for each member is three years. As introduced March 7, this bill would also require the professional members to have been in active practice for at least the five years preceding their appointments, and to hold unrevoked DO licenses or certificates. This bill would also prohibit a person residing or practicing outside of this state to be appointed to, or sit as a member of, BOE; prohibit a member from serving for more than two full consecutive terms; and revise provisions authorizing the Governor to remove any members of the Board for certain reasons. This bill is pending in the Assembly Health Committee.

AB 1691 (Filante). Existing law requires, prior to granting or renewing staff privileges of an osteopath, that a health facility, health care service plan, medical care foundation, or the medical staff of any of those institutions request a prescribed report relating to the denial, loss, or restriction of staff privileges from BOE. Existing law also permits the institution to grant or renew the privileges in the event the Board fails to advise the institution within thirty working days following its request for a report. As introduced March 8, this bill would permit the institution to grant or renew the privileges in the event the Board fails to advise the institution within thirty days following its request for a report. This bill is pending in the Assembly Health Committee.

AB 819 (Speier). Existing law provides that, except as otherwise specified, the offer, delivery, receipt, or acceptance by prescribed licensed health professionals of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person is unlawful, punishable as a misdemeanor or felony. Existing law also provides that it is not unlawful for a person to refer a person to a laboratory, pharmacy, clinic, or health care facility solely because the licensee has a proprietary interest or coownership in the facility.

As introduced February 27, this bill would, effective July 1, 1992, delete the exception for proprietary or coownership interests, and would instead provide that it is unlawful for these licensed health professionals to refer a person to any laboratory, pharmacy, clinic, or health care facility which is owned in whole or in part by the licensee or in which the licensee has a proprietary interest; the bill would also provide that disclosure of the ownership or proprietary interest does not exempt the licensee from the prohibition. However, the bill would permit specified licensed health professionals to refer a person to a laboratory, pharmacy, clinic, or health care facility which is owned in whole or in part by the licensee or in which the licensee has a proprietary interest if the person referred is the licensee's patient of record, there is no alternative provider or facility available, and to delay or forego the needed health care would pose an immediate health risk to the patient. This bill is pending in the Assembly Health Committee.

RECENT MEETINGS:

At its February 22 meeting, the Board held its annual election of officers. Richard Pitts, DO, replaces Bryn Henderson as BOE President. New BOE member, Josette R. Taglieri, DO, who was attending her first BOE meeting, was elected Vice-President, and Earl A. Gabriel, DO, retained his position as Secretary/Treasurer.

Also in February, Board staff announced that the Board has moved its offices to 444 N. Third Street, Suite A-200, Sacramento, CA 95814.

FUTURE MEETINGS:

To be announced.

PUBLIC UTILITIES COMMISSION

Executive Director: Neal J. Shulman
President: Patricia M. Eckert
(415) 557-1487

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 new Safety Division is concerned with the safety of the utilities, railway transports, and intrastate railway systems.

The PUC is available to answer consumer questions about the regulation of public utilities and transportation companies. However, it urges consumers to seek information on rules, service, rates, or fares directly from the utility. If satisfaction is not received, the Commission's Consumer Affairs Branch (CAB) is available to investigate the matter. The CAB will take up the matter with the company and attempt to reach a reasonable settlement. If a customer is not satisfied by the informal action of the CAB staff, the customer may file a formal complaint.

Patricia Eckert, a Beverly Hills attorney, was recently elected as President of the Commission. She is the first woman to hold the one-year post. Eckert was appointed to the Commission in March 1989. Governor Wilson recently appointed Norman D. Shumway, a former California congressional representative, and Daniel Fessler, a UC Davis law professor, to the Commission. The two replace Frederick Duda and Stanley Hulett, whose terms expired on December 31, 1990.

MAJOR PROJECTS:

ALJs Recommend Rejection of Proposed Merger. On February 1, two PUC administrative law judges (ALJ) released their long-awaited recommendation on the proposed takeover of San Diego Gas & Electric Company (SDG&E) by Southern California Edison (SCE). If approved, SCE would become the largest privately-owned utility in the nation. However, ALJs Lynn Carew and

Brian Cragg—like Federal Energy Regulatory Commission ALJ George Lewnes last November—unconditionally rejected the proposed merger. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 145; Vol. 10, No. 4 (Fall 1990) p. 178; and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) pp. 207-08 for extensive background information on the merger.)

The recommendation of the PUC ALJs was similar in many respects to Judge Lewnes' recommendation. Most significantly, they both found the merger to be anticompetitive and recommended against the merger without providing any conditions upon which the merger might be acceptable. The PUC ALJs highlighted three factors in their 1,300-page ruling. First, SCE's guarantee of a 10% savings to San Diego ratepayers would have to come at the expense of other SCE ratepayers and, therefore, would set up a discriminatory system of allocating actual cost of power generation. This position was emphasized by the recent rate authorization which granted SDG&E only a 4% increase while the less efficient SCE received a 9.3% increase. Hence, an additional 10% reduction in the rates of SDG&E ratepayers would only magnify this disparity. Also, during the merger hearings, SDG&E has become even more competitive, moving from eighth to fortieth most expensive in summer bills and fourteenth to thirty-fifth most expensive in winter bills in a national ranking.

Second, the ALJs stated that the merger would be illegal under Public Utilities Code section 854, which was added in 1989 through SB 52 (Rosenthal). This provision states that a utility merger may "not adversely affect competition." Edison officials unsuccessfully argued that the phrase is not absolute but allows the PUC to "balance" any merger-related savings against any impact of decreased competition. The ALJs found that approximately $1 billion in benefits would accrue to ratepayers between 1991 and 2000. This would come mainly from eliminating 1,153 redundant positions (two-thirds from Edison and one-third from SDG&E). But they felt the statute required both savings as well as mitigation of any anticompetitive impacts. These anticompetitive impacts include the following:

-The merged companies would dominate use of transmission lines linking the Pacific Northwest to the Southwest, resulting in monopoly power over those lines. Also, by eliminating SDG&E as a competitor to Edison, the merger would affect competition among other utilities and independent power producers for access to transmission lines into southern California.

-Because of this, the merged companies would also be able to dictate terms to power suppliers and would be able to distort prices to their advantage.

-By eliminating SDG&E as a retail competitor to Edison, the merger would reduce competitive pressures that help keep rates down for utility customers.

-The judges also ruled that the merger would increase the opportunity for Mission Energy, a non-regulated energy-producing subsidiary of Edison's parent corporation, to sell power to the merged entity. That would give Mission an unfair advantage over other power suppliers and possibly raise costs to ratepayers.

The third key point in the ALJs' ruling is that the entire $100-$200 million in pre/post-merger expenses should be borne by the shareholders and not the ratepayers. This includes approximately $50 million in merger expenses already incurred. There are indications from Edison that even if the PUC should reverse the ALJs on the first two issues, this last condition would be unacceptable.

The PUC scheduled final oral arguments for a public meeting on March 20 in San Francisco before the entire five-member Commission. This date was slipped from the original March 6 date to allow new Commissioners Shumway and Fessler more time to become familiar with the evidentiary file. The Commission has stated that it is committed to prompt action, and hopes to announce its decision in early May. Final briefs in the FERC case were submitted on January 16 by all concerned parties, and a decision is expected by mid-summer. *(See supra* report on UTILITY CONSUMERS' ACTION NETWORK for related discussion.)

Electric and Magnetic Fields of Utilities. On January 15, the PUC issued Order Instituting Investigation (OII) I. 91-01-012. With this order, the Commission begins an investigation of its potential role in mitigating possible health effects of utility employees' and consumers' exposure to electric and magnetic fields created by electric utility power systems and cellular radiotelephone towers.

At present, the scientific community has not reached consensus on the nature of any health impacts from contact with electric and magnetic fields (EMF) or by radiation from cellular facilities. EMF are created whenever electric current exists. The alternating current used in common household applications changes direction 60 times per second and so produces a 60-cycle per second (Hertz) field, a very low frequency. Cellular radiotelephones operate at much higher frequencies in the hundred million Hertz range. Exposure to this difference in frequency could have widely varying effects on biological systems. The problem is that EMF are everywhere in modern societies. At the same time that people are exposed to fields from power facilities and cellular radiotelephones, they are exposed to many other electromagnetic sources, including sunlight and the different frequencies emitted by electronic devices, video displays, electric-powered mass transit, stray fields and microwave communication links, pagers, and non-cellular radiotelephones. According to some studies, EMF have been linked to cancer, miscarriage, and other less understood biological/cellular changes. But it is extremely difficult for scientists to isolate the impact of utility-related exposures on public health.

In response to SB 2519 (Rosenthal) (Chapter 1551, Statutes of 1988), the PUC—in conjunction with the Department of Health Services—has initiated three research studies scheduled for completion in 1992-93. These studies are designed to attempt to isolate any health effects from utility-related exposures. (See CRLR Vol. 8, No. 4 (Fall 1988) pp. 120-21 for background information on SB 2519.)

In opening this OII, the Commission is seeking to explore both the scientific evidence and the range of possible regulatory responses. The Commission invited the electric and telecommunication utilities it regulates and other interested parties to file written comments by March 15 and reply comments by April 15. The OII requests that responses consider the PUC's ability to maintain reliable utility service and reasonable rates, protect the public safety, health, and well-being, maintain flexibility, promote scientific and engineering understanding of the effects of exposure to electromagnetic fields, and implement programs which are simple and feasible to administer.

The investigation identifies four possible alternative strategies in addressing this issue: (1) concluding that not enough evidence exists to warrant any action and pursuing additional research; (2) taking action to restrict any increase in exposure but doing nothing about present exposure levels; (3) adopting a policy of prudent avoidance and limiting EMF exposures which can be avoided with small investments of money and effort, while for the moment foregoing other more extensive measures; or (4) if evidence suggests a serious potential

health problem, committing substantial time and money to an aggressive program of limiting EMF.

Depending upon which of the four strategies appears the most viable, a variety of mitigation measures might be considered, including consumer education, disclosure and measurement by utilities, reduction of utility worker exposures, surveys of EMF exposures and calculations of new exposures from proposed lines, rerouting facilities, undergrounding, changing grounding practices and wire configurations, conversion to local DC alternative generation and solar power, conservation load management, and radical reduction in the use of electricity.

After reply comments are received, a PUC ALJ will schedule a prehearing conference to determine the future course of the investigation, including whether evidentiary and/or public hearings should be held. In the absence of final resolution of the question of transmission line-related health risks, the PUC stated it will act to minimize new exposure to EMF where potential risks are identified. The federal government is also pursuing an investigation in this area. Results of studies during the next several years could have significant effect on cost and policies both at the national and local levels.

Caller ID. The controversy over the proposed "Caller ID" service, which displays the phone number of the calling party on a specially designed phone or device that is attached to the customer's phone, continues. (*See supra* report on TOWARD UTILITY RATE NORMALIZATION; see also CRLR Vol. 11, No. 1 (Winter 1991) pp. 145-46 and Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 209 for background information.) The PUC scheduled public hearings on this issue in six locations throughout the state between March 27 and April 4.

Consumer groups criticized the minimal opportunity this schedule affords the public. Toward Utility Rate Normalization (TURN) Executive Director Audrie Krause said the schedule is inadequate because the timing and location of hearings is inconvenient. According to Krause, "There are 30 million consumers in this state who are going to be affected by Caller ID, and most of them are not going to be able to attend the hearings without traveling for at least three hours, paying high prices for parking, or foregoing holiday plans. We think this is unacceptable."

TURN, Consumer Action, and Utility Consumers' Action Network (UCAN) appealed to PUC President Eckert to expand the schedule. She refused, stating in a letter, "The intent of a Public Participation Hearing is not to hear every affected consumer but rather to hear a representation of consumers in the affected area."

Although Pacific Bell is promoting Caller ID as a method for consumers to screen unwanted calls, consumer groups claim businesses will use the service as a marketing tool. According to UCAN Executive Director Michael Shames, "Most consumers don't realize that their phone number is a superlative gateway to a universal centralized data base full of personal information, such as credit histories, household income, assets, purchase histories, and political orientations."

In response to these concerns, PacBell offers a service in which customers can block their numbers from being transmitted on a per-call basis. Consumer groups argue that per-call blocking is inadequate because it places the burden on the consumer, not the phone company, to protect the privacy of customers. Instead, they contend that per-line blocking should be available, as it is for 900 and 976 numbers. In response to these concerns, two bills to this effect have been introduced in the legislature. AB 314 (Moore) and SB 232 (Rosenthal) direct the PUC to require that per-line blocking be available at no cost where Caller ID services are offered. (*See infra* LEGISLATION for details). The only state which currently offers per-line blocking for Caller ID is Nevada.

Alternative Regulatory Framework Proceeding. Pursuant to Phase II of the ongoing Alternative Regulatory Framework proceeding, GTE-California increased its rates as of February 1. Rates are now based on a price cap index approach in which rates are adjusted every year to account for changes in inflation and productivity. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 151; Vol. 9, No. 4 (Fall 1989) p. 133; and Vol. 9, No. 3 (Summer 1989) pp. 123-24 for background information on the Commission's October 1989 ruling which relaxed its regulation of telecommunications.)

Phase III of the Alternative Regulatory Framework is proceeding with public comment and hearings on ALJ Charlotte Ford-TerKeurst's August 1990 recommendation to open competition for intraLATA toll service. (See CRLR Vol. 10, No. 4 (Fall 1990) pp. 179-80 for background information.) The hearings will involve the Local Exchange Carriers, competitors, and opponents of the recommendation. After the hearings are completed, the parties will submit briefs and ALJ George Amaroli will issue his proposed decision. ALJ Amaroli said he expects the process to be completed in the first quarter of 1992.

Pacific Bell Admits to Delays in Processing Customer Bills. In February, Pacific Bell President Phil Quigley apologized to customers whose phone service was cut off or who were erroneously charged late payment fees due to PacBell's failure to timely post customers' payments to their accounts. PacBell claimed it was unable to process almost half of the 200,000 payments it receives daily in a timely fashion as a result of staff cutbacks. PacBell mail center staff was allegedly told by management to credit payments to customers' accounts whenever employees got around to posting them in the computer, not on the date the checks were received in the mail. The story broke when PacBell customer service representatives, tired of lying to customers who called about late charges, spoke to reporters about the billing problems. (*See supra* report on TURN for related information.)

As a result, PacBell spent more than $500,000 running full-page newspaper advertisements across the state telling customers what to do if they think they have been erroneously charged. The PUC told PacBell that the costs of rectifying the problem must be paid for by stockholders, not customers. A PUC investigation confirmed the billing problems and gave Quigley 30 days to respond to the PUC's investigatory report. The investigation could result in a PUC order requiring PacBell to issue refunds to customers and pay fines.

On February 28, TURN filed a formal complaint with the PUC, asking it to hold formal hearings, fine PacBell $50 million, order an audit, and require PacBell to issue refunds to customers. TURN Executive Director Audrie Krause explained, "PacBell's taking out newspaper ads admitting the problem, blaming customers, then asking customers to apply for refunds simply isn't good enough." According to PUC procedures, Pacific Bell will be given 30 days to respond to TURN's formal complaint; an ALJ will then determine whether formal hearings will be held.

Information "900" Service Consumer Safeguards. In March, the PUC authorized four long distance carriers to provide 900 information services in California, provided they do so subject to consumer safeguards established by the Commission. The companies—AT&T, Sprint, MCI, and Telesphere—must file tariffs which implement the safeguards. After the long distance companies have

carried the services for one year, the Commission's Advisory and Compliance Division will report to the Commission on the status of the industry to determine whether the safeguards should be modified, discontinued, or supplemented.

The safeguards will include introductory disclosure messages and an opportunity for the caller to hang up during that period without charge; blocking of 900 services by customer request; price caps; separate prefixes for sexually explicit material and selective blocking by prefix; subscription for access to harmful matter services; notification to customers the first time their bill reaches $75 and $150; specific complaint procedures and refund or adjustment policies in place; identification of information providers to consumers upon request; and restriction of services to between local phone service areas and between states.

Although California requires consumer safeguards, the safeguards do not apply to interstate calls. President Patricia Eckert said, "It is the Commission's hope that the Congress and the Federal Communications Commission will follow California's lead and require consumer protections nationwide for 900 services."

The FCC informed Congress in January that it is drafting proposed rules to deal with 900 service abuses. San Francisco-based Consumer Action (CA) is pressing the FCC to consider safeguards similar to those adopted in California. The consumer group is especially concerned that the regulations include price caps and mechanisms for refunding unauthorized calls. (See supra report on CA for related information.) The final FCC regulations are expected in June or July following a public comment and rebuttal period. There is also a bill pending in the U.S. House of Representatives which would require stricter regulations for information carriers.

PUC Briefs Household Goods Movers on New Maximum Rate Regulations, Then Postpones Implementation Until January 1992. In December 1990, the PUC decided that forty years of minimum rate regulation for the intrastate transportation of household goods by truck was enough. Under the Commission's decision, minimum rate regulation will be replaced with a maximum rate program with new and enhanced consumer protections plus service and safety requirements. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 146; Vol. 10, No. 4 (Fall 1990) pp. 180-81; and Vol. 9, No. 3 (Summer 1989) p. 124 for extensive background information.) In an effort to assist household goods movers in understanding and adopting the new rate scheme, the PUC conducted six public meetings during February and March.

However, as a result of a petition for rehearing filed by the California Moving and Storage Association (CMSA) in January, implementation of the new program has been temporarily delayed. CMSA's decision to petition for a rehearing was prompted, in part, by the fact that the new maximum rate program, which requires household goods movers to provide the customer with a fully executed contract including a ceiling price no later than the first day the move begins, made no provision for overtime pay.

After consideration of CMSA's petition, the PUC announced on March 22 that it would stay implementation of the new maximum rate program until this and a number of other technical errors were corrected. The PUC later ordered that testimony concerning CMSA's petition be scheduled for May 17, and public hearings and rebuttal testimony scheduled for June. As such, a final decision to implement the new program will not take place until sometime this summer.

Although the PUC's implementation schedule has been set back, the delay will not change the fact that maximum rate regulation will replace minimum rate regulation in the household goods moving industry. The new maximum rate regulations will end the use of set minimum rates which had been the industry norm for the past four decades. During that period, the PUC justified minimum rates as being necessary to protect the public by ensuring sufficient business revenue to maintain quality and safety while providing an adequate rate of return to the business. There is no question that the minimum rate regulation did, in fact, succeed in at least ensuring sufficient business revenue. According to PUC records, prior to its decision to switch from minimum rate to maximum rate regulation, about 84% of all hourly moves and 95% of all distance moves were charged the minimum rate. Apparently, the fact that most movers were content in charging no more than the established minimum rate was a clear sign that the minimum rate had stifled competition and was set an artificially high level.

Use of "Extra Space" in Utility Billing Envelopes. At this writing, PUC staff are still reviewing the opening comments and replies filed by numerous parties in the Commission's latest investigation into the use of the "extra space" in utility billing envelopes. The authority of the Commission to order utilities to permit access to the "extra space" (that is, the space in the envelope not used by the bill itself, up to the one-ounce limit for first-class postage) in billing envelopes is limited by the U.S. Supreme Court's decision in *PG&E v. PUC*, 475 U.S. 1 (1986). Prior to that case, the PUC had required several California utilities to carry bill inserts from consumer organizations which represent the ratepayers' interests in utility rate proceedings before the PUC. (*See supra* FEATURE ARTICLE; *see also* CRLR Vol. 11, No. 1 (Winter 1991) p. 147; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 208; and Vol. 8, No. 3 (Summer 1988) p. 1 for extensive background information on this issue.)

As expected, the responding utilities generally opposed any required bill insert beyond those already mandated. Most reiterated the argument that such a requirement compels them to be associated with a message with which they disagree and, as such, violates their first amendment rights. They contended either that existing procedures to promote ratepayer awareness of and participation in PUC proceedings are adequate, or that means other than billing envelopes should be used to accomplish Commission goals in this regard. Several utilities objected to the use of "extra space" by consumer groups as an inappropriate subsidization of these organizations; others suggested that the Commission send intervenor group mailings in other governmental agency envelopes (such as DMV registrations, water bills, or state tax returns). Finally, numerous utilities argued that there is no "extra space" in many billing envelopes which contain multi-page bills.

In contrast, the Commission's Division of Ratepayer Advocates (DRA) and responding consumer organizations generally asserted that existing procedures are not adequate to foster the Commission's long-standing goal of encouraging informed, technically competent ratepayer representation in the regulatory process. DRA and the intervenor groups further advocated that the "extra space" in utility envelopes should be used in the interests of ratepayers, although individual parties presented a range of possibilities as to how this might be accomplished. Some groups suggested that the PUC require utilities to carry a brief, objective description of intervenor groups; the description would be drafted by the PUC's Public Advisor. Others stated that utilities should be charged for their frequent use of the "extra space"; those funds could be used to support an independent mailing of intervenor information to consumers. Or,

the "extra space" could be sold to commercial advertisers; the revenue collected could be used to lower rates or support intervenor mailings.

LEGISLATION:

SB 841 (Rosenthal). Existing law does not specifically address the respective responsibilities of residential landlords and tenants respecting installation and maintenance of telephone inside wiring. As introduced March 7, this bill would make lessors responsible for installing and maintaining inside wiring, which the bill would define as that portion of the telephone wire connecting the telephone equipment at the customer's premises to the telephone network at a point of demarcation determined by the PUC. The bill would require telephone corporations to annually provide residential subscribers with prescribed information on their responsibilities and those of the telephone utility respecting inside wiring, including an explanation of lessor and tenant responsibilities; an explanation of charges and procedures for determining whether a malfunction exists in the telephone network or in the inside wiring; and a specified description of any services offered by the utility with respect to inside wiring and whether those services are offered by nonutility providers. This bill is pending in the Senate Energy and Public Utilities Committee.

SB 692 (Rosenthal), as introduced March 5, would direct the PUC to require every electrical, gas, and telephone corporation subject to its jurisdiction, to transmit to its customers or subscribers, together with its bill for services, a legal notice which describes intervenor groups by name, address, and telephone number. This bill is pending in the Senate Energy and Public Utilities Committee.

AB 1975 (Moore), as introduced March 8, would enact provisions which would generally effectuate the participation of consumer groups, including but not limited to low-income and minority groups, which seek to intervene in proceedings of the PUC; participation by these groups would be effectuated by, among other means, the enactment of provisions to facilitate the compensation of these intervening consumer groups for their expenses in participating in Commission proceedings. This bill is pending in the Assembly Utilities and Commerce Committee.

SB 973 (Rosenthal), as introduced March 8, would require the PUC to design and implement a program for the operation of information access telephone services provided by local and interexchange telephone companies operating in the state. This bill is pending in the Senate Energy and Public Utilities Committee.

SB 1036 (Killea), as introduced March 8, would express legislative intent with regard to telephone information providers who do business in California; require all information providers engaged in furnishing any live, recorded, or recorded-interactive audio text through information access telephone service, and which operate from sites outside of California, to comply with certain provisions of the Public Utilities Code by including a delayed timing of information charges and a price disclosure message; and prohibit state government agencies from contracting with information providers which charge consumers for the receipt of, or access to, information about government services over the telephone. This bill is pending in the Senate Energy and Public Utilities Committee.

AB 807 (Roybal-Allard), as introduced February 26, would extend indefinitely certain duties of the PUC which otherwise would become inoperative on July 1, 1991. These duties include requiring telephone corporations to offer to residential telephone subscribers a means to delete access to information access telephone services at no charge; requiring telephone corporations to refund to subscribers any amount paid for deletion of access prior to a specified date, and determining and implementing a method to recompense telephone corporations for the expenses of providing this deletion of access option; and requiring every telephone corporation which furnishes information access telephone service to make available a separate telephone prefix number for information providers which provide messages constituting harmful matter. This bill is pending in the Assembly Utilities and Commerce Committee.

SB 693 (Rosenthal). Existing law requires the PUC to establish a program of assistance to low-income electric and gas customers, the cost of which shall not be borne solely by any single class of customer. As introduced March 5, this bill would specify that low-income electric and gas customers include group living facilities, as specified, where a significant portion of the residents meet the PUC's low-income eligibility requirements. This bill is pending in the Senate Energy and Public Utilities Committee.

SB 743 (Rosenthal), as introduced March 6, would require the PUC to require that any telephone corporation which requests approval of the modernization of its telephone network with fiber optics also establish and provide an independent source of power for the telephone network in the case of a public emergency that could curtail electric power. The bill would also require the PUC to permit any telephone corporation employing fiber optics technology to fully recover all reasonable costs of complying with this requirement. This bill is pending in the Senate Energy and Public Utilities Committee.

AB 842 (Polanco), as introduced February 27, would authorize the PUC to suspend or revoke the permit of a household goods carrier for the filing of a false report of understated revenues and fees, and would expressly make every highway permit carrier and every officer, director, agent, or employee of a highway permit carrier who falsely states the carrier's gross operating revenues in order to underpay PUC's reimbursement fees guilty of a misdemeanor. This bill is pending in Assembly Utilities and Commerce Committee.

AB 844 (Polanco). Existing law authorizes the PUC to cancel, suspend, or revoke a certificate or operating permit of any person who transports passengers for compensation upon any of specified grounds, including the conviction of the charter-party carrier of passengers of any misdemeanor under the Passenger Charter-Party Carriers' Act. As introduced February 27, this bill would additionally authorize the PUC to cancel, suspend, or revoke a certificate or operating permit upon the conviction of the charter-party carrier of any felony. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 684 (Moore). Under the Passenger Charter-Party Carriers' Act, specified passenger transportation services are required to be furnished pursuant to a certificate of public convenience and necessity or a permit issued by the PUC. Exempted from that Act is the transportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of fifteen persons or less, including the driver, which is used for the purpose of ridesharing, when the ridesharing is incidental to another purpose of the driver. As introduced February 25, this bill would include in that exemption the requirement that the transportation is not for profit. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 846 (Polanco). Existing law authorizes the PUC to grant or deny a permit for a highway permit carrier or a household goods carrier, or to grant or deny a certificate or a permit for a char-

ter-party carrier of passengers, upon evidence of cancellation or revocation of a prior permit or certificate or upon facts which would be cause for the permit or certificate to be cancelled or revoked. As introduced February 27, this bill would require the PUC, if, after a hearing, it finds that one of those carriers has continued to operate as such after its certificate or permit has been suspended pursuant to existing law, to either revoke the certificate or permit of the carrier or to impose upon the holder of the permit(s) a civil penalty of not less than $1,000 nor more than $5,000 for each day of unlawful operations. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 90 (Moore), as introduced December 4, would require the PUC, in establishing rates for an electrical, gas, telephone, or water corporation, to develop procedures for these utilities to recover, through their rates and charges, the actual amount of local taxes, fees, and assessments, as specified, and to adjust rates to correct for any differences between actual expenditures and amounts recovered in this regard. This bill is pending Assembly Utilities and Commerce Committee.

AB 218 (Hauser), as introduced January 10, would require the PUC to conduct an investigation on the use of propane as a clean transportation fuel, including hearings on propane service, rates, and safety; the PUC would be required to report the results of the hearings and its recommendations regarding regulation of propane service, rates, and safety to the legislature on or before June 1, 1992. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 314 (Moore), as introduced January 24, would direct the PUC to require any call identification service to allow the caller, at no charge, to withhold, on either an individual basis or a per line basis, at the customer's option, the display of the caller's telephone number of the individual receiving the call. This bill is pending in the Assembly Utilities and Commerce Committee.

SB 232 (Rosenthal), as introduced January 28, would require the PUC to require any call identification service offered by a telephone corporation, or by any other person or corporation, to allow the caller, at no charge, to withhold on a per-line basis, the display of the caller's telephone number from the telephone instrument of the individual receiving the call, with specified exemptions. This bill is pending in the Senate Energy and Public Utilities Committee.

AB 230 (Hauser), as introduced January 14, would require those public utilities which furnish residential service to provide with their bills a statement indicating the customer's consumption of electricity, gas, or water during the corresponding billing period one year previously and the number of days in, and charges for, that billing period. The bill would exempt public utilities furnishing water having fewer than 2,000 customers. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 379 (Moore), as introduced January 30, would create a Department of Telecommunications and Information Resource Management, which would be required to recommend to the Governor and the legislature elements of a state telecommunications and information resource policy, develop plans for the use of telecommunications and information resources by the state, and underwrite or participate in the development of technologies for use by state government. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 462 (Moore), as introduced February 8, would require the PUC, in establishing public utility rates, except the rates of common carriers, to not reduce or otherwise change any wage rate, benefit, working condition, or other term or condition of employment that was the subject of collective bargaining. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 554 (Moore), urgency legislation introduced February 15, would require the PUC, as expeditiously as possible, to develop and implement procedures which mitigate the significant additional expense incurred by service men and women in communicating with the families and friends during the Persian Gulf War. This bill is pending in the Assembly Utilities and Commerce Committee.

SB 1227 (Russell), as introduced March 8, would require the PUC, upon being informed by the California Highway Patrol or otherwise finding and determining that the proof of financial responsibility required of a carrier has lapsed or been terminated, to revoke the carrier's registration. This bill is pending in the Senate Energy and Public Utilities Committee.

AB 1792 (Harvey), as introduced March 8, would require the PUC to develop and implement cost estimates for the marginal costs of generation, bulk transmission, and energy costs for different classes of consumers of electrical energy, including but not limited to agricultural use and residential use, for the purpose of determining reasonable and just rates for electrical energy. This bill, which would take effect immediately as an urgency statute, is pending in the Assembly Utilities and Commerce Committee.

AB 2236 (Costa), as introduced March 21, would prohibit the PUC from increasing, or approving an increase in, rates for electrical services by an amount more than the system average rate increase for agricultural customers until the Commission develops and implements cost estimates for the marginal costs of generation, bulk transmission, and energy costs for different classes of consumers of electrical energy. This bill, which would take effect immediately as an urgency statute, is pending in the Assembly Utilities and Commerce Committee.

ACA 30 (Bates), as introduced March 8, would require the legislature to provide for five public utility districts; provide for the election of the PUC commissioners, each representing one district for staggered four-year terms; and include PUC districts within existing constitutional requirements relating to reapportionment of elective districts. This constitutional amendment is pending in the Assembly Utilities and Commerce Committee.

SB 1042 (Roberti), as introduced March 8, would revise the specified procedures for hearings and judicial review of complaints received by the PUC or made on the Commission's own motion; require that PUC hearings requested by complainants be assigned to an administrative law judge (ALJ); require the findings and decision of an ALJ at a Commission hearing to be based on a record of the proceedings; require the Commission to be bound by the factual findings of the ALJ; and establish procedures regarding ex parte communications between parties to a complaint before the PUC and members of the Commission or ALJs assigned to the proceeding in question. This bill is pending in the Senate Energy and Public Utilities Committee.

AB 1432 (Moore). Existing law allows a party to apply to the California Supreme Court for a writ of certiorari or review of an order or decision of the Commission within thirty days after the Commission has denied the application for a rehearing or, if the application has been granted, within thirty days after the Commission's decision on the rehearing. As introduced March 7, this bill would provide that notwithstanding any other provision of law, when the Commission suspends or revokes the certificate or permit of a passenger stage corporation, a highway common carrier or cement carrier, a highway permit carrier, a

household goods carrier, or a charter-party carrier, the decision may be appealed directly to the San Francisco Superior Court. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 1260 (Chacon), as introduced March 6, would establish procedures applicable to dump truck carriers and household goods carriers that provide for appeal of any interim, interlocutory, or other order of the PUC to a state court of appeal. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 682 (Moore), as introduced February 25, would prohibit a nonpublic utility provider of telephone services which provides service to a hotel, motel, hospital, or similar place of temporary accommodation from charging more for a nontoll call than the authorized charge for that call placed from a private coin-activated telephone plus 25 cents, and would prohibit charging more for a toll call than the telephone corporation's applicable charge plus the surcharge, if any, applicable to that call if placed from a public coin-activated telephone plus 25 cents. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 461 (Moore), as introduced February 8, would provide for a state policy of the basic entitlements of telecommunications ratepayers in this state. This bill is pending in the Assembly Utilities and Commerce Committee.

FUTURE MEETINGS:

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

STATE BAR OF CALIFORNIA

President: Charles S. Vogel
Executive Officer: Herbert Rosenthal
(415) 561-8200
(213) 580-5000
Toll-Free Complaint Number:
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 128,000 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.

The State Bar and its subdivisions perform a myriad of functions which fall into six major categories: (1) testing State Bar applicants and accrediting law schools; (2) enforcing the State Bar Act and the Bar's Rules of Professional Conduct, which are codified at section 6076 of the Business and Professions Code, and promoting competence-based education; (3) ensuring the delivery of and access to legal services; (4) educating the public; (5) improving the administration of justice; and (6) providing member services.

MAJOR PROJECTS:

Eighth Progress Report of the State Bar Discipline Monitor. On March 1, State Bar Discipline Monitor Robert C. Fellmeth released his Eighth Progress Report on the Bar's overhauled discipline system. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 184; Vol. 10, Nos. 2 & 3 (Spring/Summer 1990) p. 212; and Vol. 7, No. 3 (Summer 1987) p. 1 for extensive background information.) On the positive side, the report noted that:

-The huge complaint backlogs in the Bar's Office of Intake/Legal Advice and Office of Investigations have largely disappeared.

-The Bar's toll-free consumer complaint hotline number (1-800-843-9053) will finally be published in telephone directories in the location consumers are most likely to look—in the government section of the white pages.

-The predictability and stability of the restructured State Bar Court, which has been in full operation for over one year, is now yielding the result most anticipated—a greatly enhanced settlement rate. Previously, only 15-19% of the cases reaching the State Bar Court settled; now, almost 50% of those cases settle, thus reducing the Court's workload, enabling it to hear cases more quickly, and improving efficiency.

-Where cases are contested vigorously, the entire Bar disciplinary hearing and appeal process consumes only half as much time as does a civil case on "fast-track", and only one-third to one-fifth the time as does a disciplinary case in a regulatory agency subject to the Administrative Procedure Act.

-Only four years after publicly criticizing the work product of the State Bar Court, the California Supreme Court has now impliedly approved the restructured State Bar Court and the quality of its decisionmaking by adopting the "finality rule," under which a final discipline order of the State Bar Court becomes an order of the Supreme Court if no review is sought by the respondent or the Bar's Chief Trial Counsel within 60 days. Further, the Supreme Court will now treat petitions for review of State Bar Court discipline recommendations as discretionary, as are petitions for review of other types of cases. (*See infra* for details; *see also* CRLR Vol. 11, No. 1 (Winter 1991) p. 148 for background information.) Previously, the Supreme Court automatically reviewed all State Bar Court recommendations, whether or not appealed.

-The total output of the new system has increased steadily and substantially since 1987. Public, formal discipline increased markedly in 1988 over the base level of 1982-87; in 1989, the Bar's public discipline output increased 32% over 1988; and in 1990, public discipline increased almost 50% over 1989 levels. Informal discipline during 1990 was ten times what it was during 1981-86 (from 46-60 cases per year then, to 662 in 1990).

The Monitor also discussed several areas of the Bar's discipline system which still require improvement, including the following:

-The Bar's Office of Trials still has a troubling backlog of 250 completely