

## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



Dear Applicant:

Enclosed you will find information to aid you in applying for a new or transfer authority to operate as a passenger stage corporation (PSC) or vessel common carrier (VCC). It is your responsibility to ensure that the application is filed in accordance with the Commission's Rules of Practice and Procedure (RPP), which may be viewed on the Commission's Web site at <http://www.cpuc.ca.gov>.

The application must be typewritten on 8½" by 11" paper. The original and six (6) complete copies of the application, including all exhibits and certificate of service, must be filed with the Commission before any action can be taken.

**Mail your application with a check payable to CPUC to:**

CALIFORNIA PUBLIC UTILITIES COMMISSION  
ATTN: DOCKET OFFICE  
505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102

The applicable filing fee must accompany your application. **The filing fee is non-refundable regardless of the outcome of the application.** The applicable fees are:

- \$500 – application fee for new passenger stage corporation certificate.
- \$300 – application fee to sell or transfer a certificate of public convenience and necessity.
- \$ 75 – application fee for new vessel common carrier certificate.
- \$ 75 – application fee to sell or transfer a vessel common carrier certificate.

This packet is divided into sections as follows:

- I. Application specimen form.
- II. Scoping memo information. This must be completed and attached to the back of your application.
- III. Excerpts from the Commission's Rules of Practice and Procedure.
- IV. Summary of the Commission's Drug and Alcohol Testing Requirements.

Applicants for a PSC certificate are encouraged to review the Commission's General Order 158-A, which contains rules and regulations governing the operations of PSCs. It is available for viewing on the Commission's Web site under "General Orders, Codes, and Rules."

**Filing of an application does not authorize you to commence operations. You may begin operations only after receiving approval from the Commission.**

License Section  
Consumer Protection and Safety Division  
Encl.

# SECTION I

## APPLICATION SPECIMEN FORM

**THIS IS NOT AN APPLICATION FORM. USE THE FORMAT BELOW AS A GUIDE TO FILE YOUR APPLICATION.** The application must be typewritten on 8½" by 11" paper. Instructions are in ***bold italic.***

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### BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of *[enter name of applicant(s) and business name, if applicable]* for authority to operate as a *[enter type of service, for example, scheduled or on-call]* passenger stage corporation between points in *[enter points to be served]* and *[enter points to be served]* and to establish a Zone of Rate Freedom *[optional - see explanation under proposed fare paragraph]*

APPLICATION NO. \_\_\_\_\_  
*[assigned by CPUC]*

### APPLICATION

The application of *[enter exact legal name of each applicant]*, hereinafter referred to as "Applicant", respectfully states:

The exact name of applicant is *[enter exact legal name of each applicant and if applicant is a corporation, limited liability company, trust, association or other organized group, the State under the laws of which such applicant was created or organized. If applicant is a corporation, insert the words "a corporation" after the name. A copy of the corporation's articles of incorporation must be attached to the original of the application only. If articles have already been filed, specific reference to the prior proceeding by number shall be made]*, who (or which) will do business as *[enter fictitious business name, if applicable]*. (RRP, Rules 2.1 and 2.2)

The principal place of business is located at *[enter location of principal place of business, including phone number]*. (RRP, Rule 2.1)

The names, titles, and address of the various officers of the company or owners or partners, and their interests are as follows: *[enter information, if applicable]*.

Communications in regard to this application are to be addressed to *[enter name, title, and address of the person to whom communications in regard to the application are to be addressed]*. (RPP, Rule 2.1)

Pursuant to Public Utilities Code Section 1031, applicant requests a certificate of public convenience and necessity to establish and operate as a *[enter full description of service, including type of service such as scheduled or on-call]* passenger stage corporation, for the transportation of passengers between *[enter service area]* and *[enter service area]*. (RPP, Rules 2.1 and 3.3)

The proposed fares to be assessed for this service, and rules and regulations governing the same, are as set forth in Exhibit \_\_\_\_ attached hereto. *[Attach exhibit showing the proposed fares, rules and regulation]*. (RPP, Rule 3.3(a)(6))

**ESTABLISHING A ZONE OF RATE FREEDOM** - *If you wish to have the flexibility to adjust your rates up and down without having to file a formal application with the Commission, you may request to establish a Zone of Rate Freedom (ZORF), pursuant Pub. Util. Code Section 454.2. Indicate the level of ZORF you desire, for example, \$15 above and below the proposed fares. If application of the ZORF below the proposed fare could result in a fare of zero, state the minimum fare. Any passenger stage transportation service which is operating in competition with other passenger transportation services from any means of transportation, may request to establish a ZORF if the competition together with the authorized zone of rate freedom will result in reasonable rates and charges for the passenger stage transportation service.*

The proposed time schedule between the points to be served is as set forth in Exhibit \_\_\_\_ attached hereto. *[If you are providing scheduled service, attach a proposed time schedule. The proposed points to be served should be shown in their geographical order in columnar form to the left. If you are providing on-call service, give a full description together with a complete statement of the conditions under which the service will be performed]*. (RPP, Rule 3.3(a)(7))

**A map showing the proposed route of operations is attached hereto as Exhibit \_\_\_\_.** *[Prepare a map or sketch of the route and points to be served, drawn to suitable indicated scale, and showing the proposed operation by distinctive coloring or marking]*. (RPP, Rule 3.3(a)(5))

A description of the equipment to be operated in the proposed service is as shown in Exhibit \_\_\_\_ attached hereto. *[List and describe the type of equipment to be used in the proposed service, showing the make, model, and seating capacity]*. (RPP, Rule 3.3(a)(8))

A financial statement of applicant is attached hereto as Exhibit \_\_\_\_\_. *[Prepare current financial statements that include a balance sheet in sufficient detail to show financial ability of applicant to establish the proposed service]*. (RPP, Rule 3.3(a)(9))

Public convenience and necessity requires a grant of authority requested by the applicant for the following reasons: *[State in detail the conditions upon which reliance is made as justification for granting the authority requested. Information provided should show a complete description of the proposed operations including projected number of passengers and any other data to support the application]*. (RPP, Rules 2.2 and 3.3)

The names of all county and city governmental entities, regional transportation planning agencies and public transit operators within whose boundaries passengers will be loaded or unloaded are attached hereto as Exhibit \_\_\_\_\_.

1. *[Provide a complete list of the names of all county and city governmental entities and regional transportation planning agencies within whose boundaries passengers will be loaded or unloaded]. (RPP, Rule 3.3(b))*
2. *[Mail a notice that the application has been filed to each of these entities and agencies. This notice must state in general terms the authority sought in the application, including the proposed routes, schedule, fares and equipment. It must also state that you will furnish a copy of the application and related exhibits upon receiving a written request. For an example, see Attachment A]. (RPP, Rule 3.3(b))*
3. *[A copy of the notice and a Certificate of Service must be filed with the Commission's Docket office together with this application. (RPP, Rule 3.3(b)) Include a complete list of all public transit carriers operating in any portion of the territory sought to be served by this application. A copy of this application must be mailed to each of the public transit operators listed. When you file this application with the Commission's Docket Office, you must include a certificate of service showing that you have served the copies. You must mail or give a copy of this application to any potential competitor, governmental entity, or interested party who requests a copy, and to any other person as the Commission may direct. For an example, see Attachment B]. (RPP, Rule 3.3(b))*
4. *[You may request a waiver of the requirements of RPP, Rule 3.3(b)]. (RPP, Rule 1.2)*

Wherefore, Applicant prays that a certificate be granted authorizing the operation of the service hereinabove described and for such further order as may be proper.

Dated \_\_\_\_\_ at \_\_\_\_\_, California, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Applicant *[The signature of the applicant must be verified. See attachment C for a sample Verification statement. If applicant is a corporation, an authorized officer must sign the application]. (RPP, Rule 1.8)*

\_\_\_\_\_  
Signature and address of attorney, if applicable *[An applicant's attorney or representative may verify a document on behalf of the applicant.]*

CORPORATE SEAL, IF APPLICANT IS A CORPORATION

## ATTACHMENT A

### NOTICE

On \_\_\_\_\_, the Application of \_\_\_\_\_  
dba \_\_\_\_\_ was filed with the California Public Utilities Commission,  
seeking a passenger stage corporation certificate to perform *[describe in general the type of service,  
proposed routes, schedules, fares (refer to exhibit number) and equipment]*. A copy of the Application  
and related exhibits will be furnished by applicant upon request. Please direct request to *[enter  
name and address, and phone of contact person or company's name]*.

**ATTACHMENT B**

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the within application on the following named public transit operators and Notices of said filing, a copy of which is attached hereto, on all the named city and county governmental agencies, regional planning agencies and airports by mailing a copy via first-class mail with postage prepaid.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.

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Signature and name of person signing certificate

**VERIFICATION**

(Where applicant is an individual)

I am the applicant in the above-entitled matter; the statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.

\_\_\_\_\_  
(Applicant)

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**VERIFICATION**

(Where applicant is a corporation)

I am an officer of the applicant corporation herein, and am authorized to make this verification on its behalf. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information or belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California.

\_\_\_\_\_  
(Applicant)

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# **SECTION II**

**Scoping Memo Information for Applications**

**A. Category<sup>1</sup> (Check the category that is most appropriate)**

**Adjudicatory** – “Adjudicatory” proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

**Ratesetting** – “Ratesetting” proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities) or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). “Ratesetting” proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. Other proceedings may also be categorized as Ratesetting when they do not clearly fit into one category.

**Quasi-legislative** – “Quasi-legislative” proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.

**B. Are hearings necessary?**                      **Yes**                      **No**

If yes, identify the material disputed factual issues on which hearings should be held, and the general nature of the evidence to be introduced.

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**Are public witness hearings necessary?**                      **Yes**                      **No**

Public witness hearings are set up for the purpose of getting input from the general public and any entity that will not be a party to the proceeding. Such input usually involves presenting written or oral statements to the presiding officer, not sworn testimony. Public witness statements are not subject to cross-examination.

**C. Issues** – List here the specific issues that need to be addressed in the proceeding.

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<sup>1</sup> See California Public Utilities Commission Rules of Practice and Procedure, Article 2.5, especially Rules 5 and 6a, which appear on the Commission’s internet page ([www.cpuoc.ca.gov](http://www.cpuoc.ca.gov)) under the heading “CPUC General Information, Rules of Practice and Procedure.”

**D. Schedule (Even if you checked "No" in B above)** Should the Commission decide to hold hearings, indicate here the proposed schedule for completing the proceeding within 12 months (if categorized as adjudicatory) or 18 months (if categorized as ratesetting or quasi-legislative).

The schedule should include proposed dates for the following events as needed:

- \_\_\_\_\_ Prehearing conference
- \_\_\_\_\_ Hearings
- \_\_\_\_\_ Briefs due
- \_\_\_\_\_ Submission
- \_\_\_\_\_ Proposed decision (90 days after submission)
- \_\_\_\_\_ Final decision (60 days after proposed decision is mailed)

# **SECTION III**

## ARTICLE 1. GENERAL PROVISIONS

### 1.1. (Rule 1.1) Ethics.

Any person who signs a pleading or brief, enters an appearance, offers testimony at a hearing, or transacts business with the Commission, by such act represents that he or she is authorized to do so and agrees to comply with the laws of this State; to maintain the respect due to the Commission, members of the Commission and its Administrative Law Judges; and never to mislead the Commission or its staff by an artifice or false statement of fact or law.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

### 1.2. (Rule 1.2) Construction.

These rules shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented. In special cases and for good cause shown, the Commission may permit deviations from the rules.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

### 1.3. (Rule 1.3) Definitions.

(a) "Adjudicatory" proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

(b) "Category," "categorization," or "categorized" refers to the procedure whereby a proceeding is determined to be an "adjudicatory," "ratesetting," or "quasi-legislative" proceeding.

(c) "Person" means a natural person or organization.

(d) "Quasi-legislative" proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.

(e) "Ratesetting" proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). "Ratesetting" proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. Other proceedings may be categorized as ratesetting, as described in Rule 7.1(e)(2).

(f) "Scoping memo" means an order or ruling describing the issues to be considered in a proceeding and the timetable for resolving the proceeding, as described in Rule 7.3.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 1701.1(a), 1701.1(c)(1)-(4), Public Utilities Code.

### 1.4. (Rule 1.4) Participation in Proceedings.

(a) A person may become a party to a proceeding by:

- (1) filing an application, petition, or complaint;
- (2) filing (i) a protest or response to an application or petition, or (ii) comments in response to a rulemaking;
- (3) making an oral motion to become a party at a prehearing conference or hearing; or
- (4) filing a motion to become a party.

(b) A person seeking party status by motion pursuant to subsection (a)(3) or (a)(4) of this rule shall:

- (1) fully disclose the persons or entities in whose behalf the filing, appearance or motion is made, and the interest of such persons or entities in the proceeding; and

(2) state the factual and legal contentions that the person intends to make and show that the contentions will be reasonably pertinent to the issues already presented.

(c) The assigned Administrative Law Judge may, where circumstances warrant, deny party status or limit the degree to which a party may participate in the proceeding.

(d) Any person named as a defendant to a complaint, or as a respondent to an investigation or a rulemaking, is a party to the proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

#### *1.5. (Rule 1.5) Form and Size of Tendered Documents.*

Documents tendered for filing must be typewritten, printed, or reproduced on paper 8 1/2 inches wide and 11 inches long. Any larger attachments must be legibly reduced or folded to the same size. The type must be no smaller than 10 points. The impression must use 1 1/2-line or double spacing, except that footnotes and quotations in excess of a few lines may be single-spaced. Both sides of the paper may be used. A document of more than one page must be bound on the left side or upper left-hand corner. If a transmittal letter is submitted (see Rule 1.13(a)), it must not be bound to the tendered document. All copies must be clear and permanently legible.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

#### *1.6. (Rule 1.6) Title Page Requirements.*

(a) All documents tendered for filing must have a blank space of at least 1 1/2 inches tall by 2 1/2 inches wide in the upper right-hand corner for a docket stamp and must show on the first page:

- (1) at the top, the heading "BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA";
- (2) in the upper left below the heading, the caption for the proceeding;
- (3) to the right of the caption, the docket number (if one has been assigned);
- (4) below the caption and docket number, the title of the document and the name of or shortened designation for the person tendering the document.

The title page may extend to additional pages if these required items cannot be set forth on one page. The name, mailing address, telephone number, and, if available, electronic mail address and facsimile transmission number of the person authorized to receive service and other communications on behalf of the person tendering the document must be set forth either on the title page of the document or following the signature at the end of the document (see Rule 1.8). Documents initiating new proceedings must leave a space to the right of the caption for the docket number. (See Rule 18.1.)

(b) Persons and corporations regulated by the Commission must include their assigned Case Information System (CIS) Identification Number in the captions of documents initiating new proceedings and in the titles of other documents filed in existing cases (e.g., "Application of Pacific Bell (U 1001 C) for Rehearing of Decision 91-01-001").

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution. Reference: Section 1701, Public Utilities Code.

#### *1.7. (Rule 1.7) Scope of Filing.*

(a) Separate documents must be used address unrelated subjects or to ask the Commission or the Administrative Law Judge to take essentially different types of action (e.g., a document entitled "Complaint and Motion to File Under Seal" would be improper; two separate documents must be used for the complaint and for the motion). Motions that seek leave to file another document (e.g., to accept a later filing or to file a document under seal) shall be tendered concurrently and separately with the document that is the subject of the motion.

(b) Except as otherwise required or permitted by these Rules or the Commission's decisions, general orders, or resolutions, prepared testimony shall not be filed or tendered to the Docket Office. If prepared testimony is issued in support of a filing at the time the filing is made, it shall be served (i) on the service list together with the filing, and (ii) on the Administrative Law Judge or, if none is yet assigned, on the Chief Administrative Law Judge.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

### *1.8. (Rule 1.8) Signatures.*

- (a) A document tendered for filing must have a signature at the end of the document and must state the date of signing, the signer's address, the signer's telephone number, and (if consenting to service by electronic mail) the signer's electronic mail address.
- (b) A signature on a document tendered for filing certifies that the signer has read the document and knows its contents; that to the signer's best knowledge, information, and belief, formed after reasonable inquiry, the facts are true as stated; that any legal contentions are warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law; that the document is not tendered for any improper purpose; and that the signer has full power and authority to sign the document. (See Rule 1.1.)
- (c) A document tendered for filing must be signed either by the person on whose behalf it is tendered for filing or by the attorney or representative of the person. If the document is signed by the person, it must be signed as follows:
- (1) If the person is an individual or sole proprietorship, by the individual or proprietor.
  - (2) If the person is a corporation, trust, or association, by an officer.
  - (3) If the person is a partnership or limited partnership, by a partner or general partner, respectively.
  - (4) If the person is a governmental entity, by an officer, agent, or authorized employee.
- (d) If a document is tendered for filing on behalf of more than one person, only one person (or one person's attorney or representative) need sign the document unless otherwise required by these rules. The title or first paragraph of the document must identify all persons on whose behalf the document is tendered and state their Case Information System Identification Numbers, if applicable (see Rule 1.6(b)). The signature of a person in these circumstances certifies that the signer has been fully authorized by the indicated persons to sign and tender the document and to make the representations stated in subsection (b) on their behalf.
- (e) Except as otherwise required in these rules or applicable statute, either the original signature page or a copy of the original signature page is acceptable for tendering for filing. If a copy of the signature page is tendered, the signer must retain the original, and produce it at the Administrative Law Judge's request, until the Commission's final decision in the proceeding is no longer subject to judicial review.
- (f) The Commission may summarily deny a person's request, strike the person's pleadings, or impose other appropriate sanctions for willful violation of subsections (b) or (d) of this rule. The Commission may seek appropriate disciplinary action against an attorney for a willful violation of subsections (b) or (d) of this rule.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Section 1701, Public Utilities Code.

### *1.9. (Rule 1.9) Service Generally.*

- (a) Except as otherwise provided in these rules or applicable statute, a requirement to serve a document means that a copy of the document must be served on each person whose name is on the official service list for the proceeding and on the assigned Administrative Law Judge (or, if none is yet assigned, on the Chief Administrative Law Judge).
- (b) Service of a document may be effected by personally delivering a copy of the document to the person or leaving it in a place where the person may reasonably be expected to obtain actual and timely receipt, mailing a copy of the document by first-class mail, or electronically mailing the document as provided in Rule 1.10. Service by e-mail is complete when the document is deposited in the mail. Service by e-mail is complete when the e-mail message is transmitted, subject to Rule 1.10(e). The Administrative Law Judge may direct or any party may consent to service by other means not listed in this rule (e.g., facsimile transmission).
- (c) A person may serve a Notice of Availability in lieu of all or part of the document to be served:
- (1) if the entire document, including attachments, exceeds 50 pages; or
  - (2) if a document or part of the document is not reproducible in electronic format, or would cause the entire e-mail message, including all attachments, to exceed 3.5 megabytes in size, or would be likely to cause e-mail service to fail for any other reason; or

(3) if the document is made available at a particular Uniform Resource Locator (URL) on the World Wide Web in a readable, downloadable, printable, and searchable format, unless use of such formats is infeasible; or

(4) with the prior permission of the assigned Commissioner or Administrative Law Judge; except that the document must be served on any person who has previously informed the serving person of its desire to receive the document.

The Notice must comply with Rule 1.6(a), and shall state the document's exact title and summarize its contents, and provide the name, telephone number, and e-mail address, if any, of the person to whom requests for the document should be directed. The document shall be served within one business day after receipt of any such request.

If the document is made available at a particular URL, the Notice of Availability must contain a complete and accurate transcription of the URL or a hyperlink to the URL at which the document is available, and must state the date on which the document was made available at that URL. Such document must be maintained at that URL until the date of the final decision in the proceeding. If changes to the web site change the URL for the document, the serving person must serve and file a notice of the new URL.

(d) A copy of the certificate of service must be attached to each copy of the document (or Notice of Availability) served and to each copy filed with the Commission. If a Notice of Availability is served, a copy of the Notice must also be attached to each copy of the document filed with the Commission. The certificate of service must state: (1) the exact title of the document served, (2) the place, date, and manner of service, and (3) the name of the person making the service. The certificate filed with the original of the document must be signed by the person making the service (see Rule 1.8(e)). The certificate filed with the original of the document must also include a list of the names, addresses, and, where relevant, the e-mail addresses of the persons and entities served and must indicate whether they received the complete document or a Notice of Availability. (See Rule 18.1, Form No. 4.)

(e) The Process Office shall maintain the official service list for each pending proceeding and post the service list on the Commission's web site. The official service list shall include the following categories:

(1) Parties, as determined pursuant to Rule 1.4,

(2) State Service, for service of all documents (available to California State employees only), and

(3) Information Only, for electronic service of all documents only, unless otherwise directed by the Administrative Law Judge.

Persons will be added to the official service list, either as State Service or Information Only, upon request to the Process Office. It is the responsibility of each person or entity on the service list to provide a current mailing address and, if relevant, current e-mail address, to the Process Office. A person may change its mailing address or e-mail address for service or its designation of a person for service by sending a written notice to the Process Office and serving a copy of the notice on each person on the official service list.

(f) The Administrative Law Judge may establish a special service list that includes some, but not all, persons on the official service list for service of documents related to a portion of a proceeding, provided that all persons on the official service list are afforded the opportunity to be included on the special service list. A special service list may be established, for example, for one phase of a multi-phase proceeding or for documents related to issues that are of interest only to certain persons.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
References: Sections 311.5 and 1704, Public Utilities Code.

#### *1.10. (Rule 1.10) Electronic Mail Service.*

(a) By providing an electronic mail (e-mail) address for the official service list in a proceeding, a person consents to e-mail service of documents in the proceeding, and may use e-mail to serve documents on persons who have provided an e-mail address for the official service list in the proceeding.

(b) Documents served by e-mail need not be otherwise served on persons who appear in the "Information Only" category of the official service list and have not provided an e-mail address for the official service list. Nothing in this rule excuses persons from serving copies of documents on persons who appear in the "Parties" and "State Service" categories of the official service list and have not provided an e-mail address for the official service list.

(c) E-mail service shall be made by sending the document, a link to the filed version of the document, or the Notice of

Availability (see Rule 1.9(c)), as an attachment to an e-mail message to all e-mail addresses shown on the official service list on the date of service. Documents must be in readable, downloadable, printable, and searchable formats, unless use of such formats is infeasible. The subject line of the e-mail message must include in the following order (1) the docket number of the proceeding, (2) a brief name of the proceeding, and (3) a brief identification of the document to be served, including the name of the serving person. The text of the e-mail message must identify the electronic format of the document (e.g., PDF, Excel), whether the e-mail message is one of multiple e-mail messages transmitting the document or documents to be served and, if so, how many e-mails, and the name, telephone number, e-mail address, and facsimile transmission number of the person to whom problems with receipt of the document to be served should be directed. The total size of a single e-mail message and all documents attached to it may not exceed 3.5 megabytes.

(d) By utilizing e-mail service, the serving person agrees, in the event of failure of e-mail service, to re-serve the document, no later than the business day after the business day on which notice of the failure of e-mail service is received by the serving party, by any means authorized by these rules, provided that e-mail service may be used for re-service only if (1) the receiving person consents to the use of e-mail service, or (2) the serving person determines that the cause of the failure of e-mail service has been rectified. "Failure of e-mail service" occurs when the serving person receives notification, in any manner, of non-receipt of an e-mail message, or of the receiving person's inability to open or download an attached document, or of any other inability of the receiving person to access the document to be served. The serving person and receiving person may agree to any form for re-service allowed by these rules. The serving person is not required to re-serve, after failure of e-mail service, any person listed on the official service list as Information Only.

(e) In addition to any other requirements of this rule, the serving person must provide a paper copy of all documents served by e-mail service to the assigned Administrative Law Judge (or, if none is yet assigned, to the Chief Administrative Law Judge), unless the Administrative Law Judge orders otherwise.

(f) The Commission may serve any document in a proceeding by e-mail service, and/or by making it available at a particular URL, unless doing so would be contrary to state or federal law.

(g) Nothing in this rule alters any of the rules governing filing of documents with the Commission.

(h) The assigned Commissioner or Administrative Law Judge may issue any order consistent with these rules to govern e-mail service in a particular proceeding.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Section 311.5, Public Utilities Code; and Section 11104.5, Government Code.

#### *1.11. (Rule 1.11) Verification.*

(a) Whenever a document is required to be verified by these rules, statute, order, or ruling, the verification must be made either by affidavit sworn or affirmed before a notary public or by declaration under penalty of perjury. When the verification is made by the person who signs the document, the verification must be separately stated and signed.

(b) The verification must be signed (see Rule 1.8(e)), and state that the contents of the document are true of the verifying person's own knowledge, except as to matters that are stated on information or belief, and as to those matters that he or she believes them to be true. (See Rule 18.1.)

(c) If these rules require a person to verify a document, it must be verified as follows (except as provided in subsection (d)):

- (1) If the person is an individual or sole proprietorship, by the individual or sole proprietor.
- (2) If the person is a corporation, trust, or association, by an officer.
- (3) If a person is a partnership or limited partnership, by a partner or general partner, respectively.
- (4) If the person is a governmental entity, by an officer, agent, or authorized employee.

(d) A person's attorney or representative may verify a document on behalf of a person if the person is absent from the county where the attorney's or representative's office is located, or if the party for some other reason is unable to verify the document. When a document is verified by the attorney or representative, he or she must set forth in the affidavit or declaration why the verification is not made by the person and must state that he or she has read the document and that he or she is informed and believes, and on that ground alleges, that the matters stated in it are true.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Section 446, Code of Civil Procedure.

*1.12. (Rule 1.12) Amendments and Corrections.*

(a) An amendment is a document that makes a substantive change to a previously filed document. An amendment to an application, protest, complaint, or answer must be filed prior to the issuance of the scoping memo.

(b) The time for filing a reply, response, protest, or answer to an amended document is calculated from the date the amendment is filed. Parties who have filed a reply, response, protest or answer to the previously filed document need not file an additional reply, response, protest or answer to the amendment. If the time for filing a reply, response, protest, or answer to the original document has passed, the Administrative Law Judge may limit or prohibit any further reply, response, protest, or answer to the amended document.

(c) Minor typographical or wording corrections that do not alter the substance of a filed document or the relief requested therein are not to be filed.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Section 1701, Public Utilities Code.

*1.13. (Rule 1.13) Tendering of Document for Filing.*

Documents may be tendered for filing in hard copy or electronically, as follows, except that a utility whose gross intrastate revenues, as reported in the utility's most recent annual report to the Commission, exceed \$10 million shall electronically file all documents unless otherwise prohibited or excused by these rules:

(a) Hard copy:

(1) Documents must be tendered for filing at the Commission's Docket Office at the State Building, 505 Van Ness Avenue, San Francisco, California 94102, or at the Commission's Offices in the State Building, 320 West 4th Street, Suite 500, Los Angeles. All documents tendered by mail must be addressed to the Commission's Docket Office in San Francisco. Only hand-delivered documents will be accepted by the Los Angeles office. First-class postage charges to San Francisco must be paid at the time documents are tendered to the Los Angeles office. Payment of postage charges may be made by check or money order.

(2) Except for complaints (see Article 4) and applications for rehearing (see Rule 16.1), an original and six exact copies of the document (including any attachments but not including the transmittal letter, if any) shall be tendered. After assignment of the proceeding to an Administrative Law Judge, an original and three copies of the document shall be tendered.

In lieu of the original, one additional copy of the document may be tendered. If a copy is tendered instead of the original, the person tendering the document must retain the original, and produce it at the Administrative Law Judge's request, until the Commission's final decision in the proceeding is no longer subject to judicial review.

(b) Electronic:

(1) Documents must be transmitted to the Docket Office using the Electronic Filing System on the Commission's website at <http://www.cpuc.ca.gov/PUC/efiling>.

(i) Documents must be transmitted in PDF Archive format (PDF/A).

(ii) A single transmission may not exceed 20.0 megabytes in size. Documents tendered in a transmission that exceeds this limit shall not be filed electronically.

(2) Electronically tendered documents will not be filed under seal. Documents which a person seeks leave to file under seal (Rule 11.4) must be tendered by hard copy. However, redacted versions of such documents may be electronically tendered for filing.

(3) A Notice of Acknowledgment of Receipt of the document is immediately available to the person tendering the document confirming the date and time of receipt of the document by the Docket Office for review. In the absence of a Notice of Acknowledgment of Receipt, it is the responsibility of the person tendering the document to obtain confirmation that the Docket Office received it.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Section 1701, Public Utilities Code.

#### *1.14. (Rule 1.14) Review and Filing of Tendered Documents*

- (a) Tendered documents are not filed until they have been reviewed and accepted for filing by the Docket Office in San Francisco.
- (b) If a document is accepted for filing, it will be recorded as of the date it was first tendered for filing at the Commission's San Francisco or Los Angeles office.
- (1) Hard copy: The Docket Office will provide an acknowledgment of the filing on request, provided the person tendering the document furnishes at the time the document is tendered, an extra copy of the document and a self-addressed envelope with postage fully prepaid. The extra copy of the document will be stamped with the filing stamp and docket number and returned by mail.
- (2) Electronic: Upon the filing of any document tendered electronically, the document will be stamped with the electronic filing stamp and, in the case of an initiating document, a docket number and the Docket Office shall electronically transmit to the person tendering the document a Confirmation of Acceptance and a link to the filed stamped copy of the document on the Commission's website. Electronically filed documents so endorsed carry the same force and effect as a manually affixed endorsement stamp.
- (c) If a tendered document does not comply with applicable requirements, the Docket Office may reject the document for filing. Documents submitted in response to a rejected document will not be filed.
- (1) Hard copy: The Docket Office will return the rejected document with a statement of the reasons for the rejection.
- (2) Electronic: The Docket Office will electronically transmit to the person tendering the document a Notice of Rejection setting forth the ground for rejecting the document.
- (d) If a tendered document is in substantial, but not complete, compliance with applicable requirements, the Docket Office may notify the person tendering the document of the defect. If the document would initiate a new proceeding, the document will be filed as of the date that the defect is cured. For all other documents, if the defect is cured within seven days of the date of this notification, the document will be filed as of the date it was tendered for filing, provided that the document was properly served as required by these Rules on or before the date the document was tendered for filing.
- (e) Acceptance of a document for filing is not a final determination that the document complies with all requirements of the Commission and is not a waiver of such requirements. The Commission, the Executive Director, or the Administrative Law Judge may require amendments to a document, and the Commission or the Administrative Law Judge may entertain appropriate motions concerning the document's deficiencies.
- (f) If a document initiates a new proceeding, the proceeding will be assigned a docket number when the document is accepted for filing. The Chief Administrative Law Judge shall maintain a docket of all proceedings.
- (g) Specific types of documents may be subject to additional requirements stated in other articles of these rules. Additional or different requirements for certain types of filings are stated in the Public Utilities Code or in the Commission's decisions, General Orders, or resolutions.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Section 1701, Public Utilities Code.

#### *1.15. (Rule 1.15) Computation of Time.*

When a statute or Commission decision, rule, order, or ruling sets a time limit for performance of an act, the time is computed by excluding the first day (i.e., the day of the act or event from which the designated time begins to run) and including the last day. If the last day falls on a Saturday, Sunday, holiday or other day when the Commission officers are closed, the time limit is extended to include the first day thereafter.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Section 12, Code of Civil Procedure.

### *1.16. (Rule 1.16) Filing Fees.*

Filing fees required by the Public Utilities Code are set forth in the Table of Filing Fees at the end of the Rules. If the fee in the table conflicts with the fee stated in the appropriate statute, the statute prevails.

Filing fees for documents tendered by hard copy shall be paid by check, money order or credit card. Filing fees for documents tendered electronically shall be paid by credit card.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Sections 1001, 1007, 1008, 1036, 1904, 2754, 2756, 3902, 4006, 5136, 5371.1, 5373.1 and 5377.1, Public Utilities Code.

### *1.17. (Rule 1.17) Daily Calendar.*

A Daily Calendar of newly filed proceedings, proceedings set for hearings, submission of proceedings and newly filed recommended decisions shall be available for public inspection at the Commission's San Francisco and Los Angeles offices. The Daily Calendar shall indicate the time and place of the next three regularly scheduled Commission meetings. Electronic access to the Daily Calendar is available at the Commission's website ([www.cpuc.ca.gov](http://www.cpuc.ca.gov)).

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Section 1701, Public Utilities Code.

## **ARTICLE 2. APPLICATIONS GENERALLY**

### *2.1. (Rule 2.1) Contents.*

All applications shall state clearly and concisely the authorization or relief sought; shall cite by appropriate reference the statutory provision or other authority under which Commission authorization or relief is sought; shall be verified by at least one applicant (see Rule 1.11); and, in addition to specific requirements for particular types of applications, shall state the following:

- (a) The exact legal name of each applicant and the location of principal place of business, and if an applicant is a corporation, trust, association, or other organized group, the State under the laws of which such applicant was created or organized.
- (b) The name, title, address, telephone number, facsimile transmission number, and, if the applicant consents to e-mail service, the e-mail address, of the person to whom correspondence or communications in regard to the application are to be addressed. Notices, orders and other papers may be served upon the person so named, and such service shall be deemed to be service upon applicant.
- (c) The proposed category for the proceeding, the need for hearing, the issues to be considered, and a proposed schedule. (See Article 7.) The proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding).
- (d) Such additional information as may be required by the Commission in a particular proceeding.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

### *2.2. (Rule 2.2) Organization and Qualification to Transact Business.*

All applicants other than natural persons shall submit with their applications a copy of the entity's organizing documents and evidence of the applicant's qualification to transact business in California. If current documentation has previously been filed with the Commission, the application need only make specific reference to such filing.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Sections 167 and 15010.5, Corporations Code.

### *2.3. (Rule 2.3) Financial Statement.*

Wherever these rules provide that a financial statement shall be attached to the application, such statement, unless otherwise provided herein, shall be prepared as of the latest available date, and shall show the following information:

- (a) Amount and kinds of stock authorized by articles of incorporation and amount outstanding.
- (b) Terms of preference of preferred stock, whether cumulative or participating, or on dividends or assets, or otherwise.
- (c) Brief description of each security agreement, mortgage and deed of trust upon applicant's property, showing date of execution, debtor and secured creditor, mortgagor and mortgagee and trustor and beneficiary, amount of indebtedness authorized to be secured thereby, and amount of indebtedness actually secured, together with any sinking fund provisions.
- (d) Amount of bonds authorized and issued, giving name of the public utility which issued same, describing each class separately, and giving date of issue, par value, rate of interest, date of maturity and how secured, together with amount of interest paid thereon during the last fiscal year.
- (e) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest, in whose favor, together with amount of interest paid thereon during the last fiscal year.
- (f) Other indebtedness, giving same by classes and describing security, if any, with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by any person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.
- (g) Rate and amount of dividends paid during the five previous fiscal years, and the amount of capital stock on which dividends were paid each year.
- (h) A balance sheet as of the latest available date, together with an income statement covering period from close of last year for which an annual report has been filed with the Commission to the date of the balance sheet attached to the application.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

#### *2.4. (Rule 2.4) CEQA Compliance.*

- (a) Applications for authority to undertake any projects that are subject to the California Environmental Quality Act of 1970, Public Resources Code Sections 21000 et seq. (CEQA) and the guidelines for implementation of CEQA, California Administrative Code Sections 15000 et seq., shall be consistent with these codes and this rule.
- (b) Any application for authority to undertake a project that is not statutorily or categorically exempt from CEQA requirements shall include a Proponent's Environmental Assessment (PEA). The PEA shall include all information and studies required under the Commission's Information and Criteria List adopted pursuant to Chapter 1200 of the Statutes of 1977 (Government Code Sections 65940 through 65942), which is published on the Commission's Internet website.
- (c) Any application for authority to undertake a project that is statutorily or categorically exempt from CEQA requirements shall so state, with citation to the relevant authority.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 1701, Public Utilities Code.

#### *2.5. (Rule 2.5) Fees for Recovery of Costs in Preparing EIR.*

- (a) For any project where the Commission is the lead agency responsible for preparing the Environmental Impact Report (EIR) to Negative Declaration, the proponent shall be charged a fee to recover the Commission's actual cost of preparing the EIR or Negative Declaration. A deposit shall be charged the proponent as set forth below:

A deposit of thirty dollars (\$30) for each one thousand dollars (\$1,000) of the estimated capital cost of the project up to one hundred thousand dollars (\$100,000), ten dollars (\$10) for each one thousand dollars (\$1,000) over one hundred thousand dollars (\$100,000) and up to one million dollars (\$1,000,000), five dollars (\$5) for each one thousand dollars (\$1,000) over one million dollars (\$1,000,000) and up to five million dollars (\$5,000,000), two dollars (\$2) for each one thousand dollars (\$1,000) over five million dollars (\$5,000,000) and up to ten million dollars (\$10,000,000), one dollar (\$1) for each one thousand dollars (\$1,000) over ten million dollars (\$10,000,000) and up to one hundred million dollars (\$100,000,000), and fifty cents (\$0.50) for each one thousand dollars (\$1,000) over one hundred million dollars (\$100,000,000). A minimum deposit of five hundred dollars (\$500) shall be charged for projects with an estimated capital cost of sixteen thousand dollars (\$16,000) or less.

If a project lacks a capital cost basis, the Commission, assigned Commissioner, or Administrative Law Judge shall determine, as early as possible, the deposit to be charged.

(b) The deposit shall be collected whenever an EIR or Negative Declaration is requested or required. The costs of preparing the EIR or Negative Declaration shall be paid from such deposits.

(c) Proponent shall pay the applicable deposit in progressive payments due as follows: One-third of the deposit at the time the application or pleading is filed, an additional one-third no later than 120 days after the time the application or pleading is filed, and the remaining one-third no later than 180 days after the time the application or pleading is filed. Failure to remit full payment of the deposit no later than 180 days after the time the application or pleading is filed may subject the proponent to a fine not exceeding 10 percent of the outstanding amount due. If the costs exceed such deposit the proponent shall pay for such excess costs within 20 days of the date stated on the Commission's bill for any excess costs. If the costs are less than the deposit paid by the proponent, the excess shall be refunded to the proponent.

Note: Authority cited: Section 1701, Public Utilities Code. Reference: Section 21165, Public Resources Code.

#### *2.6. (Rule 2.6) Protests, Responses, and Replies.*

(a) Unless otherwise provided by rule, decision, or General Order, a protest or response must be filed within 30 days of the date the notice of the filing of the application first appears in the Daily Calendar, and shall be concurrently served on each person listed in the certificate of service of the application.

(b) A protest objecting to the granting, in whole or in part, of the authority sought in an application must state the facts or law constituting the grounds for the protest, the effect of the application on the protestant, and the reasons the protestant believes the application, or a part of it, is not justified. If the protest requests an evidentiary hearing, the protest must state the facts the protestant would present at an evidentiary hearing to support its request for whole or partial denial of the application.

(c) Any person may file a response that does not object to the authority sought in an application, but nevertheless presents information that the person tendering the response believes would be useful to the Commission in acting on the application.

(d) Any person protesting or responding to an application shall state in the protest or response any comments or objections regarding the applicant's statement on the proposed category, need for hearing, issues to be considered, and proposed schedule. Any alternative proposed schedule shall be consistent with the proposed category, including a deadline for resolving the proceeding within 12 months or less (adjudicatory proceeding) or 18 months or less (ratesetting or quasi-legislative proceeding).

(e) An applicant may file replies to protests and responses within 10 days of the last day for filing protests and responses, unless the Administrative Law Judge sets a different date. Replies must be served on all protestants, all parties tendering responses, and the assigned Administrative Law Judge.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Section 1701, Public Utilities Code.

#### *2.7. (Rule 2.7) Copy of Document on Request.*

Applicants, protestants, and parties tendering responses must promptly furnish a copy of their applications, protests, or responses to each person requesting one.

Note: Authority cited: Section 1701, Public Utilities Code; and Section 2, Article XII, California Constitution.  
Reference: Section 1701, Public Utilities Code.

# **SECTION IV**

## IMPORTANT NOTICE

TO APPLICANTS FOR PASSENGER CARRIER AUTHORITY  
AND  
EXISTING PASSENGER CARRIERS

## RE: CPUC DRUG &amp; ALCOHOL TESTING REQUIREMENTS

Every Passenger Stage Corporation (PSC) and Charter-Party Carrier of Passengers (TCP) is required to participate in a mandatory controlled substance and alcohol testing certification program (hereinafter referred to as "program" or "testing program"). The California Public Utilities Commission (CPUC) will not issue or renew a TCP certificate or permit or authorize a PSC to commence operations until it certifies that it has such a program in effect and has complied with other program requirements. It is very important for applicants and carriers to understand the Commission's testing program requirements, not only to ensure the safety of the passengers and general public, but also because failure to comply with these requirements may mean the denial, suspension, or revocation of the applicant's/carrier's operating authority and/or the imposition of administrative, civil, or criminal penalties.

In order to help you understand our testing program requirements, the Commission staff will furnish the following to you as part of the application process:

1. Form PL 706-J (CPUC Controlled Substances and Alcohol Testing Certification Program) – this 3-page form includes Public Utilities (PU) Code Section 1032.1, which contains the basic testing requirements as established by the California Legislature. This form is used by applicants to provide the Commission staff with information regarding the applicant's testing program, and to certify that the applicant understands and will comply with the CPUC's program's requirements. It is included as part of the TCP "Application Packet" and is provided to PSC applicants during the application process.
2. A sample "Alcohol and Substance Abuse Policy" form which applicants may adopt as their own, or use as a guide in developing their own company policy regarding alcohol and substance abuse for their employees. It is mandatory that every carrier have such a written company policy.
3. General Order (G.O.) 157-C (applicable to TCP carriers) or G.O. 158-A (applicable to PSC carriers). In addition to other important requirements which these carriers must know, Part 10 of these G.O.'s contains a summary of the CPUC's testing program requirements. Every carrier should read and understand these rules.
4. Part 382 of Title 49, Code of Federal Regulations (CFR) – This contains the federal testing program requirements applicable to interstate passenger carriers, which the CPUC adopted with some minor differences. This document contains important information which every carrier should read and understand, including definitions of important terms such as "consortium", "driver", and "employer", the different types of testing required, certain prohibitions, consequences of drug use or alcohol misuse, supervisor training requirements.
5. List of Consultants – This is a list of companies and agencies which will help applicants and carriers establish an acceptable testing program and otherwise comply with federal and state testing requirements. Many of the consultants will also administer a carrier's required random testing program. Using one of these "pre-approved" companies will speed up the processing of an application, as they have already supplied the Commission with samples of the educational and training materials they use and they are familiar with the Commission's program requirements. Applicants/carriers who wish to implement their own program are not required to use a consultant if they have the knowledge and resources to ensure their compliance with the Commission's program without one, but will be required by the Commission staff to provide copies of the training and educational materials to be used to ensure that they are acceptable.

(continued on reverse)

Although the following material is not provided to new applicants/carriers, they do contain important requirements which will be mentioned elsewhere in this notice. These consist of:

- (a) Resolution TL-18716, which was issued by the Commission on December 20, 1995 and established the Commission's mandatory program requirements. This resolution contains a summary of the Commission's discussion, findings, and orders concerning the testing program it adopted.
- (b) Resolution TL-18760, issued on September 4, 1996 corrected some technical errors in Resolution TL-18716. The orders issued by the Commission in these resolutions are set forth in G.O.'s 157-C and 158-A, so copies of these resolutions will only be furnished on request.
- (c) Part 40 of Title 49, Code of Federal Regulations (CFR) – Entitled "Procedures for Transportation Workplace Drug Testing Programs", this part contains the U.S.D.O.T. requirements applicable to motor carriers and their employees, agents, consortia, and laboratories. This part mainly contains the procedures for collecting, analyzing, and reporting the specimens furnished by drivers, but also includes some important definitions, including "Medical Review Officer" (MRO), and specifies the type of drugs to be tested, i.e. marijuana, cocaine, opiates, amphetamines, and phencyclidine. Section 40.39 states that carriers shall use only laboratories that have been certified by the U.S. Department of Health and Human Services (DHHS). This part is not furnished by the PUC to carriers as it pertains mainly to the consortia and laboratories.

### Summary of the Commission's Mandatory Testing Program Requirements

Effective January 1, 1996, the California Public Utilities Code (PU Code) was amended to add Section 1032.1 and to amend Section 5374 requiring all applicants for PSC and TCP operating authority to establish a mandatory controlled substance and alcohol testing certification program, substantially similar to the program already required by the federal government for passenger carriers operating in interstate and foreign commerce. The main differences between the California rules and the federal rules are the California rules state that (1) a negative test for alcohol means an alcohol screening test showing a breath alcohol concentration of less than 0.02 percent (rather than 0.04 percent), (2) the driver being tested is required to show a valid California driver's license at the time and place of testing, (3) an earlier negative result shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment, (4) pre-employment test results for an applicant who is also a driver shall be reported directly to the Commission, and (5) carriers must use custody and control forms that are substantially similar to, but distinct from, the federally authorized custody and control forms. PU Code Section 1032.1, applicable to PSC carriers, is restated in the Commission's form PL 706-J, which is provided to all applicants for PSC and TCP carrier authority. PU Code Section 5374 makes Section 1032.1 also applicable to TCP carriers.

As a result of the above statutes, the CPUC issued its Resolutions TL-18716 and TL-18760, mentioned above and amended its G.O. series 157 and 158 to include its testing program requirements. The above statutes, resolutions, and orders require all PSC and TCP applicants (including TCP renewal applicants) and carriers whose drivers are not subject to federal testing program requirements to comply with the Commission's mandatory controlled substance and alcohol testing certification program. Every applicant/carrier who proposes to employ any driver who will operate a vehicle having a seating capacity of 15 persons or less, including the driver, must provide for the Commission's mandatory controlled substance and alcohol testing certification program for those drivers and should be familiar with the rules set forth in Part 10 of G.O. Series 157 and 158. (Drivers who operate a vehicle having a seating capacity of 16 or more persons are subject only to the federal testing requirements).

You should be aware that an application for operating authority or renewal of operating authority will be denied if the applicant does not provide for the Commission's mandatory controlled substance and alcohol testing certification program, or if a driver-applicant's most recent test indicates the use of alcohol or controlled substances in violation of the Commission's program. Operating authority for a driver-applicant testing positive will not be granted or renewed until the driver-applicant shows that he/she has complied with the referral, evaluation and return-to-duty provisions of Part 382.605 of Title 49, CFR.

You should also be aware that the Commission staff will perform random and for-cause inspections of applicants' and carriers' documents supporting compliance with the Commission's controlled substance and alcohol testing certification program. In this regard, the Commission requires laboratories to make their documentation, including test results, available to it on request. If, as a result of a random or for-cause inspection of a carrier's documents, the Commission determines that the carrier is in violation of its program requirements, it may suspend the carrier's operating authority. It will not reinstate the carrier's authority until the carrier has shown that it has come into compliance. It may also take other action against the carrier, including civil or criminal prosecution.