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Public utilities commission reform takes a step back

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Public utilities commission reform takes a step back

HIGHLIGHTS

PUC has been plagued with allegations of impropriety, including back-channel talks

Gov. Brown vetoed a bill to end private discussions in rate cases

Public trust in commission's decisions is at stake





BY DEBORAH BEHLES AND STEVEN WEISSMAN

Special to The Bee

California is taking a leadership role with its progressive energy and environmental policies by requiring that half its energy is generated from renewable resources, authorizing the largest low-income solar initiative in the country and mandating a 50 percent increase in building energy efficiency.

To ensure that these and similar programs are effective and fair, the decisions implementing them must be transparent and based on an official record.

But the primary agency overseeing many of these policies, the California Public Utilities Commission, has been plagued with allegations of impropriety. Last fall, emails between commissioners and high-level utility officials led to serious questions about the integrity and fairness of the PUC's decision-making. These emails exposed regular private discussions on billion-dollar deals.

California's longstanding permissive attitude toward private communications is an outlier; most states and the federal agency regulating energy prohibit them. The Legislature understood the need for reform and unanimously approved Senate Bill 660 to end private communications in proceedings determining energy rates and the shape of energy programs. This bill also would have banned private discussions at conferences and required that decision-makers report improper communications.

But Gov. Jerry Brown vetoed this important legislation – and California took a giant step backward. In his veto message, the governor admitted that “some tightening” on private communications was necessary and directed his staff to work with the Legislature next year.

This setback should not delay the important reforms that the Legislature believed were necessary. The PUC has the power to change how it makes decisions, and nothing in state law requires these private meetings.

Commissioners can instead limit their contacts to meetings where all parties are invited. They can decline to discuss pending matters at conferences. This would improve transparency and fairness and would reduce spending for private meetings.

Decision-makers can also take a more active role in ensuring that the current rules are followed by making sure that all parties are notified of these contacts. Now, they don't review notices of private communications, so there is no guarantee that the notices accurately reflect what happened in private meetings.

Finally, the PUC can provide a list describing what procedural communications are allowed and require that parties only discuss those matters with the judge, not with commissioners. Without a specific list of what is truly procedural, there could be a loophole for back-door communications.

Given its critical role in the state's progressive environmental and energy policies, the PUC should not delay taking steps to make its decision-making process fairer. This would help restore public trust and would ultimately lead to better decisions.

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