



# California Fair Political Practices Commission

June 4, 1990

Alan J. Gardner  
California Cable Television  
Association  
4341 Piedmont Avenue  
Oakland, CA 94611

Re: Your Request for Advice  
Our File No. A-90-307

Dear Mr. Gardner:

You have requested advice concerning the lobbying provisions of the Political Reform Act.<sup>1</sup>

## QUESTION

Are expenses incurred in connection with participation in the California Public Utility Commission's (PUC) "workshops" for issue resolution reportable under the Act's lobbying disclosure provisions?

## CONCLUSION

Expenses incurred in connection with participation in the PUC workshops described in your letter are reportable payments to influence administrative action.

## FACTS

The PUC currently holds workshops for issue resolution in connection with its telecommunication proceedings. In our telephone conversation of May 22, 1990, you indicated that these workshops meet the definition of quasi-legislative proceedings and that some are for ratemaking purposes. These workshops are chaired by an administrative law judge or a PUC staff member. No transcript is made and testimony is not taken under oath. A report of the workshop is developed by PUC staff which goes to the Commissioners recommending potential action.

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<sup>1</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

Your organization, which is a lobbyist employer, regularly participates in these workshops.

ANALYSIS

The Act requires lobbyist employers to file periodic reports with the Secretary of State disclosing payments to influence state legislative or agency administrative action. (Section 86100, et seq.) The term "administrative action" is defined as:

...the proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule, regulation or other action in any rate-making proceeding or any quasi-legislative proceeding....

(Section 82002.)

The term "influencing legislative or administrative action" is defined in Section 82032 to include:

...promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including but not limited to the provision or use of information, statistics, studies or analyses.

Expenses incurred in connection with participation in the workshops described in your letter appear to be reportable payments in connection with influencing administrative action.

Regulation 18616(g)(4) (copy enclosed) provides an exception which allows limited reporting of expenses in connection with administrative testimony given in any ratemaking proceeding before the PUC. Reports must include:

- (A) Compensation paid to all attorneys for time spent appearing as counsel in those proceedings.
- (B) Compensation paid to all witnesses for time spent testifying in those proceedings.

(Regulation 18616(g)(4).)

These payments are reported as a lump sum amount on the Lobbyist Employer Report (Part III, Section E of Form 635-- Payments In Connection With Administrative Testimony in Ratemaking Proceedings Before the California Public Utilities Commission). However, the workshops in question do not fall within the definition of "administrative testimony" for this reporting purpose.

"Administrative testimony," is defined as:

...influencing or attempting to influence administrative action by acting as counsel in, appearing as a witness in, or providing written submissions, including answers to inquiries, which become part of the record of any regulatory or administrative agency proceeding:

(A) Which is conducted as an open public hearing for which public notice is given;

(B) Of which a record is created in a manner which makes possible the creation of a transcript; and

(C) With respect to which full public access is provided to such record or transcript and to all written material which is submitted to become part of the record.

Regulation 18239(d)(1).

Because no record of the workshops is created from which a transcript could be made, participation in the workshops does not appear to fall within the definition of "administrative testimony" for which Regulation 18616 provides this limited reporting exception. Therefore, expenses incurred in connection with participation in these workshops should be reported as "other payments to influence" (Part III, Section D of Form 635) as described in subsection (f) of Regulation 18616.

Staff will analyze Regulation 18616 to determine whether it should be amended to also limit disclosure in connection with these PUC workshops.

If you have additional questions, please contact me at (916) 322-5662.

Sincerely,

Scott Hallabrin  
Acting General Counsel

  
By: Kevin S. Braaten-Moen  
Political Reform Consultant

Enclosure