
Public Utilities Commission of the State of California

Results of Public Agenda 3129

Meeting Held on Thursday, February 26, 2004 10:00 a.m.

San Francisco, California

Commissioners

Michael R. Peevey, President

Geoffrey F. Brown

Susan P. Kennedy

Loretta M. Lynch

Carl W. Wood

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

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>
Friday, March 12, 2004 (San Francisco)	Tuesday, March 16, 2004 (San Francisco)
Monday, March 29, 2004 (San Francisco)	Thursday, April 01, 2004 (San Francisco)
Monday, April 19, 2004 (San Francisco)	Thursday, April 22, 2004 (San Francisco)

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

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



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PUBLIC COMMENT

The following items are not subject to public comment:

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

Public Comment:

Re 24: Mary Bull, Greenwood Earth Alliance, San Francisco, CA

Re 31:

- Frank Gallagher, Berkeley, CA
- Matt Duffy, San Francisco, CA
- Robert Brigham, San Francisco, CA
- Ryan Chamberlain, San Francisco, CA
- Shawn Westcott, San Francisco, 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 A02-07-031 - Southern California Edison Company (Edison).

[3022] This decision authorizes 23 proposed leases by Edison to Cingular Wireless, under two agreements, of locations for the attachment of antennas and antenna equipment, authorizes use of one of the agreements for future such leases, orders that certain confidential terms in the agreements be filed under seal but requires that Edison file an application for approval under § 851 before making any substantive amendments to the agreements.

This proceeding is closed.

(Comr Brown - ALJ Vieth)

Agenda 3126, Item 10 1/8/2004 (Wood);

Agenda 3127, Item 4 1/22/2004 (Wood);

Agenda 3128, Item 4 2/11/2004 (Lynch)

Outcome Signed (Comr. Lynch reserves the right to join Comr. Wood's dissent.

Comr. Wood will file a dissent.)

D04-02-041

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

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- 2**
[3151] **Res ALJ 176-3129**
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**
[3059] **A02-10-029 - Southern California Edison Company (Edison).**
This decision authorizes, under several agreements, 25 proposed leases by Edison to Verizon Wireless of excess space at communication facility sites or antenna and antenna equipment attachment locations. The decision also authorizes use of the master site agreement and master attachment agreement, and their associated standard agreements, for future such leases and orders that certain confidential terms in the agreements be filed under seal, but requires that Edison file an application for approval under §851 before making any substantive amendments to the agreements.
This proceeding is closed.
(Comr Brown - ALJ Vieth)
Agenda 3126, Item 13 1/8/2004 (Wood);
Agenda 3127, Item 5 1/22/2004 (Wood);
Agenda 3128, Item 5 2/11/2004 (Lynch)
**Outcome Signed (Comr. Lynch reserves the right to join Comr. Wood's dissent.
Comr. Wood will file a dissent.)**
D04-02-042
Yes: (Brown, Kennedy, Peevey)
No: (Lynch, Wood)
Abstain: (none)
Absent: (none)
- 4**
[3193] **C03-06-038 - Jeffrey Young vs. California Water Service Company (CalWater).**
This decision denies Jeffrey Young's request that CalWater be ordered to remove reservations for two water service connections from the connection list established by D03-03-037 for CalWater's Coast Springs Water System. This proceeding is closed.
(Comr Peevey - ALJ Patrick)
Outcome Signed
D04-02-043
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)

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- 5**
[3198] **A03-08-028 - Sierra Pacific Power Company (Sierra).**
This decision exempts Sierra from the requirement of Pub. Util. Code §454.5 which governs the filing of procurement plans. This proceeding is closed.
(Comr Lynch - ALJ Barnett)
Outcome Signed
D04-02-044
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 6**
[3203] **A02-11-035 - Pacific Gas and Electric Company (PG&E) and Froehlich Construction Co., Inc. (Froehlich)**
This decision authorizes PG&E to convey two parcels of land in Kern County to Froehlich, pursuant to Section 851. PG&E has reserved easements as necessary to operate and maintain its transmission facilities on the site. Consideration of the allocation of PG&E's gain on sale of this property is deferred to the Commission's upcoming gain on sale rulemaking.
This proceeding is closed.
(Comr Brown - ALJ Prestidge)
Outcome Signed (Comr. Lynch reserves the right to join Comr. Wood's dissent. Comr. Wood will file a dissent.)
D04-02-045
Yes: (Brown, Kennedy, Peevey)
No: (Lynch, Wood)
Abstain: (none)
Absent: (none)
- 7**
[3209] **A03-10-041 - Advanced Integrated Technologies, Inc. (Applicant).**
This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange and interexchange services. This proceeding is closed.
(Comr Kennedy - ALJ O'Donnell)
Outcome Signed
D04-02-046
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)

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- 8**
[3210] **A03-09-032 - Aries Network, Inc., dba Aries Telecommunications (Applicant).**
This decision grants Applicant a certificate of public convenience and necessity to resell local exchange services. The applicant was previously authorized to provide interexchange services.
This proceeding is closed.
(Comr Kennedy - ALJ O'Donnell)
Outcome Signed
D04-02-047
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 9**
[3211] **A03-11-022 - Metro Teleconnect Companies, Inc. (Applicant).**
This decision grants Applicant authority to provide limited facilities-based and resold local exchange services, and resold interexchange services. This proceeding is closed.
(Comr Kennedy - ALJ O'Donnell)
Outcome Signed
D04-02-048
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 10**
[3212] **Res T-16821 - Contra Costa Crisis Center.**
This resolution grants the application of Contra Costa Crisis Center to use the 2-1-1 dialing code for health and human services information and referral service in Contra Costa County.
Outcome Approved
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)

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- 11**
[3226] **A03-10-043 - PNG Telecommunications, Inc. , dba PowerNet Global Communications (Applicant).**
This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based local exchange and interexchange telecommunications services. Applicant was previously authorized to resell local exchange and interexchange services. This proceeding is closed.
(Comr Kennedy - ALJ O'Donnell)
Outcome Signed
D04-02-049
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 12**
[3233] **A03-10-040 - Total Call International, Inc. (Applicant).**
This decision grants Applicant a certificate of public convenience and necessity to provide limited facilities-based and resold local exchange telecommunications services.
Applicant was previously authorized to resell interexchange services.
This proceeding is closed.
(Comr Kennedy - ALJ O'Donnell)
Outcome Signed
D04-02-050
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 13**
[3234] **R02-06-040 - Rulemaking for the purpose of revising certain rules of practice and procedure to implement Public Utilities Code Section 1708.5 (Petitions for Rulemaking).**
This decision vacates D04-01-020, which was adopted prematurely, and closes this docket. This proceeding is closed.
(Comr Lynch - ALJ Prestidge)
Outcome Signed
D04-02-051
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)

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- 14**
[3240] **A03-11-023 - Clifton Wu.**
This decision authorizes Xin Xie to sell and Clifton Wu to purchase all of the outstanding stock of Advanced Airporter, Inc., a passenger stage corporation. This proceeding is closed.
(Exam Clark)
Outcome Signed
D04-02-052
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 15**
[3241] **A03-08-023 - Sarah E. Wiles an Brett R. Koehler of The Happy Sunshine Bus, LLC (Applicant).**
This decision authorizes Applicant to operate as a passenger stage corporation transporting children between points and places in Los Angeles County and to establish a Zone of Rate Freedom. This proceeding is closed.
(Exam Clark)
Outcome Signed
D04-02-053
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
- 16**
[3242] **A03-12-002 - Mino Mostamand, dba California Sunshine Airport Shuttle, and Datta Transport Systems LLC, dba EZ Ride.**
This decision authorizes Mino Mostamand to transfer his passenger stage corporation certificate to Datta Transport Systems LLC. This proceeding is closed.
(Exam Clark)
Outcome Signed
D04-02-054
Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)

- 17** **A03-09-039 - Local Exchange Technologies, LLC (Applicant).**
[3247] This decision grants Applicant a certificate of public convenience and necessity to resell local exchange telecommunications services.
 This proceeding is closed.
 (Comr Brown - ALJ O'Donnell)
 Outcome Signed
 D04-02-055
 Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
 No: (none)
 Abstain: (none)
 Absent: (none)
- 18** **A00-10-029 - Pacific Gas and Electric Company (PG&E).**
[3258] This decision extends PG&E's authority to pledge its gas customer accounts receivable and core gas inventory for the purpose of procuring core gas supplies until the earlier of either November 1, 2004, or the time PG&E satisfies the other conditions adopted by this Commission in five previous decisions - D01-01-062, D01-02-050, D01-06-074, D02-03-025, and D03-02-061. This proceeding is closed.
 (Comr Wood - ALJ Long)
 Outcome Signed
 D04-02-056
 Yes: (Brown, Kennedy, Peevey, Wood)
 No: (Lynch)
 Abstain: (none)
 Absent: (none)

Regular Agenda

Energy Orders

- 19** **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.**
[2870]
- This decision adopts a program whereby lower-middle income households may be exempt from Tier 3 electric surcharges, requires baseline quantities to be adjusted to exclude seasonal residence usage, requires that residential common area accounts be given the option to switch to commercial service, and requires utilities to update their rates, if needed, to comply with AB 1X. This proceeding is closed. (Comr Brown - ALJ TerKeurst)
- Agenda 3123, Item 32 11/13/2003 (Staff);
Agenda 3124, Item 38 12/4/2003 (Staff);
Agenda 3125, Item 49 12/18/2003 (Kennedy);
Agenda 3126, Item 45 1/8/2004 (Kennedy);
Agenda 3128, Item 27 2/11/2004 (Peevey)
- Outcome Signed**
- D04-02-057
- Yes: (Brown, Kennedy, Lynch, Peevey, Wood)
No: (none)
Abstain: (none)
Absent: (none)
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- 20** **I01-08-029 - Order Instituting Investigation into Southern California Edison Company's electric line construction, operation, and maintenance practices. Southern California Edison Company (Edison), Respondent.**
[3003]
- This decision fines Edison a total of \$576,000, primarily for 25 violations of the Commission's General Order (GO) 95 and GO 128 specifying the requirements for the construction, operation, and maintenance of overhead and underground utility systems. The decision fines Edison \$20,000 for each of these 25 violations that have a nexus with an accident involving death, injury, or property damage. It also fines Edison \$1,000 for each of 56 violations of GO 165 for failure to identify unsafe conditions and \$20,000 for one violation for exceeding GO 165's inspection intervals. This decision also grants the intervention of the California Cable and Telecommunications Association (CCTA), Pacific Gas and Electric Company (PG&E), and San Diego Gas & Electric Company (SDG&E). It also considers and rejects the appeals to the presiding officer's decision of Edison, the Commission's Consumer Protection and Safety Division, CCTA, P&GE, and SDG&E. This proceeding is closed. (Comr Kennedy - ALJ Econome)
- Agenda 3124, Item 47 12/4/2003 (Kennedy);
Agenda 3127, Item 22 1/22/2004 (Kennedy);
Agenda 3128, Item 31 2/11/2004 (Peevey)
- Outcome Held (3/16/04. For Kennedy alternate.)**
- Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)

21 **R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code Section 761.3**
[3051] **enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.**

This order denies the October 14, 2003 motion of Sempra Energy to be removed from the list of respondents. The proceeding remains open.

(Comr Wood - ALJ Mattson)

Agenda 3125, Item 42 12/18/2003 (Peevey);

Agenda 3126, Item 49 1/8/2004 (Staff);

Agenda 3127, Item 23 1/22/2004 (Staff);

Agenda 3128, Item 32 2/11/2004 (Peevey)

Outcome Signed

D04-02-058

Yes: (Brown, Lynch, Wood)

No: (Kennedy, Peevey)

Abstain: (none)

Absent: (none)

21a **ALTERNATE TO ITEM 3051**

[3175] This alternate order grants the October 14, 2003 motion of Sempra Energy. Sempra Energy is removed from the list of respondents, and removed from the service list. This proceeding remains open.

(Comr Peevey)

Agenda 3127, Item 23a 1/22/2004 (Staff);

Agenda 3128, Item 32a 2/11/2004 (Peevey)

Outcome Defeated

Yes: (Kennedy, Peevey)

No: (Brown, Lynch, Wood)

Abstain: (none)

Absent: (none)

- 22**
[3054] **A01-03-008 - Pacific Gas and Electric Company (PG&E).**
This decision denies the petition of PG&E for modification of D03-05-077 on the ground that the petition raises no issue of fact or law that warrant such modification. D03-05-077 correctly states that the installation of optical fiber and related telecommunications equipment on existing utility structures by third-party telecommunications providers is not categorically exempt from environmental review under the California Environmental Quality Act. D03-05-077 contains no factual errors relating to the use of the fiber optics, and correctly cites Commission precedent. This proceeding is closed.
(Comr Lynch - ALJ Thomas)
Agenda 3126, Item 12 1/8/2004 (Kennedy);
Agenda 3128, Item 33 2/11/2004 (Kennedy)
Outcome Held (4/1/04. For Kennedy alternate.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)
- 23**
[3181] **A03-06-040 - Southern California Gas Company (SoCalGas).**
In compliance with Resolution G-3334 for a system of firm, tradable receipt point capacity rights and related provisions. This decision adopts tariffs that implement the Comprehensive Settlement Agreement adopted in D01-12-018. The tariffs implement a market and regulatory framework for regulating the transportation and storage of natural gas on SoCalGas' system. This decision also denies a petition to vacate D01-12-018. This proceeding is closed.
(Comr Brown - ALJ DeUlloa)
Agenda 3128, Item 37 2/11/2004 (Kennedy)
Outcome Held (3/16/04. Further consideration.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)
- 23a**
[3264] **ALTERNATE TO ITEM 3181**
This alternate decision grants in part the Petition to Modify Decision D01-12-018, and vacates D01-12-018 and Resolution G-3334. The decision finds that, due to changes in the market and regulatory framework since the Commission adopted D01-12-018, the alternate has concluded that it is no longer in the public interest to pursue implementation of the SoCalGas Comprehensive Settlement Agreement. SoCalGas is directed to provide its services under existing rules and tariffs.
(Comr Lynch)
Outcome Held (3/16/04. Further consideration.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)

24

[3228]

R01-08-028 - Order Instituting Rulemaking to examine the Commission's future energy efficiency policies, administration and programs.

This decision approves \$67 million in funding for energy efficiency programs for a two-year period beginning in 2004. The energy efficiency programs for which the Commission approves funding in this order are in addition to those funded in D03-12-060. In that order, the Commission disbursed \$752 million to several companies, government agencies and organizations to undertake a variety of programs offered to residential, commercial and industrial customers during 2004 and 2005. These programs are funded through the "public goods charge" funds and revenues set aside for energy procurement by electric utilities.

(Comr Kennedy - ALJ Malcolm)

Outcome Signed (Comr. Kennedy will file a concurrence. Comr. Lynch reserves the right to file a concurrence.)

D04-02-059

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

No: (none)

Abstain: (none)

Absent: (none)

24a

[3266]

ALTERNATE TO ITEM 3228

This alternate modifies D03-12-060 in awarding the balance of \$71 million in Energy Efficiency funding left pending in that decision. Additionally, the alternate declines PG&E's request to roll-over \$4.47 in energy efficiency funds to other PG&E programs and re-allocates those funds to highly evaluated energy efficiency programs. The three IOU statewide program budgets are decreased somewhat to modify marketing and administrative budgets and to increase collaboration of these programs across all utilities for increased cost-effectiveness. The alternate funds five energy efficiency programs that were highly evaluated by staff that have direct energy savings and serve important, hard-to-reach target markets.

(Comr Lynch)

Outcome Defeated

Yes: (Lynch, Wood)

No: (Brown, Kennedy, Peevey)

Abstain: (none)

Absent: (none)

25

[3229]

A03-06-021 - Southern California Gas Company (SoCalGas).

This decision addresses the shareholder award amount requested by SoCalGas for Year Nine of its Gas Cost Incentive Mechanism. This proceeding is closed.

(Comr Kennedy - ALJ Wong)

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

D04-02-060

Yes: (Brown, Kennedy, Peevey, Wood)

No: (Lynch)

Abstain: (none)

Absent: (none)

26

[3252]

A03-12-007 - Southern California Edison Company (SCE).

This decision grants the unopposed application of SCE, under Pub. Util. Code § 851, for authority to lease 5.8 acres of available land in the City of Huntington Beach to Huntington Center Associates, LLC for development and operation of a vehicle parking facility in conjunction with redevelopment of an existing mall. This proceeding is closed.

(Comr Brown - ALJ Vieth)

Outcome Signed

D04-02-061

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

No: (none)

Abstain: (none)

Absent: (none)

27

[3253]

I02-04-026 - Order Instituting Investigation into the ratemaking implications for Pacific Gas and Electric Company (PG&E) pursuant to the Commission's Alternative Plan of Reorganization under Chapter 11 of the Bankruptcy Code for PG&E, in the United States Bankruptcy Court, Northern District of California, San Francisco Division, In re Pacific Gas and Electric Company, Case No. 01-30923 DM.

This decision adopts a Rate Design Settlement which will implement an overall rate reduction of about \$799 million. This settlement is supported by parties representing a wide spectrum of utility, residential, governmental, commercial, agricultural, industrial, and small customer interests, including bundled, direct access, and customer generation departing load. The settlement implements the rate reductions contemplated in D03-12-035, which approved a modified settlement in PG&E's bankruptcy proceeding. This decision also addresses PG&E's Advice Letter 2465-E which it filed to implement the Rate Design Settlement.

(Comr Peevey - ALJ Econome)

Outcome Signed ((Comr. Wood held this item to 3/16/04. Pres. Peevey made a motion to override the hold. The vote was 3-2 to override the hold; Comrs. Lynch and Wood dissented.) Comr. Lynch reserves the right to file a dissent. Comr. Wood will file a dissent.)

D04-02-062

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

Energy Resolutions and Written Reports**28**

[3185]

Res G-3362 - Pacific Gas and Electric Company (PG&E).

This resolution approves PG&E's request to credit the Core Gas Fixed Cost, the Noncore Customer Class Charge Account and the Electric Transition Revenue Account by the amount of over-collected revenue requirements associated with medical and life insurance Post-retirement Benefits Other than Pensions and Long Term Disability for the period of 1999 through 2002. The filing is made in compliance with D00-02-046 and D95-12-055. (Advice Letter 2493-G/2432-E, filed October 28, 2003)

Outcome Held (3/16/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Telecommunication Orders**29**

[2376]

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

I01-09-002 - Related matters. This proposed decision addresses Phase 2A audit issues. The proposed decision finds that Pacific properly reported its pension and depreciation expenses during 1997 - 1999, but misreported its expenses during this period for PBOPs and income taxes. The proposed decision also finds that Pacific improperly withdrew funds from one of its PBOP trusts in 1999. These findings result in Pacific owing a refund to its ratepayers.

(Comr Kennedy - ALJ Kenney)

Agenda 3123, Item 38 11/13/2003 (Staff);

Agenda 3125, Item 67 12/18/2003 (Staff);

Agenda 3126, Item 55 1/8/2004 (Kennedy);

Agenda 3127, Item 31 1/22/2004 (Peevey);

Agenda 3128, Item 39 2/11/2004 (Wood)

Outcome Withdrawn ((Comr. Wood held this item to 4/1/04. On Comr. Kennedy's motion, the Commission voted 3-2 to remove the hold; Comrs. Lynch and Wood dissented.))

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

29a

[2378]

ALTERNATE TO ITEM 2376

The proposed alternate decision of the assigned Commissioner finds that Pacific Bell properly reported its pension and depreciation expenses during 1997-1999. The alternate finds that Pacific Bell properly wrote off certain PBOP's regulatory assets as expenses in 1998 when the Commission eliminated a rate surcharge that supported this regulatory asset. On other issues, the alternate finds that Pacific misreported expenses during this period concerning PBOPs sub-accounts and concerning income taxes. The alternate decision also finds that Pacific improperly withdrew funds from one of its PBOP trusts in 1999 and orders their restoration. Compared to the Administrative Law Judge's proposed decision, the alternate decision finds a lower level of misreported costs.

(Comr Kennedy)

Agenda 3123, Item 38a 11/13/2003 (Staff);

Agenda 3125, Item 67a 12/18/2003 (Staff);

Agenda 3126, Item 55a 1/8/2004 (Kennedy);

Agenda 3127, Item 31a 1/22/2004 (Peevey);

Agenda 3128, Item 39a 2/11/2004 (Wood)

Outcome Signed ((Comr. Wood held this item to 4/1/04. On Comr. Kennedy's motion, the Commission voted 3-2 to remove the hold; Comrs. Lynch and Wood dissented.)

Comr. Kennedy reserves the right to file a concurrence. Comr. Lynch reserves the right to file a dissent. Comr. Wood reserves the right to file a dissent.)

D04-02-063

Yes: (Brown, Kennedy, Peevey)

No: (Lynch, Wood)

Abstain: (none)

Absent: (none)

30

[2571]

A99-03-025 - Roseville Telephone Company (Roseville).

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)

Agenda 3118, Item 42 9/4/2003 (Kennedy);

Agenda 3120, Item 46 10/2/2003 (Kennedy);

Agenda 3122, Item 39 10/30/2003 (Brown);

Agenda 3123, Item 39 11/13/2003 (Lynch);

Agenda 3124, Item 54 12/4/2003 (Brown);

Agenda 3125, Item 68 12/18/2003 (Lynch);

Agenda 3126, Item 56 1/8/2004 (Wood);

Agenda 3127, Item 33 1/22/2004 (Peevey);

Agenda 3128, Item 41 2/11/2004 (Wood)

Outcome Withdrawn (To hold Evidentiary Hearings on the sharing issue.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

30a

[2880]

ALTERNATE TO ITEM 2571

This alternate modifies D01-06-077 to suspend the requirement to share 50% of its earnings between the benchmark rate of return and the ceiling rate of return. The alternate also requires Roseville to file for its next NRF Review no later than 90 days after a final decision in the policy phase of R01-09-001/I01-09-002. This proceeding is closed.

(Comr Kennedy)

Agenda 3122, Item 39a 10/30/2003 (Brown);

Agenda 3123, Item 39a 11/13/2003 (Lynch);

Agenda 3124, Item 54a 12/4/2003 (Brown);

Agenda 3125, Item 68a 12/18/2003 (Lynch);

Agenda 3126, Item 56a 1/8/2004 (Wood);

Agenda 3127, Item 33a 1/22/2004 (Peevey);

Agenda 3128, Item 41a 2/11/2004 (Wood)

Outcome Withdrawn (To hold Evidentiary Hearings on the sharing issue.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

31

[2636]

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

I01-09-002 - Related matters. This proposed decision addresses Phase 2B audit issues. The proposed decision sustains most of the findings of an audit of Pacific's intrastate financial results for the period 1997-1999 that were considered during Phase 2B. This decision should be read in conjunction with the findings reached by the Commission in Phase 2A of this proceeding, which concludes that as a result of both decisions, Pacific owes a refund to its ratepayers in the amount of \$661 million, including interest through July 2003.

(Comr Kennedy - ALJ Thomas)

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

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

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

Outcome Held (4/1/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

31a

[2637]

ALTERNATE TO ITEM 2636

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

(Comr Kennedy)

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

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

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

Outcome Held (4/1/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

-
- 32** **A00-02-039 - Metromedia Fiber Network Services, Inc. (MFNS).**
[3105] This decision imposes a \$50,000 penalty on MFNS for commencing construction on a portion of its California fiber optic network in violation of Commission Rule 17.1 et seq., D97-06-107, and Instruction 4 to the “registration” form authorized in that decision. The decision finds MFNS was aware or should have been aware that its project had the potential to cause environmental impact. Before commencing construction, MFNS should have allowed the Commission the opportunity to conduct an environmental review of MFNS’ plans. This proceeding is closed.
(Comr Lynch - ALJ Thomas)
Agenda 3127, Item 35 1/22/2004 (Kennedy)
Outcome Held (4/1/04. For alternate.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)
- 33** **R95-04-043 - Order Instituting Rulemaking on the Commission's own motion into**
[3168] **competition for local exchange service.**
I95-04-044 - Related matters. This decision adopts wholesale prices for SBC Pacific’s Directory Assistance Listing Information Service, pursuant to D02-02-025.
(Comr Peevey - ALJ Pulsifer)
Agenda 3128, Item 44 2/11/2004 (Wood)
Outcome Held (4/1/04. For alternate.)
Yes: (none)
No: (none)
Abstain: (none)
Absent: (none)

Telecommunication Resolutions and Reports

34

Res T-16818 - SBC California (SBC).

[3108]

This resolution dismisses without prejudice SBC's request to waive the installation service charge for eligible residence and business customers returning from facilities-based carrier service. (Advice

Letters 24278 and 24279, filed October 10, 2003)

Agenda 3127, Item 37 1/22/2004 (Staff);

Agenda 3128, Item 49 2/11/2004 (Kennedy)

Outcome Held (3/16/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Water/Sewer Orders**35**

[2368]

A02-11-057 - Point Arena Water Works, Inc.

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);

Agenda 3118, Item 44 9/4/2003 (Lynch);

Agenda 3120, Item 48 10/2/2003 (Wood);

Agenda 3123, Item 45 11/13/2003 (Peevey);

Agenda 3125, Item 73 12/18/2003 (Wood);

Agenda 3128, Item 51 2/11/2004 (Staff)

Outcome Held (3/16/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

35a

[2768]

ALTERNATE TO ITEM 2368

This alternate grants the City of Point Arena an opportunity to have an evidentiary hearing regarding the accounting and ratemaking treatment of income tax refunds.

(Comr Lynch)

Agenda 3120, Item 48a 10/2/2003 (Wood);

Agenda 3123, Item 45a 11/13/2003 (Peevey);

Agenda 3125, Item 73a 12/18/2003 (Wood);

Agenda 3128, Item 51a 2/11/2004 (Staff)

Outcome Held (3/16/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

36

[3021]

A02-11-007 - Southern California Water Company (SCWC).

This decision grants SCWC authority to increase rates by \$8,093,500 or 12.05% in the year 2003; by \$1,849,700 or 2.45% in the year 2004; and by \$2,738,900 or 3.54% in the year 2005 in its Region III Service Area. Rates for Region III will continue to be determined on a regional, rather than district specific, basis. SCWC's request to also increase rates for the General Office Allocation to the Region I and II Customer Service Areas (CSAs) is denied. Revenues derived from the lease of water rights to the City of Folsom will be used prospectively to offset the cost of service for the Arden-Cordova CSA. This proceeding is closed.

(Comr Peevey - ALJ Fukutome)

Agenda 3126, Item 9 1/8/2004 (Lynch);

Agenda 3128, Item 52 2/11/2004 (Staff)

Outcome Held (3/16/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

36a

[3232]

ALTERNATE TO ITEM 3021

This alternate decision finds that the utility violated Public Utilities Code Section 851 when it failed to seek Commission approval for a 1994 lease to the City of Folsom of rights to 5,000 acre feet per year of water from the American River. The utility is ordered to pay a fine of \$1,095,000, of which \$915,000 is suspended, for a net fine of \$180,000. The alternate also finds that the utility improperly recorded the lease revenues in a below-the-line account that only benefitted shareholders. The utility is ordered to credit the total amount of lease revenues, plus interest, on customer bills.

(Comr Lynch)

Agenda 3128, Item 52a 2/11/2004 (Staff)

Outcome Held (3/16/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

36b

[3262]

ALTERNATE TO ITEM 3021

These alternate pages defer the issue of water rights for further consideration in an Order Instituting Investigation/Order Instituting Rulemaking. In addition, rates are made effective immediately.

(Comr Kennedy)

Outcome Held (3/16/04. Further review.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

37

[3099]

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

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

(Comr Kennedy - ALJ Walker)

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

Outcome Held (4/1/04. For alternate.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Transportation/Rail Safety Orders

38

[3243]

I03-08-017 - Investigation on the Commission's own motion into the fatal accident at the North Street crossing in the City of Selma, Fresno County, on June 6, 2003, and Order to Show Cause why this crossing should not be closed.

This decision approves a settlement agreement which provides that the North Street crossing will remain permanently closed. This proceeding is closed.

(Comr Brown - ALJ Bushey)

Outcome Signed

D04-02-064

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

No: (none)

Abstain: (none)

Absent: (none)

Legislative Matters

39

[2459]

SB 584 (Alarcon)

Advertising.

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

Agenda 3117, Item 128 8/21/2003 (Wood);

Agenda 3118, Item 50 9/4/2003 (Staff);

Agenda 3126, Item 63 1/8/2004 (Staff);

Agenda 3127, Item 44 1/22/2004 (Staff);

Agenda 3128, Item 55 2/11/2004 (Staff)

Outcome Withdrawn

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Commissioner's Reports

40

President Peevey Report

[3257]

Discussion of and action on applications for Commission appointments to the PG&E Environmental Enhancement Corporation and the Clean Energy Technology Corporation.

Outcome Held (Discussed and held to 3/16/04.)

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

Closed Session

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

Non-Federal

- 41** **R01-12-009 - Conference with Legal Counsel – Application for Rehearing**
 [3016] Disposition of Applications for rehearing of D03-06-072, filed by California Water Association and its Class A Water Utility Members and Southern California Water Company. In this decision, the Commission revised procedures for recovery from water balancing accounts existing on or after November 29, 2001.
 Agenda 3125, Item 77 12/18/2003 (Kennedy);
 Agenda 3127, Item 49 1/22/2004 (Staff)
Outcome Held (3/16/04.)
 Yes: (none)
 No: (none)
 Abstain: (none)
 Absent: (none)
- 42** **A03-12-028 - Conference with Legal Counsel - Application for Rehearing**
 [3256] Disposition of the application of Utility Design, Inc. for rehearing of Res G-3359. In Res G-3359, the Commission approved Advice Letter 2111-G filed by Pacific Gas and Electric Company (PG&E). It concluded that claims for reimbursement under Gas Rule 15 of PG&E should follow the procedures established by the court hearing PG&E's petition for bankruptcy. In addition, as ordered by the court, interest on any such claim should be calculated from April 16, 2001, when PG&E filed its petition.
Outcome Held (3/16/04.)
 Yes: (none)
 No: (none)
 Abstain: (none)
 Absent: (none)

43

[3259]

A00-11-038 - Conference with Legal Counsel - Application for Rehearing

A00-11-056, A00-10-028 - Related matters. Disposition of Application for Rehearing of D04-01-049 filed by Pacific Gas and Electric Company (PG&E). D04-01-049 directed PG&E to pay interest to the California Department of Water Resources on the WAPA true-up remittance ordered in D03-09-017. D04-01-049 ordered an interest payment amount of \$38 million, and held PG&E's shareholders responsible for the interest payment.

Outcome Signed

D04-02-065

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

No: (none)

Abstain: (none)

Absent: (none)