

***A Brief History of the California Public Utilities  
Commission: Examining the Past to Help Shape  
the Future***

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### DISCLAIMER

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The CPUC has faced increased scrutiny since the Pacific Gas and Electric Company's (PG&E's) gas pipeline explosion in San Bruno on September 9, 2010. In June of 2011, an Independent Review Panel established by the CPUC issued a report finding considerable room for improvement of the Commission's safety oversight.<sup>1</sup> Two months later, the National Transportation Safety Board released its own report with similar findings and recommendations for safety improvements.<sup>2</sup> The California Legislature, meanwhile, responded to the explosion with a series of mandates intended to ensure safe operations.<sup>3</sup> The ongoing process of implementing the multiple recommendations and mandates, coupled with concurrent consideration of an appropriate penalty for PG&E, has ensured that San Bruno remains in the public spotlight.

The CPUC attracted additional attention unrelated to San Bruno in 2012. Special fund reporting discrepancies at the Department of Parks and Recreation led Governor Jerry Brown to order a fund-by-fund review of California's 500+ special funds, including those under the auspices of the CPUC.<sup>4</sup> A review by the Office of State Audits and Evaluations (OSAE) found significant variances between numbers reported to the Department of Finance and numbers reported to the State Controller's Office in seven of the 14 funds that the CPUC administers.<sup>5</sup> CPUC fund discrepancies led to a formal audit of the Commission's budget practices that was made public in January of 2013.<sup>6</sup>

The OSAE audit prompted a special hearing of the Assembly Budget Committee's Subcommittee on Resources and Transportation.<sup>7</sup> The Subcommittee expressed disappointment at the CPUC and its leadership in regards to not only budgeting

<sup>1</sup> Report of the Independent Review Panel: San Bruno Explosion (2011). Retrieved from <http://www.cpuc.ca.gov/NR/rdonlyres/85E17CDA-7CE2-4D2D-93BA-B95D25CF98B2/0/cpucfinalreportrevised62411.pdf>.

<sup>2</sup> Pipeline Accident Report: Pacific Gas and Electric Company Natural Gas Transmission Pipeline Rupture and Fire: San Bruno, California, September 9, 2010 (2011). Retrieved from <http://www.nts.gov/doclib/reports/2011/PAR1101.pdf>.

<sup>3</sup> These mandates were established as a result of AB 56 (Hill), SB 44 (Corbett), SB 216 (Yee), and SB 705 (Leno).

<sup>4</sup> California Public Utilities Commission Budget Process Performance Audit (2012). Retrieved from [http://www.dof.ca.gov/osae/audit\\_reports/documents/FinalReport-CaliforniaPublicUtilitiesCommissionPerformanceAuditWEB.pdf](http://www.dof.ca.gov/osae/audit_reports/documents/FinalReport-CaliforniaPublicUtilitiesCommissionPerformanceAuditWEB.pdf).

<sup>5</sup> *ibid*

<sup>6</sup> *ibid*

<sup>7</sup> California Public Utilities Commission (CPUC) Performance Audit (2013). Retrieved from <http://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/March%206%20-%20CPUC%20Oversight%20hearing.pdf>.

practices but also regulatory priorities and safety commitment.<sup>8</sup> A similar sentiment was expressed by the equivalent budget subcommittee of the Senate,<sup>9</sup> and trailer bill language was eventually approved with the intent of forcing the CPUC to prioritize the remediation of regulatory deficiencies.<sup>10</sup> A component of the trailer bill was a requirement that the CPUC submit a zero-based budget in order to reassess the agency's operational needs.

Preparing for the zero-based budget has been an arduous process. Under the leadership of the CPUC's Deputy Executive Director for Administration and Operations, every division of the Commission has begun performing a comprehensive assessment of its staffing needs based on statutory mandates. This process will continue throughout 2014 in collaboration with the Department of Finance and could result in either an increase or decrease in agency personnel for the 2015-16 fiscal year.

Zero-based budgeting is aided by a holistic understanding of organizational history. This report is comprised of three main sections that assess how the CPUC has evolved since its modern inception. The first section provides an overview of the CPUC and its 11 divisions, detailing how those divisions have become what they are today. The second section charts agency transformation over five distinct eras, giving broader context to the organizational changes detailed in the first section. The third and final section provides an analysis of organizational trends, which inform where the CPUC might need to head in the 2015-16 fiscal year and beyond. Report findings are summarized in the conclusion.

## 2 ORGANIZATIONAL STRUCTURE

The CPUC is a five-member regulatory body with differing degrees of jurisdiction over a range of public utilities, including for-profit telephone corporations, for-profit energy corporations, for-profit water corporations, and a variety of transportation carriers. The five commissioners serve six-year staggered terms. Commissioners are appointed by the Governor and confirmed by the Senate, and a vacancy is filled for the remainder of a term. The Commission meets at least once each month at its San Francisco headquarters and the CPUC President, selected by the Governor, presides at each meeting.

Over 1,000 employees, spread across 11 divisions, assist the commissioners in their

<sup>8</sup> See: [http://calchannel.granicus.com/MediaPlayer.php?view\\_id=7&clip\\_id=978](http://calchannel.granicus.com/MediaPlayer.php?view_id=7&clip_id=978).

<sup>9</sup> See: [http://calchannel.granicus.com/MediaPlayer.php?view\\_id=7&clip\\_id=1187](http://calchannel.granicus.com/MediaPlayer.php?view_id=7&clip_id=1187).

<sup>10</sup> The relevant trailer bill was SB 96 (Committee on Budget and Fiscal Review, 2013).

regulatory functions. Three divisions (the Executive Division, Legal Division, and Administrative Law Judge Division) are oversight divisions whose directors are appointed by a vote of the Commission; three divisions (the Energy Division, Division of Water and Audits, and Communications Division) are regulatory divisions that advise the Commission on industry-specific issues; three divisions (the Policy and Planning Division, Division of Administrative Services, and Consumer Service and Information Division) are non-regulatory divisions that work across all industries to support Commission operations; one division (the Safety and Enforcement Division) is an enforcement division that ensures compliance with Commission decisions; and one division (the Office of Ratepayer Advocates) is an independent office that advocates on behalf of ratepayers.

Division functions are outlined in greater detail below. Each section provides an overview of each CPUC division, starting first with an illustration of the division’s evolution before explaining in greater detail how the division came to assume the role it plays today. Each division has a unique story that provides insight into how the Commission has adapted to change over a period of more than 100 years.

## 2.1 EXECUTIVE DIVISION

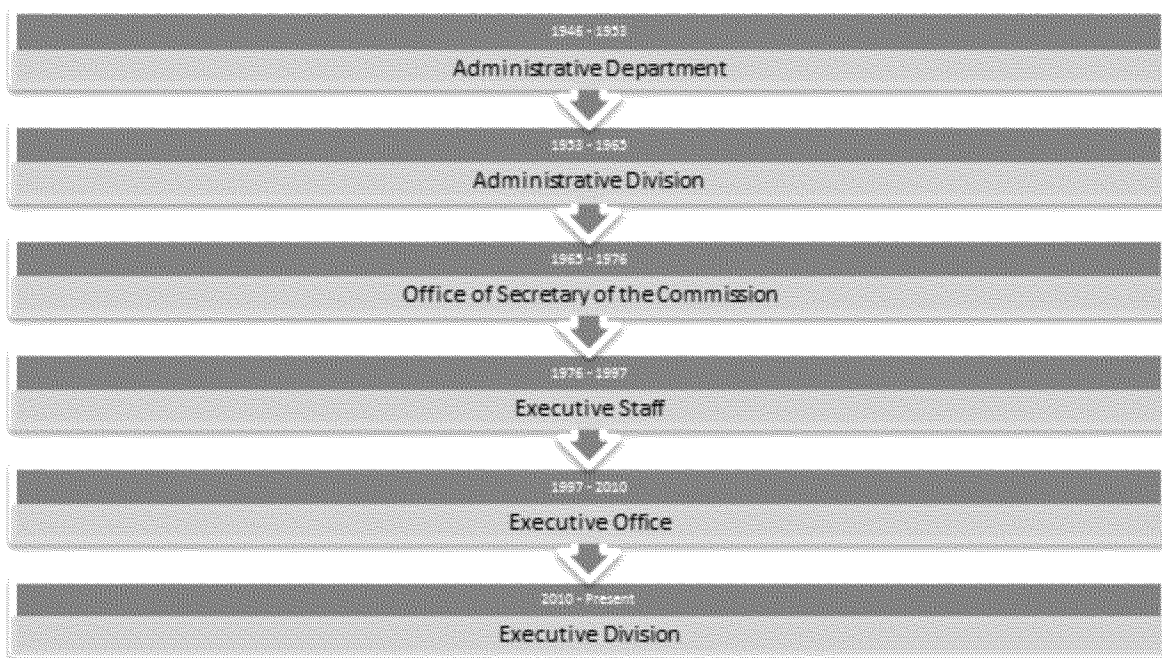


Figure 1 - Evolution of the Executive Division

The Executive Division was once synonymous with what is today the Division of Administrative Services. In 1946, the Commission created an Administrative Department and appointed a Secretary to strengthen administrative control and

“[hasten] the methods by which decisions are rendered and processed.”<sup>11</sup> The Secretary’s status was raised by the Commission in 1965 “to a level above that of division directors to increase the general efficiency and economy of Commission operations.”<sup>12</sup> The specific duties of the Secretary were outlined in greater detail in Section 308 of the Public Utilities Code and focused on coordinating agency operations.

The Office of Secretary of the Commission quickly expanded to include new deputies. Following the creation of the Office, the Commission’s Southern California Representative was elevated to the position of Assistant Secretary and began reporting directly to the Secretary in 1969.<sup>13</sup> By 1979, the Secretary, renamed “Executive Director,” added a second Assistant Executive Director to the Executive Staff responsible for administration and operations. That same year, an Office of Governmental Affairs – whose director was a deputy executive director from 1982 to 1987 – was established in Sacramento.

Executive Staff continued to grow over time. After implementation of Government Code Section 19795, a new Affirmative Action Officer joined the Commission.<sup>14</sup> When the Public Affairs Division was divided up in 1996, news and information personnel were retained in the Executive Office.<sup>15</sup> In 2011, Business and Community Outreach Unit personnel were transferred to the Executive Division from the Consumer Service and Information Division. Most recently, an Internal Audits Unit was established in 2014, thus bringing into the Executive Division all the functions that it maintains today.

## 2.2 LEGAL DIVISION



Figure 2 - Evolution of the Legal Division

<sup>11</sup> CPUC Annual Report for 1946-47, pp. 5-6

<sup>12</sup> CPUC Annual Report for 1964-65, p. 1

<sup>13</sup> Between 1965 and 1969, the Southern California Representative reported to the Chief of the Administrative Division.

<sup>14</sup> This position was later converted into an Equal Employment Opportunity Officer following passage of Proposition 209.

<sup>15</sup> Human Resources functions were also moved to the Executive Office in 1996, but they were subsequently returned to the Department of Administrative Services in 2012.

The origins of the Legal Division trace back before the establishment of the modern CPUC. In 1910, the then-California Railroad Commission wrote to Governor James Gillett requesting assignment of an in-house attorney for enforcement purposes. “The legal matters and legal questions pertaining to transportation companies coming before the Commission,” read the recommendation, “are becoming so numerous as to be a burden upon the office of the Attorney General.”<sup>16</sup>

The Attorney General was relieved of having to represent the Commission following voter approval of the CPUC’s constitutional status in 1911. The Commission’s first attorney, Max Thelen, was quickly elevated to the role of Commissioner in 1912 and would play an active role in establishing the CPUC’s Legal Department. At the direction of a Chief Counsel, the Department’s workload quickly expanded to encompass both advisement and litigation at the state and federal level.

The Legal Division has changed only slightly since its establishment. Like all other departments at the CPUC, the Legal Department officially became a “division” in 1953, and in 1972, the Chief Counsel became the “General Counsel<sup>17</sup>” following a reorganization that split the Division into advisory, staff counsel, and appellate sections.<sup>18</sup> In 1996, the Division reorganized along industry lines into much the same form that it maintains presently.

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<sup>16</sup> CPUC Annual Report for 1910, p. 13

<sup>17</sup> Responsibilities of the General Counsel are outlined in Public Utilities Code Section 307.

<sup>18</sup> CPUC Annual Report for 1972-73

## 2.3 ADMINISTRATIVE LAW JUDGE DIVISION



Figure 3 - Evolution of the Administrative Law Judge Division

The CPUC announced the creation of a new “Department of Legal Examiners” in 1947. “The functions of members of this new department,” the commissioners wrote, “are to preside at formal hearings on adversary proceedings either alone or with a Commissioner, make rulings on the admission of evidence, review and digest the record and prepare reports and opinions and orders for consideration of the Commission.”<sup>19</sup> The Department’s name was shortened to “Department of Examiners” in 1948 and then became “Division of Examiners” in 1953.

The Division began settling into its current role in the 1970s. In 1976, the Management Services Division surrendered control of the Docket Office and would later go on to surrender the Process Office, as well.<sup>20</sup> With the addition of these two offices, the Division of Examiners controlled the formal filings before the Commission, record of hearings, daily calendar, and publication of agendas. As such, the Division’s role in managing judicial functions conferred upon the Commission was affirmed.

In 1977, the Division was renamed the “Division of Administrative Law Judges” to better describe the function of hearing officers. “With all the federal hearing officers and all other California hearing officers using the title Administrative Law Judge,” the

<sup>19</sup> CPUC Annual Report for 1946-47, p. 5

<sup>20</sup> CPUC Annual Report for 1975-76



Commission wrote, “it was becoming increasingly difficult to explain the position of Examiner, which caused confusion when dealing with the public and other State agencies.” The Division’s core structure has changed little since settling on its new name.

## 2.4 ENERGY DIVISION

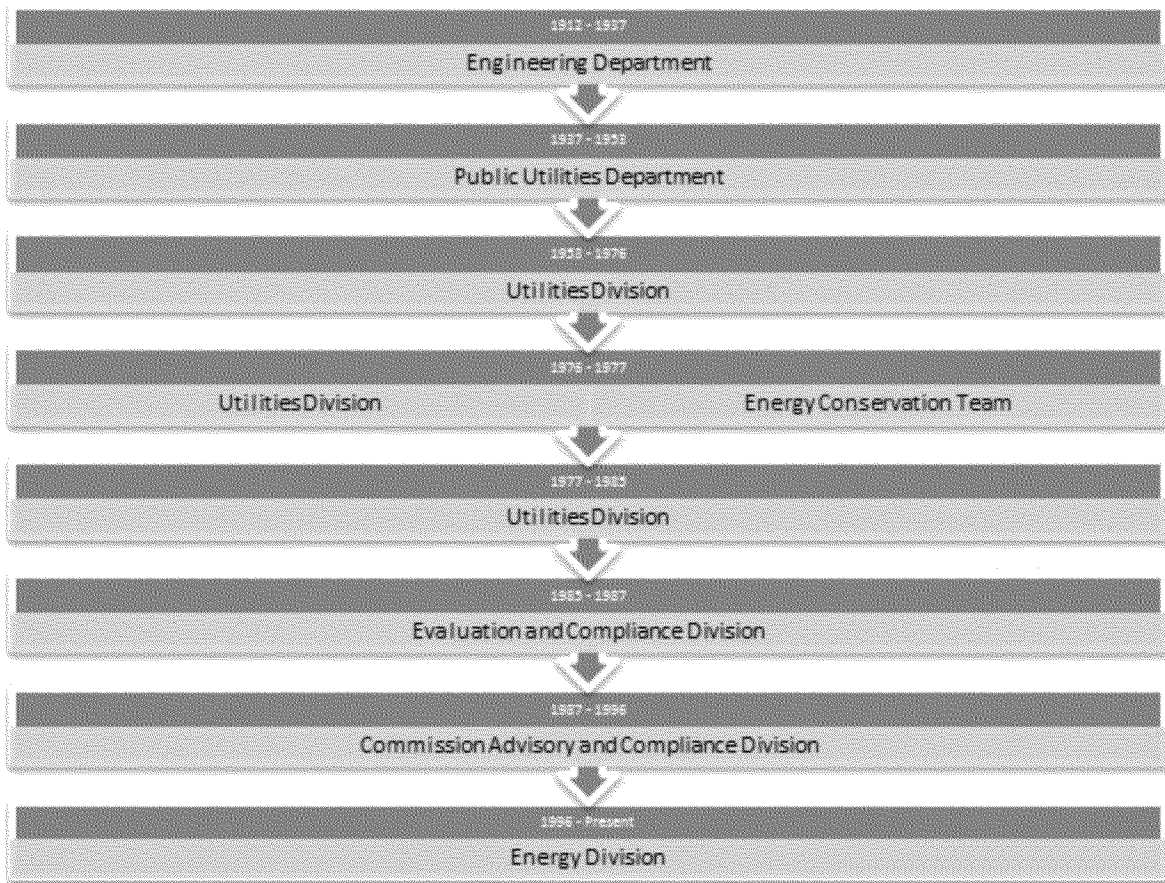


Figure 4 - Evolution of the Energy Division

The Energy Division began as the Gas and Electric Division within the larger Engineering Department. The Division’s activities “covered all gas and electric matters, formal and informal, including the granting of certificates, adjustment of rates and investigations relating to the character and quality of service.”<sup>21</sup> The Engineering Department became the Public Utilities Department in 1937 shortly after transportation functions were moved to a new department, but the Gas and Electric Division remained in place.

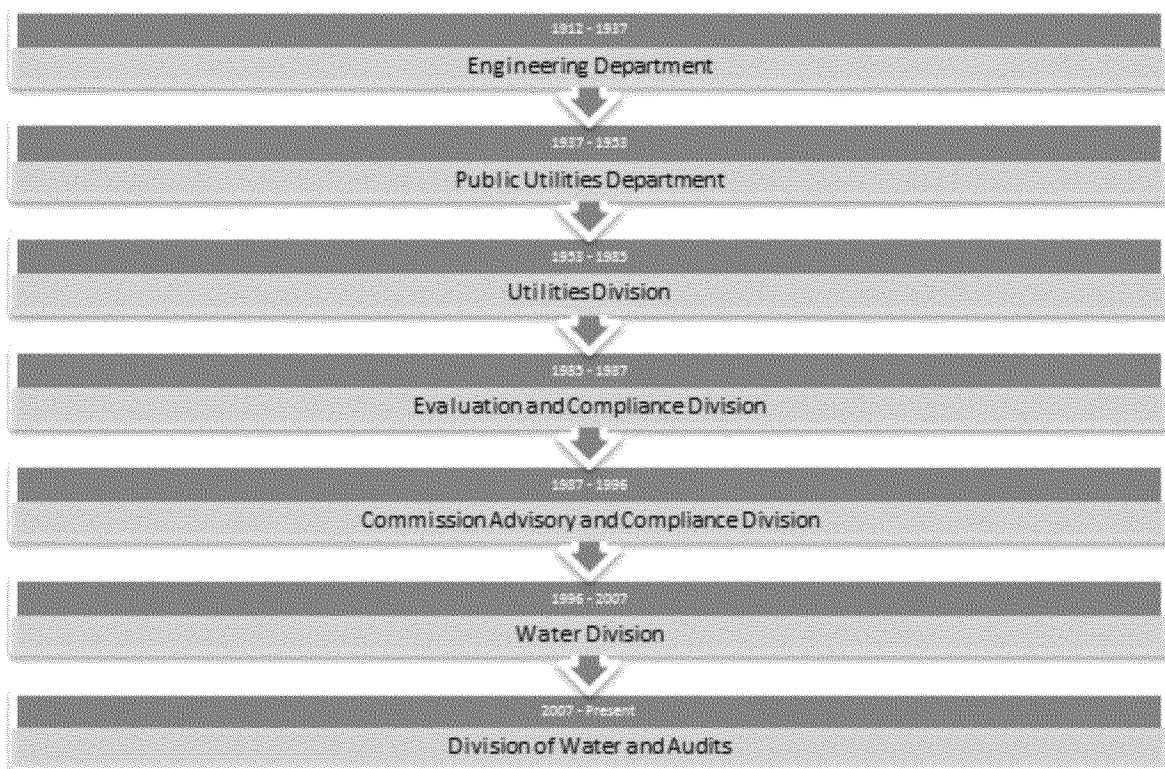
In 1942, a separate Gas Division and Electric Division were formed. The Public Utilities

<sup>21</sup> CPUC Annual Report for 1935-36, p. 7

Department expanded in 1943 to include a Valuations Division responsible for conducting “analyses of capital structure of public utilities and determination of accrued depreciation of utility plant and properties.”<sup>22</sup> Expansion also brought a new Research Division responsible for “preparing results of operation reports on the major utilities, and in addition [preparing] rate of return summaries, annual operating summaries, and rate comparisons.”<sup>23</sup> Gas and electric functions would merge and separate off and on between 1957 and 1982, including one year in which a new division called the Energy Conservation Team focused intently on weathering the Arab Oil Embargo.

In 1982, gas and electric functions were transferred to five separate branches: Rate Design and Economics, Energy Service and Safety, Fuels and Operations, Resource Planning and Projects, and Energy Conservation. Variations of this organizational structure would persist until 1986 when the Evaluation and Compliance Division consolidated energy advisory functions under a single Energy Branch. In 1996, this branch became the separate division that it is currently.

## 2.5 DIVISION OF WATER AND AUDITS



<sup>22</sup> CPUC Annual Report for 1942-43, p. 24

<sup>23</sup> *ibid*, p. 19

Figure 5 - Evolution of the Division of Water and Audits

The evolution of the Division of Water and Audits closely tracks that of the Energy Division. Beginning as part of the original Engineering Department, water functions were grouped together under a Hydraulic Division. The Hydraulic Division was charged with the “important business of furnishing an adequate supply of wholesome water at reasonable rates for domestic, commercial and industrial purposes.”<sup>24</sup>

The role of the Hydraulic Division changed little between 1911 and 1985. Water functions transferred from the Engineering Department to the Public Utilities Department to the Utilities Division. In 1985, the Hydraulic Branch of the Utilities Division became the Water Utilities Branch of the Public Staff Division and was then transferred to the Evaluation and Compliance Division a year later under the same name. In 1996, the Water Utilities Branch became a separate Water Division.

The Division would take its current form in 2007. From 1996 to 2007, the Water Division consisted of three branches: Large Water Utilities, Small Water Utilities and Sewer Utilities, and Accounting and Finance. Eventually, all accounting and finance functions not otherwise assigned to the then-Division of Ratepayer Advocates were transferred to the Water Division and the Division was renamed the Division of Water and Audits.

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<sup>24</sup> CPUC Annual Report for 1940-41, p. 10

## 2.6 COMMUNICATIONS DIVISION

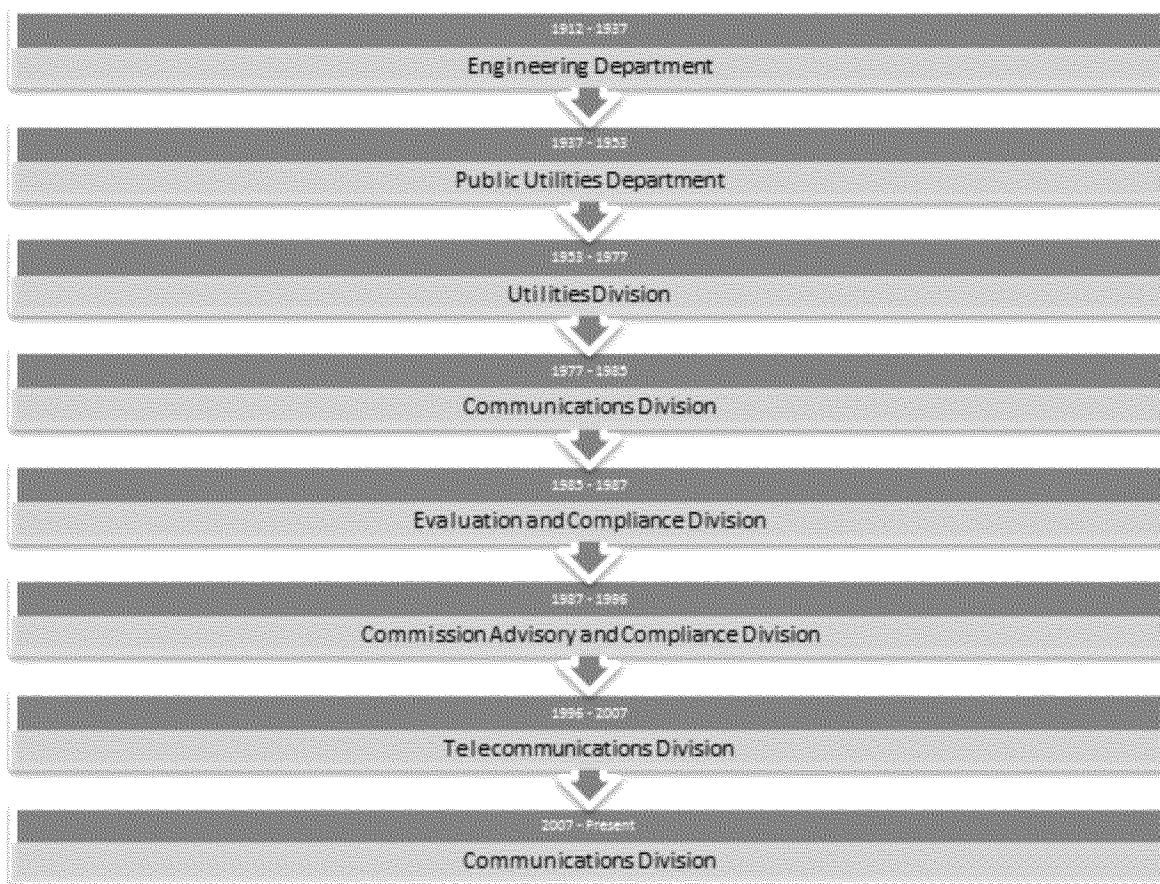


Figure 6 - Evolution of the Communications Division

The trajectory of the Communications Division diverges slightly from that of the Energy Division and Division of Water and Audits. Originally part of the Engineering Department, communications functions were first located in the Telephone and Telegraph Division. The Division was trusted with “the close scrutiny and supervision of the rates, rules and regulations submitted for filing with the Commission by California communication utilities.”<sup>25</sup>

The Telephone and Telegraph Division eventually became the Communications Branch of the Utilities Division in 1961. In 1977, the Communications Branch became its own Division in “recognition of the size, importance and complexity of the regulated communications industry.”<sup>26</sup> The new Division created a Rates Branch to process and maintain tariffs, and a Surveillance Branch to review the earnings of telephone utilities and monitor call quality.<sup>27</sup>

<sup>25</sup> CPUC Annual Report for 1932-33, p. 7

<sup>26</sup> CPUC Annual Report for 1976-77, p. 51

<sup>27</sup> CPUC Annual Report for 1977-78

The independence of the Division was not long-lived. Industry functions consolidated once again following a 1985 reorganization that eventually transferred communications functions to the Telecommunications Branch of the Evaluations and Compliance Division. The Telecommunications Branch would not regain its status as an independent division until 1996. The Division assumed its current name in 2007.

## 2.7 POLICY AND PLANNING DIVISION

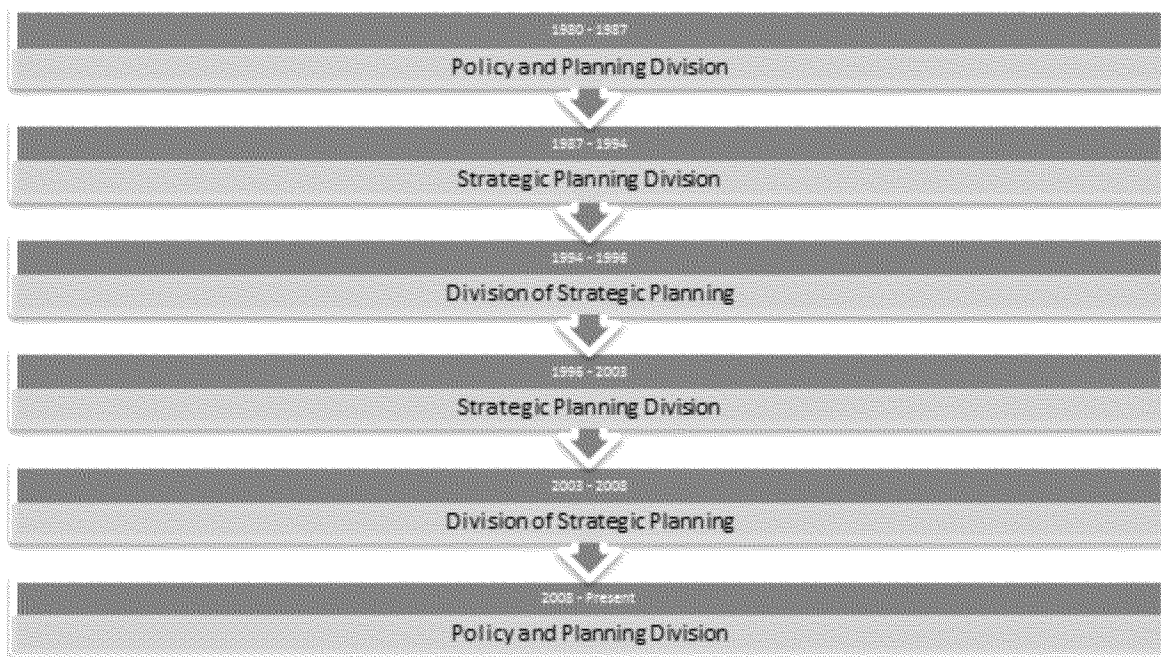


Figure 7 - Evolution of the Policy and Planning Division

The Policy and Planning Division has remained small but stable throughout its existence. The Division was formed in 1980 “with a mission to look beyond the Commission’s daily responsibilities and to analyze emerging policy issues...”<sup>28</sup> The Division also studied “the impact of a changing regulatory environment (resulting from new economic, financial, institutional, and technological trends) on the role and procedures of the Commission.”<sup>29</sup>

The Division originally fulfilled its goals by developing strategic plans for the Commission. Over time, Division responsibilities expanded to include developing policy issue papers and occasionally participating in formal proceedings on major policy issues. The Division played a role in shaping the LifeLine program, the long-term procurement planning process, and development of energy efficiency programs.

<sup>28</sup> CPUC Annual Report for 1980-81, p. 36

<sup>29</sup> *ibid*

Today’s Policy and Planning Division plays a similar role to that played in 1980. In addition to the aforementioned responsibilities, the Division now hosts Thought Leader sessions that serve as a forum for industry leaders to discuss important utility-related issues. While focusing on the future remains a priority, the Division has lost much of its original strategic planning focus.

## 2.8 DIVISION OF ADMINISTRATIVE SERVICES



Figure 8 - Evolution of the Division of Administrative Services

The Division of Administrative Services was founded in 1946 as the Administrative Department. The conclusion of World War Two and resumption of a peacetime economy brought with it a deluge of formal filings from utilities seeking to meet the needs of an expanding California population.<sup>30</sup> The new Department’s duties were described as “handling all formal applications and cases, records of official actions, supervision of internal accounting, filing procedures, reproduction of papers, personnel processing, custody of official property, purchases, information and sales of publications, as well as the performance of many other related tasks.”<sup>31</sup>

The Management Services Division gained and lost responsibilities each successive decade. Notable losses included the Docket Office and Process Office, both of which were eventually transferred to the Administrative Law Judge Division. Notable gains included the 1997 addition of an Information Services Branch alongside management services functions, resulting in the formation of a larger Information and Management

<sup>30</sup> CPUC Annual Report for 1946-47

<sup>31</sup> CPUC Annual Report for 1946-47, p. 8

Services Division. Human Resources functions were transferred out of the Division in 1996, but they were returned in 2012 shortly before the Division assumed its current name.

Recent changes at the Division of Administrative Services have resulted in a separation of budget and fiscal functions from management services functions. Public Utilities Code Section 308 originally specified that budget functions be the exclusive domain of the Executive Division, but statute was subsequently revised to eliminate this requirement. Budget functions are now housed within the Division of Administrative Services, but the Deputy Executive Director for Administration and Operations has historically maintained considerable influence over budget-related matters.<sup>32</sup>

## 2.9 CONSUMER SERVICE AND INFORMATION DIVISION

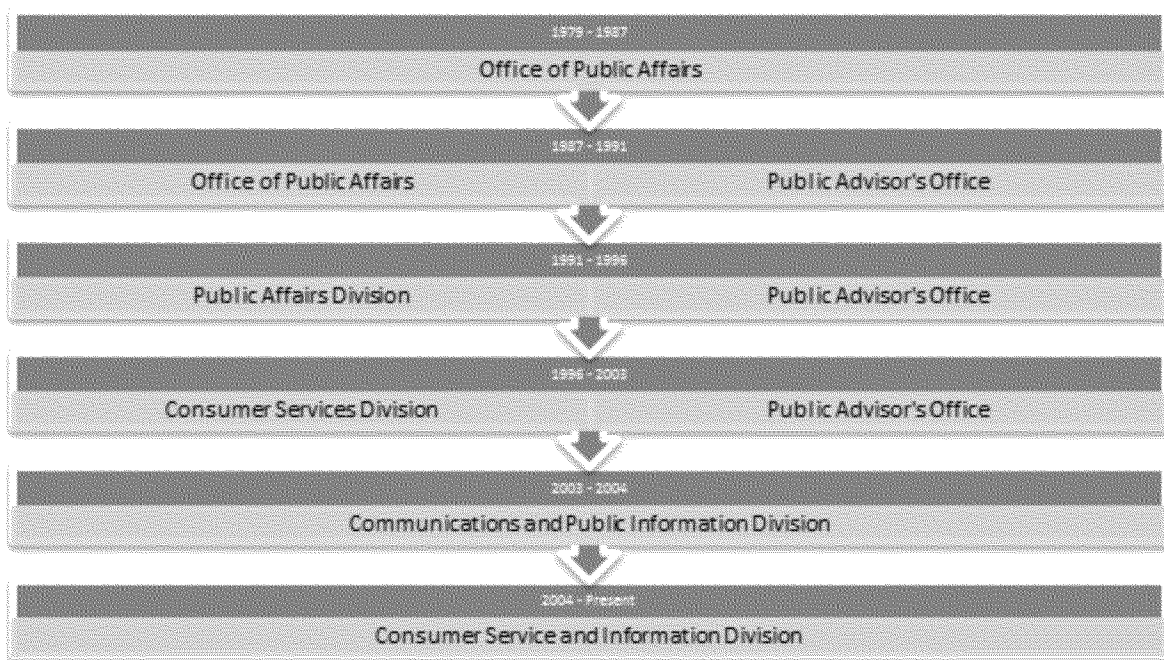


Figure 9 - Evolution of the Consumer Service and Information Division

The Consumer Service and Information Division was formed largely in response to the significant volume of informal complaints received by the Commission since its early years. Resolving informal complaints was identified as far back as 1920 as “one of the Commission’s most important activities.”<sup>33</sup> “The Commission,” as was noted at the time, “regards the informal complaint as one of the main factors in proving the efficacy

<sup>32</sup> The OSAE was highly critical of this arrangement in its 2012 audit. With the Deputy Executive Director for Administration and Operations currently also serving as the Director of the Division of Administrative Services, the OSAE’s criticism is now moot.

<sup>33</sup> CPUC Annual Report for 1919-20, p. 13

of utility regulation. It is a strong link between the people and the Commission.”<sup>34</sup>

Informal complaints were processed by the various divisions of the Commission until all processing was centralized within a Consumer Affairs Branch of the Management Services Division in 1976.<sup>35</sup> The Consumer Affairs Branch was transferred to the new Office of Public Affairs in 1979. In 1987, consumers were further empowered by the introduction of a new Public Advisor’s Office to assist consumers with participation in CPUC proceedings.

Informal complaint processing changed dramatically in the late 1990s. In 1996, the Consumer Affairs Branch was moved to a new Consumer Services Division that married informal complaint processing with consumer safety and enforcement efforts. This brief experiment lasted only until 2003, when the Consumer Affairs Branch was merged with the Public Advisor’s Office and the Communications Office to form the Communications and Public Information Division. The Communications Office was moved back to the Executive Division the following year and the Consumer Affairs Branch and Public Advisor’s Office together became the Consumer Service and Information Division that exists today.

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<sup>34</sup> It is worth noting the language of the 1919-20 Annual Report at greater length: “Paradoxical as this may sound the fact remains that the minor matters, such as are brought to the attention of the various departments of the Commission, are matters that are large in the minds of those seeking the service of the informal complaint department, and they are large in their effect upon the good feeling that should prevail between utility and consumer. This is mainly due to the fact that as a rule the matters complained of may well be classed as “irritants.” They embrace, usually, delayed service complaints, disputed bills, accounting errors, and like sources of misunderstanding.”

<sup>35</sup> CPUC Annual Report for 1976-77



## 2.10 SAFETY AND ENFORCEMENT DIVISION



Figure 10 - Evolution of the Safety and Enforcement Division

Today's Safety and Enforcement Division has experienced more change over time than most other divisions of the CPUC. After adoption of the Public Utilities Act in 1912, the ratemaking functions of California's transportation corporations remained separate from other aspects of regulation due largely to the CPUC's history as California's railroad regulator. Over time, transportation responsibilities grew to the point where a new Transportation Department was established to better keep pace with industry growth. The Division consisted of five divisions: the Engineering Division, Rate Division, Truck and Stage Division, Division of Investigation, and Safety Division.<sup>36</sup>

The Transportation Department continued to serve the same function for over 50 years. In 1989, in an effort to improve consumer safety, safety functions from all CPUC-

<sup>36</sup> CPUC Annual Report for 1935-36

regulated industries were moved into a new Safety Division.<sup>37</sup> As the CPUC's jurisdiction over trucks, airlines, and rail rates diminished, however, transportation functions became largely synonymous with safety enforcement, leading to a merging of safety and transportation functions under a new Safety and Enforcement Division.

Transportation and general safety were temporarily separated again during a brief experiment between 1996 and 2003. General safety was merged with the Consumer Affairs Branch in the hopes that informal complaints would prompt enforcement action that would quickly resolve utility safety issues as they occurred. As it was discovered, however, informal complaints centered around service quality and billing disputes much more so than infrastructure degradation and proper maintenance of facilities. As such, general safety and transportation safety were once again merged in 2003 and remain so today.

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<sup>37</sup> Carrier licensing responsibilities remained with the Transportation Division.

## 2.11 OFFICE OF RATEPAYER ADVOCATES



Figure 11 - Evolution of the Office of Ratepayer Advocates

Today’s Office of Ratepayer Advocates is an amalgamation of financial oversight and ratepayer advocacy. The financial oversight functions of the Office date back to the beginnings of the reformed Commission. The Department of Finance and Accounts was created to “assist in administering the accounting and stock and bond features of the Public Utilities Act”<sup>38</sup> by reviewing utility filings for accuracy. In 1977, an Operations Division was established specifically to oversee general rate cases.

Ratepayer advocacy functions were enacted by the CPUC shortly after World War Two. “An important new program was started to give additional representation to the public

<sup>38</sup> CPUC Annual Report for 1940-41, p. 14

interest, particularly at major hearings on applications for rate increases,” the commissioners wrote in 1952.<sup>39</sup> They continued, “Under this plan, an attorney from the Commission’s legal department is assigned as staff counsel to act in the broad public interest in a particular proceeding.”<sup>40</sup>

Financial oversight and ratepayer advocacy were officially conjoined in 1985 with the formation of the Public Staff Division. In 1987, the Division changed its name to the Division of Ratepayer Advocates and in 1996 its role was codified in Section 309.5 of the Public Utilities Code. In 2013, the Office was given enhanced independence as a result of SB 96 (Committee on Budget and Fiscal Review).

### 3 ORGANIZATIONAL TRANSITIONS

The CPUC was founded in the early twentieth century as a reformed iteration of the California Railroad Commission. Proposition 16 (1911) enshrined the Commission in Article XII of the California Constitution, while four companion propositions<sup>41</sup> outlined the Commission’s powers and established regulations specific to the railroad industry.<sup>42</sup> Article XII was amended three subsequent times,<sup>43</sup> most notably by Proposition 17 (1946), which gave the Commission its current name.<sup>44</sup> Four other propositions that attempted to either enhance or diminish the power of the Commission all failed.<sup>45</sup>

Prior to the founding of the CPUC, the Southern Pacific Railroad dominated California politics. Southern Pacific provided free train passes to politicians and their family members, donated generously to political campaigns, and dominated state party conventions to ensure delegates were friendly to the company’s interests. Governor Leland Stanford, a Southern Pacific co-founder, went so far as to appoint Edwin Crocker to the California Supreme Court, where Crocker served while retaining his

<sup>39</sup> CPUC Annual Report for 1951-52 , p. 9

<sup>40</sup> *ibid*

<sup>41</sup> The other four measures included Proposition 12, Proposition 14, Proposition 19, and Proposition 23.

<sup>42</sup> *Proposed Amendments to the Constitution of the State of California, with Legislative Reasons For and Against Adoption Thereof*. Retrieved from [http://librarysource.uchastings.edu/ballot\\_pdf/1911g.pdf](http://librarysource.uchastings.edu/ballot_pdf/1911g.pdf).

<sup>43</sup> In addition to Proposition 17 (1946), Article XII was amended by Proposition 31 (1914) and Proposition 12 (1974).

<sup>44</sup> *Proposed Amendments to Constitution: Propositions and Proposed Laws Together With Arguments*. Retrieved from [http://librarysource.uchastings.edu/ballot\\_pdf/1946g.pdf](http://librarysource.uchastings.edu/ballot_pdf/1946g.pdf).

<sup>45</sup> These included Proposition 11 (1922), Proposition 30 (1922), Proposition 23 (1936), and Proposition 2 (1978).

position as General Counsel for Southern Pacific.<sup>46</sup> Public backlash to Southern Pacific gave rise to the Progressive Movement, which succeeded in electing Governor Hiram Johnson and establishing the CPUC to reign in railroad power and influence.

The historical transitions of the CPUC since its modern inception are detailed below. Each section focuses on specific eras, which have been grouped according to major events in the CPUC's history. Examination of each era helps reveal trends in organizational development that illuminate a path for the CPUC moving forward.

### 3.1 THE EARLY YEARS (1911 - 1945)

The early years of the CPUC were marked by tremendous change. Between 1911 and 1945, the United States would fight two major wars, suffer a great depression, and witness the rapid expansion of utility service, all of which the CPUC's regulatory attention. The Commission initially organized itself by creating an Engineering Department to handle its new regulatory responsibilities, while its Rate Department handled all grandfathered responsibilities associated with railroad ratemaking.

The first major modification of the CPUC's organizational structure was prompted by the successful passage of the Auto Stage and Truck Transportation Act, which became effective May 1, 1917.<sup>47</sup> The Commission presaged the expansion of roadway transportation in 1928 in remarks at the time: "The big lumbering bus and the ordinary touring car doing duty as an auto stage, are giving way to specially constructed autos, fast, commodious, comfortable, and safe to a degree that is decidedly attractive to the traveling public."<sup>48</sup> Indeed, roadway transportation became so popular that the CPUC created a new Auto Stage and Truck Department to enforce General Order 81 and General Order 83, which regulated the industry.<sup>49</sup>

By 1936, the CPUC was in charge of "all motor carriers using the highways and streets of the state for the transportation of property for gain"<sup>50</sup> and intent on establishing roadway order. All transportation regulatory functions were eventually consolidated into a single Transportation Department focused on aggressive enforcement actions. As it began to see regulatory success in its transportation oversight, the CPUC boasted that

<sup>46</sup> DeBow, K., & Syer, J. C. (2009). *Power and Politics in California* (9<sup>th</sup> ed.). San Francisco: Pearson Education, Inc.

<sup>47</sup> CPUC Annual Report for 1922-23

<sup>48</sup> *ibid*, p. 12

<sup>49</sup> Auto Stage and Truck Department Annual Report for 1927-28, p. 3

<sup>50</sup> CPUC Annual Report for 1935-36, p. 3

numerous investigations “were inaugurated and either decided or neared decisions to the end that the chaotic conditions of the highway transportation system will be on a firm basis of endeavor and the economic waste which accompanied the “rule of the jungle” activities of the past ended.”<sup>51</sup>

### 3.2 POST-WW2 (1946 - 1974)

The conclusion of World War Two resulted in a California population boom. “With regard to the communications industry in California,” the commissioners remarked, “it is interesting to note that California’s unprecedented population increase after the war – confounding all prior prophesy – brought with it heavy demands for communication services.”<sup>52</sup> They added, “Coincident with the increase in California’s population... other companies under the jurisdiction of the Commission likewise felt the impact of additional requests for services and faced the requirement for plant enlargement to meet this augmented service demand.”<sup>53</sup>

More utility service necessitated more administrative support at the CPUC. The Commission tackled the challenge of increased workload by creating an Administrative Department to handle general coordinative work and a Department of Examiners to “preside at hearings on controversial matters, prepare decisions on formal matters for consideration of the Commission, handle correspondence relating to formal proceedings, recommend assignments of such proceedings and perform other duties of a judicial nature.”<sup>54</sup> This arrangement positioned the Commission to cut regulatory lag significantly.

As the CPUC expanded in size, its organizational structure added new layers of hierarchy. In 1965, the Secretary was elevated above all other directors in order to better coordinate staff on behalf of the commissioners, as well as to manage the Commission’s budget.<sup>55</sup> The vertical restructure of CPUC staff forever shifted the agency away from active management by the commissioners and more toward a structure of self-management with Commissioner oversight.

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<sup>51</sup> *ibid*, pp. 3-4

<sup>52</sup> CPUC Annual Report for 1946-47, p. 6

<sup>53</sup> *ibid*

<sup>54</sup> CPUC Annual Report for 1947-48, p. 154

<sup>55</sup> CPUC Annual Report for 1964-65

### 3.3 THE PEOPLE'S COMMISSION (1975 - 1989)

The election of Governor Jerry Brown in 1974 initiated a sea change at the CPUC. Governor Brown quickly made his mark by appointing a woman, Claire Dedrick, to the Commission, and then an African American man, Leonard Grimes, Jr. Concurrent with the Governor's historic appointments was a strong shift toward a more consumer-oriented Commission. In 1976, a new Consumer Affairs Branch was created to centralize informal complaint processing, followed in 1987 by a Public Advisor's Office that facilitated public interaction in Commission proceedings. What was once an opaque agency became gradually more accessible to the general public.

As consumers became more involved in Commission business, the CPUC took a greater interest in representing consumer interests in its proceedings. The CPUC institutionalized ratepayer advocacy by reorganizing various regulatory functions to create the Public Staff Division in order to "critically [review] and [analyze] all utility applications that are set for hearing, [testify] in hearings and investigations, and [make] analyses and recommendations intended to serve the best long-term interests of all utility ratepayers."<sup>56</sup> Similar ratepayer advocacy entities are now established in 40 of the 50 American states.<sup>57</sup>

In this period, the Commission also adjusted its organizational structure to adapt to new market challenges. In 1976, an Energy Conservation Team was created in response to soaring energy prices resulting from the Arab Oil Embargo, helping to eventually establish California's aggressive energy efficiency programs. In 1977, the Communications Division was separated from the larger Utilities Division to give closer attention to an increasingly complex industry. This same era also saw new policy and planning functions, public affairs functions, and safety functions introduced to the CPUC bureaucracy.

### 3.4 VISION 2000 (1990 - 1999)

The 1990s marked the beginning of a period of introspection at the CPUC. The Commission was confronted with a radically different regulatory arena than was in place in 1911, prompting the composition of a study entitled 'California Public Utilities Commission Approaching the Year 2000: A Report on Our Process for Change.' "Many of the industries the Commission oversees have been dramatically transformed," wrote

<sup>56</sup> CPUC Annual Report for 1984-85, p. 66

<sup>57</sup> *National Association of State Utility Consumer Advocates*. Retrieved from <http://nasuca.org.s80874.gridserver.com/members/>.

the commissioners, “and will be subject to even more fundamental and often unpredictable changes as we approach the turn of the century.”<sup>58</sup> They continued, “The relationship between state and federal authority continues to shift with creeping federalism posing a difficult challenge to defining a clear role for states.” In summary: “As the Commission’s regulatory responsibilities change, so must its structure and procedures.”<sup>59</sup>

Vision 2000 resulted in a multi-pronged response. The CPUC resolved to redouble its commitment to consumers, enhance external accountability, improve internal accountability, and restructure its organization and internal processes. On June 19, 1996, the Commission announced that it would form a new Consumer Services Division, merging the Consumer Affairs Branch with safety enforcement functions. The Commission further announced the break-up of the Commission Advisory and Compliance Division into multiple separate divisions organized along industry lines. “The objective is to increase the accountability of both commissioners and staff to getting the vital business of the Commission done in a timely, efficient and effective manner,” CPUC President Conlon said.<sup>60</sup>

In addition to changes to the CPUC’s organizational structure, further internal accountability measures were enacted. The Chief Administrative Law Judge’s supervisory arrangement was changed to require the position to report directly to commissioners, a stronger emphasis was placed on human resources and information technology, and the Commission committed to better address disparities associated with different classes of consumers across all regulated industries. Through these measures, the CPUC aimed to kick-off the new century with a fresh start.

### 3.5 THE 21<sup>ST</sup> CENTURY (2000 - PRESENT)

The CPUC in the 21<sup>st</sup> century initially experienced less drastic organizational change. Since 2000, the Consumer Services Division was deconstructed and refashioned to become what is today the Consumer Service and Information Division and the Safety and Enforcement Division. Other changes included the addition of a new Government Law Section of the Legal Division, the consolidation of audit functions alongside water functions, the establishment and disestablishment of an Office of Performance

<sup>58</sup> California Public Utilities Commission (1995). *California Public Utilities Commission Approaching the Year 2000: A Report on Our Process for Change* (p. A-1). San Francisco: California Public Utilities Commission.

<sup>59</sup> CPUC Annual Report for 1994-95, p. 2

<sup>60</sup> Dienststein, D. (1996). *CPUC Begins Vision 2000 Implementation*. Retrieved from [ftp://ftp.cpuc.ca.gov/gopher-data/news/1996/960619\\_vision2000.txt](ftp://ftp.cpuc.ca.gov/gopher-data/news/1996/960619_vision2000.txt).



Excellence, the move of human resource functions to the Division of Administrative Services, and various reorganizations of the Energy Division to better focus on demand-side management.

Other organizational changes made since 2000 have been in response to crisis and criticism. Following the gas pipeline explosion in San Bruno, the interim director of the Consumer Protection and Safety Division reorganized the Utilities Safety and Reliability Branch and Electric Generation Performance Branch into the Electric Safety and Reliability Branch and Gas Safety and Reliability Branch. The hope was that the new structure would better facilitate utility oversight.

Criticism leveled in 2013 led to additional organizational changes regarding budget functions and auditing. In 2013, budget and fiscal units within the Division of Administrative Services were moved into their own Branch and budget staff was augmented to bring the CPUC in line with best budgeting practices and proper fund oversight. In January of 2014, the CPUC announced the establishment of a new Internal Audit Unit housed within the Executive Division that would respond to audit requests from the commissioners, ensuring that the CPUC complies with its statutory obligations fully and accurately.<sup>61</sup> The efficacy of these changes has yet to be fully proven.

#### 4 ORGANIZATIONAL TRENDS

An examination of the history of the CPUC's organizational structure reveals four dominant trends. First, there has been a noticeable trend toward decentralized industry-specific advisory functions, with one large advisory division eventually splitting up into multiple smaller divisions. Second, regulatory functions have been separated to organize staff not only by industry but by the nature of work performed, whether that be advisory, advocacy, or a specialized function of another nature. Third, new functions have been created to allow the CPUC to function more effectively and efficiently. Finally, the Executive Division has consolidated non-regulatory priority functions under its fold, giving greater executive attention to those areas.

This section examines each trend in greater detail. Specific examples are given showing how and why certain Commission actions relate to others. By making such an examination, this report points the way to how the CPUC might want to modify its organizational structure moving forward.

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<sup>61</sup> M. Cooke (personal communication, January 2, 2014)

#### 4.1 DECENTRALIZATION IN RESPONSE TO REGULATORY CHALLENGES

The single most salient trend in the history of the CPUC is the gradual transition to decentralized divisions. As the Commission has grappled with changing needs and changing markets, it has consistently recognized the necessity of giving specialized attention where it is most needed. By making such adjustments, the Commission has been able to better keep pace with the demands made of the agency.

The trend toward decentralization is evidenced in multiple ways. We see early on how the Commission broke with the model of a single Engineering Department controlling all aspects of regulation in favor of a new Auto Stage and Truck Department to tackle roadway transportation regulation, which eventually merged with other transportation functions to create the Transportation Department. We also see the trend present itself when the Energy Conservation Team was established to tackle the energy crisis of the 1970s and how the Communications Division was created to provide better regulation over the complex and growing telecommunications market.

The CPUC is now mostly decentralized. All industry functions were formally separated in 1996 and remain that way today. Notable exceptions to this trend include cross-industry work done under the California Environmental Quality Act, which is housed alongside energy advisory work, cross-industry routine auditing, which is housed alongside water advisory work, and transportation functions, which are housed alongside general safety functions.

#### 4.2 SEPARATION OF REGULATORY FUNCTIONS

A second dominant trend in the history of the CPUC is the separation of regulatory functions. From the very beginning of the modern Commission, there was a division between legal functions, advisory functions, and financial oversight of the utilities under CPUC jurisdiction. With time, additional functions have transformed and developed to provide better regulatory oversight.

Ratepayer advocacy has been the Commission's key innovation in its long history. Advocacy functions first took shape in 1952 when the Legal Department began devoting personnel for the specific purpose of representing ratepayer interests. Ratepayer interest was chief in mind when the Operations Division and later Revenue Requirements Division were established to give greater focus to ratepayers in the context of general rate cases. With the founding of the Public Staff Division in 1985, ratepayer advocacy was formalized in the way it is today.

The most recently segregated function at the CPUC is safety. What previously was a less visible function of CPUC regulation was brought to the fore with the creation of the Safety Division in 1989. Safety functions were segregated until 1995 when safety and transportation functions were fused together. Safety is still visible as a Commission priority, but the Safety and Enforcement Division balances a wide array of responsibilities that can result in transportation functions either being ignored or detracting from other safety priorities.

#### 4.3 CREATION OF NEW FUNCTIONS TO ADDRESS OPERATIONAL NEEDS

A third dominant trend of the CPUC is the creation of new functions to serve operational needs. As workload increased, the CPUC adjusted accordingly to meet the challenge. Multiple new units and divisions have been created and consolidated in order to ensure that the Commission continues to fulfill its mission in an expeditious manner.

The first noteworthy creation of new functions is the advent of what are today the Division of Administrative Services and the Administrative Law Judge Division. Both divisions filled a crucial gap in processing Commission proceedings in a timely and efficient manner. With the establishment of the two divisions, the Commission became better suited to cut regulatory lag and clear its docket.

The Consumer Service and Information Division and the Executive Division provide further testament to the importance of new functions. The Consumer Service and Information Division's Consumer Affairs Branch and Public Advisor's Office both were created as a result of consumer outcry and have been essential to facilitating communication between the agency and the public. The Executive Division has also been witness to new functions, such as the recently-created Internal Audits Unit – created to address criticism with internal oversight – and the Office of Governmental Affairs, which helped the CPUC remain actively involved in the drafting of legislation affecting public utility regulation.

#### 4.4 CONSOLIDATION OF NON-REGULATORY PRIORITY FUNCTIONS WITHIN THE EXECUTIVE DIVISION

A fourth and final trend in CPUC history has been consolidation of non-regulatory priority functions within the Executive Division. What started out as a single person in the form of the Executive Director has grown to encompass multiple different offices, each of which serves a special function. Over time, executive offices have come and gone or been moved elsewhere, but the consistent trend is toward greater consolidation

with a focus on functions that are considered priorities by senior management.

Consolidation within the Executive Division focused originally on external-facing non-regulatory functions. The Southern California Representative, who was previously part of the then-Management Services Division, came under executive supervision shortly after the Office of Secretary of the Commission was first established. Likewise, the Office of Governmental Affairs, the CPUC's face in Sacramento, became part of Executive Staff when it was created. Rather than be reestablished as the Public Affairs Division or consolidated under the Consumer Service and Information Division, press and public outreach functions transferred to the Executive Division, as well.

More recent consolidation has involved inward-facing functions. The Office of Performance Excellence was created as an executive priority in an attempt to improve organizational development, but was subsequently done away with. A more recent inward-facing function has been the establishment of an Internal Audits Unit, which will assist the Executive Division in identifying organizational shortcomings and spurring improvements in response to external criticism.<sup>62</sup>

## 5 CONCLUSION

CPUC operations have changed significantly since 1911. Nascent companies have fully matured into large and sophisticated public utilities requiring increasingly more Commission oversight. In order to meet the challenge of regulating evolving industries, the CPUC has modified its organizational structure over time. Faced with recent heavy criticism and the requirement to prepare a zero-based budget for the 2015-16 fiscal year, the CPUC will need to think once again about how to reinvent itself in order to successfully confront the many challenges it currently faces.

Any reorganization or change in staffing proposed for the 2015-16 fiscal year should be made with historical trends in mind. More specifically, the Commission must recognize that historical trends have exhibited themselves as responses to changing times and the unique challenges faced at different points in history. As such, consideration should be given as to whether CPUC divisions should be further decentralized, whether regulatory functions should be further separated, whether new functions should be introduced (or reintroduced), and whether it would be beneficial to the agency to move additional existing functions into the Executive Division (or elsewhere).

Whether historical trends have represented positive developments or negative

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<sup>62</sup> See: [http://www.sco.ca.gov/Files-AUD/12\\_2013ca\\_puc.pdf](http://www.sco.ca.gov/Files-AUD/12_2013ca_puc.pdf).

developments will be up to senior management to determine. If it is determined that historical trends have been generally positive, it may be appropriate to further develop the CPUC's organizational structure to conform more closely with those trends; if it is determined that historical trends have been the cause of recent regulatory failures, it may be necessary to completely restructure the Commission's bureaucracy. This determination will be critical if the CPUC is to fulfill its regulatory responsibilities to the best of its ability and win back the public's trust.