CALIFORNIA PUBLIC UTILITIES COMMISSION

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The California Public Utilities Commission (CPUC) was created in 1911 to regulate privately-owned utilities and ensure reasonable rates and service for the public. Today, under the Public Utilities Act of 1951, Public Utilities Code section 201 *et seq.*, the CPUC regulates energy, aspects of transportation (rail, moving companies, limos, shared ride carriers), and some aspects of water/sewage, and limited coverage of communications. It licenses more than 1,200 privately-owned and operated gas, electric, telephone, water, sewer, steam, and pipeline utilities, as well as 3,300 truck, bus, "shared ride," railroad, light rail, ferry, and other transportation companies in California. The Commission grants operating authority, regulates service standards, and monitors utility operations for safety.

The agency is directed by a Commission consisting of five full-time members appointed by the Governor and subject to Senate confirmation. The Commission is authorized directly by the California Constitution, which provides it with a mandate to balance the public interest—that is, the need for reliable, safe utility services at reasonable rates—with the constitutional right of a utility to compensation for its "prudent costs" and a fair rate of return on its "used and useful" investment.

The Commission has quasi-legislative authority to adopt regulations, some of which are codified in Chapter 1, Title 20 of the California Code of Regulations (CCR). The Commission also has quasi-judicial authority to take testimony, subpoena witnesses and

records, and issue decisions and orders. The CPUC's Administrative Law Judge (ALJ) Division supports the Commission's decision-making process and holds both quasi-legislative and quasi-judicial hearings where evidence-taking and findings of fact are needed. In general, the CPUC ALJs preside over hearings and forward "proposed decisions" to the Commission, which makes all final decisions. At one time, the CPUC decisions were reviewable solely by the California Supreme Court on a discretionary basis; now, Public Utilities Code section 1756 permits courts of appeal to entertain challenges to most CPUC decisions. Judicial review is still discretionary and most petitions for review are not entertained; thus, the CPUC's decisions are effectively final in most cases.

The CPUC allows ratepayers, utilities, and consumer and industry organizations to participate in its proceedings. Non-utility entities may be given "party" status and, where they contribute to a beneficial outcome for the general public beyond their own economic stake, may receive "intervenor compensation." Such compensation facilitated participation in many Commission proceedings over the past twenty years by numerous consumer and minority-representation groups, including San Francisco-based TURN (The Utility Reform Network), San Diego-based UCAN (Utility Consumers' Action Network), and the Greenlining Institute, an amalgam of civil rights and community organizations in San Francisco.

The CPUC staff—which include economists, engineers, ALJs, accountants, attorneys, administrative and clerical support staff, and safety and transportation specialists—are organized into 12 major divisions.

In addition, the CPUC maintains services important to public access and representation. The San Francisco-based Public Advisor's Office, and the Commission's

outreach offices in Los Angeles and San Diego, provide procedural information and advice to individuals and groups who want to participate in formal CPUC proceedings. Most importantly, under Public Utilities Code section 309.5, an Office of Ratepayer Advocates (ORA) independently represents the interests of all public utility customers and subscribers in Commission proceedings in order to obtain "the lowest possible rate for service consistent with reliable and safe service levels."

Pursuant to SB 62 (Hill) (Chapter 806, Statutes 2016), the Office of Safety Advocate (OSA) is the CPUC's newest division; its purpose is to "advocate for the continuous, cost-effective improvement of the safety management and safety performance of public utilities."

The five CPUC Commissioners each hold office for staggered six-year terms. Current commissioners include President Michael Picker, Commissioners Carla J. Peterman, Liane M. Randolph, Martha Guzman Aceves, and Clifford Rechtschaffen.

On February 1, 2018, the CPUC announced that the Commission appointed Alice Stebbins as the new Executive Director, effective February 21, 2018. Ms. Stebbins replaces Timothy Sullivan, who served as the CPUC's Executive Director since 2015, and who announced his retirement. Ms. Stebbins served as Division Chair over Administration for the California Air Resources Board (CARB) since January 2011 and first joined the State of California as a sales and use tax auditor with the Board of Equalization in 1986. Since then, she worked for the Department of Transportation, Department of Justice, and the State Water Resources Control Board.

MAJOR PROJECTS

INTERNAL CPUC POLICIES

Aguirre & Severson LLP Requests Legislative Action to Investigate CPUC

On December 7, 2017, Aguirre & Severson, LLP sent a letter to the legislature requesting that a Select Joint Committee investigate and reform the CPUC due to the agency's "failure to serve its mission to protect the safety of California citizens, its continued communications in secret with utilities, its lack of transparency in its operations and proceedings, and the resulting injury to the physical and economic health . . . ." Additionally, the letter claims that a demonstrated pattern of malfeasance, a culture of secrecy, and an over-emphasis of ensuring profits for utilities at the CPUC ultimately harms the people of California. As of this writing, the legislature has not created such an entity, nor has the Joint Committee on Legislative Audit, which already exists, taken up the proposed task. However, the issues raised by Aguirre resonate with critics of the agency and have informed existing legislative oversight.

GENERAL ENERGY REGULATION

Aliso Canyon Natural Gas Leak Investigations (I.17-02-002)

On June 20, 2017, Assigned Commissioner Randolph and ALJ Semcer issued a scoping memo in order to establish the category, issues, need for hearing, schedule, and other matters necessary to scope I.17-02-002. The scoping memo sets out two overarching questions to be answered by the investigation: (1) Is it feasible to reduce or eliminate the use of Aliso Canyon Natural Gas Storage Facility (Aliso Canyon) while still maintaining electric and energy reliability for the region? and (2) Given the outcome of the previous

question, should the CPUC reduce or eliminate the use of Aliso Canyon, and if so, under what parameter? The scoping memo also states that the CPUC intends to address this proceeding in two phases in order to streamline participation by interested parties. In Phase 1, the CPUC will undertake a comprehensive effort to evaluate the impact of reducing or eliminating the use of Aliso Canyon. Phase 1 will be resolved by the issuance of an Assigned Commissioner's Ruling providing guidance on the scenarios that will be evaluated in Phase 2. *[23:1 CRLR 185-87]*

On November 8, 2017, ALJ Gerald Kelly and ALJ Melissa Semcer issued a ruling denying Imperial Irrigation District's motion to consolidate I.17-02-002 and I.17-03-002, proceedings, both of which involve Aliso Canyon. The ruling states that although the CPUC supports maximizing efficiency and using consolidation to achieve that end, it concludes that no such savings would occur from this consolidation. I.17-02-002 solely examines the potential consequences to the energy infrastructure and rates should usage of Aliso Canyon be reduced or should the facility be closed. The proceeding is also forward-looking in order to understand the effects of reducing or eliminating use of the facility. Separate from I.17-02-002, I.17-03-002's purpose is to determine whether Aliso Canyon has remained out of service for nine consecutive months pursuant to Pub. Util. Code section 455.5(a) [1]; and if so found, whether the CPUC should disallow all costs related to it from the rates of Southern California Gas Company (SoCal Gas) consumers.

[1] According to Pub. Util. Code §455.5(a), the CPUC, in establishing rates for any electrical, gas, heat or water corporation, may eliminate consideration of the value of any portion of any electric, gas, heat, or water generation or production facility which, after having been placed in service, "remains out of service for nine or more consecutive months," and may disallow any expenses related to that facility. After eliminating consideration of any portion

Integrated Resource Planning (R.16-02-007)

On December 28, 2017, ALJ Anne Simon issued a proposed decision setting requirements for load serving entities (LSEs) filing Integrated Resource Plans (IRPs). This proposed decision implements Public Utilities Code sections 454.51 and 454.52, enacted as part of SB 350 (de León) (Chapter 547, Statutes of 2015), as well as modifications to those sections added by SB 338 (Skinner) (Chapter 389, Statutes of 2017) and AB 759 (Dahle) (Chapter 140, Statutes of 2017). *[23 CRLR 187-88]*. This proposed decision adopts a two-year planning cycle for the CPUC to conduct modeling and analysis, set greenhouse gas (GHG) emissions targets, and consider IRP filings from all LSEs. The filings by each LSE will be required to include at least one scenario that conforms to the CPUC's planning direction, while also presenting any LSE-preferred scenarios that may deviate from the CPUC's planning standards.

IRPs will be the vehicle for LSEs proposing actual procurement of additional resources to meet the planning requirements adopted in this decision. At the end of each two-year cycle, the CPUC will authorize procurement that is necessary within the next 1-3 years, to meet the targets and needs identified in the IRP process. The first such procurement authorization, if needed, is anticipated to come near the end of 2018 at the end of the first IRP cycle. All LSE IRPs will be required to describe how they meet certain requirements related to *disadvantaged communities*.

This proposed decision also described the GHG emissions planning target the CPUC recommends to CARB for assignment to the electricity sector as a whole. This target

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of the facility or disallowing related expenses, the CPUC must reduce rates of the corporation accordingly and must treat this amount similar to the treatment of the allowance for funds used during construction.

is set by this proposed decision at 42 million metric tons (MMT) by 2030. The optimal electricity resource portfolio associated with this electric sector GHG target is also described and adopted in the proposed decision. CPUC staff developed this optimal portfolio by conducting modeling using the RESOLVE model[2] to prioritize meeting the GHG reduction targets at least cost, while also maintaining reliability.

The portfolio associated with the Default Scenario modeled by CPUC staff will be forwarded to the California Independent System Operator (CAISO) for use in its Transmission Planning Process[3] (TPP) as the reliability base case, while the 42 MTT Scenario portfolio will be the basis for the policy-driven scenario recommended by the CPUC in the TPP. Individual LSE-specific GHG benchmarks are calculated and required for use in IRP development. In addition, this proposed decision adopts a GHG Planning Price of $150 per metric ton of carbon dioxide equivalent in 2030 and directs its utilization as part of individual LSE IRP development, as well as its potential use as a GHG Adder in evaluating the cost-effectiveness of distributed energy resources.

Lastly, this proposed decision lays out additional planning activities that will be undertaken by the CPUC, and its staff and consultants, in this rulemaking in 2018, prior to

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[2] RESOLVE is a capacity expansion model designed to identify optimal investments under high penetrations of renewable generation. It selects portfolios of solar, wind, geothermal, biomass, and small hydropower to meet Renewable Portfolio Standard and GHG constraints. RESOLVE also adds cost-effective integration solutions such as energy storage and flexible conventional resources, in combination with the renewable portfolio, to minimize total cost over the analysis period.

[3] Each year, the CAISO conducts its TPP to identify potential system limitations as well as opportunities for system reinforcements that improve reliability and efficiency. The TPP's core product is the Transmission Plan, which provides an evaluation of the CAISO control grid, examines conventional grid reliability requirements and projects, summarizes key collaborative activities and provides details on key study areas and associated findings.

the commencement of the next IRP cycle and in parallel with consideration of the individual LSE IRPs. Those activities include additional production cost modeling and analysis to calibrate models to evaluate the aggregated LSE IRPs leading to a Preferred System Plan, development of a common resource valuation methodology, and additional analysis of possible impacts on the natural gas fleet availability and need.

On February 8, 2018, the Commissioners approved the proposed decision. On February 28, 2018, Friends of the Earth (FOE), the Natural Resources Defense Council (NRDC), California Unions for Reliable Energy (CURE), and Pacific Gas & Electric (PG&E) filed a petition for modification of the decision. The joint parties stated that the IRP decision contains direction regarding the procurement of GHG-free replacement resources in the event the two generators at Diablo Canyon Power Plant (Diablo Canyon) are retired earlier than 2024-2025, but it provides no direction at all regarding GHG-free replacement resources for the planned retirement of the Diablo Canyon generators in 2024-2025. The joints parties claim that this omission cannot be squared with the CPUC's recent decision[4] in Diablo Canyon proceedings, which approved the proposed retirement of the Diablo Canyon generators in 2024-2025, at the end of their current operating licenses. *[23:1 CRLR 191-92]* Therefore, the joint parties request that the CPUC modify its decision in order to provide clear direction to all LSEs that the CPUC will expressly evaluate the adequacy of their specific plans using this criterion in addition to other enumerated requirements.

[4] In the Diablo Canyon decision, the CPUC expressly directed that "it is the intent of the Commission to avoid any increase in GHG emissions from the closure of Diablo Canyon," and furthermore that actions regarding the GHG-free replacement resources for Diablo Canyon be considered in this IRP proceedings.

On March 30, 2018, both Protect Our Communities Foundation (POC) and American Wind Energy Association California Caucus (ACC) filed responses to the joint petition. POC opposed the joint petition, and urged the CPUC to deny the petition forthright with prejudice, as it represents an attempted misuse of the petition for modification process, does not establish any jurisdiction for modification, is based on several omissions and misstatements of material facts, and proposes a conclusion of law that is contrary to existing state law. ACC, on the other hand, supported the joint petition, agreeing that the IRP decision does not meet the requirements set forth in the Diablo Canyon decision.

On April 3, 2018, ALJ Julie A. Fitch issued a ruling seeking comment on GHG emissions accounting methods and addressing updated GHG Benchmarks. The ruling invites comments from parties on a method proposed by CPUC staff for comparing GHG emission from electricity resource portfolios submitted as part of individual IRP filings, which are required by August 1, 2018. Additionally, the ruling provides updated GHG Benchmarks for individual LSEs as a result of the final publication form the California Energy Commission's 2017 Integrated Energy Policy Report (IERP), and includes clarification of certain IRP filing requirements related to the IERP assumptions. Community choice aggregators that are newly registered and not included in the 2017 IERP are required to file load forecasts out to 2030 in response to this ruling; other parties may comment on these forecasts. Note the importance of the Community Choice Aggregators inclusion in the process given the concern over the impact on GHG emissions emanating from this alternative means (Community Choice) for energy delivery.

Wildfires

The 2017 wildfire season was the worst in California history with over 9,000 fires and over 1.2 million acres destroyed. The CPUC and the Department of Forestry and Fire Protection (CalFire) are jointly-responsible for overseeing electric utility fire safety, so both entities remain heavily involved in claims, investigations, and new procedures or regulations resulting from the recent wildfire devastation.

Northern California Wildfires—October 2017

Wildfires erupted in Northern California (NorCal) on October 8, 2017. By October 9, firefighters and first responders were fighting over 18 fires in roughly seven different counties, prompting Governor Brown to declare States of Emergency in nine different NorCal counties. The October 8 Tubbs Fire (Napa, Sonoma Counties) burned 36,807 acres and killed 22 civilians and firefighters, and the Redwood Complex Fire (Mendocino County) began on October 9, burning 36,523 acres, killing a total of 43 civilians and firefighters before containment.[5]

In January 2018, the CPUC released reports detailing CalFire's investigation of the deadly October 2017 wildfires. Reports concerning the Nuns Fire identified damaged PG&E equipment located near alleged ignition sites.[6] On February 5, 2018, investigators with the Santa Rosa Fire Department determined that two fires in Santa Rosa were likely ignited by contact between arcing electrical lines and vegetation during windstorms on

[5] Other devastating NorCal fires in October 2017 include, among others: Sulphur Fire (Lake County: 2,207 acres burned); Nuns Fire (Napa, Sonoma Counties: 56,556 acres burned); Atlas Fire (Napa, Sonoma Counties: 51,624 acres burned); Pocket Fire (Sonoma County: 17,357 acres burned).

[6] Additional reports identify three other fires which appear to have ignited at or near damaged PG&E equipment: the Atlas Fire, the Patrick Fire, and the Tubbs Fire.

October 8 and 9. CalFire and the CPUC have yet to specify a cause of any of the October 2017 NorCal fires.

Southern California Wildfires—December 2017

Particularly extreme wildfires broke out across Southern California (SoCal) beginning on December 4, 2017, resulting in over 22 casualties.[7] The Thomas Fire—the most destructive fire in California history—began in Ventura County and spread to Santa Barbara County, burning over 280,000 acres and killing 2 people (1 firefighter, 1 civilian). The Creek Fire (Los Angeles (L.A.) County) ignited soon after the Thomas Fire on December 5 and was not contained until December 23. It burned over 15,600 acres. The Lilac Fire (San Diego County) started on December 7 and burned roughly 4,100 acres within hours, totaling 15,619 acres before firefighters announced containment.[8] The CPUC and CalFire have not yet released investigation reports for the December SoCal fires.

[7] This total includes deaths caused by the SoCal mudslides, predominantly in Montecito County, which killed 20 civilians.

[8] Additional SoCal fires in December 2017 include, among others: Rye Fire (L.A. County: 6,049 acres burned); Liberty Fire (Riverside County: 300 acres burned); Skirball Fire (L.A. County: 422 acres burned).

CPUC Institutes Emergency Consumer Protection Measures for Victims of 2017 NorCal and SoCal Wildfires; Opens Rulemaking Regarding Emergency Disaster Relief *NorCal Consumer Protection Measures* (Resolution M-4833)

On October 24, 2017, TURN sent a letter to the CPUC Commissioners and the Executive Director requesting that the CPUC take official actions to assist victims of the October wildfires noted above. Roughly three weeks later, on November 2017, the CPUC issued Resolution M-4833 with the following major requirements imposed upon energy, water, and communications utilities: (1) Waive deposit requirements for customers seeking to re-establish service; (2) Direct utilities to stop billing customers under "estimated energy use" calculations for the period when homes were unoccupied due to the wildfires; (3) Implement payment plan options; (4) Waive deposit fees and late fee requirements on bills of impacted customers.

ALJs Issue Decision Denying SDG&E's Application for $379 Million from Ratepayers (A.15-09-010)

On November 30, 2017, the CPUC rejected San Diego Gas & Electric's (SDG&E) request to pass $379 million in costs related to the catastrophic 2007 wildfires onto SDG&E's ratepayers.[9] D.17-11-033 upholds an August 2017 decision by two ALJs finding SDG&E did not act reasonably in managing its facilities and therefore could not pass costs along to its customers. Both decisions applied the CPUC's "prudent management standard" which allows a utility to recover costs if the CPUC finds the utility's operation,

[9] The 2007 Southern California fires destroyed approximately 1,300 residences, injured two firefighters, and resulted in two deaths.

engineering, and management of facilities involved with the fires was reasonable. [*23:1 CRLR 188-89*]

On January 2, 2018, SDG&E filed an application for rehearing of the decision denying its request to recover costs associated with those fires. The rehearing application claimed that the Commission wrongly denied SDG&E's application, in part, because the common denominator underlying the ignitions of the Witch, Guejito and Rice Fires was the extreme and unprecedented environmental conditions across southern California at the time. SDG&E contended that it managed its facilities prudently, carried reasonable levels of liability insurance, effectively managed all claims and aggressively pursued third-party recoveries. In addition, the utility argues that the decision imposes an unreasonable and unattainable standard of perfection even when damages are caused by extreme factors beyond its control.

SoCal Consumer Protection Measures (Resolution M-4835)

On January 11, 2018, the CPUC instituted similar consumer protections for December SoCal wildfire victims through Resolution M-8435. The measures require Southern California Edison (SCE), SoCal Gas Company, SDG&E and communications companies in impacted areas to comply with requirements similar to those imposed by M-4833 (see above) as well as the following: (1) suspend service-disconnection for non-payment; (2) provide impacted California LifeLine Program participants extended discount periods; and (3) assist with the Program contract renewal process, among other measures.[10]

[10] The protection measures further require listed electric and communications companies to expedite move-in and move-out service requires for impacted residential customers.

The protection measures apply to residential and non-residential customers for up to one year.

On March 22, 2018, the CPUC instituted a Rulemaking (R.18-03-011) to consider whether to adopt statewide post-disaster consumer protection measures for all utilities within CPUC jurisdiction. As of April 15, the CPUC seeks comments in R.18-03-011 on associated issues, including whether to adopt measures such as those in M-4833 and M-4835 above—for all California utilities during disasters in which the Governor issues a "state of emergency proclamation."

CPUC Adopts Stronger IOU Fire Safety Rules R.15-05-006 (D.17-12-024)

On December 14, 2017, the CPUC adopted new regulations in D.17-12-024 to enhance fire safety in the High-Fire Threat District. Among other things, the decision requires by September 1, 2018, that regulations for high fire-threat areas on Interim Fire-Threat Maps in both Southern and Northern California be transferred to Tier 3 fire-threat areas on the statewide High Fire-Threat District Map. Additionally, on January 19, 2018, the CPUC approved a new statewide Fire-Threat Map to facilitate implementation of new fire-safety regulations adopted in D.17-12-024.

Nuclear Power

San Onofre Nuclear Generating Station's Retirement (I.12-10-013)

On October 30, 2017, in accordance with the ruling of assigned Commissioner Michael Picker and ALJ Darcie Houck on October 10, 2017, SDG&E, California State University, TURN, SCE, Women's Energy Matters (WEM), Ruth Henricks, Office of Ratepayer Advocates (ORA), and Alliance for Nuclear Responsibility (A4NR) filed

position statement regarding two issues: (1) cost allocation between the shareholders and ratepayers for costs resulting from the Steam Generator Replacement Project failure and (2) the $25 million for the contribution to the University of California for research regarding the reduction of GHGs in light of now documented previous *ex parte* contacts between then-President Michael Peevey and the University. On November 14, 2017, ALJ Darcie Houck ruled that the parties to the proceedings are directed to comply with Rule 10.1 (make every effort to coordinate and work collaboratively to resolve any discovery disputes among themselves). If that does not suffice, they may utilize the procedural process set out in Rule 11.3 to the extent they are unable to resolve such disputes among themselves. *[23:1 CRLR 191]*

On January 8, 2018, Assigned Commissioner Picker and ALJ Darcie Houck issued a ruling setting forth the schedule for the remainder of the proceeding and the scope for evidentiary hearings.

On January 30, 2018, SCE, SDG&E, A4NR, the California Large Energy Consumers Association (CLECA), California State University, Citizens Oversight dba Coalition to Decommission San Onofre (Citizens Oversight), the Coalition of California Utility Employees (CUE), the Direct Access Customer Coalition (DACC), Ruth Henricks, ORA, TURN, and WEM jointly moved that the CPUC adopt a Settlement Agreement. In addition, on February 1, 2018, the joint parties also moved to stay proceedings in I.12-10-013, pending the CPUC's consideration of the joint motion for adoption of that Settlement Agreement. Such proceedings would be rendered moot by the acceptance of that settlement. Presiding Commissioner Michael Picker and ALJ Darcie Houck issued a joint ruling granting in part and denying in part the joint motion to stay proceedings on February

6, 2018. The ruling stated that the CPUC was still in the process of reviewing the proposed Settlement Agreement, and will require additional information from the parties. SDG&E and SCE were directed to file and serve the Utility Shareholder Agreement into the evidentiary record to ensure that the CPUC has a full and complete record when assessing whether the Settlement Agreement meets the requirements specified. After a complete review of the proposed Settlement Agreement, the CPUC would issue another ruling to further direct the parties. On February 15, 2018, SCE, SDG&E, A4NR, CLECA, California State University, Ruth Henrick's and Citizens Oversight, CUE, DACC, ORA, TURN, and WEM filed responses to the joint ruling.

Also on February 15, 2018, SDG&E and SCE filed a motion to enter Utility Shareholder Agreement into the evidentiary records. The utilities provided the Utility Shareholder Agreement to comply with the February 6, 2018 ruling to complete the evidentiary record.

On February 28, 2018, Public Watchdogs filed a motion for party status. Public Watchdogs noted that all active consumer representatives in this proceeding accepted a revised settlement and, as a result, this proceeding would potentially lack any active party taking an adversarial role contrary to the existing compromise. In addition, Public Watchdogs claimed that this concern is underlined because at least one particularly aggressive opponent of the original settlement allegedly has a very substantial financial interest in the adoption of the proposed revised settlement, specifically, a potential $5.4 million pre-negotiated payout from related court litigation.

On March 12, 2018 SCE, SDG&E, A4NR, CLECA, California State University, Citizens Oversight, CUE, DACC, Ruth Henricks, ORA, TURN, and WEM filed a joint

response to Public Watchdogs' motion for party status. The joint parties argued that this motion came very late in the proceeding and that although the organization "has observed the proceedings" for multiple years, it chose not to seek party status. Second, the joint parties argued that Public Watchdogs raises issues that have been thoroughly addressed by other parties and that other parties to the proceedings adequately represent consumer interests. On March 22, 2018, Assigned Commissioner Michael Picker and ALJ Darcie Houck issued a ruling granting limited party status to Public Watchdogs.

Also on March 22, 2018, Assigned Commissioner Michael Picker and ALJ Darcie Houck issued a ruling on party filings submitted on February 15, 2018 and additional information to be provided by parties. This ruling receives the "other agreements" referenced in the January 30, 2018 Settlement Agreement into the evidentiary record, and addresses additional information needed from Ruth Henricks and Citizens Oversight. Neither of these two parties submitted declarations in compliance with the February 6, 2018 joint ruling, nor did either party join in the motion submitted by SCE on February 15, 2018 requesting that the Federal Court Agreement be admitted into the evidentiary record.

On April 3, 2018, Ruth Henricks and Citizens Oversight jointly moved to stay the March 22, 2018 rulings granting party status to Public Watchdogs and requiring Henricks and Citizens Oversight to file documents under the threat of fines, pending the CPUC's consideration of the "Amended Appeal of the 22 March 2018 Rulings" submitted on March 29, 2018.

PG&E's Request to Retire Diablo Canyon Power Plant (A.16-08-006)

On November 8, 2017, ALJ Peter V. Allen issued a proposed decision approving retirement of Diablo Canyon Nuclear Power Plant (Diablo Canyon). The proposed decision approves PG&E's proposal to retire Diablo Canyon and approves $190.4 million in rate recovery for costs associated with its retirement. Specifically, PG&E is authorized to recover in customer rates $171.8 million for employee retention and retraining, and $18.6 million for its license renewal activities, plus a portion of the cost of cancelled capital projects. Replacement procurement issued will be addressed in the Integrated Resource Planning (IRP) proceeding. On January 11, 2018, the Commissioners approved the proposed decision and ordered A.16-08-006 to be closed.

On January 16, 2018, California for Green Nuclear Power (CGNP) filed an application for rehearing of the decision. First, CGNP states that ALJ Peter Allen's acquiescence to PG&E's wish to *de facto* re-scope the proceeding midway through, violates Rules 1.7, 1.12, 7.3, and the parties' due process rights. Second, CGNP claims that the decision was premature and violates the law, because the California Coastal Commission has not authorized such a change in use of Diablo Canyon. Third, CGNP argues that California law requires the CPUC to reduce GHGs and the record indicates that the decision will increase GHGs, or at best, that there is not enough information in the record to make the determination required by law. Lastly, CGNP states that shutting down Diablo Canyon violates the CPUC's obligation to ensure reliable power generation at just and reasonable rates, therefore, the decision is not in the best interests of the public or ratepayers.

ENERGY EFFICIENCY, SOLAR, AND STORAGE

General

CPUC Authorizes PG&E Battery Storage RFO at Three Calpine Fossil Fuel Plants ♦ On January 11, 2018, the CPUC authorized PG&E to initiate a request for offers (RFO) for battery storage projects to replace three of PG&E's Calpine fossil fuel plants that currently supply gas to local communities: Calpine's Metcalf, Feather River, and Yuba plants. Although the plants are not under long-term procurement contracts with energy utilities, CAISO identified all three plants as necessary to serve local energy reliability needs. As of April 15, CAISO and Calpine await Federal Energy Regulatory Commission's (FERC) approval of CAISO's designation of the three plants as "must run" for local reliability purposes. If approved, the plants would be paid to operate under an expensive cost-of-service contract, something both the CPUC and PG&E did not support.[11] The CPUC supports such RFOs because the gas plants—which are necessary to ensure local energy reliability—do not have long-term contracts. Because of this, the CPUC's directive only requires PG&E to accept RFOs for the plants if the contracts are reasonable and would prove effective in reducing the need for Calpine's gas-fired plants.[12]

[11] The CPUC's concerns with CAISO's designation included beliefs that there are cleaner, cheaper alternatives to the current project, such as battery storage—these concerns led to the RFO directive for PG&E.

[12] Note that the "reliability" reference has to do with the use of such natural gas fired plants to meet energy needs at peak use periods. In order to assure electricity at all times, PG&E (and other utilities) must be able to increase capacity to generate enough for total demand, including that necessary for high use middle of the day air conditioning. This is commonly provided by relatively expensive gas fired facilities that can come on quickly. A system of battery storage could instead produce electricity in such peak periods, precluding the need for an entirely separate and episodic gas fired plant.

CPUC Grants $1 Million to SDCWA for Battery Storage at Twin Oaks Water Treatment Plant ♦ Pursuant to a $1 million incentive awarded through the CPUC's 2017 Self Generation Incentive Program (SGIP), the San Diego County Water Authority (SDCWA) recently installed commercial-scale batteries at SDCWA's Twin Oaks Water Treatment Plant. The batteries are part of a new energy storage system designed to decrease the Plant's operational costs by storing both solar energy produced on-site and low-cost energy from the electric grid.[13] The CPUC awarded the SGIP incentive to encourage adoption of energy storage technologies designed to reduce both greenhouse gas emissions and electricity demand statewide. SDCWA expects to save roughly $100,000 each year from the new battery installation.[14]

CPUC Creates $100 Million Solar Subsidy for Multifamily Properties ♦ On December 14, 2017, the CPUC created the Solar on Multifamily Affordable Housing (SOMAH) Program, providing $100 million each year to incentivize solar installation projects for existing multifamily affordable homes. SOMAH is a product of a 2015-2016 bill, AB 693 (Eggman) (Chapter 582, Statutes of 2015), to fully subsidize solar panels on multifamily buildings located in low income or "Disadvantaged Communities" (DACs).[15]

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[13] The batteries were installed by Santa Clara-based ENGIE Storage whose GridSynergy software enables SDCWA to use low-cost energy for Plant operations during periods of high-demand. The on-site solar energy comes from the Twin Oaks facility's existing solar installation (over 4,800 solar panels) which produces an annual average of 1.75 million kilowatt hours of electricity.

[14] The new batteries augment SDCWA's existing energy storage and renewables portfolio which includes 7,500 solar panels on three facilities producing enough renewable energy to save SDCWA over $5.6 million in energy expenses over the next 20 years.

[15] AB 693 specifically aimed to fully subsidize solar on multifamily homes in DACs if those homes had a number of federally subsidized units, or where most tenants' income is less than 60% of the average income in that area or community.

The SOMAH Program differs from the existing Multifamily Affordable Solar Housing Program because SOMAH's $100 million annual funds will come from proceeds of GHG allowance auctions, specifically sourced from PG&E, SDG&E, SCE, Liberty Utilities Company, and PacifiCorp.[16]

L.A. Bureau of Sanitation Receives $3.5 Million Grant from CPUC to Develop Renewable Energy Project ♦ On April 4, 2018, the L.A. Bureau of Sanitation revealed that it received a roughly $3.5 million grant from the CPUC to develop a renewable energy project at the largest water treatment facility in L.A., the Hyperion Water Reclamation Plant. Although Hyperion is a local plant, the grant aims to provide the City of Los Angeles with a new method to contribute to California's goal of achieving 65 percent renewable energy by 2035. The CPUC charged SoCal Gas Co. with administering the $3.5 million grant and diverted half of the funds to the L.A. Bureau of Sanitation to initiate the project. Although only a recent development, the CPUC's grant may be perceived as a possible precedent in extending CPUC subsidies into the realm of water treatment, reclamation, and conservation.

Community Choice Aggregation & Community Choice Energy

The legislature originally sanctioned Community Choice Aggregation (CCA), or a Community Choice Energy (CCE) program in 2002 in response to the Energy Crisis by allowing local governments to contract directly with energy providers to service local residents. The CCA or CCE serves as an alternative to the investor owned utility energy

[16] SOMAH also has different rules and eligibility requirements than the Multifamily Affordable Solar Housing Program.

supply system. They collectively represent consumers within a defined jurisdiction to secure alternative energy supply contracts. The CCA chooses the power generation source on behalf of the consumers. By aggregating purchasing power, they may be able to create large contracts with generators, something impractical for individual buyers and do so separate and apart from the sunk cost commitment of the existing utility. The main goals of CCAs have been to either lower costs for consumers or to allow consumers greater control of their energy mix, mainly by offering "greener" generation portfolios than local utilities. Currently, CCAs now exist in 7 states. California is a major example, with 13 CCAs.

IOUs Submit Testimony to CPUC Regarding Alternatives to the Power Charge Indifference Adjustment ♦ On April 2, 2018, Investor Owned Utilities (IOUs) submitted testimony to the CPUC requesting rule changes to protect bundled IOU customers at risk of bearing long-term costs resulting from the recent boom of CCAs. IOUs proffered the testimony as part of the R.17-06-026, rulemaking by the CPUC to assess pricing, reforms, and alternatives for various aspects of the Power Charge Indifference Adjustment (PCIA). R.17-06-026 aims to ensure bundled customers are neither worse nor better off after other customers depart from IOUs to join energy providers (e.g., CCAs, electric service providers (ESPs)).

CPUC Resolution for Resource Adequacy in the Age of CCA ♦ On February 8, 2018, the CPUC adopted Resolution E-4907 requiring CCAs to meet resource adequacy (RA)[17] requirements, a requirement previously imposed only on IOUs. Now, both LSEs

[17] RA describes the amount of energy that utilities must procure to meet electricity needs of the grid during peak demand.

and CCAs serving retail customers must submit RA filings to the Energy Commission, the Independent System Operator, and the CPUC with two-month load forecasts specifying how they intend to meet RA requirements (e.g., resources used to meet RA and load capacity) one month before serving retail customers.[18]

The City of San Diego Considers Its First CCA ♦ The City of San Diego *may* soon have its first CCA. On November 16, 2017, San Diego took steps to create its first CCA entity. This involved a majority of San Diego's City Council members forming an agreement to create a government-run agency to procure electricity from sources selected by and for San Diego residents. This CCA brings San Diego one step closer to the City's goal of reaching 100 percent renewable energy by 2035.

However, note that in October of 2017, SDG&E submitted a report to Mayor Kevin Faulconer's office contending that its plan is to provide 100 percent green energy to the entire City within the next twenty years. SDG&E's proposed plan recommends creating separate rate structures for both San Diego residents and businesses, respectively. In November of 2017, Mayor Faulconer commissioned a third-party review of SDG&E's plan—which raised some unanswered questions: SDG&E's plan would require CPUC approval; it provides no estimates of plan impacts to ratepayer bills[19]; and it provides little information on SDG&E's approach to costs and risks associated with pragmatic implementation of the joint City-SDG&E effort. On the other hand, the independent review

[18] New CCAs and ESPs must contact both the CPUC and the Energy Commission for filing requirements and are directed to review current year RA compliance materials on the CPUC's website for additional RA filing instructions.

[19] This includes the "unknown" amount of the "exit fee" customers would be required to pay SDG&E to bypass the utility's service, and the CPUC is not set to decide "exit fee" amounts until sometime in 2018.

provided that SDG&E's plan was "detailed and comprehensive" and its "assessment of loads and load forecast are thorough and reasonable," ultimately concluding that SDG&E *may* feasibly meet San Diego's CCA needs.

La Mesa, Solano Beach Make the Move Toward CCA Structure ♦ On March 13, 2018, La Mesa City Council unanimously adopted a Climate Action Plan that proposes to serve city customers with 100 percent clean energy, chiefly through a Community Choice mechanism.[20] La Mesa hopes to initiate actions in the near future to implement its new Climate Action Plan. Earlier this year on February 28, 2018, the City of Solano Beach became the first in the County of San Diego to initiate a CCA. The new program will launch in June of 2018, but Solano Beach residents should receive initial notices to enroll in the CCA sometime in April of 2018.

Electric Vehicles

On January 26, 2018, Governor Brown issued Executive Order B-48-14, calling on both the government and private sectors to place at least 5 million electric vehicles on California roads by 2030. This Order augments California's initial goal of placing 1.5 million electric vehicles on the road by 2025. Governor Brown's proposal to meet the new 5 million-EV target includes $2.5 billion in investments over 8 years, chiefly comprised of subsidies for EV purchases and investments in statewide charging station infrastructure.[21]

[20] La Mesa is the sixth city in San Diego County to adopt a 100 percent clean-energy goal. Other cities with 100 percent clean energy goals include San Diego, Del Mar, Solana Beach, Chula Vista, and Encinitas.

[21] Planned infrastructure includes approximately 250,000 EV charging stations and 200 hydrogen fueling stations.

CPUC Reviews IOU Proposals for SB 350 Transportation Electrification Pilots (A.17-01-020, et al.) ♦ On January 11, 2018, the CPUC approved 15 utility pilot projects designed to accelerate the EV-driving transition in California, particularly in DACs (low income or disadvantaged communities). In early 2017, the CPUC directed all three IOUs (PG&E, SCE, SDG&E) to submit Priority Review Pilot Projects pursuant to SB 350. The CPUC directed IOUs to proposed pilots designed to achieve SB 350 goals to increase clean energy use and widespread transportation electrification (TE). The CPUC's approval on January 11 allows IOUs to spend over $41 million on EV charging projects around the state. IOUs will partner with independent EV charging companies to implement the approved pilots, which focus chiefly on statewide deployment of heavy duty and fleet EVs.

SDG&E's Priority Review of TE Pilots intends to expand the EV charging network in the San Diego region, particularly for medium- to heavy-duty equipment and vehicles. For example, one new program involves installing forty-five charging ports at the San Diego International Air Port to electrify ground support equipment such as tugs and motors. Another program will install chargers for delivery fleets, such as UPS, while a separate program plans to install approximately 88 charging stations at four "Park-n-Ride" lots in SDG&E's territory. These projects will complement SDG&E's existing programs, such as "Power Your Drive" which expects to install 3,500 EV ports at workplaces and apartment complexes.

SCE's Priority Review TE Pilots plan, among other things, will provide roughly 5,000 customer rebates for those who install at-home charging stations,[22] electrify construction equipment (*e.g.*, cranes, tractors) at the Port of Long Beach, and provide rebates for installations of about 20 charging ports for electric transit buses. These Pilots add to SCE's transportation electrification portfolio, which includes programs such as SCE's Charge Ready Program—a pilot to install 1,000 charging stations and provide rebates to qualifying customers.

PG&E's Priority Review TE Pilots will support TE for long-haul and refrigerated trucks in the San Joaquin Valley, for five school buses in one school district, and for one transit agency's public transit buses. Previously approved pilots, such as PG&E's EV Charge Network program, focus on installing chargers at selected apartment complexes and workplaces in PG&E's service territory.

On March 30, 2018, CPUC ALJs issued a proposed decision on IOU Standard Review TE Projects, also proposed through A.17-01-020, *et al*. This proposed decision recommends IOU budgets of roughly $589 million for Standard Review Pilots and an additional $22.7 million to evaluate efficacy of the Pilots. The CPUC plans to vote on the proposed decision at the CPUC's May 10 Business Meeting or sometime thereafter. Until that time, the March 30 proposed decision has no legal effect.

[22] Customers receive rebates for charger installations only if they enroll in SCE's time-of-use electricity rates.

TRANSPORTATION

Ridesharing Companies

The Charter-Party Carriers' Act provides to the CPUC broad regulatory authority over transportation network companies (TNCs) and charter-party carriers. The Act states, in relevant part, "[CPUC] may supervise and regulate every charter-party carrier of passengers in the State and may do all things . . . which are necessary and convenient in the exercise of such power and jurisdiction."[23] This provides the CPUC with broad authority to adopt regulations for TNCs and to exercise this jurisdiction as it deems necessary. Recent decisions demonstrate the CPUC's increasing regulatory framework over this industry.

CPUC Institutes Background Check Requirements for Rideshare Companies

♦ On November 9, 2017, the CPUC issued a Decision (D.17-11-010) setting forth requirements for background checks for TNC such as Lyft and Uber. Each licensed TNC is now required to comply with background check requirements mandated in section 5445.2 of the Public Utilities Code in addition to requirements set forth in D.17-11-010.[24]

CPUC Issues Autonomous Vehicle Pilot Proposal for Ridesharing Companies

♦ On April 2, 2018, the California Department of Motor Vehicles (DMV) rules for testing driverless autonomous vehicles (AVs) on California roads went into effect. On April 6, the CPUC issued a proposal through R.12-12-011 which would authorize qualified TNCs

[23] PUB. UTIL. CODE § 5381 (Deering 2018).
[24] *See* D.17-11-010 at 33-35 (listing CPUC background check requirements for TNC drivers); *id.* at 18 (listing *minimum* requirements imposed by Public Utilities Code section 5445.2) (emphasis added).

utilizing autonomous vehicles[25] to conduct Pilot ridesharing programs. The first Pilot would involve ride services in autonomous vehicles with trained drivers in each vehicle. However, the second Pilot would provide ride services in *driverless* AVs that comply with DMV requirements, including remote monitoring and operation capabilities for each AV participating in the Pilots. To align with DMV rules, the CPUC would not permit participating companies to charge passengers for the rides provided through the Pilot Programs. The CPUC plans vote on this proposal at its Voting Meeting on May 10, 2018.

The CPUC issued the AV Pilot Proposal soon after a fatal incident on March 19, 2018 when an Uber vehicle operating under "autonomous mode" fatally struck a woman crossing the street in Tempe, Arizona. Uber had a permit from California's DMV authorizing its AV testing.[26] Although Uber suspended its AV testing after the fatal incident, the CPUC cautiously authorized the recent Pilot Proposal to limit risk-exposure for Californians in AV Pilot implementation areas.

Trains/Transit

With CPUC Approval, BART Initiates Deployment of the "Fleet of the Future" ♦ On January 18, 2018, the CPUC approved the new Bay Area Rapid Transit (BART) system train cars: the "Fleet of the Future." The next day, BART placed 10 new train cars into service, the first of approximately 775 new cars that BART plans to add to

[25] Qualified transportation companies are those that (1) operate under valid DMV-issued permits ("Autonomous Vehicle Tester Program Manufacturer's Testing Permit" for Pilot 1; "DMV Manufacturer's Testing Permit—Driverless Vehicles" for Pilot 2) and (2) are subject to CPUC jurisdiction.

[26] Uber's permit covered 29 cars equipped with the self-driving (AV) technology.

its transit system.[27] BART's new train cars are energy efficient and offer quieter rides, automated announcements and digital screens for passengers, and comfort features like modernized cooling systems, seats, and wider aisles. BART delayed deployment of its new Fleet after one train car failed a CPUC safety inspection in November 2017. BART expects to deploy the entire Fleet of the Future by 2023.

TELECOMMUNICATIONS

California Lifeline Program

CPUC Modifies LifeLine Eligibility Criteria (D.18-02-006) ♦ On February 8, 2018, the CPUC modified Lifeline Eligibility Criteria through D.18-02-006. Pursuant to AB 2570[28], the CPUC implemented a LifeLine benefit portability freeze in January 2017 in order to align California's LifeLine eligibility criteria with that of the Federal LifeLine Program. Among other things, D.18-02-006 placed the following on the list of California LifeLine-qualified public assistance programs: Low-Income Home Energy Assistance Program; Temporary Assistance for Needy Families; National School Lunch Program; Welfare-to-Work; California Work Opportunity and Responsibility to Kids; Stanislaus County Work Opportunity; Women, Infants, and Children Program; and Greater Avenues for Independence.[29] The Decision (D.18-02-006) also restores income-based criteria for

[27] BART deployed 10 new cars as part of the initial phase of BART's Fleet of the Future. The new train began running on the Richmond to Warm Springs–South Fremont line during non-peak hours on weekdays and weekends.

[28] This is codified as Public Utilities Code section 878.5 (requiring the CPUC to adopt a portability freeze rule).

[29] *See Decision Revising California LifeLine Eligibility Criteria Provisions* (D.18-02-006) (Feb. 8, 2018), (augmenting California-only Eligibility Criteria; authorizing LifeLine Program Fund to temporarily fund California-LifeLine customers ineligible under Federal LifeLine Criteria up to $9.25 per month per participant through November 30, 2019; adding

California LifeLine participants, now requiring income at or below 150 percent of Federal Poverty Guideline .[30] The CPUC may initiate a Rulemaking separate from the present LifeLine Rulemaking (R.11-03-013) to (1) incorporate these California LifeLine modifications into General Order (GO) 153 and (2) determine whether any California LifeLine application and renewal packets must be updated in accordance with recent changes.[31]

CPUC Temporarily Modifies LifeLine Program's Benefit Portability Freeze (D.17-01-032) ♦ A March 16, 2018, CPUC ruling temporarily modifies the benefit portability freeze of the California LifeLine Program, suspending exceptions to the freeze and reducing the duration from 60 days to 24 hours. The CPUC adopted the portability freeze rule in D.17-01-032 after a similar rule was implemented in the Federal LifeLine program pursuant to FCC's 2016 LifeLine Modernization Order.[32] The D.17-01-032 portability freeze rule required California LifeLine participants to remain with the same LifeLine service provider for 60 days to receive Program discounts.[33] After 60 days,

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Veterans Pension Benefit and Survivors Pension Benefit Program to California LifeLine Eligibility Criteria).

[30] The criteria assess household income according to corresponding household size in the Federal Poverty Guideline. D.18-02-006 at 2.

[31] *Id.* at 25-26. The California LifeLine Program is codified at GO 153 Section 5.1.5.

[32] FCC has since eliminated the Federal LifeLine benefit portability freeze for voice and broadband services to encourage competition and ameliorate administrative burdens—FCC found the freeze yielded unnecessary restrictions on consumer choice and access to services. *See Fourth Report and Order, Order on Reconsideration, Memorandum of Opinion and Order, Notice of Proposed Rulemaking and Notice of Inquiry, WC Dkt Nos. 17-287, 11-42, 09-0197,* FCC17-155 (rel. Dec. 2017) (2017 LifeLine Reconsideration Order), ¶¶ 34-38.

[33] The 60-day requirement applied for the California LifeLine participant who did not otherwise qualify for an exception to the benefit portability freeze rule. *See Ruling Temporarily Modifying 60-Day Benefit Portability Freeze*, *supra* note 34, at 2.

participants may elect to switch to another California LifeLine service provider or remain with the same provider – participants would not be subject to a second 60-day benefit freeze unless they switch service providers at the end of the first 60-day period. Temporary measures from the March 16 Ruling went into effect on March 19 and will remain effective until the CPUC directs otherwise. As of April 15, the CPUC seeks comments on the March 16 Ruling.

Area Codes

820 Area Code Added to the 805 Area Code Region ♦ Beginning on December 1, 2018, residents in the 805 area code zone—predominantly Counties of San Luis Obispo, Santa Barbara, Ventura, and southern Monterey—must now dial 1 plus the area code, followed by the seven-digit phone number that they wish to dial. Over the next few months, the 805 region will have a new 820 area code, as well. These changes resulted from a request to the CPUC by the North American Numbering Plan Administrator (NANPA)—the national phone number regulatory agency—to add a new area code to the region because of a dwindling supply of 805 area code phone numbers. In its request, NANPA explained that a new area code provides more prefixes, thus ensuring availability of telephone numbers for new customers in the region. The CPUC approved the request and set a schedule for a new area code overlay–to add a new area code—that will allow companies to begin issuing new 820 phone numbers after June 30, 2018.[34]

279 Area Code Added to the 916 Area Code Region ♦ As of February 10, 2018, landline users in Sacramento with a 916 phone number must first dial 1, then the 916 area

[34] Calls to three-digit service numbers, like 911, 211, and 511, are not affected by this change.

code to make phone calls. The CPUC created an area code overlay for Sacramento's six-county region (Sacramento, El Dorado, Solano, Sutter, Yolo, and Placer counties) for reasons similar to those in the 805 region—carriers ran out of numbers for new customers in the 916 region. Accordingly, beginning on March 10, 2018, customers who sign up for a new telephone number in the Sacramento region will receive a new 279 area code, even if the customers live in the previously designated 916-only area. The same dialing process of "1+ area code" applies to landline users placing calls to both 916 and 279 phone numbers. However, cell phone users should not need to dial 1 before dialing either area code because major cell phone providers automatically incorporate the 1 into the phone-dialing software.[35]

Boundary Elimination Overlay in the 858 and 619 Area Codes (A.16-12-005)

♦ On April 27, 2017, Commissioners approved former ALJ Robert W. Haga's proposed decision granting request for the numbering plan area (NPA) boundary elimination overlay in the 858 and 619 area codes with a 13-month implementation schedule. The decision stated that a boundary elimination overlay would provide additional numbering resources to meet the demand for telephone numbers. Additionally, the decision adopted a public education program to facilitate public acceptance and understanding related to implementation of the boundary elimination overlay area code relief.

Accordingly, starting May 19, 2018, the boundary between the 619 and 858 area

[35] Calls to three-digit service numbers, like 911, 211, and 511, are not affected by this change

codes are eliminated in the San Diego region.[36] The CPUC typically adds a new area code in the region where current area code phone numbers are depleting. However, increasingly the CPUC is eliminating existing boundaries. On the one hand, this results in the retention of current numbers rather than the creation of an entirely new area code and it allows all calls within the combined two-number area code to be considered "local" calls. However, it means that instead of dialing seven numbers available to most callers, customers must dial "1" before dialing either 619 or 858 numbers—requiring the dialing of ten numbers instead of seven.

The CPUC recommends people ensure that phones and other equipment *(e.g.*, fax machine, internet dial-up, and voicemail service) are programmed to dial 1 and the area code, in addition to a typical seven-digit phone number. This is particularly important for those with security systems, medical monitoring devices, or life-alert devices that are pre-programmed to dial certain emergency numbers.[37]

Application for All-Services Distributed Overlay for the 909 Service Area (A.17-06-020) ♦ On March 13, 2018, the CPUC issued a Scoping Memo in a proceeding initiated by the NANPA on behalf of California's Telecommunications Industry (Industry).

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[36] *See Decision Granting Request for the Numbering Plan Area Boundary Elimination Overlay in the 858 and 619 Area Codes* (D.17-04-027) (Apr. 27, 2017). The 619 region includes southern portions of the City of San Diego (cities of San Diego (south), Chula Vista, Coronado, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Santee, and unincorporated areas of San Diego County). The 858 region includes northern portions of the City of San Diego and adjacent cities of Del Mar, Poway, Solana Beach, some of Encinitas, and an unincorporated region of San Diego County.

[37] CPUC recommends that anyone with one of these devices contact the vendor or manufacturer or their medical provider to ensure that phone numbers are properly programmed.

NANPA's Application requests the CPUC to institute an all-services distributed overlay for the 909-service area because all current numbers will be exhausted in early 2019 for southwestern San Bernardino County, eastern L.A. County, and portions of both Orange and Riverside Counties.[38] The March 13 Scoping Memo provides the CPUC's issues for consideration in the proceeding, including whether the CPUC should approve the Industry's all-services distributed overlay plan for the 909 service area and whether to approve a 13-month schedule to implement the proposed overlay. On April 12, NANPA supplemented its initial Application by revising the initial forecast for exhaustion of numbers in the 909 service area from the first quarter of 2019 to the third quarter of 2020. The CPUC intends to review and complete the proceeding before 2019.

LEGISLATION

INTERNAL

AB 2604 (Cunningham), as introduced on February 15, 2018, would amend section 303 of the Public Utilities Code. Currently, section 303 prohibits an *executive* of a public utility from serving as a commissioner within two years after leaving the employment of the utility. This bill would instead broaden that prohibition to include an *employee* of a public utility from serving as a commissioner within two years after leaving the employment of the utility.

[38] This proceeding specifically concerns ISPs in the 909 service area which serves Big Bear Lake, Colton, Chino, Chino Hills, Fontana, Grand Terrace, Highland, Loma Linda, Redlands, Yucaipa, Ontario, Montclair, Rancho Cucamonga, Claremont, Diamond Bar, Industry, La Verne, Pomona, San Dimas, Walnut, and unincorporated areas in the Counties of San Bernardino, Los Angeles, Calimesa, Eastvale, and Riverside.

SB 1358 (Hueso), as introduced on February 16, 2018, would amend sections 1701.1 of the Public Utilities Code. Existing law requires the CPUC to determine whether each proceeding before it is a quasi-legislative, an adjudication, or a rate setting proceeding. The CPUC is also required to determine whether a proceeding requires a hearing. This bill would require the assigned commissioner (rather than a vote of all CPUC commissioners), to determine whether the proceeding requires a hearing as a part of the "scoping decision" at its outset. *[S. EU&C]*

GENERAL ENERGY

SB 1090 (Monning), as amended on March 15, 2018, would add section 712.7 to the Public Utilities Code. Section 712.7(a) provides that the CPUC must approve both of the following: (1) the full funding for the community impact mitigation settlement proposed in A.16-08-006; and (2) the full funding for the employee retention program proposed in A.16-08-006. According to the added section 712.7(b), the CPUC would ensure that IRPs are designed to avoid any increase in emissions of GHGs as a result of the retirement of the Diablo Canyon Units 1 and 2 power plants. Newly added section 712.7(c) would require the CPUC to establish an expedited advice letter process for the approval and implementation pursuant to subdivision (a) of the community impact mitigation settlement and employee retention program. *[S. EU&C]*

SB 1088 (Dodd), as amended on April 9, 2018, would amend section 454 of the Public Utilities Code. Section 454 would be amended to require that an electrical or gas corporation must submit a safety, reliability, and resiliency plan pursuant to section 2899.2, must furnish to its customers written notice with the regular bill for charges for the two billing cycles before it submits the plan. The written notice must include a link to the

internet website where the plan will be available electronically upon its submission. In addition, section 454 would require the CPUC to permit any member of the public to testify at any hearing or proceeding authorized under the Utility Infrastructure, Safety, Reliability, and Accountability Act, except that the presiding officer need not allow repetitive or irrelevant testimony and may conduct the hearing in an efficient manner. *[S. EU&C]*

ENERGY EFFICIENCY, SOLAR, AND STORAGE

AB 2208 (Aguiar-Curry), as amended March 23, 2018, would amend section 44258.5 of the Health and Safety Code and amend sections 399.12, 399.15, and 399.30 of the Public Utilities Code, relating to energy. Amended section 399.15 would require IOUs, POUs, and CCAs to procure at least 25 percent of energy required to meet their respective Renewable Portfolio Standard (RPS) procurement from renewable grid-balancing generation until December 31, 2030, or until 20 percent of all renewable resources come from renewable grid-balancing generation, whichever occurs first. Amended section 399.15 would further require at least 40 percent of such renewable grid-balancing generation to be sourced from the Salton Sea Known Geothermal Resource Area. *[A. U&E]*

SB 1399 (Wiener), as amended April 5, 2018, would add section 2827.2 to the Public Utilities Code relating to renewable energy. New section 2827.2 would require the CPUC to require each IOU to establish one or more shared renewable energy tariffs for nonresidential customers (*e.g.*, businesses, public agencies, schools) to obtain and apply to their electrical accounts. The new section also establishes criteria for renewable energy

generation sites,[39] and it would further require the CPUC to incorporate the tariff requirement into its review of each IOU net energy metering program. One major purpose of SB 1399 is the incentivization of rooftop solar installations. *[S. EU&C]*

SB 1440 (Hueso), as amended April 9, 2018, would add section 2898 *et seq*. to the Public Utilities Code relating to energy. New section 2898.1 would require the CPUC, in consultation with CARB, to establish a biomethane (or renewable natural gas (RNG)) procurement program designed for California's gas corporations, including SCE, PG&E, and SDG&E, to collectively create and procure 32 billion cubic feet of biomethane.[40] New section 2898.1 would further require the CPUC to approve applications from participating gas corporations to recover costs from ratepayers for each corporation's investment in the biomethane-delivery infrastructure.[41] New section 2898.8 would allow the CPUC to relieve a gas corporation of its obligation to meet certain biomethane requirements if doing so would cost the corporation over $15 per million British thermal units above the average price on the Natural Gas Index. New section 2898.7 would specify that these new sections

[39] The generation facility must be in the IOU service territory of the nonresidential customer account and must be located behind the meter at one of the following types of properties: government property; commercial property; parking lot; landfill; port; industrial zone; warehouse; brownfield site; disturbed agricultural land area; former industrial or commercial site determined by Federal or State entities to be polluted or contaminated; school facility; DAC or low-income community; site with high locational value, as determined by the CPUC and the IOU responsible for the particular service territory.

[40] Gas corporations would annually procure amounts proportionate to each corporation's statewide share of the total 32 billion cubic feet as follows: Dairy (6 billion cubic feet); Diverted organic waste (12 billion cubic feet); Food processing waste (not to exceed 2 billion cubic feet); Landfill (6 billion cubic feet); Feedstock from California (6 billion cubic feet).

[41] SB 1440 allows gas corporations to apply to recover reasonable costs of interconnecting biomethane production to the existing pipeline system.

would only apply to gas corporations with 100,000 or more customer accounts in California as of January 1, 2018. *[S. Appr]*

SB 1339 (Stern), as amended April 10, 2018, would add sections 8370 and 8371 to the Public Utilities Code relating to electricity. New section 83701 would require electrical corporations and local POUs to develop and submit electrical grid resiliency deployment plans for microgrids. New section 83701 would further require electrical corporations and POUs to create tariffs or a rate schedule allowing third-parties to invest in the electrical grid resiliency in an efficient manner. *[S. EU&C]*

TRANSPORTATION

AB 1745 (Ting), as proposed January 3, 2018, would add section 4150.8 to the Vehicle Code relating to vehicle registration. New section 4150.8 would, beginning January 1, 2040, prohibit the DMV from accepting vehicle registrations for fossil-field vehicles,[42] only permitting the DMV to accept new registrations for EVs or ZEVs. If passed, AB 1745—appropriately titled the Clean Cars 2040 Act—would effectively ban sales of fossil fuel-powered cars in California after 2040. *[A. Trans]*

AB 3001 (Bonta), as amended April 3, 2018, would amend section 25402.1 of, and add section 25403 to the Public Resources Code, and add section 380.7 to the Public Utilities Code, relating to energy. New section 380.7 would require the CPUC to require electrical corporations to offer optional residential and commercial rates encouraging customers to use space and water heating technologies with low GHG emissions. Among other things, new section 380.7 would further require the CPUC to initiate a new

[42] AB 1745 would not apply to vehicles over 10,000 pounds and certain vehicles originally registered in other states that were brought into California after January 1, 2040.

proceeding to adopt rules for electrical and gas corporations to modify existing energy efficiency programs to support such heating technologies designed to reduce GHG emissions from buildings. *[A. NatRes]*

AB 2127 (Ting), as introduced on February 8, 2018, would add section 25229 to the Public Resources Code to require the Energy Commission to work with CARB and the PUC to prepare what is essentially a statewide audit of the supply of electric vehicle charging stations. Currently, the PUC is responsible for directing the electric utilities to finance and develop that infrastructure. The PUC must cooperate with the Energy Commission in what would be a biennial audit of recharging facilities in the state, with the understanding that it must meet the needs of California's current target of 5 million electric-only vehicles with zero emission in the state by 2030. The bill is intended to provide a monitor on the PUC's performance in mandating that underlying recharging system statewide. *[A. Trans]*

TELECOMMUNICATIONS

SB 822 (Wiener), as amended March 13, 2018, would add sections 1775, 1776, 1777, 1778 and 1779 to the Civil Code and sections 3020, 3021, 3022 3023, and 3024 to the Public Contract Code regarding broadband internet access service and net neutrality. The new sections would essentially require ISPs doing business in California to comply with net neutrality requirements similar to those imposed by former-President Obama's 2015 Open Internet Order.[43] New sections 1775 through 1778 would prohibit ISPs from

[43] One key difference between SB 822 and the Obama-era net neutrality regulations involves SB 822's provisions preventing broadband providers from selectively exempting certain web services from data caps.

limiting, blocking, or slowing down access to the internet or certain websites unless the ISP meets certain conditions.[44] New section 1779 would also include a safeguard provision allowing the Attorney General to enforce new sections 1776 and 1777. These include the power to investigate and, if necessary, bring legal action against providers suspected of violating net neutrality regulations. New sections 3020-3024 would require ISPs and broadband companies that (1) serve California, and (2) rely on state infrastructure, state funding, state contracts, and cable franchise agreements, to comply with net neutrality regulations. With SB 822, California joins states such as Washington, New York, Rhode Island, and Montana that have also proposed or enacted net neutrality rules in response to the FCC Order to repeal net neutrality. SB 822 is set for hearing in the Senate Energy, Utilities, and Communications Committee on Tuesday, April 17. *[S. EU&C]*

SB 460 (de León), as amended January 22, 2018, would add sections 1775, 1776, and 1777 to the Civil Code and sections 12121and 12122 to the Public Contracts Code relating to broadband internet access service. SB 460 would create the California Internet Consumer Protection and Net Neutrality Act of 2018. New section 1776 would prohibit ISPs from, among other things, preventing customer access to certain internet content and engaging in paid prioritization or preferential treatment to certain customers. New section 12122 would require ISPs and broadband companies that (1) serve California, and (2) rely on state infrastructure, state funding, state contracts, and cable franchise agreements, to comply with net neutrality regulations. *[A. Desk]*

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[44] As amended, SB 822 would permit ISPs to offer different levels of service quality to customers if all ISP customers have the option to pay for different levels offered; if offering different levels of service quality does not degrade the quality of the basic, default level offered to all customers; and if the ISP charges only its own broadband customers for using different levels of service quality.

Senate Resolution 74 (de León) (SR 74) represents the California Senate's support for net neutrality as it urges the FCC to reinstate the 2015 Open Internet Order and requests that Congress intervene to protect net neutrality nationwide. SR 74 was enrolled on February 22, 2018.

AB 1665 (Garcia), otherwise known as the Internet for All Now Act, amends section 281 of the Public Utilities Code. Section 281, as amended, tasks the CPUC with achieving the goal of the California Advanced Services Fund (CASF), to approve funding for infrastructure projects that will provide broadband access to no less than 98% of California households in each consortia region, as identified by the CPUC on or before January 1, 2017. In addition, amended section 281(b) requires the CPUC to give preference to projects in areas where internet connectivity is available only through dial-up service (that are not served by any form of wireline or wireless facility-based broadband service or areas with no internet connectivity). Amended section 218(f) requires the CPUC to consult with regional consortia, stakeholders, local governments, existing broadband facility-based providers, and consumer regarding unserved areas and cost-effective strategies to achieve the broadband access goal through public workshops conducted at least annually no later than April 30 of each year through year 2022. The CPUC is also required by 218(f) to identify unserved rural and urban areas and delineate the areas in an annual report.

The CPUC must annually offer an existing facility-based broadband provider the opportunity to demonstrate that it will deploy broadband or upgrade existing facilities to delineated unserved area within 180 days. Amended section 218(f) prohibits the CPUC from approving funding for a project to deploy broadband to a delineated unserved area if the existing facility-based broadband provider demonstrates to the CPUC, in response to

the CPUC's annual offer, that it will deploy broadband or upgrade existing broadband service throughout the project area.

Per section 218(f), an existing facility-based broadband provider, if it is unable to complete the specified deployment of broadband within the delineated unserved area within 180 days, must provide the CPUC with information to demonstrate what progress has been made in completing the deployment. If the CPUC finds that the provider is making progress in broader deployment, section 218(f) requires the agency to extend the time to complete the project beyond 180 days. However, if the CPUC finds that the provider is not making progress in completing the deployment, it is the delineated unserved area that is eligible for funding.

The CPUC is prohibited from publicly disclosing any information submitted to the agency that includes the provider's plans for future broadband deployment per section 218(f), except statistical data. This includes the area designated for broadband deployment, the number of households or locations to be served, and the estimated date by which the deployment will be completed. In addition, amended section 218(f) requires any application for project funding to be provided to those on the service list and also posted on the CPUC's internet website at least 30 days before publishing the corresponding draft resolution.

Per section 218(f), projects located in a census block were an existing facility-based broadband provider has accepted federal funds for broadband deployment from Phase II of the Connect America Fund (CAF), are not eligible for CASG grant awards, unless the existing facility-based broadband provider has notified the CPUC before July 1, 2020, that it has completed its CAF deployment in the census block.

Upon the accomplishment of the goal of the program, section 218(f) authorizes no more than $30 million of the moneys remaining in the Infrastructure Account to be available for infrastructure projects that provide last-mile broadband access to households to which no facility-based broadband provider offers broadband service at speeds of at least 10 megabytes per second downstream and one megabyte per second upstream.

Section 218(f) requires the CPUC, in approving a project in which an individual household or property owner may apply for a grant to offset the costs of connecting the household or property to an existing or proposed facility-based broadband provider, to consider limiting funding to households based on income so that funds are provided only to households that would not otherwise be able to afford a line extension to the property, limiting the amount of grants on a per-household basis, and requiring a percentage of the project to be paid by the household or the owner of the property. Section 218(f) also specifies that the aggregate amount of grants awarded for the specified purpose shall not exceed $5 million.

Section 218(h) authorizes a publicly supported community otherwise eligible to submit an application for funding from the Broadband Public Housing Account to submit an application for funding, as specified, from the Infrastructure Account or the Adoption Account, only after all funds available in the Broadband Public Housing Account have been awarded, as specified. Additionally, section 218(j) clarifies that moneys in the Adoption Account must be available to the CPUC to award grants to increase publicly available or after-school broadband access and digital inclusion, such as grants for digital literacy training programs and public education to communities with limited broadband

adoption, including low-income communities, senior communities, and communities facing socioeconomic barriers to broadband adoption, as specified.

Lastly, section 218(k) requires the CPUC to include additional information regarding the status of the program in its annual report and to post (a list of all pending applications, application challenge deadlines, and notices of amendments to pending applications) on the homepage of the CPUC website. Section 218(k) requires the CPUC to notify the appropriate policy committees of the legislature on the date on which the specified program goal is achieved.

Governor Brown signed AB 1665 on October 15, 2017 (Chapter 851, Statutes of 2017).

WATER

SB 492 (Beall), adds section 5540.2 to the Public Resources Code. Newly added section 5540.2(c) requires the CPUC to retain its continuing authority to determine the used, useful, or necessary status of any and all infrastructure improvements and investments by the San Jose Water Company. Additionally, 5540.2(c) authorizes the San Jose Water Company to sell lands in the Upper Guadalupe watershed, including the Los Gatos Creek and Saratoga Creek watersheds, to the Midpeninsula Regional Open Space District, notwithstanding any other law, and in accordance with specified conditions. Section 5540.2(d)(1) also directs the San Jose Water Company to invest the net proceeds of the sale, in infrastructure necessary or useful in the performance of the San Jose Water Company's duties to the public. Lastly, section 5540.2(f) sunsets the authority for the San Jose Water Company to sell lands to the Midpeninsula Regional Open Space District

without CPUC review on January 1, 2023. Governor Brown signed SB 492 on September 28, 2017 (Chapter 359, Statutes of 2017).

LITIGATION

INTERNAL

Karen Clopton Files Wrongful Termination Claim in San Francisco Superior Court (Case No. CGC-17-563082)

On December 1, 2017, former CPUC ALJ Karen Clopton filed a complaint against the CPUC. Clopton claims that the CPUC retaliated against and ultimately terminated her from her position as the CPUC's Chief ALJ in response to her lawful and protected activities. Clopton claims to have cooperated with state and federal investigations into the misconduct of CPUC commissioners and staff involved in collusion between the CPUC and PG&E over the selection of ALJs to hear PG&E's matter pending before the CPUC. Further, Clopton claims to have instructed the ALJs and other staff under her supervision to cooperate with the outside investigations of the CPUC. Clopton claims that she opposed the appointment as a CPUC ALJ of an agency staffer whose relationship with PG&E posed potential "conflict of interest" issues. Clopton also asserts that she confronted CPUC Commissioners and staff over racially discriminatory conduct and statements directed toward her and other African American CPUC staff. Clopton argues that she was retaliated against for the above reasons and was ultimately terminated. Her complaint includes the following causes of action: (1) retaliation in violation of the California Whistleblower Protection Act; (2) violation of the Labor Code; (3) discrimination based on race; and (4) Fair Employment and Housing Act retaliation.

On February 13, 2018, the CPUC filed a demurer, claiming that Clopton did not plead sufficient facts to establish every element of each cause of action. On March 8, 2018, Clopton filed a First Amended Complaint. On April 13, 2018, the CPUC filed another demurer, claiming that Clopton did not plead sufficient facts to establish every element of each cause of action.

TRANSPORTATION

Desoto Cab Co., Inc. v. Picker, et al. (9th Cir. 2018) ♦ On March 13, 2018, the U.S. Ninth Circuit found that Desoto Cab Company (Desoto), a San Francisco-based cab company operating as "Flywheel Taxi," lacked standing to challenge the CPUC's jurisdiction over ride-hailing companies (*e.g.*, Uber, Lyft, and Desoto's on-demand taxi app "Flywheel Taxi"). Desoto sued the CPUC in September 2015 alleging CPUC's 2013–2015 regulation of Flywheel Taxi was improper because the legislature did not grant CPUC regulatory authority over TNCs.[45] The legislature sanctioned the CPUC's 2013 decision to regulate ride-hailing companies by amending the Passenger Charter-Party Carriers' Act to include provisions recognizing CPUC jurisdiction over the companies.[46] In its opinion, the Ninth Circuit explains that "[t]o enjoin the CPUC from regulating TNCs, [the court] would have to treat the legislation as unconstitutional."[47] However, because Desoto did not challenge the constitutionality of the new law, it "expressly waived any challenge to the

[45] The 15 months at issue involves the period the CPUC acquired regulatory control over TNCs from the San Francisco Municipal Transportation Agency.
[46] *See* PUB. UTIL. CODE §§ 5430-43 (Deering 2018) (recognizing, among other things, the CPUC's oversight and rulemaking authority over TNCs).
[47] *Desoto Cab. Co., Inc., DBA Flywheel Taxi v. Michael Picker, et. al.*, Docket No. 17-15261, 3 (9th Cir. 2018).

constitutionality of the statute, so [the court] cannot grant relief on that basis."[48] Desoto had not appealed the court's decision at the time of this writing.

***Goncharov v. Uber Technologies, Inc.* (2018) ♦** On January 29, 2018, the Court of Appeal affirmed[49] a district court decision that the courts lacked authority over Plaintiff's putative class action suit against Uber due to an ongoing CPUC rulemaking for TNCs and charter carriers. Plaintiff's lawsuit alleged Uber's noncompliance with CPUC licensing requirements for "charter-party carriers," and as a result, Uber provided unlicensed transportation services that usurped business from licensed taxicab drivers. In response, Uber filed demurrers arguing the courts lacked jurisdiction over the company and explaining a CPUC rulemaking occurring at the time of the suit, the crux of which aimed to create CPUC regulations for TNCs (*e.g.*, companies such as Uber). The Court of Appeal agreed and recognized an agreement between the CPUC and Uber allowing Uber to operate during the rulemaking proceedings. Plaintiffs had not appealed the court's decision at the time of this writing.

[48] *Id.* Desoto further argued it could establish redressability (and thus retain standing) because a ruling in its favor may support damages in Desoto's November 2016 lawsuit against Uber. In the November 2016 suit, Desoto argued that the CPUC provided ride-hailing companies such as Uber and Lyft an unfair advantage when the agency ruled they were "charter services," rather than TNCs (i.*e.* such as cabs). Desoto further argues that because of this, the 15-month period the CPUC regulated TNCs without the legislature's approval rendered the CPUC's regulation unconstitutional. The Ninth Circuit rejected this argument by deeming Desoto's suit against Uber irrelevant to this standing inquiry because Desoto did not sue Uber for over one year after filing against the CPUC. *Id.* at 4.

[49] *Goncharov v. Uber Technologies, Inc.*, 19 Cal. App. 5th 1157 (2018).

TELECOMMUNICATIONS

***New Cingular Wireless PCS, LLC, et al. v. CPUC, et al.* (2018)** ♦ On March 29, 2018, the First District Court of Appeal in California granted AT&T's petition for review of a lower court's remand decisions to determine intervenor compensation awards that the CPUC awarded TURN and the Center for Accessible Technology (CforAT). This case traces back to 2016 when an appellate court decided certain intervenors were eligible for intervenor compensation in CPUC proceedings because the CPUC adopted a position advocated for by the intervenors.[50] However, the reviewing court remanded the case for the lower court to review whether the CPUC properly rationalized awards for the intervenors. After the 2016 remand, the CPUC awarded full compensation requested by intervenors by explaining the compensation was due when intervenors' positions "would have" materially altered the CPUC's order or decision.

The 2018 court proceedings concern this remand from the 2016 ruling. In 2018, the same appellate court, the First District Court of Appeal, vacated the CPUC's intervenor compensation awards for TURN and CforAT because the agency erred in awarding intervenors *all* requested compensation fees without indicating which CPUC orders or decisions the intervenors influenced. The appellate court rejected the CPUC's argument that it may award intervenor compensation when positions advocated for by intervenors would have "materially influenced" a decision because that may result in compensating 100 percent of intervenors' claimed fees and costs. The court explained, "the [l]egislature

[50] *New Cingular Wireless PCS, LLC v. Pub. Util. Comm. of Cal., et al.*, 246 Cal. App. 4th 784 (2016).

blessed the concept of using a CPUC determination of substantiality as the threshold trigger for intervenor compensation eligibility, but confined the discretion it conferred by tethering the amounts awardable to objectively successfully advocacy."[51] The appellate court found the CPUC's "would have" rationale too "speculative" because the agency did not require intervenors to trace time and costs dedicated to the *particular* CPUC order or decision that they "materially affected." The holding may require the CPUC to specify and justify an allocation of amounts due to intervenors' successful or influential advocacy, rather than simply recompensing 100 percent of intervenors' claimed fees without issue by issue allocation.

The impact of this holding may be germane to the balance of CPUC advocacy. Consumer advocates point out that the monopoly utility is generally able to pass all of its CPUC advocacy expenses onto ratepayers without any actually imposed measure of reasonableness or connection to meritorious or successful argument. That blank check structure gives the utilities a profound resource advantage in agency proceedings. In contrast, intervenors are only compensated if they, in fact, influence a final decision on an identifiable issue. Hence, if an intervenor such as TURN or UCAN addresses with equivalent resources five issues in a case and prevails in two of them, it will not be recompensed for 60% of its advocacy expenses. That denial may well occur even if the ratepayer savings on those two issues amounts to 100 or 500 times their market fees. How the Court's holding of "alignment" between expenses and successful outcome may have

[51] *New Cingular Wireless PCS, LLC, et al. v. Pub. Util. Comm., et al.*, 21 Cal. App. 5th 1197, 1202 (Mar. 29, 2018), (modified from Mar. 13, 2018).

substantial effects on the balance of advocacy between the utility and those representing ratepayers.

California & CPUC Join Suit to Block FCC Repeal of Net Neutrality

On January 16, 2018, California Attorney General Xavier Becerra filed a lawsuit against the FCC, making California the 21st state in a joint lawsuit to block the FCC's repeal of net neutrality. The 21 state attorneys general filed a petition challenging the FCC's action as "arbitrary, capricious, and an abuse of discretion," and arguing the repeal violated Federal laws and regulations. Per judicial lottery, the case was set to be heard in the Ninth Circuit Court of Appeals located in San Francisco. On March 8, the Ninth Circuit consolidated the states' lawsuit with several similar lawsuits filed against the FCC by the CPUC, consumer advocacy groups, and several technology companies. Then, on March 28, the Ninth Circuit transferred the consolidated cases to the District of Columbia (D.C.) to be heard by the U.S. Court of Appeals for the D.C. Circuit.