

AB 825 (Rendon)

Transparency at Public Utilities Commission

Issue

Recent media reports have revealed a lack of transparency in decisions by the California Public Utilities Commission. Transparency in how public agencies make decisions remains a fundamental principle in California law and government. Assembly Bill 825 seeks to increase transparency in Commission decisions in regulating public utilities.

Background

California voters created the California Public Utilities Commission in 1911, to counteract the political power of Southern Pacific Railroad. They established the Commission in Article XII of the California Constitution.

For a century, the Commission has regulated private companies that provide the public with services such as electricity, natural gas, telephones, and transportation. These companies have monopolies over providing these services to the public, so the Commission protects consumers by regulating the “public” utilities owned by investors.

State public meeting and public document laws apply to the Commission. State law, however, protects the confidentiality of certain company documents, to protect company trade secrets and private information. The Commission, however, may decide to make information public, and its own decisions remain public.

Since deregulation and the 2000 energy crisis, the nature of the Commission’s decisions has evolved. Its confidentiality policies have expanded, keeping more information confidential and not subject to public scrutiny. For example, Commission policy keeps the prices that investor-owned utilities pay to procure energy confidential for three years after the utility first receives energy.

In contrast, the Federal Energy Regulatory Commission (FERC) makes transparency a top priority. Transparency in markets for wholesale

supply of electricity ensures that rates of public utilities are “just and reasonable,” not “unduly discriminatory,” and protect against market manipulation. FERC requires sellers of wholesale power to submit and disclose detailed quarterly reports concerning details of power sales transactions, including the types of power sold, the amount, the customer and the rates.

Legislation

Assembly Bill 825 increases the transparency of the Commission’s decisions and provides for outside oversight of its activities.

Transparency. The bill makes transparency a priority for commission activities, and gives the “Public Advisor” responsibility for ensuring that transparency, with tools such as the commission website. The website will include certain summary information on energy procurement and utility rate increase applications.

Confidentiality. AB 825 requires the commission to re-examine its confidentiality policies in light of the statutory priority for transparency. It also recognizes that certain information that already is public cannot be presumed confidential. The bill also establishes a process to allow parties in proceedings to challenge the confidentiality of documents submitted by public utilities.

Oversight. AB 825 accomplishes fundamental change in the way that courts review commission decisions, by allowing lawsuits against the commission in the Superior Court in either San Francisco or Los Angeles, instead of just in appellate courts as the law now provides. It also creates an “Inspector General” within the State Auditor’s office to investigate commission actions.

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