

SEP 25 1997

**ORIGINAL**

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Rulemaking on the Commission's Own Motion for the Purpose of Amending the Commission's Conflict of Interest Code as set forth in 20 Cal. Adm. Code, Chapter 1, Subchapter 2, Appendix.

FILED  
PUBLIC UTILITIES COMMISSION  
SEPTEMBER 24, 1997  
SAN FRANCISCO OFFICE  
R.97-09-035

**ORDER INSTITUTING RULEMAKING**

This rulemaking is instituted to amend the Commission's Conflict of Interest Code. The code is set forth in an Appendix to the Commission's Rules of Practice and Procedure, 20 Cal. Adm. Code, Chapter 1, Subchapter 2. We are amending this code pursuant to Government Code §§ 87300-87302 and § 87306. There are several reasons that we are now preparing to amend the code:

1. The present code was developed in 1977, and the reporting categories have never been modified. In the two decades since then, the Commission's work has changed dramatically, with the introduction of competition in at least some aspects of all of the industries we regulate. With these changes has come a significant increase in the types and number of organizations and individuals that can be materially affected by our decisions. We intend to replace the current reporting categories with new categories to reflect this expanded scope. While the former categories focused exclusively on economic interests in regulated entities, the new categories include interests in competitive firms that are affected by the decisions we make. In addition, the new categories include firms that provide goods and services to the Commission.

2. Since the code was last amended, the Commission has reorganized its staff, eliminated some employee classifications, and added many more. In addition, as the agency has continued to mature, the level of responsibility borne by those in more junior job classifications has increased. For these reasons, we are taking a fresh look at the list of employees who should be designated to report relevant economic interests.

The result is an entirely new and expanded list of designated employees. Many more junior employees, who have not previously had filing responsibilities, would now be required to file annual statements. However, clerical and other support staff would still not be required to file.

3. The Legislature recently passed and the Governor signed into law SB 595 which amends § 303 of the Public Utilities Code. In its previous form, § 303 prohibited from working for the Commission anyone who had an official relationship to, owned stock or bonds of, or was in any manner pecuniarily interested in an entity regulated by the Commission. As amended, § 303 applies this restriction only to the commissioners. SB 595 also directed us to amend the Conflict of Interest Code and our Statement of Incompatible Activities no later than February 28, 1997. On a separate track, we are reviewing changes to the Statement of Incompatible Activities. Some of those changes are in response to the amendments to § 303. Here, we consider the need for any related changes to our Conflict of Interest Code.

In considering these changes, we must determine that no alternative approach would be more effective in carrying out these purposes or would be as effective and less burdensome to the individuals involved.

The proposed amended code is included as Attachment 1 to this Order. Copies can also be obtained from Administrative Law Judge (ALJ) Steven Weissman of the Commission's ALJ Division.

#### **Opportunity for Comment**

Anyone interested in doing so is invited to comment on the proposed changes by filing eight copies of written comments with the Docket Office no later than December 1, 1997. No later than November 16, 1997, any interested person or his or her representative may request a public hearing. Such a request should state the reason that a public hearing is considered necessary and must also be filed in writing with the Docket Office (eight copies, in all). We will serve this Order on all parties to our generic rulemaking docket R.84-12-028, all employees in proposed reporting classifications, and

all employee collective bargaining representatives. We are also sending copies to the Office of Administrative Law and the Fair Political Practices Commission.

**Subsequent Steps**

After receiving comments, we will consider the need for changes to the proposal. We will then forward any adopted changes to the Fair Political Practices Commission.

**IT IS ORDERED that:**

1. A rulemaking proceeding is hereby instituted on the Commission's own motion to consider and adopt an amended Conflict of Interest Code.
2. All interested parties, including Commission employees, are invited to submit written comments by filing such comments with the Docket Office no later than December 1, 1997. Such filings shall conform to the Commission's rules.
3. The adoption of the proposed code will not impose a cost or savings on any state agency, local agency or school district that is required to be reimbursed under Article 7 (commencing with § 17500) or Division 4 of the Government Code; will not result in any nondiscriminatory cost or savings to local agencies; will not result in any cost or savings in federal funding to the state; will not impose a mandate on local agencies or school districts; and will not have any potential cost impact on private persons or business including small businesses.
4. The Executive Director shall file a notice of the proposed changes with the Office of Administrative Law for publication in the California Regulatory Notice Register at least 60 days before the close of the comment period consistent with § 18750 of Title 2, Division 6, of the California Code of Regulations. He shall also file a copy of the

R.97-09-035 ALJ/SAW/sng \*

notice (endorsed by the Office of Administrative Law) with the Fair Political Practices Commission at least 45 days before the close of the comment period.

This order is effective today.

Dated September 24, 1997, at San Francisco, California.

JESSIE J. KNIGHT, JR.  
HENRY M. DUQUE  
JOSIAH L. NEEPER  
RICHARD A. BILAS  
Commissioners

President P. Gregory Conlon,  
being necessarily absent,  
did not participate.

R.97-09-035 AIJ/SAW/sng \*

**ATTACHMENT 1**

## DRAFT AMENDED CONFLICT OF INTEREST CODE PROVISIONS

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Public Utilities Commission, with the addition provided below.

Pursuant to Section 4(A) of the standard Code, designated employees shall file statements of economic interests with the agency.

### (a) Designated Positions

The following are "designated employees" and the applicable disclosure categories:

<u>Designated Employees</u>	<u>Applicable Disclosure Categories</u>
Administrative Assistant I	2 and 3
Administrative Assistant II	2 and 3
Administrative Law Judge I	15
Administrative Law Judge II	15
Assistant Chief ALJ	2,3 and 15
Assistant Chief PU Counsel	1
Assistant Engineer Specialist (Utilities)	15
Assistant Utilities Engineer	15
Associate Budget Analyst	2,3
Associate Governmental Program Analyst	2,3,15
Associate Info Systems Analyst (Spec)	3
Associate Info Systems Analyst (Supv)	3
Associate Management Analyst	2,3
Associate Personnel Analyst	2,3
Associate Programmer Analyst (Specialist)	3
Associate Transportation Representative	15
Associate Utilities Engineer	15
Business Services Officer I (Spec)	2,3
Business Services Officer I (Supv)	2,3
CEA Level 1	2,3,15
CEA Level 2	2,3,15
CEA Level 3	1
CEA Level 4	2,3,15
Chief Administrative Law Judge	2,3,15

Chief Hearing Reporter	2,3
Computer Operator C	3
Consumer Affairs Manager	15
Consumer Affairs Representative	15
Consumer Affairs Supervisor	15
Data Processing Manager I	3
Data Processing Manager II	3
Data Processing Manager III	3
Graduate Legal Assistant	15
Information Officer I (Specialist)	15
Information Officer I (Supervisor)	15
Information Officer II	15
Information Systems TechnicianC	3
Information Systems TechnicianSupv I	3
Information Systems TechnicianSupv II	3
Junior Utilities Engineer	15
Legal Counsel A	15
Legal Counsel B	15
Legislative Analyst	15
Management Services Technician B	2,3
Personnel Services Specialist I B	2,3
Personnel Services Specialist II	2,3
Principal PU Financial Examiner	15
Principal Transportation Division	2, 3, 15
Program and Project Supervisor	2, 3, 15
Program Manager	2, 3, 15
Public Utilities Counsel I, PUC	15
Public Utilities Counsel II, PUC	15
Public Utilities Counsel III, PUC	15
Public Utilities Counsel IV, PUC	15
Public Utilities Regulatory Analyst I A	15
Public Utilities Regulatory Analyst I B	15
Public Utilities Regulatory Analyst I C	15
Public Utilities Regulatory Analyst II	15
Public Utilities Regulatory Analyst III	15
Public Utilities Regulatory Analyst IV	15
Public Utilities Regulatory Analyst V	15
Public Utilities Financial Examiner II	15
Public Utilities Financial Examiner III	15
Public Utilities Financial Examiner IV	15
Senior Electrical Engineer	15
Senior Rapid Trans. Comp. Control Syst. Spec	11, 12
Senior Reliability and Quality Engineer	11, 12
Senior Transportation Engineer	11, 12
Senior Transportation Operations Supervisor	11, 12
Senior Transportation Rate Expert	11, 12

Senior Transportation Representative	11, 12
Senior Utilities Engineer (Specialist)	15
Senior Utilities Engineer (Supervisor)	15
Staff Information Systems Analyst (Specialist)	3
Staff Information Systems Analyst (Supervisor)	3
Staff Programmer Analyst (Supervisor)	3
Staff Services Analyst (General) A,B,C	2, 3
Staff Services Manager I	2, 3
Staff Services Manager II (Managerial)	2, 3
Staff Services Manager II (Supervisory)	2, 3
Staff Services Manager III	2, 3
Supervising Transportation Engineer	11, 12
Supervising Transportation Rate Expert	11, 12
Supervising Transportation Representative	11, 12
Supervisor Operations & Safety Section, PUC	11, 12
Transportation Analyst B,C	15
<b>Exempt Classes</b>	
Legal Advisor I, II	1
Technical Advisor, PUC	1
Executive Director, PUC	1
Executive Coord for Media & Pub.Rel.	15
General Counsel, PUC	1
Legislative Liaison, PUC	1
Special Representative of the PUC	1
Affirmative Action Officer, PUC	2, 3, 15

**(b) Disclosure Categories**

For purposes of the following categories, "business entity" means any organization or enterprise, including but not limited to a proprietorship, firm, business trust, joint venture, syndicate, corporation or association. "Business position" refers to status as a director, officer, partner, trustee, employee or holder of a position of management in any business entity.

**Category 1**

Designated officials and employees assigned to this category must report all sources of income, interests in real property, and investments and business positions in business entities.

**Category 2**

Designated employees assigned to this category must report all income from, and investments and business positions in, business entities that provide services, supplies, materials, machinery or equipment of the type purchased, leased, or obtained by contract by the California Public Utilities Commission other than those interests report under Category 3.

**Category 3**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that manufacture, sell, distribute or otherwise provide computers, computer hardware, computer software, computer services, computer models, or computer-related supplies, materials, machinery, equipment of the type utilized by the California Public Utilities Commission.



**Category 4**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that design, develop, construct, operate, maintain, sell or acquire facilities that transmit or distribute electricity or natural gas, or that generate electricity.

**Category 5**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that are energy consultants, research firms, or engineering firms, or entities that design, build, manufacture, sell, distribute or maintain equipment of the type that is utilized by energy service providers.

**Category 6**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that provide energy conservation services or energy management services, and entities that design, build, manufacture, sell, distribute or maintain energy conservation or energy management devices.

**Category 7**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that design, develop, construct, operate, maintain, sell or acquire facilities for telecommunications services.

**Category 8**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that are telecommunications consultants, research firms, or engineering firms, or entities that design, build, manufacture, sell, distribute or maintain equipment or related products of the type that are utilized by telecommunications providers and end-users.

**Category 9**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that design, develop, construct, operate, maintain, sell or acquire facilities for water utility service, as well as business entities that design, develop, manufacture, operate, maintain or sell water conservation devices or services.

**Category 10**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that are hydrological or geological consultants, research firms, or engineering firms, or entities that design, build, manufacture, sell, distribute or maintain equipment or related products of the type that are utilized by water utilities and end-users.

**Category 11**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that design, develop, construct, operate, maintain, sell or acquire railroads, light rail transit and other transit systems that are within the jurisdiction of the California Public Utilities Commission.

**Category 12**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities that are consultants, research firms, or engineering firms, or entities that design, build, manufacture, sell, distribute or maintain equipment or related products of the type that are utilized by motor carriers, railroads, light rail transit and other transit systems that are within the jurisdiction of the California Public Utilities Commission.

**Category 13**

Designated employees assigned to this category must report all income from, and investment and business positions in, business entities, including non-profit organizations that have applied for, can reasonably be expected to apply for, or have received approval from the California Public Utilities Commission of funding for intervenor participation or other purpose.

**Category 14**

Designated employees assigned to this category must report all interests in real property located within the state of California other than the reporting employee's primary residence.

**Category 15**

Designated employees assigned to this category must comply with all the reporting requirements in Categories 4 through 14.

**Category 16**

Consultants to the California Public Utilities Commission or to a regulated entity on behalf of the Commission must disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The executive director may determine in writing that a particular consultant is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The determination of the executive director is a public document and shall be retained for public inspection in the same manner and location as the disclosure statements.

**(END OF ATTACHMENT 1)**

CURRENT VERSION

CONFLICT OF INTEREST CODE FOR THE  
PUBLIC UTILITIES COMMISSION

The Political Reform Act, Government Code Sections 21000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Adm. Code Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendix I, which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the Conflict of Interest Code of the Public Utilities Commission, with the addition provided below.

Pursuant to Section 4(A) of the standard Code, designated employees shall file statements of economic interests with the agency.

~~— Addition: Section 12. Any person who has prior knowledge, or should have prior knowledge of a conflict of interest situation which may disqualify an ALJ from participating~~

~~as a hearing officer in a proceeding and who seeks to disqualify such ALJ from participating in a proceeding by reason of such conflict of interest must file the motion to disqualify the ALJ prior to the first day of hearing. A motion to disqualify an ALJ which is filed after the hearing has commenced shall be referred to the Chief ALJ for decision, and the ALJ shall continue to participate as a hearing officer in the proceeding until the Chief ALJ has determined that he is actually disqualified.~~

DO NOT WRITE IN THIS SPACE

CONFLICT OF INTEREST CODE FOR THE  
PUBLIC UTILITIES COMMISSION

APPENDIX

Designated Employees

"Designated employee" means:

(a) The following civil service exempt employees of the Commission:

- (1) Executive Director, PUC
- (2) General Counsel, PUC
- (3) Legal Adviser
- (4) Technical Adviser

(b) All employees in the following civil service employment classes:

- (1) Accounting Officer (Specialist/Supervisor)
- (2) Administrative Assistant I, II
- (3) Administrative Law Judge I, II PUC (ALJ)
- (4) Assistant Chief ALJ, PUC
- (5) Assistant Chief, Public Utility Counsel
- (6) Assistant Chief, Transportation Division, PUC
- (7) Assistant Director, PUC
- (8) Assistant Executive Director, PUC, CEA IV
- (9) CEA I, II, III, IV
- (10) Chief, Transportation Division, PUC, CEA
- (11) Chief, Division of Ratepayer Advocates, PUC, CEA
- (12) Commission Representative, Southern California Area, PUC, CEA III
- (13) Consumer Liaison Officer (Utility/Transportation Programs)
- (14) Consumer Affairs Manager, PUC
- (15) Data Processing Manager II, III
- (16) Energy Program Specialist III (Economic/Statistical)
- (17) Environmental Program Manager I
- (18) Environmental Specialist III, IV
- (19) Fiscal Officer I, II
- (20) Information Officer I, II
- (21) Legal Counsel
- (22) Manager, Rapid Transit System Section
- (23) Principal, Public Utility Financial Examiner
- (24) Principal, Transportation Division, PUC
- (25) Program & Project Supervisor, PUC
- (26) Program Manager, PUC
- (27) PU Counsel I, II, III, IV
- (28) PU Financial Examiner IV
- (29) PU Reg Prog Specialist I, II, III (Economics/Policy/Finance)

- (30) Research Manager I, II, III (General)
- (31) Research Manager I, II (Economic)
- (32) Research Program Specialist I, II (Economics)
- (33) Research Program Specialist III (Various)
- (34) Research Program Specialist I, II, III, IV
- (35) Senior Electrical Engineer
- (36) Senior Rapid Transit Computer Control Systems Specialist
- (37) Senior Rapid Transit Control Systems Engineer
- (38) Senior Reliability and Quality Engineer
- (39) Senior Transportation Engineer
- (40) Senior Transportation Operations Supervisor, PUC
- (41) Senior Transportation Rate Expert
- (42) Senior Transportation Representative
- (43) Senior Utilities Engineer
- (44) Staff Services Manager III
- (45) Supervising Transportation Engineer, PUC
- (46) Supervising Transportation Rate Expert
- (47) Supervising Transportation Representative
- (48) Supervisor, Operations and Safety Section, PUC
- (49) Transportation Legislative Adviser to a Commissioner, PUC

(c) Special Consultants

(d) Employees in employment classes inadvertently omitted from these lists or which may be created after the adoption of this Code, until such employment classes are included in the list of designated employees by amendment of this Code.

(e) Employees included in employment classes set forth as designated employees above, who are on terminal vacation or sick leave immediately prior to their retirement or termination of their employment in the service of this Commission and at the time this Code becomes effective.

Disclosure Categories

Members of the Commission have no disclosure obligations under this code but instead have disclosure obligations imposed upon them by Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200 et seq.

The Executive Director, the General Counsel, an Advisor to a Commissioner, a consultant and any other designated employee who reports directly to a Commissioner or to the Commission and is not employed in a particular division of the Commission staff, shall disclose any investment, business position, interest in

real property and income. Disclosure categories for other designated employees are as follows:

1. Designated employees in the Telecommunications Branch of the Commission Advisory and Compliance Division, the Telecommunications-Operational Cost Branch, Telecommunications-Rate Design Branch, and Rate of Return, Tax and LA Auditing of the Division of Ratepayer Advocates shall disclose:

(a) Any investment and business position in or income from:

(1) A telephone corporation or a telegraph corporation subject to the jurisdiction of the Commission; or

(2) A parent or subsidiary of a business entity described in subsection (a)(1).

(b) Any interest in real property if:

(1) The property is located in whole or in part within the service area or proposed service area of a business entity described in subsection (a)(1); and

(2) The designated employee knows, or has reason to know that:

(i) The initiation of service by a business entity described in subsection (a)(1) to the property has been an issue in any Commission proceeding within the reporting period covered by the statement; or

(ii) The initiation of such service will become an issue in a Commission proceeding.

2. Designated employees in the Transportation Division of the Commission shall disclose any investment and business position in or income from:

(a) A railroad corporation, airline common carrier, pipeline corporation, passenger stage corporation, highway carrier of property, vessel operator, warehouseman, freight forwarder, express corporation, or charter-party carrier of passengers subject to the jurisdiction of the Commission; or

(b) Any parent corporation or subsidiary of a business entity described in subsection (a); or

(c) A business entity which the designated employee knows or has reason to know:

(1) Has been named as a shipper-respondent in any Commission proceeding, the principal subject of which is a business entity described in subsection (a), within the reporting period covered by the statement; or

(2) Is under investigation or consideration for investigation to be named as a shipper-respondent in such a proceeding.

(d) A business entity which the designated employee knows, or has reason to know:

(1) Has instituted a reparations action against a business entity described in subsection (a) with the Commission within the reporting period covered by the statement; or

(2) Intends to institute such an action.

3. Designated employees in the Service and Safety Branch, Water Utilities Branch and Energy Branch of the Commission Advisory and Compliance Division, the Fuels Branch, Energy Rate Design and Economics Branch, Energy Resources Branch, Energy-Operational Cost Branch, Energy Branch-Auditing, and Water Operational Costs Branch of the Division of Ratepayer Advocates shall disclose:

(a) Any investments and business position in or income from:

(1) A gas corporation, electric corporation, water corporation, heat corporation, or sewer corporation subject to the jurisdiction of the Commission; or

(2) A parent or subsidiary of a business entity described in subsection (a)(1); or

(3) A business entity which regularly supplies petroleum, natural gas, fuel oil, or other forms of energy to a business entity described in subsection (a)(1).

(b) Any interest in real property if:

(1) The property is located in whole or in part within the service area or proposed service area of a business entity described in subsection (a)(1), and

(2) The designated employee knows, or has reason to know that:



(i) The initiation of service by a business entity described in subsection (a)(1) to the property has been an issue in any Commission proceeding within the reporting period covered by the statement; or

(ii) The initiation of such service will become an issue in a Commission proceeding .

4. The Commission Representative, Southern California, Information Officers I and II, Directors and Assistant Directors of the Commission Advisory and Compliance Division and Division of Ratepayer Advocates and designated employees in the Legal Division, other than the General Counsel, in the Advisory Branch, Accounting & Financial Branch and Auditing & Compliance Branch of the Commission Advisory and Compliance Division, in the Division of Strategic Planning and in the Administrative Law Judge Division, shall disclose all interests made disclosable in Categories 1, 2 and 3 above.

5. The Director of the Management Services Division, CEA IV, Data Processing Manager II, and the Fiscal Officer I shall disclose any investment and business position in or income from a business entity which contracts with the Commission to provide goods, services, or materials to the Commission.

AUTHORITY: Gov. Code Sections 87300, 87304. REFERENCE: Gov. Code Sections 87300 et seq.