



PUBLIC UTILITIES COMMISSION

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The California Public Utilities Commission (PUC) was created in 1911 and strengthened in 1946 to regulate privately-owned utilities and ensure reasonable rates and service for the public. The Commission oversees more than 1,500 utility and transport companies, including electric, gas, water, telephone, railroads, buses, trucks, freight services and numerous smaller services. More than 19,000 highway carriers fall under its jurisdiction.

Overseeing this effort are five commissioners appointed by the Governor with Senate approval. The commissioners serve staggered six-year terms in an increasingly complex full-time endeavor.

The Commission has responded to public criticism that it is biased in favor of utilities by (1) setting up a Public Staff Division which is structurally distinct from the Commission "to represent the public," with an annual budget of \$9.2 million; (2) creating the position of "public advisor" to serve as a kind of ombudsperson assisting the public; (3) creating a system of intervenor compensation to pay the fees of advocates who intervene or appear and contribute to results benefiting ratepayers; and (4) authorizing enclosures in billing envelopes by groups representing ratepayers.

On March 5, Governor Deukmejian appointed John B. Ohanian to the Commission. Ohanian is a former chief deputy director of the Governor's office of planning and research. His appointment creates a 4-1 Commission majority of Deukmejian appointees.

MAJOR PROJECTS:

Diablo Canyon Nuclear Power Plant. The PUC has begun the lengthy process of evaluating Pacific Gas & Electric Company's (PG&E) request to offset the costs of owning, operating, maintaining, and decommissioning (dismantling after it is no longer producing power) the Diablo Canyon Nuclear Power Plant. At stake is \$5.7 billion in construction costs, a burden neither ratepayers nor stockholders believe they should be required to fully bear.

Because of its size, the rate case has been divided into three phases. Phase I concerns interim ratesetting, and will attempt to determine proper energy rates during PUC's investigation of the construction costs. If the interim rates are

set too high and PG&E collects more than the Commission later determines it is due, the ratepayers will be entitled to a refund. If the interim rates are set too low, and if the Commission's final decision favors PG&E, the ratepayers could face a sudden increase in rates. PG&E's interim rate request of \$800 million is presently pending. Also in Phase I, the PUC will examine alternative ratesetting methods.

During Phase II, the PUC will determine whether the construction costs were reasonable and whether PG&E was prudent in its management of the facility. These issues are central to the rate case and will take several years to decide. The PUC recently held a prehearing conference to set a schedule for Phase II over the next few years.

Phase III will likely begin in 1989 or thereafter, and will focus on the implementation of the PUC's determinations on reasonableness of construction costs and prudent management.

San Onofre Nuclear Generating Station. On March 17, the PUC upheld its October 29, 1986 decision that Southern California Edison and San Diego Gas and Electric Company imprudently spent \$246.3 million in constructing two major additions at the San Onofre nuclear plant. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 95.) The Commission decided to rehear arguments by the two utilities on the methods PUC staff used to arrive at an additional penalty of \$98 million for increases in overhead costs such as engineering and administrative expenses. The October decision effectively charges the utilities' stockholders with \$344.6 million in cost overruns.

Transportation Reregulation. The PUC is continually increasing its regulatory grip over the transportation industries. General freight carrier rates serve as one example. In 1980, the Commission relaxed its regulation in this area in order to promote competition between carriers. In April 1986, however, the PUC decided to reregulate California's general freight transportation industry (see CRLR Vol. 6, No. 3 (Summer 1986) pp. 83-84). March 1, 1987 has been set as the date to implement the reregulation program, which allows trucking firms to lawfully collude in proposing prices, and which sets minimum rate floors at levels above cost and which allow automatic rate escalation based on inflation factors.

Common Carrier Safety. Following a fatal charter bus accident last year, the PUC directed its staff to investigate and

report on the general safety of the passenger bus industry. Staff also conducted workshops with representatives from the Department of Motor Vehicles (DMV), the California Highway Patrol (CHP), and the busing industry. On September 30, 1986, the staff submitted a report containing findings and recommendations for vehicle mechanical safety, driver qualifications, and carrier fitness. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 95.)

Based on the staff report, the PUC unanimously adopted a safety resolution on February 11, 1987 which requires passenger buses to comply with CHP and DMV safety regulations. Before the PUC will issue any new or renewed charter authority, clearance must be obtained from CHP for operating equipment and from DMV on driver employees. Moreover, the PUC committed to work toward coordinating its regulatory functions with the CHP and DMV through joint meetings.

The PUC is concerned that the separation of regulatory authority among the three agencies will result in a lack of comprehensive safety measures. As part of the PUC's 1987 legislative program, the Commission advocates better coordination among these three agencies, including possible combination of the licensing and inspection programs of the agencies.

Tax Reform Act of 1986. The PUC faces its first problem raised by the changes in the federal tax laws. (See CRLR Vol. 7, No. 1 (Winter 1987) p. 95.) The new tax laws require utilities to report as taxable income the fair market value of contributions received from construction. These contributions are made when a builder extends utility service lines to property and then contributes them to the utility, or pays the utility to install the lines. Before enactment of the new tax laws, these contributions were not taxed. PUC must now determine who should bear the burden of paying the new utility line tax; that is, whether the builders should cover the tax or whether the utilities' customers should pay the tax as another increase in the cost of doing business. If the builder is ultimately required to bear the tax burden, the cost of installing utilities will substantially increase.

In what was stressed by the Commissioners to be an interim decision, on February 11 the PUC authorized utilities to collect from builders (effective February 11) a 67% fee increase subject to a refund with interest depending on the Commission's final decision. Additional-



ly, the PUC ruled that because the utilities had begun collecting the tax from the builders as of January 1, 1987, the utilities would be liable for refunds to the builders for the period of collection prior to authorization.

Pacific Bell Pressure Sales. Pacific Bell (PacBell) has refunded \$23.3 million to customers who were deceived into paying for expensive and unwanted telephone services. Already the largest consumer refund program undertaken in California, the total could increase 12% to \$27 million by this spring. The refunds stem from PUC's investigation into PacBell's marketing practices (see CRLR Vol. 6, No. 4 (Fall 1986) p. 90).

The investigation by the Commission has also led to changes in the appearance of PacBell's monthly bills. Beginning March 1, PacBell will provide its residential customers with monthly bills which itemize each charge on the bill. The most significant change in the billing itemization is the explicit distinction between basic services and optional services.

PacBell is also expected to submit a plan to itemize billing for its business customers no later than April 1, 1987.

Trans-Sierra Power Transmission line. If constructed, this 115-mile, \$103 million power line would allow Sacramento Municipal Utility District (SMUD) and Sierra Pacific Power Company of Nevada (Sierra Pacific) to sell each other surplus electricity. Despite the size of this project and the likelihood that it will greatly impact utility service in northern California, the PUC may not play any role in overseeing it.

Unlike private utilities, SMUD is a public agency which is not subject to PUC regulation. It must comply with state environmental laws and obtain use permits from the U.S. Forest Service. But, SMUD decides for itself whether its needs assessments and environmental impact statements are sufficient.

Sierra Pacific is a private utility which primarily serves Nevada residents; however, because approximately 39,000 of its 200,000 customers are California residents, the Commission may exercise regulatory authority over it. To avoid PUC scrutiny, Sierra Pacific intends to request an exemption on grounds that it derives more than 75% of its revenue outside California. Sierra Pacific technically qualifies for the exemption, but the PUC has discretion to deny the request if to do so would be "in the public interest."

Sierra Tieline Opposition Project (STOP), a group centered in the area

which the power line would cross, hopes the PUC will exercise its authority based on "public interest" grounds. STOP argues that the power line is unnecessary and the existing public review process is inadequate.

SoCal Rate Review. An in-depth, year-long review of Southern California Gas Company's (SoCal) rates, scheduled for 1987, could be postponed until 1989. SoCal had filed a preliminary request indicating it would seek an increase of \$158 million to take effect next year. But, in view of current economic conditions, the PUC Public Staff Division and SoCal have agreed to ask the Commission to cancel the proceeding.

The PUC accepts general rate increase applications from major utilities only once every three years and typically holds at least 60 days of hearings over the year to explore the utility's operations. If the PUC accepts the agreement between staff and SoCal, six years will have elapsed between major rate cases. Even if the PUC decides to forego this year's review, rates will not necessarily remain unchanged until the next general rate case. During the "off" years, the Commission may grant cost-of-living adjustments based on inflation.

The agreement reached by staff and SoCal calls for, in addition to cost-of-living increases, consideration of the utility's rate of return, and it mandates a 2% increase in the utility's productivity for 1988. The terms of the agreement were considered at hearings on February 19 and 20; the Commission is expected to decide whether to accept the agreement in the spring of 1987.

LEGISLATION:

AB 227 (Areias) would regulate interstate communication with PUC Commissioners and administrative law judges. AB 227 would prohibit, after a PUC proceeding commences, all communication between parties and hearing officers other than on the record. In other proceedings, the bill would prohibit communication between hearing officers and parties unless the communication is reported to all parties within three working days. This bill would also permit any party, prior to submission of a proceeding, to request a copy of the proposed decision of the administrative law judge, to be furnished at least thirty days before the Commission takes action on the matter, and to file exceptions to the decision.

AB 318 (Cortese), as amended March 9, would authorize public agencies which provide water, light, heat, communica-

tions, power, flood control, garbage or specified sewer service to charge other public entities prescribed user charges for costs of capital facilities to provide the service.

AB 319 (Moore) would require the PUC to hold a public hearing before approving any change in rates for one category of service or commodity or class of customer or subscriber that results in an increase for any other category of service or commodity or class of customer or subscriber or any change in a rule or contract affecting any rate, classification, or service. The bill would also permit the PUC's Public Staff Division to file complaints and apply for rehearings with the PUC.

AB 321 (Moore) would prohibit the PUC from issuing a certificate to an electrical or gas corporation for the construction of a telecommunications system to provide telecommunications service for the public already within the service area of a telephone corporation.

AB 322 (Moore) would require the PUC, as part of any rate proceeding involving a telephone or telegraph corporation, to take into account rate history, rate relationships, the proposals submitted, elasticity of demand and related revenue repression, settlements with connecting telephone and telegraph corporations, cost of service, the relative values of new and existing services for each class of customer and subscriber, the general effects on customers and subscribers, and the general effect on the economy of the state.

AB 198 (Moore) would require the PUC to investigate the public utilities' accounting practices for affiliates, and to issue orders concerning these procedures. The Commission would be required to submit a report to the legislature on or before January 1, 1988, on the accounting procedures which have been approved or prohibited. Furthermore, this bill would make a statement of legislative intent and would declare that it is to take effect immediately as an urgency statute.

AB 217 (O'Connell) would delete obsolete provisions which authorize the PUC to issue a permit for the construction and operation of a liquified natural gas terminal pursuant to a prescribed permit procedure and within a specified time, which has expired.

AB 152 (Stirling) would direct the Commission to require every electrical, gas, telephone, and water corporation to establish and administer a fund to provide assistance to those of its customers or subscribers who are unable to



pay their utility bills. The bill would also direct the PUC to require that every such corporation provide a separate space on their bill for services to inform their customers of the program and encourage them to make donations to the program.

AB 386 (Moore) would permit the Commission to designate additional universal telephone service rates or usage options beyond the existing termination date. The bill would specify that a universal service subscriber's allowance is required to be reduced by the amount of any credit or allowance authorized by the Federal Communications Commission, and would require the Controller, upon the Commission's certification, to reimburse telephone corporations for the amount of this allowance from the fund, thereby making an appropriation.

AB 359 (Moore) would require the Commission to order the establishment of ratepayer classifications that more accurately reflect the characteristics of customers, taking into account specified factors or any other factors the Commission finds useful.

AB 358 (Moore) would specifically grant the Commission jurisdiction over transactions, as defined, between an electrical, gas, heat, telephone, telegraph, or water corporation and a holding corporation in the exercise of its control over public utilities. The bill would also permit the PUC to regulate the creation of subsidiaries and affiliates of these corporations, and transactions between these corporations and their subsidiaries and affiliates, if it finds that the subsidiary or affiliate was created from revenues subject to regulation by the PUC and that the corporation's credit may be adversely affected thereby.

SB 153 (Rosenthal), as amended March 12, would require the Commission to regulate the installation and maintenance of simple inside wiring by a telephone or telegraph corporation, and to include the revenues and expenses therefrom in establishing rates for the corporation. The introduction of this bill stems from the Federal Communications Commission's January 1, 1987 order deregulating the installation and maintenance of certain inside telephone wiring.

SB 154 (Rosenthal) would direct the Commission to require that, in the case of telephone wiring in rented or leased residential units, the responsibility for repair and maintenance to inside telephone wiring is that of the landlord or lessor rather than the tenant or lessee.

SB 242 (Rosenthal) would require the Commission to establish for each

year a thirty-day period during which the distribution of classified telephone directories and nonresidential directories to telephone subscribers within a particular area is required to be made. The bill does not apply to the alphabetical directory of subscribers.

SB 347 (Rosenthal) would direct the PUC to prohibit by rule or order, the use of cellular radio telephone services which do not meet specified requirements in any motor vehicle which is owned by a renter, as specified, and offered to the general public as a rental.

SB 343 (Rosenthal) would, in part, require the PUC, whenever an electrical corporation is required by the Air Resources Board (ARB) or an air pollution control district or an air quality management district to use any clean-burning fuel in generation of electricity, to approve the corporation's expenses for purchases of that fuel based on its determination of what the market price for that fuel would have been in the absence of the ARB's regulations requiring the corporation's use of that fuel.

SB 437 (Rosenthal) would direct the PUC to require regulated utility corporations to furnish their customer and subscribers, at least twice per year, together with the corporation's bill, a notice prepared by the PUC's public advisor which lists the rate applications filed by the corporation and to be heard by the PUC within the following year which may have a significant effect on utility bills; states that the customer or subscriber has a right to become an intervenor in the proceeding either directly or through an intervenor group; and lists the groups which have intervened in the proceeding together with the interests each represents, its mailing address, and whether the group has a significant financial hardship.

ACR 13 (Moore), as amended March 19, would request the Commission, in its consideration of an existing or new service offering of a telephone corporation in a rate proceeding or advice letter, to examine the use of that service by various classes of customers, and to assign rates for the service based on the use of that service by each class of customer.

SJR 3 (Rosenthal), as amended March 11, would memorialize the President and Congress to enact legislation to reverse the Federal Communications Commission's decision to deregulate inside wiring maintenance by telephone corporations. The bill would support the PUC in its effort to oppose the usurpation of its regulatory authority, and would oppose a legislative proposal

by Congress to transfer authority from the Department of Justice to the FCC, unless input from specified sources is required.

ACA 4 (Moore), as amended March 11, would exempt electricity, gas, water, and telephone service furnished for residential use or consumption from sales or use taxes, and from utility users' taxes imposed by local government, and would permit the imposition of sales or use taxes and utility users' taxes on those services and commodities furnished for commercial, industrial, agricultural, or public use or consumption at a rate not exceeding the rate applicable to the sale or use of other commodities and services.

ACR 12 (Moore) would request the PUC to study and transmit a report to the legislature on the deregulation of telephone directory advertising.

SCR 14 (Deddeh, Bergeson, Craven), as amended March 19, would request the PUC to hold public hearings, upon request, in electrical, gas, and telephone corporation proceedings within the service area of the public utility involved, to establish a regional office in San Diego, and to report to the legislature by January 1, 1988, on its policy for the implementation of these matters.

RECENT MEETINGS:

At its January 14 meeting, the PUC made a second interim decision in its continuing investigation of 976 Information Access Services offered by Pacific Bell and General Telephone companies. The 976 services offer, for a fee of 50 cents to \$2, a variety of services including wake-up calls, trivia games, lottery results, financial information, children's stories, and sexually explicit messages. The PUC ruled that 976 services are in the public interest and should be continued. The PUC also delayed implementation, until January 1, 1988, of an order that would allow automatic blocking of calls made by children without parental permission to the 976 numbers. The Commission cited unresolved technical problems and a need for further hearings to examine alternative measures. Some of the alternative measures under consideration include vendor-provided blocking devices, privately-owned devices, or federal permission for equipment revisions to allow the telephone companies to automatically block.

Also at its January 14 meeting, the PUC ruled that San Diego Gas & Electric (SDG&E) need not increase its natural gas rates. SDG&E had filed a notice last October indicating it would need \$14.5 million more in revenues to



cover gas costs for next year. But SDG&E later abandoned this request and indicated that it would maintain the gas-cost component of its rates at present levels. In light of the major restructure of gas rates which the PUC has undertaken and will soon implement, insignificant adjustments are unnecessary.

Moreover, the utility also noted that its supplier, Southern California Gas Company, has pending a request to lower wholesale rates. At the same January 14 meeting, despite granting an overall 6.6% rate increase for all SoCal customers, the PUC lowered by 2% the price at which SDG&E purchases gas from SoCal. New Deukmejian appointee G. Mitchell Wilk abstained from the SoCal vote because of a conflict of interest.

On January 28, the PUC concluded its examination of SDG&E fuel costs for 1988, and decided to decrease electricity rates 6.3% or \$85.5 million per year. Contributing factors included the decreasing price of natural gas and oil as well as the availability of electricity generated at San Onofre Nuclear Generating Station. Residential users, who have traditionally received larger breaks than industry, received only a 1.5% decrease, while commercial customers received 6.7%-11.2% decreases. The Commission allowed larger decreases to commercial and industrial users because approximately 33% of SDG&E's sales to these customers are jeopardized because they are exploring the possibility of generating their own electricity. If these customers leave the system, remaining customers would be left to pay fixed costs now shared with those large customers.

Also on January 28, the PUC granted authority to Trailways Lines, Inc. to abandon bus service along Interstate 5 north of Sacramento because "public convenience and necessity" no longer require it. In 1983, the company cut its twice-daily service in half, resulting in a loss of revenue. In August 1984, Trailways added another route to the northwest. This additional route produced a further increase in expenses without an increase in passengers sufficient to make a profit. In one year, Trailways lost \$200,314—a deficit from which it could not recover.

In response to a series of administrative hearings and legislation signed by the Governor last year, the PUC has implemented a plan to increase business opportunities for women- and minority-owned businesses. The bill requires all gas, electric, and telephone companies with gross annual revenues in excess of

\$25 million to submit to the PUC detailed plans for increasing women- and minority-owned business contract procurement participation. The PUC scheduled a pre-hearing conference in April to prepare guidelines for reviewing the submitted plans.

The PUC granted approval for ferry service from San Diego to Santa Catalina Island and possibly cross-bay trips to Coronado. The PUC approved plans for two separate lines which will compete for passengers on round-trip service between San Diego and Catalina. One company is commissioning a new vessel for its San Diego run which will be able to carry 250 passengers at a top speed of 35 knots. This boat would be able to make the trip in about two hours and ten minutes.

In its annual revision of the household income level for Universal Lifeline Telephone Service customers, the PUC has raised the level from \$11,900 to \$12,100 for a household of one or two persons. The legislation which created the Lifeline service requires the Commission to annually adjust the income limit to reflect inflation based on the Federal Consumer Price Index. The new income limit is effective on March 8, 1987.

Additionally, the PUC has authorized PacBell to provide inside wiring repair insurance at 25 cents per month to Lifeline service customers, which is in keeping with Lifeline service costs at one-half the flat rate. The PUC also reinstated a 50% discount for the installation of telephone jacks. The discount had been eliminated pursuant to the FCC's decision to deregulate inside wire repair and inside wire jack installation. The PUC believes that elimination of the latter discount is unfair and in violation of General Order 153, which implemented the legislation creating the Lifeline service.

The PUC outlined recent Commission actions to provide relief to farmers from high electricity rates. Last year, the Commission gave the agricultural class a larger-than-planned rate decrease in order to help the state's farmers during adverse economic conditions. Unfortunately, farmers' cost of service remains high because they have been unable to respond to special programs such as time-of-use (TOU) rates. These rates provide lower rates to customers who use energy during off-peak hours. Farmers, however, often need to pump water during those hours. A new rate design responds to this problem allowing farmers to pump on peak for half the week.

FUTURE MEETINGS:

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

STATE BAR OF CALIFORNIA

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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 100,000 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 consists of 22 members: fifteen licensed attorneys elected by lawyers in nine geographic districts, six public members appointed by the Governor of California and confirmed by the state Senate, and a representative of the California Young Lawyers Association (CYLA) appointed by that organization's Board of Directors. Beginning in 1983, the Senate Committee on Rules and the Speaker of the Assembly each appoints one public member every three years. The Governor will continue to fill the remaining four public member seats. With the exception of the CYLA representative, who serves for one year, 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, 12 sections in ten substantive areas of law, three regulatory boards, Bar service programs and the Conference of Delegates, which gives a representative voice to the 113 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, including publishing the *California Lawyer* magazine.

MAJOR PROJECTS:

Mandatory Continuing Legal Education Study. For the fourth time in six-