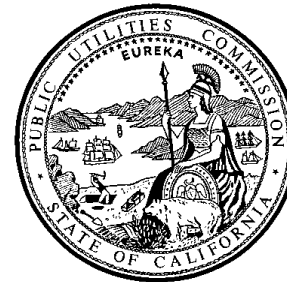


**Consumer
Guide**
to the
**California
Public
Utilities
Commission**



505 Van Ness Avenue • San Francisco, CA 94102

July 1998

The CPUC and Consumers

The California Public Utilities Commission (CPUC) is the key source for help and information for customers of investor-owned utilities in our state. If you use natural gas to cook with, electricity to light your home, water to wash clothes, or the phone to keep in touch with family, the CPUC is there for you.

The Commission, consisting of five members appointed by the Governor, and working with a professional staff of wide-ranging professional backgrounds, monitors utility company operations that most affect consumers:

- how much utilities charge for their services,
- whether the products they provide are safe and reliable,
- whether the utilities' investors get a fair rate of return on their investment.

The Commission, therefore, has the dual responsibility of protecting the interests both of consumers and of utility shareholders. This role, placed in the hands of the members of the Commission by the state Constitution, is a difficult, and sometimes controversial, one to carry out.

Recent developments in technology and policy have added to the complexity of monitoring public utilities. Wireless and satellite transmission, the Telecommunications Act of 1996, and growing emphasis on competition to control market rates for electricity and telecommunications services and quality are a few key developments.

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Phone: **415-703-2669**
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About the CPUC

California has a long tradition of forging innovation in regulation to protect its residents. In 1853, before a mile of railroad track had been laid in the state, a law was passed making it illegal to charge more than 20 cents a mile for hauling passengers. In 1873, the Legislature created the State Board of Transportation Commissioners, giving it limited jurisdiction over railroads.

In 1911, voters passed a constitutional amendment setting up the Railroad Commission. Thus, California has one of the few utility regulatory commissions created by its State Constitution rather than by legislative statute.

Starting with the passage in 1912 of the Public Utilities Act, the CPUC's duties and powers have been broadened by the Legislature to include other utilities. In 1946, the name was changed to the California Public Utilities Commission (CPUC).

Because no more than one pipeline or cable is needed to bring gas or electricity to a home or factory, a utility company has held a natural monopoly in the area it serves. By law, monopoly-based utilities were not allowed to take advantage of this position. Today, however, technological advances, recent changes in federal regulatory policies, and increasing industry competition have prompted the Commission to develop policies and procedures appropriate for changing circumstances.

The Commission regulates utility and transportation companies in the state that are privately owned and operated. It does not regulate municipal or district-owned utilities, nor mutual water companies.

The Commission's role is to develop policies and promote competition where it will benefit ratepayers through lower rates and new and improved services, and to protect consumers where competition otherwise does not. Generally, therefore, a utility or, in some cases, a transportation company, must ask the CPUC for permission to change their rates or services.

To produce and deliver vital products, such as gas, electricity, water, and transportation services, costs money, so utilities have a right to charge consumers for what they use. Moreover, the owners and stockholders of these utilities expect a return on their investments. The Commission, ultimately, serves as an intermediary, balancing the public interest in obtaining adequate, reliable and safe products and services with utility stockholders' expectations of a fair profit on investment.

To fulfill this dual responsibility, the CPUC sets reasonable rates, regulates service standards, and monitors utility operations for safety. In carrying out its mission, the Commission encourages the participation of all parties affected by its actions, including the customers of the utilities it regulates.

This booklet provides a brief description of the Commission, and how consumers can assist the Commission in decision-making and monitoring competitive utility markets.

The names of CPUC offices and contact telephone numbers for assistance and information appear at appropriate spots in the text.

The Commission Is Many People

The Commission consists of five Commissioners appointed by the Governor, and approved by the Senate, for terms of six years. Commissioners' terms are staggered to assure that experienced members are always present on the panel. One of the five is elected annually to serve as president of the Commission. The president chairs the decision-making meetings and other formal sessions, and assigns cases among the members. The five Commissioners as a whole make all final decisions on policy and procedures.

The Commissioners appoint an executive director who is responsible for the day-to-day operations of the agency, directs the staff, and ensures that matters before the Commissioners are processed efficiently and promptly.

The executive office and nine divisions, each headed by a director, carry out the work of the Commission. The staff of more than 800 people includes engineers, attorneys, support personnel, analysts, economists, accountants, rail and safety experts, and computer specialists.

The Commission headquarters, by law, is in San Francisco. It also has offices in Los Angeles, an Office of Governmental Affairs in Sacramento, and Outreach offices in Los Angeles and San Diego. Formal documents can be filed at the CPUC offices in San Francisco and Los Angeles.

What the CPUC Does

The Commission regulates the rates and services of about 3,300 transportation companies and 1,264 telecommunications, energy and water utilities. The investor-owned utilities regulated by the Commission include natural gas, electric, water, steam, sewer, pipeline, and local telephone companies.

Transportation utilities regulated by the CPUC include railroads, light rail transit, buses, limos, airport shuttles, household goods moving companies, marine vessels and hot air balloons. The Commission requires regulated transportation companies to maintain public liability and property damage insurance.

The CPUC uses two different approaches in rate-setting for the remaining monopoly services such as delivery of electricity and water:

- **Cost-based rate-setting** requires that the CPUC estimate a utility's reasonable expenses and revenues, then add a fair and reasonable return on its investment. A utility, however, is not guaranteed a profit, merely a reasonable opportunity to earn one.

- **Performance-based regulation** ties a utility's profits, and return to investors, on how well it performs with respect to a base revenue and changes in the consumer price index year to year. The Commission's objective in deregulating a market or service is to allow competition among many firms to set rates. Performance-based rate-setting is now used instead of the General Rate Case proceedings and offset rate adjustments that the CPUC formerly used for natural gas, electric, and telecommunications utilities.

For Safe, Reliable Services

A major Commission concern is for the safety of consumers and of utility employees. The Commission oversees safety standards and procedures for: overhead power and communication lines, gas facilities, rapid transit systems, light rail transit systems, and common carrier railroads.

In some cases, state law requires the CPUC to prepare an environmental impact report before approving construction of certain utility facilities such as pipelines.

To assure that a utility's management decisions take the public interest into account, the utility must have Commission authorization to transfer property, issue stocks and bonds, and, in some cases, construct or extend plant or other facilities. The Commission requires utilities to use uniform accounting systems and file annual reports. These annual reports and certain other documents are available for public inspection in the CPUC's Financial Reports Section.

The CPUC acts in both a judicial and legislative capacity. In setting rates or standards of service and general policy, it may, like a court, take testimony, issue decisions and orders, cite for contempt, and subpoena witnesses and records.

The Commission sets rates only for a small number of investor-owned companies which are not on a performance-based system of determining return on investments. These regulated utilities may not increase any rate or charge without CPUC authority.

Most changes in rates and service are handled by Advice Letter, a simplified application procedure by which a utility or district of a utility with estimated operating revenues under \$750,000 may request a general rate increase or decrease. For certain smaller telephone companies, there is no operating revenue

requirement. Even though these proceedings do not normally involve public hearings, a utility's filing must include all the facts necessary to justify the increase. Some 200 smaller water utilities use this approach extensively to seek CPUC approval for rate changes.

To change a utility's tariff, that is, the statement of rates and services it has on file with the CPUC, it may simply submit an informal request, for example, to:

- Initiate a new service,
- Change rates to reflect cost changes,
- Modify rules governing the provision of a service, billing procedures, or similar items,
- Withdraw a service.

Such tariffs usually require specific CPUC authority based on a showing of cause by the utility. In most instances, if there are no protests and the Commission determines that the request is reasonable, authority is granted without a hearing.

How the Commission Grants Authority

Certificates of Public Convenience and Necessity

Before a public utility begins operations or makes significant additions to its plant, it is generally required to apply for and obtain a Certificate of Public Convenience and Necessity (CPCN). This procedure helps ensure that no plant facilities are built, or transportation services begun, that the public does not need. The Commission has broad discretion in granting or denying these applications. A CPCN application must comply with the Commission's Rules of Practice and Procedure and provide certain specific information demonstrating that:

- The public welfare would be served;
- The operation is financially sound and able to provide the proposed service; and,
- The project, with the exception of certain transportation services, would not unreasonably interfere with the operation of a nearby or competing public utility.

Because such applications are also subject to the California Environmental Quality Act (CEQA), an environmental impact report may be required.

Transfer of Property or Stock

A public utility must receive CPUC approval before it issues stock, bonds, or other securities; sells,

transfers, leases, or encumbers utility property; seeks to merge with another utility company, or assumes a liability when acquiring control of a public utility.

Any party seeking to obtain control of a utility through purchase of its stock must first obtain authorization from the Commission. CPUC staff review each application for such authorization and provide an analysis of its effect on the utility's financial status for the Commission's consideration.

This may entail a public hearing where utility and staff witnesses testify and may be cross-examined. A utility request for exemption from the competitive bidding rule may also trigger such a hearing.

How the Commission Resolves Issues and Complaints

The utility industries are continually changing, and as new technologies come into play, new and improved services are offered. These changes often affect broad sectors of the population as well as business and industry. Social and economic issues arise that only the Commission has the authority to address.

Occasionally, the State Legislature requires the Commission to conduct studies or investigations on issues related to existing or proposed legislation. Often, the Commission is an individual consumer's last resort to find help in resolving issues or complaints about utility rates or services.

Order Instituting Investigation

The Commission can initiate on its own motion an Order Instituting Investigation (OII) to explore broad policy issues, resolve procedural matters, investigate charges of improper or illegal activity by a regulated utility or transportation company, or respond to laws passed by the Legislature. An OII will name one or more utility companies as respondents and usually require them to take specific action, e.g., file data or comments on a particular subject or respond at hearings to matters covered in the OII.

Order Instituting Rulemaking

An Order Instituting Rulemaking (OIR) is an investigatory proceeding opened by the Commission

to consider the creation or revision of rules or guidelines in a matter affecting more than one utility or a broad sector of an industry. Comments and proposals are submitted in written form. Oral arguments or presentations are sometimes allowed. The CPUC's decision is often implemented in a General Order which is published and available in the CPUC offices.

Complaint Procedures

Regulated utilities are required by law to provide reasonably adequate services in a safe manner and at rates authorized by the Commission. When such service is not provided or there is a dispute over charges for the service, an individual or group may file a complaint. The complainant should:

1. First, try to resolve the matter with the utility.
2. If that fails, bring the matter to the CPUC Consumer Affairs staff for an informal resolution.
3. If the first two steps do not resolve the problem, file a formal complaint with the CPUC.

Informal Complaints

If a question or complaint concerns an investor-owned public utility or a household goods carrier, a consumer can bring it to the Consumer Affairs Branch of the CPUC Consumer Services Division, or, if it concerns passenger motor carriers, marine vessels, or trains, to the CPUC Rail Safety and Carriers Division:

In Northern California In Southern California

Consumer Affairs Branch 505 Van Ness Avenue Room 4300 San Francisco, CA 94102	Consumer Affairs Branch 107 S. Broadway Room 5109 Los Angeles, CA 90012
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Utility Complaints Only

Toll free: 1-800-649-7570	Toll free: 1-800-649-7570
TDD No.: 415-703-2032	TDD No.: 213-897-0426

Transportation Matters

Railroad Safety

415-703-1306	213-897-3567
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Rail Transit Safety

415-703-1355

To check Passenger Motor Carriers' Licenses:

1-800-877-8867

To file complaints against a:

Passenger Motor Carrier:	1-800-894-9444
Household Goods Mover:	1-800-366-4782

Although informal complaints may be made by telephone, it is best to submit them in writing. No special form is needed, but statements should be complete and clear so that staff has all the facts needed. Copies of bills or letters relating to the dispute should be included. If the amount of a bill is in question, a customer may deposit the amount in dispute with the Commission to prevent cutoff of service.

After reviewing a consumer's complaint, the utility's response, and other related factors, the Consumer Affairs staff issues its conclusions. Each party is notified and the deposit being held by the CPUC is either sent to the customer or to the utility.

A customer who is not satisfied with the staff's action may file a Formal Complaint with the CPUC.

Formal Complaints

Any individual, organization, or corporation may file a formal complaint with the Commission. The complainant must state a cause of action, that is, any action that violates a provision of law, or any order or rule of the Commission. A formal complaint is limited to matters within the Commission's jurisdiction. The CPUC can order a refund, for example, if it determines that a utility has overbilled a customer. Hearings are held in San Francisco, or, if the complainant requests, at a site near to the complainant. A formal complaint is usually heard by an Administrative Law Judge (ALJ).

Complaints for amounts above \$5,000 are handled much the same as a civil action before a trial court. For cases involving less than \$5,000, the CPUC has an Expedited Complaint Procedure or ECP. The ECP ensures a hearing, without a court reporter, within 30 days after an answer to a complaint is filed. Only the complaint and the answer are heard; the parties represent themselves. A CPUC ALJ prepares a draft decision, and the final decision is made by the Commission. A procedure also exists for handling quickly formal complaint cases involving less than \$2,500.

The Public Advisor's Office can provide information and assistance on how to carry out a formal complaint.

In San Francisco , call:	415-703-2074
In Los Angeles , call:	213-897-3544

The Decision-making Process

Three types of proceedings—applications, complaints, and investigations—are used by the CPUC to reach a decision on the many issues that come before it. All may involve public hearings. In all formal proceedings, one of the CPUC Commissioners and an Administrative Law Judge (ALJ) are assigned to guide the case through CPUC processing. Generally, an ALJ conducts public hearings, advises the assigned Commissioner of major developments and issues, and, in consultation with the assigned Commissioner, prepares a proposed decision for Commission vote. Other CPUC staff who may be involved are an attorney, a project manager from the technical staff, and expert witnesses.

At the outset, the CPUC may schedule a prehearing conference to which all known interested parties (participants with a stake in the outcome) are invited. These may be private individuals, consumer advocacy and business groups, local, state and federal agencies, and other utilities. Each may make an appearance, as a protestant (a person or company not named as a party) or an interested party, depending on the interests of the group represented.

At the prehearing conference, each party announces the extent to which it will participate in the hearings. The party must identify the issues it will raise and may be required to announce whether it plans to present evidence, cross-examine witnesses, and submit briefs. When the ALJ has an estimate of how much time the parties will need, hearing dates and location are scheduled along with deadlines for parties to submit and exchange their prepared testimony and exhibits.

In cases of wide public interest and impact, the CPUC will schedule meetings in the community affected in order to allow for public comment. These are scheduled in addition to regular evidentiary hearings, and are often held in the evening to make it easy for the general public to attend. Representatives of the utility and CPUC staff attend to explain and comment on the case.

Individuals wishing to do so may then comment on the issues. When a matter is set for hearing, the date, time, and location of the hearing appear on the Commission's Daily Calendar. Notice is also sent to all interested parties. News releases may be distributed to the media. In applications for general rate cases, the law requires utilities to send notices of the application to all customers. In other types of rate change applications, the Commission requires that notice of the application be printed in newspapers of general circulation and posted in the utility's business office.

Hearings are generally held in the CPUC hearing rooms in San Francisco. They are recorded by a court reporter, and transcripts may be purchased from either the Reporting Section or Central Files offices. File copies of transcripts are available for public inspection in Central Files.

Representation by an attorney is not necessary for someone to participate in CPUC proceedings. Parties who wish to participate may represent themselves or be represented by another. Parties may cross-examine witnesses, present witnesses, file briefs, and apply for rehearing after a decision has been made. Persons wishing only to testify need not file an appearance.

Evidence at a hearing can be given through written documents, exhibits, or oral testimony by witnesses. Oral and written testimony is given

under oath and is subject to cross-examination.

In addition, the Commission may take statements from the general public or other persons interested in a proceeding. A statement is recorded by the court reporter and appears in the transcript. However, if it is not made under oath and subject to cross-examination, it will have less weight than sworn testimony.

Often, statements from the general public are taken at special sessions called Public Participation Hearings held throughout the state. Issues brought up to the Commission at these hearings are often addressed in Commission decisions.

At the conclusion of testimony, the Commission may hear arguments in support of the various parties' positions. An argument may take the form of a closing statement made before the ALJ or Commissioner on the last hearing day; or the Commission may hear oral argument as a full panel, that is, the five members of the Commission together hear testimony. A third form of argument, and the most common, is through briefs. These are written documents summarizing the positions of the parties based on the factual evidence presented.

Decision-making meetings of the Commission are held usually twice a month and are open to the public. There is also a period for public comment at the beginning of each meeting. If a majority of the Commission votes for a proposed decision, it becomes law. The item is given a decision number, and a copy is sent to all parties to the proceeding. In certain complaint cases, the decision of the presiding officer may become final without a vote of the Commission, if no party or Commissioner requests review of the decision within 30 days after it is issued.

Any decision or order of the Commission is

subject to both administrative and judicial review upon written request of a party. First, a party must ask the Commission for review of its decision, alleging that the Commission decision is wrong on the basis of legal error. If the Commission denies rehearing, the requesting party may appeal to the California Supreme Court. Certain decisions in complaint cases may be appealed to the Court of Appeals. The law requires that an application for rehearing be filed within 30 days of the decision denying rehearing.

The Commission can also modify a decision in response to a petition to modify (a pleading citing "changed circumstances" rather than legal error), but if it is filed after a year, it must be supported by a showing of good cause for the delay.

Public Advisor's Office

The Commission encourages interested groups and individuals to participate in its proceedings. To make it as easy as possible, the CPUC created the Public Advisor's Office and set up the Intervenor Funding Program. The Public Advisor provides information and advice to persons or groups about how best to participate in formal CPUC proceedings. The office also advises the Commissioners and staff about ways to facilitate public participation where barriers may exist.

The Public Advisor's Office also serves as a contact to locate resource persons within the CPUC who can respond to specific questions or provide information. Public Advisor staff do not speak for any group or individual in a proceeding, nor does the office handle the initial investigation of a consumer problem or complaint. These are initially handled by the Consumer Affairs Branch. If, after working with Consumer Affairs, the

complaint is not resolved and a person wants to file a formal complaint, then the Public Advisor's Office can help.

The intervenor funding program was created in 1983 to encourage and compensate individual and group contributions to the CPUC's decisions. Intervenors, that is, any participant in a CPUC proceeding other than Commission staff or utility representatives, may be eligible for reimbursement of expenses incurred in participating in a case. They need to show that their participation in CPUC proceedings will cause them a financial hardship, and that they have made a substantial contribution to the final decision reached by the Commission. The specific guidelines governing the program are contained in the CPUC Rules (under Article 18.7). Any individual or group which wishes to participate in the program should contact the Public Advisor's Office for assistance in filing for eligibility or for compensation.

A booklet, "Guide for PUC Intervenors," which explains how consumers can participate effectively in the CPUC's formal proceedings a compilation of sample filings, and a bibliography of intervenor compensation are available from the Public Advisor offices. When the Commission grants compensation to an intervenor, the utility involved pays the amount, but it is an expense that can be recovered from the utility's ratepayers. An Advocates Trust Fund is also available to provide compensation to complainants in quasi-judicial complaint cases.

The Public Advisor's Office can provide information and assistance on how to carry out a formal complaint. For more details:

In **San Francisco**, call: 415-703-2074
In **Los Angeles**, call: 213-897-3544

Publications

Various publications which describe and explain the activities and programs of the CPUC are available without charge. Contact the CPUC Communications Office, in San Francisco at 415-703-2669, or in Los Angeles at 213-897-4225.

CPUC Brochure, available in English and Spanish, briefly describes the role of the Commission in regulating utilities and transportation companies.

Annual Report, reviews CPUC activities and accomplishments by industry, including a compilation of utility statistics, enforcement actions, regulatory proceedings, and licensing.

Business Plan, outlines the Commission's direction and priorities for the coming year, and a general outlook for the next few years. The Plan seeks to enable staff and external stakeholders to see their roles in shaping and implementing the Commission's regulatory agenda.

The CPUC Webpage

The CPUC Webpage, www.cpuc.ca.gov, contains information about the Commission's Daily Calendar of hearings, workshops, etc.; meeting agendas, division activities; the proposed and final decisions on many of the more important issues before the CPUC that can be read on-screen or downloaded; and, links to WebPages of numerous other related agencies and of utility companies.