ATTACHMENT B

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ-164
Administrative Law Judge Division
September 16, 1992

RESOLUTION

Establishes a Law and Motion Procedure to Hear Discovery Disputes and Other Procedural Motions

In order to promote uniformity of outcomes in formal proceedings, build a body of rulings that will serve to guide parties on discovery practice at the Commission, and improve predictability and timeliness in the disposition of motions, the Commission hereby establishes a Law and Motion Procedure. The Law and Motion Procedure will operate as follows:

1. Applicability. These procedures are applicable to any formal matter pending before the Commission including applications, complaints, investigations and rulemakings. Rulings under law and motion procedures will be deemed to be rulings in the underlying proceeding in which the dispute arose.

2. Discovery Disputes

   a. Discovery Dispute Defined.
   A discovery dispute shall include contested requests to obtain, preclude or limit discovery, and disputes over the procedures to be followed in resolving such matters. No discovery dispute shall be eligible for law and motion resolution unless the parties to the dispute have previously met and conferred in a good faith effort to informally resolve the dispute.

   b. Means to Invoke Procedures.
   A request to invoke these procedures shall be by motion, denominated to indicate the relief requested. Examples of such motions would include:

Motion to Compel Discovery
Motion to Limit Discovery and/or for a Protective Order
Motion for Leave to File Under Seal
Motion for Extension of Time to Comply with Discovery Order

c. The motion shall contain a title indicating the relief requested, a brief explanation of the issue, relevant points and authorities, any supporting documentation which is necessary or useful in resolving the dispute, and a draft of a proposed ruling which clearly indicates the relief requested. In addition, the motion must be accompanied by a declaration stating facts showing a good faith attempt at an informal resolution of each issue presented by the motion.

d. Responses to any such motion shall be filed and served within 10 days.

e. The Docket Office will refer motions relating to discovery disputes to the law and motion administrative law judge (ALJ). If the ALJ assigned to the underlying proceeding determines that particular factors concerning the discovery dispute make it more practicable for the assigned ALJ, rather than the law and motion ALJ, to rule on the matter, the assigned ALJ will confer with the law and motion ALJ regarding removal of the matter from the law and motion procedure. If the matter is removed, the assigned ALJ will issue a ruling notifying all parties to the dispute that it has been removed. The time requirements applicable to the issuance of a ruling on the merits will be the same as if the dispute had remained a law and motion matter.

3. Procedural motions (other than those identified in paragraph 2) may be

assigned to the law and motion ALJ for resolution. Affected parties shall be notified of such assignment.

4. Law and motion matters will be scheduled weekly. The specific dates and times will be noticed in the Commission's Daily Calendar in advance.

5. The law and motion ALJ may deviate from the scheduled dates and times in appropriate cases and with notice to the affected parties, and may notice matters for argument via conference telephone call.

6. No court reporter will be present when law and motion matters are heard unless a party has demonstrated good cause for having it reported. The law and motion ALJ may issue an oral ruling immediately after hearing the arguments of the parties. The ALJ will provide a written ruling within 10 days following argument.

7. Only matters which appear on the Law and Motion Calendar for a particular day will be considered on that day, and if no matters are calendared, the Law and Motion Calendar will be cancelled for that day.

8. Law and motion matters will be heard in San Francisco. However in appropriate circumstances the law and motion ALJ may hear a particular matter at another location.

9. The hearing on a particular matter will be calendared for the weekly session which follows by at least 5 days the date for filing of responses to the motion. If a calendared matter is settled by the parties prior to the day the matter is to be heard, the moving party shall immediately inform the law and motion ALJ of that fact. The law and motion ALJ may reschedule the time for hearing upon notice to the parties.

The ALJ Division will monitor the success of the law and motion procedures, which we will adopt today as an experimental procedural reform. Depending upon the initial results of this new procedure, and any additional needs that surface, we may consider an expanded program or related rules changes in the future.

IT IS RESOLVED that the procedures outlined above in connection with the establishment of a Law and Motion Procedure are hereby adopted for implementation.

The Executive Director shall cause a copy of this resolution to be mailed to each appearance in all current major energy, telecommunications and water utility proceedings (I.87-11-033, I.88-11-040, I.89-03-005, I.89-07-004, I.90-11-033, A.90-12-018, A.91-11-024, A.91-11-036) and the generic Rules proceeding, R.84-12-028.

This resolution becomes effective 45 days from today.

I certify that this resolution was adopted by the Public Utilities Commission at its regular meeting on September 16, 1992. The following Commissioners approving it:

NEAL J. SHULMAN
Executive Director

DANIEL Wm. FESSLER
President
JOHN B. OHANIAN
PATRICIA M. ECKERT
NORMAN D. SHUMWAY
Commissioners

(END OF ATTACHMENT B)