Here, and in succeeding numbered paragraphs, set forth fully and clearly the facts constituting the grounds of the complaint and the injury complained of).

WHEREFORE, complainant requests an order (here state clearly and concisely the exact relief desired).

Dated at _____, California, this _____ day of _____, 19____.

(Signature of each complainant)

(Signature, address and telephone number of attorney, if any)

VERIFICATION

Use appropriate form of verification as set forth following Form 1, substituting "complainant" for "applicant".

No. 3—Answer
(See Rules 2-8 and 13)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

John A. Jones, vs. Smith Public Utility System, a corporation,	Complainant, Defendant.	Case No. <hr style="width: 100%;"/> (Insert number of complaint)
--	--	--

ANSWER

Defendant (exact legal name, mailing address and telephone number of each defendant joining in answer), for answer to the above complaint, respectfully shows:

1. (Here, and in succeeding numbered paragraphs, admit or deny material allegations of the complaint, and set forth any matters constituting a defense).

WHEREFORE, defendant requests that the complaint be dismissed (or other appropriate request).

Dated at _____, California, this _____ day of _____, 19____.

(Signature of each defendant joining in answer)

(Signature, address and telephone number of attorney, if any)

VERIFICATION

Use appropriate form of verification as set forth following Form 1, substituting "defendant" for "applicant".

No. 4—Application—Shortened Procedure Tariff Docket
(See Rules 2, 3, 7 and 25-28)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of John Jones under the Shortened Procedure Tariff Docket to make increases in (here state specifically or by reference the increase in rates sought to be made, and specify short notice and long- and short-haul authority, if any, sought).	Application No. _____ (Commission will insert number)
--	--

APPLICATION—SHORTENED PROCEDURE TARIFF DOCKET

The application of (exact legal name, mailing address and telephone number of each applicant) respectfully shows:

1. Authorization is requested to (here state clearly and concisely the specific authority or authorities sought, together with the current rates, fares, charges or rules being increased).
2. This application is based upon the following facts and circumstances:
(Here, and in succeeding numbered paragraphs or attached exhibits, set forth the specific facts required by the applicable rules, a statement of or reference to exhibits showing present and proposed rates, fares, charges, or rules, and the additional facts and circumstances deemed to be material).
3. The position of interested parties in this matter is as follows:
(Here list the position of each interested party insofar as known).
4. Applicant will furnish a copy of this application to any interested party upon written request.

Dated at _____, California, this _____ day of _____, 19____.

Signature: _____

Title: _____

Address: _____

Telephone Number: _____

VERIFICATION

Use appropriate form of verification as set forth following Form 1.

No. 5—Protest—Shortened Procedure Tariff Docket
(See Rules 2, 3, 7 and 30-31)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of John Jones under the Shortened Procedure Tariff Docket to make increases in (here state specifically or by reference the increase in rates sought to be made, and specify short notice and long- and short-haul authority, if any, sought).	Application No. _____ (Insert the number of the application)
--	--

PROTEST—SHORTENED PROCEDURE TARIFF DOCKET

The protest of (exact legal name, mailing address and telephone number of each protestant) respectfully shows:

1. (Here, and in succeeding numbered paragraphs or attached exhibits, state the facts constituting the grounds for the protest and show how protestant is affected by the proposed increase and indicate in what respects the proposed increase is considered not justified.)
2. Applicants, as shown on the following list (or on an attached list), have been served with a copy of this protest by (here state the manner of service). (Here list the names and addresses of parties served.)
3. Protestant will furnish a copy of this protest to any other interested party upon written request.

Dated at _____, California, this _____ day of _____, 19____.

Signature: _____

Title: _____

Address: _____

Telephone Number: _____

VERIFICATION

Use appropriate form of verification as set forth following Form 1, substituting "protestant" for "applicant".

Chapter 2. Public Utilities
Commission—Conflict of Interest Code

Article 1. Conflict of Interest

NOTE: It having been found, pursuant to Government Code section 11409(a), that the printing of the regulations constituting the Conflict of Interest Code is impractical and these regulations being of limited and particular application, these regulations are not published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102

FAIR POLITICAL PRACTICES COMMISSION
1100 K STREET
SACRAMENTO, CA 95814

SECRETARY OF STATE
1020 "O" STREET
SACRAMENTO, CA 95814

The Conflict of Interest Code is designated as Chapter 2, Division 1, Title 20 of the California Code of Regulations, and consists of sections numbered and titled as follows:

Chapter 2. Public Utilities Commission—
Conflict of Interest Code

Section
201. General Provisions
Appendix

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Section 87300, et seq., Government Code.

HISTORY:

1. New Subchapter 2 (Articles 1–6, Sections 201–250) filed 7-19-77; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 4-5-77 (Register 77, No. 30). **NOTE:** Section 250 designates this code as effective 1-1-78.
2. Repealer of Subchapter 2 (Articles 1–6, Sections 201–250) and new Subchapter 2 (Section 201 and Appendix) filed 3-18-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12-1-80 (Register 81, No. 12).
3. Change without regulatory effect filed 9-19-88 (Register 88, No. 39).
4. Amendment of Appendix filed 12-17-90; operative 1-16-91. Approved by Fair Political Practices Commission 2-23-90, extended 12-12-90 (Register 91, No. 5).



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(Originally printed 8-4-73)

Revised 4-19-75

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