



offer BOE more flexibility in scheduling meetings as well as ensuring that a quorum of members would be able to attend all meetings.

Also at its January meeting, BOE staff reported on the progress of a booklet which would contain its rules and regulations. (See CRLR Vol. 9, No. 1 (Winter 1989) pp. 103-04 for background information.) Staff reported that the booklet was ready to go to the printer. Upon its completion, the booklet will be distributed to all in-state osteopaths and recent graduates who pass the osteopathic exam.

FUTURE MEETINGS:

June 23 in Pomona.
August 26 in San Jose.

PUBLIC UTILITIES COMMISSION

Executive Director: Victor Weisser
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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 the PUC regulates the service and rates of more than 25,000 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.

In late 1987, the PUC renamed three of its organizational units to clarify their roles and responsibilities. The former Evaluation and Compliance Division, which implements Commission decisions, monitors utility compliance with Commission orders, and advises the PUC on utility matters, is now called the Commission Advisory and Compliance Division. The former Public Staff Division, charged with representing the long-term interests of all utility ratepayers in PUC

rate proceedings, is now the Division of Ratepayer Advocates. The former Policy and Planning Division is now the Division of Strategic Planning.

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.

MAJOR PROJECTS:

SCE Proposes Acquisition of SDG&E. On December 16, 1988, Southern California Edison (SCE) and San Diego Gas & Electric (SDG&E) applied for PUC approval of SCE's proposed acquisition of the San Diego utility. All interested parties appeared before PUC Administrative Law Judge Lynn Carew at a prehearing conference on February 3. Carew announced that the merger hearings will be subject to the "sunshine" rules. Under these rules, any party who contacts a PUC commissioner or presiding ALJ before a final decision in the merger proceeding is issued must notify all other parties of the date, time, and location of the contact, and the subject discussed. The PUC uses these rules to ensure that no party gains an unfair advantage by "off the record" comments which other parties are unaware of and unable to rebut.

Approval by the PUC is only one obstacle the proposed acquisition faces. Shareholders of both utilities must first approve the deal. Then the PUC and the Federal Energy Regulatory Commission (FERC) will conduct hearings to consider approval. Finally, the deal could be blocked by several bills now pending in both houses of the state legislature (*see infra* LEGISLATION).

Opposition by utility consumer groups and local municipalities is expected throughout the approval process. These groups contend the proposed acquisition would result in higher rates, loss of jobs in the SDG&E service area, loss of utility participation in the San Diego community, and an inefficiency utility. (*See supra* reports on TURN and UCAN.)

Telecommunications Education Trust. As part of its administration of this Trust established through a 1986 PUC order, the California Community Founda-

tion (CCF) recently issued guidelines for the Trust's distribution and held meetings around California to assist applicants who wish to obtain funding for programs designed to educate the public on government regulation of the telecommunications industry. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 119 and Vol. 8, No. 3 (Summer 1988) p. 125 for background information on CCF and the Trust.)

The deadline for submittal by grant-seekers was March 1, and CCF has received over 100 proposals. These proposals will be reviewed by the Trust staff and by the PUC's Disbursements Committee. By June 21, the Trust will submit recommendations for funding to the Commission, which is expected to take action by July 12. CCF plans to distribute approximately \$3 million this year, and will monitor the progress of Trust-funded projects.

976 Blocking. Callers to 976 area code information and entertainment services are charged on a per minute basis, but many customers have complained about unauthorized use resulting in bills in the thousands of dollars. Since 1987, residential customers have had the option of blocking 976 services at essentially no cost to them; local phone companies have borne the blocking costs. (See CRLR Vol. 8, No. 2 (Spring 1988) pp. 121-22 and Vol. 8, No. 1 (Winter 1988) pp. 106-07 for background information.)

On February 24, the PUC issued an order requiring local telephone companies to offer business customers the option of blocking 976 services. The order is directed at schools and businesses which may have phones located where they cannot be monitored. At first, the cost of blocking the service will be \$1, but will increase to \$15 after the initial offer expires. In another part of its ruling, the PUC ordered that costs of providing blocking for residential customers be paid, on an interim basis, by 976 providers, but that a hearing will be held on a potentially fairer way of allocating these costs.

Additionally, the Commission suggested revisions to Pacific Bell's proposal to expand the 976 service by offering a 900 service providing recorded broadcasts, interactive messages, videotext, and live group conversations under three service category prefixes. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 24 for background information on PacBell's proposal.) The PUC's revisions to PacBell's proposal focus on consumer protection by suggesting a separate prefix for sexually explicit content which contains "harmful matter"



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as defined in the Penal Code; these messages would be furnished only through subscription, with billing to be performed by the provider, not Pacific Bell.

Another provision of the Commission's plan would require PacBell to notify customers who incur a monthly bill exceeding \$150 for the first time. The PUC plan also sets caps on charges, and would require the service provider to inform the caller of the price at the beginning of the call and allow the caller to hang up without incurring any charges.

Pacific Bell was scheduled to respond to the PUC's suggested revisions in late March.

Deaf Equipment Acquisition Fund (DEAF) Trust. In January, the PUC set the 1989 budget for provision of telecommunications services to deaf and disabled persons at \$28 million, a 22% increase over last year. This trust is funded by a .5% surcharge, although the PUC is required by law to review the budget and may lower that charge by as much as one-half.

The DEAF Trust helps provide telecommunications devices for the deaf (TDDs), which allow hearing-impaired persons to communicate with other hearing-impaired users or with hearing users with the assistance of relay operators. This fund also provides special equipment to assure basic telephone service to physically disabled subscribers. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 120 for background information.)

The 1989 budget includes proposals for upgrading TDD equipment to a minimum standards, increasing the speed of transmission, and alerting hearing parties of a TDD call with a voice announcer.

High Speed Transmission Competition. On February 8, the Commission expanded competition in high speed digital private line data transmission ("Hicap") by authorizing price flexibility to Pacific Bell and GTE for this service, and by allowing other companies to enter this market. The new competitors will likely be MCI Telecommunications Corporation, AT&T Communications of California, U.S. Sprint Communications Co., Cable and Wireless Management Services, Bay Area Teleport, and Wang Communications, Inc. Each provider is required to price Hicap above its cost of producing the service.

To offset the loss in revenue from the increased competition, PacBell and GTE will implement .075% and .1% surcharges, respectively, on monthly bills. For average customers, this surcharge will increase their bill by two or three cents.

The increased competition by other phone companies is expected to encourage improvement of fiber optic cable and microwave technology, which might lead to new applications of this type of transmission while increasing availability and quality of this transmission.

New Timetable for Rate Cases. On January 27, the PUC announced a new timetable for its various ratesetting cases. The general rate cases for California's five major energy utilities traditionally had to be concluded by January 1 deadlines. Effective 1991, rate decisions will be staggered throughout the year. General rate case decisions for Pacific Gas & Electric and SDG&E will be made by May 1, and for SCE by the first Sunday in June. Rate changes for Pacific Power & Light and Sierra Pacific Power Company will continue to start on January 1.

In 1987, the PUC initiated a study to simplify the extremely complex and lengthy general rate case proceedings and ease the burden on utilities and PUC staff. Addressing electric rate design more often than every three years and incorporating the state legislature's reporting requirements into rate cases were other PUC objectives in conducting the study.

Under the new system, all five energy utilities will participate in a combined annual proceeding to determine their cost of capital (*i.e.*, the total of interest on borrowed money, dividends on preferred stock, and an allowance for earnings on common stock used for energy-generating plant and equipment). Currently, five individual proceedings are held for that purpose.

Presently, the PUC holds proceedings throughout the year to adjust rates to comply with administrative or judicial decisions, or to reflect changes in actual energy costs. These "offset" proceedings will be coordinated with each other and with the general rate cases starting in 1991.

The new system will include separate proceedings for major electric utilities to propose changes in rate design. Separate proceedings will also be held to determine the reasonableness of costs for power purchased, rather than produced, by a utility.

Trucking Regulation Hearings Continue. PUC hearings on the regulation of general freight carried by truck, which began last November, were scheduled to conclude by April. (See CRLR Vol. 9, No. 1 (Winter 1989) p. 106 for background information.) Regulation of general freight carried by truck is the PUC's largest transportation rate program. The

PUC's current program of regulation generally maintains rates at minimum price floors unless carriers can justify reductions based on their individual costs. The program is enforced by PUC staff who investigate carriers and recommend fines when prices are set too low or when proper procedures are not followed for rate changes. Participants in the hearings have advocated proposals ranging from fine-tuning to complete abolition of rate regulation in favor of freedom by truckers to set their own prices competitively.

PUC Establishes New Safety Division. On February 15, the PUC created a new Safety Division, composed of PUC staff who previously worked on electric and gas safety matters in its Advisory and Compliance Division and on rail and rapid transit safety matters in its Transportation Division.

The PUC established the Safety Commission because it believes a single organizational unit will be able to deal more efficiently with safety issues regarding regulation of the transportation and utility industries. The PUC's Safety Division will consist of three program areas: conventional rail systems, rapid transit systems, and stationary utilities.

Guide for PUC Intervenor. The PUC Public Advisor's Offices in Los Angeles and San Francisco have begun issuing free written guidelines for consumer organizations and individuals who wish to participate in PUC proceedings. The 103-page guide explains the legal procedures, documents, and resources that participants in PUC proceedings must use in order to effectively participate in these hearings.

LEGISLATION:

ACA 17 (Moore) would increase the number of PUC Commissioners from five to seven, with three appointed by the Governor, two appointed by the Assembly, and two appointed by the Senate. The measure would also delete the requirement that the Governor's appointees must be approved by the Senate. This proposed constitutional amendment is pending in the Assembly Utilities and Commerce Committee.

AB 227 (Hannigan) would amend section 2775.5 of the Public Utilities Code, which requires the corporation that desires to own or control any solar energy system to first obtain PUC authorization. This bill would require an electrical or gas corporation to file with the PUC a description of its proposed solar energy program, and would authorize the corporation to implement the pro-



gram, unless the PUC orders the corporation to obtain authorization within 45 days of accepting the proposal. AB 227 is pending in the Assembly Ways and Means Committee.

AB 275 (Cortese) would require telephone solicitors to disclose certain information before beginning any conversation. In addition to making certain disclosures, the solicitor would be required, within 30 seconds of beginning a conversation, to inquire whether the person being solicited is interested. This bill would also permit a residential telephone subscriber to designate in the telephone directory that he/she does not wish to receive unsolicited calls. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 338 (Floyd) would provide that the California Supreme Court may transfer the review of certain actions of the PUC to a court of appeal. This bill is pending in the Assembly Judiciary Committee.

AB 590 (Hauser) would require public utilities to indicate on each residential bill the consumption of electricity, gas, or water during the prior year's corresponding period. Certain water corporations would be exempt, including those that serve fewer than 2,000 customers. AB 590 would require changes in billing procedures to be complete by January 1, 1991. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 611 (Hauser) would require electrical and gas utilities to offer baseline allowances to owners of residential hotels occupied by people meeting certain criteria which do not have individual meters for each unit. A hotel would be defined as "residential" if at least one-half of its units are rented for at least one month and are occupied for at least nine months of the year as a primary residence. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 689 (Moore) would prohibit places of temporary accommodation—including hospitals, hotels, and motels—from charging more than a \$.25 surcharge above certain tariffed rates on file with the PUC. It would also require the PUC to adopt and enforce requirements for the provision of operator assisted services by an aggregator. This bill would also require aggregators to post on or near the telephone specified information together with the telephone number for the Consumer Affairs Division of the Commission. AB 689 is pending in the Assembly Utilities and Commerce Committee.

AB 713 (Moore) would require the PUC to develop procedures for public

utilities to recover, through their rates and charges, the actual amount of local taxes, fees, and assessments, and to adjust rates to correct for any differences between actual expenditures and amounts recovered. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 1684 (Costa) would provide that no person or corporation shall be permitted to engage in the transportation of property on any public highway both as a highway common carrier and as a high contract carrier. The bill would require the latter to enter into a written contract for their services, and would require the contracts to be filed with the PUC. It would prohibit the carrier from offering any services beyond those provided for in the filed contract. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 1798 (Moore) would make revenue derived from the regulation of transportation agencies in the state subject to the jurisdiction of the PUC available for new purposes relating to the highway carrier industry. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 1974 (Peace) would require the PUC to consider the environmental impact on air quality in air basins downwind from an electrical generating facility in connection with every request for the recovery in rates of the cost of fuel for the generation of electricity. This bill is pending in the Assembly Utilities and Commerce Committee.

AB 2166 (Roybal-Allard) would prohibit privately-owned utilities under the jurisdiction of the PUC and publicly-owned utilities from terminating residential service when any customer financially unable to pay for service within the normal payment period is willing to enter into an amortization agreement. This bill is pending in the Assembly Utilities and Commerce Committee.

SB 24 (Robbins) would direct the PUC to adopt and enforce a requirement that any coin or credit card activated telephone for public use must display the address at which the telephone is located and the telephone number or other identification number in a place on the equipment where it may be seen by anyone using the equipment. This bill is pending in the Senate Appropriations Committee.

SB 45 (Robbins) would repeal the scheduled July 1, 1989 sunset date of a program which requires telephone companies to furnish telecommunications devices capable of servicing the needs of

the deaf or the severely hearing-impaired to the state legislature and to state agencies which service a significant portion of the deaf and hearing-impaired community. This bill would take effect immediately as an urgency statute. SB 45 is pending in the Senate Appropriations Committee.

SB 136 (Montoya) would prescribe the use of any money, rebate, refund, or commission received by institutions and prisons from a telephone company which are attributable to the use of payphones which are used primarily by inmates while incarcerated. The bill would require 10% of these payments to be deposited into Inmate Welfare Fund of the Department of Corrections in the State Treasury. The remaining 90% would be deposited in the Restitution Fund to indemnify victims of crime. Existing law provides that all payments be deposited in the Inmate Welfare Fund. This bill is pending in the Senate Judiciary Committee.

SB 210 (Russell) would repeal the provision of law which states that if the PUC establishes minimum rates for household goods carriers, the rates may not exceed the current rates of common carriers by land subject to the Public Utilities Act for the same kind of property between the same points. The bill would also raise the minimum protection against liability required of household carriers. This bill is pending in the Senate Energy and Public Utilities Committee.

SB 229 (Stirling) would authorize a county water authority organized under the County Water Authority Act to generally provide for the generation, transmission, distribution, sale, and lease of power and gas. The bill would require the authority to reimburse local agencies for tax revenues lost because of the acquisition by the authority of property of a public utility. The bill would also authorize the San Diego County Water Authority, if it exercises these powers, to change its name to the San Diego Water and Power Authority. This bill is pending in the Senate Agriculture and Water Resources Committee.

SB 279 (Montoya) would indefinitely extend the existing law prohibiting public utilities and their subsidiaries from conducting work requiring a general contractor's license. This bill is pending in the Senate Energy and Public Utilities Committee.

SB 441 (Stirling) would prohibit the PUC, when establishing utility rates, from reducing or changing any wage rates, benefit, working condition, or other term or condition of employment



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that was the subject of collective bargaining. The bill would also provide that all terms or conditions of employment that are contained in a collective bargaining agreement are presumed to be reasonable. This bill is pending in the Senate Committee on Energy and Public Utilities.

SB 497 (Stirling) would require a vote by the residents of the service area of a public utility before the PUC could approve an acquisition of the utility. This bill is pending in the Senate Energy and Public Utilities Committee.

SB 560 (Rosenthal). Existing law authorizes the PUC to provide compensation for ratepayer advocates' fees, expert witness fees, and other reasonable costs to public utility customers for participation or intervention in any rate hearing or proceeding of the Commission. This bill would extend these provisions to customers of highway carriers, passenger stage corporations, and charter-party carriers. Any award made for participation in cases involving transportation rates shall be paid from the PUC's Transportation Rate Fund. This bill is pending in the Senate Committee on Energy and Public Utilities.

SB 796 (Deddeh) would require public utilities to file an environmental impact report (EIR) pursuant to the California Environmental Quality Act before acquiring or merging with another public utility. The bill would also provide that all public agencies which are affected by the project are "responsible agencies" with respect to the preparation of an EIR. Existing law only requires an environmental assessment. This bill is pending in the Senate Energy and Public Utilities Committee.

SB 909 (Rosenthal) would direct the PUC to report to the legislature by September 30, 1990, on the feasibility and appropriateness of public utilities selling "extra space" in billing envelopes and of requiring them to sell that space to commercial advertisers. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 1 for background information on this issue.) The revenues generated would be used to provide grants in advance of PUC proceedings to promote consumer and subscriber participation in those proceedings. This bill is pending in the Senate Energy and Public Utilities Committee.

SB 993 (Rosenthal) would require the PUC to report to the legislature by January 1, 1991, on specific issues relating to the growth of unsolicited telefacsimile (fax) marketing communications. The bill would mandate the PUC to explore the cost to both sender and

receiver, revenue projections to the utility in connection with growth projections, preventive measures, and legal issues related to the prohibition of unsolicited fax marketing communications. This bill is pending in the Senate Committee on Energy and Public Utilities.

SB 1375 (Boatwright) would require every telephone corporation to inform each new subscriber that the subscriber may be listed in the directory as a person who chooses not to receive telephone solicitations. The telephone corporation would then be required to provide for each subscriber who so chooses a listing in the directory accompanied by a special symbol which indicates that the subscriber does not wish to receive telephone solicitations. This bill is pending in the Senate Energy and Public Utilities Committee.

The following is a status update on bills discussed in CRLR Vol. 9, No. 1 (Winter 1989) at page 106:

SB 52 (Rosenthal), which would prohibit significant action to acquire control of any public utility without prior PUC approval and would specify the factors the PUC must consider in granting approval, is pending in the Senate Committee on Energy and Public Utilities.

SB 53 (Rosenthal). Existing law prohibits a public utility from purchasing or acquiring the capital stock of any other public utility in California without PUC authorization. This bill would extend that prohibition to any subsidiary or affiliate of, or corporation holding a controlling interest in, a public utility. This bill would permit the Commission to establish categories of stock acquisitions which it determines will not be harmful to the interests of the acquired public utility, and would exempt purchases within those categories from these provisions. This bill is also pending in the Senate Committee on Energy and Public Utilities.

FUTURE MEETINGS:

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

STATE BAR OF CALIFORNIA

President: Colin Wied

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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 by 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 110,000 members, more than one-seventh of the nation's population of lawyers.

The State Bar Act designates the 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: fifteen licensed attorneys elected by lawyers in nine geographic districts; six public members variously appointed by the Governor, Assembly Speaker, and Senate Rules Committee and confirmed by the state Senate; a representative of the California Young Lawyers Association (CYLA) appointed by that organization's Board of Directors; and the State Bar President. With the exception of the CYLA representative, who serves for one year, and the State Bar president, who serves an extra fourth year upon election to the presidency, each Board member serves a three-year term. The terms are staggered to provide for the selection of five attorneys and two public members each year.

The State Bar includes 22 standing committees, 16 sections in 14 substantive areas of law, Bar service programs, and the Conference of Delegates, which gives a representative voice to 127 local bar associations throughout the state.

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 professional standards and enhancing competence; (3) supporting legal services delivery and access; (4) educating the public; (5) improving the administration of justice; and (6) providing member services.

MAJOR PROJECTS:

Fourth Progress Report of the State Bar Discipline Monitor. In his Fourth Progress Report issued on March 1, State Bar Discipline Monitor Robert C. Fellmeth reported, for the first time, indications of improvements in the State Bar's discipline system. (See CRLR Vol. 8, No. 4 (Fall 1988) p. 122; Vol. 8, No. 2 (Spring 1988) p. 124; Vol. 8, No. 1 (Winter 1988) pp. 108-09; Vol. 7, No. 4 (Fall 1987) p. 108; and Vol. 7, No. 3 (Summer 1987) pp. 1 and 133 for background information.) These improvements are due to significant administrative reforms, including the adoption of