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

***Results of Public Agenda 3118  
Meeting Held on Thursday, September 4, 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**

*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, September 15, 2003 (San Francisco)	Thursday, September 18, 2003 (San Francisco)
Monday, September 29, 2003 (San Francisco)	Thursday, October 02, 2003 (San Francisco)
Friday, October 10, 2003 (San Francisco)	Thursday, October 16, 2003 (San Francisco)
Monday, October 27, 2003 (San Francisco)	Thursday, October 30, 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.*

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.**
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### Public Comment:

Re 19: David L. Margrave, S. Pasadena, CA

Re 44:

Eric Dahlhoff, Point Arenas, CA

Jeffrey Gyving, Point Arenas, CA

John Hooper, Point Arenas, CA

Lena Bullamore, Point Arenas, 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**

**A00-10-008 - San Diego Gas & Electric Company (SDG&E).**

[2379]

This decision approves SDG&E's entries to its Transition Cost Balancing Account for the record period July 1, 1999 through August 31, 2000. This proceeding is closed.

(Comr Wood - ALJ Patrick)

Agenda 3117, Item 6 8/21/2003 (Wood)

**Outcome Signed**

[D03-09-001](#)

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

No: (none)

Abstain: (none)

Absent: (none)

**2**

**Res ALJ 176-3118**

[2316]

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** **R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code § 761.3 enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.**

[2442]

This order adds additional public utilities, electrical corporations, and owners and operators of divested electric generating plant to this proceeding.

(Comr Wood - ALJ Mattson)

Agenda 3116, Item CA-48 7/10/2003 (Wood);

Agenda 3117, Item 12 8/21/2003 (Staff)

**Outcome Signed**

[D03-09-002](#)

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

No: (none)

Abstain: (none)

Absent: (none)

**4** **I02-11-040 - Order Instituting Investigation into the gas market activities of Southern California Gas Company, San Diego Gas and Electric, Southwest Gas, Pacific Gas and Electric, and Southern California Edison and their impact on the gas price spikes experienced at the California border from March 2000 through May 2001.**

[2490]

I03-02-033 - Related matters. This decision modifies I03-02-033 to provide for an independent audit as the first step in the investigation, and to deconsolidate I03-02-033 from I02-11-040.

(Comr Brown - ALJ TerKeurst)

Agenda 3117, Item 36 8/21/2003 (Lynch)

**Outcome Held (9/18/03, Regular Agenda. For alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**5** **A92-07-054 - Michael S. Mitchell, Bruce P. Hector and Mickey's Space Ship Shuttle (MSSS).**

[2549]

A03-02-017 - Related matters. MSSS' application for a zone of rate freedom is denied. Petition for modification to extend time to begin service granted to December 31, 2003. Certificate of Public Convenience and Necessity shall expire if service not initiated. Request for "Zone of Equipment Freedom" and connecting scheduled and non-scheduled service denied. This proceeding is closed.

(Comr Brown, Comr Kennedy - ALJ Rosenthal)

**Outcome Signed**

[D03-09-003](#)

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

No: (none)

Abstain: (none)

Absent: (none)

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- 6**  
[2550]      **C03-02-012 - David Stephan vs. AT&T Broadband.**  
This decision dismisses the complaint for failure to state a cause of action upon which relief may be granted. This proceeding is closed.  
(Comr Kennedy - ALJ Jones)  
**Outcome Signed**  
[D03-09-004](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 7**  
[2551]      **R00-02-005 - Order Instituting Rulemaking on the Commission's own motion into reciprocal compensation for telephone traffic transmitted to internet services providers modems.**  
This order closes the proceeding based on the finding that no further issues remain to be resolved within the rulemaking. This proceeding is closed.  
(Comr Peevey - ALJ Pulsifer)  
**Outcome Signed**  
[D03-09-005](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 8 (Rev.)**  
[2558]      **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, in part, and denies, in part, the motion filed on June 4, 2003 by the Central Valley Project Preference Power Post-2004 Implementation Group (CVP Group). The CVP Group consists of certain "preference power customers" under individual contracts with the Western Area Power Administration (WAPA). The CVP Group seeks an order affirming that no "Cost Responsibility Surcharge" shall apply to preference power customers for WAPA power purchased after 2004.  
(Comr Brown, Comr Wood - ALJ Pulsifer)  
09/02/2003 - This revision was not shown on the Agenda mailed to the public.  
**Outcome Held (9/18/03, Consent Agenda.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

**9** **R92-03-050 - Order Instituting Rulemaking on the Commission's own motion to consider the**  
[2562] **line extension rules of electric and gas utilities.**

In response to a petition for clarification of D03-03-032 filed by Pacific Gas and Electric Company, the Commission concludes that the decision requires the utilities: (1) to book only the refundable portion of project costs not the total project cost; (2) to use the costs set forth in applicant's third-party contract at the commencement of the project; and (3) to fix inspection costs at the outset of project, not subject to reconciliation on completion of the project, for paying refunds. This proceeding remains open.

(Comr Kennedy - ALJ Patrick)

**Outcome Held (9/18/03, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**10** **A03-04-029 - Southern California Edison Company (SCE).**  
[2564]

This decision grants application of SCE to lease available land on the Gould-Mesa transmission right of way to Park Edison. This proceeding is closed.

(Comr Kennedy - ALJ Bemserfer)

**Outcome Signed**

D03-09-006

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

No: (none)

Abstain: (none)

Absent: (none)

**11** **A03-05-032 - Pacific Gas and Electric Company (PG&E).**  
[2578]

This decision grants application of PG&E to amend existing lease of land in Glenn County to Johns Manville to add small additional parcel. This proceeding is closed.

(Comr Kennedy - ALJ Bemserfer)

**Outcome Signed**

[D03-09-007](#)

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

No: (none)

Abstain: (none)

Absent: (none)

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- 12**                    **A02-06-024 - Verizon California, Inc. (Verizon).**  
[2589]                    For Arbitration with Pac-West Telecomm, Inc. pursuant to Sectin 252(b) of the Telecommunications Act of 1996. This decision grants Verizon's motion to adopt the conformed interconnection agreement submitted by Verizon. This proceeding is closed.  
(Comr Brown - ALJ Jones)  
Agenda 3117, Item 78 8/21/2003 (Lynch)  
**Outcome Held (9/18/03, Consent Agenda. Further review.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 13**                    **Res SU-57 - Sacramento Regional Transit District (SRTD).**  
[2599]                    This resolution grants SRTD a temporary variance from GO 95 Rule 74.4-F(1) in areas not accessible to the public until the conclusion of OIR 01-10-001. Under this resolution, SRTD need not provide redundant support for its Overhead Contact System in areas not accessible to the public until the Commission concludes the rulemaking proceeding in which it is considering revision of the applicable rule.  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 14**                    **A00-03-062 - San Diego Gas & Electric Company (SDG&E).**  
[2600]                    The Commission adopts an all-party settlement agreement which modifies SDG&E's Market Indexed Capital Adjustment Mechanism (MICAM). The MICAM is a formula that allows automatic adjustments between SDG&E's cost of capital cases. This proceeding is closed.  
(Comr Kennedy - ALJ Patrick)  
**Outcome Signed**  
[D03-09-008](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

**15**                    **C01-07-027 - California ISP Association, Inc. vs. Pacific Bell Telephone Company and SBC  
Advanced Solutions, Inc.**

[2601]

This order dismisses C01-07-027 with prejudice. This proceeding is closed.

(Comr Lynch - ALJ Duda)

**Outcome Signed**

[D03-09-009](#)

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

No: (none)

Abstain: (none)

Absent: (none)

**16**                    **A02-04-047 - Southern California Edison Company (SCE).**

[2602]

This decision authorizes SCE to lease to Bernard R. Critchfield, Sr. and Arleen B. Critchfield a six-acre site on SCE's West Lugo-Mira Loma transmission right of way in the City of Rancho Cucamonga. This proceeding is closed.

(Comr Wood - ALJ McVicar)

**Outcome Signed**

[D03-09-010](#)

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

No: (none)

Abstain: (none)

Absent: (none)

**17**                    **Res W-4418 - Central Camp Water Company, Inc. (CCWC).**

[2603]

This resolution approves CCWC's request to secure a loan in the amount of \$24,000 payable within one year, and to add a surcharge to water rates to repay the loan principal and interest. (Advice Letter 13, filed July 29, 2003)

**Outcome Approved**

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

No: (none)

Abstain: (none)

Absent: (none)

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- 18**  
[2604]      **A03-02-021 - BAK Communications LLC (Applicant).**  
This decision grants Applicant a certificate of public convenience and necessity under Pub. Util. Code § 1001 to provide limited facilities-based and resold local exchange telecommunications services. This proceeding is closed.  
(Comr Brown - ALJ Bemserderfer)  
**Outcome Signed**  
[D03-09-011](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 19**  
[2613]      **Res SX-58 - Los Angeles County Metropolitan Transportation Authority (LACMTA).**  
This resolution grants LACMTA exemption from requirements of Section 7.8 of General Order 75-C, by permitting the silencing of bells on automatic railroad warning devices after the gate arm is lowered, at seven at-grade highway-rail crossings of the Los Angeles to Pasadena Metro Gold Line light rail line, in cities of South Pasadena and Los Angeles, in Los Angeles County.  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 20 (Rev.)**  
[2614]      **R03-07-007 - Order Instituting Rulemaking on the Commission's own motion for the purpose of amending the Commission's Conflict of Interest Code.**  
Amendment of Rulemaking 03-07-007 (OIR), which involves updating the Commission's Conflict of Interest Code, in order to include additional proposed changes to the Code.  
(Comr Brown - ALJ Grau)  
08/28/2003 - This revision was not shown on the Agenda mailed to the public.  
**Outcome Signed**  
D03-09-012  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

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- 21**  
[2617] **Res W-4419 - Hat Creek Water Company (HCWC).**  
This resolution authorizes a conversion of ownership of HCWC from sole proprietorship to a limited liability company. (Advice Letter 23-W, filed June 23, 2003)  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 22**  
[2619] **A03-01-022 - Calaveras Telephone Company (Calaveras).**  
This decision authorizes Calaveras to enter into a loan agreement with the Rural Utilities Service and the Rural Telephone Bank in an amount not exceeding \$7,006,750 for plant improvements. This proceeding is closed.  
(Exam Jackson)  
**Outcome Signed**  
D03-09-013  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 23**  
[2623] **A03-08-001 - Harbor Bay Maritime, Inc. (Applicant).**  
This decision grants the Applicant's request for a general passenger fare increase on its Vessel Common Carrier service between Alameda and San Francisco, pursuant to Pub. Util. Code § 454. The current one-way adult passenger fare will be increased from \$5.00 to \$5.25. This proceeding is closed.  
(Comr Lynch - ALJ Patrick)  
**Outcome Signed**  
[D03-09-014](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 24**  
[2628] **Res W-4421 - Watertek, Inc., Oak Hills District.**  
This resolution denies Watertek, Inc., Oak Hills District authorization of recovery of unanticipated expenses and authorizes a rate base offset, producing additional revenues of \$795 or 0.3%. (Advice Letter 15, filed April 2, 2003)  
**Outcome Approved**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
-

**25**

**Res W-4420 - Benbow Water Company (BWC).**

[2629]

This resolution authorizes BWC a general rate increase producing additional annual revenue of \$26,633 or 21.2% in 2003.

**Outcome Approved**

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

No: (none)

Abstain: (none)

Absent: (none)

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**Regular Agenda****Energy Orders****26**

[2166]

**A01-12-042 - Tenby, Inc.**

A01-12-050 - Related matters. This decision addresses the applications filed by Tenby, Inc. and Southern California Gas Company to modify or clarify Resolution G-3304. These proceedings are closed.

(Comr Brown - ALJ Wong)

Agenda 3114, Item CA-7 6/5/2003 (Peevey);

Agenda 3116, Item H-8 7/10/2003 (Staff);

Agenda 3117, Item 82 8/21/2003 (Wood)

**Outcome Defeated**

Yes: (Brown)

No: (Kennedy, Lynch, Peevey, Wood)

Abstain: (none)

Absent: (none)

**26a**

[2404]

**ALTERNATE TO ITEM 2166**

The alternate draft decision concludes that Resolution G-3304 did not invalidate the transfer of Tenby, a noncore customer, to GN-10 service.

(Comr Peevey)

Agenda 3116, Item H-8a 7/10/2003 (Staff);

Agenda 3117, Item 82a 8/21/2003 (Wood)

**Outcome Defeated**

Yes: (Peevey)

No: (Brown, Kennedy, Lynch, Wood)

Abstain: (none)

Absent: (none)

**26b**

[2630]

**ALTERNATE TO ITEM 2166**

The alternate draft decision concludes that Resolution G-3304 was clear that the Commission ordered SoCalGas to suspend any transfers to switch to core service, including already-noticed requests to switch.

(Comr Wood)

**Outcome Signed**

D03-09-015

Yes: (Kennedy, Lynch, Peevey, Wood)

No: (Brown)

Abstain: (none)

Absent: (none)

- 27**  
[2448]      **R \_\_\_\_\_ - Order Instituting Rulemaking to implement portions of AB 117 concerning community choice aggregation.**
- This order institutes a rulemaking to implement Assembly Bill (AB) 117 (Chapter 838, September 24, 2002). AB 117 added Public Utilities Code Sections 218.3, 331.1, 366.2, 381.1, and 394.25, permitting cities and counties to purchase and sell electricity on behalf of utility customers in their jurisdictions after they have registered with the Commission as “Community Choice Aggregators.” Agenda 3116, Item 10 7/10/2003 (Staff); Agenda 3117, Item 88 8/21/2003 (Kennedy)
- Outcome Signed**
- R03-09-007
- Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
- No: (none)
- Abstain: (none)
- Absent: (none)
- 
- 28**  
[2481]      **A98-07-003 - Pacific Gas and Electric Company.**
- For verification consolidation, and approval of cost and revenues in the Transition Revenue Account. This decision revises the portion of Southern California Edison Company’s Procurement Related Obligation Account which is the obligation of Direct Access customers from \$391 million to \$473 million.
- (Comr Wood - ALJ Barnett)
- Agenda 3117, Item 167 8/21/2003 (Staff)
- Outcome Signed**
- [D03-09-016](#)
- Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
- No: (none)
- Abstain: (none)
- Absent: (none)
- 
- 28a**  
[2631]      **ALTERNATE TO ITEM 2481**
- The alternate denies Southern California Edison Company's Petition to Modify D02-07-032.
- (Comr Brown)
- Outcome Defeated**
- Yes: (Brown, Peevey)
- No: (Kennedy, Lynch, Wood)
- Abstain: (none)
- Absent: (none)

- 29**  
[2508]      **A00-11-038 - Southern California Edison Company.**  
A00-11-056, A00-10-028, C02-02-027, A00-07-013 - Related matters. The rate control period implemented by Public Utilities Code § 368 ended on January 18, 2001. It is unnecessary to complete valuation of utility generation assets for the purpose of deciding the date the rate control period ended. Phase 2 of this rehearing proceeding will determine the extent and disposition of what were formerly known as uneconomic, transition or stranded costs. A00-07-013 (recovery of electric restructuring costs) is consolidated with Phase 2. The proceeding remains open.  
(Comr Lynch - ALJ Mattson)  
Agenda 3117, Item 92 8/21/2003 (Staff)  
**Outcome Held (10/2/03.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 30**  
[2509]      **A99-04-024 - Southern California Edison Company.**  
This decision is adopting \$15,991,000 in capital additions for non-nuclear plant and finding that \$36,225,000 in capital additions has already been recovered through gain on sale. This proceeding is closed.  
(Comr Lynch - ALJ DeBerry)  
Agenda 3117, Item 49 8/21/2003 (Staff)  
**Outcome Held (10/2/03.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 31**  
[2555]      **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. This decision addresses the California Department of Water Resources (DWR) March 6, 2003 memorandum request regarding the under-remittances by Pacific Gas and Electric Company (PG&E) concerning the energy supplied by DWR to meet PG&E's load obligation with the Western Area Power Administration.  
(Comr Brown, Comr Lynch - ALJ Wong)  
**Outcome Signed**  
[D03-09-017](#)  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)

**31a (Rev.)**

[2624]

**ALTERNATE TO ITEM 2555**

This Alternate differs from the ALJ's decision in that it orders PG&E to remit to DWR the Commission-approved DWR power charge with interest. PG&E is also ordered to show cause to explain why a penalty should or should not be imposed.

(Comr Kennedy)

09/02/2003 - This revision was not shown on the Agenda mailed to the public.

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**32**

[2615]

**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. This decision allocates a \$1 billion reduction in the 2003 revenue requirement of the California Department of Water Resources, and returns the money to ratepayers via a one-time bill credit.

(Comr Brown, Comr Lynch - ALJ Allen)

**Outcome Signed as Modified (Change page 24.)**

[D03-09-018](#)

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

No: (none)

Abstain: (none)

Absent: (none)

**32a**

[2616]

**ALTERNATE TO ITEM 2615**

This alternate differs from the draft decision by requiring PG&E also to provide an immediate bill credit to its customers for the DWR refunds.

(Comr Brown, Comr Lynch)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**32b**

[2621]

**ALTERNATE TO ITEM 2615**

This alternate differs from the draft decision by requiring PG&E to provide an immediate bill credit to its customers for the DWR refunds. It does not allow PG&E to file a motion to submit additional evidence outlining how a one-time refund would jeopardize the proposed PG&E bankruptcy settlement between PG&E and the Commission.

(Comr Kennedy)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**33**

[2622]

**A03-08-008 - SierraPine Limited (SierraPine).**

SierraPine asks that the Commission waive collection of the direct access cost responsibility surcharge (DA surcharge) for its facility in Rocklin, California. The application is filed pursuant to Pub. Util. Code § 367.3, which took effect August 11, 2003. Section 367.3 authorizes the Commission to waive the collection of the DA surcharge if specified criteria are met, including evidence that without such a waiver the facility faces certain and imminent closure. SierraPine has met all required criteria of Section 367.3. Accordingly, this decision waives collection of the DA surcharge for SierraPine's Rocklin facility. This proceeding is closed.

(Comr Kennedy - ALJ Walker)

**Outcome Signed**

[D03-09-019](#)

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

No: (none)

Abstain: (none)

Absent: (none)

34  
[2625]

**I02-07-015 - Order Instituting Investigation of Pacific Gas and Electric Company to (1) Issue, Sell and Deliver Common Stock and One or More Series of Its First and Refunding Mortgage Bonds, Debentures, Subordinated Deferrable Interest Debentures, Promissory Notes and/or Other Evidences of Indebtedness in Connection with A Confirmed Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, the Total Aggregate Principal Amount of Such Issuances and Guarantees Not to Exceed \$9.5 Billion; et al.**

This decision grants authority for PG&E to enter into interest rate hedges to mitigate costs of financing PG&E's emergence from bankruptcy. It requires PG&E to have the concurrence of the Commission bankruptcy Finance Team before entering into hedges. This proceeding is closed.

(Comr Peevey - ALJ Long)

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

D03-09-020

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

No: (none)

Abstain: (none)

Absent: (none)

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**Energy Resolutions and Written Reports****35**

[2371]

**Res E-3835 - Southern California Edison Company (SCE).**

This resolution denies SCE's request for approval of revisions to tariff schedules necessary to extend the TOU pricing requirement mandated by AB1X 29 and D01-05-064 to all customers with demand exceeding 200 kW. (Advice Letter 1649-E, filed September 6, 2002)

Agenda 3116, Item E-5 7/10/2003 (Staff);

Agenda 3117, Item 96 8/21/2003 (Staff)

**Outcome Held (9/18/03.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**36**

[2506]

**Res G-3351 - Southern California Gas Company (SoCalGas).**

This resolution approves SoCalGas' revisions to its tariffs to comply with D02-08-065 regarding rules for noncore gas customers requesting core service and certain large core customers switching to utility gas procurement. (Advice Letter 3188-A, filed June 13, 2003)

Agenda 3117, Item 98 8/21/2003 (Staff)

**Outcome Approved**

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

No: (none)

Abstain: (none)

Absent: (none)

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**Telecommunication Orders**
**37 R01-09-001 - Commission's own motion to assess and revise the new regulatory framework for Pacific Bell and Verizon California Incorporated.**

[1866]

I01-09-002 - Related matters. In this decision, the Commission evaluates the service quality of Pacific Bell and Verizon California, Inc. over the period January 1, 1990 through the present. The Commission ordered such a review in D89-10-031, which established the New Regulatory Framework as means of regulating both carriers.

(Comr Kennedy - ALJ Thomas)

Agenda 3111, Item 1 4/17/2003 (Kennedy);

Agenda 3114, Item H-3 6/5/2003 (Peevey);

Agenda 3116, Item H-1 7/10/2003 (Peevey);

Agenda 3117, Item 101 8/21/2003 (Staff)

**Outcome Held (9/18/03. To incorporate comments into alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**37a ALTERNATE TO ITEM 1866**

[2366]

This alternate finds that under the New Regulatory Framework (NRF), Verizon has provided excellent customer service. Pacific Bell has provided generally good service, but several of its operations suffer from poor service quality. The alternate reaches these conclusions through a statistical examination of the direct measures of service quality provided by Pacific Bell and Verizon to this Commission and to the FCC. The alternate further finds that Verizon and Pacific Bell developed different service quality records during the NRF period, but that both show an improving trend in service quality. This evidence casts doubt on the proposition that NRF systematically decreases the quality of customer service.

(Comr Kennedy, Comr Peevey)

Agenda 3116, Item H-1a 7/10/2003 (Peevey);

Agenda 3117, Item 101a 8/21/2003 (Staff)

**Outcome Held (9/18/03. To incorporate comments into alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

- 
- 38**  
[2180]      **C99-01-039 - The Greenlining Institute, Latino Issues Forum vs. Pacific Bell, Pacific Bell Information Services.**  
This decision denies the petition to modify D03-03-022 by the Greenlining Institute. This proceeding is closed.  
(Comr Wood - ALJ Vieth)  
Agenda 3114, Item CA-10 6/5/2003 (Peevey);  
Agenda 3116, Item CA-4 7/10/2003 (Peevey)  
**Outcome Held (9/18/03. Further review.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 39**  
[2305]      **I00-11-052 - Investigation on the Commission's own motion into the operations, practices, and conduct of Qwest Communications Corporation (Qwest) and its wholly owned subsidiary, LCI International Telecommunications Corporation, dba Qwest Communications Services (LCIT), to determine whether Qwest and LCIT have violated the laws, rules and regulations governing the manner in which California consumers are switched from one long distance carrier to another and billed for long distance telephone services.**  
This decision denies the Greenlining Institute and Latino Issues Forum's petition to modify D03-04-050 to increase their intervenor compensation award. This proceeding is closed.  
(Comr Wood - ALJ Econome)  
Agenda 3116, Item 1 7/10/2003 (Peevey)  
**Outcome Held (9/18/03. Further review.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 40**  
[2498]      **R03-02-034 - Order Instituting Rulemaking into implementation of Assembly Bill 140, establishing the Rural Telecommunications Infrastructure Grant Program.**  
This interim decision implements eligibility criteria for community-based groups to qualify to apply for telecommunications rural infrastructure grants and adopts interim grant program administration rules.  
(Comr Peevey - ALJ Grau)  
Agenda 3117, Item 106 8/21/2003 (Peevey)  
**Outcome Held (9/18/03, Consent Agenda. Further revision.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

**41** **I99-09-001 - Investigation on the Commission's own motion into the operation and practices of Telmatch Telecommunications, Inc. to determine whether it has violated the laws, rules and regulations governing the manner in which California consumers are billed for telecommunication services.**  
[2545]

This decision approves a reparation plan that compensates California consumers for unauthorized charges that Telmatch Telecommunications, Inc. imposed on consumers' telephone bills. This proceeding is closed.

(Comr Kennedy - ALJ DeUlloa)

**Outcome Held (9/18/03.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**42** **A99-03-025 - Roseville Telephone Company (Roseville).**  
[2571]

On May 3, 2002, Roseville filed a petition to modify D01-06-077. Specifically, it asks to remove the requirement to share 50% of its earnings between the benchmark rate of return and the ceiling rate of return. This decision denies the petition and also requires Roseville to file for its next NRF review no later than 90 days after a final decision in Rulemaking 01-09-001 and Investigation 01-09-002, the NRF reviews for Pacific Bell Telephone Company and Verizon California Incorporated. This proceeding is closed.

(Comr Lynch - ALJ O'Donnell)

**Outcome Held (10/2/03. For alternate.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

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**Water/Sewer Orders**

- 43**                    **A01-09-062 - California Water Service Company (Cal Water).**  
 [2256]                    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 authorizes Cal Water to increase rates in various operating districts.  
                               (Comr Kennedy - ALJ Bushey)  
                               Agenda 3115, Item 2 6/19/2003 (Kennedy);  
                               Agenda 3116, Item H-11 7/10/2003 (Kennedy);  
                               Agenda 3117, Item 108 8/21/2003 (Wood)  
                               **Outcome Signed**  
                               D03-09-021  
                               Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
                               No: (none)  
                               Abstain: (none)  
                               Absent: (none)
- 44**                    **A02-11-057 - Point Arena Water Works, Inc.**  
 [2368]                    For an order authorizing a rate increase in rates subject to refund producing additional annual revenues of \$70,137 or 56.9% for the test year 2002. This interim decision determines that 1995 tax refunds will not be included in the scope of this 2002 test year general rate case.  
                               (Comr Wood - ALJ Bushey)  
                               Agenda 3116, Item CA-16 7/10/2003 (Staff);  
                               Agenda 3117, Item 5 8/21/2003 (Lynch)  
                               **Outcome Held (10/2/03. Possible alternate.)**  
                               Yes: (none)  
                               No: (none)  
                               Abstain: (none)  
                               Absent: (none)
- 45 (Rev.)**            **R \_\_\_\_\_ - Order Instituting Rulemaking on the Commission's Own Motion to Evaluate Existing Practices and Policies for Processing General Rate Case Cases and To Revise the General Rate Case Plan for Class A Water Companies.**  
 [2428]                    Agenda 3116, Item CA-46 7/10/2003 (Staff);  
                               Agenda 3117, Item 110 8/21/2003 (Staff)  
                               09/02/2003 - This revision was not shown on the Agenda mailed to the public.  
                               **Outcome Signed**  
                               R03-09-005  
                               Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
                               No: (none)  
                               Abstain: (none)  
                               Absent: (none)

**46**

[2480]

**A97-03-052 - California-American Water Company.**

This decision designates the Commission as the lead agency for environmental review of the Monterey Bay desalination Coastal Water Project, resolves certain ratemaking issues related to the Coastal Water Project and an earlier Coastal River Dam project, and dismisses this application without prejudice to the Commission's requirement that a new application be filed. This proceeding is closed. (Comr Kennedy - ALJ Cooke)

Agenda 3117, Item 111 8/21/2003 (Brown)

**Outcome Signed**[D03-09-022](#)

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

No: (none)

Abstain: (none)

Absent: (none)

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**Transportation/Rail Safety Orders**
**47**

[2596]

**A02-05-065 - City of Richmond.**

This decision grants the request of the City of Richmond to prevent removal of the wigwag warning devices (wigwags) at the Richmond Avenue crossing (Crossing) by The Burlington Northern Santa Fe Railroad Company (BNSF), because BNSF did not apply for or receive Commission approval of the work on the Crossing that includes removing the wigwags. BNSF may not undertake any work on removing, changing the type, or adding to the automatic warning devices at the Crossing until it has received approval from the Commission. This proceeding is closed.

(Comr Peevey - ALJ Simon)

Agenda 3117, Item 114 8/21/2003 (Brown)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**47a (Rev.)**

[2598]

**ALTERNATE TO ITEM 2596**

President Peevey's Order to Item 2596 - This decision denies the request of the City of Richmond to prevent removal of the wigwag warning devices at the Richmond Avenue crossing (Crossing) by The Burlington Northern Santa Fe Railroad Company (BNSF). In addition, the decision explicitly authorizes BNSF to resume work on the Crossing that includes installing gates. This proceeding is closed.

(Comr Peevey)

Agenda 3117, Item 114a 8/21/2003 (Brown)

08/28/2003 - This revision was not shown on the Agenda mailed to the public.**Outcome Signed**

D03-09-023

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

**Other Utility Orders****48**

[2447]

**R \_\_\_\_\_ - Rulemaking for the purpose of considering policies and rules governing utility construction contracting processes.**

Order Instituting Rulemaking on the Commission's own motion into utility construction contracting processes and possible future rules governing those contracting processes. This rulemaking seeks to develop an understanding of the construction contracting processes of the electric, natural gas, telecommunication and water utilities, as well as to consider rules to ensure utility construction contracting practices are consistent with rules governing state and federal public works contracting practices.

Agenda 3116, Item 9 7/10/2003 (Brown);

Agenda 3117, Item 118 8/21/2003 (Peevey)

**Outcome Signed as Modified (Schedule change.)**

R03-09-006

Yes: (Brown, Kennedy, Lynch, Wood)

No: (none)

Abstain: (Peevey)

Absent: (none)

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**Legislative Matters**

- 49**                    **AB 855 (Firebaugh and Levine)**  
[1977]                    Wireless telecommunications: access to state property.  
Agenda 3110, Item LEG-3 4/3/2003 (Staff);  
Agenda 3111, Item HLEG-1 4/17/2003 (Staff);  
Agenda 3112, Item HLEG-3 5/8/2003 (Staff);  
Agenda 3113, Item HLEG-1 5/22/2003 (Staff);  
Agenda 3114, Item HLEG-2 6/5/2003 (Staff);  
Agenda 3115, Item HLEG-2 6/19/2003 (Staff);  
Agenda 3116, Item HLEG-2 7/10/2003 (Staff);  
Agenda 3117, Item 120 8/21/2003 (Staff)  
**Outcome Approved (Legislative Subcommittee Recommendation: Support bill  
with amendments.)**  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 50**                    **SB 584 (Alarcon)**  
[2459]                    Advertising.  
Agenda 3116, Item LEG-8 7/10/2003 (Staff);  
Agenda 3117, Item 128 8/21/2003 (Wood)  
**Outcome Held (Discussed and held to first Commission Meeting in January 2004.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 51**                    **SB 703 (Florez, Denham & Poochigan)**  
[2460]                    Electricity rates: agricultural irrigation districts.  
Agenda 3116, Item LEG-9 7/10/2003 (Staff);  
Agenda 3117, Item 129 8/21/2003 (Staff)  
**Outcome Withdrawn**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

## Commissioner's Reports

**52**                    **Commissioners' Report**  
[2317]                Miscellaneous Commissioners' reports.

**Outcome Information Only**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**53**                    **Commissioner Wood Report**  
[2626]                Nomination and appointment of Representative of Private Weatherization Contractor to the Commission's Low Income Oversight Board.

**Outcome Approved (Appointed Ron Garcia.)**

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

No: (none)

Abstain: (none)

Absent: (none)

## Management Reports and Resolutions

**54**

### Management Reports

[2318]

Miscellaneous Management reports.

### Outcome Withdrawn

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 Items

- 59**                    **(ECP) C02-05-015 - Conference with Legal Counsel - Application for Rehearing**  
 [2570]                    Disposition of Application for rehearing of D03-04-012, filed by Pacific Bell Telephone Company (SBC California). In this decision, the Commission issued an order canceling toll charges in the amount of \$435.42 allegedly owed by complainant to SBC California for calls made by Complainant to her Internet Service Provider.  
                               Agenda 3117, Item 146 8/21/2003 (Wood)  
**Outcome Signed**  
 D03-09-024  
 Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
 No: (none)  
 Abstain: (none)  
 Absent: (none)
- 60**                    **(ECP) C02-04-043 - Conference with Legal Counsel – Application for Rehearing**  
 [2572]                    Disposition of application for rehearing of D03-04-013, filed by Pacific Bell Telephone Company (SBC California). In this decision, the Commission issued an order canceling toll charges in the amount of \$389.70 allegedly owed by complainant to SBC California for calls made by Complainant to his Internet Service Provider.  
                               Agenda 3117, Item 147 8/21/2003 (Wood)  
**Outcome Signed**  
 D03-09-025  
 Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
 No: (none)  
 Abstain: (none)  
 Absent: (none)

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- 61** [2573] **(ECP) C01-12-044 - Conference with Legal Counsel – Application for Rehearing**  
Disposition of application for rehearing of D03-04-014, filed by Pacific Bell Telephone Company (SBC California). In this decision, the Commission issued an order canceling toll charges in the amount of \$314.87 allegedly owed by complainant to SBC California for calls made by Complainant to his Internet Service Provider.  
Agenda 3117, Item 148 8/21/2003 (Wood)  
**Outcome Signed**  
D03-09-026  
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 62** [2577] **A98-02-017 - Conference with Legal Counsel - Application for Rehearing**  
A98-04-048 - Related matters. Order disposing of application for rehearing of D02-12-062 filed jointly by the Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN). In D02-12-062, the Commission denied ORA's petition to modify the Commission's 1999 decision (D99-06-053) granting Pacific Bell's application to recategorize its Inside Wire Repair WirePro service from Category II (for discretionary or partially competitive services) to Category III (for fully competitive services). In its petition to modify D99-06-053, ORA had asked the Commission to recategorize WirePro back to Category II and to reset the ceiling price for this service from \$2.99/month to \$1.20/month.  
Agenda 3117, Item 150 8/21/2003 (Staff)  
**Outcome Held (9/18/03.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 64** [2612] **A02-05-013 - Conference with Legal Counsel - Application for Rehearing**  
Disposition of the application for rehearing of D03-05-030 filed by Angeles Chapter of the Sierra Club (Sierra Club). D03-05-030 authorized Valencia Water Company (Valencia) to modify its rates and revenue.  
**Outcome Held (9/18/03. Further review.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

**65**

[2633]

**R.02-01-011 - Conference with Legal Counsel – Application for Rehearing**

Disposition of Application for Rehearing of D03-01-078, filed by Southern California Edison Company (“Edison”). In this decision, the Commission modified D02-03-055 to clarify that this decision did not change the continuing obligation of a utility distribution company (“UDC”) to process and execute new service agreements with any qualified ESP that wants to provide direct access service in the UDC’s service territory to existing direct access customers.

**Outcome Signed**

D03-09-027

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)