# The Public Utilities Commission:

## *A Review of Regulatory Fee Funding*


Office of the Legislative Analyst



January 1988

# Table of Contents

# Introduction

# Introduction

This report is submitted pursuant to Chapter 323, Statutes of 1983. This legislation requires the Legislative Analyst to (1) evaluate the effectiveness of regulatory fees as a method of funding the California Public Utilities Commission (PUC) and (2) recommend whether regulatory fee funding for the PUC should be continued, amended, or repealed.

Chapter 1 describes the PUC's regulatory fee system. Chapter 2 provides the major arguments for and against the use of regulatory fees and contains our recommendation on the commission's ongoing funding source. Chapter 3 describes other issues related to the PUC's regulatory fee structure.

This report was prepared by David Illig and Jerry Magana, under the supervision of Mac Taylor and Ray Reinhard. It was typed by Senita Robinson-Taylor and formatted for publication by Suki O'Kane. The Legislative Analyst's Office gratefully acknowledges the assistance of the staff of the PUC. ❖

# Executive Summary

# Executive Summary

## Background

The Public Utilities Commission (PUC) is responsible for the regulation of privately owned utilities and transportation companies. The commission has a 1987-88 budget of $66.2 million, of which: (a) 57 percent is for regulation of utilities (gas, electric, phone); (b) 26 percent is for trucking regulation; and (c) 17 percent is for other regulatory efforts (primarily bus, rail, and rapid transit).

Prior to 1982-83, the PUC was funded primarily by general taxes—only trucking regulation was supported by regulatory fees (paid to the Transportation Rate Fund, or TRF). In 1982 and 1983, the Legislature shifted the funding source for commission activities almost entirely to regulatory fees. Chapter 1139/82, Ch 1016/82 and Ch 323/83 established the Public Utilities Commission Utilities Reimbursement Account (PUCURA) to receive fee payments from utilities and the Public Utilities Commission Transportation Reimbursement Account (PUCTRA) to receive fees from nontrucking transportation companies. Regulatory fees are set annually by the commission, generally based on a company's gross operating revenues or sales. The only PUC activities currently *not* funded by regulatory fees are rail and rapid transit safety regulation.

## The Use of Regulatory Fees

Regulatory fees have some characteristics of user fees and some features of broad-based taxes. Conceptually, it's oftentimes not readily apparent whether a given regulatory activity should be financed by regulatory fees or general taxes. There are, however, three reasons why the Legislature would select regulatory fees:

- ***More Direct Funding.*** The use of such fees tends to link the costs of regulation with those who benefit from it (businesses and consumers). This linkage, however, is oftentimes tenuous at best.
- ***General Fund Relief.*** A shift from taxes to regulatory fees "frees up" General Fund monies that the Legislature can use for other purposes.
- ***Stable Funding.*** Regulatory fees tend to provide a more stable funding source, as their revenue generating capacities are more independent of the economic

downturns that can affect General Fund revenues and expenditures.

There are also some practical reasons not to use regulatory fees:

- *Reduced Oversight.* Agencies supported by dedicated revenue sources such as fees do not have to compete for funding in the same manner as General Fund supported departments. As a result, oversight of programs supported by regulatory fees may be less rigorous than those supported by taxes.
- *Captivity.* The use of regulatory fees can contribute to a regulatory agency being "captive" to the industries it oversees. This, in turn, can lead to an inappropriate level of regulation—either excessive (that is, overly protective) or not stringent enough.
- *Added Administrative Costs.* The imposition of regulatory fees can also result in added costs—both public and private—to track, collect and audit fees.

Our review of the PUC's regulatory fee structure indicates that it does result in more direct funding of regulatory costs, and that there have not been any significant downside effects from using such fees (that is, reduced oversight, captivity, and added administrative costs). Accordingly, ***we recommend that the Legislature continue to rely on regulatory fees to fund PUC activities.***

## Other Issues

Based on our review of the PUC's regulatory fee structure, we also recommend that the Legislature:

- Extend the use of regulatory fees to recover the commission's costs of rail and rapid transit safety regulation.
- Consider establishing a dual fee schedule for bus companies, similar to the schedule in place for trucks until July 1, 1988. If the Legislature decides to continue the dual fee schedule for trucks, it could expand the concept to buses at the same time. The PUC will report in early 1988 on the success of the dual fee structure for trucks.

In addition, our analysis of the PUC's field audit process indicates that the commission needs to improve its audit selection process by choosing those audits (regardless of funding source or fund type) which have the highest potential marginal return. ❖

# Chapter I

# *Chapter I*
# The PUC's Regulatory Fee System

## Background

The Public Utilities Commission (PUC), created by a constitutional amendment in 1911, is responsible for the regulation of *privately* owned public utilities and transportation companies. The commission's primary objective is to ensure that adequate services are provided to the public at reasonable and equitable rates, consistent with a fair return to the utilities and transportation companies. The commission also: (1) approves all changes in operating methods and rate schedules proposed by these companies, (2) investigates complaints registered against them, and (3) initiates investigations on its own.

Table 1 shows the types and number of companies regulated by the PUC. While the commission regulates almost 23,000 truck companies, its involvement with individual companies is relatively minor. Conversely, while the PUC regulates only a handful of major gas, electric and phone companies, its involvement is extensive and far-reaching.

**Table 1**
**Public Utilities Commission**
**Number of Companies Regulated[a]**

| | *As of December 1986* |
|---|---|
| **Utilities** | |
| Gas | 6 |
| Steam | 2 |
| Electric | 7 |
| Water (large) | 19 |
| Water/Sewer (small) | 262 |
| Telecommunications: | |
| Local Companies | 22 |
| Inter-exchange | 87 |
| Radiotelephone Utilities | 83 |
| Cellular | 46 |
| **Transportation** | |
| Freight Carriers (Trucks) | 22,713 |
| Passenger Stage/Charter Party | 1,783 |
| Vessel Common Carrier | 17 |
| Air Operators | 1,237 |
| Vessels | 349 |
| Pipeline Operators | 6 |
| Railroads[b] | 40 |
| Rapid-Transit Districts[b] | 6 |

[a] *Source: Public Utilities Commission.*
[b] *The PUC's regulation of these companies/governmental entities is not supported from regulatory fees.*

## PUC Programs and Funding Sources

Table 2 presents a more detailed picture of the commission's regulatory programs. It shows that out of total 1987-88 budgeted expenditures of $66.2 million:

- $37.8 million, or 57 percent, is for regulation of utilities; and
- $17.5 million, or 26 percent, is for trucking regulation.

Remaining expenditures support bus, railroad and rail transit regulatory efforts.

## Funding History

Prior to 1982-83, the activities of the PUC were funded primarily by general taxes. In 1981-82, for instance, two-thirds of the PUC's $35.1 million in expenditures were supported by tax funds (with almost half of total spending coming from the General Fund). The remaining one-third was supported by regulatory fees levied on truckers and paid into the Transportation Rate Fund (TRF). This fund, established in 1935, has traditionally paid for the PUC's regulation of the trucking industry.

In 1982 and 1983, however, the Legislature shifted the funding source of commission activities almost entirely to regulatory fees. In 1982, the Legislature enacted Chapters 1139 and 1016, which established the PUC Utilities Reimbursement Account (PUCURA) to receive regulatory fees from water, sewer and radio telephone (mobile and cellular) utilities. Then, in 1983 the Legislature enacted Chapter 323 which:

- Extended regulatory fees to all "stationary" utilities (gas, electric, steam, and telephone), thereby making the PUCURA the largest funding source for commission activities;
- Established a PUC Transportation Reimbursement Account (PUCTRA) to receive regulatory fees from most non-trucking transportation companies (bus, airline, pipeline, and vessel companies); and
- Limited PUC spending on the regulation of any industry to the amount of fees collected from that industry.

Today, the PUCURA, PUCTRA and TRF support almost 95 percent of the commission's activities. The PUC does receive some gas tax monies in support of certain rail transportation regulation.

## Table 2
## Public Utilities Commission Programs and Funding Sources

| FUND | FUND REVENUE SOURCES | PUC PROGRAM | 1987-88 PUC BUDGET | |
|---|---|---|---|---|
| | | | APPROPRIATION | % OF TOTAL |
| State Highway Account, State Transportation Fund | • Motor Vehicle Registrations, Highway Users Tax | • Railroad/Highway Grade Crossing Safety | $1,501,000 | 2.3% |
| Transportation, Planning & Development Account, State Transportation Fund | • Retail Sales and Use Tax (e.g. Diesel/Gasoline) | • Rapid Transit Rail Systems Safety<br>• Railroad Operations and Facilities Safety<br>• Railroad Mergers and Abandonments<br>• Rail Passenger Development | 2,138,000 | 3.2 |
| Transportation Rate Fund | • Fees Assessed California Intrastate For-Hire Highway Carriers of Property | • Regulation of California Trucking Industry | 17,496,000 | 26.4 |
| Universal Telephone Service Fund | • InterLATA Intrastate Telecommunications Services Tax | • Universal Telephone Service Program Administrative Costs | 73,000 | 0.1 |
| Public Utilities Commission Transportation Reimbursement Account, General Fund (PUCTRA) | • Fees Assessed Passenger Vehicle Operators (Passenger Stage Corporations and Charter Party Carriers of Passengers), Pipeline Corporations, Commercial Air Operators, Common Carrier Vessel Operators, For-Hire Vessel Operators<br>• Related Regulatory Licenses and Filing Fees, and Sales of Documents<br>• Interstate Highway Carrier (Property and Passenger) Registration Fees | • Regulation of Passenger Vehicle Operators, Vessel Operators, Pipeline Corporations, Commercial Air Operators<br>• Registration of Interstate Highway Carriers | 3,938,000 | 5.9 |
| Public Utilities Commission Utilities Reimbursement Account, General Fund (PUCURA) | • Fees Assessed Electric Corporations, Gas and Steam Heat Corporations, Telecommunications Utilities [Local Telephone Companies, Inter-Exchange (Toll) Carriers, Radio Telephone Utilities, Cellular Radio Resale Companies, and Cellular Radio Facilities Companies], Water Corporations<br>• Fees from Related Notes, Stocks and Bond Issues, and Sale of Documents | • Regulation of Electric Corporations, Gas and Heat Corporations, Telecommunications Utilities, and Water Corporations | 37,810,000 | 57.1 |
| Federal Trust Fund | • Federal Grant(s)-in-Aid | • Gas Pipeline Safety<br>• Federal Railroad Safety Standards | 260,000 | 0.4 |
| Reimbursements | • Sales of Transcripts, Various Utility Companies | • Reporting Services to Litigants<br>• Environmental Impact Reports<br>• Construction Cost Assessment | 2,973,000 | 4.5 |
| TOTALS | | | $66,189,000 | 100.0% |

## Current Fee Structure

Table 3 summarizes the PUC's current regulatory fee structure. It shows that most revenue is raised through fees on gross operating revenue or gross sales (for example, almost $16 million will be raised in the current year from a .0124 cent per kilowatt-hour levy on electrical corporations' energy sales). The commission, however, also raises funds through filing, registration and transfer fees.

The table also reflects the dual fee schedule for truckers. As required by Ch 381/87, trucking companies which are not currently rate regulated by the PUC (such as, agricultural carriers and tank trucks) pay fees set at one-tenth of 1 percent (.001) of gross intrastate revenues. Trucking firms which are rate regulated pay fees set at four-tenths of 1 percent (.004). Unless extended, this dual rate structure will sunset July 1, 1988.

## Administration

Each year, commission staff determine the spending requirements for each regulated industry for the coming fiscal year. In May, the commission sets the fees at levels that will generate revenues sufficient to finance the proposed spending.

***Compliance.*** The PUC has 33 positions assigned to the task of collecting, accounting for, and auditing the various fees. Of these personnel, 2.5 positions are dedicated to performing company field audits to determine compliance with the fee statutes. The commission addresses noncompliance with the law in one of two ways. For companies in competitive industries (such as truck and bus companies), the commission suspends operating authority. If the company does not remedy its deficiency within 30 days, its operating authority is revoked.

For companies whose services are not easily replaced (such as stationary utilities), operating authorities are not revoked. Instead, the PUC uses its rate approval authority to ensure compliance. For example, a water company which did not pay its annual regulatory fee would not be allowed to increase its rates until it paid the overdue fees. ❖

## Table 3
## Public Utilities Commission
## Current Fee Structure

| Regulated Entity | Type of Public Utility or Type of Fee | Fee Level | Estimated 1987-88 Revenue |
| --- | --- | --- | --- |
| **Common Carriers & Related Business** | Passenger Vehicle Operators | 1% of gross operating revenue (.01) | $2,356,000 |
| | Common Carrier Vessel Operators | 1.5% of gross operating revenue (.015) | 280,000 |
| | For-Hire Vessel Operators | $25/each | 7,000 |
| | Commercial Air Operators | $25/each | 30,000 |
| | Pipeline Corporations | 1/10 of 1% of gross operating revenue (.001) | 84,000 |
| **Stationary Utilities** | Electrical Corporations | .0124¢/kWh sales | $15,951,000 |
| | Gas & Heat Corporations | .068¢ Therm sales/1.4¢ thousand lbs steam sales | 6,210,000 |
| | Telephone and Telegraph Corporations | 1/10 of 1% of gross operating revenue (.001) | 8,819,000 |
| | Water and Sewer System Corporations | 1.5% of gross operating revenue (.015) | 5,746,000 |
| **Highway Carriers of Property (Trucks)** | Fees on Gross Revenue | 4/10, 1/10 of 1% of gross operating revenue (.004,.001) | $12,117,000 |
| | Quarterly Fees | $10/quarter | 872,000 |
| | Regulatory Licenses/Filing Fees | $500 (new), $150 (transfer), $25 (seasonal) | 1,938,000 |
| **Interstate Carrier Registration Program: Interstate Highway Carriers (Trucks and Buses)** | Registration Fees, Identification Stamps | $25 (registration), $5 (per stamp) | $797,000 |
| | Certificate Authorizing Issuance of Bonds, Stocks, Other Indebtedness | $2/$1,000, up to $1 million<br>$1/$1,000, between $1and $10 million<br>50¢/$1,000, over $10 million ($50 minimum) | $2,250,000 |
| **Passenger Stage Corporations (Buses)** | Application/Transfer Fees | $500 (application), $150 (transfer) | N/A |
| **Passenger Stage Corporations (Buses)** | Fee in Lieu of City Tax on Intercity Transportation | 1/10 of 1% of gross operating revenue (.001) | $4,335,000 |
| **Charter Party Carriers of Passengers (Buses)** | Application, Renewal Fees | $500 (initial), $300 (renewal) | $539,000 |
| **Specified Utilities** | Application/Transfer Certificate of Public Convenience and Necessity | $500 (application), $150 (transfer) | N/A |
| **Highway Permit Carriers of Property (Trucks)** | Voluntary Suspension | $50 | $62,000 |
| **Highway Common Carrier/Cement Carrier** | Application/Transfer Fees | $500 (application), $150 (transfer) | N/A |
| **CPUC Document Fees** | Sales of Documents, Including Hearing Transcripts to: | Passenger carriers | $19,000 |
| | | Stationary utilities | 92,000 |
| | | Freight carrriers | 336,000 |
| | | Reimbursements | 419,000 |
| **Total** | | | $63,259,000 |

# Chapter II

# Chapter II
# The Appropriateness of the PUC's Regulatory Fees

Chapter 323/83 requires the Legislative Analyst to recommend whether the PUC's current regulatory fee structure should continue. Toward that end, we examine in this chapter the arguments for and against regulatory fee funding. First, however, we provide some background on regulatory fees in general.

## The Nature of Regulatory Fees

Regulatory fees are a public sector financing mechanism for recovering the costs of economically regulating a particular industry. This regulation takes two basic forms: (1) rate regulation, as in the PUC's approval of the prices charged consumers by various utilities; and (2) entry regulation, as with the various consumer boards which control access into particular professions (such as doctors, nurses and contractors).

Generally, a regulatory fee attempts to have regulatory costs paid by the businesses being regulated and/or the consumers of the services provided by those businesses. In this sense, a regulatory fee is *similar to* a user fee. Such fees, however, differ from user fees in important ways:

- A business has no choice with regard to the payment of a regulatory fee.
- There is no *direct* linkage between the amount of a regulatory fee paid by a specific business and the costs expended in regulating that business. (There is, however, usually a direct linkage between the total costs of regulating a particular industry or profession and the fees paid by all members of that industry/profession.)
- Similarly, there is no direct linkage between the regulatory costs ultimately borne by *individuals* and the benefits to those individuals of such regulation.

Given these differences, a regulatory fee is oftentimes closer to being a selective tax used to fund a particular activity. In fact, in cases where the regulatory activity affects virtually everybody (such as telephone or trucking regulation), there is little practical difference between funding regulation from a regulatory fee or a broad-based tax. There are, however, a number of factors — pro and con — that the Legislature should weigh in considering the use of regulatory fees. We turn to these now.

## Reasons to Use Regulatory Fees

There are several reasons why the Legislature might want to use regulatory fees. As discussed in more detail below, they can offer more direct funding, relieve General Fund fiscal pressures, and provide a funding source which is less dependent on short-run changes in the state's economy.

### More Direct Funding

Regulatory fees directly link the funding of regulation with the companies being regulated and, indirectly, link the regulatory fees to the customers receiving the benefits of regulatory activity. Thus, state residents not benefiting from PUC regulations are freed from supporting the commission activities. For example, municipal utility districts (MUDs), such as the Sacramento Municipal Utility District and the Los Angeles Department of Water and Power, are not PUC-regulated; consequently, their customers do not now pay regulatory fees for MUD-provided services. When the PUC was supported by the General Fund, however, MUD customers paid for other utility regulation through state General Fund taxes.

As noted above, though, this "direct funding" argument has less meaning with regard to some PUC regulation. The commission's regulation of the trucking and telephone industries, for example, affects virtually all Californians, thereby lessening the benefit of a "targeted" regulatory fee.

### General Fund Relief

A second, practical reason to use regulatory fees is that they can "free up" General Fund monies for other, higher priority uses. The Legislature has the most discretion over General Fund monies, and any shift in funding regulatory activity away from this source simply results in greater fiscal flexibility.

The PUC's change from General Fund support to regulatory fees in fact occurred during extremely tight budgetary times. Consequently, General Fund relief was most certainly a strong consideration in the funding shift decision.

### Funding Less Dependent on Economic Conditions

Regulatory fees can also provide an agency with a more stable funding source over time. This is because regulatory fees generally are less affected by downturns in the economy than are tax revenues. State agencies supported by the General Fund may have to cut programs in periods of significant revenue decline. By contrast, the PUC is better able to set fees at a level which allows it to continue its current operations or even expand its activities.

## Problems with Regulatory Fee Funding

While there are several reasons to use regulatory fees, there are also arguments against this funding source. These include: (1) reduced oversight, (2) undue responsiveness of the government agency to special interest groups, and (3) added administrative costs.

### Reduced Oversight

At the time regulatory fees were first implemented, several major utility companies expressed concern that the commission's budget would receive less scrutiny — by both the executive and legislative branches — if regulatory fees were enacted. This concern is based on several factors. First, regulatory fees are "earmarked" revenue sources which can only be used for specific regulatory purposes. As such, there is no competition for these funds from other programs, making it easier to authorize changes in regulatory programs. In addition, regulatory fees are not "proceeds of taxes" for purposes of the state's appropriations limit. Consequently, regulatory programs supported by these fees do not have to compete for space within the limit. Finally, regulatory agencies like the PUC typically have the authority to *administratively* raise fees in order to generate additional revenues. This self-financing feature eliminates the need to find monies — either from existing or new taxes — to fund program changes.

Given these factors, it is possible that programs funded by regulatory fees do not receive the same level of oversight as tax-supported activities. There is, however, no data available to evaluate this conclusion. Moreover, in our review of the PUC, we found no particular concerns with this oversight issue.

### Undue Responsiveness to the Regulated Industries

One theory of regulation, known as the captivity theory, posits that regulatory agencies become more responsive to the industry they regulate than to consumers or the "public good." The argument is that the regulated industry interacts with the agency on a daily basis, thus developing close business relationships with agency personnel. As a result of this interaction, the regulatory body becomes "captive" — willingly or unwillingly — to the interests and needs of the regulated industry. The degree of captivity may be increased in cases where the industry pays for the cost of its regulation through fees.

While captivity is a valid legislative concern, we found no specific evidence that the PUC's funding shift to regulatory fees actually resulted in undue responsiveness to regulated industries.

### Increased Administrative Costs

Finally, the use of regulatory fees can result in added administrative costs. Activities funded by the General Fund basically impose *no* marginal costs on the state's revenue collection process. The imposition of a regulatory fee structure, however, imposes costs not only on the state agency (accounting, auditing and collection expenses) but also on the regulated industries (basically accounting expenses). For the most part, these costs are passed on to consumers.

We estimate state administrative costs at more than $1 million a year. We have no reliable estimate of the administrative costs incurred by the regulated industries.

## Regulatory Fee Recommendation

***We recommend that the Legislature continue regulatory fee funding of the PUC's activities.***

Our review of the PUC's regulatory fee structure indicates that it has resulted in more direct funding of the commission's activities. In addition, we found no particular problems with reduced oversight, "captivity," or a significant increase in administrative costs. Furthermore, our discussions with parties involved with PUC regulatory fees uncovered no significant concerns with the commission's regulatory fee structure. Accordingly, we recommend that the Legislature continue the use of regulatory fees to finance the commission's activities.

We would, however, make one cautionary note regarding future legislative oversight of the PUC. Many of the industries regulated by the commission are undergoing significant changes, resulting in part from advancing technology and in part from federal legislative and regulatory activity. Thus, there is a need for continual state review and reevaluation of these activities. (See, for example, our recommendation on trucking deregulation, *The 1987-88 Budget: Perspectives and Issues*, p. 221.) ❖

# Chapter III

# Chapter III
# Other Regulatory Fee Issues

In this chapter, we examine some other issues concerning the PUC's regulatory fee structure. Specifically, we review: (1) the appropriateness of levying regulatory fees on rapid transit districts and railroads, (2) the appropriateness of instituting a dual fee structure for buses, and (3) the PUC's management of the regulatory fee structure to date.

## Railroad and Rapid Transit District Regulatory Fees

The PUC has responsibility for various railroad and transit regulatory activities. Table 4 summarizes current-year spending on these activities.

**Table 4**
**Public Utilities Commission**
**Railroad Safety Activities, by Funding Source**
**1987-88**
**(dollars in thousands)**

| | |
|---|---|
| **State Highway Account** | |
| Railroad/Highway Grade Crossing Safety | $1,501 |
| **Transportation Planning and Development Account (TP&D):** | |
| Rapid Transit Rail Systems Safety | $1,008 |
| Railroad Operations and Facilities | 1,027 |
| Railroad Merger and Abandonments and Rail Passenger Development | 103 |
| Subtotal | ($2,138) |
| **Federal Trust Fund:** | |
| Federal Railroad Safety Standards | $77 |
| **Total** | $3,716 |

As the table shows, most of the PUC's activities are safety-related:

- Rail-highway grade crossing safety ($1.5 million) involves inspection of new grade crossing designs and inspection of existing grade crossings.
- Rapid transit safety regulation ($1 million) is directed at publicly owned heavy-rail systems (such as BART) and light-rail systems (such as RT Metro in Sacramento).
- Railroad operations and facilities safety inspections ($1 million) are undertaken pursuant to federal statutes and PUC regulations regarding rail safety (including inspections of rolling stock, rights-of-way along track, testing of personnel and investigation of rail accidents).

The commission also performs a small amount of traditional economic regulation of railroads (including tariff and level-of-service regulation of intrastate rail passenger service) and mergers and abandonments investigations.

Currently, all of the PUC's rail and transit regulation is supported by tax dollars. These are the only industries regulated by the commission which do *not* pay regulatory fees. On the face of it, all of the PUC's rail and transit regulatory activities are logical candidates for such fees.

The railroads, however, argue that they should not pay these fees, for several reasons. First, they assert the fees would place them at a competitive disadvantage, as passing along the fees to shippers of freight would result in lost business. Trucks and buses, however, provide the major competition to railroads, and they are already subject to regulatory fees.

Second, the railroads argue that much of the regulating done by the PUC duplicates regulation performed by other state and federal agencies. The question of duplication, however, addresses only the issue of the appropriate level of PUC regulatory activity, not whether that activity should be supported by regulatory fees.

Finally, in the case of grade crossing inspections, the railroads argue that this regulatory activity benefits both the railroads and motorists. Therefore, it is reasonable for both groups to share the costs of this function. Again, this is not an issue of *whether* regulatory fees are appropriate, but rather what *share* should be assessed the industry.

***We recommend that the Legislature enact legislation requiring railroads and transit districts to pay regulatory fees for rail regulation.*** Our analysis indicates that the railroads and rapid transit districts should pay for their share of the cost of regulatory activity performed by the PUC. In the case of rapid transit districts, these fees should cover all the cost of safety inspections and part of the cost of grade crossing activities. For the railroads, these fees should cover the cost of safety inspections and the appropriate share of the cost of all grade crossing activity.

## Bus Regulation

The PUC currently regulates both tour bus companies (buses without fixed routes, such as charter buses) and passenger stage lines (buses which have fixed routes, such as Greyhound), although in very different ways:

- ***Tour buses*** are not subject to rate, route or schedule regulation by the PUC. The PUC only enforces entry regulations in the form of licensing requirements. These requirements primarily involve proof of (1) insurance, (2) CHP safety inspection of facilities, and (3) financial and personal responsibility. Once carriers are issued licenses, commission oversight is relatively passive (that is, reacting to: adverse CHP enforcement reports, revocation of insurance policies by insurance companies or nonpayment of regulatory fees). This level of regulatory oversight is relatively inexpensive per carrier.

- *Passenger stage lines* are subject to route, rate and schedule regulation in addition to the entry regulation required of tour buses. This additional oversight is relatively expensive per carrier.

Despite the different levels of regulation, the PUC levies one fee on both types of companies.

A similar situation exists with regard to trucking companies. The PUC does not regulate rates for certain truckers (for example, agricultural produce carriers and tank trucks) but does regulate rates for most truckers. In response to the inequity of all trucking companies paying the same regulatory fee, the Legislature enacted Ch 1142/85 (Montoya), which directed the PUC to develop a dual regulatory fee schedule for trucks. Trucks that are not rate regulated pay a reduced quarterly regulatory fee, and trucks that are rate regulated pay a higher quarterly fee. The dual fee structure sunsets July 1, 1988. The PUC must report on the success of the measure by January 1, 1988.

Given the similarities in the PUC's bus and trucking regulatory activities, it would seem appropriate to extend the dual fee structure to the bus industry. If the current experiment with dual truck fees proves effective, we recommend that the Legislature extend a similar fee structure to buses.

# PUC Administration of Regulatory Fees

## General Administration

The PUC has collected regulatory fees from the Transportation Rate Fund since 1935; consequently, it has well established procedures for tracking, desk auditing and collecting fees from trucking companies. Prior to July 1984, however, the commission had no such established procedures for administering either the PUCTRA or the PUCURA. As a consequence, it experienced various recordkeeping, auditing and collection problems.

***PUCURA.*** The commission underwent a substantial reorganization in July 1984, establishing a specific recordkeeping and auditing responsibility for the PUCURA within the newly formed Evaluation and Compliance Division. After staff was assigned to this function in November 1985, administration of the PUCURA improved substantially.

***PUCTRA.*** Until recently, problems continued with the administration of the PUCTRA. This fund was established at a time when the PUC was faced with a rapidly growing tour bus industry, but the Transportation Division was slow to institute the procedures and personnel needed to handle the increasing volume of companies. The division reorganized in early 1987, giving accounting responsibility for PUCTRA to its License Section, which already was processing TRF fees. Our analysis indicates that this change in responsibility is having a positive effect on PUCTRA accounting.

## Field Audits

While most of the administration of the TRF, PUCURA and PUCTRA is done by separate entities within the commission, the *field audits* for all three funds are performed by the Auditing and Compliance Branch in the Evaluation and Compliance Division. This unit does on-site review of companies' books to ensure that they are accurately reporting gross operating revenues, the basis on which regulatory fees are levied. Currently, there are about 2.5 personnel-years devoted to these field audits.

Table 5 shows field audit results for the last three fiscal years. The steady, high number of TRF audits reflects the PUC's long involvement with trucking regulatory fees. The most surprising finding from the table, however, is that the commission did not complete its first PUCURA field audits until 1986-87, three years after the implementation of regulatory fees. The number of PUCURA audits should increase significantly, as the Auditing and Compliance Branch recently developed procedures for auditing utility companies and dedicated about one personnel-year toward these audits.

**Table 5**
**Public Utilities Commission**
**Regulatory Fee Field Audit Data**
**1984-85 through 1986-87**

| | *Number* | *Refunds* | *Assessments* | *Assessments Per Audit* |
|---|---|---|---|---|
| **TRF** | | | | |
| 1984-85 | 158 | $35,935 | $94,398 | $597 |
| 1985-86 | 183 | 10,769 | 17,813 | 97 |
| 1986-87 | 146 | 1,871 | 6,709 | 46 |
| **PUCTRA** | | | | |
| 1984-85 | 92 | — | $41,371 | $450 |
| 1985-86 | 45 | $11,449 | 51,343 | 1,141 |
| 1986-87 | 20 | 1,103 | 10,783 | 539 |
| **PUCURA** | | | | |
| 1984-85 | None | — | — | — |
| 1985-86 | None | — | — | — |
| 1986-87 | 5 | — | $13,526 | $2,705 |

***Audit Section.*** Although the commission now has adequate audit procedures and has dedicated resources to the field audit function, it needs to improve its audit *selection* process. Currently, the branch's "strategies" appear to be: (1) for PUCURA, audit *each* utility; and (2) for PUCTRA and TRF, respond to various requests for audits (from the License Branch) and perform some random audits.

Our review indicates that the Audit and Compliance Branch needs to improve its audit selection process. Generally, the field audit function should be geared towards selecting audits which have the highest return (usually expressed in terms of assessments) per dollar of audit cost. Toward that end, it is usually necessary to do a stratified random sample. This type of sampling ensures that all significant groups (by company size and type) are subject to appropriate audit review. The sample also provides an audit "presence," which: (1) helps deter fee underreporting, and (2) provides information on where problems are occurring (again, primarily fee underreporting).

This information — combined with staff judgments about potential, productive audit areas — can help in the allocation of audit time toward its best, highest use. For the PUC, this approach to audit selection could result in: (1) changes in the amount of time spent on certain types of audits, (2) shifts in emphasis between funds (for example, more PUCURA audits and less PUCTRA audits), and (3) shifts in emphasis within a fund (for example, more telephone company audits and less gas company audits). Increased attention to selection of audits could increase overall productivity of the audit function. ❖