

ASSEMBLY BILL

No. 2603

Introduced by Assembly Member Nazarian

February 19, 2016

An act to amend Sections 1801.3 and 1802 of, and to add Section 1809 to, the Public Utilities Code, relating to proceedings of the Public Utilities Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 2603, as introduced, Nazarian. Public Utilities Commission: proceedings: intervenor compensation.

Under existing law, the Public Utilities Commission has broad regulatory authority pursuant to the California Constitution and the Public Utilities Act over public utilities, as defined, including common carriers, toll bridge corporations, electrical corporations, gas corporations, pipeline corporations, telephone corporations, telegraph corporations, water corporations, sewer system corporations, and heat corporations. In addition, the commission has more limited authority over certain other corporations, including charter-party carriers of passengers. Existing law provides compensation for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to public utility customers and representatives of customers for participation or intervention in formal proceedings of the commission involving electrical, gas, water, telegraph, and telephone public utilities.

This bill would additionally authorize compensation to be awarded by the commission for reasonable advocate's fees, reasonable expert witness fees, and other reasonable costs to customers and representatives of customers for participation or intervention in formal proceedings of

the commission involving a corporation that is subject to regulation by the commission pursuant to the Passenger Charter-Party Carriers’ Act.

Existing law requires the commission to deny compensation to any customer who attempts to delay or obstruct the orderly and timely fulfillment of the commission’s responsibilities.

This bill would require the commission to deny any claim for compensation for contributions to a closed proceeding unless otherwise specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1801.3 of the Public Utilities Code is
- 2 amended to read:
- 3 1801.3. It is the intent of the Legislature that:
- 4 (a) The provisions of this article shall apply to all formal
- 5 proceedings of the commission involving ~~electric, electrical,~~ gas,
- 6 water, *telegraph*, and telephone ~~utilities.~~ *corporations and to*
- 7 *corporations that are subject to regulation by the commission*
- 8 *pursuant to Chapter 8 (commencing with Section 5351) of Division*
- 9 *2.*
- 10 (b) The provisions of this article shall be administered in a
- 11 manner that encourages the effective and efficient participation of
- 12 all groups that have a stake in the public utility regulation process.
- 13 (c) The process for finding eligibility for intervenor
- 14 compensation be streamlined, by simplifying the preliminary
- 15 showing by an intervenor of issues, budget, and costs.
- 16 (d) Intervenors be compensated for making a substantial
- 17 contribution to proceedings of the commission, as determined by
- 18 the commission in its orders and decisions.
- 19 (e) Intervenor compensation be awarded to eligible intervenors
- 20 in a timely manner, within a reasonable period after the intervenor
- 21 has made the substantial contribution to a proceeding that is the
- 22 basis for the compensation award.
- 23 (f) This article shall be administered in a manner that avoids
- 24 unproductive or unnecessary participation that duplicates the
- 25 participation of similar interests otherwise adequately represented
- 26 or participation that is not necessary for a fair determination of the
- 27 proceeding.

1 SEC. 2. Section 1802 of the Public Utilities Code is amended
2 to read:

3 1802. As used in this article:

4 (a) “Compensation” means payment for all or part, as determined
5 by the commission, of reasonable advocate’s fees, reasonable
6 expert witness fees, and other reasonable costs of preparation for
7 and participation in a proceeding, and includes the fees and costs
8 of obtaining an award under this article and of obtaining judicial
9 review, if any.

10 (b) (1) “Customer” means any of the following:

11 (A) A participant representing consumers, customers, or
12 subscribers of any electrical, gas, telephone, telegraph, or water
13 ~~corporation that is subject to the jurisdiction of the commission.~~
14 *corporation or representing consumers, customers, or passengers*
15 *of any corporation subject to regulation by the commission*
16 *pursuant to Chapter 8 (commencing with Section 5351) of Division*
17 *2.*

18 (B) A representative who has been authorized by a customer.

19 (C) A representative of a group or organization authorized
20 pursuant to its articles of incorporation or bylaws to represent the
21 interests of residential customers, or to represent small commercial
22 customers who receive bundled electric service from an electrical
23 corporation.

24 (2) “Customer” does not include any state, federal, or local
25 government agency, any publicly owned public utility, or any
26 entity that, in the commission’s opinion, was established or formed
27 by a local government entity for the purpose of participating in a
28 commission proceeding.

29 (c) “Expert witness fees” means recorded or billed costs incurred
30 by a customer for an expert witness.

31 (d) “Other reasonable costs” means reasonable out-of-pocket
32 expenses directly incurred by a customer that are directly related
33 to the contentions or recommendations made by the customer that
34 resulted in a substantial contribution.

35 (e) “Party” means any interested party, respondent public utility,
36 or commission staff in a hearing or proceeding.

37 (f) “Proceeding” means an application, complaint, or
38 investigation, rulemaking, alternative dispute resolution procedures
39 in lieu of formal proceedings as may be sponsored or endorsed by
40 the commission, or other formal proceeding before the commission.

1 (g) “Significant financial hardship” means either that the
2 customer cannot afford, without undue hardship, to pay the costs
3 of effective participation, including advocate’s fees, expert witness
4 fees, and other reasonable costs of participation, or that, in the case
5 of a group or organization, the economic interest of the individual
6 members of the group or organization is small in comparison to
7 the costs of effective participation in the proceeding.

8 (h) “Small commercial customer” means any nonresidential
9 customer with a maximum peak demand of less than 50 kilowatts.
10 The commission may establish rules to modify or change the
11 definition of “small commercial customer,” including use of criteria
12 other than a peak demand threshold, if the commission determines
13 that the modification or change will promote participation in
14 proceedings at the commission by organizations representing small
15 businesses, without incorporating large commercial and industrial
16 customers.

17 (i) “Substantial contribution” means that, in the judgment of
18 the commission, the customer’s presentation has substantially
19 assisted the commission in the making of its order or decision
20 because the order or decision has adopted in whole or in part one
21 or more factual contentions, legal contentions, or specific policy
22 or procedural recommendations presented by the customer. Where
23 the customer’s participation has resulted in a substantial
24 contribution, even if the decision adopts that customer’s contention
25 or recommendations only in part, the commission may award the
26 customer compensation for all reasonable advocate’s fees,
27 reasonable expert fees, and other reasonable costs incurred by the
28 customer in preparing or presenting that contention or
29 recommendation.

30 SEC. 3. Section 1809 is added to the Public Utilities Code, to
31 read:

32 1809. The commission shall deny any claim for compensation
33 for contributions to a closed proceeding unless otherwise specified
34 in this article.