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CPUC Reform Legislation Still In Play For California's Governor

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One bill is already awaiting the governor's signature and two others (SB 512 and AB 2903) are still in play to reform the state's major energy regulatory commission as California's legislature sprints toward the end of its session at midnight on Wednesday. SB 512 passed the lower house Assembly on Monday and went back to the Senate for concurrence.

A bill (SB 215) to increase transparency and regulator accountability at the five-member California Public Utilities Commission (CPUC) was passed by state lawmakers last week, and Gov. Jerry Brown is expected to sign it. SB 215 was part of a package Brown and the legislature agreed on earlier in the summer (see *Daily GPI*, [June 28](#)).

Similar bills -- five in total -- that went farther in totally banning ex parte communications between CPUC regulators and the companies they oversee were passed last year, but vetoed by Brown. SB 215 requires that regulators promptly report the content of any ex parte communications that did not include the other parties to a particular ongoing case.

Some environmental, technology and other advocacy groups have supported more reporting requirements, but not banning ex parte communications. Brown has argued that the regulators need to hear a full diversity of opinions. Ralph Cavanagh, co-director of the Natural Resources Defense Council, has said regulators totally "sealed off" from the world are going to make poor decisions.

Under SB 215, regulators "will face penalties for violations of the rules," said state Sen. Mark Leno, one of the co-sponsors of SB 215. "[The bill] seeks to change the agency's culture that has been too cozy with utility executives and less accountable to California consumers."

Since a trail of revealing emails was released two years ago, the CPUC has been mired in controversy and uncertainty about past relations with Pacific Gas and Electric Co. (PG&E) and Southern California Edison Co. (SCE) involving separate major regulatory proceedings (see *Daily GPI*, [Aug. 25, 2015](#); [Oct. 7, 2014](#)).

Along with PG&E and SCE, the CPUC, itself, has been under scrutiny since the September 2010 PG&E natural gas transmission pipeline rupture and explosion that killed eight people and devastated a residential neighborhood in San Bruno, a suburb south of San Francisco (see *Daily GPI*, [Sept. 13, 2010](#)).

Leno cited everything from San Bruno to the more recent Aliso Canyon underground natural gas storage facility leak as revealing what he called "private decision-making between the agency and entities it regulates." SB 215, and the other two bills still being debated in the legislature, "seek to enhance transparency and accountability in the CPUC," he said.

Along with the requirements for CPUC members, utilities also must provide substantive descriptions of what is said in such ex parte meetings, which are prohibited from privately setting administrative law judge (ALJ)

assignments or other pending commission matters, increasing the penalties for violating the rules and reforming the standard for disqualification of a commissioner or ALJ for bias.

"The reforms included in SB 215 will put an end to the secret, backdoor meetings that have tainted the CPU's decision-making process and its reputation," said Mark Toney, head of the San Francisco-based utility watchdog group, The Utility Reform Network (TURN).

Critics of the legislative package still exist, alleging that the measures don't go far enough, according to a report in the *Los Angeles Times* on Monday. Oregon-based utility consultant Robert McCullough argues for no ex parte communications being allowed, noting that the amounts of money and potential for abuse in most major utility regulatory cases are too great.

The federal government and a number of other states don't allow ex parte contacts, according to a 2014 study by the University of California, Berkeley's Center for Law, Energy and the Environment. A co-author of the study, environmental attorney Deborah Behles, told the *LA Times* that there is a continuing "huge concern about the fairness of the process when certain parties can gain access to decision-makers."



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Richard Nemeč began writing for NGI in 1995 and has 30 years experience in the energy industry. He holds BA from the University of Southern California, Los Angeles; and a MA in journalism from Northwestern University, Evanston, IL; and completed MBA courses at Northwestern's Evening Graduate School of Management.

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