

## DRAFT FOR DISCUSSION

For discussion: Augmentation of Decision-making procedures to render decisions that are impartial, consistent, and transparent; maintain integrity at all levels; are consistent with the law; and to allow the Commission to take Official Notice of evidence presented at public hearings and offered by other governmental agencies.

<b>COMMISSION POLICY</b>	
Category: <b>Regulatory Process</b>	Title: <b>Decision-Making Process</b>
	Policy Number:
Date of Adoption:	Resolution No.
Revision:	Resolution No.

The Commission conducts regulatory proceedings under the following principles:

1. The decision-making procedures will render decisions that are impartial, consistent, and transparent; maintain integrity at all levels; and be consistent with the law.
2. The procedures and rules for formal and informal decisions are documented, accessible, available and clear and transparent to the public and interested parties.
3. The decision-making process enables and encourages the parties, the public, and decision-makers to participate actively in developing the record in CPUC proceedings.
4. Commissioners and CPUC staff are committed to allowing greater public access to the regulatory process by utilizing technology improvements and meeting in alternative locations.
  - Allowing better accessibility by enabling public comments into the record through development of an e-comment system.
  - Developing alternative methods, such as conference calls, video conferencing, or new technology including web portals, apps, and other means to allow the public and parties to appear and comment virtually for hearings, workshops, meetings. These methods should complement in person meetings in the field and at CPUC offices to gather information and increase understanding about the issues relevant to CPUC proceedings.
  - Ensuring all documents are part of the administrative record and are accessible from the CPUC docket card
5. Commissioners and CPUC staff are committed to enabling and encouraging the parties, the public, and governmental entities to participate actively in developing the record in Commission proceedings.
6. Assigned ALJ and Commissioners will receive evidence offered in hearings in accordance with the rules of practice and procedure of the Commission.
7. No informality in a hearing, investigation, or proceeding or in the manner of taking testimony shall invalidate any order, decision, or rule made, approved or confirmed by the Commission.

8. Rule 13.9 of the CPUC Rules of Practice and Procedure (Official Notice of Facts) allows the CPUC to take official notice “of such matters as may be judicially noticed by the courts of the State of California pursuant to Evidence Code section 450 et. seq..” Such matters include, but are not limited to, official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States, laws, statutes, and cases. The Assigned ALJ and any Commissioner, in a Proposed Decision or Alternate Proposed Decision, may take official notice of and include in the record items eligible for mandatory judicial notice as set forth in California Evidence Code 451, or may take permissive judicial notice of items as set forth in California Evidence Code 452. Similarly, a Resolution prepared by CPUC staff may include Official Notice of Facts, consistent with this policy.

**Items eligible for Official Notice:** The rules of evidence shall apply to these items so that if the item is not sworn testimony subject to cross-examination, it cannot be cited for the truth of the matter asserted for contested issues of material fact, but may be cited, under the evidence code, for the fact that it was said and for the issues raised. Such items may include, but are not limited to:

- Public testimony taken at a formal or informal hearing as evidence included in the record on which to base a Commission decision.  
Reports from state, federal, local, tribal, and academic sources as evidence included in the record on which to base a Commission Decision.
- Matters subject to official notice under California evidence code Sections 450-460 include facts and propositions of generalized knowledge, not reasonably subject to dispute, or which are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

9. A Commission decision shall be based on the record developed by the assigned commissioner and/or the administrative law judge.

**Monitoring Method:** Legal Division and ALJ Division will coordinate training on appropriate subjects of official notice.