



REGULATORY AGENCY ACTION

February 25 in Monterey, and on April 2, June 24, and October 28 in Pomona. The California two-day written examination will be administered on March 31-April 1 in Pomona.

LEGISLATION:

SB 1552 (Kopp), as amended August 23, requires boards regulating certain licensees, including physicians and surgeons, to consider including training regarding the characteristics and methods of assessment and treatment of AIDS in specified continuing education and training requirements for those licensees. This bill was signed by the Governor on September 22 (Chapter 1213, Statutes of 1988).

The following is a status update on bills reported in CRLR Vol. 8, No. 3 (Summer 1988) at pages 124-25:

AB 4197 (Isenberg) authorizes BOE to establish a substance abuse diversion program. The bill contains a provision stating that the committees established therein are responsible for promoting the program to the public and within the profession, and for providing all licentiates with written information concerning the program. An administrative fee, to be established by the Board, may be charged for participation in the program, but all costs of treatment shall be paid by the participant. This bill was signed by the Governor and chaptered (Chapter 384, Statutes of 1988).

AB 4622 (Bader), as amended June 8, authorizes a program of reciprocity between BOE and other state boards, specifying requirements which may include passage of a special examination prepared by any of several specified organizations in lieu of a recognized and approved state examination. This bill was signed by the Governor and chaptered (Chapter 405, Statutes of 1988).

AB 1924 (Bader), as amended August 4, would have required the Office of Statewide Health Planning and Development to create a special program to increase, particularly in underserved areas, the number of primary care osteopathic physicians and surgeons in the state. This bill was vetoed by the Governor on September 20.

AB 3949 (Leslie), as amended June 21, would have authorized an administrative law judge to order a licensee to pay the costs of investigation associated with disciplinary proceedings when the licensee is found guilty of unprofessional conduct. This bill was referred for interim hearing.

SB 2491 (Montoya), as amended

June 20, clarifies the extent to which a health facility is prohibited from discriminating against a physician and surgeon on the basis of whether the individual holds an MD or DO degree. The bill mandates specific procedures to ensure high professional and ethical practices and provides that violations of provisions therein may be enjoined by a district attorney. This bill also prohibits professional medical or osteopathic associations from requiring membership as a prerequisite for a physician to obtain staff privileges, employment, or a contract for services. This bill was signed by the Governor and chaptered (Chapter 661, Statutes of 1988).

SB 2536 (Craven) adds the charging of an unconscionable fee to the grounds for disciplinary action which may be taken against osteopathic physicians and surgeons. This bill has been signed by the Governor and chaptered (Chapter 325, Statutes of 1988).

SB 2267 (Greene), as amended June 20, would have specified that osteopathic medical students enrolled in an approved school are not to be discriminated against, as described therein. This bill was vetoed by the Governor on September 30.

SB 2565 (Keene), as amended August 26, would have clarified existing law regarding immunity of hospitals, persons, or organizations for peer review actions which are required to be reported to various state agencies. The bill would have established specific procedural guidelines for professional review actions and the reporting thereof in order for immunity from liability to attach. However, SB 2565 was vetoed by the Governor on September 30.

RECENT MEETINGS:

The Board's August 28 meeting was cancelled.

FUTURE MEETINGS:

To be announced.

PUBLIC UTILITIES COMMISSION

*Executive Director: Victor Weisser
President: Stanley W. Hulett
(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 the PUC regulates the service and rates of more than 25,000 privately-owned utilities and transpor-

tation 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:

PG&E Attempts to Settle Diablo Canyon Costs Proceeding. Two months after the California Supreme Court upheld the authority of the PUC to grant interim rate increases, the PUC and Pacific Gas & Electric Company (PG&E) reached a proposed settlement allowing PG&E to raise electricity rates by \$147.4 million to recover non-investment costs for the Diablo Canyon Nuclear Power Plant. Non-investment expenses include operation and maintenance costs, insurance, pensions and



benefits, and taxes. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 33 and Vol. 8, No. 1 (Winter 1988) p. 106 for background information.)

The Supreme Court's decision gave PG&E the potential to recover up to \$2 billion in retroactive fees toward Diablo Canyon costs. PG&E foregoes the \$2 billion as the key feature of the proposed settlement. The PUC has yet to approve the settlement, and it is being challenged by several consumer groups (see *supra* report on TURN).

The settlement in no way prejudices the ultimate decision which the PUC will make on the prudence of PG&E's investment in Diablo Canyon. That decision is anticipated in late 1989. The interim increase is only allowed to provide the utility with a reasonable cash flow until the final ruling.

Ratepayer Education Trust Fund. On September 28, the PUC approved a recommendation by its special five-member disbursement committee to appoint California Community Foundation (CCF) to administer the \$16.5 million consumer education fund established in May. (See CRLR Vol. 8, No. 3 (Summer 1988) p. 125; Vol. 8, No. 2 (Spring 1988) p. 121; and Vol. 7, No. 2 (Spring 1987) p. 106 for background information.) CCF, a southern California-based organization, is one of about 300 nonprofit foundations across the county which administer endowments from a variety of sources. Its fifteen-member Board of Governors manages, invests, and disburses funds from smaller private foundations throughout Los Angeles and Orange counties, and will expand operations in its new statewide role.

Pacific Bell was ordered to deposit the money into the educational fund as a penalty for deceptive marketing practices. As administrator of this trust, CCF will assist the PUC in drafting an invitation to submit proposals for grants from the fund. PUC Public Advisor Rob Feraru plans to have the invitation completed by the end of the year. CCF's next step will be to develop outreach programs to aid groups interested in submitting proposals. The Foundation will accept and evaluate the proposals within sixty days from the invitation and then advise the PUC of its recommendations.

Once proposals for educational projects have been selected, CCF will be responsible for managing the fund. Under a tentative schedule, CCF hopes to begin distributing money by July 1989. The trust fund will operate over the next six years, with the goal of

dispensing \$3 million each year for programs including mass media programs, educational forums, and community outreach efforts which will target consumers most susceptible to deceptive marketing practices.

PUC Hearings To Review Regulation of California's Freight Industry. The PUC scheduled formal hearings to begin on November 7 in San Francisco to discuss how best to regulate California's general transportation industry. The call for a comprehensive review of trucking regulation stems from an en banc hearing held last March. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 120 for background information.)

A prehearing conference was held in San Francisco on September 7. Parties were asked to comment on two broad topics: general issues in trucking regulation, and concrete suggestions for program change. The PUC set forth the following six general trucking areas for comment: consumer benefits, economic efficiency, adequate service, safety, subhauling, and transitional effects.

On August 24, the PUC filed on order instituting an investigation (OII) in the Matter of the Regulation of General Freight Transportation by Truck. This order lays out a framework for a comprehensive review of Commission objectives in regulating general freight. Parties were invited to comment through written testimony on the present program and to present suggestions for more appropriate regulatory programs.

Telecommunications: Alternative Regulatory Framework Proceeding. The PUC is conducting a three-phase investigation into a PacBell request for restructuring of rates. (See CRLR Vol. 8, No. 1 (Winter 1988) pp. 105-06 for detailed background information.) In Phase I, PacBell and GTE proposed flexible pricing for Com-Star vertical services such as call waiting, call forwarding, and three-way calling. Other services included in the flexible pricing proposal are centrex (PacBell-operated switching replacing costly onsite systems) and high-speed digital private line services. Business customers are the primary users of these services, and the new price structure would allow PacBell to compete in this market.

By setting a price ceiling at current rates and a floor at its cost, PacBell claims it would be able to provide these services to large business customers at competitive rates. With more customers, the cost of providing these services would decrease, and the lower prices would benefit business customers.

In Phase I, the PUC approved a settlement on September 29 after rejecting a PacBell proposal to privately negotiate long-term contracts with business customers. The Commission refused to consider allowing any confidential negotiations.

The settlement is a three-way agreement in which business customers receive increased competition and lower rates for these services; PacBell and GTE receive greater freedom from regulatory oversight and flexibility in pricing; and other providers are allowed to compete with some of PacBell's services.

Phase II, which will examine alternative approaches to ratemaking, was scheduled for hearing beginning in early November.

SDG&E Customer Charge Dropped. On July 8, the PUC rescinded a \$4.80 monthly service charge that San Diego Gas & Electric Company's (SDG&E) residential customers had been paying since January 1, on top of the charges for the amount of electricity used. The change in rate design will not affect the revenue SDG&E receives from residential ratepayers overall, but will reduce rates for 80% of ratepayers. Senior citizens, low-income customers, and mobile-home residents who use small quantities of electricity will see their bills reduced \$1-\$3 per month. The monthly bills of the majority of ratepayers will be reduced by about 47 cents.

Charging one rate for fixed costs and another based on the actual amount of energy used is known as "unbundling" of rates. Although the customer charge was dropped, the PUC emphasized that it remains committed to the concept of "unbundling" rates as a means of providing utility customers with a "direct link between their actions and the bills they receive."

In approving SDG&E's request to withdraw the charge, the PUC recognized unprecedented opposition from Utility Consumers' Action Network (UCAN), the City of San Diego, Rate Watchers, and members of the public by dropping the charge. In spite of support for the charge by the PUC's Division of Ratepayer Advocates, an administrative law judge ruled that "SDG&E customers have spoken loud and clear" and found that "the charge is simply not worth the confusion it has caused."

AT&T Communications Rate Reduction. On June 17, the PUC ordered AT&T to reduce intrastate rates by 10% or \$168 million annually, and to refund its customers \$110 million over six months through a 17.5% credit from



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July through December 1988. The Commission ordered the return of money collected during the first six months of 1988 for anticipated costs to connect to local telephone networks. These costs were not realized, and the overcollected funds must be returned.

A direct refund is not possible because local phone companies do not keep billing records for more than thirty days. PUC therefore ordered the 17.5% reduction in future customer charges. Although customers saw the reductions in August and September billings, the PUC stayed the order pending reconsideration. The rehearing was requested by the California Association of Long Distance Telephone Companies, including U.S. Sprint Communications and M.C.I. Telecommunications. The Association alleges that the six-month credit was not a proper means of returning AT&T's expense reductions.

Deaf Equipment Acquisition Fund (DEAF). Beginning on October 1, PacBell began charging its residential customers one-half of 1% of their monthly bill to pay for the state's Deaf and Disabled Telecommunications Program. (See CRLR Vol. 8, No. 2 (Spring 1988) p. 122; Vol. 8, No. 1 (Winter 1988) p. 108; and Vol. 7, No. 4 (Fall 1987) p. 106 for background information.) Business customers will pay a slightly higher charge. Previously exempt services provided by long distance phone companies and cellular radiotelephone companies and resellers will now be subject to the tax. The basic monthly rate for Universal Lifeline Telephone Service will not be affected by the fee.

The prior three-cent surcharge authorized in 1979 when the service was established only generates \$19 million of the \$32 million necessary to operate the program. The charges will remain effective until further action or until June 30, 1990.

Hearings on Realigning Residential Energy Rates. On July 19, the PUC began hearings to implement SB 987 (Dills). (See CRLR Vol. 8, No. 3 (Summer 1988) p. 127 for background information.) The bill allows the PUC greater flexibility in setting baseline rates while attempting to avoid excessive rate increases for consumers. SB 987 requires that the new rates be established by November 1, but most utilities are asking the PUC for extensions until 1989 or 1990, when general rate case decisions are final.

Legislators proposed the bill as a response to the exorbitant bills consumers often face when they use energy

in excess of the baseline rate during cold weather. Consumers have faced two to three times their normal bill when charged for energy at the "second tier" rate.

Consumer groups opposed this bill, contending that it discourages individual attempts at energy conservation, and fear that SB 987 may lead to the abolition of baseline rates. (See *supra* report on UCAN.) Previously, the PUC was required to make a certain amount of energy available at 75% to 85% of the average rate to ensure affordable energy for moderate-income consumers. SB 987 simply instructs the PUC to ensure utility revenue requirements are met without charging excessive rates.

The bill also requires any revenue generated from increasing baseline rates to be used to lower the rate above the baseline. Consumer groups feel this forces energy conservation-conscious ratepayers to subsidize their less thrifty neighbors.

LEGISLATION:

The following is a status update on bills discussed in CRLR Vol. 8, No. 3 (Summer 1988) at pages 126-27:

AB 3489 (Moore), as amended on August 25, requires the PUC to suspend the certificate or permit of any passenger stage corporation, highway permit carrier, household goods carrier, or charter-party carrier of passengers that has consistently failed to maintain its vehicles in safe condition. Each carrier would be required to submit an annual list of all vehicles used in transportation for compensation. The bill also directs the PUC to investigate every business listed in the yellow pages as providing limousine-for-hire or charter bus service for compliance, and institute appropriate civil or criminal proceedings against suspected violators. This bill was signed by the Governor on September 15 (Chapter 916, Statutes of 1988).

AB 4037 (Hayden), as amended on August 12, requires the PUC to adopt a rule or order on or before January 1, 1990, specifying the maximum amount of vinyl chloride that may be found in landfill gas. Until the rule or order is adopted, no gas producer would be able to knowingly sell, supply, or transport landfill gas to a gas corporation, and no gas corporation would be able to knowingly sell landfill gas which contains any vinyl chloride in excess of the "no significant risk level" set forth in existing regulations. This bill would also prohibit any gas corporation from knowingly or intentionally exposing any person to that gas without first warning the

person. This bill was signed by the Governor on September 16 (Chapter 932, Statutes of 1988).

AB 4217 (Bronzan) directs the PUC to investigate existing methods of allocation of revenues and expenses to customer classes in the establishment of electric rates, and to report to the legislature by December 31, 1989. This bill was signed by the Governor on September 16 (Chapter 936, Statutes of 1988).

SB 2297 (Rosenthal), as amended August 26, makes a legislative finding and declaration about the role of the South Coast Air Quality Management District in establishing and encouraging voluntary programs to increase the use of clean-burning fuels. The bill requires the PUC, in establishing rates for a public utility operating in a federally designated nonattainment area, to determine which expenses related to air pollution control requirements for using clean-burning fuels in the area are reasonable and necessary, and to approve those expenses in a rate request by the public utility. This bill was signed by the Governor on September 29 (Chapter 1546, Statutes of 1988).

AB 2494 (Friedman), as amended August 30, requires specified notices of termination of service by public utilities to residents of multiunit residential structures and mobile home parks. It also prohibits termination of services for the indebtedness of the owner or operator on utility service for other properties. This bill was signed by the Governor on September 29 (Chapter 1533, Statutes of 1988).

AB 3368 (Wright) would have required any ratemaking authority, as defined, which requires or permits competitive bidding for electrical resources, to ensure that all potential purchasers and sellers of electricity have fair and nondiscriminatory access to transmission services. This bill died in the Assembly Committee on Utilities and Commerce in May.

SB 2822 (Alquist), as amended on June 30, directs the PUC to investigate problems associated with metallic balloons which may contact and short-circuit electrical power lines, and to report its findings to the legislature by January 31, 1990. This bill was signed by the Governor on September 21 (Chapter 1122, Statutes of 1988).

SB 2519 (Rosenthal), as amended on August 23, directs the PUC to conduct a study of cancer and other medical risks which may be related to exposure to electromagnetic fields produced by electrical utility facilities. This bill was



signed by the Governor on September 29 (Chapter 1551, Statutes of 1988).

AB 4075 (Katz) would have required costs of deleting 976 access to be borne by the 976 service provider, but was withdrawn by its author.

AB 4174 (Moore) directs the PUC to conduct an investigation and hearings on the establishment of telephone rates with respect to whether there should be no additional charge to subscribers for tone-dialing service. This bill was signed by the Governor (Chapter 673, Statutes of 1988).

AB 4579 (Moore), which requires specified disclosures by owners/operators of coin-operated telephones for public use which provide operator-assisted services by other than a telephone corporation, was also signed by the Governor (Chapter 648, Statutes of 1988).

SB 680 (Rosenthal), as amended on June 27, would have required the PUC to complete its ongoing investigation into the regulation of telephone corporations operating within service areas, but was vetoed by the Governor on September 26.

SB 1762 (Rosenthal), requiring the PUC to order phone companies to develop a program for inside wiring repair in rental housing, died in the Assembly Committee on Utilities and Commerce.

SB 1822 (Rosenthal), as amended on June 9, requires every electrical, gas, and telephone corporation to prepare and submit an annual report to the PUC describing all significant transactions between the corporation and subsidiaries. This bill was signed by the Governor on September 7 (Chapter 759, Statutes of 1988).

SB 1844 (Russell), as amended on August 23, declares that the PUC has no jurisdiction and control over the billing and collection practices of a telephone corporation for its services to an information provider furnishing any live or recorded video text or audio information or interactive message service. This bill was signed on September 23 (Chapter 1261, Statutes of 1988).

SB 2656 (Rosenthal), as amended on August 1, directs the PUC to adopt and enforce operating requirements governing coin-operated and credit card-activated telephones available for public use, and owned and operated by a corporation or person other than a local telephone corporation. This bill was signed on September 20 (Chapter 1058, Statutes of 1988).

SB 2787 (Nielsen) directs the PUC

to prepare and submit to the legislature by July 1, 1989, a report on the availability to residential subscribers of the option to delete 976 service sexually explicit messages, including the capabilities for deletion of access which are in place on January 1, 1989, and an analysis of the costs and benefits of extending the deletion of access option to those subscribers in areas where deletion is not now available. This bill was signed by the Governor (Chapter 474, Statutes of 1988).

SB 2402 (Roberti) was vetoed by the Governor on August 26. This bill would have required the PUC to submit its annual report to the Governor, which lists its transactions and proceedings for the previous fiscal year, to specified members of the legislature.

SB 2582 (Mello) was signed by the Governor on August 20 (Chapter 472, Statutes of 1988). This bill permits the PUC access to the property of a charter party carrier of passengers, and authorizes it to inspect and copy the accounts, books, papers, and documents of the carrier.

AB 3554 (Moore), which would have subjected the PUC to the Administrative Procedure Act's procedure for the adoption, amendment, and repeal of regulations, died in the Assembly Committee on Utilities and Commerce.

AB 3490 (Moore), as amended on August 23, precludes the PUC from issuing a certificate of public convenience and necessity to specified carriers unless the carrier shows capability of complying with highway safety rules; and that it will observe state and federal hours of service regulations for its drivers; and that it has a preventive maintenance program for its vehicles, regularly checks the driving records of its drivers, has a safety education and training program, and maintains its vehicles in safe operating conditions. This bill was signed by the Governor on September 22 (Chapter 1175, Statutes of 1988).

AB 4031 (Polanco) was signed by the Governor on September 9 (Chapter 784, Statutes of 1988). The bill requires the PUC, after January 1, 1989, to publish its orders and decisions within one year after issuance.

FUTURE MEETINGS:

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

STATE BAR OF CALIFORNIA

President: Colin Wied

(415) 561-8200

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.

In August, five new attorneys were elected to the Board of Governors for 1988-89. The members will serve for three years. The new Board members are: Darrell W. Stevens, a sole prac-