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**AB-1068 Public Utilities Commission: ex parte communications.** (2023-2024)

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**Assembly Bill No. 1068**

**CHAPTER 826**

An act to amend Sections 1701.3 and 1701.9 of the Public Utilities Code, relating to the Public Utilities Commission.

[ Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1068, Valencia. Public Utilities Commission: ex parte communications.

Existing law establishes various requirements for ex parte communication between the Public Utilities Commission and interested parties for ratesetting cases and catastrophic wildfire proceedings and, among other things, authorizes the commission, by order or rule, to prohibit ex parte communications. Existing law authorizes written ex parte communications by an interested person to be permitted in ratesetting cases and catastrophic wildfire proceedings if copies of the communication are transmitted to all parties on the same day as the original communication, and requires the commission to establish a quiet period during the 3 business days before the commission's scheduled vote on a decision in ratesetting cases and catastrophic wildfire proceedings, during which oral and written ex parte communications are prohibited.

This bill would authorize the commission, by order or rule, to prohibit oral ex parte communications, rather than all ex parte communications, in ratesetting cases and catastrophic wildfire proceedings. The bill would expressly authorize a written ex parte communication to occur at any time before the 3 business days before the commission's scheduled vote on a decision without restriction during ratesetting cases and catastrophic wildfire proceedings if copies of the communication are transmitted to all parties on the same day as the original communication. The bill would delete the prohibition on written ex parte communications during the quiet periods of ratesetting cases and catastrophic wildfire proceedings, and would instead authorize an interested person to submit a written ex parte communication during the 3 business days before the commission's scheduled vote on a proposed decision in a ratesetting case or catastrophic wildfire proceeding if the commission materially modifies the proposed decision during that time period, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 1701.3 of the Public Utilities Code is amended to read:

**1701.3.** (a) Except as specified in subdivision (h), this section shall apply only to ratesetting cases, except, if the commissioner assigned pursuant to Section 1701.1 has determined that a ratesetting case does not require a hearing, the procedures prescribed by subdivisions (b), (d), (f), and (i) shall not apply.

(b) The assigned commissioner shall determine before the first hearing whether the commissioner or the assigned administrative law judge shall be designated as the principal hearing officer. The principal hearing officer shall be present for more than one-half

of the hearing days. The decision of the principal hearing officer shall be the proposed decision.

(c) An alternate decision may be issued by the assigned commissioner or the assigned administrative law judge who is not the principal hearing officer. Any alternate decision may be filed with the commission and served on all parties to the proceeding any time before the issuance of a final decision by the commission, consistent with the requirements of Section 311.

(d) The commission shall establish a procedure for any party to request the presence of a commissioner at a hearing. The assigned commissioner shall be present at any closing arguments in the case.

(e) The principal hearing officer shall present the proposed decision to the full commission in a public meeting. The alternate decision, if any, shall also be presented to the full commission at that public meeting.

(f) The presentation to the full commission shall contain a record of the number of days of the hearing, the number of days that each commissioner was present, and whether the decision was completed on time.

(g) The commission shall provide by rule for peremptory challenges and challenges for cause of the administrative law judge. Challenges for cause shall include, but not be limited to, financial interests and prejudice. All parties shall be entitled to unlimited peremptory challenges in any case in which the administrative law judge has within the previous 12 months served in any capacity in an advocacy position at the commission, been employed by a regulated public utility, or has represented a party or has been an interested person in the case.

(h) (1) Ex parte communications in ratesetting cases and catastrophic wildfire proceedings are subject to the disclosure requirements of this article. The commission, by order or ruling, may prohibit oral ex parte communications in a ratesetting case or catastrophic wildfire proceeding.

(2) Oral communications may be permitted by a decisionmaker if all parties are given not less than three working days' notice. Individual ex parte meetings shall not be held during the three business days before the commission's scheduled vote on the decision.

(3) (A) If an ex parte communication meeting is granted to any party, all other parties, upon request, shall also be granted individual ex parte meetings of a substantially equal period of time and shall be sent a notice of that opportunity at the time the request is granted.

(B) Subparagraph (A) shall not apply if the decisionmaker participating in the ex parte communication meeting is a member of the personal staff of a commissioner acting in a policy or legal advisory capacity and no other decisionmaker to whom subparagraph (A) applies is a participant.

(4) Written ex parte communications by an interested person shall be permitted at any time without restriction before the three business days before the commission's scheduled vote on a decision if copies of the communication are transmitted to all parties on the same day as the original communication.

(5) Written and oral ex parte communications shall not be part of the evidentiary record of the proceeding.

(i) Any party has the right to present a final oral argument of its case before the commission. Upon request to present a final oral argument before the commission, the argument shall be scheduled in a timely manner. A quorum of the commission shall be present for the final oral arguments.

(j) The commission may, in issuing its decision, adopt, modify, or set aside the proposed decision or any part of the decision based on evidence in the record. The final decision of the commission shall be issued not later than 60 days after the issuance of the proposed decision. Under extraordinary circumstances the commission may extend this date for a reasonable period. The 60-day period shall be extended for 30 days if any alternate decision is proposed pursuant to Section 311.

**SEC. 2.** Section 1701.9 of the Public Utilities Code is amended to read:

**1701.9.** The following provisions apply during the pendency of a commission proceeding, except these provisions do not apply during an adjudicatory or quasi-legislative proceeding:

(a) The commission may meet in closed session to deliberate on a proposed decision, order, or resolution after providing three-day advance notice to the public.

(b) The commission shall establish a quiet period during the three business days before the commission's scheduled vote on a decision, during which oral ex parte communications shall not be permitted.

(c) The requirement specified in subparagraph (F) of paragraph (1) of subdivision (b) of Section 11123 of the Government Code shall not apply to a meeting of the commission during a quiet period that is held by teleconference.

(d) (1) If the commission materially modifies a proposed decision during the first two business days of the three-day quiet period before the commission's scheduled vote on the proposed decision, an interested person may submit a written ex parte communication during those two business days if copies of the written ex parte communication are concurrently transmitted to all parties at the same time as the written ex parte communication is submitted to the commission and the scope of the written ex parte communication is limited to the portion of the proposed decision that was materially modified.

(2) If the commission materially modifies a proposed decision during the last business day of the three-day quiet period before the commission's scheduled vote on the proposed decision, an interested person may submit a written ex parte communication on that day if copies of the written ex parte communication are concurrently transmitted to all parties at the same time as the written ex parte communication is submitted to the commission and the scope of the written ex parte communication is limited to the portion of the proposed decision that was materially modified.