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# ***Public Utilities Commission of the State of California***

## ***Results of Public Agenda 3134***

***Meeting Held on Thursday, May 27, 2004 10:00 a.m.***

***San Francisco, California***

### **Commissioners**

**Michael R. Peevey, President**

**Geoffrey F. Brown**

**Susan P. Kennedy**

**Loretta M. Lynch**

**Carl W. Wood**

*Website: <http://www.cpuc.ca.gov>*

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### **Scheduled Commission Meetings**

**505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <b><i>Closed to the Public</i></b>	<i>Commission Meeting</i> Auditorium (10 a.m.) <b><i>Open to the Public</i></b>
Monday, June 07, 2004 (San Francisco)	Wednesday, June 09, 2004 (San Francisco)
Friday, July 02, 2004 (San Francisco)	Thursday, July 08, 2004 (San Francisco)
Monday, August 16, 2004 (San Francisco)	Thursday, August 19, 2004 (San Francisco)
Monday, August 30, 2004 (San Francisco)	Thursday, September 02, 2004 (San Francisco)

*\*Ratesetting Deliberative Meeting dates are reserved as noted but will be held only if there are ratesetting matters to be considered and a Commissioner has requested that a Ratesetting Deliberative Meeting be held.*

For further information contact the Public Advisor  
(415) 703-2074 E-mail: [public.advisor@cpuc.ca.gov](mailto:public.advisor@cpuc.ca.gov)



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## PUBLIC COMMENT

**The following items are not subject to public comment:**

- **All items on the closed session agenda; these are HEX and EX items.**
- 

### Public Comment:

Re 39:

Barbara Warden, San Diego Downtown Partnership, San Diego, CA

David Rohy, Bonsall, CA

Manny Aguilar, Solana Beach, CA

Michael Schuerman, San Diego Regional Economic Development Corp., San Diego, CA

Ramsey Green, San Diego Regional Chamber of Commerce, San Diego, CA

Re 50: Betty Jo Toccoli, Calif. Small Business Assn./Small Business Roundtable, Culver City, CA

Re 51: Russell Selken, Butte County Office of Education, Oroville, CA

## Consent Agenda

*Items shown on the Consent Agenda will be taken up and voted on as a group in one of the first items of business of each Commission meeting. Items may be removed from the Consent Agenda for discussion on the Regular Agenda at the request of any Commissioner prior to the meeting.*

### Orders and Resolutions

**1**

**Res TL - 19043**

[3392]

Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**2**

**Res ALJ 176-3134**

[3394]

Ratification of preliminary determination of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4 and 6.1 of the Commission's Rules of Practice and Procedure.

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**3**

[3388]

**R03-03-014 - Order Instituting Rulemaking into implementation of Senate Bill 669 and Assembly Bill 1734, as they affect the Deaf and Disabled Telecommunications Equipment and Services Program fund.**

This decision modifies the policy adopted in D03-06-070 to transfer advisory board responsibility for the TTY Placement Program from the Payphone Service Providers Committee to the Telecommunications Access for the Deaf and Disabled Administrative Committee. This proceeding is closed.

(Comr Kennedy - ALJ Kenney)

**Outcome Signed**

D04-05-031

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**4**

[3389]

**R01-08-002 - Order Instituting Rulemaking into implementation of Senate Bill 669, as it affects California High-Cost Fund A; California High-Cost Fund B; Universal Lifeline Telephone Service Trust; Payphone Service Providers Enforcement; Telecommunications Devices for the Deaf Interim Placement Committee; Public Policy Payphone Program; and California Teleconnect Fund.**

This decision modifies the policy adopted in D02-04-059 and transfers advisory board responsibility for the TTY Placement Program from the Payphone Service Providers Committee to the Telecommunications Access for the Deaf and Disabled Administrative Committee. This proceeding is closed.

(Comr Kennedy - ALJ Kenney)

**Outcome Signed**

D04-05-032

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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- 5**  
[3390]      **A03-11-011 - In Touch Communications, Inc. (In Touch) and Inflexion California Communications Corp. (Inflexion).**  
A03-11-013 - Related matters. This decision denies Inflexion's applications, (1) for approval of the acquisition of the assets of In Touch, pursuant to Pub. Util. Code § 851, and (2) for a certificate of public convenience and necessity to provide resold and limited facilities based competitive local exchange service and resold and facilities-based interexchange service. These proceedings are closed.  
(Comr Kennedy - ALJ Thomas)  
Agenda 3133, Item 4 5/6/2004 (Staff)  
**Outcome Signed**  
D04-05-033  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 6**  
[3426]      **A98-11-012 - Lodi Gas Storage, L.L.C. (LGS).**  
This decision grants LGS's petition for modification of D00-05-048 insofar as it changes the amount of the surety bond condition of its certificate of public convenience and necessity from \$20 million to \$10 million, as adjusted for inflation as of May 18, 2000, the date of issuance of D00-05-048. However, the decision denies LGS' request to eliminate the surety bond condition in its entirety. This proceeding is closed.  
(Comr Brown - ALJ Econome)  
Agenda 3133, Item 8 5/6/2004 (Brown)  
**Outcome Signed**  
D04-05-034  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 7**  
[3448]      **A03-08-021 - City of Sacramento.**  
This decision grants City of Sacramento's application to convert a private railroad crossing to a public railroad crossing for the Freeport Shores Multi-Purpose Trail in the City and County of Sacramento. This proceeding is closed.  
(Exam Clark)  
**Outcome Signed**  
D04-05-035  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 8**  
[3451]      **A02-03-047 - Southern California Gas Company and San Diego Gas & Electric Company.**  
For authority to continue funding of LEV programs. A02-03-048, A02-03-049 - Related matters. This decision denies the request of Raymond Tate, Jr., for intervenor compensation because Tate failed to timely file a notice of intent to claim intervenor compensation as required by Pub. Util. Code Section 1804(a) and is not a 'customer' as defined in Section 1802(b).  
(Comr Wood - ALJ Thomas)  
**Outcome Held (6/9/04, Consent Agenda. Further review.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 9**  
[3452]      **P03-10-046 - Wild Goose Storage Inc. and California Natural Gas Producers Association.**  
This decision denies petition of Wild Goose Storage, Inc. and California Natural Gas Producers Association for rulemaking on issues regarding third party gas storage. This petition is closed.  
(Comr Brown - ALJ Thomas)  
**Outcome Signed**  
D04-05-036  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 10**  
[3460]      **R01-12-009 - Order Instituting Rulemaking on the Commission's own motion to evaluate existing practices and policies for processing offset rate increases and balancing accounts in the water industry to decide whether new processes are needed.**  
This decision grants the Petition for Modification of D03-06-072 filed by California-American Water Company (CalAm) to clarify that the earnings test requirement does not apply to the experimental water revenue adjustment mechanism balancing accounts established for CalAm's Monterey District. This proceeding is closed.  
(Comr Brown - ALJ Econome)  
**Outcome Signed**  
D04-05-037  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

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- 11**  
[3468]      **Res W-4470 - Del Oro Water Company (DOWC), Lime Saddle District.**  
This resolution authorizes DOWC, Lime Saddle District a surcharge of \$2.17 per month per customer for five years producing an annual increase in revenue of \$11,889 for a total of \$59,445 to recover legal expenses. (Advice Letter (AL) 126, filed December 24, 2003, and Supplemental AL 126-A, filed April 8, 2004)  
Agenda 3133, Item 15 5/6/2004 (Staff)  
**Outcome Held (6/9/04, Consent Agenda.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 12**  
[3490]      **R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.**  
This decision grants, in part, Pacific Gas and Electric Company's December 4, 2003 Petition to Modify D02-10-062. This proceeding is closed.  
(Comr Peevey - ALJ Walwyn)  
**Outcome Held (6/9/04, Consent Agenda.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 13**  
[3511]      **A98-07-003 - Pacific Gas and Electric Company (PG&E).**  
For verification, consolidation and approval of costs and revenues in the transition revenue account. D03-08-061 required PG&E to report quarterly the amount of generation revenue collected from Direct Access customers. As of 1/1/2003, PG&E no longer collected generation revenues from DA customers, thus eliminating the need for the reports. This decision eliminates the reporting requirement. This proceeding is closed.  
(Comr Wood - ALJ Barnett)  
**Outcome Signed**  
D04-05-038  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

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- 14**  
[3513]      **A03-09-008 - Southern California Gas Company (SoCalGas).**  
A03-09-031 - Related matters. The two Biennial Cost Allocation Proceeding (BCAP) applications are dismissed without prejudice. SoCalGas and San Diego Gas & Electric Company shall file new BCAP applications within 60 days of the date the stay of D04-04-015 is lifted or expires. These proceedings are closed.  
(Comr Kennedy - ALJ Mattson)  
**Outcome Signed**  
D04-05-039  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 15**  
[3514]      **Res T-16827 - Northern California Council for the Community's Helplink program (Helplink).**  
This resolution grants Helplink authority to use the 2-1-1 dialing code for health and human services information and referral service in San Francisco County.  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 16**  
[3517]      **(ECP) C04-02-002 - Transpacific Currency Services, Inc. vs. Allegiance Telecom, Inc.**  
This decision denies the complaint due to lack of evidence. This proceeding is closed.  
(Comr Lynch - ALJ Bushey)  
**Outcome Signed**  
D04-05-040  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

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- 17**  
[3518]            **(ECP) C04-02-018 - Brian and Lisa Schoenfeld (Complainants) vs. Pacific Gas and Electric Company (Defendant).**  
At a duly noticed hearing on April 26, 2004, Complainants failed to appear. Defendant moved to dismiss and the motion was granted. This proceeding is closed.  
(Comr Lynch - ALJ Patrick)  
**Outcome Signed**  
D04-05-041  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 18**  
[3522]            **A03-11-017 - Quality Telephone, Inc. (Applicant).**  
This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange telecommunications services. This proceeding is closed.  
(Comr Kennedy - ALJ O'Donnell)  
**Outcome Signed**  
D04-05-042  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 19**  
[3525]            **A03-11-006 - Los Angeles County Metropolitan Transportation Authority (MTA).**  
This decision grants the request of MTA to construct Los Angeles Union Station Service Road two-track at-grade highway-rail crossing, which will be publicly used by light rail passengers, Amtrak passengers, employees, visitors to Union Station, and others, as part of the Eastside Corridor Light Rail Transit Line project in the City of Los Angeles, Los Angeles County. This proceeding is closed.  
(Exam Clark)  
**Outcome Signed**  
D04-05-043  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

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- 20**  
[3526]      **A03-06-022 - Los Angeles County Metropolitan Transportation Authority (MTA).**  
This decision grants the request of MTA to construct Lorena Street two-track at-grade highway-rail crossing as part of the Eastside Corridor Light Rail Transit Line project in the City of Los Angeles, Los Angeles County. This proceeding is closed.  
(Exam Clark)  
**Outcome Signed**  
D04-05-044  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 21**  
[3527]      **A03-05-037 - Sacramento Regional Transit District.**  
This decision grants the application of the Sacramento Regional Transit District to construct, modify, maintain and operate a light rail passenger system across 15 crossings in the County of Sacramento and City of Folsom. This proceeding is closed.  
(Exam Clark)  
**Outcome Signed**  
D04-05-045  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 22**  
[3528]      **A04-03-030 - Lodi Gas Storage, L.L.C. (LGS).**  
This decision grants LGS' application to amend its certificate of public convenience and necessity to: (1) change the total capacity of the operation from 18 billion cubic feet (Bcf) to 21 Bcf; (2) authorize the drilling of two new wells from an existing well site to access that capacity; and (3) authorize the drilling of two replacement wells on existing well sites to replace two existing wells that are no longer performing adequately, and that will be removed from service and plugged. This proceeding is closed.  
(Comr Brown - ALJ Econome)  
**Outcome Signed**  
D04-05-046  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

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- 23**  
[3529]      **A03-09-042 - Globcom Incorporated (Applicant).**  
This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange services. This proceeding is closed.  
(Comr Brown - ALJ O'Donnell)  
**Outcome Signed**  
D04-05-047  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 24**  
[3531]      **Res ST-70**  
This resolution approves the Consumer Protection and Safety Division's Rail Transit Safety Section final audit report titled, 'Triennial On-Site Safety Audit of Bay Area Rapid Transit (BART),' dated April 16, 2004. BART is ordered to implement the recommendations contained in the report and to provide quarterly progress reports to the Rail Transit Safety Section.  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 25**  
[3532]      **Res T-16841 - Verizon California, Inc. (Verizon).**  
This resolution approves Verizon's request for grandfathering Remote Activation of Call Forwarding and Select a Ring for two or three additional telephone numbers that were inadvertently left out of the tariff after the merger with Contel in 1998. There are only 7 customers total on these services. (Advice Letter 10808, filed March 23, 2004)  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

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- 26**  
[3551]      **A01-10-011 - Pacific Gas and Electric Company.**  
Application proposing a market structure and rules for the Northern California Natural Gas Industry for the period beginning January 1, 2003 as required by Commission Decision 01-09-016. This decision grants \$79,658.61 as intervenor compensation to The Utility Reform Network for its substantial contributions to D02-08-070 and D03-12-061.  
(Comr Lynch - ALJ Wong)  
**Outcome Signed**  
D04-05-048  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 27**  
[3554]      **A03-11-026 - Evercom Systems, Inc. (Applicant).**  
This decision granted Applicant a certificate of public convenience and necessity (CPCN) to resell interexchange telecommunications services. In addition, the applicant shall make a voluntary contribution of \$11,000 to address any concerns regarding its operation without a CPCN. This proceeding is closed.  
(Comr Kennedy - ALJ O'Donnell)  
**Outcome Signed (Comr. Brown reserves the right to file a concurrence. Comr. Lynch reserves the right to file a dissent.)**  
D04-05-049  
Yes: (Brown, Kennedy, Peevey)  
No: (Lynch, Wood)  
Abstain: (none)  
Absent: (none)
- 28**  
[3555]      **Res T-16832 - Interface Children and Family Services of Ventura County aka Interface Community Inc. (Interface Helpline).**  
This resolution authorizes Interface Helpline to use the 2-1-1 dialing code for health and human services information and referral service in Ventura County.  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

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- 29**  
[3556]      **A03-07-032 - Southern California Edison Company.**  
For approval of a power purchase agreement under PUHCA Section 32(k) between the utility and a wholly-owned subsidiary and for authority to recover the costs of such power purchase agreement in rates. This decision awards The Utility Reform Network \$84,824.72 for its contribution to D03-12-059.  
(Comr Peevey - ALJ Brown)  
**Outcome Signed**  
D04-05-050  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 30**  
[3559]      **A04-04-007 - Teligent, Inc. and Teligent Services, Inc.**  
This decision grants the joint application of Teligent, Inc. and Teligent Services, Inc. for the indirect transfer of control of Teligent Services, Inc. to Aspen Partners – Series A. This proceeding is closed.  
(Comr Brown - ALJ Prestidge)  
**Outcome Signed**  
D04-05-051  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 31**  
[3560]      **(ECP) C03-09-041 - Continental Building Control Systems, Inc. v. Allegiance Telecom of California, Inc.**  
This decision dismisses Complaint and orders refund of deposit to Complainant. This proceeding is closed.  
(Comr Brown - ALJ Barnett)  
**Outcome Signed**  
D04-05-052  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

**32**

[3562]

**A03-10-052 - City of San Clemente.**

This application, as modified by the settlement agreement filed April 6, 2004 (Settlement), proposes construction or improvement of six at-grade pedestrian crossings and four pedestrian undercrossings of the railroad track above the beach in the City of San Clemente. This decision finds that the Settlement is reasonable in light of the whole record, consistent with law, and in the public interest, and approves it. The application, as modified, is granted. This proceeding is closed.

(Comr Brown - ALJ Simon)

**Outcome Signed**

D04-05-053

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**33**

[3563]

**Res E-3867 - San Diego Gas & Electric Company (SDG&E).**

This resolution approves SDG&E's request for modification to renewable resource procurement contracts. (Advice Letter 1554-E, filed January 12, 2004)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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## Regular Agenda

### Energy Orders

#### **34                   A02-05-004 - Southern California Edison Company (SCE).**

[3268]           I02-06-002 - Related matters. SCE's test year revenue requirement is established, a late payment charge and adjustments to other service charges are approved, a post-test year ratemaking mechanism is approved, 1997-98 capital additions are approved, and proposals for performance incentives are denied.

(Comr Wood - ALJ Wetzell)

Agenda 3130, Item 41 3/16/2004 (Wood);

Agenda 3131, Item 29 4/1/2004 (Kennedy);

Agenda 3132, Item 37 4/22/2004 (Kennedy);

Agenda 3133, Item 36 5/6/2004 (Peevey)

**Outcome Held (6/9/04. Further changes.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

#### **34a                   ALTERNATE TO ITEM 3268**

[3269]           This alternate differs from the Proposed Decision in 3 ways, none of which affect the revenue requirement:

1. It modifies Section 5.5 Service Guarantees to adopt ORA's proposed 8-part service standard.

2. It modifies Section 6.2.7 Employee Compensation Issues to point out weaknesses in the current Total Compensation Study methodology, order SCE to develop a new study for the next GRC, and adopt Greenlining's proposal to require SCE to annually report to the Commission on total compensation to its ten most highly-compensated employees.

3. It modifies Section 13.2 The Case for Performance Incentives. CCUE had proposed benchmarks and incentives. SCE and CCUE then reached a settlement adopting modified benchmarks and incentives. The PD rejects both, stating that incentives are inconsistent with Cost of Service ratemaking. The alternate adopts CCUE's proposal.

There are changed Findings, Conclusions and Ordering Paragraphs to match these text changes. In all other respects, the drafts are the same.

(Comr Wood)

Agenda 3130, Item 41a 3/16/2004 (Wood);

Agenda 3131, Item 29a 4/1/2004 (Kennedy);

Agenda 3132, Item 37a 4/22/2004 (Kennedy);

Agenda 3133, Item 36a 5/6/2004 (Peevey)

**Outcome Held (6/9/04. Further changes.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**34b**

[3516]

**ALTERNATE TO ITEM 3268**

I02-06-002 - Related matters. This Alternate Decision of Commissioner Kennedy makes changes to the Proposed Decision of ALJ Wetzell and does not incorporate any modifications from Commissioner Wood's Alternate Decision. Additionally, the changes made to ALJ Wetzell's PD represent an increase in SCE's current rate base of \$129 million. Specifically, this Alternate Decision would change the Proposed Decision by:

Modifying Section 4.5 to increase Transmission and Distribution Operation and Maintenance Expenses by \$1.9 million.

Modifying Section 5.2.3.4 to fully fund the Economic and Business Development Program - \$2.514 million.

Modifying Section 5.4.2 to grant Edison's request to recover \$10.8 million associated with Real Time Energy Metering;

Modifying Section 6.5.2 to increase Information Technology Expenses by \$9.969 million.

Modifying Section 6.5.3 to increase Information Technology Capital Expenditures by \$6 million.

Modifying Section 8.5 to reduce TURN's proposal to treat customer deposits as an offset to rate base to the 1996 - 2001 five-year average of \$80 million rather than the PD's use of a 2000 - 2001, 13 month average of \$117 million.

Modifying Section 9.2 to approve SCE's request for an increase in depreciation rates for certain accounts.

(Comr Kennedy)

Agenda 3133, Item 36b 5/6/2004 (Peevey)

**Outcome Held (6/9/04. Further changes.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**35**

[3313]

**I00-11-001 - Order Instituting Investigation into implementation of Assembly Bill 970**

**regarding the identification of electric transmission and distribution constraints, actions to resolve those constraints, and related matters affecting the reliability of electric supply.**

This decision provides that a collaborative study group, coordinated by the California Independent System Operator and Commission staff, develop a transmission development plan for the Tehachapi area based on the magnitude of the identified wind resource.

(Comr Lynch - ALJ TerKeurst)

Agenda 3131, Item 32 4/1/2004 (Staff);

Agenda 3132, Item 39 4/22/2004 (Staff);

Agenda 3133, Item 38 5/6/2004 (Peevey)

**Outcome Held (6/9/04. For alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

- 36**  
[3425]      **A00-11-038 - Southern California Edison Company (SCE).**  
For authority to institute a rate stabilization plan with a rate increase and end of rate freeze tariffs. A00-11-056, A00-10-028 - Related matters. This decision denies the request for Petition to Modify D04-01-028 filed by SCE.  
(Comr Brown, Comr Lynch - ALJ Allen)  
Agenda 3133, Item 41 5/6/2004 (Peevey)  
**Outcome Signed (Comr. Lynch reserves the right to file a dissent. Comr. Wood reserves the right to file a dissent.)**  
D04-05-054  
Yes: (Brown, Kennedy, Peevey)  
No: (Lynch, Wood)  
Abstain: (none)  
Absent: (none)
- 36a**  
[3428]      **ALTERNATE TO ITEM 3425**  
A00-11-056, A00-10-028 - Related matters. This alternate decision adopts SCE's request, and makes the allocation methodology for the bond charge revenue requirement consistent with how DWR's net bond proceeds were allocated.  
(Comr Lynch)  
Agenda 3133, Item 41a 5/6/2004 (Peevey)  
**Outcome Defeated**  
Yes: (Lynch, Wood)  
No: (Brown, Kennedy, Peevey)  
Abstain: (none)  
Absent: (none)
- 37**  
[3431]      **A02-11-017 - Pacific Gas and Electric Company (PG&E).**  
For authority, among other things, to increase revenue requirements for electric and gas service and to increase rates and charges to gas service effective on January 1, 2003. I03-01-012, A02-09-005 - Related matters. This interim decision addresses Storm and Reliability issues raised in PG&E's Test Year 2003 General Rate Case.  
(Comr Peevey - ALJ Halligan)  
Agenda 3133, Item 42 5/6/2004 (Wood)  
**Outcome Held (7/8/04. For alternate.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

**38**

[3432]

**A02-11-017 - Pacific Gas and Electric Company (PG&E).**

For authority, among other things, to increase revenue requirements for electric and gas service and to increase rates and charges to gas service effective on January 1, 2003. I03-01-012, A02-09-005 - Related matters. This decision resolves issues litigated in Phase 1 of PG&E's TY 2003 General Rate Case. As part of this decision, the Commission considers, and approves, with one modification, two comprehensive settlement agreements filed by a broad coalition of Parties. This decision also addresses PG&E 's proposed pension contribution, issues regarding the Diablo Canyon Independent Safety Committee, and executive compensation.

(Comr Peevey - ALJ Halligan)

Agenda 3133, Item 43 5/6/2004 (Wood)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)



**78**

[3583]

**Proposed Federal Legislation:**

Staff Proposal for Federal Legislation to Strengthen California Rail Safety Standards.

**Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

## Closed Session

*This notice is furnished under Government Code Sections 11125 and 11126.3. The Commission will meet in Closed Session following the Public Session of its regularly scheduled meeting. In the Closed Session, the Commission may consider personnel matters as provided under Government Code Section 11126(a), institution of proceedings or disciplinary actions against any person or entity under the jurisdiction of the Commission as provided under Government Code Sections 11126(d)(2) and 11126(e)(2)(C)(i), and pending litigation as provided under Government Code Section 11126(e). Additional items may be added to the closed session agenda pursuant to Gov. Code Section 11126.3(d). If in Closed Session the Commission votes to appoint, employ, or dismiss a public employee, the Commission will thereafter reconvene in Open Session to make the*

### Non-Federal

**80**

[3347]

**A01-10-011 - Conference with Legal Counsel - Application for Rehearing**

Order disposing of applications for rehearing of D03-12-061 filed by Duke Energy North America and Duke Trading and Marketing (Duke) and the Northern California Generation Coalition (NCGC). D03-12-061 resolves the gas market structure, rates, and terms and conditions of service for Pacific Gas and Electric Company's (PG&E's) natural gas transmission and storage system for 2004. Duke and NCGC claim that the decision errs in approving the establishment of a backbone level rate for PG&E.

Agenda 3131, Item 68 4/1/2004 (Staff);

Agenda 3133, Item 84 5/6/2004 (Staff)

**Outcome Signed as Modified (Change pages 10, 21, 24. Comr. Lynch reserves the right to file a dissent.)**

D04-05-061

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

**81**

[3467]

**R01-09-001 - Conference with Legal Counsel - Application for Rehearing**

Disposition of Application for Rehearing of D03-10-088, filed by ORA and TURN. On October 30, 2003, the Commission issued an interim opinion regarding NRF Phase 2B Service Quality issues in regard to Pacific and Verizon. In this decision, the Commission found that neither Pacific's service quality nor Verizon's service quality had deteriorated under NRF.

Agenda 3133, Item 85 5/6/2004 (Kennedy)

**Outcome Held (7/8/04. For alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**82**

[3565]

**R01-10-024 - Conference with Legal Counsel - Applications for Rehearing**

Disposition of Applications for Rehearing of D04-01-050 filed by Cogeneration Association of California/Energy Producers and Users Coalition, Southern California Edison Company (SCE), San Diego Gas & Electric Company, Alliance for Retail Energy Markets, Constellation NewEnergy, Inc., and California Wind Energy Association, and Application for Rehearing of D03-12-062 filed by SCE. In D04-01-050 and D03-12-062, the Commission adopted a long-term regulatory framework under which California's electric utilities will plan for and procure the energy resources and demand-side investments necessary to ensure their customers receive reliable service at low and stable prices.

**Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**83**

[3572]

**A99-04-024 - Conference with Legal Counsel - Application for Rehearing**

Disposition of Application of The Utility Reform Network for Rehearing of D04-02-025. The Decision authorized Southern California Edison Company to recover costs associated with certain capital additions added to rate base in 1997 and early 1998 for divested non-nuclear generation plant.

**Outcome Held (7/8/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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## Regular Agenda

### Energy Orders

#### 38a ALTERNATE TO ITEM 3432

[3561]

This alternate decision differs from the proposed decision in only one respect. It approves the comprehensive settlement agreements in its entirety, without modifications.

(Comr Brown)

**Outcome Signed (Comr. Lynch will file a concurrence.)**

D04-05-055

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

#### 39 R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.

[3438]

This decision approves the five proposals that SDG&E presented to meet its short-term and long-term grid reliability needs. These proposals were the result of an open and competitive Request for Proposal (RFP) process that solicited bids from all qualified resources, including turn-key natural gas-fired generating units, power purchase agreements (PPA), demand response programs, and renewable resources. Out of 22 bids received, these five proposals were identified as conforming to the RFP specifications and were found to be the least cost/best fit choices for meeting the utility's need to have a diversified portfolio of resources to meet its customers grid reliability needs, are consistent with SDG&E's long-term resource plan, benefit consumers, and are in the public interest. The proposals include a demand response program from Comverge, a renewable resource contract with Envirepel, and contracts for three gas-fired facilities, Ramco, Palomar, and Otay Mesa. Ramco is a turn-key combustive turbine intermediate unit, Palomar is a turn-key 500/555 MW combined-cycle power plant, and Otay Mesa is a 10-year PPA for a 485/573 MW combined cycle facility. This proceeding is closed.

(Comr Peevey - ALJ Brown)

Agenda 3133, Item 44 5/6/2004 (Wood)

**Outcome Held (6/9/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**39a**

[3440]

**ALTERNATE TO ITEM 3438**

Like the ALJ's Proposed Decision (PD), this Alternate also approves the five proposals that SDG&E presented to meet its short-term and long-term grid reliability needs. However, unlike the ALJ's PD, this Alternate approves certain ratemaking mechanisms that SDG&E proposed, specifically, a higher return on equity for generation assets that will be utility-owned, and a debt equivalency premium in connection with the proposed Otay Mesa long-term power purchase agreement (PPA) to compensate SDG&E for the negative impact on its credit profile that will result from entering into the PPA.

(Comr Peevey)

Agenda 3133, Item 44a 5/6/2004 (Wood)

**Outcome Held (6/9/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**39b**

[3571]

**ALTERNATE TO ITEM 3438**

This alternate differs from the Proposed Decision in that it (1) rejects the Otay Mesa contract proposal without prejudice, subject to its participation in a new Request for Proposals to be undertaken by SDG&E within 90 days; (2) requires SDG&E to present additional information related to its request for a waiver from the affiliate transaction ban prior to final consideration of the Palomar proposal; and (3) rejects certain requests related to revenue requirement and ratemaking related to Ramco and Palomar.

(Comr Wood)

**Outcome Held (6/9/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**40**

[3474]

**A03-08-004 - Pacific Gas and Electric Company (PG&E).**

This decision adopts the 2004 Energy Resource Recovery Account revenue requirement for PG&E. The decision also adopts on an interim basis and subject to adjustment or change, PG&E's amended 2004 Competition Transition Charge revenue requirement.

(Comr Peevey - ALJ Wong)

**Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

41

[3487]

**C01-06-008 - Yucaipa Mobilehome Residents' Association (YMRA) by Len Tyler, President of YMRA, as representative of residents of Knollwood Mobilehome Park; Edna Jenkins, a represented member of YMRA, a resident of Knollwood Mobilehome Park; and Nancy L. Carlisle, a represented member of YMRA, a resident of Knollwood Mobilehome Park vs. Knollwood Mobilehome Estates, Ltd., dba Knollwood Mobilehome Estates.**

Yucaipa Mobilehome Residents' Association, Len Tyler, Edna Jenkins and Nancy L. Carlisle (collectively, complainants), representing residents of Knollwood Mobilehome Estates (Knollwood), initiated this complaint proceeding against Knollwood to contest certain rent increases authorized by the Yucaipa Rent Review Commission. The complaint was dismissed in D03-01-063 on a finding that complainants' burden of proof had not been met. In considering complainants' application for rehearing, however, the Commission concluded that complainants had proved that allocation of trenching costs associated with submetered gas and electric utility system improvements is required by Pub. Util. Code §739.5. Accordingly, in D03-08-077, the Commission reversed D03-01-063 on that issue and remanded for further proceedings (1) to determine the proper allocation of trenching costs and (2) to remove those trenching costs attributable to the gas and electric improvements from the \$111,445 passed on to mobilehome park residents as part of a rent increase. This decision resolves the allocation issue and directs a refund and rent reduction as to those costs that are subject to the Commission's jurisdiction under §739.5. This proceeding is closed.

(Comr Brown - ALJ Walker)

**Outcome Signed**

D04-05-056

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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**Energy Resolutions and Written Reports****42**

[3408]

**Res E-3866**

Certification to the Securities and Exchange Commission (SEC) that the Commission has the resources and authority to safeguard the interests of California customers of PacifiCorp, a utility subsidiary of ScottishPower plc, a holding company registered with the SEC under the Public Utilities Holding Company Act of 1935, as amended.

Agenda 3133, Item 46 5/6/2004 (Staff)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**43**

[3515]

**Res E-3868 - San Diego Gas & Electric Company (SDG&E).**

This resolution approves SDG&E's request for renewable energy procurement contract with the San Diego County Water Authority. (Advice Letter 1555-E, filed January 14, 2004)

**Outcome Approved**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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**Telecommunication Orders**
**44**

[2513]

**R00-02-004 - Order Instituting Rulemaking on the Commission's own motion to establish consumer rights and consumer protection rules applicable to all telecommunications utilities.**

The Commission adopts General Order No. ###, Rules Governing Telecommunications Consumer Protection, applicable to all Commission-regulated telecommunications utilities. G.O. ### sets forth: in Part 1, a telecommunications consumers' Bill of Rights; in Part 2, a set of Consumer Protection Rules all carriers must follow to protect those rights; in Part 3, Rules Governing Billing for Non-communications-Related Charges; and in Part 4, Rules Governing Slamming Complaints. The proceeding remains open to consider changes to the current limitation of liability provisions, rules protecting non-English speaking consumers, and a telecommunications consumer education program. (Comr Wood - ALJ McVicar)

Agenda 3119, Item 40 9/18/2003 (Staff);  
 Agenda 3120, Item 45 10/2/2003 (Brown);  
 Agenda 3122, Item 38 10/30/2003 (Brown);  
 Agenda 3124, Item 53 12/4/2003 (Wood);  
 Agenda 3125, Item 69 12/18/2003 (Peevey);  
 Agenda 3127, Item 32 1/22/2004 (Staff);  
 Agenda 3128, Item 40 2/11/2004 (Staff);  
 Agenda 3131, Item 38 4/1/2004 (Staff);  
 Agenda 3132, Item 47 4/22/2004 (Staff);  
 Agenda 3133, Item 47 5/6/2004 (Staff)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**44a**

[3569]

**ALTERNATE TO ITEM 2513**

This alternate proposes market rules to empower telecommunications consumers and to prevent fraud. It carefully considers the economic consequences of the rules proposed in this proceeding on consumers, phone companies, and the California economy, and then adopts only those that produce new societal benefits that outweigh the total of new costs. Current market rules affecting consumers are collected into a General Order. In addition, this alternate adopts a 14-day "trial period" for users of wireless phones in which they can return phones without penalty and require that wireless companies inform customer of the availability of service options of short duration. This alternate adopts other rules to prevent "slamming," the illegal switching of a consumer to a carrier not of his or her choosing. (Comr Kennedy)

**Outcome Defeated**

Yes: (Kennedy)

No: (Brown, Lynch, Peevey, Wood)

Abstain: (none)

Absent: (none)

**44b**

[3570]

**ALTERNATE TO ITEM 2513**

Among other changes, this alternate decision does the following: (1) The alternate decision deletes the privacy rule for further review. (2) The limitation on private right of action is clarified with respect to specific case law. (3) Definition of clear and conspicuous is made concise. (4) Definition of solicitation is limited to “an offer”. (5) Advertising language and related requirements are removed from Marketing Rule 2. (6) Rule 3(d) now requires providing a contract to customers during an in person transaction. (7) Rule 3(f) requires a 30-day; terminate without penalty trial period for new services. (8) Rule 5 now requires interest on deposits based on the commercial paper rate. (9) Rule 6(g) now separates fees remitted to government from all other carrier discretionary charges. (10) Rule 8(a) and (b) now requires clear and conspicuous disclosure that service terms have changed, and for term-contracts, 8(b) now requires a 30-day customer opt-out period and does not prejudge the validity of any carrier contract change. (11) Rule 11(c) now provides that no late charges apply to amounts in dispute, deposited with the Commission. (12) Carriers have 180 days to implement the majority of rules, and about 14 months to implement specified rules that would result in changes to carrier billing systems.

(Comr Brown)

**Outcome Signed (Comr. Kennedy reserves the right to file a dissent. Comr. Lynch reserves the right to file a concurrence. Pres. Peevey will file a dissent. Comr. Wood reserves the right to file a concurrence.)**

D04-05-057

Yes: (Brown, Lynch, Wood)

No: (Kennedy, Peevey)

Abstain: (none)

Absent: (none)

**45 (Rev.)**      **R01-09-001 - Order Instituting Rulemaking on the Commission's own motion to assess and revise the new regulatory framework for Pacific Bell (Pacific) and Verizon California Incorporated.**  
[2636]

I01-09-002 - Related matters. This proposed decision addresses Phase 2B audit issues. The proposed decision sustains most of the findings of an audit of Pacific's intrastate financial results for the period 1997-1999 that were considered during Phase 2B. Despite the audit adjustments, this decision, read in combination with the findings reached by the Commission in Phase 2A of this proceeding, does not increase Pacific's earnings to a level requiring it to make refunds to its ratepayers.

(Comr Kennedy - ALJ Thomas)

Agenda 3123, Item 40 11/13/2003 (Staff);

Agenda 3125, Item 70 12/18/2003 (Staff);

Agenda 3126, Item 57 1/8/2004 (Kennedy);

Agenda 3129, Item 31 2/26/2004 (Wood);

Agenda 3131, Item 39 4/1/2004 (Staff)

05/20/2004 - This revision was not shown on the Agenda mailed to the public.

**Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**45a**      **ALTERNATE TO ITEM 2636**  
[2637]

I01-09-002 - Related matters. This alternate proposed decision resolves Phase 2B audit issues. The alternate proposed decision sustains the analysis in the audit conducted by Overland on 51 of 68 issues, and reverses its findings on 17. The alternate proposed decision accepts Pacific's claim of lawyer-client confidentiality concerning certain information, but prohibits the booking of contingent liability accruals that rely on this information. The alternate resolves ambiguities in the Commission's process for resolving discovery disputes. Consistent with D01-06-077, the alternate orders Pacific to pay interest on the amounts due to customers at the 90-day commercial paper rate.

(Comr Kennedy)

Agenda 3123, Item 40a 11/13/2003 (Staff);

Agenda 3125, Item 70a 12/18/2003 (Staff);

Agenda 3126, Item 57a 1/8/2004 (Kennedy);

Agenda 3129, Item 31a 2/26/2004 (Wood);

Agenda 3131, Item 39a 4/1/2004 (Staff)

**Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**46**

[2976]

**A01-02-012 - Verizon California Inc. (Verizon).**

This decision grants Verizon authority to re-categorize its Business Billable Repair Service (BRS), Business Inside Wire Maintenance Service Plan (IWMP), and CentraNet IWMP from Category II to Category III service offerings. Verizon is also authorized to increase the first weekday hour or less of its Business BRS ceiling rate from \$85 to \$100. The decision denies Verizon authority to re-categorize its Residential BRS, Residential IWMP, and Landlord IWMP from Category II to Category III. This proceeding is closed.

(Comr Wood - ALJ Galvin)

Agenda 3125, Item 72 12/18/2003 (Brown);

Agenda 3128, Item 42 2/11/2004 (Brown);

Agenda 3130, Item 46 3/16/2004 (Lynch);

Agenda 3131, Item 40 4/1/2004 (Wood);

Agenda 3132, Item 48 4/22/2004 (Lynch);

Agenda 3133, Item 48 5/6/2004 (Wood)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**46a**

[3293]

**ALTERNATE TO ITEM 2976**

This decision grants Verizon authority to re-categorize its Residential, Landlord, Business, and CentraNet Inside Wire Maintenance Plans (IWMP), and Residential and Business Billable Repair Services (BRS) from Category II to Category III service offerings. Verizon is also authorized to increase its Residential and Landlord IWMP rates from \$0.95 to \$1.75, with rates capped at \$2.99 following the passage of one year, and Business and CentraNet IWMP from \$1.75 to \$2.50 and to increase the first weekday hour or less of its Business BRS ceiling rate from \$85 to \$100. The decision requires a revision to Tariff A-9, sheet 19 such that when an SNI has not been installed Verizon "will not charge for a premise visit nor for identifying the location (inside wire, network or CPE) of a problem." The decision requires disclosures of and notices informing subscribers of their options, and denies Verizon Advice Letter 9167. This proceeding is closed.

(Comr Brown)

Agenda 3130, Item 46a 3/16/2004 (Lynch);

Agenda 3131, Item 40a 4/1/2004 (Wood);

Agenda 3132, Item 48a 4/22/2004 (Lynch);

Agenda 3133, Item 48a 5/6/2004 (Wood)

**Outcome Signed (Comr. Lynch reserves the right to file a dissent. Comr. Wood reserves the right to join Comr. Lynch's dissent.)**

D04-05-058

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

47  
[3199]

**I02-06-003 - Investigation on the Commission's own motion into the operations, practices, and conduct of Pacific Bell Wireless LLC dba Cingular Wireless and related entities (collectively)**

This modified decision finds that Cingular's corporate practice and policy from January 2000 to April 31, 2002 violated (1) Pub.Util.Code §451 and D95-04-028 because it allowed no trial of its wireless service and prohibited early termination of wireless service contracts unless the customer paid an early termination fee of \$150 or more, even though testing wireless service by using the phone is the best way for a customer to ascertain whether the service meets his or her needs, and (2) violated §§451, 702 and 2896 and D95-04-028 because it failed to disclose known network problems during 2001 and, in spite of these problems, continued to prohibit refunds/returns and require early termination fees for early cancellation of wireless service contracts. Decision orders a penalty of \$12,140,000 and requires reparations to customers. This modified decision addresses the issues raised by the Commission's Consumer Protection and Safety Division, Utility Consumers Action Network, and Cingular in their appeals to the Presiding Officer's Decision filed October 9, 2003. This proceeding is closed.

(Comr Wood - ALJ Vieth)

Agenda 3128, Item 48 2/11/2004 (Kennedy);

Agenda 3131, Item 45 4/1/2004 (Kennedy);

Agenda 3133, Item 50 5/6/2004 (Staff)

**Outcome Held (7/8/04. Possible alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**48**  
[3424]

**I02-05-001 - Investigation into NOS COMMUNICATIONS, INC., dba International Plus, 011 Communications, Internet Business Association, I-Vantage Network Solutions; AFFINITY NETWORK, INC., dba QuantumLink Communications and HorizonOne Communications; and corporate officers of NOS and ANI, to determine whether they have violated the laws, rules, and regulations governing manner in which California subscribers are solicited, switched from one presubscribed carrier to another, and billed for telephone services.**

A01-12-013 - Related matters. This decision approves with modifications the settlement agreement filed on December 9, 2003 by respondents and the Consumer Protection and Safety Division. Under the settlement, respondents will pay the Commission \$2.95 million over a 24 month period, and 1400 eligible customers will receive restitution payments. Respondents have also agreed to abide by a marketing and sales compliance program included in a recent FCC consent decree. I02-05-001 is closed.

(Comr Brown - ALJ McKenzie)

Agenda 3133, Item 52 5/6/2004 (Staff)

**Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**49**  
[3545]

**C92-04-007 - Communications Workers of America, Local 9415, Kathleen Kinchius, President vs. Pacific Bell.**

This decision approves the stipulation and request for dismissal filed by the parties on November 18, 2003. Pursuant to the stipulation, this case (which concerns monitoring by Pacific Bell of its service representatives) is dismissed with prejudice, and the proceeding is closed.

(Comr Wood - ALJ McKenzie)

**Outcome Signed**

D04-05-059

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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**Telecommunication Resolutions and Reports**

- 50**                    **Res T-16818 - SBC California (SBC).**  
 [3108]                    This resolution dismisses without prejudice SBC's request to waive the installation service charge for eligible residence and business customers returning from facilities-based carrier service. (Advice Letters 24278 and 24279, filed October 10, 2003)  
                               Agenda 3127, Item 37 1/22/2004 (Staff);  
                               Agenda 3128, Item 49 2/11/2004 (Kennedy);  
                               Agenda 3129, Item 34 2/26/2004 (Staff);  
                               Agenda 3130, Item 51 3/16/2004 (Peevey);  
                               Agenda 3131, Item 47 4/1/2004 (Peevey);  
                               Agenda 3133, Item 55 5/6/2004 (Kennedy)  
**Outcome Held (6/9/04. Further review.)**  
 Yes: (none)  
 No: (none)  
 Abstain: (none)  
 Absent: (none)
- 50a**                    **ALTERNATE TO ITEM 3108**  
 [3564]                    This alternate differs from the proposed resolution in one significant way: it affirms and maintains the Telecommunications Division's policy as adopted in previous resolutions to use the "non-recurring burden test" to permit the discounting or waiver of non-recurring charges when the service provided covers costs. As a consequence, this resolution does not trigger immediate \$56 million in price increases for SBC's telecommunications services which were approved previously through use of the "burden test."  
                               (Comr Kennedy)  
**Outcome Held (6/9/04. Further review.)**  
 Yes: (none)  
 No: (none)  
 Abstain: (none)  
 Absent: (none)
- 51**                    **Res T-16763**  
 [3261]                    This resolution streamlines and clarifies filing rules for claiming carriers. Imposes deadlines for California Teleconnect Fund customers to provide certain information to providing carriers.  
                               Agenda 3130, Item 52 3/16/2004 (Staff);  
                               Agenda 3131, Item 48 4/1/2004 (Staff);  
                               Agenda 3132, Item 52 4/22/2004 (Lynch);  
                               Agenda 3133, Item 56 5/6/2004 (Staff)  
**Outcome Approved**  
 Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
 No: (none)  
 Abstain: (none)  
 Absent: (none)



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**Water/Sewer Orders****52**

[3099]

**A02-07-021 - Southern California Water Company (SCWC).**

In Interim Decision 03-05-001 on May 8, 2003, the Commission approved a settlement between the City of Santa Monica (City) and SCWC that conveyed SCWC water rights to the City and relieved SCWC from its participation in a number of pending lawsuits related to the Charnock Groundwater Basin. The issue of ratemaking treatment of the settlement proceeds and the issue of contamination payments made to SCWC by oil companies were deferred to this phase of the proceeding. This decision resolves those issues. The application is closed.

(Comr Kennedy - ALJ Walker)

Agenda 3127, Item 42 1/22/2004 (Lynch);

Agenda 3129, Item 37 2/26/2004 (Lynch);

Agenda 3131, Item 50 4/1/2004 (Wood);

Agenda 3132, Item 54 4/22/2004 (Staff);

Agenda 3133, Item 57 5/6/2004 (Wood)

**Outcome Held (6/9/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**52a**

[3459]

**ALTERNATE TO ITEM 3099**

This Alternate Decision directs the Southern California Water Company to refund to ratepayers the net proceeds received from the City for SCWC's Charnock Basin cause of action, to remove relevant Charnock Basin assets from rate base in its current general rate case for the region, Application (A.) 03-10-006, to transfer net proceeds received from Potentially Responsible Parties (PRPs) with respect to the Charnock Basin contamination from Account 704 (purchased water) to Account 704.02 (purchased water balancing account) for later refund to ratepayers of the excess shown in Account 704.02, and to book future net proceeds to be received from PRPs with respect to the Charnock Basin contamination to Account 704.02 for later refund to ratepayers of the excess shown in Account 704.02.

(Comr Lynch)

Agenda 3132, Item 54a 4/22/2004 (Staff);

Agenda 3133, Item 57a 5/6/2004 (Wood)

**Outcome Held (6/9/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**53**

[3213]

**R03-09-005 - Order Instituting Rulemaking on the Commission's own motion to evaluate existing practices and policies for processing general rate cases and to revise the general rate case plan for Class A water companies.**

This decision adopts rate case plan filing schedule and content requirements. This proceeding shall remain open.

(Comr Brown - ALJ Bushey)

Agenda 3132, Item 55 4/22/2004 (Staff)

**Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**54**

[3348]

**A02-11-044 - San Gabriel Valley Water Company.**

This decision authorizes San Gabriel Water Company (Fontana Division) revenue increases of \$7.6 million or 23.7% for 2004, \$1.7 million or 4.6% for 2005, and \$1.7 million or 4.2% for 2006. The average residential customer's bill for 23 hundred cubic feet will increase from \$37.11 to \$46.24 per month. This proceeding is closed.

(Comr Peevey - ALJ Patrick)

Agenda 3132, Item 57 4/22/2004 (Brown);

Agenda 3133, Item 59 5/6/2004 (Brown)

**Outcome Held (6/9/04. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**54a**

[3568]

**ALTERNATE TO ITEM 3348**

This alternate decision differs from the ALJ Proposed Decision in two ways: 1) It adopts a cap using a 3 year average of the company's recorded plan additions for the period 2001-2003 and 2) The condemnation proceeds from the County of San Bernardino will be subject to an audit by Water Division staff and will be addressed in San Gabriel Fontana District's next GRC.

(Comr Brown)

**Outcome Held (6/9/04. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**55**

[3463]

**A03-10-017 - California Water Service Company.**

For an order authorizing it to increase rates for water service in its South San Francisco District. A03-10-018, A03-10-019, A03-10-020, A03-10-021, A03-10-031 - Related matters. This interim proposed decision approves dismissal of A03-10-018, A03-10-019, A03-10-020, A03-10-031, and determines that 1,2,3-Trichloropropane levels in Bakersfield and South San Francisco wells do not pose significant health risk.

(Comr Kennedy - ALJ Thorson)

**Outcome Signed (Comr. Lynch reserves the right to file a dissent.)**

D04-05-060

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

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**Water/Sewer Resolutions and Reports**

**56**

**Res W-4472 - Peerless Water Company (PWC).**

[3486]

This resolution authorizes PWC a general rate increase producing additional annual revenue of \$72,867 or 8.5% in 2003.

Agenda 3133, Item 26 5/6/2004 (Kennedy)

**Outcome Approved (Comr. Kennedy will file a concurrence.)**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

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## Transportation/Rail Safety Resolutions and Reports

**57**

**Res TL-19040**

[3360]

This resolution revises maximum rate tariff 4 (Max 4) to implement provisions of Assembly Bill 845.

Agenda 3132, Item 60 4/22/2004 (Staff);

Agenda 3133, Item 60 5/6/2004 (Kennedy)

**Outcome Held (7/8/04. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**Other Utility Resolutions and Reports****58**

[3354]

**Res ALJ 184**

This resolution adopts an annual process for setting and updating hourly rates for use by intervenors in seeking compensation for substantially contributing to a Commission decision, as provided in the statutory intervenor funding program. The hourly rates that the Commission establishes through this process will govern intervenors and their representatives who have recently participated in Commission proceedings, and will provide guidance to other intervenors and representatives.

Agenda 3132, Item 61 4/22/2004 (Staff);

Agenda 3133, Item 61 5/6/2004 (Wood)

**Outcome Held (6/9/04. Further consideration.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

## Legal Division Matters

**59**

**Docket No. FTA - 2004 - 17196**

[3548]

Staff Comments to FTA NPRM re State Safety Oversight of Rail Fixed Guideway Systems, 49 C.F.R. Part 659 [Docket No. FTA—2004—17196] RIN 2132—AA76; 69 Fed. Reg. 11218.

**Outcome Approved-Staff Recommendation**

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (Brown)

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**Legislative Matters**

- 60**                    **AB 1169 (Bermudez)**  
[3368]                    Public utilities: telephone corporations; disposition of property.  
Agenda 3131, Item 52 4/1/2004 (Staff);  
Agenda 3132, Item 62 4/22/2004 (Kennedy);  
Agenda 3133, Item 65 5/6/2004 (Staff)  
**Outcome Held (6/9/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 61**                    **AB 1776 (Bowen)**  
[3578]                    Electrical energy: thermal powerplants.  
**Outcome Held (6/9/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 62**                    **AB 2006 (Nunez)**  
[3370]                    Electrical restructuring: Reliable Electric Service Act of 2004.  
Agenda 3131, Item 54 4/1/2004 (Staff);  
Agenda 3132, Item 64 4/22/2004 (Staff);  
Agenda 3133, Item 67 5/6/2004 (Staff)  
**Outcome Held (6/9/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 63**                    **AB 2419 (Campbell)**  
[3372]                    Public utilities: judicial review.  
Agenda 3131, Item 56 4/1/2004;  
Agenda 3132, Item 66 4/22/2004 (Staff);  
Agenda 3133, Item 69 5/6/2004 (Staff)  
**Outcome Withdrawn**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

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- 64**                    **AB 2430 (Wiggins)**  
[3373]                    Commercial air carriers: hot air balloons.  
Agenda 3131, Item 57 4/1/2004 (Staff);  
Agenda 3132, Item 67 4/22/2004 (Kennedy);  
Agenda 3133, Item 70 5/6/2004 (Staff)  
**Outcome Held (6/9/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 65**                    **AB 2505 (Maldonado)**  
[3375]                    Public utilities: stocks and security transactions.  
Agenda 3131, Item 59 4/1/2004 (Staff);  
Agenda 3132, Item 69 4/22/2004 (Kennedy);  
Agenda 3133, Item 71 5/6/2004 (Staff)  
**Outcome Held (6/9/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 66**                    **AB 2528 (Lowenthal)**  
[3579]                    Public water systems.  
**Outcome Approved (Legislative Subcommittee Recommendation: support bill, if amended.)**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 67**                    **AB 2577 (La Suer)**  
[3501]                    Telecommunications.  
Agenda 3133, Item 77 5/6/2004 (Staff)  
**Outcome Withdrawn**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 68**                    **AB 2591 (Leno)**  
[3502]                    Charter-party carriers: limousines.  
Agenda 3133, Item 78 5/6/2004 (Staff)  
**Outcome Withdrawn**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 69**                    **AB 2593 (Calderon)**  
[3503]                    Self-generation incentive program.  
Agenda 3133, Item 79 5/6/2004 (Staff)  
**Outcome Held (6/9/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 70**                    **AB 2652 (Bates)**  
[3504]                    Electricity: Repowering powerplants.  
Agenda 3133, Item 80 5/6/2004 (Staff)  
**Outcome Held (6/9/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 71**                    **AB 2768 (Richman)**  
[3376]                    Telecommunications: regulatory streamlining.  
Agenda 3131, Item 60 4/1/2004 (Staff);  
Agenda 3132, Item 70 4/22/2004 (Kennedy);  
Agenda 3133, Item 72 5/6/2004 (Staff)  
**Outcome Held (6/9/04.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

**72**

[3580]

**AB 2918 (Laird)**

Desalination facilities: electricity rates.

**Outcome Approved (Legislative Subcommittee Recommendation: support bill, if amended.)**

Yes: (Brown, Kennedy, Lynch, Peevey, Wood)

No: (none)

Abstain: (none)

Absent: (none)

**73**

[3379]

**SB 1201 (Torlakson)**

Electrical restructuring: BART.

Agenda 3131, Item 63 4/1/2004 (Staff);

Agenda 3132, Item 73 4/22/2004 (Staff);

Agenda 3133, Item 74 5/6/2004 (Staff)

**Outcome Held (6/9/04.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)