

Date of Hearing: April 22, 2026

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY
Cottie Petrie-Norris, Chair
ACA 9 (Boerner) – As Amended April 14, 2026

SUBJECT: Public Utilities Commission

SUMMARY: Proposes several amendments to Article XII of the California Constitution, which governs the California Public Utilities Commission (CPUC). Specifically, **this bill:**

- 1) Expands the CPUC’s membership from 5 to 9, removes Senate confirmation of Governor’s appointees, and instead requires the Senate Rules Committee and the Speaker of the Assembly to each appoint 2 additional CPUC commissioners.
- 2) Strikes “telephone and telegraph messages” from the constitutional definition of what counts as a public utility subject to CPUC oversight. Asserts that the Legislature has the authority to assign broadband and telecommunications oversight to agencies other than the CPUC.
- 3) Repeals Section 2 of Article XII related to the CPUC establishing its own procedures, including empowering any commissioner to hold hearings or issue orders subject to approval by the full Commission.
- 4) Requires the CPUC when setting rates to consider affordability.
- 5) States it is the legislative intent to:
 - a. Recodify Article XII, Section 2 as a statutory provision in the Public Utilities Code.
 - b. Establish by January 1, 2028, a broadband agency within state government, separate from the CPUC.
- 6) States it is not the legislative intent to limit or affect the authority of the Legislature to prescribe additional classes of private corporations or other persons as public utilities.

EXISTING LAW:

- 1) Establishes the CPUC and vests the agency with regulatory authority over public utilities, including telephone corporations. (California Constitution, Article XII)
- 2) Affirms the Legislature has plenary power, unlimited by other constitutional provisions, to confer additional authority and jurisdiction upon the CPUC, to establish the manner and scope of review of CPUC action in a court, and to enable the CPUC to fix just compensation for utility property taken by eminent domain. (California Constitution, Article XII, Section 5)
- 3) Permits the Legislature to propose an amendment or revision of the Constitution by a two-thirds vote of each house of the Legislature. Provides that a proposed amendment or

revision shall be submitted to the electors and takes effect if approved by a majority of votes cast thereon, as specified. (California Constitution, Article XVIII, Sections 1 & 4)

- 4) Establishes the Public Utilities Act. (Public Utilities Code §§ 201 et. seq.)
- 5) Defines a “public utility” to include every common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, and heat corporation, where the service is performed for, or the commodity is delivered to, the public or any portion thereof. (Public Utilities Code § 216)
- 6) Defines a “telephone corporation” to include every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state. (Public Utilities Code § 234)
- 7) Requires all charges demanded or received by any public utility, or by any two or more public utilities, for any product or commodity furnished or to be furnished or any service rendered or to be rendered, to be just and reasonable. (Public Utilities Code § 451)
- 8) Authorizes the CPUC to supervise and regulate every public utility in the State and permits the CPUC to do all things, whether specifically designated in this part or in addition thereto, which are necessary and convenient in the exercise of such power and jurisdiction. (Public Utilities Code § 701)

FISCAL EFFECT: Unknown. This constitutional amendment is keyed fiscal and will be referred to the Assembly Committee on Appropriations for its review.

BACKGROUND:

The CPUC – The CPUC traces its origins to the California Railroad Commission, established in the late 1870s in response to the expansion of the transcontinental railroad. Public backlash against railroad influence on state government – particularly that of the Southern Pacific – fueled Progressive Era reforms, leading to a reconstituted Railroad Commission in 1911 and the passage of the Public Utilities Act in 1912, which extended the agency's jurisdiction to for-profit transportation, water, electricity, gas, and telephone and telegraph services. The agency was renamed the California Public Utilities Commission in 1946. Today, the CPUC is the largest state utility regulator in the nation, overseeing privately owned electric, natural gas, water, and communications companies, as well as railroad safety, rail transit, and passenger-for-hire carriers, including ride-hailing companies such as Uber and Lyft. Its core mission is to ensure Californians have access to safe, reliable utility services at just and reasonable rates.

The Need for Reform – As the jurisdiction of the CPUC has grown, so has its impact on Californians. This greater responsibility has also led to greater scrutiny. In the last fifteen years, independent audits have identified issues with budgeting functions¹ and revenue collection within the CPUC.^{2,3} Tragedies such as the San Bruno Disaster, where eight people were killed as

¹ Department of Finance, Audit and Evaluation Reports, 2013, *California Public Utilities Commission Budget Process Performance Audit* (138660016BIR).

² Department of Finance, Audit and Evaluation Reports, 2021, *California Public Utilities Commission Performance Audit* (Report No. 21-8660-028), 2021.

a result of a natural gas pipeline explosion, and the 2018 Camp Fire, where Pacific Gas & Electric Company was found negligent and guilty of 84 counts of involuntary manslaughter, have focused criticism on the CPUC's safety mandates and regulatory activities. These events have led to a number of legislative efforts toward CPUC reform (see the Prior Legislation section below). In recent years, a primary concern under the purview of the CPUC is rising electricity prices and ratepayer affordability. With California's electricity prices second highest in the United States,⁴ there is growing interest in the details of rate setting, General Rate Case (GRC) proceedings, decision making by Commissioners, and how to increase transparency and oversight of these processes.

CPUC Commissioners – Section 1 of Article XII of the California Constitution establishes that the CPUC has five commissioners appointed by the Governor, and confirmed by the Senate, with each commissioner serving six-year staggered terms. No executive of a public utility may serve as a commissioner within two years of working for a utility. Commissioners meet at monthly (often semi-monthly) business meetings to vote on pending items at the agency. Commissioners serve full-time and receive a salary as civil executive officers. The Governor designates the president of the CPUC, pursuant to Public Utilities Code § 305, among the five commissioners. The president presides at meetings and sessions of the CPUC and directs the executive director, the attorney, and other staff of the CPUC. The president of the CPUC is also required to annually appear before the appropriate policy committees of the Senate and Assembly to present the annual report of the agency, required pursuant to Public Utilities Code § 910.

COMMENTS:

- 1) *Author's Statement.* According to the author, "Californians are paying the highest, and continually rising, utility rates compared to the rest of the nation. Decisions on rate hikes take place at the California Public Utilities Commission (CPUC), an agency whose influence and decisions have reverberating effects on our daily lives. We see the impacts through ever increasing electric bills and mismanagement of our state's public utilities that has resulted in dangerous wildfires, record profits for utility executives, and inefficient programs that cost ratepayers billions. Unfortunately, the Legislature has limited authority to implement structural reforms that our constituents want without amendments to the Constitution. ACA 9 would return the power back to the people's directly elected representatives, instead of only 5 unelected political appointees. The changes in this constitutional amendment open the door for the structural reforms that are needed to get the CPUC focused on the most pressing issues Californians care about like energy affordability, meeting our climate goals, and safer utilities."
- 2) *Purpose of this Measure.* California's constitutional provisions governing public utility regulation were established under conditions that differ substantially from those facing the state today. Changes in technology, the economy, and the demands placed on essential services have prompted questions about whether the existing framework remains adequate to address current and emergent challenges. This measure responds to those questions by revisiting foundational structures: how regulatory bodies are composed, what authority is assigned where, and what principles guide decision-making.

³ <https://information.auditor.ca.gov/reports/agency/77>, accessed March 21st, 2025.

⁴ Legislative Analyst's Office, 2025. *Assessing California's Climate Policies Residential Electricity Rates in California.*

This constitutional amendment seeks to better align the CPUC with the realities today. The underlying premise is that the CPUC's governance structures require periodic reexamination to remain functional and responsive, and that constitutional provisions in particular benefit from revision when they constrain rather than enable the Legislature's ability to adapt policy to changing circumstances.

- 3) *Shifting Appointment Powers from the Executive Branch.* Currently the Constitution requires that all five CPUC commissioners be appointed by the Governor and confirmed by the Senate. This measure seeks to expand the membership of the CPUC, growing the body by four commissioners. It likewise authorizes both houses of the Legislature to appoint commissioners to the CPUC.

Distributing appointments across the Governor, the Senate Rules Committee, and the Speaker of the Assembly could produce a CPUC whose members reflect a wider range of political perspectives and regional interests. It may also reduce the risk that a single administration can rapidly reshape the CPUC's direction, lending more continuity to regulatory decisions. Legislative appointees may also feel more accountable to the public through their appointing bodies. However, divided appointment authority can create internal friction and slow the CPUC's ability to act swiftly and cohesively. It would also likely politicize the CPUC further rather than insulate it.

The composition of state agencies and executive bodies varies widely across California. Most executive branch boards and commissions are appointed by the Governor, with Senate confirmation. But there are plenty of examples where boards and commissions have legislative appointments, such as the California Air Resources Board (16 members: 2 voting, EJ reps appointed by each house; and 2 non-voting, ex officio members of the Legislature),⁵ the Underground Safety Board (9 members: 7 Governor appointments, 1 appointment by each house),⁶ or the California Coastal Commission (12 voting members: 4 appointments from each body).⁷

Unlike typical executive agencies, CPUC commissioners do not serve at the pleasure of the Governor. Their removal requires a two-thirds vote of each house of the Legislature under specified conditions. Extending formal appointment authority to legislative leadership could therefore be seen as consistent with this existing constitutional structure. Precedent from other independent regulatory bodies, mentioned above, further demonstrates that shared appointment authority between the Governor and the Legislature is an established model in California government.

- 4) *Additional Points of Consideration.* This constitutional amendment repeals Section 2 of Article XII, which establishes that the CPUC sets its own rules. Moving the CPUC's procedural rules from the Constitution into statute⁸ makes those rules easier to change in the future, which could expose the CPUC's procedures to volatility, making it challenging for regulated entities to appropriately weigh regulatory risk. This is especially concerning given the CPUC is a quasi-judicial body, adjudicating cases of

⁵ <https://ww2.arb.ca.gov/resources/fact-sheets/board-appointments-qualifications-and-terms>

⁶ GOV § 4216.13

⁷ PRC § 30301

⁸ which would be achieved in companion legislation, AB 2289, if chaptered.

utility misconduct or deciding ratecases. As a result, the CPUC's procedures are bound by due process, equal protection, and the substantial evidence standard, among others. Changes to CPUC procedures that inadvertently amend these governing protections could expose the CPUC to litigation risk. In addition, adding "affordability" as a ratesetting consideration without defining it introduces interpretive ambiguity that could likewise generate litigation or inconsistent application.

5) *Related Legislation.*

AB 13 (Ransom, 2025) would make changes to the CPUC, including requiring specified geographic representation of commissioners and specified reporting to the Legislature concerning utility rate-setting cases. Status: *pending hearing* – Senate Committee on Appropriations.

AB 2289 (Boerner, 2026) establishes the Office of Broadband and Digital Equity (OBDE) within the Government Operations Agency (GovOps) and transfers the responsibility for several existing broadband and telecommunications programs, currently administered by the CPUC or the California Department of Technology (CDT), to the OBDE. This bill would also revise the definition of telephone line, prohibit the CPUC from regulating broadband service, and make various other conforming changes to existing law. Finally, this bill requires the Governor to consider certain diversity factors when making appointments to the CPUC and codifies provisions of the Constitution related to the CPUC's authority. Status: *pending hearing* in the Assembly Committee on Appropriations. The bill has been significantly amended since passage in this committee on a 13-1-4 vote on April 8, 2026.

6) *Prior Legislation.*

AB 111 (Committee on Budget) created the Office of Energy Infrastructure Safety within the Natural Resources Agency, and transferred existing work related to utility wildfire mitigation plans oversight from the CPUC to the new Office. Status: Chapter 81, Statutes of 2019.

SB 19 (Hill) provides a suite of reforms of CPUC operations, including: the transfer, by July 1, 2018, of four transportation-related functions from the CPUC to other agencies or jurisdictions; clarifies and, in some cases, codifies the responsibilities and oversight of various positions; clarifies CPUC notification requirements for contracting of outside legal services; and others. Status: Chapter 421, Statutes of 2017.

ACA 11 (Gatto, 2016) would have authorized the Legislature to reallocate or reassign all or a portion of the functions of the CPUC to other state agencies, departments, boards, or other entities, consistent with specified purposes. The measure would direct the Legislature to adopt appropriate structures to provide greater accountability for the public utilities of the state and provide the necessary guidance to the commission to focus its regulatory efforts on safety, reliability, and ratesetting and to implement statutorily authorized programs for reducing emissions of greenhouse gases. Status: *Died* – Senate Committee on Energy, Utilities, and Communications.

REGISTERED SUPPORT / OPPOSITION:

Support

California Environmental Voters (formerly CLCV)
SanDiego350

Opposition

None on file.

Analysis Prepared by: Laura Shybut / U. & E. / (916) 319-2083