



from disclosing medical information regarding a patient of the provider without first obtaining authorization, except when compelled by court order or otherwise, as specified, and authorizes disclosure of medical information for purposes of diagnosis or treatment, when authorized by law, and in other circumstances, as specified. Existing law exempts from these provisions the disclosure of medical information and records to, and their use by, the Insurance Commissioner, the Division of Industrial Accidents, the Workers' Compensation Appeals Board, and the Department of Insurance. As amended September 2, this bill provides that, for purposes of these provisions, any corporation organized for the primary purpose of maintaining medical information in order to make the information available to the patient or to a provider of health care on request shall be deemed to be a provider of health care. The bill requires such a corporation to maintain the same standards of confidentiality required of providers of health care with respect to medical information disclosed to the corporation. The bill also specifies that the corporation shall be subject to the penalties for improper use and disclosure of medical information prescribed by existing law. The bill additionally exempts from these provisions the disclosure of medical information and records to, and their use by, the Commissioner of Corporations and the Department of Corporations. This bill was signed by the Governor on October 9 (Chapter 1004, Statutes of 1993).

AB 2156 (Polanco). Under existing law, insurers that provide professional liability insurance, or the parties to certain settlements where there is no professional liability insurance as to the claim, are required to report a settlement or award in a malpractice claim that is over specified dollar amounts to the applicable licensing board. As amended May 25, this bill would require reports filed with OMBC by professional liability insurers to state whether the settlement or arbitration award has been reported to the federal National Practitioner Data Bank. [*S. Inactive File*]

RECENT MEETINGS

OMBC's August 21 meeting in Costa Mesa was cancelled; the Board has not held a meeting since May.

FUTURE MEETINGS

To be announced.

PUBLIC UTILITIES COMMISSION

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The California Public Utilities Commission (PUC) 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 PUC regulates the service and rates of more than 43,000 privately-owned utilities and transportation companies. These include gas, electric, local and long distance telephone, radio-telephone, water, steam heat utilities and sewer companies; railroads, buses, trucks, and vessels transporting freight or passengers; and wharfingers, carloaders, and pipeline operators. The Commission does not regulate city- or district-owned utilities or mutual water companies.

It is the duty of the Commission to see that the public receives adequate service at rates which are fair and reasonable, both to customers and the utilities. Overseeing this effort are five commissioners appointed by the Governor with Senate approval. The commissioners serve staggered six-year terms. The PUC's regulations are codified in Chapter 1, Title 20 of the California Code of Regulations (CCR).

The PUC consists of several organizational units with specialized roles and responsibilities. A few of the central divisions are: the Advisory and Compliance Division, which implements the Commission's decisions, monitors compliance with the Commission's orders, and advises the PUC on utility matters; the Division of Ratepayer Advocates (DRA), charged with representing the long-term interests of all utility ratepayers; and the Division of Strategic Planning, which examines changes in the regulatory environment and helps the Commission plan future policy. In February 1989, the Commission created a new unified Safety Division. This division consolidated all of the safety functions previously handled in other divisions and put them under one umbrella. The Safety Division is concerned with the safety of the utilities, railway transports, and intrastate railway systems.

On August 24, Governor Wilson named Jessie J. Knight Jr. to a six-year term with the Commission. The 42-year-old Knight has been executive vice-president of the San Francisco Chamber of Commerce since May 1992. Prior to his job with the Chamber, Knight worked for seven years

as marketing vice-president for the San Francisco Newspaper Agency. He also has worked for Castle and Cooke Foods in its Dole Pineapple division.

Knight's appointment puts the Commission at its full strength of five members for the first time since October 1991. While still subject to confirmation by the Senate, Knight will fill the seat left empty when John Ohanian's term expired on December 31, 1992.

MAJOR PROJECTS

PUC Toll Call Competition Decision Marred by Allegations of Improper Industry Contacts. On September 17, the PUC announced its long-awaited decision allowing long distance telephone service providers to compete with local phone companies such as Pacific Bell and GTE for "intraLATA" toll service. However, just eleven days later, the PUC announced that it would conduct an internal investigation and might even stay the decision in light of allegations that the chief witness for PacBell during the PUC's evidentiary hearings on the proposal held improper meetings with PUC staff, and that PacBell employees drafted portions of the decision the evening before it was announced. The allegations, which have come from PUC staff members, consumer organizations such as Toward Utility Rate Normalization (TURN), and members of the Senate Energy and Public Utilities Committee, prompted Committee Chair Senator Herschel Rosenthal to issue a letter to the PUC demanding an investigation of the matter. At this writing, the decision is to go into effect on January 1, unless it is postponed by the PUC.

According to Rosenthal aide David Gamson, the Energy and Public Utilities Committee is also considering holding independent hearings on the PUC's decisionmaking process, including its policy concerning ex parte contacts. This policy allows a party to a PUC evidentiary proceeding to lobby PUC decisionmakers outside the public record, so long as the communication is later reported in a filed "Notice of Ex Parte Communication." [12:1 CRLR 187] However, contacts with lower-level PUC staff members are excluded from the notice requirement. The PUC often requests informal assistance from industry personnel regarding technical information when writing decisions. In the present case, according to TURN's Program Manager Regina Costa, PacBell employees, including lead expert witness Jerry Oliver, either lobbied PUC staff or actually helped draft parts of the decision the evening before it was announced. Costa stated, "We know the decision was



not complete the night before [it was announced]. We know Pacific Bell personnel were in the building writing text the night before. They have no business doing that."

The decision, which has been over two years in the making, allows competition between local and long distance phone companies in providing "short distance" toll call service. [13:1 CRLR 136] This service, which covers intraLATA calls ranging from 13-70 miles, is currently handled on a monopoly basis by local phone companies such as PacBell. Under the new plan, these local companies would compete with AT&T, Sprint, MCI, and other long distance carriers for intraLATA service, while continuing to maintain a monopoly on local service calls. Because this competition would result in a 40-60% decrease in toll call rates, the controversial decision allows PacBell to raise its rates for basic residential service by over 50%, from \$8.35 to \$13 per month, to recover earnings lost from toll call revenue decreases. PacBell had testified that any competitive restructuring must be "revenue-neutral"; in other words, the local carriers must be allowed to make up for any intraLATA revenue loss by a corresponding increase in basic service rates.

There were two final proposals before the PUC. One, which was developed by two PUC administrative law judges, would have limited the local carriers to a 20% increase in basic service rates to compensate for the intraLATA losses. The second proposal, sponsored by Commissioner Norman D. Shumway, granted the local carriers a substantially higher rate increase. Shumway's proposal was approved in the announced decision. According to Shumway, this additional increase is needed to bring basic service rates more in line with the actual cost of providing basic service. TURN has attacked PacBell's premise that intraLATA revenues subsidize basic service, citing studies which show that the actual cost of providing basic service is between \$6.50 and \$10 per month, and that the local companies have included the cost of development and operation of both local and long distance service in their basic service cost estimates. TURN has also criticized the PUC for using 1989 revenue figures which TURN says are outdated, and has called for a new basic service cost study.

At the PUC's final hearing on August 30, Commission President Daniel Wm. Fessler, echoing a ratepayer's testimony that "a telephone is more important than a gun under the pillow," expressed concern that neither proposal included accurate estimates of the potential number of custom-

ers who would be forced to give up telephone service because of the rate increases. Consumer advocates have predicted that the increases, which apply to Universal Lifeline rates as well as basic residential service, will force many low-income and elderly consumers to forego telephone service. These customers, who make few long distance calls, will not benefit from the lower toll call rates but will be forced to pay much more for basic service. PacBell estimates that consumers will see an overall 10% decrease in their monthly bill, because of savings on intraLATA toll calls. However, TURN predicts that 75% of low-income and elderly customers will see overall bill increases.

Furthermore, according to the decision, in order to take advantage of competing long distance carriers, customers must dial the desired company's five-digit access code before dialing the phone number. Unless this code is dialed, the local phone company will automatically handle the call. TURN predicts that for many consumers, the small cost benefit gained by using a competing carrier's service will not be worth the effort of dialing up to fifteen numbers to place a call. The PUC has announced plans to hold hearings in San Francisco beginning on January 14 on the issue of whether callers should be able to "presubscribe" to a competing carrier to handle intraLATA calls. At this writing, it is unknown what effect, if any, a stay of the decision would have upon these hearings.

Differing Proposals Issued Concerning Pacific Telesis Spin-Off. On September 8, PUC Administrative Law Judge (ALJ) Gregg Wheatland issued a proposed decision recommending that the PUC hold additional hearings to investigate Pacific Telesis Group's (Telesis) plan to spin off PacTel Corporation, its wireless and cellular subsidiaries. However, in a move reminiscent of his issuance of a separate proposal in the toll call competition case (*see above*), Commissioner Norman Shumway released a separate statement indicating his disagreement with the ALJ's proposal and calling for an expedited decision to allow the divestiture. In his statement, Shumway stressed that the ALJ's proposal is not an order of the PUC, and that "[m]oving rapidly in this case is not maleficent to the public interest....It is not feasible or necessary to expect to answer every question or objection which can be conjured up."

Telesis announced its plans last December to spin off its \$1 billion wireless, cellular, and international operations in an effort to ease regulatory restraints on these operations. [13:2&3 CRLR 211-12] Tele-

sis claims it is currently limited in pursuing new technology ventures because of its ownership of Pacific Bell, a phone company subject to monopoly regulation. The spin-off would allow each entity to operate under regulations aimed at the type of business in which it engages.

ALJ Wheatland's recommendation is based on his finding that the proposed spin-off might adversely affect the financial health of PacBell. "Just as PacBell earnings have been a source of equity to Telesis for funding non-Bell companies, the potential earnings of non-Bell companies are a source of future equity funding to Telesis for modernization of PacBell's network. However, if PacTel is separated from Telesis, the separation will diminish the potential cash from PacTel earnings available to Telesis for investing in PacBell."

Representatives of TURN say that they support the ALJ's recommendation for further hearings. TURN predicts that the proposed spin-off will cause telephone rates to increase and might result in a "two-tiered" system of telephone usage: one expensive, high-technology system for the rich, and a "low-tech" system for those who cannot afford to pay for the high-tech service. In hearings during July, TURN and Public Advocates proposed that, prior to allowing the spin-off, the PUC require Telesis to (1) pay up to \$1 billion over the next twenty years to compensate PacBell customers for financing cellular research and development; (2) promise that costs of the spin-off will not raise basic telephone service rates for at least five years; and (3) make a commitment to increase basic service in minority communities.

Telesis, which claims that regulatory approval is not needed for the spin-off, has said it wants to move quickly in order to complete a stock offering in the new company while the stock market is still on the upswing. Commissioner Shumway's recommendation echoes Telesis' desire for swift action: "It continues to be my belief that a delayed decision in this case may well be tantamount to a denial of the proposed spin-off...and that the Commission can make a knowledgeable decision in support of the spin-off without the need for further litigation."

At this writing, the parties to the proceeding have 20 days from the date of issuance of ALJ Wheatland's proposal in which to submit written comments. After consideration of both the Wheatland and Shumway recommendations, along with the written comments, the PUC may adopt, modify, or set aside the proposed decision or any part of it.



PUC Reconsiders Cellular Decision in Light of Federal Legislation Preempting State Regulation of Mobile Telephone Services.

On May 19, the PUC voted to rehear its "reseller switch" decision, which would have allowed more competition for cellular telephone service providers and was expected to substantially lower cellular rates. That decision, originally issued on October 6, 1992, had ordered local cellular network operators to "unbundle" or break down the price they charge wholesale resellers, allowing them to selectively purchase wholesale services. [13:1 CRLR 137; 12:4 CRLR 227] Unbundling would allow resellers to connect their own "switch" to the cellular network, thereby allowing them to sell cellular services at reduced rates. PacTel Cellular requested PUC reconsideration of the ruling, arguing that the high volume of calls generated by lower prices would eventually overload the existing cellular network, and the lower rates would impede the company's ability to convert to a digital system necessary to handle the increased volume.

However, the cellular industry in California has recently come under scrutiny because its rates remain among the highest in the country, despite the fact that two competing cellular providers have been assigned in each region. This lack of competitive pricing between the two providers recently prompted Senator Herschel Rosenthal to ask the PUC and Attorney General Dan Lungren to investigate possible price fixing by these service providers. According to Rosenthal aide David Gamson, the Senate Energy and Public Utilities Committee is considering an investigation into cellular pricing practices. PacTel Cellular has vigorously denied any suggestion of anticompetitive practices.

However, Gamson pointed out that both the PUC and the legislature may be preempted from further regulation of cellular prices by a new federal law which was enacted this summer as part of the Omnibus Budget Reconciliation Act. The new law expressly states that "no state or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service," unless the state first petitions the Federal Communications Commission (FCC), and the FCC determines that the mobile services' rates are uncompetitive or that they compete directly with regular phone service. The provision effectively shifts rate regulation from the state to the federal level, thus allowing the FCC to oversee the development of the next generation of wireless technology, known as "personal communication services" (PCS). PCS will

require less power than cellular technology, allowing "pocket-sized" receivers which may be carried anywhere. The FCC expects to assign up to seven additional PCS providers in each region, who will eventually compete directly with existing cellular companies.

Under the new federal law, no state may enact new legislation unless the FCC determines that the problem cannot be solved by unregulated competition. Absent this determination, the PUC is precluded from implementing its reseller switch decision or any further cellular rate regulation. States which have an existing cellular regulatory framework (such as California) have one year in which to petition the FCC to allow such regulation to remain in effect. According to PUC spokesperson Doug Dade, the Commission will soon initiate an Order Instituting Investigation (OII) to determine whether it should submit such a petition and to investigate what further action, if any, should be taken in light of the new federal provision. He acknowledged that the PUC must move quickly to address the issue, or face losing all authority to regulate wireless telephone communication within the state.

PUC Orders Study of Lifeline Service Fraud. On August 4, the PUC ordered PacBell and GTE to fund a study to determine whether there is customer fraud in the Universal Lifeline Telephone Service (Lifeline) program, and to estimate how many customers qualify but have not signed up for the service. The two phone companies must hire a consultant and recover their costs of the study from the Lifeline Trust, which is funded by a surcharge on monthly phone bills. The Lifeline program has recently suffered funding problems due to increasing numbers of low-income subscribers, as well as allegations that PacBell has overcharged the Trust for reimbursements, which PacBell refuses to repay. [13:2&3 CRLR 211] Earlier this year, the PUC increased the surcharge from 4% to 5% and applied the surcharge to all long distance calls within the state.

The order is in response to AB 3299 (Moore) (Chapter 354, Statutes of 1992), which requires the PUC to assess the extent to which fraud exists in the Lifeline program. [12:4 CRLR 230] Applicants to the program currently self-certify by filing a form showing that they meet certain income eligibility guidelines. The self-certification process protects customer privacy, encourages enrollment, and minimizes paperwork for the phone companies. The study must recommend measures for eliminating fraud and for informing eligible persons on how to enroll for the service. These recommendations are

due to the PUC by November 30, to enable it to meet the year-end deadline set by the legislation.

FTC Adopts Strict Rules for Interstate "900" Call Services. On July 27, the Federal Trade Commission imposed new restrictions on 900 information services. The new rules provide a variety of consumer safeguards for the services, which are used by companies to sell goods, information, or services. Customers are usually billed for the calls by the long distance carrier on a per-minute basis. The safeguards are similar to those implemented by the PUC to regulate intrastate 900 services in March 1991. [11:2 CRLR 175] The FTC rules apply to all such 900-type calls, including interstate calls.

The new federal rules include free line blocking of all 900 calls at the customer's request; mandatory disclosure messages at the beginning of all calls charging over \$2 per minute, allowing customers to hang up within three seconds of the message without incurring charges; a requirement that advertisements for 900 services clearly state their cost; and a prohibition on advertising of 900 services directed at children under 12, unless the service is "educational" or "intended for school study." Additionally, the regulations provide for 90-day limitations on billing dispute resolution, and prohibit telephone companies from disconnecting the phone service of customers who refuse to pay for 900 services.

According to Mike Heffer of Consumer Action, the new rules will be helpful in protecting consumers from abuses, but they do not go far enough. Heffer expressed concern that the "education" exception to the ban on children's advertising might create a loophole in the law. Also, the FTC decision fails to regulate rates for interstate 900 calls, whereas existing PUC rules do so for intrastate 900 calls.

The FTC rules do allow states to impose stricter regulations than the federal rules on intrastate calls. The PUC's rules, including the rate regulations, will remain in effect for 900 service calls originating within the state.

PUC Holds Series of Hearings on Future Telecommunications Infrastructure Needs. On July 1, the PUC held the last of three public hearings to examine the future telecommunications infrastructure needs of California consumers and businesses. The hearings were held in response to a request by Governor Wilson in his "State of the State" address. The first hearing, held on April 14, addressed the current state of California's telecommunications infrastructure. The second hearing,



held on June 1, focused on the needs of telecommunications service users. The final hearing addressed the feasibility of meeting future infrastructure needs through the building of an "information superhighway," an interactive broadband fiber network capable of transporting vast amounts of voice, data, and video services over a single line.

During the hearings, the Commission heard from telecommunications industry representatives, cable television industry representatives, public policy experts, and consumer groups. Some of the concerns raised at the hearing include the need for privacy and security safeguards in such a broadband network; universal and affordable accessibility; the cost of building such a network; the advantages and disadvantages of allowing market forces to drive its development; and the problems posed by carriers such as PacBell, which might benefit from unfair regulatory advantages.

PacBell, which has already begun replacing existing lines with fiber optic cable, called for "symmetrical regulation"—that is, all service providers should be similarly regulated by the PUC. Representatives of the cable television industry, which also plans to build and utilize a fiber optic system to provide video and possibly voice and data services, testified that companies like Pacific Bell require more regulatory oversight to ensure that cross-subsidization from monopoly status services does not create unfair competition. Consumer advocates testified that symmetrical regulation should not be the PUC's response to a multi-provider broadband structure, because of the advantages that companies such as PacBell have with existing services.

The PUC hearings coincide with the unveiling of President Clinton's blueprint for a nationwide "information superhighway," announced on September 15. Clinton's plan calls for private sector initiative to build a "seamless, interactive, user-driven" communications network which would be capable of carrying voice, computer data, and video services.

The high-speed information superhighway could serve a wide variety of consumer needs, such as revitalizing civic institutions, expanding educational opportunities, enhancing access to health care services, and improving job training. However, because the plan calls for private industry development, the technology will initially be accessible only to business clients, and might not trickle down to residential users for many years. Moreover, Clinton's market-driven plan does not delineate the role of state regulatory agencies, such as the PUC, in

regulating intrastate portions of the network.

The Commission will summarize the finding of its telecommunication infrastructure hearings and develop a plan to address the future needs of California business and residential customers. The results will be presented to the Governor by the end of the year.

PG&E Lowers Rates and Realigns Rates to Reflect Costs. On June 23, the PUC approved a Pacific Gas & Electric Company (PG&E) plan that will lower rates .004 cents per kilowatt hour for customers who use more than 999 kilowatts of electricity per month. The benefits of this plan would mostly fall to large consumers such as food processors, high technology industries, mass transit systems, and large universities. PG&E proposed the plan on May 12 with the intent to help stimulate the state economy and keep businesses in California.

Also on June 23, the Commission approved a plan that realigns PG&E's rates to more fairly reflect the cost of providing service to the customer. While this plan will not affect the overall revenue of PG&E, it implements several technical adjustments which will decrease rates for those customers whom it costs less to serve, while increasing rates for customers who cost more to serve.

Commission Approves Performance-Based Rates for SDG&E. On June 23, the PUC approved a two-year trial plan proposed by San Diego Gas & Electric Company (SDG&E) which features "performance-based ratemaking." The plan is designed to provide incentives for the utility to reduce the price it pays for natural gas and for its transportation. If the utility reduces costs, it may split the savings between ratepayers and shareholders. [13:2&3 CRLR 213; 13:1 CRLR 138-39]

The PUC will set benchmarks for the utility by which the increase or decrease in costs of purchasing and transporting natural gas will be measured. These benchmarks will be based on a 30-day spot market price index. Depending on the utility's efficiency, or lack thereof, customers will either share the benefits or the burdens with the utility.

The new plan, which went into effect on August 1, was generally well received by consumer and watchdog groups. While some noted that the plan does not guarantee lower rates, it makes them much more likely unless the utility operates inefficiently and makes mistakes in its management and operations.

The PUC also approved a similar plan which would authorize performance-based ratemaking in the electricity market,

subject to SDG&E's acceptance of PUC modifications.

PUC Modifies Past Decisions to Allow Utilities Greater Latitude in Cleaning Up Hazardous Waste. On September 17, the PUC issued Decision D.93-09-066, which modified Decisions D.88-09-020, D.88-09-063, D.89-01-039, and D.88-07-059 to allow PG&E, SDG&E, Southern California Edison Co. (Edison), and Southern California Gas Co. (SoCalGas) to file an advice letter requesting authorization to book hazardous waste clean-up expenses in a memorandum account for sites which the utilities do not own and have not been ordered to clean up by a government agency. In the past, the utilities were only allowed to use the advice letter process for sites which they owned or which they were ordered to clean up by a government agency. The expenses would be reviewed and, if found to be reasonable, the utility would be allowed to book them into a memorandum account. PG&E, SDG&E, Edison, and SoCalGas petitioned the PUC for the modification on the grounds that the distinction between owned and unowned property is arbitrary, and that it reflects a logical extension of the current procedure. No party filed a protest to the utilities' petition.

SDG&E Reaches Agreement with DRA on Lower Profit Margin. In early September, the PUC's Division of Ratepayer Advocates and SDG&E agreed to decrease the utility's profit margin from 11.85% to 10.85% in 1994. This agreement, if approved by the Commission, could save the residential consumer approximately \$1.20 a month.

PUC Allows Utilities to Bill Ratepayers for Planning of Alternative Car Fueling Stations. On July 21, the PUC decided to allow utilities to bill ratepayers for reasonable expenses involved in planning refueling and recharging stations for alternative fuel cars. Utilities are now allowed to charge ratepayers for the reasonable costs involved in drawing up proposals to help support natural gas-fueled and electric cars. These vehicles will be introduced in California during 1994, as ordered by the Air Resources Board. [11:1 CRLR 113] Utility critics such as TURN expressed opposition to the decision and suggested a tax on the general public as an alternative.

Rulemaking Begun to Comply with 1992 Federal Energy Policy Act. In June, the Commission commenced a rulemaking proceeding in order to comply with the 1992 federal Energy Policy Act. The Act requires state utility commissions to review and evaluate three major issues: (1) electric and gas utility efficiency, (2) transactions involving exempt wholesale



generators, and (3) the effect of purchases of long-term power on utilities' cost of capital and retail rates.

On the first issue, the PUC must decide by October 1995 whether to adopt and implement standards for electric utilities regarding the development of integrated resource planning; whether utility rates should be charged to reflect expenditures for conservation and energy efficiency, lost income from reduced sales of electricity, and expenditures for new generation, transmission, and distribution equipment; the monitoring and evaluation of conservation and energy efficiency measures; and whether utility rates should be set to encourage expenditures for cost-effective improvements in efficient power generation, transmission, and distribution.

The Act identifies "exempt wholesale generators" (EWGs) which generate electricity for sale at wholesale as exempt (with approval from the Federal Energy Regulatory Commission) from Public Utility Holding Company Act (PUHCA) requirements. Unlike qualifying facilities under PUHCA, EWGs can compete using the same technologies as public utilities use to build conventional plants, are not confined to any geographic area, and may be owned by equipment suppliers, engineering and construction firms, or utilities which can own them at more than 50%. EWGs will be able to sell to affiliated utilities if the Commission demonstrates that it has the authority and resources to oversee the transactions, the sale will benefit consumers and not violate state law, it will not give the EWG an unfair competitive advantage, and it is in the public interest. The PUC seeks comments on whether it should consider applications for affiliated sales, conversion of existing rate-based property or hybrid facilities generically or on a case-by-case basis, and what standards should apply.

The Act also requires the PUC to evaluate utility purchases of long-term wholesale power in terms of the effect on utilities' cost of capital and retail rates, whether they threaten reliability or provide an unfair advantage to EWGs, whether to adopt pre-approval procedures for long-term power contracts, and whether to condition approval on assurance of sufficient adequate fuel supplies.

The Commission required gas and electric utilities to provide comments on these issues within 60 days of its announcement.

Hearings Continue on Train Derailments. The PUC's evidentiary hearings concerning the 1991 Dunsmuir and Seacliff train derailments continued before PUC ALJ Robert Ramsey during the

summer. [13:2&3 CRLR 213-14; 13:1 CRLR 138; 12:2&3 CRLR 261-62] Among other things, ALJ Ramsey allowed the Association of American Railroads' Track Train Dynamics Manual into evidence over the objection of Southern Pacific, the operator of the two trains which derailed. Further evidence was received by ALJ Ramsey on September 2 and, at this writing, a proposed decision is expected for the Commission's review by the end of the year.

Airport Shuttle Safety. Under existing law, the regulation of common and charter carriers that carry fewer than ten passengers, such as airport shuttle vans, is delegated to the Compliance and Enforcement Branch of the PUC's Transportation Division. As part of an ongoing effort to get unsafe operators out of the airport business, the PUC has begun investigations and hearings against numerous companies for violations, including the use of "independent" drivers who are neither company employees nor licensed charter-party carriers, and failure to enroll in the Department of Motor Vehicles' mandatory "pull notice" safety program. Four separate firms are already targeted for sanction at LAX. Additionally, on September 17, the Commission fined Prime Time Shuttle International, Inc. \$80,000 and put its license on probation for six months in connection with violations of the Public Utilities Code. These companies face license suspension and fines; criminal action in the state courts is also an option available to enforcement agents.

LEGISLATION

AB 1338 (Bronshvag), as amended August 16, requires public utilities to develop programs in cooperation with local school districts in reducing their electricity and gas bills through conservation and improvements in efficiency, and permits utilities to offer to school districts on a priority basis, and permits school districts to utilize, any programs or incentives for commercial customers developed by the utility and approved by the PUC, including rebates, loan programs, and incentives for the installation of efficient lighting, heating, or cooling systems. This bill was signed by the Governor on October 11 (Chapter 1178, Statutes of 1993).

AB 2197 (Baca), as amended September 3, authorizes the PUC to develop programs for cooperative activities between utilities and commercial, industrial, institutional, and governmental customers that have the purpose and effect of reducing the energy bills of those customers. This provision will be repealed on January 1, 1999. This bill was signed by the Govern-

or on October 2 (Chapter 742, Statutes of 1993).

SB 129 (Kelley). Existing law provides for specified procedures to be followed by the PUC in hearings concerning the propriety of a public utility rate, classification, contract, practice, or rule. As amended July 14, this bill sets forth separate procedures to be followed by the PUC with respect to rates, classifications, contracts, practices, or rules for the service of reclaimed water. This bill was signed by the Governor on September 7 (Chapter 406, Statutes of 1993).

SB 472 (Committee on Energy and Public Utilities). Existing law requires the PUC to require electric utilities to implement specified pilot projects relating to a generation resource bidding system, an integrated bidding system, and competitive bidding auctions for demand side services, and to report to the legislature on the results of the programs on or before January 1, 1993. As amended September 7, this bill requires the report instead to be made at the earliest practicable time. This bill was signed by the Governor on October 7 (Chapter 908, Statutes of 1993).

AB 1004 (Campbell). Under existing law, vessels—with specified exceptions—are subject to the regulation by the PUC. As amended July 1, this bill narrows the exception for vessels to those which are both under the burden of five tons net register and under thirty feet in length, thus subjecting additional species of small watercraft to regulation by the Commission, and revises the exception for vessels under five tons and over thirty feet in length. The bill requires these vessels to file with the PUC, prior to March 1, 1994, an application for a certificate of public convenience and necessity to operate as a common carrier by vessel and, in lieu of all other fees required by law, to pay a fee of \$50. This bill was signed by the Governor on October 10 (Chapter 1040, Statutes of 1993).

SB 321 (Rosenthal), as amended September 7, would have required the PUC to maintain its existing telecommunications education program to protect the interests of California consumers. [11:4 CRLR 206] The bill would have created the Telecommunications Education Program Fund, to be administered by the PUC, and authorized, until December 31, 1998, the PUC to impose a fee on all telephone corporations doing business in the state to be deposited in the Fund. The moneys in the fund, upon appropriation by the Legislature, would have been used by the Commission for telecommunications education grants and programs. This bill was vetoed by the Governor on October 10.



AB 660 (Moore), as introduced February 23, requires telephone subscribers to be annually notified that use of an "800" or "900" telephone number may result in the disclosure of the subscriber's telephone number to the called party. The bill requires the PUC, by rule or order, to impose the responsibility for the notification with the telephone corporation that offers the caller identification service, in connection with an "800" or "900" service. This bill was signed by the Governor on September 7 (Chapter 351, Statutes of 1993).

AB 726 (Moore), as amended August 19, enacts the Telecommunications Customer Service Act of 1993, which directs the PUC to require telephone corporations to provide certain customer services to telecommunication customers, including information about a provider's identity, service options, pricing, and terms and conditions of service, to allow customers to make informed choices about services and providers; the ability to access a live operator by dialing "0" as an available, free option; reasonable statewide service quality standards, including network technical quality, customer service, installation, repair, and billing; and information concerning the regulatory process and how customers can participate in that process (including the process of resolving complaints) without undue cost.

This bill also extends the sunset date from July 1, 1993 to July 1, 1995 for a provision regarding telephone company billing and collections for "900" and "976" services. Most notably, this bill extends the provision that telephone companies do not have to bill and collect under tariff for "harmful matter" information providers, and can handle these through individual contracts. This bill was signed by the Governor on October 11 (Chapter 1233, Statutes of 1993).

AB 1289 (Moore), as amended August 30, makes a legislative finding and declaration that a policy for telecommunications in California is to promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by assuring adequate long-term investment in the necessary infrastructure; requires the PUC to open a proceeding or proceedings to, or as part of existing proceedings, consider ways to ensure that advanced telecommunications services are made available as ubiquitously and economically as possible to California's citizens, institutions, and businesses; sets forth specified goals and issues to be addressed by the PUC over a one-year pe-

riod, and requires the PUC to issue a report or order providing for specific action in regard to these issues; and states that it is the PUC's goal to issue its report or order by January 1, 1995. This bill was signed by the Governor on October 11 (Chapter 1274, Statutes of 1993).

AB 1385 (Moore), as amended August 16, would have made a legislative finding and declaration that a policy for telecommunications in California is to promote economic growth, job creation, and the substantial social benefits that will result from the rapid implementation of advanced information and communications technologies by assuring adequate long-term investment in the necessary infrastructure; required the PUC to convene an expedited proceeding, with a goal of completion by February 28, 1994, for the purpose of ensuring the deployment of an integrated services digital network infrastructure no later than December 31, 1996; authorized the PUC to permit non-cost-effective investment for this purpose, subject to specified conditions; required local exchange telephone corporations to unbundle the component parts of their integrated services digital network to the extent determined by the PUC, for specified purposes; and authorized the PUC to reconsider, and cease implementation of these provisions of the bill beginning January 1, 1995. This bill was vetoed by the Governor on October 11.

SB 318 (Rosenthal), as amended September 3, makes any person who uses, or under specified conditions, possesses or manufactures a telecommunication device, as defined, intending to avoid the payment of any lawful charge for service to the device, guilty of a crime, and punishable as specified; requires the PUC to require cellular telephone service providers to report to the Commission, within a year after enactment of the bill, and thereafter as specified by the PUC, on activities associated with customer fraud; expresses legislative findings and declarations, as well as legislative intent, with regard to the issue of cellular fraud; and requires the PUC to require cellular telephone service providers to provide their subscribers with a notice warning subscribers about problems associated with fraud, and informing them about ways to protect against fraud. This bill was signed by the Governor on October 3 (Chapter 770, Statutes of 1993).

AB 1656 (Polanco). Existing law prohibits specified activities with regard to defrauding a person providing telephone or telegraph service of the lawful charge for telephone or telegraph service. Existing law prohibits under these provisions a person from knowingly, willfully, and

with intent to defraud a person providing telephone or telegraph service, avoiding or attempting to avoid, or aiding, abetting, or causing another to avoid the lawful charge, in whole or in part, for telephone or telegraph service by any of specified means, including, by using any deception, false pretense, trick, scheme, device, or means. As amended July 12, this bill adds to the prohibitions covered by this provision the use of conspiracy and the fraudulent use of false, altered, or stolen identification to defraud a person providing telephone or telegraph service.

Existing law also prohibits any person from publishing the number or code of an existing, canceled, revoked, expired, or nonexistent credit card, or the numbering or coding which is employed in the issuance of credit cards, with the intent that it be used or with knowledge or reason to believe that it will be used to avoid the payment of any lawful telephone or telegraph toll charge, punishable as a misdemeanor. This bill includes within the definition of "publishing" for the purpose of this provision the communication of information to any one or more persons by electronic means, including but not limited to a bulletin board system. This bill was signed by the Governor on October 9 (Chapter 1014, Statutes of 1993).

AB 1662 (Moore). Existing law requires the PUC to design and implement programs whereby each telephone corporation shall provide a telecommunications device capable of servicing the needs of individuals who are deaf or hearing impaired, and to establish a rate recovery mechanism through a surcharge to be in effect until January 1, 1995. These programs are required to be identified on subscribers' bills as "communication services funds for deaf and disabled." As amended July 12, this bill removes the requirement that the funds be identified on subscribers' bills specifically as "communication services funds for deaf and disabled." This bill was signed by the Governor on September 26 (Chapter 538, Statutes of 1993).

AB 1701 (Martinez), as amended June 29, would have required the PUC by rule or order to require telephone corporations and providers of information-access services to provide customers with a local or toll-free telephone number or numbers to inquire about service, rates, or billing problems, and to speak to a live operator when making calls regarding service, rates, or billing problems. This bill was vetoed by the Governor on September 27.

AB 1740 (Horcher). Existing law provides that the disclosure of any information by a radiotelephone utility in good



faith compliance with the terms of a state or federal court warrant or order or administrative subpoena is a complete defense against any civil action brought pursuant to existing law. As amended May 4, this bill extends the scope of this provision to apply to interexchange telephone corporations and local exchange telephone corporations. This bill was signed by the Governor on July 19 (Chapter 152, Statutes of 1993).

AB 2271 (Martinez), as amended August 30, would have prohibited any officer, employee, or agent of a telephone corporation from monitoring, recording, wiretapping, eavesdropping, or otherwise documenting any conversation of its employees, except as otherwise specified. This bill was vetoed by the Governor on October 11.

SB 222 (Boatwright). Existing law, with specified exceptions, prohibits the operation of an automatic dialing-announcing device; telephone calls that may be placed through those devices are required to meet certain requirements. Existing law also prohibits a telephone or telegraph corporation selling or licensing lists of residential subscribers from including the telephone number of any subscriber assigned an unpublished or unlisted access number without his/her consent, except in specified instances. As amended July 16, this bill exempts from these prohibitions the operation of an automatic dialing-announcing device by, or access to unlisted numbers by, public law enforcement agencies, public fire protection agencies, public health agencies, public environmental health agencies, city or county emergency services planning agencies, or private for-profit agencies operating under contract with, and at the direction of, one or more of these agencies in specified instances relating to the provision of public service, public health, or emergency information relating to an actual or threatened incident affecting residents in a defined area. The bill requires that any information or records provided to a private for-profit agency pursuant to the bill be held in confidence, as specified. The bill provides that no telephone corporation, nor any official or employee thereof, shall be subject to criminal or civil liability for the release of customer information as authorized by the bill. This bill was signed by the Governor on October 2 (Chapter 751, Statutes of 1993).

SB 597 (Rosenthal), as amended July 12, would have prohibited cellular telephone companies from charging fees for calls that are not completed, unless the PUC finds that charging for uncompleted calls is fair and reasonable due to unavail-

able cellular channel capacity constraints; if the PUC makes such a finding, limited the charge for uncompleted calls to 50% of the charge for completed subscriber-initiated calls; and required the PUC to consider whether charging the calling party for calls made to cellular telephones is a practice in the public interest. This bill failed passage in the Assembly on August 31.

SB 598 (Rosenthal), as amended August 24, expresses legislative findings and declarations relating to the monitoring of the cellular telephone industry by the PUC; requires cellular telephone carriers to provide the PUC, within six months of the effective date of the bill and thereafter as requested by the Commission, with information concerning service quality and customer complaints; and provides for the imposition of fines and sanctions on cellular telephone carriers violating its provisions. This bill was signed by the Governor on October 10 (Chapter 1065, Statutes of 1993).

SB 600 (Rosenthal), as amended September 3, states findings and declarations with respect to the need to establish a telecommunications task force for the benefit of public schools, libraries, and other institutions. The bill requires the PUC to establish a task force on telecommunications network infrastructure to study specified issues and report to the legislature by December 31, 1994. These provisions of the bill will be repealed on January 1, 1995, unless a later enacted statute, enacted before January 1, 1995, deletes or extends that date. This bill was signed by the Governor on October 11 (Chapter 1201, Statutes of 1993).

SCR 11 (Rosenthal), as amended April 15, encourages local telephone companies that operate in California and receive an opportunity to earn a fair profit resulting from a rate of return established by the PUC to maintain and stimulate a greater permanent labor force in California. The measure memorializes the PUC—when determining the levels for rate of return for local exchange carriers in California, determining further regulatory changes which might impact competition of these corporations in the state, and considering any mergers, divestitures, or significant changes in ownership or control of these corporations—to also consider the impact on the state's workforce and any potential job loss resulting from those decisions. This measure was chaptered on July 13 (Chapter 48, Resolutions of 1993).

AB 813 (Conroy), as amended August 26, increases the fees for filing applications for certificates of public convey-

nience and necessity required for operation under the Highway Carriers' Act. This bill was signed by the Governor on October 5 (Chapter 849, Statutes of 1993).

SB 515 (Lewis). Under existing law, it is unlawful for any household goods carrier to charge or collect any lesser rate than the minimum rate or greater rate than the maximum rate established by the PUC under the Household Goods Carriers Act. As amended July 16, this bill authorizes any household goods carriers to charge or collect rates that are greater than the maximum rate established by the Commission under that Act, as specified. This bill was signed by the Governor on October 3 (Chapter 777, Statutes of 1993).

SB 564 (Alquist). Existing law directs the PUC to require specified highway carriers for whom the Commission does not establish minimum rates to pay specified reduced fees, and authorizes the Commission to increase the fees on other carriers whose minimum rates are regulated up to a maximum of 0.5% of reported gross operating revenue, if necessary, to maintain adequate financing. As amended July 16, this bill permits the PUC to increase these fees on carriers for whom the Commission establishes minimum or maximum rates. This bill was signed by the Governor on September 26 (Chapter 509, Statutes of 1993).

AB 1646 (Costa). Under existing law, the PUC authorizes the operation of highway permit carriers under the Highway Carriers' Act through the issuance of permits. Existing law prohibits the Commission from issuing or authorizing the transfer of a permit under that Act, including a seasonal agricultural carrier permit, except upon a showing before the PUC and a finding by the Commission that the applicant or proposed transferee meets specified requirements. As amended July 16, this bill authorizes the PUC to delegate to its executive director or the executive director's designee the authority to issue, or authorize the transfer of, seasonal agricultural carrier permits and to make the required findings. This bill was signed by the Governor on October 9 (Chapter 1013, Statutes of 1993).

AB 1459 (Moore). Under existing law, the PUC regulates common carriers, including vessels, as defined. Existing law requires "for-hire vessel operators," as defined, to procure accident liability protection, as specified. As amended August 17, this bill excludes from the definition of "for-hire vessel operators," for the purposes of accident liability protection, common carriers by vessels, and recasts that definition. This bill also permits the PUC, in the exercise of the jurisdiction



conferred upon it by law, and consistent with the state and federal constitutions regarding impairment of the obligation of contracts, to grant certificates of public convenience and necessity, make decisions and orders, and prescribe rules affecting vessel common carriers notwithstanding the provisions of any ordinance, permit, or franchise of any city, county, or other political subdivision of this state, and provides that in the case of conflict between any certificate, decision, order, or rule of the Commission and any ordinance, permit, or franchise, the certificate, decision, order, or rule of the PUC shall prevail. This bill was signed by the Governor on September 25 (Chapter 495, Statutes of 1993).

AB 1644 (Moore), as amended September 3, would have prohibited any agency or local government from requiring any person, firm, or corporation holding a valid permit as a charter-party carrier to provide insurance in a manner different from that required by the Commission; prohibited the governing body of an airport from imposing a fee based on gross receipts of charter-party carriers operating limousines; prohibited a charter-party carrier from operating a limousine, as defined by a specified provision of law, unless the limousine is equipped with special license plates issued and distributed by the Department of Motor Vehicles (DMV); required the PUC to issue a permit or certificate for limousine service, as specified; required a charter-party carrier operating a limousine to state the number of its permit or license plate in every written or oral advertisement; and required every limousine operated by a charter-party carrier to display a special identification license plate issued by the DMV. This bill was vetoed by the Governor on October 4.

SB 483 (Rosenthal), as introduced February 25, prohibits a household goods carrier from engaging, or attempting to engage, in the business of the transportation of used household goods and personal effects, office, store, and institution furniture and fixtures for compensation, by motor vehicle over any public highway in this state, unless there is in force a permit issued by the Commission authorizing these operations. This bill was signed by the Governor on July 19 (Chapter 129, Statutes of 1993).

AB 1133 (Frazee). Existing law prohibits any common carrier operating more than four trains each way per day on any main railroad track or branch line in California from running any passenger, mail, or express train that is not manned by at least one conductor and other personnel, as specified, with certain exceptions. As

amended August 30, this bill specifies that the prohibition does not apply to the San Diego Metropolitan Transit Development Board or the North San Diego County Transit Development Board. It provides that with respect to commuter train service provided by the San Diego Metropolitan Transit Development Board or the North San Diego County Transit Development Board, there shall be at least one qualified crewmember inside the train car set during revenue service, as defined. This bill was signed by the Governor on October 1 (Chapter 681, Statutes of 1993).

AB 1871 (Polanco). Existing law prohibits any highway carrier from engaging in interstate or foreign transportation of property within this state without registering with the PUC and paying fees pursuant to a specified procedure, and specifies that the requirements imposed for the registration of interstate or foreign highway carriers of property and passengers shall not be in excess of the standards for registration promulgated under the provisions of the Interstate Commerce Act. As amended June 18, this bill revises these procedures, eliminates the existing registration fees, and specifies that the registration requirements imposed pursuant to the Interstate and Foreign Highways Carriers' Act shall not be construed to be in excess of the standards for registration promulgated under the provisions of the Interstate Commerce Act or under the provisions of the Intermodal Surface Transportation Efficiency Act of 1991. The bill authorizes the PUC to establish fees for registration and for use by other states of its registration system consistent with specified federal regulations. The bill provides that it shall not become operative unless and until the Interstate Commerce Commission has adopted and made effective final regulations embodying standards set forth in the federal Interstate Surface Transportation Efficiency Act of 1991. This bill was signed by the Governor on August 25 (Chapter 312, Statutes of 1993).

SB 546 (Killea). Existing law generally requires the PUC to require the payment of fees by every common carrier and related business. Existing law requires that the total of these fees equal the amount of the PUC's annual budget prorated to the extent of the Commission's regulatory duties with respect to each class of carrier or related business or public utility for which each particular fee is established. As amended July 8, this bill requires the PUC, commencing with the 1993-94 fiscal year and in each subsequent fiscal year, to conduct an audit of the expenditure of the funds received pursuant to these provisions. The bill requires

that the results of each audit be reported, in writing, commencing on or before February 15, 1995, with respect to the audit for the 1993-94 fiscal year, and on or before February 15 of each year thereafter, to the appropriate policy and budget committees of the respective houses of the legislature. This bill was signed by the Governor on July 16 (Chapter 123, Statutes of 1993).

SB 485 (Rosenthal). Existing law makes any public utility and any corporation other than a public utility, and any officers, agents, or employees of those entities, which violate the Public Utilities Act guilty of a misdemeanor and subject to specified fines. As amended April 19, this bill increases specified fines. This bill was signed by the Governor on July 26 (Chapter 222, Statutes of 1993).

SB 498 (Rosenthal). Existing law provides for compensation after a proceeding to interested parties who participate or intervene in any proceeding of the PUC and who demonstrate a substantial contribution to the proceeding and that a significant financial hardship incurred as a result of the participation or intervention. As amended July 8, this bill would have authorized the PUC to direct utilities to provide for partial compensation at the commencement of a proceeding designated by the Commission as an alternative to litigation if the PUC finds that the participant is likely to make a substantial contribution and would suffer a significant financial hardship if the party participates without the benefit of partial compensation in advance. [12:2&3 CRLR 262-63] This bill was vetoed by the Governor on October 10.

AB 2148 (Conroy), as amended August 24, prohibits a public utility from changing a group of customers from one rate schedule to another rate schedule, if the change would result in an increase of more than 10% in the rate charged to the affected customers, without first giving notice to the customers. This bill was signed by the Governor on October 2 (Chapter 739, Statutes of 1993).

AB 1716 (Peace), as amended July 16, requires the PUC to adopt procedures on the disqualification of administrative law judges due to bias or prejudice similar to those of other state agencies and superior courts, and also requires the PUC to submit a report to the legislature on or before February 28, 1994, on the adopted procedures. This bill was signed by the Governor on October 4 (Chapter 822, Statutes of 1993).

AB 2015 (Moore). Existing law requires persons or corporations that transport property on the highways for hire, and



persons who transport passengers for compensation, with exceptions, to obtain certificates of public convenience and necessity or permits from the PUC. As amended September 8, this bill sets forth procedures for the registration of integrated intermodal small package carriers, and removes these carriers from the requirements relating to common carriers and highway carriers. It provides for the payment of registration, renewal, reinstatement and other specified fees. This bill was signed by the Governor on October 11 (Chapter 1226, Statutes of 1993).

AB 1694 (Martinez), as amended September 9, would have stated the policy of the state of California to require the PUC to maximize the value to electric ratepayers of the electric service provided by electric utilities by permitting ratepayers to share in the benefits. The bill would have required the PUC to determine, according to specified criteria, whether it is in the public interest for electrical corporations to construct and operate new electric generation powerplants. This bill was vetoed by the Governor on October 3.

AB 681 (Moore). Existing law requires the PUC to annually determine a fee to be paid by every electrical, gas, telephone, telegraph, water, sewer system, and heat corporation and every other public utility providing service directly to customers or subscribers and subject to the jurisdiction of the Commission other than a railroad, except as otherwise specified. The fee is established in accordance with specified conditions. As amended August 16, this bill revises the conditions under which this fee is established and requires the PUC to maintain records necessary to account separately for all fees and charges received from each class of utility. It requires the PUC to report to the legislature on the collections for each class of utility and regulatory expenditures affecting each class, within sixty days after the end of the fiscal year.

Existing law specifies that provisions of law relating to the employment of the Attorney General as legal counsel, the supervisory powers of the Department of General Services, including its approval of certain contracts for the hiring of services or the purchase of materials, supplies, or property, and the prohibition against specifications for bids which limit the bidding to one bidder, do not apply to the PUC with respect to any of its activities under the Public Utilities Act. This bill instead expressly applies these provisions to the PUC, except when the Commission makes a finding that extraordinary circumstances justify expedited contracting for consultant or advisory services. This

bill was signed by the Governor on October 10 (Chapter 1035, Statutes of 1993).

AB 1906 (Conroy), as amended September 2, requires the PUC to require every gas corporation to revise its transportation tariffs and conditions of service to eliminate all components that assess shippers of gas produced in California for the costs of interstate transmission of gas produced outside of the state, as specified. This bill was signed by the Governor on October 2 (Chapter 732, Statutes of 1993).

AB 683 (Moore), as amended March 29, bill would require the PUC to reopen and reconsider a specified decision relating to rates charged retail electric customers for electricity from the Diablo Canyon Nuclear Powerplant. [A. U&C]

SB 828 (Mello), as introduced March 4, would require the PUC to adopt and implement rules and regulations to assure that electrical corporations meet specified requirements in providing electric power to commercial customers maintaining high technology dependent operations. [S. E&PU]

SB 1177 (Alquist), as introduced March 5, would require the PUC to review the federal Energy Policy Act of 1992 and to report to the legislature by March 31, 1994, concerning the effects of the Act on electric transmission services in California (see MAJOR PROJECTS). [S. E&PU]

SB 1077 (Lewis). Under existing law, the PUC establishes and approves the rates which are charged by common carriers. As introduced March 5, this bill would repeal various provisions relating to the establishment of those rates, and instead permit the PUC to establish a "zone of rate freedom" for common carrier service, other than cement carrier service, which the PUC finds is operating in competition with other common carriers or competitive transportation service from any other means of transportation, if the Commission finds that these competitive transportation services will result in reasonable rates and charges when considered along with the authorized zone of rate freedom. [S. E&PU]

SB 320 (Rosenthal), as amended April 21, would permit the Commission to expand the funding base of the Universal Lifeline Telephone Service program surcharge to include any or all telephone corporations or telecommunications services, except for basic monthly telephone service, provided by telephone corporations. [A. U&C]

AB 860 (Moore), as amended April 12, would require the PUC, in the regulation of cellular telecommunications utilities, to implement a regulatory mechanism that permits the utilities to raise and lower

prices within a specified range with minimum intervention and review by the PUC. [S. E&PU]

AB 1386 (Moore), as amended August 27, would require the PUC to cause a gas corporation to publish a tariff establishing terms and conditions of wholesale gas service for a municipality within its service territory, including rates, as specified; prohibit the PUC from imposing conditions that foreclose competition between the utility and the municipality, but allow utilities to petition the PUC to abandon service within municipalities eligible for wholesale gas service under the provisions of this bill; permit the PUC to grant petitions for abandonment of service, but when granting a petition for abandonment, the Commission would be required to impose conditions requiring that affected municipalities provide service on a nondiscriminatory basis to former customers of the utility abandoning service; define the basis on which the PUC may establish charges to be paid by a municipality to a utility for the transfer of gas distribution facilities to the municipality in the event the utility abandons service; and require the PUC to disallow any consideration of the expense of redundant distribution facilities when setting the rates of a utility which has failed to take advantage of the abandonment provisions of the bill. [S. Floor]

SB 662 (Bergeson), as amended May 17, would require the PUC, in consultation with specified departments and representatives, to prepare and adopt a program for telecommunications services for disabled persons for motorist aid in the event of a freeway emergency, to comply with specified federal standards. [A. U&C]

SB 141 (Alquist). Under existing law, the California Energy Commission (CEC) has specified powers and duties relating to the conservation of energy resources, and the PUC is responsible for the regulation of public utilities within the state. As amended April 15, the bill would require that, for investor-owned electric and gas utilities, regulatory decisions relating to energy conservation programs, budgets, and rate treatment for various programs (including appropriate shareholder incentives) shall be made by the CEC with input from the PUC and the Division of Ratepayer Advocates of the PUC. The bill and would require the PUC to implement these programs, as specified. [A. NatRes]

AB 2333 (Morrow), as amended August 24, would require public utilities to provide designated peace officers and investigators and law enforcement officers, as defined by reference to existing law, with limited customer information under specified conditions with respect to investigations relating to missing or abducted



children. The bill would require a law enforcement officer requesting this information to prepare and sign a written affidavit supporting the request, and would provide that specified persons and entities shall not be subject to criminal or civil liability for reasonably relying on an affidavit pursuant to this provision. [S. *Appr*]

AB 1879 (Peace). Under existing law, the meetings of the PUC are required to be open and public, in accordance with the specified provisions of law. The Commission is required to include in its notice of meetings the agenda of business to be transacted, and no item of business may be added to the agenda subsequent to the notice, absent an unforeseen emergency situation. A rate increase is specified as not constituting an unforeseen emergency situation. As amended April 22, this bill would provide that a rate decrease may constitute an unforeseen emergency situation. [S. *E&PU*]

SB 1147 (Rosenthal), as amended April 15, would require the PUC to determine the total statewide dollar amount of social costs, as specified, which are embedded in regulated utility rates for delivered natural gas, and spread that amount equally as a surcharge to all consumers of natural gas in the state, whether regulated or unregulated, utility or nonutility. [S. *Appr*]

SB 335 (Rosenthal). Existing law permits the PUC to authorize natural gas utilities to construct and maintain compressed natural gas (CNG) refueling stations to be owned and operated by the utility, or to be transferred to nonutility operators; support the construction and maintenance of CNG vehicle conversion and maintenance facilities; provide incentives for conversion of motor vehicles to CNG-fueled vehicles, and incentives to promote the purchase of factory-equipped CNG-fueled vehicles; and recover through rates the reasonable costs associated with the above projects. These provisions are to be repealed on January 1, 1997.

As amended April 19, this bill would expand these provisions to include all natural gas and permit the Commission to authorize natural gas utilities to conduct research development and demonstration of advanced natural gas vehicles and natural gas vehicle refueling technologies. In addition, the bill would permit the PUC to authorize electric utilities to purchase and demonstrate to the public electric vehicles and other forms of electric transportation; conduct electric vehicle battery research, demonstration, and leasing programs; construct and maintain electric vehicle recharging facilities and equipment to be owned and operated by the utility, or to be transferred to nonutility persons or enter-

prises; and provide electric vehicle consumer incentives to offset all or part of the estimated initial battery costs of electric vehicles. [A. *U&C*]

AB 2363 (Moore). Existing law prohibits gas, heat, or electrical corporations and their subsidiaries that are regulated as public utilities by the PUC from conducting work for which a contractor's license is required, except under specified conditions. As amended April 19, this bill would also permit the work to be performed if the work is incidental to another utility function and is performed by a utility employee who is present on the premises for the other function. [A. *Inactive File*]

AB 2028 (Bronshvag), as amended April 13, would require the PUC to implement the consensus recommendations contained in the report of the California Electromagnetic Field Consensus Group dated March 20, 1992. [12:2&3 *CRLR 260*] [S. *Appr*]

AB 766 (Hauser). Existing law defines a gas plant for purposes of the jurisdiction and control of the PUC pursuant to the provisions of the Public Utilities Act as all facilities for the production, generation, transmission, delivery, underground storage, or furnishing of natural or manufactured gas except propane. As amended May 26, this bill, notwithstanding the provision summarized above or any other provision of law, would require the PUC to assume, no later than July 1, 1994, regulatory jurisdiction over the safety of propane pipeline systems, including inspection and enforcement, for mobilehome parks, condominiums and other multi-unit residential housing, and shopping centers. [13:2&3 *CRLR 213*] It would require the PUC to establish a uniform billing surcharge designed to cover the PUC's cost in implementing these provisions, with all surcharge fees to be deposited by the PUC in the Public Utilities Commission Utilities Reimbursement Account in the general fund, to be used, upon appropriation by the legislature, for these purposes. [S. *E&PU*]

AB 173 (V. Brown), as amended August 30, would limit the amount of salary paid to the President and each member of the PUC, on or after July 1, 1994, to an amount no greater than the annual salary of members of the legislature, excluding the Speaker of the Assembly, President pro Tempore of the Senate, Assembly majority and minority floor leaders, and Senate majority and minority floor leaders. [S. *Inactive File*]

■ FUTURE MEETINGS

The full Commission usually meets every other Wednesday in San Francisco.

STATE BAR OF CALIFORNIA

President: Margaret Morrow

Executive Officer:

Herbert Rosenthal

(415) 561-8200 and

(213) 580-5000

TDD for Hearing- and Speech-Impaired:

(415) 561-8231 and

(213) 580-5566

Toll-Free Complaint Hotline:

1-800-843-9053

The State Bar of California was created by legislative act in 1927 and codified in the California Constitution at Article VI, section 9. The State Bar was established as a public corporation within the judicial branch of government, and membership is a requirement for all attorneys practicing law in California. Today, the State Bar has over 137,000 members, which equals approximately 17% of the nation's population of lawyers.

The State Bar Act, Business and Professions Code section 6000 *et seq.*, designates a Board of Governors to run the State Bar. The Board President is elected by the Board of Governors at its June meeting and serves a one-year term beginning in September. Only governors who have served on the Board for three years are eligible to run for President.

The Board consists of 23 members—seventeen licensed attorneys and six non-lawyer public members. Of the attorneys, sixteen of them—including the President—are elected to the Board by lawyers in nine geographic districts. A representative of the California Young Lawyers Association (CYLA), appointed by that organization's Board of Directors, also sits on the Board. The six public members are variously selected by the Governor, Assembly Speaker, and Senate Rules Committee, and confirmed by the state Senate. Each Board member serves a three-year term, except for the CYLA representative (who serves for one year) and the Board President (who serves a fourth year when elected to the presidency). The terms are staggered to provide for the selection of five attorneys and two public members each year.

The State Bar includes twenty standing committees; fourteen special committees, addressing specific issues; sixteen sections covering fourteen substantive areas of law; Bar service programs; and the Conference of Delegates, which gives a representative voice to 291 local, ethnic, and specialty bar associations statewide.