

Memorandum 97-31**Public Utility Deregulation: Transportation Industry**

This memorandum summarizes the current status of deregulation in the transportation industry, and the input of stakeholders and the California Public Utilities Commission on the need for code revisions. The material on the current status of deregulation was prepared by Deborah Muns, of Stanford Law School.

CURRENT STATUS OF DEREGULATION**Motor Carriers of Property, Household Goods, and Passengers**

Until recently, the California Public Utilities Commission was authorized to regulate the activities of motor carriers of property, household goods, and passengers. Motor carriers of property, also referred to as motor freight carriers, are primarily trucking firms that move goods such as general freight, agricultural products, livestock, and automobiles. Household goods carriers are those that move used household goods and other personal effects from or to a residence within California. Passenger carriers include buses, shuttle vans, and limousines. The regulatory scheme included control of prices, routes and areas of service, as well as other elements of the motor carrier business.

The Federal Aviation Administration Authorization Act of 1994 preempted the states' authority to regulate prices, routes, or the services of motor carriers which transport property. It did not preempt states' authority to regulate passenger carriers and household goods carriers.

To reflect the federal preemption, the Legislature in 1996 removed all provisions in state law that authorized PUC to regulate rates, routes, and services of motor carriers. The Legislature also transferred authority for the registration and regulation of motor freight carriers from PUC to the California Highway Patrol, with the Department of Motor Vehicles carrying out the licensing and liability and workers' compensation functions previously performed by the PUC. To assure a smooth regulatory transition, DMV contracted with the PUC to have PUC continue to perform licensing activities for motor freight carriers until the

DMV is ready to assume full regulatory control. However, PUC will probably cease performing licensing functions during 1997.

PUC continues to be responsible for the regulatory oversight of the passenger carrier industry. This includes ensuring that firms maintain adequate liability and workers' compensation insurance coverage, comply with driver and vehicle safety programs, and adhere to service and pricing requirements. The objective of the regulation of these carriers is to insure safety and promote consumer interests.

PUC will also continue its regulatory program for the household goods carrier industry. This regulatory program includes licensing, updating maximum rates, and enforcing consumer protection rules and responding to consumer complaints.

Railroad and Rail Transit

The California Public Utilities Commission began regulating railroads when they had a de facto monopoly on transportation and the public demanded that it be protected from industry abuses. As the railroad monopoly was eroded with the development of trucking, passenger buses, and airlines, Congress recognized that railroads do business in a competitive environment and preempted the states from *economic* (as opposed to safety) regulation of the railroad industry. PUC retains a minor advisory role in economic oversight by making recommendations to the federal Surface Transportation Board in response to railroad mergers and track abandonments.

Today, the federal government has primacy on nearly all matters concerning non-government railroads. PUC's rail-related role is limited to ensuring freight and passenger safety, transit system safety, and grade crossing safety. PUC conducts inspections of all railroads operating in accordance with federal and state regulations, investigates railroad accidents, and participates in educational rail safety programs. PUC also oversees the design, construction, operation and maintenance of rail transit systems; investigates accidents and unacceptable hazardous conditions; reviews and approves corrective action plans and schedules; and performs triennial, on-site safety audits at rail transit agencies. In addition, PUC is responsible for ensuring that rail/highway at-grade crossings and separations are designed, constructed, and maintained in accordance with public safety standards.

INPUT OF STAKEHOLDERS AND PUBLIC UTILITIES COMMISSION

PUC's request for input on code revisions required by deregulation of the transportation industry resulted in the letter from Union Pacific Railroad Company, attached as Exhibit pp. 1-16, identifying a number of areas where code revisions may be appropriate. The California Moving and Storage Association also sent a letter, attached as Exhibit p. 17, indicating its belief that the current laws governing regulation in the household goods moving industry is satisfactory.

We have attached a chart as Exhibit pp. 18-35, based on tables provided by PUC, that shows by code section the suggestions of Union Pacific and the preliminary reactions of PUC.

Respectfully submitted,

Nathaniel Sterling
Executive Secretary

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December 30, 1996

VIA FEDERAL EXPRESS

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Public Utilities Commission, State of California
1227 O Street, Suite 404
Sacramento, CA 95814

Re: Proposed Revisions to the Public Utilities Code

Dear Kent:

This refers to your letter dated November 7, 1996 to Wayne Horiuchi requesting input from Union Pacific Railroad Company to assist the Commission in formulating proposed revisions to the Public Utilities Code pursuant to SB 960. These comments are responsive to Section 12 of SB 960 which directs the Commission, in consultation with the California Law Revision Commission, to submit a report on "needed revisions to the Public Utilities Code that result from the restructuring of the electrical, gas, transportation, and telecommunications industries." Section 14 of SB 960 is not applicable to our industry in view of the complete federal preemption of state economic regulation of railroads, and, therefore, we have not addressed it.

The Staggers Rail Act of 1980 provided sweeping economic deregulation of the rail industry. Staggers provided for continuing state regulation of intrastate rail rates, but required that state regulation be strictly in accordance with federal standards and procedures. It further provided that to engage in such regulation, a state had to obtain certification from the ICC. Staggers permitted the states to continue their traditional regulation of matters such as spur, industrial, team, and switching or side tracks or facilities located entirely in one state.

In the ICC Termination Act, Congress specifically removed these remaining vestiges of state authority. This is consistent with the post-Staggers national transportation policy of reducing the regulatory burden on rail carriers and other modes of transportation and thereby allowing them to compete in the free market to the fullest extent possible. This policy of deregulation recognizes that railroads do business in a competitive environment and no longer enjoy a monopoly over the nation's transportation system. ICC Termination Act of 1995, Public Law No. 104-88, Vol. 1, 1995 U.S. Code, Congr. and Adm. News at 109 stat 803.

The language of the ICC Termination Act makes clear that it was the policy and purpose of Congress both to deregulate at the federal level the national rail industry, and to also preclude states from imposing economic regulation. 49 U.S.C §§10101, 10102, and 10501(b). Congress' intent to take exclusive jurisdiction over the area of economic rail regulation is explicit in the general jurisdiction language of §10501(b) of the Act.

The Act grants exclusive jurisdiction to the Surface Transportation Board (the successor to the ICC) over:

"(1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and,

(2) the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State

49 U.S.C. §10501(b)(1) & (2). "Transportation" as used in §10501(b)(1) is defined very expansively in the Act to include:

"(A) a locomotive, car, vehicle, vessel, warehouse, wharf, pier, dock, yard, property, facility, instrumentality, or equipment of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use; and

(B) services related to that movement, including receipt, delivery, elevation, transfer in transit, refrigeration, icing, ventilation, storage, handling, and interchange of passengers and property.

49 U.S.C. §10102(9)(A) & (B).

Additionally, the ICC Termination Act repealed the sections of the Interstate Commerce Act formerly providing for state certification. The Surface Transportation Board recently explained in a public notice that state certification was no longer necessary because "the underlying state regulatory role no longer exists." (STB Public Notice, Ex Parte No. 388, April 3, 1996). The ICC Termination Act also deleted language from the policy statement of the Staggers Act dealing with regulatory cooperation between the federal and state governments, and removed sections of the Staggers Act providing for joint federal and state regulatory bodies. (Former 49 U.S.C. §§10101, 10341-10344).

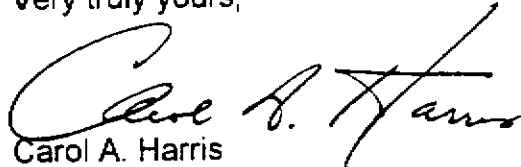
The Public Utilities Code should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress. We believe that this could best be accomplished by excluding "railroads" and "railroad corporations" from the definitions of "common carrier" and "public utility." This is consistent with AB 1683 which

was enacted into law on September 29, 1996 to amend the Code to reflect the federal preemption of rates, routes and services of motor carriers under the Federal Aviation Administration Authorization Act of 1994 (P.L. 103-305). Enclosed is a "redline" mark up of affected provisions of the Code showing our suggested changes.

These comments, and our proposed revisions relate to matters of economic regulation only and do not address federal pre-emption over safety regulation of railroads, which is another area that we feel warrants attention. We are not at this time stating a position on any of the jurisdictional issues in rail safety regulation.

We appreciate the opportunity to provide input into the Commission's SB 960 report and we hope that you find our comments helpful. If the Commission has any questions concerning these materials or, if it should desire further assistance from Union Pacific, please feel free to contact me.

Very truly yours,



Carol A. Harris

CAH:bz
Enclosures

cc: Ken Koss (w/encls.)
Wayne Horiuchi (w/encls.)
Jeff Asay (w/encls.)

§211. Common Carrier

"Common carrier" includes:

- (b) Every corporation or person, owning, controlling, operating, or managing any vessel used in the transportation of persons or property for compensation between points upon the inland waters of this state or upon the high seas between points within this state, except as provided in Section 212. "Inland waters" as used in this section includes all navigable waters within this state other than the high seas.

- ## §216. Public utility

- (b) Whenever any common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, or heat corporation performs a service for, or delivers a commodity to, the public or any portion thereof for which any compensation or payment whatsoever is received, that common carrier, toll bridge corporation, pipeline corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewer system corporation, or heat corporation, is a public utility subject to the jurisdiction, control, and regulation of the commission and the provisions of this part.

- (d) Ownership or operation of a facility which employs cogeneration technology or produces power from other than a conventional power source or the ownership or operation of a facility which employs landfill gas technology does not make a corporation or person a public utility within the meaning of this section solely because of the ownership or operation of such a facility.

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utility, or to the public or any portion thereof, is not a public utility within the meaning of this section solely by reason of engaging in any of those activities.

(f) The ownership or operation of a facility which sells compressed natural gas at retail to the public for use only as a motor vehicle fuel, and the selling of compressed natural gas at retail from such a facility to the public for use only as a motor vehicle fuel, does not make the corporation or person a public utility within the meaning of this section solely because of that ownership, operation, or sale.

§216.5

Notwithstanding Section 216, "public utility" does not include a motor carrier of property or a common carrier of freight by railroad.

§229. Railroad

"Railroad" includes every commercial, interurban, and other railway, other than a street railroad, and each branch or extension thereof, by whatsoever power operated, together with all tracks, bridges, trestles, rights of way, subways, tunnels, stations, depot, union depots, ferries, yards, grounds, terminals, terminal facilities, operating structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection therewith, owned, controlled, operated, or managed for public use in the transportation of persons or property.

§230. Railroad corporation

"Railroad corporation" includes every corporation or person owning, controlling, operating, or managing any railroad for compensation within this State.

§314.5 Inspection and audit of records for regulatory and tax purposes

The commission shall inspect and audit the books and records for regulatory and tax purposes (a) at least once in every three years in the case of every electrical, gas, heat, telegraph, telephone, and water corporation serving over 1,000 customers ~~and the rail passenger commuter operations of every railroad~~, and (b) at least once in every five years in the case of every electrical, gas, heat, telegraph, telephone, and water corporation serving 1,000 or fewer customers. An audit conducted in connection with a rate proceeding shall be deemed to fulfill the requirements of this section. Reports of such inspections and audits and other pertinent information shall be furnished to the State Board of Equalization for use in the assessment of public utilities.

§458. False billing, classification, and weights; transportation at less than established rates.

No common carrier as defined in Section 211, or any officer or agent thereof, or any person acting for or employed by it, shall, by means of known false billing, classification, weight, weighing, or report of weight, or by any other device or means assist, suffer, or permit any corporation or person to obtain transportation for any person or property between points within this State at less than the rates and fares then established and in force as shown by the schedules filed and in effect at the time.

No person, corporation, or any officer, agent, or employee of a corporation shall, by means of false billing, false or incorrect classification, false weight or weighing, false representation as to contents or substance of a package, or false report or statement of weight, or by any other device or means, whether with or without the consent or connivance of a common

carrier or any of its officers, agents, or employees, seek to obtain or obtain such transportation for such property at less than the rates then established and in force therefor.

§459. Fraudulent allowances, rebates, and damage payments

No person or corporation, or any officer, agent, or employee of a corporation, shall knowingly, directly or indirectly, by any false statement or representation as to cost or value, or the nature or extent of an injury, or by the use of any false billing, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, upon any false, fictitious, or fraudulent statement or entry, obtain or attempt to obtain any allowance, rebate, or payment for damage, in connection with or growing out of the transportation of persons or property, or an agreement to transport such persons or property, whether with or without the consent or connivance of a common carrier or any of its officers, agents, or employees. No common carrier as defined in Section 211, or any of its officers, agents, or employees, shall knowingly pay or offer to pay any such allowance, rebate, or claim for damage.

~~§460. Long and short haul charges~~

~~—No common carrier subject to the provisions of this part shall charge or receive any greater compensation in the aggregate for the transportation of persons or of a like kind of property for a shorter than for a longer distance over the same line or route in the same direction; within this State, the shorter being included within the longer distance or charge any greater compensation as a through rate than the aggregate of the intermediate rates. This provision does not authorize any such common carrier to charge or receive as great a compensation for a shorter as for a longer distance or haul.~~

~~—Upon application to the commission a common carrier may, in special cases, after investigation, be authorized by the commission to charge less for a longer than for a shorter distance for the transportation of persons or property, and the commission may from time to time prescribe the extent to which such carrier may be relieved from the operation and requirements of this section.~~

~~§461.5 — Transportation rates and facilities, discrimination~~

~~—No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this state. It shall be unlawful for any railroad or other transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates.~~

~~—Upon application to the commission such company may, in special cases, after investigation, be authorized by the commission to charge less for longer than for shorter distance for the transportation of persons or property and the commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the~~

~~longer than for the shorter haul. The commission may authorize the issuance of excursion and commutation tickets at special rates.~~

~~Nothing contained in this section shall be construed to prevent the commission from ordering and compelling any railroad or other transportation company to make reparation to any shipper on account of the rates charged to such shipper being excessive or discriminatory, provided no discrimination will result from such reparation.~~

§486. Schedules of common carriers; filing; public inspection

Every common carrier as defined in Section 211 shall file with the commission and shall print and keep open to the public inspection schedules showing the rates, fares, charges, and classifications for the transportation between termini within this State of persons and property from each point upon its route to all other points thereon; and from each point upon its route to all points upon every other route leased, operated, or controlled by it; and from each point on its route or upon any route leased, operated, or controlled by it to all points upon the route of any other common carrier, whenever a through route and a joint rate has been established or ordered between any two such points. If no joint rate over a through route has been established, the schedules of the several carriers in such through route shall show the separately established rates, fares, charges, and classifications applicable to the through transportation.

§488. Availability for inspection; form

Subject to such rules as the commission may prescribe, the schedules of common carriers as defined in Section 211 shall be produced and made available for inspection upon the demand of any person. The form of every such schedule shall be prescribed by the commission ~~and shall conform, in the case of common carrier subject to the Interstate Commerce Act and the acts amendatory thereof and supplementary thereto, as nearly as possible to the form of schedules prescribed by the Interstate Commerce Commission.~~

§493. Operation of common carrier before filing and publication of schedule; establishment of reasonable transportation charge by commission

(a) No common carrier as defined in Section 211 and subject to this part shall engage or participate in the transportation of persons or property, between points within this state, until its schedules of rates, fares, charges, and classifications have been filed and published in accordance with this part.

(b) If any such common carrier of property, in contravention of subdivision (a), transports any property for which it does not have schedules of rates, fares, charges, and classifications on file, the commission may establish a just and reasonable charge for the transportation.

§494. Compliance with schedule; discrimination

No common carrier as defined in Section 211 shall charge, demand, collect or receive a different compensation for the transportation of persons or property, or for any service in connection therewith, than the applicable rates, fares, and charges specified in its schedules filed and in effect at the time, nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified, except upon order of the commission as provided in this part, nor extend to any corporation or person any privilege or facility in the

transportation of passengers or property except such as are regularly and uniformly extended to all corporations and persons.

§496. Joint agreement relating to rates, charges, fares, etc.; carriers; powers of commission

(a) For purposes of this section--

(1) The term "carrier" means any common carrier as defined in Section 211 and subject to regulation under this part.

(2) The term "antitrust laws" means the provisions of Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code, relating to combinations in restraint of trade.

(b) Any carrier which is a party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation, or establishment thereof, may under such rules and regulations as the commission may prescribe, apply to the commission for approval of the agreement, and the commission shall by order approve any such agreement, if approval thereof is not prohibited by subdivision (d), (e) or (f), if it finds that the agreement and the rules, regulations, and procedures provided for the operation thereof are fair and reasonable and not contrary to public policy; otherwise the application shall be denied. The approval of the commission shall be granted only upon such terms and conditions as the commission may prescribe as necessary to enable it to grant its approval in accordance with this subdivision.

(c) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the commission such reports, as may be prescribed by the commission, and all such accounts, records, files, and memoranda shall be subject to inspection by the commission or its duly authorized representatives.

~~(d) The commission shall not approve under this section any agreement between a carrier by highway and a carrier by rail unless it finds that the agreement is of the character described in subdivision (b) and is limited to matters relating to transportation under joint rates or over through routes.~~

~~(e)~~(d) The commission shall not approve under this section any agreement which it finds is an agreement with respect to the pooling or division of traffic, service, or earnings, unless the commission finds that the agreement will be in the interest of better service to the public or of economy of operation resulting in efficient utilization of fuel and will not unduly restrain competition.

~~(f)~~(e) The commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure.

~~(g)~~(f) The commission may, upon complaint or upon its own initiative without complaint, investigate and determine whether any agreement previously approved by it under this section or any term or condition upon which the approval was granted, is not in conformity with subdivision

(b), or whether any such term or condition is not necessary for purposes of conformity with subdivision (b). After the investigation, the commission may by order terminate or modify its approval of such agreement if it finds such action necessary to insure conformity with subdivision (b), and may modify the terms and conditions upon which the approval was granted to the extent it finds necessary to insure conformity with subdivision (b) or to the extent it finds which terms and conditions unnecessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, may be postponed for such period as the commission determines is reasonably necessary to avoid undue hardship.

(f)(g) No order shall be entered under this section except after interested parties have been afforded reasonable opportunity for hearing.

(f)(h) The parties to any agreement approved by the commission under this section and other persons are, if the approval of the agreement is not prohibited by subdivision (d), (e), or (f), or (g), hereby exempted from the antitrust laws with respect to the agreement under the terms and conditions prescribed by the commission.

(f)(i) Any action of the commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying its approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of subdivision (f)(h).

~~§556. Common carriers; interchange and transfer of passengers, freight, and cars~~

~~Every common carrier shall afford all reasonable, proper, and equal facilities for the prompt and efficient interchange and transfer of passengers, tonnage, and cars, loaded or empty, between the lines owned, operated, controlled, or leased by it and the lines every other common carrier, and shall make such interchange and transfer promptly without discrimination between shippers, passengers, or carriers either as to compensation charged, service rendered, or facilities afforded.~~

~~§557. Receipt and hauling of freight cars of other railroads~~

~~Every railroad corporation shall receive from every other railroad corporation, at any point of connection, freight cars of proper standard and in proper condition, and haul them to destination, if the destination is upon a line owned, operated, or controlled by it, or to the point of transfer according to the route billed, if the destination is upon the line of some other railroad corporation.~~

~~§559. Duty to establish joint rates, fares, and charges~~

~~Nothing in Sections 556 to 558, inclusive, shall limit or modify the duty of a common carrier to establish joint rates, fares, and charges for the transportation of passengers and property over the lines owned, operated, controlled, or leased by it and the lines of other common carriers; or the power of the commission to require the establishment of such joint rates, fares, and charges.~~

~~§560. Connection with private track; construction of spur tracks for shippers and receivers~~

~~Upon the application of any shipper or receiver or contemplated shipper or receiver of freight for a connection between the railroad of a railroad corporation and its existing or~~

~~contemplated private track or railroad, the railroad corporation shall make the connection, provide such switches and tracks as may be necessary for that purpose, and deliver and receive cars thereover, if the connection is reasonably practicable and can be installed and used without materially increasing the hazard of the operation of the railroad with which the connection is sought, and if the business which may reasonably be expected to be received by the railroad corporation over the connection is sufficient to justify the expense of the connection to the railroad corporation.~~

~~Upon the same conditions, every railroad corporation, upon the application of any shipper or receiver or contemplated shipper or receiver of freight, shall construct upon its right of way a spur or spurs for the purpose of receiving and delivering freight thereby, and shall receive and deliver freight thereby.~~

§583. Information confidential; disclosure of information; misdemeanor

No information furnished to the commission by a public utility, or any business which is a subsidiary or affiliate of a public utility, or a corporation which holds a controlling interest in a public utility, except those matters specifically required to be open to public inspection by this part, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding. Any present or former officer or employee of the commission which divulges any such information is guilty of a misdemeanor.

(ARTICLE 7 - EMINENT DOMAIN)

§610. Application to public utilities and railroad corporations

This article applies only to a corporation or person that is a public utility and to a railroad corporation.

§611 Railroad corporations

A railroad corporation undertaking to carry freight or passengers for the public, whether or not it is a common carrier as defined in Section 211, may condemn any property necessary for the construction and maintenance of its railroad.

§703. Investigation of interstate rates; application for relief

The commission may investigate all existing or proposed interstate rates, fares, tolls, charges, and classifications, and all rules and practices in relation thereto, for or in relation to the ~~transportation of persons or property or the transmission of messages or conversations where any~~ act in relation thereto takes place within this State and when they are, in the opinion of the commission, excessive or discriminatory or in violation of the ~~Interstate Commerce Act, or any~~ other act of Congress, or in conflict with the rulings, orders, or regulations of any federal regulatory agency having jurisdiction.

~~§706. Railroad corporations; connections, intersections, exchange of passengers and freight~~

~~Every railroad corporation may connect at the state line with railroads of other states. Every railroad corporation may intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, without delay or discrimination.~~

~~§707. Railroad corporations; interurban passenger service; public subsidies or other support; intermodal facilities~~

~~(a) In any proceeding before the commission relating to the rates charged by a railroad corporation for interurban railway passenger services or to the extent of such services, the commission shall take into consideration the availability of any public subsidies or other forms of support for such services.~~

~~(b) The Department of Transportation shall furnish to the commission such information as the commission may request concerning the availability of public subsidies or other forms of support for interurban railway passenger services.~~

~~(c) In any proceeding before the commission concerning the interurban transportation of passengers, or any service related thereto, by a railroad corporation, the commission shall give consideration to those factors that would assure the commencement, development, and continuation of such interurban passenger service.~~

~~(d) In any proceeding before the commission concerning the interurban transportation of passengers or any service related thereto by a railroad corporation, the commission shall give consideration to the establishment of intermodal facilities and order the construction of those facilities pursuant to Section 762. The Department of Transportation shall furnish to the commission such information as the commission may request.~~

§728.5 Transportation rates; tariffs; powers and duties of commission.

The commission may establish rates or charges for the transportation of passengers and freight by common carriers as defined in Section 211 ~~railroads and other transportation companies, except motor carriers of property, and no railroad or other transportation company, except motor carriers of property, shall charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates established by the commission than the rates, fares and charges which are specified in such tariff.~~ The commission may examine books, records and papers of all such common carriers ~~railroad and other transportation companies, except motor carriers of property, may hear and determine complaints against them railroad and other transportation companies, and may issue subpoenas and all necessary process and send for persons and papers.~~ The commission and each of the commissioners may administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record. The commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies, except motor carriers of property, whose rates, fares, prices, and charges to the public are subject to its economic regulation.

§730 Facilities and rates for services; competing common carriers

The commission shall, upon a hearing, determine the kind and character of facilities and the extent of the operation thereof, necessary reasonably and adequately to meet public requirements for service furnished by common carriers as defined in Section 211 between any two

or more points, and shall fix and determine the just, reasonable, and sufficient rates for such service. Whenever two or more common carriers are furnishing service in competition with each other, the commission may, after hearing, when necessary for the preservation of adequate service and when public interest demands, prescribe uniform rates, classifications, rules, and practices to be charged, collected, and observed by all such common carriers.

§730.5 Order for increases for land passenger transit system; effect on acceptance of services

In setting rates for the passenger transportation services of any railroad or passenger stage corporation, the commission shall include in its order approving any increase in such rates specific and detailed written consideration of the effect of such rates on the acceptance of such transportation services by the public and how much public acceptance will affect public transit systems as proposed in required transportation plans prepared pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of the Government Code.

~~§731. Equality of transportation rates between competing agencies of transportation; differential between rail and water transportation~~

~~Whenever the commission, after a hearing, finds that any rate or toll for the transportation of property is lower than a reasonable or sufficient rate and that the rate is not justified by actual competitive transportation rates of competing carriers, or the cost of other means of transportation, the commission shall prescribe such rates as will provide an equality of transportation rates for the transportation of property between all such competing agencies of transportation, except motor carriers of property. When in the judgement of the commission a differential is necessary to preserve equality of competitive transportation conditions, a reasonable differential between rates of common carriers by rail and water for the transportation of property may be maintained by such carriers, and the commission may by order require the establishment of such rates.~~

~~§732. Through routes; joint rate; transfer from original cars~~

~~Whenever the commission, after a hearing finds that the rates, fares, or charges in force over two or more common carriers, between any two points in this State, are unjust, unreasonable, or excessive, or that no satisfactory through route or joint rate, fare, or charge exists between such points, and that the public convenience and necessity demand the establishment of such a through route and joint rate, fare, or charge, the commission may order such common carriers to establish such through route and may establish and fix a joint rate, fare, or charge which will be fair, just, reasonable, and sufficient, to be charged and collected in the future, and the terms and conditions under which such through route shall be operated. The commission may order that freight moving between such points shall be carried by the common carriers participating in such through route and joint rate, without being transferred from the originating cars.~~

~~§733. Division of joint rates; through routes and joint rates of common carriers and stage lines~~

~~In case the common carriers do not agree upon the division between them of the joint rates, fares, or charges established by the commission over such through routes, the commission shall, after hearing, by supplemental order, establish such division. Where any railroad, or passenger stage corporation which is made a party to a through route has itself over its own line~~

~~an equally satisfactory through route between the termini of the through route established, such railroad, or passenger stage corporation may require as its division of the joint rate, fare, or charge its local rate, fare, or charge over the portion of its line comprised in such through route, and the commission may, in its discretion, allow to such railroad or passenger stage corporation, more than its local rate, fare, or charge whenever it will be equitable so to do. The commission may establish and fix through routes and joint rates, fares, or charges over common carriers and stage or auto stage lines which may not be otherwise subject to the provisions of this part, and may fix the division of such joint rates, fares, or charges.~~

§763 Order regulating service of railroad and street railroad corporations

~~Whenever the commission, after a hearing, finds that any railroad corporation or street railroad corporation whose fares, rates and charges are regulated by the commission does not run a sufficient number of trains or cars to or possess or operate sufficient motive power, reasonably accommodate the traffic, passenger or freight, transported by or offered for transportation to it, or does not run its trains or cars with sufficient frequency or at a reasonable or proper time having regard to safety, or does not stop its trains or cars at proper places, or does not run any train or car upon a reasonable time schedule for the run, the commission may make an order directing such corporation to increase the number of its trains or cars, or its motive power or to change the time for starting its trains or cars or to change the time schedule for the run of any train or car, or to make any other order that it determines to be reasonably necessary to accommodate and transport the traffic, passenger or freight, transported or offered for transportation.~~

§763.1 Petition for institution of new and additional rail passenger service

~~Any transportation planning agency, any county transportation commission, or any city or county may petition the commission for the institution of new and additional rail passenger services.~~

§764. Order for connection of tracks of two or more railroad and street railroad corporations

~~Whenever the commission, after a hearing, finds that the public convenience and necessity would be served by having connections made between the tracks of any two or more railroad or street railroad corporations, so that cars may readily be transferred from one to the other at any of the points specified in this section, the commission may order any two or more such corporations owning, controlling, operating, or managing tracks of the same gauge to make physical connections at any and all crossings, and at all points where a railroad or street railroad begins or terminates or runs near to any other railroad or street railroad. After the necessary franchise or permit has been secured from the city or city and county, the commission may likewise order such physical connection, within the city, or city and county, between two or more railroads which enter the limits thereof. The commission shall by order direct whether the expense of such connections shall be borne jointly or otherwise.~~

§765. Order for connection with private tracks or construction of spur tracks; use of private and spur tracks; compensation

~~Whenever the commission, after a hearing, finds that application has been made to a railroad corporation for a connection or spur by any corporation or person entitled thereto pursuant to Section 560, and that the railroad corporation has refused to provide such connection~~

~~or spur, the commission shall make an order requiring the providing of such connection or spur and the maintenance and use thereof upon such reasonable terms as the commission may prescribe. Whenever any such connection or spur has been so provided, any corporation or person may connect with the private track or railroad thereby connected with the railroad of the railroad corporation and may use the private track or railroad or the spur upon payment to the party incurring the primary expense of such private track or railroad, or the connection or spur, or a reasonable proportion of the cost thereof to be determined by the commission after notice to the interested parties and a hearing thereto, if such connection and use can be made without unreasonable interference with the rights of the party incurring such primary expense.~~

~~—The commission may require one railroad corporation to switch to private spurs and industrial tracks upon its own railroad the cars of a connecting railroad corporation and may prescribe the terms and compensation for such service.~~

§767. Order for use of the one public utility's facilities of one public utility or railroad corporation by another; compensation

Whenever the commission, after a hearing had upon its own motion or upon complaint of a public utility or railroad corporation affected, finds that public convenience and necessity require the use by one public utility or railroad corporation of all or any part of the conduits, subways, tracks, wires, poles, pipes, or other equipment, on, over, or under any street or highway, and belonging to another public utility or railroad corporation, and that such use will not result in irreparable injury to the owner or other users of such property or equipment or in any substantial detriment to the service, and that such public utilities or railroad corporations have failed to agree upon such use or the terms and conditions or compensation therefor, the commission may by order direct that such use be permitted, and prescribe a reasonable compensation and reasonable terms and conditions for the joint use. If such use is directed, the public utility or railroad corporation to whom the use is permitted shall be liable to the owner or other users for such damage as may result therefrom to the property of the owner or other users thereof, and the commission may ascertain and direct the payment, prior to such use, of fair and just compensation for damage suffered, if any.

§768. Requirement of safety devices

The commission may, after a hearing, require every public utility to construct, maintain, and operate its line, plant, system, equipment, apparatus, tracks, and premises in a manner so as to promote and safeguard the health and safety of its employees, passengers, customers, and the public. The commission may prescribe, among other things, the installation, use, maintenance, and operation of appropriate safety or other devices or appliances. ~~including interlocking and other protective devices at grade crossings or junctions and block or other systems of signaling.~~ The commission may establish uniform or other standards of construction and equipment and require the performance of any other act which the health or safety of its employees, passengers, customers, or the public may demand. The Department of the California Highway Patrol shall have the primary responsibility for the regulation of the safety of operation of passenger stage corporations. The commission shall cooperate with the Department of the California Highway Patrol to ensure safe operation of these carriers.

~~§769. Rules prescribing time for handling of freight and express packages; demurrage charts; limits for handling of express packages and telegraph and telephone~~

~~messages~~

~~_____ The commission may provide by proper rules the time within which all railroad corporations shall furnish, after demand therefor, all cars, equipment, and facilities necessary for the handling of freight in carload and less than carload lots, the time within which consignors or persons ordering cars shall load the cars, and the time within which consignees or persons to whom freight is consigned shall unload and discharge the cars and receive freight from the freight rooms, and may provide penalties to be paid for failure on the part of the railroad corporations, consignors, and consignees to conform to such rules. Charges for demurrage shall be uniform so that the same penalty shall be paid by both shipper or consignee and railroad corporation for an equal number of cars for each day for which demurrage is charged.~~

~~_____ The commission may provide the time within which express packages shall be received, gathered, transported, and delivered at destination, and the limits within which express package shall be gathered and distributed and telegraph and telephone messages delivered without extra charge.~~

~~§769.5. Railroads; passenger cars; disposition; approval~~

~~_____ No railroad corporation shall dispose of any passenger car for scrap or otherwise without the approval of the commission. The commission shall approve such disposition only when it finds that such equipment is not required by the railroad corporation in the furnishing of passenger transportation service and that the disposition thereof will not render the railroad corporation unable to provide the level of service required by the commission to be furnished with such equipment.~~

(DIVISION 4, CHAPTER 1, RAILROAD CORPORATIONS)

~~§7531.5 Application to abandon railroad line; copy to state transportation board~~

~~_____ Upon receipt by it of an application, filed with either the Interstate Commerce Commission or the Public Utilities Commission, to abandon a line of railroad, the Public Utilities Commission shall forward a copy of the application to the State Transportation Board within 10 days.~~

~~§7532. Discontinuance of operation of line; commission authorization~~

~~_____ The commission may authorize the discontinuance of operation in whole or in part of any line of railroad for such period of time and upon such conditions as the commission determines, without forfeiture of the right to operate the railroad.~~

~~§7532.5 Application to abandon or discontinue intermodal service to community or shipper; notice; hearing; findings~~

~~_____ (a) Every railroad corporation that intends to abandon, or discontinue service on, any spur, industrial, team, switching, or side track providing intermodal service to any community or shipper shall file an application with the commission and furnish notice of its intent to the affected community and shippers at least 90 days prior to the filing of the application.~~

~~(b) If the abandonment of, or discontinuance of service on, any spur, industrial, team, switching, or side track has been protested in writing by any affected shipper or community, and the protest makes a prima facie showing that the abandonment or discontinuance of service will have a substantial adverse impact on the affected community or on any affected shipper, the commission shall hold a public hearing in the affected area prior to authorizing the abandonment of, or discontinuance of service on, any spur, industrial, team, switching, or side track used by a railroad corporation to provide intermodal service:~~

~~(c) Prior to authorizing the abandonment of, or discontinuance of service on any spur, industrial, team, switching, or side track used by a railroad corporation to provide intermodal service, the commission shall find all of the following:~~

~~(1) The degree to which the facility in question is profitable:~~

~~(2) Whether that abandonment or discontinuance will have an adverse impact on the environment:~~

~~(3) Whether that abandonment or discontinuance will have an adverse impact on the affected community or shippers. In making this determination, the commission may take into account the availability of alternative transportation service.~~



CALIFORNIA MOVING AND STORAGE ASSOCIATION

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January 21, 1997

Mr. Kent W. Koss
California Public Utilities Commission
Office of Governmental Affairs
1227 O Street, Room 404
Sacramento, CA 95814

Dear Mr. Koss:

Thank you for your recent letter of January 10 requesting comments to the comments presented by other parties on SB 960 Code Revisions. It is my understanding that SB 960 does not have any direct impact on the relationship and/or regulatory framework of the California Public Utilities Commission as it relates to the household goods moving industry. The comments filed and were sent to me for the most part deal in telecommunications. Telecommunications is a separate type of utility from household goods transportation. There were additional comments filed by the Union Pacific Railroad. Not having expertise in the railroad industry, I am withholding specific elements regarding their December 30, 1996 letter to you.

While the ICC Termination Act did preclude states from regulating rates routes and services of most forms of intrastate regulation, it exempted household goods transportation from such preemption. The household goods moving industry has voiced its recommendation at many forums in California to maintain the current method of regulation and that that regulation be administered by the California Public Utilities Commission.

If there are any other specific issues you wish information on, please contact me at your earliest convenience.

Sincerely,

Douglas Hill
President

DLH/em

cc: William Schulte, CPUC, San Francisco

Transportation				
Code Section	Suggested Action	Rationale	Opposition	CPUC
211 Defines common carrier.	Amend: Union Pacific suggests amending to exclude railroads and rail corporations from the definition of common carrier.	PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress. This can best be accomplished by excluding "railroads" and "rail corporations" from the definition of "common carrier."		Opposes amendment--although code sections that apply economic regulation to RRs should generally be made inapplicable to RR corporations, UP's broader approach would also make code sections relating to safety inapplicable to RRs. CPUC should continue to have economic regulatory authority over RRs that are not part of the interstate rail network, where there has been no federal preemption.

216 Defines public utility.	Amend: Union Pacific suggests amending to exclude railroads and rail corporations from the definition of public utility.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Disagrees with amendment--see comments to Section 211 above.
216.5 Excludes motor carrier of property from the definition of a public utility.	Amend: Union Pacific suggests amending to also exclude a "common carrier of freight by railroad" from the definition of a public utility.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Disagrees with amendment--see comments to Section 211 above.

<p>314.5 Requires Commission to inspect and audit books and records of utility corporations for regulatory and tax purposes every three or five years depending on number of customers corporation serves.</p>	<p>Amend: Union Pacific suggests modifying to exclude railroad and rail corporations from this provision.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Opposes amendment in part--currently there are no RR commuter operations that are subject to CPUC rate regulation. Therefore, this part of the proposal appears reasonable. Because audits for safety purposes continue to be an important mechanism, amendments to this section must allow for them to continue.</p>
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<p>458 Prohibits common carrier transportation at rates below those filed.</p>	<p>Amend: Union Pacific suggests modifying so that provision only applies to common carriers as defined in § 211—thus, railroads and rail corporations would be excluded from the section.</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with amendment in concept—section should generally not apply to railroad corporations. However, section should continue to apply to railroads that are not part of the interstate rail network. CPUC will work with the parties on language.</p>
<p>459 Prohibits fraudulent rebates.</p>	<p>Amend: Union Pacific suggests modifying so that provision only applies to common carriers as defined in § 211—thus, railroads and rail corporations would be excluded from the section.</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with amendment in concept—see comments to Section 458 above.</p>

460 Prohibits common carriers from charging higher rates for transportation of persons for a shorter than for a longer distance over the same line or route in the same direction.	Delete: Union Pacific suggests deleting provision.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Agrees with deletion--section is duplicative of Section 461.5.
461.5 Prohibits railroad and transportation companies from discriminating in transportation rates.	Delete: Union Pacific suggests deleting provision.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Opposes deletion--section applies to other common carriers. However, the only railroads to which this section should apply are those that are not part of the interstate network.
486 Requires common carriers to file tariffs with the Commission and to keep their rates open to public inspection.	Amend: Union Pacific suggests modifying so that provision only applies to common carriers as defined in § 211--thus, railroads and rail corporations would be excluded from the section.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Agrees with amendment in concept--see comments to Section 458 above.

488 Requires that schedules of common carriers be available for public inspection.	Amend: Union Pacific suggests modifying so that provision only applies to common carriers as defined in § 211--thus, railroads and rail corporations would be excluded from the section.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Agrees with amendment in concept--see comments to Section 458 above.
493 Prohibits common carriers from operating until their rates are filed and published in accordance with rules created in PUCode.	Amend: Union Pacific suggests modifying so that provision only applies to common carriers as defined in § 211--thus, railroads and rail corporations would be excluded from the section.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Agrees with amendment in concept--see comments to Section 458 above.
494 Prohibits common carriers from charging rates other than those on file with Commission.	Amend: Union Pacific suggests modifying so that provision only applies to common carriers as defined in § 211--thus, railroads and rail corporations would be excluded from the section.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Agrees with amendment in concept--see comments to Section 458 above.

<p>496 Carrier anti-trust provisions.</p>	<p>Amend: Union Pacific suggests modifying so that provision only applies to common carriers as defined in § 211—thus, railroads and rail corporations would be excluded from the section.</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Section can be deleted in its entirety.</p>
<p>556 Requires every common carriers to have adequate facilities to offer services, including efficient interchange, between its own lines and the lines owned by other common carriers.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Opposes deletion—section applies to other common carriers. However, section should be made inapplicable to railroad corporations. CPUC will work with parties on language.</p>
<p>557 Requires railroads to receive and haul freight cars from other railroads.</p>	<p>Delete: Union Pacific suggests deleting provision</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with deletion.</p>

<p>559 States duty of common carriers to establish joint rates for transportation over the lines it owns and the lines of other common carriers.</p>	<p>Delete: Union Pacific suggests deleting provision</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Opposes deletion--section applies to other common carriers. However, section should be made inapplicable to railroad corporations. CPUC will work with parties on language.</p>
<p>560 Requires railroads to make certain connections or provide switches at the request of any shipper or receiver if certain conditions are met.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with deletion.</p>
<p>610 Applies eminent domain power to public utilities.</p>	<p>Amend: Union Pacific suggests modifying to also apply eminent domain power to railroad corporations.</p>	<p>If § 211 is amended to exclude RR corporations from being common carriers, RR corporations will lose their power of eminent domain. This amendment would give RR corporations the power of eminent domain without being a public utility.</p>		<p>Opposes amendment--in light of discussion under Sections 211, 216, and 216.5, there is no need to amend this code section.</p>

<p>611 Permits railroad corporations to condemn any property necessary for the construction and maintenance of its railroad.</p>	<p>Amend: Union Pacific suggests modifying to make clear that this provision would apply to a railroad corporation whether or not it is a common carrier as defined in § 211.</p>	<p>If § 211 is amended to exclude RR corporations from being common carriers, RR corporations will lose their power of eminent domain. This amendment would give RR corporations the power of eminent domain without being a public utility.</p>		<p>Opposes amendment--in light of discussion under Sections 211, 216, and 216.5, there is no need to amend this code section.</p>
<p>703 Permits Commission to investigate all existing or proposed rates, classifications, etc., for the transportation of persons or property or the transmission of messages when the Commission believes they are excessive, discriminatory, or otherwise improper.</p>	<p>Amend: Union Pacific suggests modifying so that Commission will not have authority to investigate rates for the transportation of persons or property.</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Opposes amendment--it would interfere with the Commission's ability to represent the people of California in federal agency proceedings relating to railroads, and other common carriers. The reference to the Interstate Commerce Act should be deleted.</p>

706 Permits railroad corporations to connect at the state line with railroads of other states.	Delete: Union Pacific suggests deleting provision.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Agrees with deletion.
707 States procedures for the Commission to follow in establishing rates charged by railroads for interurban passenger service.	Delete: Union Pacific suggests deleting provision.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Agrees with deletion.

<p>728.5 Permits Commission to establish rates for, examine the books of, and hear and determine complaints against railroads and other transportation companies.</p>	<p>Amend: Union Pacific suggests modifying so that provision only applies to common carriers as defined in § 211—thus, railroads and rail corporations would be excluded from the section.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with amendment in part--the portions of this section relating to economic regulation should generally be made <u>in</u>applicable to railroad corporations. However, those provisions should continue to apply to railroads that are not part of the interstate rail network. CPUC will work with parties on language.</p>
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<p>730 Requires Commission to determine facilities needed for services furnished by common carriers and to establish fees for such services.</p>	<p>Amend: Union Pacific suggests modifying so that provision only applies to common carriers as defined in § 211--thus, railroads and rail corporations would be excluded from the section.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with amendment in part--section should generally not apply to railroad corporations. However, section should continue to apply to railroads that are not part of the interstate rail network. CPUC will work with parties on language.</p>
<p>730.5 Requires Commission's order approving rate increases for the passenger transportation services of any railroad or passenger stage corporation to include certain findings and considerations.</p>	<p>Amend: Union Pacific suggests modifying so that provision does not apply to railroad corporations.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Section was repealed in 1982.</p>

<p>731 Requires Commission to prescribe rates of transportation carriers if it finds that the rates being charged are below cost of service.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with deletion-- Commission's general authority over common carrier rates (e.g., Section 728) should be sufficient to deal with any instances of rates that are too low.</p>
<p>732 Permits Commission to establish through route and joint rates which will be fair, just, reasonable, and sufficient if Commission finds that no such route exists or that the fare is unreasonable.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Opposes deletion--section applies to other common carriers. Section should be made <u>inapplicable</u> to railroad corporations. CPUC will work with parties on language.</p>

<p>733 Permits Commission to establish the division of joint rates between common carriers if they do not agree upon the division.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Opposes deletion- -section applies to other common carriers. Section should be made <u>in</u>applicable to railroad corporations. CPUC will work with parties on language.</p>
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<p>763 Permits Commission to direct any railroad or street railroad corporation to increase the number of trains it operates, to change its schedule, or to take any other action the Commission finds necessary to accommodate and transport the traffic, passenger or freight, transported or offered for transportation.</p>	<p>Amend: Union Pacific suggests amending to eliminate the authority of the Commission to order railroad corporations to provide service.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with amendment in part--portions of section relate to safety. Nevertheless, section could be made generally inapplicable to railroad corporations if that safety authority is adequately provided elsewhere. However, section should continue to apply to railroads that are not part of the interstate rail network. CPUC will work with parties on language.</p>
<p>763.1 Permits cities and counties to petition Commission for new and additional rail passenger services.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with deletion.</p>

764 Permits Commission to order connection of tracks of two or more railroad or street railroad corporations.	Delete: Union Pacific suggests deleting provision.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Agrees with deletion.
765 Permits Commission to order railroad corporation to provide certain connections or spurs.	Delete: Union Pacific suggests deleting provision.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Agrees with deletion.
767 Permits Commission to order the use of one public utility's facilities by another public utility; if Commission makes such an order, it shall prescribe a reasonable compensation and reasonable terms for joint use.	Amend: Union Pacific suggests modifying so Commission can order the use of the facilities of one public utility or railroad corporation by another.	PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.		Opposes amendment--in light of discussion under Sections 211, 216, and 216.5, there is no need to amend this code section.

<p>768 Permits Commission to order public utilities to operate and maintain equipment in a safe manner. Permits Commission to prescribe use of certain safety devices.</p>	<p>Amend: Union Pacific suggests deleting clause in statute that lists "interlocking and other protective devices at grade crossings or junctions and block or other systems of signaling" as examples of the safety devices the Commission can prescribe.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Opposes amendment.</p>
<p>769 Permits Commission to provide rules prescribing time within which freight and express packages shall be handled by railroad corporations and consignors or persons to whom freight is consigned.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with deletion.</p>
<p>769.5 Prohibits railroad corporations from disposing of passenger cars without the approval of the commission.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCode should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with deletion.</p>

<p>7531.5 Requires Commission to forward application to abandon a line of railroad to the State Transportation Board.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Opposes deletion-however, section should be amended to simply require notification to the CPUC and other relevant state agencies of abandonment applications filed with the federal authorities.</p>
<p>7532 Permits Commission to authorize discontinuance of operation of railroad line without forfeiture of the right to operate the railroad.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with deletion.</p>
<p>7532.5 Requires railroad corporation that intends to abandon line or discontinue service to file an application with the Commission and provide 90 days notice of its intent to the affected community and shippers.</p>	<p>Delete: Union Pacific suggests deleting provision.</p>	<p>PUCODE should be revised to recognize the intrastate and interstate deregulation of the rail industry mandated by Congress.</p>		<p>Agrees with deletion.</p>