

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-169
Administrative Law Judge Division
September 20, 1996

R E S O L U T I O N

Filing of Notice of Denial of Request for Ex Parte Meeting.

SUMMARY

This resolution implements an interim procedure whereby a party whose written request for an ex parte meeting with a Commissioner has been denied will be allowed to file a notice of such denial.

BACKGROUND

The Commission's Rules of Practice and Procedure (Rules) are set forth in Chapter 1, Division 1, of Title 20 of the California Code of Regulations. Article 1.5 of the Rules concerns "Ex Parte Communications in Commission Proceedings."

Currently, a party that is involved in an ex parte communication, as defined in the Rules, generally must file a notice, with specified contents, reporting the communication. In certain circumstances, described in Rule 1.4(a), ex parte communication is prohibited. Some proceedings are not covered by Article 1.5 (see Rule 1.1(c)), and ex parte communication in such proceedings is not reportable. The Rules do not currently provide a procedure for noticing any instance when a party's request to meet with a decisionmaker for the purpose of ex parte communication is denied.

The State Budget for Fiscal Year 1996-97 has recently been enacted. Supplemental language enacted with the Commission's budget directs the Commission to "adopt a procedure which allows parties who have requested an ex parte meeting with a commissioner, but who have been denied such meeting, to file a notice in the public record of the commission providing notice of the denial. The commission shall report to the Legislature on the number and content of notices filed [under the procedure] on or before February 1, 1997."

DISCUSSION

The February 1, 1997 deadline set by the budget language is somewhat ambiguous. However, under the more logical reading, that is the date when the Commission's report to the Legislature is due. So as to have a substantial amount of data on which to base the report, it is desirable to put an appropriate notice procedure in place, at least on an interim basis, as soon as possible.

The interim notice procedure is only available to parties whose request for an ex parte meeting is made in writing. The reason for this limitation is that oral requests are easily subject to misinterpretation or oversight. The written request, which must be attached to the notice, must be dated and must set forth the identity of the recipient and of the person making the request, and the date, time, location, and intended subject matter of the requested meeting.

This resolution adopts an interim notice procedure, effective immediately. The Commission will also publish a proposed Rule and transmit that Rule to the Office of Administrative Law. After consideration of comments on the proposed Rule, the Commission will decide whether to adopt the proposed Rule (possibly with changes), so as to create a permanent notice procedure.

FINDINGS

The Commission should adopt an interim notice procedure, which should be available to any party whose written request for an ex parte meeting with a Commissioner is denied. The interim notice procedure should be made effective as soon as possible, in order to enable the Commission to prepare its report to the Legislature by February 1, 1997.

THEREFORE, IT IS ORDERED that:

1. Any party requesting in writing to meet with a Commissioner for the purpose of making an ex parte communication with that Commissioner may file a notice of such request if it is denied. The notice shall attach a copy of the request, which must contain the following information:

- (1) the date of the request;
- (2) the identity of the recipient and of the person making the request; and

- (3) the date, time, location, and intended subject matter of the requested meeting.
2. The filing of a notice shall be reported promptly thereafter in the Commission's Daily Calendar.
3. Parties may obtain a copy of the notice from the Commission's Central File room or from the filing party, who shall provide a copy to the requesting party without delay.
4. The definitions in Rule 1.1 of the Commission's Rules of Practice and Procedure shall apply to the notice procedure set forth in this resolution.
5. The Executive Director shall cause a copy of this resolution to be mailed to major utilities and to each appearance in the Rules revision proceeding (R.84-12-028). The Executive Director shall also insert a notice of this resolution in the Commission's Daily Calendar and Internet site.

This resolution is effective today.

I hereby certify that this Resolution was adopted by the Public Utilities Commission at its regular meeting on September 20, 1996. The following Commissioners approved it:


WESLEY M. FRANKLIN
Executive Director

P. GREGORY CONLON
President
DANIEL Wm. FESSLER
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners