



REGULATORY AGENCY ACTION

to take CME in their respective specialties. Also, specialists would like units of Category 2, non-BOA-accredited allopathic specialist CME to count toward the 150-hour requirement.

Because the current three-year CME requirement period ends in January 1992, BOE decided not to revise the CME requirements until the new period has commenced; the Board formed a subcommittee to review these issues and directed it present its recommendations at the next BOE meeting.

LEGISLATION:

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at pages 189-90:

SB 437 (Frizzelle), as amended July 18, changes the Board's written exam procedures by requiring the Board to use only a written examination prepared by the National Board of Osteopathic Examiners or BOE; authorizing the Board to utilize an examination prepared by the Federation of State Medical Boards until December 13, 1993; and deleting an existing provision authorizing the Board to make arrangements with other organizations for examination materials as it deems desirable.

Regarding the qualifications for the issuance of a license based on reciprocity, this bill deletes the Board's authority to require an applicant to successfully complete an examination prepared by the Federation of State Medical Boards, and permits the Board to recognize and approve as equivalent an examination prepared by the Federation if an applicant has been licensed in another state as a result of the successful completion of that examination prior to December 31, 1993. This bill was signed by the Governor on September 18 (Chapter 431, Statutes of 1991).

AB 1332 (Frizzelle), as amended July 14, changes BOE's name to "Osteopathic Medical Board of California," effective January 1, 1992. The bill also requires Board members who are licensed osteopaths to have been in active practice for at least the five years preceding their appointments, and to hold unrevoked DO licenses or certificates. This bill, which also prohibits a Board member from serving for more than three full consecutive terms, was signed by the Governor on August 29 (Chapter 359, Statutes of 1991).

AB 1691 (Filante), as amended May 8, would require, on or after July 1, 1993, every health facility operating a postgraduate physician training program to develop and adopt written policies governing the working conditions of

resident physicians. This bill was rejected by the Assembly on June 27; it is pending in the Assembly inactive file.

SB 664 (Calderon), as introduced March 5, would prohibit osteopaths, among others, from charging, billing, or otherwise soliciting payment from any patient, client, customer, or third-party payor for any clinical laboratory test or service if the test or service was not actually rendered by that person or under his/her direct supervision, except as specified. This two-year bill is pending in the Senate Business and Professions Committee.

AB 819 (Speier). As introduced February 27, this bill would, effective July 1, 1992, provide that, subject to specified exceptions, it is unlawful for specified licensed health professionals to refer a person to any laboratory, pharmacy, clinic, or health care facility which is owned in whole or in part by the licensee or in which the licensee has a proprietary interest; the bill would also provide that disclosure of the ownership or proprietary interest does not exempt the licensee from the prohibition. This two-year bill is pending in the Assembly Health Committee.

RECENT MEETINGS:

At its August 30 meeting, the Board discussed SB 198 (Greene) (Chapter 1369, Statutes of 1989), which, among other things, requires every employer to have a written injury prevention program. In order for BOE to have its budget approved, it must provide DOs with information regarding HIV infection care treatment. BOE examined various pamphlets available from the Centers for Disease Control and decided to distribute two pamphlets either as a part of CME or in the DO license renewal packet.

Also at its August 30 meeting, BOE staff reported that a new publication containing the Board's regulations is being prepared and should be ready for release by December. The Board anticipated sending out copies of the pamphlet along with a brochure entitled *Professional Therapy Never Includes Sex!*, prepared by the Department of Consumer Affairs.

FUTURE MEETINGS:

February 15 in Los Angeles.

PUBLIC UTILITIES COMMISSION

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The California Public Utilities Commission (PUC) was created in 1911 to regulate privately-owned utilities and ensure reasonable rates and service for the public. Today, under the Public Utilities Act of 1951, Public Utilities Code section 201 *et seq.*, the PUC regulates the service and rates of more than 43,000 privately-owned utilities and transportation companies. These include gas, electric, local and long distance telephone, radio-telephone, water, steam heat utilities and sewer companies; railroads, buses, trucks, and vessels transporting freight or passengers; and wharfingers, carloaders, and pipeline operators. The Commission does not regulate city- or district-owned utilities or mutual water companies.

It is the duty of the Commission to see that the public receives adequate service at rates which are fair and reasonable, both to customers and the utilities. Overseeing this effort are five commissioners appointed by the Governor with Senate approval. The commissioners serve staggered six-year terms. The PUC's regulations are codified in Chapter 1, Title 20 of the California Code of Regulations (CCR).

The PUC consists of several organizational units with specialized roles and responsibilities. A few of the central divisions are: the Advisory and Compliance Division, which implements the Commission's decisions, monitors compliance with the Commission's orders, and advises the PUC on utility matters; the Division of Ratepayer Advocates (DRA), charged with representing the long-term interests of all utility ratepayers; and the Division of Strategic Planning, which examines changes in the regulatory environment and helps the Commission plan future policy. In February 1989, the Commission created a new unified Safety Division. This division consolidated all of the safety functions previously handled in other divisions and put them under one umbrella. The new Safety Division is concerned with the safety of the utilities, railway transports, and intrastate railway systems.

On September 4, PUC Commissioner Mitchell Wilk announced that he would resign from his position effective October 4. Wilk has served on the PUC for almost five years. It is up to Governor Wilson to name Wilk's replacement,



who will be the third Wilson appointee on the Commission.

MAJOR PROJECTS:

Caller ID Investigation Continues.

Twelve public hearings attracted 800 people and 2,500 written comments, all expressing opinions on the new technology that Pacific Bell, GTE, and Continental Telephone hope to introduce in their new full service packages. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 43 and 192; Vol. 11, No. 2 (Spring 1991) pp. 40 and 175; and Vol. 11, No. 1 (Winter 1991) pp. 145-46 for background information.) After the public hearings in March and April, the process continued with 21 days of evidentiary hearings between June 26 and July 30. Following the formal presentation of evidence, the parties filed final briefs on September 27. Those filing briefs include DRA, the Department of Consumer Affairs (DCA), PacBell, GTE, Toward Utility Rate Normalization (TURN), smaller local exchange carriers, Consumer Action, and the Alliance Against Domestic Violence.

Pacific Bell and other local exchange carriers (LECs) claim that Caller ID will deter harassing phone calls, protect privacy, aid in transmitting information in emergency situations, and decrease crank calls to both private and commercial numbers. Invasion of privacy is a major concern among consumer groups and the public; however, PacBell suggests that the benefits offered by Caller ID far outweigh any minimal invasion of privacy.

DCA and DRA both conditionally endorsed Caller ID, but only with mandatory safeguards to minimize the potential invasion of consumers' privacy. DCA would require per line blocking, which permits a subscriber to block disclosure of his/her telephone number on all calls made from a certain line without requiring affirmative action by the caller. The alternative suggested by PacBell and GTE is per call blocking, which would automatically reveal the caller's number to the person called unless the caller dials four digits before making the call.

Another safeguard proposed by DCA is an aggressive consumer education plan and broad advertising disclosure requirements. Another suggestion—strongly opposed by PacBell—is default line blocking, which would require a customer to affirmatively act by paying to unblock his/her line to partake in the Caller ID service. Pacific Bell says this option would defeat the claimed deterrent value of Caller ID.

DRA has offered two additional safeguards. First, the cost of the service should be spread only to those who choose to subscribe. As public utilities, most of the phone companies' service costs are figured into the rate base and charged to all ratepayers. For this specialized service, DRA seeks to ensure that only those enjoying the benefits will bear the burden. Pacific Bell opposes this notion as well, suggesting that the deterrent value of the possibility that a caller has the service will benefit the whole of society. DRA also wants a means of restoring lost privacy to consumers after the technology is in place; however, it does not suggest any way of doing so.

TURN, which opposes Caller ID and would condition its implementation on required per line blocking and selective un-block (the subscriber must act to partake), sees Call Trace—not Caller ID—as the solution to harassing calls. (See *supra* report on TURN for related discussion.) Call Trace allows a consumer to immediately begin tracing the number of a caller after an offensive phone call by triggering the phone company's computers with a special dial code. Pacific Bell wants to offer Call Trace as an additional service at a per-use charge of \$10; however, TURN suggests that the phone company be required to make Call Trace part of basic service, with a minimal activation fee of \$1 and no monthly charges.

After analyzing the evidence and the parties' arguments, Administrative Law Judge (ALJ) Lemke is expected to make his recommendation before the end of the year; the full Commission would then decide whether to adopt his recommendation.

Developments in Alternative Regulatory Framework Proceeding Spark Requests for Substantial Rate Increases. On July 24, the PUC issued two decisions designed to guide Phase III of its ongoing Alternative Regulatory Framework (ARF) proceeding, which started in 1987 and has reshaped the way rates for telecommunications services are calculated and subjected many such services to competition for the first time. (See CRLR Vol. 11, No. 2 (Spring 1991) p. 175; Vol. 10, No. 1 (Winter 1990) p. 151; and Vol. 9, No. 4 (Fall 1989) p. 133 for background information.)

Decision 91-07-056 further refined the reporting requirements with which the major LECs must comply, and the PUC's monitoring program which is carried out by the Commission's Advisory and Compliance Division (CACD). In monitoring the LECs'

implementation of the PUC's major recent telecommunications rate restructuring decisions, CACD must determine whether the LECs are adhering to the reporting requirements and the specific rules of the incentive-based rate framework established in Phase II of the ARF proceeding, and whether the new system is accomplishing its intended objectives.

Decision 91-07-044 establishes several technical and policy guidelines which set the stage for one of the most controversial issues to be addressed in the lengthy proceeding—the possibility of sharp reductions in rates for so-called "intraLATA" toll calls and competition for provision of intraLATA toll service. Currently, the stated is divided into service areas or LATAs; LECs provide basic local service and intraLATA toll service on a monopoly basis, and consumers may choose a long distance carrier for calls between LATAs and out-of-state calls. The PUC believes the actual cost of handling intraLATA toll calls is substantially below the rates presently charged by the LECs, and may seek to lower rates closer to cost and allow long distance carriers to compete with the LECs for provision of intraLATA toll call service. (See CRLR Vol. 11, No. 1 (Winter 1991) p. 35 and Vol. 10, No. 4 (Fall 1990) pp. 179-80 for background information.)

In its July 24 decision, the PUC ordered the LECs to prepare bill inserts informing ratepayers about the prospective changes in rates and services. On September 24, the Commission announced a series of 15 public hearings across the state during October and November on the intraLATA competition issue, which are intended to provide a forum for public comment on the proposal.

On September 23, Pacific Bell and GTE provided an incentive for full public participation in the PUC's hearings, when they announced their proposed rate designs to compensate for any loss of revenue due to intraLATA competition. Specifically, the companies seek a 30% reduction in toll charges (to enable them to compete with long distance carriers for intraLATA service, should the PUC allow such competition), a 60% increase in residential service rates over three years, and a 63% increase in residential installation fees. PacBell contends that its rates for local service are far less than the cost of provision, and that it has been cross-subsidizing critical local phone service with higher toll call charges. If it must compete for toll call service, it claims it can no longer subsidize local service.



Consumer groups charge that the proposed rate increase is both unnecessary and inappropriate. (See *supra* report on TURN for related discussion.) They argue that the phone companies' data do not include the increase in volume which is anticipated when toll costs decrease. Economists consider telephone service a "price-sensitive" item—as rates decrease, use will increase. Critics also argue that the proposed rate increase—if implemented—should affect those directly benefiting from toll call reductions and competition. While business customers make the bulk of long distance and toll calls during a concentrated time of the day, they will actually see a 30% drop in toll call charges under the proposed rate design. Residential customers who will not generally benefit from decreased toll call rates will also bear the lion's share of the proposed rate increases to finance them. Out-of-state long distance rates will not be directly affected by Pacific Bell's proposal; however, increased competition by long distance carriers for intraLATA service may affect those rates.

In a related move, Pacific Bell filed a complaint in September against AT&T and seven other long distance carriers, charging that the long distance carriers have been urging customers to bypass LEC networks when making intraLATA toll calls. Currently, all calls must go through the monopoly LEC which is regulated by the PUC, and only a small incidental amount of toll call business is shared with the long distance company. PacBell alleges that AT&T is actively marketing the bypass in violation of PUC regulations, and seeks \$21 million in estimated lost revenue and a restraining order.

PUC Continues Investigation of Pacific Bell Billing Scandal. On July 19, PUC ALJ Kim Malcolm conducted a prehearing conference to establish timelines for proceedings on the complaint filed in this case. After discovering that Pacific Bell was charging its customers late fees on timely-made payments, TURN filed a complaint on February 28, asking for penalties and other relief. In its answer filed on April 10, PacBell explained the mischarge as simply a glitch in its billing processes and made public announcements regarding refund availability. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 42 and 192; and Vol. 11, No. 2 (Spring 1991) pp. 39-40 and 175 for background information.)

TURN and DRA are both investigating and were scheduled to offer written testimony by November 1. The PUC

expects to receive reply testimony from Pacific Bell by December 13. The hearing on TURN's complaint is scheduled for February 24, 1992.

PacBell Seeks Changes to Inside Wire Repair Plan. On August 7, Pacific Bell filed an advice letter with the PUC requesting changes to several aspects of its inside wire repair plan. Telephone "inside wiring" (generally, the wire that connects the customer's telephone equipment to the utility's network at a demarcation point, such as the utility's protector on the outside of a single family residence) was deregulated by the Federal Communications Commission in 1986, thus becoming the responsibility of the customer with regard to maintenance and repair. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 179 and Vol. 9, No. 4 (Fall 1989) p. 133 for background information.) Consumers with inside wiring problems have the option of choosing independent repair companies (sometimes called "interconnects") or Pacific Bell. To stimulate consumer choice in its direction, PacBell has offered an inside wiring "insurance plan" at 50 cents per month. Under the plan, PacBell will repair existing jacks and wiring at no extra cost to the participating subscriber; however, the plan does not cover nonstandard wiring, repairs to the telephone itself, or the addition of wiring or jacks.

In recent years, consumers have registered complaints against PacBell because it has assessed a \$35 "maintenance of service charge" (MSC) when a PacBell representative came to their home and discovered the problem was in their telephone equipment and therefore not covered by the plan—thus leaving the consumer to pay the MSC and pay for the repair. Consumers argued that the company was not adequately informing them about the plan or their repair options.

After negotiations with consumer groups (see *supra* reports on UCAN and TURN for related discussion), PacBell's advice letter proposes to drop the \$35 MSC in favor of a procedure which educates consumers about their inside wiring repair options. Under the proposed settlement (which awaits PUC approval at this writing), the phone company representative who receives the request for repair will instruct the consumer how to diagnose the exact problem, and inform the customer of his/her options for repair. If the customer chooses to have PacBell perform the repair work, the repair person will disclose the charges to the customer prior to beginning the work. Customers who subscribe to the "insurance plan" will

not be charged for any diagnostic or repair service. Additionally, PacBell seeks to raise the price of the "insurance plan" to 60 cents per month.

PacBell's advice letter also proposes to change its current flat fee for inside wiring repair to a time-measured rate. Under the proposal, businesses would pay \$55 for the first 15 minutes and \$16 for every 15 minutes thereafter. Residential customers would pay \$45 for the first 15 minutes and \$16 for each additional 15 minutes.

In another inside wiring development, SB 841 (Rosenthal) takes effect on January 1, and makes landlords responsible for inside wiring maintenance and repair on rental premises (see *infra* LEGISLATION).

Toxic Rail Accidents Prompt PUC Rules on Emergency Response. On August 7, the PUC issued new rules governing emergency response procedures and reporting requirements for rail-related accidents involving toxic spills. The Commission's issuance of the rules followed the catastrophic July 14 Southern Pacific derailment which released almost 20,000 gallons of deadly pesticide into the upper Sacramento River, and a July 28 derailment in Seacliff which spilled 440 gallons of poisonous hydrazine onto a portion of Highway 101, causing a shutdown of a portion of the highway for five days. The July 14 accident indicates a consistent derailment history in a localized ten-mile area dating back to 1972.

According to Commissioner John B. Ohanian, this action caps a three-year PUC investigation aimed at fashioning tougher guidelines for transporting hazardous materials by rail. "This is as far as the PUC can go toward protecting Californians from hazardous materials moved by rail," Ohanian said. "I would like to see more stringent regulations, but we are prohibited from doing so by existing law. I hope that recent tragic events involving toxic spills provide the impetus for our congressional delegation to return more safety authority to the state."

Essentially, the PUC is setting up a response network for the California railroad system. The rule focuses on the "emergency response agency" (ERA) as a vital link to provide assistance with toxic spills. It responds to the need for coordination during emergencies between state and local agencies and the railroads. An ERA is defined as any fire department, police department, or local emergency preparedness office responsible for emergencies. The rule is an attempt to fill a gap in present state and federal regulations. Besides reporting



to other state and federal offices, each railroad must immediately telephone the appropriate ERA to report an incident. The railroads must provide dispatchers with procedures for notifying ERAs of any incident and maintain a list of 24-hour emergency numbers for each ERA along rail lines.

Each railroad transporting hazardous materials must have an emergency preparedness plan, including procedures for notifying ERAs of an incident, ways to mitigate the release or threatened release of a toxic material to minimize potential harm to persons or the environment, and a training program for workers on how to respond to accidents involving hazardous materials. All trains transporting hazardous materials, including yard and switch engines, must be equipped with at least two radios to ensure train crews can communicate with ERAs. A railroad may not operate over a track which falls below standards set in the Track Safety Standards of the Code of Federal Regulations (Title 49). Each railroad must provide PUC representatives access for inspection of any required documents.

While ERA teams are essential for emergencies, the crucial issue is avoidance of future spills. SB 152 (Killea) and AB 684 (Moore) represent *post facto* attempts by the legislature to avoid future spills. These bills require uniform annual fees for railroad corporations to provide funding for PUC inspection of railroad facilities, equipment, and operations (see *infra* LEGISLATION).

The recent derailments prompted other responses as well. On August 22, the PUC initiated a formal Order Instituting Investigation (OII) to evaluate whether Southern Pacific "has operated prudently and safely and satisfied applicable rules and regulations." The findings of the investigation will assist the Federal Railroad Administration (FRA) in carrying out its regulatory duty to ensure the safe operation of railroads. The goals of the OII are to "(a) investigate the causes of the derailments, (b) identify any local safety hazards, (c) investigate compliance and pursue enforcement of existing CPUC jurisdictional rules and regulations, and (d) recommend improvements in state or federal laws or regulations necessary to prevent future derailments or to facilitate emergency response."

According to the OII, the PUC is particularly interested in reviewing Southern Pacific's Operations, Emergency Allocation and Response Plan and/or related corporate guidelines and its System Safety Plan for its California operations. The PUC is investigating

whether Southern Pacific violated applicable state and/or federal statutes and/or regulations. If Southern Pacific violated Commission rules or orders, the PUC may impose a fine under sections 2108 and 2115 of the Public Utilities Code. If the Commission finds violations of federal safety regulations, the PUC may file a report with the Federal Railroad Administration.

A prehearing conference in the OII was scheduled for October 11.

Dump Truck Deviation Pricing Report Released. In July, the Economics and Analysis Branch of the PUC's Transportation Division published a report entitled *The Dump Truck Minimum Rate Tariff Deviation Program 1989-1991*. In 1989, the PUC mandated significant changes in dump truck rate deviation procedures in Decision 89-04-086 and modified these procedures under Decision 89-09-104. A rate deviation is authority from the Commission to assess a rate lower than the established minimum rate. The PUC liberalized the use of deviation procedures by eliminating the "special circumstances" requirement. Relaxation of this standard encourages increased use of price deviations which promote pricing flexibility in the dump truck industry. The Commission limited the new program to a two-year period in order to allow Transportation Division staff to study the results.

Results of the study indicate the deviation program has increased downward pricing flexibility. The number of carriers filing deviations has increased from 11 per month to greater than 21 per month. According to the report, no discernible negative effects on carrier or industry profit have occurred. One concern is that only 5-10% of the carriers for the entire dump truck market used the deviated rates during the two-year period of the study. Minimum rates remain the dominant form of pricing in the for-hire dump truck market.

The report lists four possible options for the Commission: (1) continue the current program as is with minor modifications; (2) retain the simplified and full cost deviations and eliminate the variable cost deviation; (3) retain only the full cost deviation; or (4) return to the previous deviation program. These options were scheduled for discussion at a prehearing conference in San Francisco on October 9.

Investigation of Electric and Magnetic Fields Continues. As part of its ongoing investigation of the health effects of exposure to electric and magnetic fields (EMF) on utility employees and consumers, a PUC ALJ announced

the selection of members to the California EMF Consensus Group on September 4. The 17-member group is composed of representatives from the scientific community, government, consumer groups, and utilities. The group is to devise proposed policies for PUC adoption regarding utility-funded EMF research, as well as interim procedures to guide electric utilities in providing information to the public. The consensus group will also consider possible policies regarding the construction of new transmission and distribution lines and the modification of existing facilities, and responses to the concerns of the citizens who live, work, or spend time close to existing facilities. The process is expected to take approximately four months. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 174-75 for background information on the PUC's investigation of EMFs.)

Concurrently, the PUC and the California Department of Health Services are overseeing three research studies designed to determine whether there are significant health effects from exposure to electrical power systems and cellular radiotelephone towers.

PUC Requires Utilities to Consider the Environment. On June 5, the PUC issued a decision requiring electric utilities to consider the air quality impacts of generation supply alternatives in deciding which resources are least costly. In its decision, the Commission adopted values which will be assigned to the residual emissions of electricity generation—the pollutants emitted by a power plant even after installing all required pollution devices. In supplying these values, utilities will pay more for cleaner energy. In other words, if a seller of electricity uses cleaner technology than the utility, that seller is eligible to receive an air quality premium in its payment from the utility. Likewise, utilities will pay less to sellers that emit more pollutants than the utilities' own generation.

The PUC also adopted revisions to the contract terms utilities offer to independent generation companies. The changes are designed to help alleviate disadvantages to capital-intensive technologies in competitive bidding—many of which are renewable resources such as geothermal, solar, and other nonfossil-fueled generation technologies. The PUC hopes that the incorporation of these changes, in addition to the air quality costs, will lessen utilities' reliance on coal, oil, and natural gas in favor of renewable resources.

In another decision aimed at protecting the environment, the PUC on July 2



approved a San Diego Gas and Electric Company (SDG&E) program for converting its fleet of gasoline-fueled vehicles to compressed natural gas vehicles and assisting other businesses in similar conversions. The program, which will cost approximately \$6.8 million, was given a two-year limit by the Commission. The cost will be funded on an equal-cents-per-therm basis of natural gas sold to all SDG&E customers. While the legislature has favored such programs, it has directed the PUC to ensure that the cost of such programs are not passed on to ratepayers unless the PUC determines that the programs are in the ratepayers' interest. The PUC concluded that SDG&E's program meets this criterion.

PUC Issues Generic Ex Parte Communications Rule. On July 31, the PUC announced its intent to adopt a generic rule to control the problem of ex parte communications in PUC proceedings. Currently, ex parte communications rules governing PUC proceedings are adopted on a case-by-case basis. The new rule would apply to all formal proceedings except for rulemaking proceedings and certain related investigations, and would require disclosure of all ex parte contracts in applicable proceedings. (See CRLR Vol. 11, No. 3 (Summer 1991) p. 193 for background information.)

The PUC intends to codify its new rule in Article 1.5, Chapter 1, Title 20 of the CCR. The PUC was scheduled to consider adopting the proposed rule at its October 11 meeting in San Francisco.

Auditor General Investigating PUC's Intervenor Compensation Program. In April, the Office of the Auditor General (OAG) began an investigation of the PUC's intervenor compensation program at the request of Senator Robert Presley. (See *supra* agency report on OAG for related discussion.) The purpose of the intervenor compensation program is to encourage participation by ratepayer representatives in PUC proceedings. Under the program, consumer intervenors who participate in certain proceedings and are determined to have made a "substantial contribution" to an order or decision of the PUC benefiting ratepayers are eligible to request reimbursement of their attorney and expert witness fees and costs of participating in the proceeding. Intervenor compensation awards are paid by the utility at issue in the proceeding, and are passed on to the utility's customers. The PUC's intervenor compensation program is authorized by Public Utilities Code section 1801 et

seq., and is governed by a series of complex regulations codified Title 20 of the CCR. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 1 for extensive background information on this issue.)

Recently, numerous consumer intervenors have complained that the PUC's implementation of its intervenor compensation program is arbitrary, unfair, noncompensatory, and plagued by inexcusable delay. Nonprofit consumer organizations routinely have to wait years after participating in a proceeding to even learn whether they will be awarded compensation, and requests for compensation are usually slashed by the Commission under policies and guidelines which are not authorized in any statute or regulation. (See CRLR Vol. 11, No. 2 (Spring 1991) pp. 36-37 for background information.) Intervenor argue that the PUC's practices serve to actively discourage consumer participation in Commission proceedings because ratepayer representatives cannot even recoup their actual out-of-pocket expenses, much less market rates for services rendered.

At the request of Senator Presley, OAG's Performance Division is investigating the PUC's program for efficiency and effectiveness. OAG has solicited information from 26 intervenor organizations and 6 utilities. OAG's final report will include recommendations to the PUC and other involved parties for improving the system.

The PUC's intervenor compensation system has also generated legislative interest, in the form of AB 1975 (Moore) (see *infra* LEGISLATION).

PUC to Consider Intervenor Compensation for Merger Work. The Utility Consumers' Action Network (UCAN) is seeking \$234,794.31 from Southern California Edison (SCE) for UCAN's work in defeating the proposed merger between SCE and SDG&E. The merger was rejected by the PUC on May 8 after an extensive evidentiary hearing process. (See CRLR Vol. 11, No. 3 (Summer 1991) pp. 190-91; Vol. 11, No. 2 (Spring 1991) pp. 173-74; and Vol. 11, No. 1 (Winter 1991) p. 145 for background information on the merger.) SCE claims that UCAN is only entitled to \$116,832.81. The PUC is not expected to rule on UCAN's motion until early 1992.

Telecommunications Education Trust Funds Twenty Projects. On June 19, the PUC awarded a total of \$2.8 million to twenty organizations charged with educating consumers about telecommunications products, services, and regulation. For three years, the PUC's Telecommunications Education Trust

(TET) has been awarding grants from a \$16.5 million penalty assessed against Pacific Bell for deceptive marketing practices during 1985-86. With interest, a total of \$21 million will be disbursed over a six-year period. (See CRLR Vol. 10, No. 4 (Fall 1990) p. 179; Vol. 9, No. 4 (Fall 1989) p. 133; and Vol. 9, No. 2 (Spring 1989) p. 117 for background information.)

Out of 145 applications, the largest award (\$800,000) went to Consumer Action for telecommunication education targeted at low-income, senior, disabled, and minority consumers. The Union of Pan Asian Communities/Chicano Federation received \$212,119 to create and disseminate video and written materials in several different languages, and the Pacifica Foundation was awarded \$199,850 to produce and broadcast a series of 13 one-hour radio programs on telecommunications issues. Other awards went to the Center for Public Interest Law to expand its inside wiring education project statewide, and to TURN to continue its bimonthly telecommunications newsletter and expand its repository of TET materials.

The Fund, which has distributed \$11 million among 82 different projects, was originally administered by California Community Foundation, a Los Angeles-based firm. On August 7, the PUC announced that Richard Heath and Associates, a Fresno firm, will oversee TET's operations for the next three years.

LEGISLATION:

SB 152 (Killea), as amended September 9, requires railroad corporations to pay specified fees to the PUC, which are required to be used for rail safety. The bill also requires the PUC to establish by January 31, 1992, the initial fee which is to be paid under these provisions, and requires that the PUC commence collection of the fee on February 1, 1992. This bill was signed by the Governor on October 10 (Chapter 767, Statutes of 1991).

AB 2054 (Polanco), as amended September 11, requires the PUC to authorize public utilities to engage in programs to encourage economic development, and requires reasonable expenses for economic development programs to be allowed, to the extent of ratepayer benefit, when setting rates to be charged by those public utilities electing to initiate these programs. This bill was signed by the Governor on October 11 (Chapter 852, Statutes of 1991).

SB 1209 (Committee on Energy and Public Utilities), as amended August 20, permits the PUC to authorize gas



and electrical corporations to include in ratepayer-supported research and development programs activities that relate to improving the energy efficiency of manufactured housing and mobilehomes, to provide incentives to seniors, low-income households, and others who buy new manufactured homes, or mobilehomes that incorporate energy efficiency measures, and to recover through rates the reasonable costs associated with these programs. This bill was signed by the Governor on October 12 (Chapter 890, Statutes of 1991).

The following is a status update on bills reported in detail in CRLR Vol. 11, No. 3 (Summer 1991) at pages 193-96:

SB 1041 (Roberti), as amended August 22, would have authorized judicial review of PUC proceedings to take place in either the California Supreme Court or an appellate court. This bill was vetoed by the Governor on October 4.

SB 841 (Rosenthal), as amended July 3, makes lessors responsible for installing a telephone jack and placing and maintaining inside wiring in rental units, and requires telephone corporations to annually provide residential subscribers with prescribed information on their responsibilities and those of the telephone utility respecting inside wiring. This bill was signed by the Governor on October 13 (Chapter 1001, Statutes of 1991).

AB 1663 (Eaves), as amended August 20, authorizes the PUC to approve contracts between an electrical corporation and its heavy industrial customers as determined by the electrical corporation, of not more than ten years' duration, in which the electrical corporation buys from the heavy industrial customer the right to interrupt the customer's service on short notice, as determined by the PUC. The bill also expressly authorizes the PUC to amend these contracts, and requires the inclusion of a provision in each contract recognizing that authority. This bill was signed by the Governor on October 12 (Chapter 878, Statutes of 1991).

AB 1166 (Moore), as amended August 19, requires the PUC to verify, validate, and review the computer models of any electric corporation that are used for the purpose of planning, operating, constructing, or maintaining the corporation's electricity transmission system, and that are the basis for testimony and exhibits in hearings and proceedings before the PUC. This bill was signed by the Governor on October 7 (Chapter 695, Statutes of 1991).

SB 547 (Rosenthal), as amended June 20, provides that the ownership or operation of a facility which sells com-

pressed natural gas at retail to the public for use only as a motor vehicle fuel, and the selling of compressed natural gas at retail from such a facility to the public for use only as a motor vehicle fuel, does not make the corporation or individual a public utility. This bill was signed by the Governor on October 5 (Chapter 514, Statutes of 1991).

AB 1585 (Moore), as amended April 24, would have provided that in establishing the relative priority for gas used for the purpose of generating electricity, either by utility electric generators or by cogenerators, the PUC must consider the effect of the priority it establishes on electric ratepayers, and shall consider the location of the electric generation facility in an extreme nonattainment area for purposes of state and federal air quality laws and regulations. This bill was vetoed by the Governor on October 12.

AB 1607 (Costa), as amended August 20, permits the PUC to authorize natural gas utilities to (1) construct and maintain compressed natural gas refueling stations to be owned and operated by the utility, or to be transferred to nonutility operators; (2) support the construction and maintenance of compressed natural gas vehicle conversion and maintenance facilities; (3) provide incentives for conversion of motor vehicles to compressed natural gas fueled vehicles, and incentives to promote the purchase of factory-equipped compressed natural gas fueled vehicles; and (4) recover through rates, as specified, the reasonable costs associated with these projects. This bill was signed by the Governor on October 14 (Chapter 1204, Statutes of 1991).

SB 721 (Rosenthal) requires the PUC to require, by rule or order, that every facilities-based cellular service provider provide access for end users on its system to the local emergency telephone services, that they utilize the "911" code as the primary access number for those services, and that (where feasible) "911" calls from cellular units be routed to an office of the California Highway Patrol that is nearest to the cell site from which the call has originated. This bill was signed by the Governor on July 29 (Chapter 273, Statutes of 1991).

AB 1123 (Moore) as introduced March 5, extends indefinitely provisions which require every telephone corporation furnishing local service, on or before March 1, 1988, and annually thereafter, to provide to its residential subscribers a description of its public telephone service and its policies for furnishing public telephone service, in-

cluding policies of public need and safety and how a customer or subscriber can contact the corporation for additional information. This bill was signed by the Governor on July 20 (Chapter 134, Statutes of 1991).

AB 1747 (Boland), as introduced March 8, includes persons who provide charter-party carrier services incidental to commercial balloon operations as eligible for a Class C certificate, which entitles them to special insurance and regulatory fee requirements. This bill was signed by the Governor on October 6 (Chapter 636, Statutes of 1991).

SB 973 (Rosenthal), as amended June 20, would have required the PUC to establish procedures governing the offering of information services through information access services offered by local or interexchange telephone companies. This bill was vetoed by the Governor on October 7.

AB 807 (Roybal-Allard), as amended June 11, extends indefinitely certain duties of the PUC which otherwise would become inoperative on July 1, 1991; these duties include requiring telephone corporations to offer to residential telephone subscribers a means to delete access to information access telephone services at no charge, and requiring telephone corporations to refund to subscribers any amount paid for deletion of access prior to a specified date. This bill was signed by the Governor on August 1 (Chapter 297, Statutes of 1991).

SB 693 (Rosenthal), as amended July 16, requires that the PUC's program of assistance to low-income electric and gas customers, as soon as practicable, include nonprofit group living facilities specified by the PUC, if the PUC makes specified findings. This bill was signed by the Governor on September 26 (Chapter 443, Statutes of 1991).

AB 842 (Rosenthal), as amended August 22, authorizes the PUC to suspend or revoke the permit of a household goods carrier for the filing of a false report of understated revenues and fees, and expressly makes every highway permit carrier and every officer, director, agent, or employee of a highway permit carrier who falsely states the carrier's gross operating revenues in order to underpay PUC's reimbursement fees guilty of a misdemeanor. This bill was signed by the Governor on October 13 (Chapter 927, Statutes of 1991).

AB 684 (Moore). As amended September 5, this bill requires that specified fees which are paid by railroad corporations be used for specified activities of the PUC's Safety Division, which is responsible for inspection, surveillance,



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and investigation of the rights-of-way, facilities, equipment, and operations of railroads and public mass transit guideways, and for enforcing state and federal laws, regulations, orders, and directives relating to the transportation of persons or commodities by rail. This bill was signed by the Governor on October 9 (Chapter 764, Statutes of 1991).

AB 218 (Hauser), as amended July 2, requires the PUC, in coordination with the California Energy Commission, to conduct an investigation on the use of propane as a transportation fuel, including hearings on propane service, rates, and safety; the PUC is required to report the results of the hearings and its recommendations regarding regulation of propane service, rates, and safety to the legislature on or before December 31, 1992. This bill was signed by the Governor on September 18 (Chapter 428, Statutes of 1991).

AB 554 (Moore), urgency legislation introduced February 15, requires the PUC, as expeditiously as possible, to develop and implement procedures which mitigate the significant additional expense incurred by service men and women in communicating with their families and friends during the Persian Gulf War. This bill was signed by the Governor on July 20 (Chapter 122, Statutes of 1991).

SB 1227 (Russell), as amended August 20, requires the PUC, upon determining that the proof of financial responsibility required of every carrier has lapsed or been terminated, to suspend the carrier's registration in the case of a private carrier, or to suspend, cancel, or revoke the registration in the case of an interstate or foreign highway carrier. This bill also requires the PUC, upon recommendation by the Department of the California Highway Patrol, to suspend the registration of a private carrier which has failed to maintain its vehicles in safe condition, if that failure is either a consistent failure or presents an imminent danger to public safety, or if the carrier has failed to enroll its drivers in the Department's pull notice system. This bill was signed by the Governor on October 14 (Chapter 1144, Statutes of 1991).

AB 2236 (Costa), as amended August 20, prohibits the PUC from increasing, or approving an increase in, rates for electrical services by an amount more than the system average rate increase for agricultural and, if applicable, pumping customers before June 1, 1992. This bill, took effect immediately as an urgency statute, was signed by the Governor on October 11 (Chapter 862, Statutes of 1991).

AB 682 (Moore), as amended July 16, extends until July 1, 1993 numerous provisions of law regarding the PUC's jurisdiction and control over the billing and collection practices of telephone corporations for specified purposes. This bill was signed by the Governor on September 18 (Chapter 436, Statutes of 1991).

AB 461 (Moore), as amended May 28, would have required that telecommunications consumers in this state be provided with specified rights. This bill was vetoed by the Governor on September 9.

SB 859 (Rosenthal), as amended June 10, would prohibit the PUC from approving any tariffs, contracts, or similar agreements pertaining to the procurement, storage, or transportation of natural gas by a gas corporation or intrastate pipeline company, to or for the benefit of an electric corporation, unless substantially similar services are also made available to cogeneration technology projects under similar pricing terms and conditions as the service offered to the electric corporation. This two-year bill is pending in the Assembly Utilities and Commerce Committee.

SB 1204 (Committee on Energy and Public Utilities), as introduced March 8, would require the PUC to use forecasts prepared by the California Energy Commission for determinations involving the acquisition of new electrical energy generation resources, including bidding and other competitive acquisition programs, and requests for proposal type solicitations. This two-year bill is pending in the Senate Committee on Energy and Public Utilities.

AB 1431 (Moore), as introduced March 7, would require the PUC to examine wholesale cellular telephone rates in the major metropolitan markets in California, including at least Los Angeles, San Francisco, San Diego, and Sacramento, and by December 31, 1992, to determine the costs, including a fair profit, to provide wholesale cellular telephone service in each of those markets, and to base wholesale rates on those costs. This two-year bill is pending in the Assembly Utilities and Commerce Committee.

AB 558 (Polanco). Existing law generally directs the PUC to require any call identification service offered by a telephone corporation, or by any other person or corporation that makes use of the facilities of a telephone corporation, to allow the caller, at no charge, to withhold, on an individual basis, the display of the caller's telephone number from the telephone instrument of the individual receiving the call. As introduced

February 15, this bill would remove the requirement that the withholding of the display of the caller's telephone number be done on an individual basis. This two-year bill is pending in the Assembly Utilities and Commerce Committee.

AB 314 (Moore), as amended June 25, and **SB 232 (Rosenthal)**, as amended April 18, would direct the PUC to require any call identification service to allow a residential caller, at no charge, to withhold, on either an individual basis or a per line basis, at the customer's option, the display of the caller's telephone number of the individual receiving the call. AB 314 is pending in the Assembly inactive file; SB 232 is pending in the Assembly Utilities and Commerce Committee.

SB 815 (Rosenthal), as introduced March 7, would prohibit an owner or operator of a coin-activated telephone available for public use or any telephone corporation from making any charge for the use of a calling card or collect call for any telephone call made from a coin or coinless customer-owned pay telephone above and beyond the surcharge applicable to users of credit cards for those calls. This two-year bill is pending in the Senate Energy and Public Utilities Committee.

AB 847 (Polanco). Existing law authorizes the PUC, as an alternative to the suspension, revocation, alternation, or amendment of a certificate for a highway common carrier or the permit of a household goods carrier, to impose a fine of up to \$5,000 for a first offense and up to \$20,000 for a subsequent offense. As introduced February 27, this bill would change that fine amount to not more than \$20,000 for any offense. This two-year bill is pending in the Assembly Utilities and Commerce Committee.

SB 1145 (Johnston). Existing law directs the PUC to require highway carriers subject to the Highway Carriers' Act to carry accident liability protection, evidenced by a policy of liability insurance issued by either a licensed company or a nonadmitted insurer whose policies meet the PUC's regulations, a bond of a licensed surety company, or evidence of self-insurance upon the PUC's authorization. As amended May 16, this bill would expressly authorize the PUC to include the determination of the amount of personal liability and property damage response that is required for the operation of common carriers, permit carriers, highway common carriers, and cement carriers. This two-year bill is pending in the Senate Committee on Insurance, Claims and Corporations.



SB 636 (Calderon), as introduced March 5, would authorize the use of money in the PUC's Transportation Rate Fund for conducting studies and research into how to increase the public benefits attained from highway carriers in the areas of safety, environment, productivity, and traffic congestion management. This two-year bill is pending in the Senate Committee on Energy and Public Utilities.

SB 692 (Rosenthal), as introduced March 5, would direct the PUC to require every electrical, gas, and telephone corporation subject to its jurisdiction to transmit to its customers or subscribers, together with its bill for services, a legal notice which describes intervenor groups by name, address, and telephone number. This two-year bill is pending in the Senate Energy and Public Utilities Committee.

AB 1975 (Moore), as amended May 23, would enact provisions which would generally effectuate the participation of consumer groups, including but not limited to low-income and minority groups, which seek to intervene in proceedings of the PUC; participation by these groups would be effectuated by, among other means, the enactment of provisions to facilitate market-level compensation of these intervening consumer groups for their expenses in participating in Commission proceedings. AB 1975 would also ease intervenor eligibility filing requirements, permit intervenors to request compensation before the PUC makes a final decision, remove the existing "nonduplication" standard which effectively precludes intervenors from working together, and expand the types of PUC proceedings for which intervenors may request compensation. This two-year bill is pending in the Senate Energy and Public Utilities Committee.

SB 1036 (Killea), as amended July 10, would express legislative intent with regard to telephone information providers who do business with California consumers, and authorize state governmental agencies to act as, or contract with, information providers which charge consumers for the receipt of, or access to, information about governmental services over the telephone. This two-year bill is pending in the Assembly Utilities and Commerce Committee.

SB 743 (Rosenthal), as introduced March 6, would require the PUC to require that any telephone corporation which requests approval of the modernization of its telephone network with fiber optics also establish and provide an independent source of power for the telephone network in the case of a pub-

lic emergency that could curtail electric power. This two-year bill is pending in the Senate Energy and Public Utilities Committee.

AB 844 (Polanco), as introduced February 27, would authorize the PUC to cancel, suspend, or revoke a certificate or operating permit upon the conviction of a charter-party carrier of any felony. This two-year bill is pending in the Assembly Utilities and Commerce Committee.

AB 846 (Polanco), as introduced February 27, would require the PUC, if, after a hearing, it finds that a highway permit carrier or a household goods carrier has continued to operate as such after its certificate or permit has been suspended pursuant to existing law, to either revoke the certificate or permit of the carrier or to impose upon the holder of the permit(s) a civil penalty of not less than \$1,000 nor more than \$5,000 for each day of unlawful operations. This two-year bill is pending in the Assembly Utilities and Commerce Committee.

AB 90 (Moore), as amended April 8, would require the PUC, in establishing rates for an electrical, gas, telephone, or water corporation, to develop procedures for these utilities to recover, through their rates and charges, the actual amount of local taxes, fees, and assessments, and to adjust rates to correct for any differences between actual expenditures and amounts recovered in this regard. This two-year bill is pending Assembly Utilities and Commerce Committee.

AB 230 (Hauser), as introduced January 14, would require those public utilities which furnish residential service to provide with their bills a statement indicating the customer's consumption of electricity, gas, or water during the corresponding billing period one year previously and the number of days in, and charges for, that billing period. The bill would exempt public utilities furnishing water to fewer than 2,000 customers. This two-year bill is pending in the Assembly Utilities and Commerce Committee.

AB 379 (Moore), as introduced January 30, would create a Department of Telecommunications and Information Resource Management, which would be required to recommend to the Governor and the legislature elements of a state telecommunications and information resource policy, develop plans for the use of telecommunications and information resources by the state, and underwrite or participate in the development of technologies for use by state government. This two-year bill is pend-

ing in the Assembly Utilities and Commerce Committee.

AB 462 (Moore), as introduced February 8, would require the PUC, in establishing public utility rates (except the rates of common carriers) to not reduce or otherwise change any wage rate, benefit, working condition, or other term or condition of employment that was the subject of collective bargaining. This two-year bill is pending in the Senate inactive file.

AB 1792 (Harvey), as introduced March 8, would require the PUC to develop and implement cost estimates for the marginal costs of generation, bulk transmission, and energy costs for different classes of consumers of electrical energy, including but not limited to agricultural use and residential use, for the purpose of determining reasonable and just rates for electrical energy. This two-year bill, which would take effect immediately as an urgency statute, is pending in the Assembly Utilities and Commerce Committee.

ACA 30 (Bates), as introduced March 8, would require the legislature to provide for five public utility districts; provide for the election of the PUC commissioners, each representing one district for staggered four-year terms; and include PUC districts within existing constitutional requirements relating to reapportionment of elective districts. This constitutional amendment is pending in the Assembly Utilities and Commerce Committee.

SB 1042 (Roberti), as amended June 9, would revise specified procedures for hearings and judicial review of complaints received by the PUC or made on the Commission's own motion by requiring, among other things, that PUC hearings requested by complainants be assigned to an administrative law judge. This two-year bill is pending in the Assembly Utilities and Commerce Committee.

AB 1432 (Moore), as amended August 20, would provide that notwithstanding any other provision of law, when the Commission issues, denies, suspends, or revokes the certificate or permit of a passenger stage corporation, a highway common carrier or cement carrier, a highway permit carrier, a household goods carrier, or a charter-party carrier, the decision may be appealed directly to the San Francisco Superior Court, as specified. This two-year bill is pending in the Senate Appropriations Committee.

AB 1260 (Chacon), as introduced March 6, would establish procedures applicable to dump truck carriers and household goods carriers that provide



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for appeal of any interim, interlocutory, or other order of the PUC to a state court of appeal. This two-year bill is pending in the Assembly Utilities and Commerce Committee.

FUTURE MEETINGS:

The full Commission usually meets every other Wednesday in San Francisco.

STATE BAR OF CALIFORNIA

President: John M. Seitman

Executive Officer: Herbert Rosenthal

(415) 561-8200

(213) 580-5000

Toll-Free Complaint Number:

1-800-843-9053

The State Bar of California was created by legislative act in 1927 and codified in the California Constitution at Article VI, section 9. The State Bar was established as a public corporation within the judicial branch of government, and membership is a requirement for all attorneys practicing law in California. Today, the State Bar has over 128,000 members, which equals approximately 17% of the nation's population of lawyers.

The State Bar Act, Business and Professions Code section 6000 *et seq.*, designates a Board of Governors to run the State Bar. The Board President is elected by the Board of Governors at its June meeting and serves a one-year term beginning in September. Only governors who have served on the Board for three years are eligible to run for President.

The Board consists of 23 members—seventeen licensed attorneys and six non-lawyer public members. Of the attorneys, sixteen of them—including the President—are elected to the Board by lawyers in nine geographic districts. A representative of the California Young Lawyers Association (CYLA), appointed by that organization's Board of Directors, also sits on the Board. The six public members are variously selected by the Governor, Assembly Speaker, and Senate Rules Committee, and confirmed by the state Senate. Each Board member serves a three-year term, except for the CYLA representative (who serves for one year) and the Board President (who serves a fourth year when elected to the presidency). The terms are staggered to provide for the selection of five attorneys and two public members each year.

The State Bar includes twenty standing committees; fourteen special committees, addressing specific issues; six-

teen sections covering fourteen substantive areas of law; Bar service programs; and the Conference of Delegates, which gives a representative voice to 291 local, ethnic, and specialty bar associations statewide.

The State Bar and its subdivisions perform a myriad of functions which fall into six major categories: (1) testing State Bar applicants and accrediting law schools; (2) enforcing the State Bar Act and the Bar's Rules of Professional Conduct, which are codified at section 6076 of the Business and Professions Code, and promoting competence-based education; (3) ensuring the delivery of and access to legal services; (4) educating the public; (5) improving the administration of justice; and (6) providing member services.

During the State Bar's annual meeting on September 13-16 at the Anaheim Hilton, John M. Seitman was sworn in as the Bar's new President. Seitman, a San Diego attorney from the firm of Lindley, Lazar and Scales, graduated from the University of Illinois School of Law in 1966. President of the San Diego County Bar Association in 1986, Seitman is the fourth San Diego attorney to become State Bar President.

Along with the President, six newly-elected attorney members were sworn into their positions on the Board of Governors. They include Pauline Gee of Marysville, Joseph Bergeron of San Mateo, Donald Fischbach of Fresno, Glenda Veasey of Los Angeles, Edward Huntington of San Diego, and CYLA representative Edward Wright, Jr., of Sacramento.

Four public members appointed by the Governor to the Board were also sworn in at the annual meeting. They include Peter F. Kaye, associate editor of the *San Diego Union* and a resident of Del Mar; Kathryn G. Thompson, chief executive of the Kathryn G. Thompson Development Corporation and a resident of Dana Point; William S. Davila, president of the Vons supermarket chain and a resident of Arcadia; and former Republican Assemblymember Bruce Nestande, a self-employed land consultant from Santa Ana. Nestande graduated from law school but does not practice law.

MAJOR PROJECTS:

Final Report of the State Bar Discipline Monitor. On September 20, Professor Robert C. Fellmeth and the Center for Public Interest Law released the Final Report of the State Bar Discipline Monitor, culminating a five-year investigative effort to reform the State Bar's attorney discipline system. (See

supra FEATURE ARTICLE for condensed version of the Final Report; see also CRLR Vol. 11, No. 2 (Spring 1991) pp. 179-80; Vol. 10, No. 4 (Fall 1990) p. 184; and Vol. 7, No. 3 (Summer 1987) p. 1 for extensive background information.)

The Discipline Monitor position was created by the legislature in 1986 (Business and Professions Code section 6086.9), and Professor Fellmeth was appointed to fill the position by former state Attorney General John Van de Kamp in January 1987. The 1986 legislation came in response to widespread public dissatisfaction with the speed, fairness, independence, and adequacy of the State Bar's discipline system. The position was created to investigate the Bar's attorney discipline system and recommend reforms.

During the past five years, the Bar has made several hundred changes to all aspects of its discipline system. Many of these changes were implemented administratively at the suggestion of the Monitor; some were initiated by the Bar itself. The most important structural reforms occurred in 1988 with the passage of Senate Bill 1498 (Presley) (Chapter 1159, Statutes of 1988), which was drafted by Professor Fellmeth. Both SB 1498 and SB 1543 (Chapter 1114, Statutes 1986), the statute creating the Bar Monitor position, were authored by Senator Robert Presley of Riverside, who received special acknowledgment in the Final Report. Fellmeth's term (and the Discipline Monitor position) sunsets on December 31.

The voluminous Final Report acknowledges that the discipline system of the State Bar has made substantial progress over the past five years. Highlights of that progress include the dissipation of huge consumer complaint backlogs which have historically choked the system. For example, the backlog in the Bar's Office of Investigations has been reduced from almost 4,000 cases to fewer than 100 cases. Most important, the Bar has agreed to divest itself of making discipline decisions. Instead of its previous system of using volunteer practicing attorneys to investigate and preside over disciplinary hearings concerning their colleagues, the Bar has created a professional and independent State Bar Court: One of six, full-time judges presides over the accused attorney's hearing, and a three-judge panel handles a one-step appeal. None of these persons is a practicing attorney, and one of the appellate panel members is a non-lawyer public member. State Bar Court judges are appointed directly by the California Supreme Court.