
Public Utilities Commission of the State of California

Public Agenda 3106

Thursday, January 30, 2003 10:00 a.m.

San Francisco, California

Commissioners

Michael R. Peevey, President

Geoffrey F. Brown

Susan P. Kennedy

Loretta M. Lynch

Carl W. Wood

For each agenda item, a summary of the proposed action is included; the Commission's decision may, however, differ from that proposed.

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

Scheduled Commission Meetings 505 Van Ness Avenue, San Francisco

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <i>Closed to the Public</i>	<i>Commission Meeting</i> Auditorium (10 a.m.) <i>Open to the Public</i>
Monday, February 10, 2003 (San Francisco)	Thursday, January 30, 2003 (San Francisco)
Friday, February 21, 2003 (San Francisco at 11:00 a.m.)	Thursday, February 13, 2003 (San Francisco)
Monday, March 10, 2003 (San Francisco)	Thursday, February 27, 2003 (San Francisco)
Friday, March 28, 2003 (San Francisco at 11:00 a.m.)	Thursday, March 13, 2003 (San Francisco)
	Thursday, April 03, 2003 (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.*

Matters of Public Interest

For the convenience of the public and media representatives, items of widespread public interest will be taken up at the beginning of the meeting.

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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.
- CA-6, CA-8, H-5

Public Comment:

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

- CA-1** **Res TL-19019**
1414 Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.
- CA-2** **Res ALJ 176-3106**
1416 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.
- CA-3 (Rev.)** **A99-12-025 - Valencia Water Company (Valencia).**
1320 Application of Valencia seeking approval of its updated Water Management Program as ordered in Commission Resolution W-4154 dated August 5, 1999. This decision awards Sierra Club \$46,990.96 in compensation for its contribution to D01-11-048 granting Valencia permission to expand its service area. This proceeding is closed.
 (Comr Brown - ALJ Patrick)
 Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
 (Agenda 3101, Item CA-28 11/21/2002 (Wood); Agenda 3103, Item CA-10 12/17/2002 (Lynch); Agenda 3105, Item CA-3 1/16/2003 (Staff))
 01/22/2003 - This revision was not shown on the Agenda mailed to the public.
 http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139968

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- CA-4
1525** **A01-07-020 - Phuc Nguyen Huu California Express Xe Do Cali (Phuc Nguyen Huu).**
This decision grants the application of Phuc Nguyen Huu to operate an on-call, inter-city, passenger stage and baggage express service between points in Orange, Los Angeles and Santa Clara counties. The decision denies the protect filed by MotorSTATION CORP. and the "objection" filed by Xe Do Hoang Transportation, LLC. This proceeding is closed.
(Comr Kennedy - ALJ Evans)
Pub. Util. Code § 311 – This item was mailed for Public Comment
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
(Agenda 3105, Item CA-14 1/16/2003 (Staff))
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139845
- CA-5
1558** **I98-12-013 - Order Instituting Investigation into the power outage which occurred on December 8, 1998 on Pacific Gas & Electric System.**
This investigation addresses the Pacific Gas and Electric Company (PG&E) power outage that occurred on December 8, 1998 in San Francisco. The intent of the investigation was to discover the root causes of the outage and to identify and implement measures to prevent future outages. The Commission has developed a substantial record through the submission of reports by the parties, and extensive workshops. These have culminated in a joint report by PG&E, the Commission's Consumer Protection and Safety Division, and the City and County of San Francisco. The joint report recommends a series of reporting requirements designed to monitor outages, and PG&E's progress toward implementing various measures designed to enhance system reliability. In this opinion, the Commission adopts the recommended reporting requirements. This proceeding is closed.
(Comr Wood - ALJ O'Donnell)
Pub. Util. Code § 311 – This item was mailed for Public Comment
Pub. Util Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139800
- CA-6
1621** **(ECP) C02-07-030 - Verla R. Giovanetti vs. Pacific Gas and Electric Company (PG&E).**
Complainant claims PG&E erred in calculating summer baseline allowances for all-electric residential customers in her climate zone. This decision finds that PG&E has complied with both D02-04-026 and Pub. Util. Code § 739 in setting and applying the baseline allowances that became effective May 1, 2002. The complaint is dismissed and this proceeding is closed.
(Comr Brown - ALJ Patrick)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=137378
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- CA-7** **A02-09-019 - NextG Networks of California, Inc.**
1624 For a certificate of public convenience and necessity under Pub. Util. Code § 1001 to provide limited facilities-based and resold local exchange, access and interexchange telecommunications services. By this decision, the requested authority is granted subject to the terms and conditions set forth. This proceeding is closed.
(Comr Brown - ALJ Bemserfer)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=135938
- CA-8** **(ECP) C01-12-034 - Linda Marie Romney vs. Pacific Bell Telephone Company.**
1625 Complaint to cancel erroneous \$668.37 bill for telephone service. Held – Defendant must reduce the bill by (1) \$300 and (2) any amount received through complainant’s bankruptcy. This proceeding is closed.
(Comr Peevey - ALJ Barnett)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=137697
- CA-9 (Rev.)** 01/29/2003 - Moved to item (3) on the agenda.
1626

- CA-10
1629** **C01-06-008 - Yucaipa Mobilehome Residents' Association (YMRA), by Len Tyler, President of YMRA, as representative of the residents of Knollwood Mobilehome Park; Edna Jenkins, a represented member of YMRA, an individual and resident of Knollwood Mobilehome Park; and Nancy L. Carlisle, a represented member of YMRA, an individual and resident of Knollwood Mobilehome Park vs. Knollwood Mobilehome Estates, Ltd. dba Knollwood Mobilehome Estates.**
- Complainants, representing residents of Knollwood Mobilehome Estates (Knollwood), a mobilehome park in Yucaipa, contest a capital improvement rent increase approved by the City of Yucaipa Rent Review Commission in 1999. The rent increase (\$17.40 per month for 20 years) covered cost of work on a water system and on some of the gas and electric facilities within the park. Knollwood asserts that the improvements cost more than \$500,000 and that its application for a \$250,000 rent adjustment excluded all costs that would be subject to the jurisdiction of this Commission. Complainants allege that some of the costs are subject to the exclusive jurisdiction of this Commission and should not have been approved by the Rent Review Commission. This decision concludes that the Commission lacks jurisdiction to rule on improvements to the water system, which is served by a publicly owned water district, and that complainants' burden of proof has not been met as to the work on gas and electric systems. Complainants' appeal of the Presiding Officer's Decision is denied. Accordingly, the complaint is dismissed. This proceeding is closed.
(Comr Brown - ALJ Walker)
Pub. Util Code § 1701.2(c), allows this modified Presiding Officer's Decision to be considered in Closed Session
Pub. Util Code §1701.1 -- This proceeding is categorized as Adjudicatory.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138297
- CA-11
(Rev.)
1630** 01/29/2003 - Moved to item (4) on the agenda.
- CA-12
1631** **A02-03-025 - Alameda Corridor Transportation Authority (ACTA).**
- This decision grants the request of ACTA to construct two additional main line tracks underneath the existing Anaheim Street Overhead grade separation bridge structure in Los Angeles, Los Angeles County. This proceeding is closed.
(Exam Clark)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=135373
- CA-13
1632** **A02-08-023 - Orange County Transportation Authority (OCTA).**
- This decision grants the request of OCTA to widen State Route 22, also known as Garden Grove Freeway, over two grade-separated tracks, one in the City of Westminster and the other in the City of Orange, both in County of Orange. This proceeding is closed.
(Exam Clark)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.

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- CA-14** **A02-08-026 - City of Placentia.**
1633 This decision grants the request of City of Placentia to replace an existing at-grade crossing with a grade-separated underpass at Placentia Avenue in the City of Placentia, Orange County. This proceeding is closed.
(Exam Clark)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138324
- CA-15** **A02-09-048 - City and County of San Francisco (CCSF).**
1634 This decision grants the request of CCSF to construct 18 at-grade crossings along 3rd Street in the City and County of San Francisco. This proceeding is closed.
(Exam Clark)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138326
- CA-16** **A01-08-001 - City of Oceanside.**
1640 For an order authorizing construction of a private crossing used by the public, on private property, at separate grades. This decision grants request of the City of Oceanside, on behalf of Evergreen Distributors, Inc., to modify D01-11-016 authorizing City to construct a private two-lane bridge above existing North San Diego County Transit District tracks, grade separating an existing private at-grade crossing in the City of Oceanside, San Diego County. This proceeding is closed.
(Exam Clark)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138544
- CA-17** **A01-03-006 - IP Networks, Inc. (IP) and Pacific Gas and Electric Company (PG&E).**
1641 For extension of authority from a limited, to full, facilities based competitive local carrier and an interexchange carrier. A01-12-033 - Related matters. In A01-03-006, IP seeks a certificate of public convenience and necessity to provide facilities-based local exchange and interexchange telecommunications services. Specifically, IP requests authority to construct fiber optic cable facilities and ancillary equipment between structures to which service will be provided. This decision grants the requested authority, and closes the proceeding. In A01-12-033, Pacific Gas and Electric Company requested approval of licenses and right to use agreements with IP. The agreements were approved in D02-07-026, except to the extent they involved construction projects reviewed in A01-03-006. The agreements are approved to the extent they involve construction projects reviewed herein and A01-12-033 is closed.
(Comr Lynch - ALJ O'Donnell)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=129827
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- CA-18** **A02-07-034 - San Diego Gas & Electric Company (SDG&E).**
1643 This decision approves SDG&E's Power Purchase Agreement with the City of San Diego for energy from the City's qualifying facility at Point Loma. This proceeding is closed.
(Comr Wood - ALJ DeBerry)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=130917
- CA-19** **C02-01-007 - The Utility Consumers' Action Network (UCAN) vs. Pacific Bell Telephone Company.**
1646 I02-01-024 - Related matters. This decision grants \$177,201.55 to UCAN for contribution to D02-10-073. This proceeding is closed.
(Comr Wood - ALJ McVicar)
Pub. Util Code §1701.1 -- This proceeding is categorized as Adjudicatory.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138846
- CA-20** **A02-07-028 - San Bernardino Associated Governments (SANBAG).**
1647 This decision grants request of SANBAG to construct State Street/University Parkway Overhead at separated grades over tracks of The Burlington Northern and Santa Fe Railway Company's Cajon subdivision main line between Barstow and San Bernardino in San Bernardino County. This proceeding is closed.
(Exam Clark)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138545
- CA-21** **A99-06-033 - Pacific Gas and Electric Company.**
1651 Electric rate proposal for direct access services described in D97-10-087. A99-06-040, A99-06-041, A99-03-013, A99-03-019, A99-03-024 - Related matters. In view of staleness of the record, these applications are dismissed without prejudice. This proceeding is closed.
(Comr Lynch - ALJ Wetzell)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139016

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- CA-22
1657** **A02-08-017 - North Bay Airport Express Shuttle, Inc.**
This decision authorizes the Applicant to operate as an on-call passenger stage corporation between points in Marin, Sonoma, Napa, and San Francisco Counties, on the one hand, San Francisco, Oakland, and San Jose International Airports, on the other hand. This proceeding is closed.
(Exam Clark)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139424
- CA-23
1658** **A96-10-038 - Pacific Enterprises, Enova Corporation, Mineral Energy Company, and B Mineral Energy Sub.**
For approval of a plan of merger of Pacific Enterprises and Enova Corporation with and into B Energy Sub, the wholly-owned subsidiaries of a newly created holding company, Mineral Energy Company. This decision grants \$12,260.14 to The Utility Reform Network in compensation for substantial contributions to D02-09-048. This proceeding is closed.
(Comr Kennedy - ALJ Barnett)
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138772
- CA-24
1659** **R01-05-047 - Order Instituting Rulemaking on the Commission's own motion to determine whether baseline allowances for residential usage of gas and electricity should be revised.**
This decision grants Disability Rights Advocates \$48,179.40 for its contribution to D02-04-026.
(Comr Brown - ALJ Allen)
Pub. Util Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=134282
- CA-25
1660** **Res E-3808 - San Diego Gas & Electric Company (SDG&E).**
This resolution confirms the reappointment of Mr. H. Wesley Pratt to serve on its Nuclear Decommissioning Master Trust Committees. (Advice Letter 1453-E, filed December 3, 2002.)
- CA-26
1661** **A02-06-033 - Del Oro Water Company. (Del Oro).**
For authority to borrow approximately \$250,000 (and to issue evidence of indebtedness in connection therewith) in order to pay the costs of determining compliance with the California Environmental Quality Act of a proposed capital improvement project and for authority to recover all such costs by applying monthly surcharges to customers in its Lime Saddle, Paradise Pines and Magalia Districts in Butte County, California. This decision grants Del Oro authority to place in effect a surcharge on existing water rates to repay the loan authorized by D02-09-036 as amended by D02-11-065. This proceeding is closed.
(Exam Jackson)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=137891
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**CA-27
1663**

Res W-4372 - Southern California Water Co. (SCWC), Metropolitan District.

This resolution authorizes SCWC, Metropolitan District, an increase in rates producing an increase in annual revenue of \$3,522,266 or 4.6% to offset infrastructure replacement costs and establishes price index increases. (Advice Letter 1116-W, filed November 7, 2002)

Regular Agenda

Utility and Transportation Orders

Orders Held Over

**H-1
623 R93-04-003 - Rulemaking on the Commission's own motion to govern open access to bottleneck services and establish a framework for Network Architecture Development of Dominant Carrier Networks.**

193-04-002 - Related matters. This decision adopts permanent Unbundled Network Element rates for the High Frequency Portion of the Loop (HFPL) for both Pacific Bell Telephone Company (Pacific) and Verizon California Inc. (Verizon). The decision finds that establishing a separate rate for the HFPL allows Pacific and Verizon to over-recover their loop costs, since they currently recover the full cost of the loop through rates for the unbundled loop. Pacific and Verizon are required to return HFPL revenues to each Competitive Local Exchange Carrier that leased the HFPL loops for return to their DSL customers.

(Comr Wood - ALJ Jones)

Pub. Util. Code § 311 – This item was mailed for Public Comment

(Agenda 3089, Item 3 6/6/2002; Agenda 3091, Item H-6 7/17/2002; Agenda 3092, Item H-2 8/8/2002 (Wood); Agenda 3093, Item H-4 8/22/2002 (Peevey); Agenda 3095, Item H-2 9/19/2002 (Wood); Agenda 3098, Item H-2 10/24/2002 (Staff); Agenda 3099, Item H-2 11/7/2002 (Staff); Agenda 3102, Item H-3 12/5/2002 (Brown); Agenda 3103, Item H-2 12/17/2002 (Lynch); Agenda 3105, Item H-2 1/16/2003 (Kennedy))

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139632

**H-1a
1518 ALTERNATE TO ITEM 623**

In this decision, the Commission exerts its independent state authority under Public Utilities Code § 709.7 to order Pacific Bell Telephone Company (Pacific) and Verizon California Inc. (Verizon) to offer the line sharing Unbundled Network Element (UNE). The decision adopts a permanent UNE rate for the High-Frequency Portion of the Loop (HFPL) of zero for both Pacific and Verizon. The Interim Line Sharing (ILS) decision determined that there should be a true-up from the interim rates adopted in the ILS proceeding, and the final rates adopted in this Permanent Line Sharing Phase. The ILS proceeding established memorandum accounts to track the revenues from the purchase of the HFPL by Competitive Local Exchange Carriers (CLECs). Since a zero permanent rate is adopted for the HFPL, Pacific is required to refund the revenues from the \$5.85 monthly recurring rate, and Verizon, the \$3.00 monthly recurring rate adopted in the ILS proceeding to the CLEC that purchased each loop.

(Comr Brown)

(Agenda 3103, Item H-2a 12/17/2002 (Lynch); Agenda 3105, Item H-2a 1/16/2003 (Kennedy))

- H-2
1159** **R92-03-050 - Order Instituting Rulemaking on the Commission's own motion to consider the line extension rules of electric and gas utilities.**
This decision rejects free inspections for projects undertaken by third-party contractors at ratepayer expense; and rejects proposed accounting changes for line extension costs. This proceeding is closed.
(Comr Kennedy - ALJ Patrick)
Pub. Util. Code § 311 – This item was mailed for Public Comment
(Agenda 3099, Item 2 11/7/2002 (Duque); Agenda 3101, Item H-7 11/21/2002 (Wood); Agenda 3103, Item H-8 12/17/2002 (Wood))
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139695
- H-2a
1662** **ALTERNATE TO ITEM 1159**
This alternate order differs from the proposed decision in that it adopts the TURN/UCAN proposals related to the accounting of costs for applicant-installed line extensions and the eligibility of utility inspections for line extension credits.
(Comr Wood)
- H-3
1208** **R02-01-011 - Order Instituting Rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly Bill 1X and D01-09-060.**
This decision grants the petition to modify D02-03-055 filed by City of Corona to clarify that utility distribution companies should continue to process and execute new agreements with qualified energy service providers.
(Comr Brown, Comr Wood - ALJ Pulsifer)
Pub. Util. Code § 311 – This item was mailed for Public Comment
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
(Agenda 3099, Item CA-19 11/7/2002 (Lynch); Agenda 3101, Item H-12 11/21/2002 (Peevey); Agenda 3103, Item H-11 12/17/2002 (Lynch); Agenda 3105, Item H-4 1/16/2003 (Wood))
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138987
- H-3a
1665** **ALTERNATE TO ITEM 1208**
This alternate denies the petition to modify D02-03-055 filed by City of Corona to clarify that utility distribution companies should continue to process and execute new agreements with qualified energy service providers.
(Comr Lynch)

**H-4
1256**

R97-10-049 - Rulemaking on the Commission's own motion to set rules and to provide guidelines for the privatization and excess capacity as it relates to investor owned water companies.

This decision alters a Conclusion of Law and an Ordering Paragraph of D00-07-018 to conform to discussion and record in proceeding. This proceeding is closed.

(Comr Kennedy - ALJ Bushey)

Pub. Util. Code § 311 – This item was mailed for Public Comment

(Agenda 3101, Item CA-12 11/21/2002 (Duque); Agenda 3103, Item CA-9 12/17/2002 (Duque))

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=137889

**H-5 (Rev.)
1323**

I01-03-021 - Investigation on the Commission's own motion and Order to Show Cause into the operations, practices and conduct of Titan Telecommunications, Inc. (Titan), and Christopher Bucci, its President and owner.

This decision revokes Titan's certificate of public convenience and necessity (CPCN) and fines Titan \$35,000 after finding Titan violated Rule 1 by misleading the Commission in Titan's CPCN application. This decision further finds that Respondents are not liable for the restitution ordered against another company in D00-04-012, because the alter ego doctrine cannot be applied to respondents. The Consumer Protection and Safety Division's recommended changes to any future application for authority are adopted and the appeal is otherwise denied. Investigation 01-03-021 is closed.

(Comr Brown - ALJ Grau)

Pub. Util Code § 1701.2(c), allows this modified Presiding Officer's Decision to be considered in Closed Session

Pub. Util Code §1701.1 -- This proceeding is categorized as Adjudicatory.

(Agenda 3101, Item 2 11/21/2002 (Lynch); Agenda 3103, Item H-14 12/17/2002 (Lynch))

01/29/2003 - This revision was not shown on the Agenda mailed to the public.

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139842

**H-6
1361**

I_____ - Order Instituting Investigation on the Commission's own motion to review the compliance of San Diego Gas & Electric Company and Southern California Gas Company with the Commission's Affiliate Transaction Rules.

This investigation will review the activities of Sempra Energy and its subsidiaries and affiliates in regards to their relationship and interactions with the regulated utilities San Diego Gas & Electric Company and Southern California Gas Company to evaluate the utilities' compliance with the Commission's affiliate rules and holding company decisions.

(Agenda 3101, Item 3 11/21/2002 (Lynch); Agenda 3103, Item H-15 12/17/2002 (Lynch); Agenda 3105, Item H-6 1/16/2003 (Brown))

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139362

**H-7
1372**

R93-04-003 - Rulemaking on the Commission's own motion to govern open access to bottleneck services and establish a framework for network architecture development of dominant carrier networks.

I93-04-002 - Related matters. This decision adopts interim monthly prices for a subset of network elements that Verizon California, Inc. (Verizon) sells to competitive local exchange carriers (CLCs). Specifically, this decision adopts the proposal presented by AT&T Communications of California, Inc., WorldCom Inc., and The Utility Reform Network (TURN) to base interim prices on Unbundled Network Element (UNE) rates recently adopted for Verizon in New Jersey. The New Jersey rates are adjusted based on the Federal Communications Commission's (FCC's) Synthesis Model and deaveraged into two zones for loops. For unbundled loops, the 2-wire interim loop rate is \$10.56 in Zone 1 and \$22.37 in Zone 2. For unbundled switching, the Commission adopts interim end office and tandem switching rates that are 60% and 31% less than current rates, respectively. The Commission adopts a basic port rate of \$2.12 that is 54% less than the current rate. The markup for shared and common costs embedded in current UNE rates shall remain at 22% as adopted in D97-01-022. This proceeding will remain open to set final UNE rates for Verizon. The interim UNE rates adopted in this order are subject to adjustment, either up or down, from the effective date of this order until final rates are adopted. This decision modifies the interim price floor formula adopted for Verizon in D99-12-018. When calculating price floors, Verizon should use the interim UNE rates adopted in this order and incorporate other changes to reflect the lower UNE rates adopted today. Finally, today's order applies a 22% markup for shared and common costs to Verizon's nonrecurring costs and orders Verizon to make several changes in how it has combined these costs to form the nonrecurring prices competitors will pay.

(Comr Peevey - ALJ Duda)

Pub. Util. Code § 311 – This item was mailed for Public Comment

(Agenda 3103, Item 2 12/17/2002 (Peevey))

**H-8
1375**

R00-10-002 - Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company (SCE) and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.

This decision denies the May 21, 2002 petition for modification of D02-04-060 filed by California Industrial Users and California Large Energy Consumers Association regarding the interruptible program bill limiter of SCE. The proceeding is closed.

(Comr Wood - ALJ Mattson)

Pub. Util. Code § 311 – This item was mailed for Public Comment

Pub. Util. Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.

(Agenda 3103, Item CA-12 12/17/2002 (Brown); Agenda 3105, Item H-7 1/16/2003 (Kennedy))

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139692

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- H-8a** **ALTERNATE TO ITEM 1375**
1588 The Alternate Draft Decision determines that the bill limiter should not terminate, but should continue in part. The alternate grants the bill limiter in part by continuing the bill limiter on all rate components at issue, but adopts Edison's proposed accounting treatment for funding the revenue shift within the large customer group.
(Comr Brown)
(Agenda 3105, Item H-7a 1/16/2003 (Kennedy))
- H-9** **A91-11-024 - San Diego Gas & Electric Company (SDG&E).**
1390 For authority to increase its rates and charges for electric, gas, and steam service, effective January 1, 1993. A98-10-012, A98-10-031 - Related matters. The Golden State Manufactured – Home Owners League petitioned to modify D00-04-060 and D00-12-058 in regard to submetered discounts, claiming they are erroneously computed. This decision denies the petition. This issue can be raised in the current SDG&E and Southern California Gas Company Applications (A) 01-10-005 and A01-09-024. These proceedings are closed.
(Comr Peevey - ALJ Barnett)
Pub. Util. Code § 311 – This item was mailed for Public Comment
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
(Agenda 3103, Item CA-17 12/17/2002 (Lynch); Agenda 3105, Item H-9 1/16/2003 (Peevey))
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139449
- H-10** **A01-09-040 - Clear World Communications Corporation (Clear World).**
1479 This decision denies the application of Clear World for a certificate of public convenience and necessity (CPCN) to resell local exchange telecommunications services because it is not fit to provide such services. In addition, this decision prohibits Christopher Mancuso from any involvement with any utility subject to the Commission's jurisdiction, including Clear World, and orders Clear World to show cause why it should not be fined for slamming, and have its CPCN to resell interexchange services revoked.
(Comr Peevey - ALJ O'Donnell)
Pub. Util. Code § 311 – This item was mailed for Public Comment
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
(Agenda 3105, Item 4 1/16/2003 (Staff))
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139785
- H-11** **R _____ - Order Instituting Rulemaking to update rules regarding implementation**
1488 **of water quality practices and controls in General Order 103 and the Rate Case Plan for**
Class A water utilities.
(Agenda 3103, Item 10 12/17/2002 (Staff))
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- H-12
1529** **A01-09-062 - California Water Service Company (Cal Water).**
For an order authorizing Cal Water to increase rates charged for water service at each of its operating districts to recover increased operating expenditures at its General Office. A01-09-063, A01-09-064, A01-09-065, A01-09-066, A01-09-067, A01-09-068, A01-09-069, A01-09-070, A01-09-071, A01-09-072, A01-09-073, A01-09-074 - Related matters. This decision orders Cal Water to show cause why it should not be required to refund to customers all amounts collected in violation of the Public Utilities Code. The decision also sets a briefing schedule for fines and other penalties.
(Comr Peevey - ALJ Bushey)
Pub. Util. Code § 311 – This item was mailed for Public Comment
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
(Agenda 3105, Item 7 1/16/2003 (Kennedy))
- H-13
1602** **A02-09-018 - Pacific Bell Telephone Company (PacBell).**
For arbitration of Advice Letter No. 57 filed by Vycere Communicatins, Inc. (Vycere) formally known as Genesis Communications International, Inc., regarding Vycere's request to adopt the interconnection agreement between AT&T Communications of California, Inc. and Pacific Bell Telephone Company. This decision adopts, with modifications, the arbitrated interconnection agreement between PacBell and Vycera Communications, Inc. This proceeding is closed.
(Comr Wood - ALJ Jones)
(Agenda 3105, Item 9 1/16/2003 (Staff))
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=140213
- H-14
1619** **A00-11-038 - Southern California Edison Company.**
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. Consideration of issues raised by DWR in its submission on December 27, 2002.
(Comr Brown, Comr Lynch - ALJ Allen)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
(Agenda 3105, Item 10 1/16/2003 (Brown))
- H-15
1623** **R01-10-024 - Order Instituting Rulemaking to establish policies and cost recovery mechanisms for generation procurement and renewable resource development.**
This decision addresses the Motions filed by San Diego Gas & Electric Company and Pacific Gas and Electric Company on December 19, 2002 and December 20, 2002, respectively, requesting consideration and approval of Operating Agreements with the Department of Water Resources.
(Comr Lynch - ALJ Halligan)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
(Agenda 3105, Item 11 1/16/2003 (Staff))

Orders

- 1**
1574 **R02-01-025 - Order Instituting Rulemaking to Implement 2-1-1 Dialing in California.**
This decision establishes regulatory policies and procedures necessary to implement 2-1-1 dialing to provide easy access to information about community service organizations in California.
(Comr Kennedy - ALJ Sullivan)
Pub. Util. Code § 311 – This item was mailed for Public Comment
Pub. Util Code §1701.1 -- This proceeding is categorized as Quasi-Legislative.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138571
- 2**
1589 **A02-04-022 - California-American Water Company (CalAm).**
CalAm is authorized a \$2,642,100 (10.36%) general rate increase in its Monterey Division for test year 2003, \$948,410 (3.37%) for test year 2004, and \$714,320 (2.46%) for attrition year 2005.
This proceeding is closed.
(Comr Peevey - ALJ McVicar)
Pub. Util. Code § 311 – This item was mailed for Public Comment
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=140092
- 3 (Rev.)**
1626 **A02-02-015 - Southern California Edison Company (SCE).**
For authority to lease to California Commerce Club, Inc. a site on its Laguna Bell-Mesa transmission right of way in City of Commerce. Granted. This proceeding is closed.
(Comr Wood - ALJ McVicar)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
01/29/2003 - This item appeared as (CA-9) on the agenda distributed to the public.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=136169
- 4 (Rev.)**
1630 **A02-04-046 - Southern California Edison Company (SCE).**
This decision authorizes SCE to lease to BRRVS, Inc., a site on its Johanna Substation in the City of Santa Ana. This proceeding is closed.
(Comr Wood - ALJ McVicar)
Pub. Util Code §1701.1 -- This proceeding is categorized as Ratesetting.
01/29/2003 - This item appeared as (CA-11) on the agenda distributed to the public.
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=136943

Utilities Resolutions and Written Reports**Energy Matters****E-1 Res G-3338 - Southern California Gas Company (SoCalGas).****1368**

This resolution approves the request of SoCalGas to deviate from its Tariff Schedule No. GT-I, Interruptible Intrastate Transmission Service; and Rule No. 2, Description of Service.

Approval of these deviations will allow SoCalGas to provide Praxair-Ontario high pressure transmission service while maintaining Praxair's classification as a distribution-level customer. (Advice Letter 3136, filed March 22, 2002.)

Pub. Util. Code § 311 – This item was mailed for Public Comment

(Agenda 3103, Item E-6 12/17/2002 (Peevey); Agenda 3105, Item E-2 1/16/2003 (Wood))

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=139061

E-1a ALTERNATE TO ITEM 1368**1664**

This resolution finds that Southern California Gas Company's (SoCalGas) request to deviate from Rule No. 2, Description of Service is moot and denies SoCalGas' request to deviate from its Tariff Schedule No. GT-I. Denying these deviations will allow Praxair-Ontario to take high pressure transmission service at transmission-level rates.

(Comr Wood)

E-2 Res G-3341 - San Diego Gas & Electric Company (SDG&E).**1433**

This resolution approves SDG&E's request of a shareholder reward of \$6.7 million for Year 8 performance under its gas procurement performance-based ratemaking mechanism.

Advice Letter 1305-G, filed March 22, 2002)

(Agenda 3103, Item E-7 12/17/2002 (Lynch))

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=136144

E-3 Res E-3798 - San Diego Gas and Electric Company (SDG&E).**1570**

This resolution approves SDG&E's request to transfer the entire 2002 year-end over-collected balances in its Tree Trimming Balancing Account, Rate Reduction Bond Memorandum Account, and Rewards and Penalties Balancing Account, if an over-collection exist, to its Energy Revenue Shortfall Account sub-account of the Transition Cost Balancing Account. (Advice Letter 1439-E, filed September 18, 2002)

Pub. Util. Code § 311 – This item was mailed for Public Comment

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=140059

**E-4
1644**

Res E-3809 - Southern California Edison Company (SCE).

For approval of five power purchase agreements contributing toward procurement of at least one percent of the utility's annual electricity sales from renewable energy resources irrespective of utility residual net short.

Advice Letter 1676-E, filed December 24, 2002)

Telecommunications Matters

- C-1
1337** **Res T-16685**
This resolution revises fiscal year 2002-2003 budget and surcharge rate for the California High Cost Fund-B Administrative Committee Fund adopted in Resolution T-16554.
Pub. Util. Code § 311 – This item was mailed for Public Comment
(Agenda 3102, Item C-3 12/5/2002 (Staff); Agenda 3103, Item C-3 12/17/2002 (Staff); Agenda 3105, Item C-1 1/16/2003 (Staff))
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=140166
- C-2
1338** **Res T-16701**
This resolution revises fiscal year 2002-2003 budget and surcharge rate for the California High Cost Fund-A Administrative Committee Fund adopted in Resolution T-16550.
Pub. Util. Code § 311 – This item was mailed for Public Comment
(Agenda 3102, Item C-4 12/5/2002 (Staff); Agenda 3103, Item C-4 12/17/2002 (Staff); Agenda 3105, Item C-2 1/16/2003 (Staff))
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=136663
- C-3
1535** **Res T-16720 - Evans Telephone Company (Evans).**
This resolution authorizes total intrastate revenue in the amount of \$8,619,826 for Evans for the test year 2003. This represents a reduction of \$3,611,119 to Evans' estimate of \$11,683,454 for total intrastate revenue for 2003. The Total Intrastate Rate Base amount for Evans is \$5,205,147 with an overall Intrastate Rate of Return of 10.00% for the test year 2003. Evans had requested a Total Intrastate Rate Base amount of \$12,756,407 for an authorized Overall Intrastate Rate of Return of 10.00%. Also authorized by this resolution is California High Cost Fund-A (CHCF-A) support for Evans for test year 2003 of \$16,199. Evans had requested CHCF-A support for 2003 of \$3,627,318. (Advice Letter 326, filed December 19, 2001)
Pub. Util. Code § 311 – This item was mailed for Public Comment
(Agenda 3105, Item C-6 1/16/2003 (Staff))
http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138452

**C-4
1542** **Res T-16712 - Calaveras Telephone Company (Calaveras), California-Oregon Telephone Company (Cal-Ore), Citizens Telecommunications Company of the Golden State (Citizens-GS), Citizens Telecommunications Company of Tuolumne (Citizens-Tu), Ducor Telephone Company (Ducor), Evans Telephone Company (Evans), Foresthill Telephone Company (Foresthill), Happy Valley Telephone Company (Happy Valley), Hornitos Telephone Company (Hornitos), Kerman Telephone Company (Kerman), Pinnacles Telephone Company (Pinnacles), et al.**

This resolution adopts a total CY 2003 California High Cost Fund-A support of \$25,619,724 for Calaveras, Cal-Ore, Citizens-GS, Citizens-Tu, Ducor, Evans, Foresthill, Happy Valley, Hornitos, Kerman, Pinnacles, The Ponderosa Telephone Company, Sierra Telephone Company, Siskiyou Telephone Company, Verizon West Coast Incorporated, Volcano Telephone Company, and Winterhaven Telephone Company. This resolution is in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter (AL) 254, AL 271, AL 114, AL 110, AL 274, AL 333, AL 185, AL 296, and AL 305, filed September 30, 2002; AL 354 filed September 23, 2002; AL 289, filed September 30, 2002; AL 226, AL 249, AL 221, AL 308, AL 314, and AL 142 filed October 1, 2002 respectively.)

Pub. Util. Code § 311 – This item was mailed for Public Comment

(Agenda 3105, Item C-4 1/16/2003 (Staff))

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=140256

**C-5
1544** **Res T-16722 - Verizon California Incorporated (Verizon).**

This resolution denies Verizon's request to amend its existing CentraNet contract with AMI Telecommunications to incorporate individual endusers into the service.
(Agenda 3105, Item C-5 1/16/2003 (Staff))

http://www.cpuc.ca.gov/Cyberdocs/AgendaDoc.asp?DOC_ID=138437

Commissioner's Reports

CR-1 Commissioners' Reports.

1418 Miscellaneous Commissioners' reports.

CR-2 Commissioner Lynch Report

1672 Discussion of and action on potential employment of Henry M. Duque by the State of California.

Management Reports and Resolutions

M-1 Management Reports

1420 Miscellaneous Management reports.

M-2 Director Richard Clark Report

1670 Supplement to the California Public Utilities Commission Staff's Wholesale Generator Investigation Report Dated September 17, 2002.

M-3 Director Regina A. Birdsell Report

1671 Report on Staffing - Office of Ratepayer Advocates.

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 Items

Orders Held Over

- HEX-1** **A00-11-038 - Conference with Legal Counsel – Application for Rehearing**
1603 A00-11-056, A00-10-028 - Related matters. Disposition of Application for Rehearing of D02-12-072 filed by Pacific Gas & Electric Company. D02-12-072 approved the 2003 Servicing Order Concerning Pacific Gas & Electric Company and the California Department of Water Resources.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session (Agenda 3105, Item EX-6 1/16/2003 (Staff))
- HEX-2** **A00-11-038 - Conference with Legal Counsel – Application for Rehearing**
1620 A00-11-056, A00-10-028 - Related matters. Disposition of the application for rehearing of D02-12-045 filed by the Department of Water Resources (DWR) on December 27, 2002. The decision allocates the cost of DWR's forecast 2003 revenue requirement for its power purchase program among the customers of the three major California utilities.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session (Agenda 3105, Item EX-7 1/16/2003 (Staff))

Orders

- EX-1** **Conference with Legal Counsel - Applications for Rehearing**
1422 Compilation of applications for rehearing recently filed with the Commission.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session
- EX-2** **Conference with Legal Counsel – Threatened Litigation**
1425 Significant exposure to litigation.
Gov. Code § 11126(e)(2)(B), allows this item to be considered in Closed Session
- EX-3** **Conference with Legal Counsel – Initiation of Litigation**
1427 Consideration of possible Commission initiation of, or intervention in, litigation.
Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session
- EX-4** **Personnel Matters**
1429 Consideration of appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee.
Gov. Code § 11126(a), allows this item to be considered in Closed Session
- EX-5** **C01-10-034 - Conference with Legal Counsel – Application for Rehearing.**
1642 Disposition of application for rehearing of D02-10-007, filed by Dairyman’s Division of Land O’Lakes, Complainant, which denied its complaint alleging that Southern California Edison Co. assessed excess energy charges, including penalties, against it for not curtailing electricity usage in January, 2001.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session
- EX-6** **I00-11-052 - Conference with Legal Counsel - Application for Rehearing.**
1654 Disposition of Application for Rehearing of D02-10-059, filed by Greenlining Institute and Latino Issues Forum and by Qwest Communications Corp. D02-10-059 found violations and imposed sanctions.
Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session

**EX-7
1655****A98-07-003 - Conference with Legal Counsel - Application for Rehearing.**

Disposition of Application for Rehearing of D02-07-032, filed by Federal Executive Agencies, The Utility Reform Network, Alliance for Retail Energy Markets, Kroger Co., Los Angeles Unified School District, Sempra Energy Solutions, University of California, California State University, and Western Power Trading Forum, and the Newark Group. D02-07-032 approves the proposal of Southern California Edison Company (Edison) to establish a historical procurement charge (HPC), and to adjust the credit that direct access customers received. The adjustment was approved to make equivalent contributions made by direct access and bundled service customers to the recovery of Edison's past procurement cost undercollections as measured by the starting balance in Edison's Procurement Related Obligation Account (PROACT). The HPC was established for use in determining the direct access credit, based on the starting PROACT balance.

Gov. Code § 11126(e)(2)(B)(i), allows this item to be considered in Closed Session

Federal Items

Items Held Over

HFEX-1 **FERC Docket No. RM01-12-000 - Conference with Legal Counsel – Existing Litigation.**
1522 Standard Market Design Rulemaking, FERC Docket No. RM01-12-000.
Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session
(Agenda 3103, Item FEX-6 12/17/2002; Agenda 3104, Item HFEX-1 1/7/2003 (Staff))

Items

- FEX-1
1431** **Conference with Legal Counsel - Initiation of Litigation.**
Consideration of possible Commission initiation of, or intervention in, federal agency or court proceedings.
Gov. Code § 11126(e)(2)(C)(i), allows this item to be considered in Closed Session
- FEX-2
1612** **Case No. 01 30923 DM - Conference with Legal Counsel - Existing Litigation.**
Pacific Gas and Electric Company (Debtor), United States Bankruptcy Court, Northern District of California, San Francisco Division, Case No. 01 30923 DM.
Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session
- FEX-3
1613** **Case No. 01-56879, DC. No. CV-00-12056-RSWL - Conference with Legal Counsel - Existing Litigation.**
Southern California Edison v. Lynch, et al., United States Court of Appeal for the Ninth Circuit, Case No. 01-56879, DC. No. CV-00-12056-RSWL.
Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session
- FEX-4
1614** **Case No. C01-3023 VRW - Conference with Legal Counsel - Existing Litigation.**
Pacific Gas and Electric Company v. Lynch, et al., United States District Court for the Northern District of California, San Francisco Division, Case No. C01-3023 VRW.
Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session
- FEX-5
1653** **FERC Docket No. RM01-12 - Conference with Legal Counsel – Existing Litigation.**
Standard Market Design Rulemaking, FERC Docket No. RM01-12-000.
Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session
- FEX-6
1667** **FERC Docket No. ER02-1656 et al - Conference with Legal Counsel – Existing Litigation**
California Independent System Operator, FERC Docket No. ER02-1656 et al.
Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session
- FEX-7
1668** **FERC Docket Nos. EL02-115 - Conference with Legal Counsel – Existing Litigation**
Avista Corporation, et al., FERC Docket No. EL02-115-000.

Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session
- FEX-8
1673** **FERC Docket Nos. EL02-114 - Conference with Legal Counsel - Existing Litigation**
Portland General Electric Company, et al., FERC Docket No. EL02-114-000.
Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session

FEX-9
1674

FERC Docket No. EL02-113 - Conference with Legal Counsel - Existing Litigation

El Paso Electric Company, et al., FERC Docket No. EL02-113-000.

Gov. Code § 11126(e)(2)(A), allows this item to be considered in Closed Session