

Per California Code of Regulations, title 2, section 548.5, the following information will be posted to CalHR's Career Executive Assignment Action Proposals website for 30 calendar days when departments propose new CEA concepts or major revisions to existing CEA concepts. Presence of the department-submitted CEA Action Proposal information on CalHR's website does not indicate CalHR support for the proposal.

A. GENERAL INFORMATION

1. Date

2024-05-30

2. Department

California Public Utilities Commission

3. Organizational Placement (Division/Branch/Office Name)

Legal Division

4. CEA Position Title

Deputy General Counsel, Public Utilities Commission

5. Summary of proposed position description and how it relates to the program's mission or purpose. (2-3 sentences)

The Deputy General Counsel reports directly to the General Counsel on the management of Legal Division and policy development, interpretation, and implementation of all Legal Division policies and standards within the Legal Division. This Deputy General Counsel position will assist the General Counsel in developing responses to evolving legal challenges to the Division, and to the Commission related to both state administrative and government law and state advisory issues and applications for rehearing and state appeals. The Deputy General Counsel assist the General Counsel with the current day-to-day Legal Division operations; manage the Assistant Chief Public Utilities Counsels, Attorney Vs, and state and federal litigation so that the General Counsel has sufficient bandwidth and time to carry out their responsibilities; and provide Executive management with critical legal and policy information affecting the CPUC's numerous complex programs.

6. Reports to: (Class Title/Level)

General Counsel, California Public Utilities Commission

7. Relationship with Department Director (Select one)

- Member of department's Executive Management Team, and has frequent contact with director on a wide range of department-wide issues.
- Not a member of department's Executive Management Team but has frequent contact with the Executive Management Team on policy issues.

(Explain): The General Counsel is a member of the Executive Management Team whereas this Deputy position works directly with the General Counsel on program management, and policy development, statutory interpretation, and implementation of Commission decisions and Commission policy in Legal Division and throughout the Commission, however this position does work with the Executive Management Team as delegated by the General Counsel.

8. Organizational Level (Select one)

- 1st 2nd 3rd 4th 5th (mega departments only - 17,001+ allocated positions)

B. SUMMARY OF REQUEST

9. What are the duties and responsibilities of the CEA position? Be specific and provide examples.

The Deputy General Counsel provides the General Counsel material assistance on a variety of matters, including but not limited to: managing complex and sensitive litigation, Legal Division administration and budget preparation, reviewing proposed state and federal legislation, representing Legal Division by attendance on various management committees within the Commission, leading and overseeing Legal Division's recruitment, diversity and inclusion, professional development, and succession planning programs, overseeing the Division's training programs, and overseeing complex projects.

The Deputy General Counsel assists the General Counsel in implementing ongoing constitutional and statutory obligations, new and complex legislation, developing responses to evolving legal challenges to the Commission and its decisions both through the Commission's regulatory decision making and through federal agency and court actions, and strategic planning for the Division to provide legal support for the Commission's programmatic efforts and optimize the State's and Commission's policy priorities and efficient use of staffing resources.

The Deputy General Counsel will have 10 direct reports: six advisory Assistant General Counsels, three advocacy Assistant General Counsels, and one administrative assistant. However, the Deputy General Counsel will not engage in substantive legal oversight over the advocacy units of Legal Division.

The Deputy General Counsel will primarily engage in advisory matters and be Legal Division's leader on, or a lead liaison interacting with, the Legislature, state and federal agencies and courts, with the financial community and ratings agencies, the Commission's governmental requirements such as conflict of interests and ethics, contracts, the Public Records Act, and state control agencies such as CalHR, Department of Finance, and the California State Auditor. The Deputy General Counsel will engage with both advisory and advocacy units of Legal Division in this unitary agency, while leading the oversight of the whole of Legal Division's administrative functions such as Human Resources, employment, and budget matters. This position will provide program management support to assist the General Counsel, including providing legal support for implementing and defending Commission initiatives and programs. The Deputy General Counsel will assist in strategic planning for Legal Division to achieve staffing efficiencies and workload management to address departmental priorities and tasks. The Deputy General Counsel will assume a portion of the General Counsel's workload as directed, so the General Counsel can fulfill the role of principal legal advisor to the Commission and Executive Team in the development of policy and legal strategy on a Commission-wide basis. The Deputy General Counsel will also either represent the Commission as its Ethics Officer or oversee the work of the Commission's Ethics Officer designated by the General Counsel. The Deputy General Counsel determines the staffing needs and professional development of the Legal Division based on trends in the types of cases brought by and against the Commission, and of actions or laws that Commission policy effects.

The Deputy General Counsel acts as the head of the entire Legal Division in the absence of the General Counsel. In the absence of the General Counsel, the Deputy General Counsel will act on and approve all matters under specific delegation not prohibited by law.

B. SUMMARY OF REQUEST (continued)

10. How critical is the program's mission or purpose to the department's mission as a whole? Include a description of the degree to which the program is critical to the department's mission.

- Program is directly related to department's primary mission and is critical to achieving the department's goals.
- Program is indirectly related to department's primary mission.
- Program plays a supporting role in achieving department's mission (i.e., budget, personnel, other admin functions).

Description: The Legal Division and actions to be managed by this position are essential to meeting the Division's support of the Commission's mission of assuring that utility services are safe and furthering state climate policies, providing for reliable critical services and infrastructure, and designing rates that are fair and reasonable and protecting the interests of consumers and ratepayers. This position will assist the General Counsel in developing responses to evolving legal challenges to Commission policy related to both state and federal advisory issues and litigation in the state, federal courts and before federal agencies. The Deputy General Counsel will also assist the General Counsel with the daily operations of Legal Division, including assisting in policy matters affecting the whole Commission. The Legal Division is central to accomplishing this mission as staff provide essential legal advice to management and are responsible for a broad range of issues with statewide impact, including utility regulation, utility finance, utility bankruptcies, safety and enforcement, energy law, employment law, environmental law, telecommunications law, transportation law, including railroads, passenger carriers and transportation network carriers, electric vehicles, and transmission siting, as well as implementing and promoting Commission policies regarding the State's clean energy goals, climate change and environmental sustainability and reliability and resiliency.

In addition, the Legal Division provides legal interpretation to the Commission and implementation of policies generated from the Governor's Office, the Legislature, control agencies, court orders and other state and federal governmental entities. The results of these services are often new or updated internal Commission policies and procedures to support the mission of the Commission.

B. SUMMARY OF REQUEST (continued)

11. Describe what has changed that makes this request necessary. Explain how the change justifies the current request. Be specific and provide examples.

The increased demands on the General Counsel from the Commission's increasingly complex legal activities, increased state and federal litigation, new state and federal legislation, as well as the historical growth of Legal Division during the past five years has created the need and urgency for this Deputy General Counsel position. For example, the Legislature requires that 100% of electricity retail sales need to be clean by 2045, and has set ambitious electricity storage and vehicle, home, and building electrification goals. More recently, AB 1373 expands the targets for offshore wind, geothermal energy, and electric storage. These State mandates must be balanced and accorded with federal mandates and standard and respect for federal preemption.

Simultaneously, climate change makes these State mandates and goals highly challenging, as California has in recent years faced extreme heat events, drought, and catastrophic wildfires. Extreme heat events in 2020 and 2022 impacted the western United States and strained electric system operations in California, resulting in rolling outages on August 14 and 15, 2020 and severely constrained resources in 2022. The Final Root Cause Analysis (RCA) into the 2020 outages, prepared for Governor Newsom by the Commission, the California Energy Commission (CEC) and the California Independent Operator (CAISO), detailed three root causes behind the outages and identified actions to be taken by the three entities to reduce the potential for grid outages, resulting on increased attention on the resilience and reliability of the grid, utility procurement and new proceedings at the Commission and legal challenges to the Commission's emergency actions. The Legislature adopted SB 846, both extending the life of the Diablo Canyon plant and requiring planning and coordination on long term electric supply and reliability. In 2023, AB 1373 established the Electricity Supply Strategic Reliability Reserve Program to ensure electric reliability in the face of these climate challenges and in the face of the most ambitious climate goals in the public utility sector. California has suffered catastrophic wildfires in recent years and the bankruptcy of the California's largest gas and electric investor owned utility (IOU). As part of its broad response to the devastation caused by these wildfires and the IOU's alarming wildfire liability, the California Legislature enacted Senate Bill (SB) 901 in 2018 and Assembly Bill (AB) 1054 in 2019 to, among other things, address the IOU's exposure to financial liability resulting from wildfires in the tens of billions of dollars that were caused by utility equipment and increased costs to ratepayers. SB901 and AB1054 introduced wholly new statutory authority related to utility wildfire cost-recovery, wildfire safety and expanded Commission authority related to bond secularizations. The additional workload demands placed on the General Counsel because of these new comprehensive statutes include staffing the many new proceedings related to wildfire mitigation and safety, interpreting a new statute related to stress testing of the IOU's financial conditions, interactions of these new statutes with novel issues in federal bankruptcy cases, the Commission's general rate cases, Commission enforcement actions, and litigation in the state and federal courts relating to the constitutionality of the statute and interpretations of key statutory provisions.

In managing these complex obligations, the Commission must always ensure that utility rates are just and reasonable and affordable. The Commission has an ongoing rate affordability proceeding, and it is considering a flat rate structure for electricity rates in order to address the increase in costs to provide utility service, in response to State policy goals, wildfire mitigation, and inflation and other external economic factors.

Moreover, the General Counsel provides legal advice to the Commission on multiple other demanding programmatic areas. For example, the California Legislature requires the Commission to implement ambitious broadband expansion and affordability through the establishment of the Broadband Loan Loss Reserve Fund and Broadband Public Housing Account. The Commission must also leverage as much federal grant monies in both the energy and communications sectors. The annual prospect of a drought places high burdens on Commission-regulated water utilities and the cost of water utility service. The Commission must also maintain an unflagging vigilance over railroad and light rail safety. And the Department of Motor Vehicles' expanded permitting of Autonomous Vehicles has directly led to an increased regulatory programmatic and court litigation load in this area.

Generally, such matters, of which these are just a few major examples out of many, require the advice and counsel from the General Counsel; however if the General Counsel is unavailable to attend to high-level matters or if delegated, the Deputy General Counsel will be able to address these high-level matters and policies which involve a significant amount of dedicated legal resources. These additions to the Commission's mission in implementing important state policies have required greater on-going collaboration between the Commission's executive management and the General Counsel and sister agencies and outside entities.

In addition, from 2015-2023, Legal Division has grown by nearly 60%, with 82 positions in 2015 to 146 positions in 2023, including 9 Assistant General Counsels, due to the increased workload resulting from new legislation, updated State policies, and challenges inherent with climate change and economic pressures. Legal Division is now essentially a law firm yet is operating with a management structure suitable to a much smaller legal office. Consequently, the demands on the General Counsel and Assistant General Counsel are excessive and unsustainable.

C. ROLE IN POLICY INFLUENCE

12. Provide 3-5 specific examples of policy areas over which the CEA position will be the principle policy maker. Each example should cite a policy that would have an identifiable impact. Include a description of the statewide impact of the assigned program.

The Deputy General Counsel will develop Legal Division policies that will improve overall function of the Division such as improving tracking of litigation, legislation, and internal policies regarding reporting to the General Counsel and to communications and coordination with the Commission, the Legislature, outside state and federal agencies, and local, state and federal government.

The Deputy General Counsel may assist with administrative functions that are the responsibility of the General Counsel, such as reviewing and approving contracts requiring Executive Director approval, reviewing and developing new policies affecting compliance of laws and regulations affecting Commission programs and projects. The Deputy General Counsel will further assist with Division-wide budgeting, reporting structure and hiring.

The Deputy General Counsel will improve the current tracking of state and federal legislation and litigation to streamline no less than seven dynamic legal fora with overlapping or dovetailed spheres of responsibility: CPUC and federal agency proceedings; State and federal legislation; state and federal courts; and local and Tribal governments. This position will lead to the development and implementation of existing and new Commission policies, Legal Division litigation policy and litigation strategy and the furtherance of substantive and legal underpinnings for Commission policies based on the Deputy General Counsel's expertise and experience in Commission policy and litigation. Development of an improved tracking that quickly updates the General Counsel on key lawsuits to enable the General Counsel to brief the Commission, the Governor's office, the legislature or other state agencies as appropriate, to the extent such litigation challenges existing state-wide policy.

The Deputy General Counsel will also be lead for Legal Division in developing Commission-wide policies to interpret, enforce, policies for compliance with statutory and Commission-generated programs, included but not limited to those policies and programs related to: utility bankruptcies and securitizations, Wildfire Safety and Enforcement, Wildfire mitigation, programs related to consumer protection, such as assistance to low-income and disadvantaged communities, environmental justice, climate change, reduction of emissions, building decarbonization and other movements away from carbon-based fossil fuels, resource adequacy, procurement, transportation electrification, Autonomous Vehicles and the regulation of Transportation Network Carriers such as Uber and Lyft, gas and energy safety and policy in general at both the state and federal level, including the representation of the State of California before FERC in both gas and electric ratemaking cases as well as cases involving market structure issues and the abuse of market power by generators in the electric sector, and State implementation of broadband policies, universal communications services including in rural areas, other underserved areas and Tribal lands.

C. ROLE IN POLICY INFLUENCE (continued)

13. What is the CEA position's scope and nature of decision-making authority?

The Deputy General Counsel will make decisions related to Legal Division and Commission-wide program management, under the General Counsel's direction and approval. This includes strategic planning for the Legal Division, workload management, hiring programs and seeking new positions, related hiring initiatives, contract approval, and review and approval of legal correspondence and Legal review and contribution to Commission-wide reports. In addition, the Deputy General Counsel will review, interpret, revise (as appropriate), and implement high-level policies that affect the Legal Division as well as legal policies and procedures and other policies within the Commission. These policies may be generated by Commission decisions, Executive Order, the Legislature, court orders, or control agencies such as the Department of Finance or CalHR. This position will also be responsible for formulating, communicating and implementing policies for the Legal Division and the Commission that correspond to high-level initiatives.

14. Will the CEA position be developing and implementing new policy, or interpreting and implementing existing policy? How?

This new CEA position will be responsible for both developing and implementing new policy, as well as interpreting and implementing existing policy within the Legal Division to improve Division performance. This Deputy General Counsel will be responsible for interpreting and implementing policies that come from Commission Decisions, Executive Orders, the Legislature, court orders and control agencies. These policies will likely be wide-ranging, but all will affect current internal Legal Division legal policies and Commission procedures. The CEA will also provide interpretation and direct the implementation of these policies through updating current Legal Division legal policies and procedures. As needed, this position will develop new legal policies for the Commission and provide communication regarding these policies to Executive Management, as well as to Legal Division management and staff, and where appropriate to the staff of the entire Commission.