

---

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

## ***Results of Public Agenda 3148***

***Meeting Held on Thursday, February 24, 2005 10:00 a.m.***

***San Francisco, California***

### **Commissioners**

**Michael R. Peevey, President**

**Geoffrey F. Brown**

**Dian M. Grueneich**

**Susan P. Kennedy**

*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.) <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, April 04, 2005 (San Francisco)	Thursday, March 17, 2005 (San Francisco)
Monday, April 18, 2005 (San Francisco)	Thursday, April 07, 2005 (San Francisco)
Monday, May 02, 2005 (San Francisco)	Thursday, April 21, 2005 (San Francisco)
	Thursday, May 05, 2005 (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)



This location is accessible to people with disabilities. If specialized accommodations for the disabled are needed, e.g. sign language interpreters, please call the Public Advisor at (415) 703-2074 or TTY# (415) 703-5282 or toll free # 1-866-836-7825 three business days in advance of the meeting.

---

## 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 1:

Joe M. Rose, S. Pasadena, CA

Rebecca Occhiline, S. Pasadena, CA

Re 4:

Barry Taranto, San Francisco, CA

David Barlow, San Francisco, CA

Joe Mirabih, San Francisco, CA

Mark Gruberg, United Taxicab Workers, San Francisco, CA

Mary McGuire, Commissioner, Taxi Commission, San Francisco, CA

Ruach Graffis, San Francisco, CA

Re 37:

Anni Chung, President, Self-Help for the Elderly, San Francisco, CA

Ben Menor, Filipino Am Senior Community Development Council, Inc., San Jose, CA

Jim Conran, Calif. Small Business Assn., Orinda, 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**

[4156]

**A03-01-013 - Pasadena Avenue Monterey Road Committee (PAMRC).**

A03-07-049, A03-07-050 - Related matters. In these consolidated cases, this decision adopts, with some additional conditions, a settlement among the City of South Pasadena (City), the Los Angeles County Metropolitan Transportation Authority (LACMTA), and the Los Angeles to Pasadena Metro Blue Line Construction Authority (Construction Authority). The settlement commits the settling parties to making certain improvements to warning devices at the at-grade crossings in the City and to take other measures to reduce noise from the operations of light rail vehicles on LACMTA's Gold Line in the City. The decision also grants in part the application of PAMRC to allow the bells on crossing gate arms at certain at-grade Gold Line crossings in South Pasadena to be silenced after the gate arms have descended. A03-01-013, A03-07-049, and A03-07-050 are closed.

(Comr Kennedy - ALJ Simon)

Agenda 3145, Item 14 1/13/2005 (Staff);

Agenda 3147, Item 6 2/10/2005 (Kennedy)

**Outcome Signed**

[D05-02-032](#)

Yes: (Brown, Grueneich, Kennedy, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**2**

[4218]

**Res ALJ 176-3148**

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, Grueneich, Kennedy, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**3**  
[4158]

**C04-03-025 - City of San Diego, The Redevelopment Agency of the City of San Diego, and Padres, L.P. vs. San Diego Gas & Electric Company.**

The City of San Diego (City), the City's Redevelopment Agency and the Padres, L.P. (jointly, complainants) bring this complaint to determine whether they, or defendant San Diego Gas & Electric Company (SDG&E), should bear the cost of installation work within a City redevelopment area. The cost of the installation work is \$652,575.30. The decision finds that SDG&E's Electric and Gas Tariff Rule 15 does not apply to the installation work, and that SDG&E is responsible for the cost of the installation work. This proceeding is closed.

(Comr Brown - ALJ Econome)

Agenda 3145, Item 16 1/13/2005 (Staff);

Agenda 3147, Item 7 2/10/2005 (Staff)

**Outcome Held (4/7/05, Consent Agenda.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**4**  
[4200]

**R02-08-002 - Order Instituting Rulemaking on the Commission's own motion to examine whether the regulations regarding prearrangement of charter-party transportation contained in General Order 157-C should be revised.**

The Commission issues General Order 157-D implementing Assembly Bill (AB) 2591, which strengthens the verification requirements for prearranged charter-party transportation. The Commission concludes that since the Legislature had examined 'prearrangement' in the process of passing AB 2591 (including hearing from the various interests involved), there is no need for the Commission to further examine this issue. This proceeding is closed.

(Comr Kennedy - ALJ Patrick)

Agenda 3147, Item 11 2/10/2005 (Kennedy)

**Outcome Signed**

[D05-02-033](#)

Yes: (Brown, Grueneich, Kennedy, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

- 
- 5**  
[4209]      **A04-10-017 - Union Pipeline Company (California) (UNOCAP).**  
UNOCAP seeks authorization to remove its Line #352 from public utility service and to modify its tariff to reflect the removal. The application is unopposed. The application is granted. This proceeding is closed.  
(Comr Kennedy - ALJ Walker)  
Agenda 3146, Item 16 1/27/2005 (Staff);  
Agenda 3147, Item 12 2/10/2005 (Staff)  
**Outcome Signed**  
[D05-02-034](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 6**  
[4216]      **R02-11-039 - Rulemaking to implement the provisions of Public Utilities Code Section 761.3 enacted by Chapter 19 of the 2001-02 Second Extraordinary Legislative Session.**  
This decision denies Petition for Modification of D04-05-018, filed by El Segundo Power, et al. Request is moot since D04-12-049 (December 16, 2004) addresses substance of petitioners' concerns about the differences between 'standards' and 'guidelines.'  
(Comr Peevey - ALJ Thorson)  
**Outcome Signed**  
[D05-02-035](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 7**  
[4231]      **Res T-16878**  
This resolution adopts revised California Teleconnect Fund Administrative Committee Fund fiscal year 2004-05 budget of \$17,974,000 and adopts a budget of \$21,092,000 for fiscal year 2005-06. This resolution adopts a surcharge rate of 0.22%.  
Agenda 3147, Item 15 2/10/2005 (Staff)  
**Outcome Approved**  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 
- 8**  
[4232]      **C04-05-022 - Lariat Corporation (Complainant) vs. Grand View Properties, Inc. (Defendant).**  
Complainant sought relief in the alternative; defendant, through its representative, has committed to provide the requested relief through one of the alternative means, as specified. Because defendant's commitment essentially resolves this dispute, the complaint is dismissed, and this proceeding is closed.  
(Comr Brown - ALJ Walker)  
**Outcome Signed**  
[D05-02-036](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 9**  
[4233]      **A04-06-021 - Pacific Gas and Electric Company (PG&E).**  
This decision authorizes PG&E pursuant to Pub. Util. Code §851 to sell a parcel of land located in Contra Costa County to Elena Canepa, as trustee for the Elena Canepa Family Trust. This decision defers allocation of PG&E's sales proceeds between ratepayers and shareholders to the gain on sale rulemaking, R04-09-003. This proceeding is closed.  
(Comr Kennedy - ALJ Prestidge)  
**Outcome Signed**  
[D05-02-037](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 10**  
[4234]      **A03-10-017 - California Water Service Company.**  
A03-10-018, A03-10-019, A03-10-020, A03-10-021, A03-10-031 - Related matters. This decision adds language to D04-09-038 expressly approving assigned Administrative Law Judge's March 2, 2004 Ruling that was entitled to interim rate increase for South San Francisco and Bakersfield districts for period of July 1 - September 29, 2004. This proceeding is closed.  
(Comr Kennedy - ALJ Thorson)  
Agenda 3147, Item 16 2/10/2005 (Staff)  
**Outcome Held (3/17/05, Consent Agenda.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 
- 11**  
[4244]      **A00-10-045 - San Diego Gas & Electric Company (SDG&E).**  
A01-01-044 - Related matters. This decision closes out all of the remaining matters in these proceedings. As a result of the Commission's actions at the December 17, 2002 meeting, the two motions filed on May 22, 2002 by SDG&E, and the September 16, 2002 motion for sanctions filed by the Utility Consumers' Action Network, are moot. Application A00-10-045 and A01-01-044 are closed.  
(Comr Peevey - ALJ Wong)  
**Outcome Signed**  
[D05-02-038](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 12**  
[4245]      **Res T-16863 - Verizon California, Inc. (Verizon).**  
This resolution authorizes Verizon to revise its Tariff Schedules Cal. P.U.C. Nos. A-19 and K-5, to grandfather its Foreign Exchange Service-Primary Service Residence (Residence Foreign Exchange Service). (Advice Letter (AL) 10901, filed July 8, 2004; AL Supplement 10901A, filed January 6, 2005; and AL Supplement 10901B, filed January 11, 2005)  
**Outcome Approved**  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 13**  
[4248]      **C04-08-033 - Tommie Lee Jackson, Johnette Owens, Frank Jackson, Poretha Jackson, and Maurice Jackson vs. MCI WorldCom Communications, Inc.**  
This decision dismisses complaint for failure to show a violation of law or order upon which the Commission can grant relief. This proceeding is closed.  
(Comr Brown - ALJ Vieth)  
**Outcome Signed**  
[D05-02-039](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 14**  
[4249]                    **Res T-16916**  
This resolution adopts the decrease in the California High Cost Fund-A surcharge rate from the current rate of 0.17% to 0.15% effective April 1, 2005 until revised by the Commission.  
**Outcome Approved**  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 15**  
[4250]                    **Res T-16917**  
This resolution adopts a revised Universal Lifeline Telephone Service (ULTS) surcharge rate from the current rate of 1.10% to 1.55% effective April 1, 2005 for the funding of the ULTS program through fiscal year 2005-06.  
**Outcome Approved**  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 16**  
[4269]                    **A04-06-003 - Pacific Gas and Electric Company.**  
This decision adopts a 2005 Energy Resource Recovery Account forecast revenue requirement of 2.14 billion and a 2005 Competitive Transition Charge revenue requirement of \$23 million. This proceeding is closed.  
(Comr Peevey - ALJ Galvin)  
**Outcome Signed**  
[D05-02-040](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 
- 17**  
[4273]      **A04-10-022 - Gregory Louis and Family to Family Transportation Service (Applicant).**  
This decision authorizes Applicant to operate as a passenger stage corporation between Antioch, Pittsburg, and Concord, on the one hand, and facilities of the Municipal Railway in San Francisco, on the other hand; and between points in Alameda and Contra Costa Counties, on the one hand, and San Quentin State Prison, California State Prison Solano, and Folsom State Prison, on the other hand; and to establish a zone of rate freedom. This proceeding is closed.  
(Exam Clark)  
Agenda 3147, Item 33 2/10/2005 (Staff)  
**Outcome Signed**  
D05-02-041  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 18**  
[4282]      **R04-03-017 - Order Instituting Rulemaking regarding policies, procedures and incentives for distributed generation and distributed energy resources.**  
Decision 04-12-045, issued December 16, 2004, contains various nonsubstantive errors. Accordingly, this decision is being issued to correct errors in D04-12-045.  
(Comr Peevey - ALJ Malcolm)  
**Outcome Signed**  
[D05-02-042](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 19**  
[4286]      **C04-03-025 - City of San Diego, The Redevelopment Agency of the City of San Diego, and Padres, L.P. vs. San Diego Gas & Electric Company.**  
This decision extends the current deadline for resolution of this proceeding to July 8, 2005.  
(Comr Brown - ALJ Econome)  
**Outcome Signed**  
[D05-02-043](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 20**  
[4291] **A04-11-014 - LB Pacific, LP, PPS Holding Company and Pacific Terminals LLC.**  
A04-11-015 - Related matters. LB Pacific, LP (LB Pacific or Buyer), PPS Holding Company (PPS Holding or Seller) and Pacific Pipeline System LLC (PPS or the Pipeline) together request authorization pursuant to Pub. Util. Code § 854(a) for LB Pacific to acquire control of PPS. In addition, LB Pacific, PPS Holding and Pacific Terminals LLC (PT) together request authorization pursuant to § 854(a) for LB Pacific to acquire control of PT. Collectively all of these four companies are the Joint Applicants. These applications are consolidated. In addition to § 854(a), it is also necessary to consider § 851 and the California Environmental Quality Act in order to authorize transfer of control. These proceedings are closed.  
(Comr Brown - ALJ Long)  
**Outcome Signed**  
[D05-02-044](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 21**  
[4294] **Res W-4523 - Kenwood Water Company (KWC).**  
This resolution authorizes KWC an offset rate increase of \$9,202 or 3.95% additional revenue to recover labor costs. (Advice Letter 57, filed January 12, 2005)  
**Outcome Approved**  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 22**  
[4295] **A05-01-002 - Dennis Delosreyes, Richardo Vargas and Hector Luna.**  
This decision authorizes Dennis A. Delosreyes and Richardo Vargas to transfer their passenger stage corporation certificate to Hector Luna. This proceeding is closed.  
(Exam Clark)  
**Outcome Signed**  
D05-02-045  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 23**  
[4296]      **A04-12-019 - M & A International Group, LLC (Applicant).**  
This decision authorizes Applicant to modify its passenger stage corporation service to include the scheduled transportation of passengers and their baggage between Oxnard Airport and Los Angeles International Airport. This proceeding is closed.  
(Exam Clark)  
**Outcome Signed**  
D05-02-046  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 24**  
[4297]      **Res T-16886 - SBC California (SBC).**  
This resolution approves a Resale Agreement between SBC and G2 Solutions in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 25881, filed December 2, 2004)  
**Outcome Approved**  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 25**  
[4298]      **(ECP) C03-09-017 - Maclyn Erickson (Complainant) vs. Southern California Edison Company (SCE).**  
The Commission denies Complainant's request for interest on a refund of \$1,022 paid in this proceeding by SCE for alleged overcharges for electricity used at Complainant's residence. This proceeding is closed.  
(Comr Brown - ALJ Patrick)  
**Outcome Signed**  
[D05-02-047](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)

- 
- 26**  
[4299]      **A04-11-022 - Pacific Gas and Electric Company (PG&E) and the City of Concord.**  
The decision approves the sale and conveyance by PG&E of its streetlight facilities located within the City of Concord. The decision relieves PG&E of the public duties and responsibilities of owning, operating and maintaining the streetlight facilities once the transfer and conveyance are complete. The decision also approves an agreement between PG&E and the Commission's Office of Ratepayer Advocates to refer the issue of proceeds of this sale to the gain-on-sale proceeding, R04-09-003. This proceeding is closed.  
(Comr Brown - ALJ Walker)  
**Outcome Signed**  
[D05-02-048](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 27**  
[4304]      **Res T-16887 - Verizon California, Inc. (Verizon).**  
This resolution approves an Interconnection Agreement between Verizon and Quality Telephone, Inc., in accordance with the provisions of General Order 96-A and Resolution ALJ-181. (Advice Letter 11011, filed December 3, 2004)  
**Outcome Approved**  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 28**  
[4307]      **A04-11-020 - Southwest Gas Corporation (Southwest).**  
This decision authorizes Southwest to issue Debt Securities in the principal amount of up to \$415,000,000; issue up to 4,000,000 shares of \$1 par value Common Stock; and evergreen debt and equity securities through December 31, 2009. This proceeding is closed.  
(Exam Coughlan)  
**Outcome Signed**  
[D05-02-049](#)  
Yes: (Brown, Grueneich, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)

**29**

[4315]

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

For authority, among other things, to increase revenue requirements for electric and gas service and to increase rates and charges for gas service effective on January 1, 2003. I03-01-012, A02-09-005 - Related matters. The December 10, 2004 petition for modification of D04-05-055 filed by PG&E is granted.

(Comr Peevey - ALJ Halligan)

**Outcome Signed**[D05-02-050](#)

Yes: (Brown, Grueneich, Kennedy, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**30 (Rev.)**

[4316]

**R05-02-023 - Order Instituting Rulemaking to revise Commission General Order Number 95 pursuant to D05-01-030.**

General Order (GO) 95 is critical to the Commission's role of overseeing the safe operation of overhead electric line construction by electric utilities operating and providing service in California. Presently, GO 95 does not address construction standards for attaching wireless antennas to jointly used poles and towers in this state. In order to create a public record upon which to base a decision, all utilities, wireless carriers and other interested parties will be given an opportunity to participate in this rulemaking.

02/24/2005 - This revision was not shown on the Agenda mailed to the public.

**Outcome Signed**[R05-02-023](#)

Yes: (Brown, Grueneich, Kennedy, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

---

## Regular Agenda

### Energy Orders

- 31**                    **A02-05-004 - Southern California Edison Company (SCE).**  
[4253]                    For authority to, among other things, increase its authorized revenues for electric service in 2003, and to reflect that increase in rates. I02-06-002 - Related matters. This decision allocates SCE's revenue requirement of \$9.2 billion. These proceedings are closed.  
(Comr Kennedy - ALJ Barnett)  
**Outcome Held (3/17/05.)**  
Yes: (none)  
No: (none)  
Abstain: (none)  
Absent: (none)
- 32**                    **R02-01-011 - Order Instituting Rulemaking regarding the implementation of the suspension of direct access pursuant to Assembly Bill 1X and D01-09-060.**  
[4259]                    California Large Energy Consumers Association and California Manufacturers and Technology Association jointly filed a Petition for Modification of D03-04-030 (the Customer Generation Departing Load decision). This decision resolves the Petition, as follows: A self-generation customer migrating from direct access (DA) will not be required to pay the ongoing Cost Responsibility Surcharge (CRS) power charge component, but remains liable for past DA CRS undercollections.  
(Comr Brown - ALJ Pulsifer)  
**Outcome Signed (Comr. Grueneich recused herself from this agenda item and was not part of the quorum in its consideration. Comr. Kennedy reserves the right to file a concurrence or join in Pres. Peevey's concurrence. Pres. Peevey will file a concurrence.)**  
[D05-02-051](#)  
Yes: (Brown, Kennedy, Peevey)  
No: (none)  
Abstain: (none)  
Absent: (none)

**33**

[4266]

**A04-01-009 - Pacific Gas and Electric Company (PG&E).**

By this interim order, the Commission presents the preliminary finding that the steam generator replacement program (SGRP) proposed by PG&E for Diablo Canyon Power Plant Units 1 & 2 is cost-effective, and address related matters. By this opinion, the Commission does not approve or disapprove the SGRP, guarantee or approve the recovery of any expenditures related thereto, or prejudge the outcome of the Commission's environmental review of the SGRP. This proceeding remains open to consider the results of the Commission's environmental review, and to make a final determination on the matters for which the Commission has made a preliminary determination herein. (Comr Brown - ALJ O'Donnell)

**Outcome Signed (Comr. Grueneich recused herself from this agenda item and was not part of the quorum in its consideration.)**

D05-02-052

Yes: (Brown, Kennedy, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

---

**Energy Resolutions and Written Reports****34                    Res E-3909 - Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E).**

[4256]

PG&E, SCE, and SDG&E filed advice letters in compliance with Ordering Paragraph 14 of Resolution E-3831 to propose methods to equitably allocate responsibility for the unrecovered Bond Charges Attributable to Customer Generation effective as of April 3, 2003. Approved with modifications. (PG&E Advice Letter (AL) 2542-E, SCE AL 1821-E, and SDG&E AL 1610-E, filed August 9, 2004)

**Outcome    Approved (Comr. Grueneich recused herself from this agenda item and was not part of the quorum in its consideration.)**

Yes: (Brown, Kennedy, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**35                    Res E-3912 - Pacific Gas and Electric Company (PG&E).**

[4258]

PG&E requests authority to disburse \$35.9 million from the Humboldt Bay Power Plant Unit 3 Nuclear Decommissioning Master Trusts for a dry cask storage system to enable 2006 decommissioning work. Request is approved. (Advice Letter 2565-E, filed October 12, 2004)

**Outcome    Approved**

Yes: (Brown, Grueneich, Kennedy, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

---

**Telecommunication Orders****36**                    **A04-06-029 - Spectrotel, Inc. (Applicant).**

[4105]

This decision denies Applicant's request for a certificate of public convenience and necessity based on the company's history of unlawful slamming. If Applicant engages in no further instances of slamming or other violations of law, it may reapply after one year. This proceeding is closed.

(Comr Kennedy - ALJ Prestidge)

Agenda 3145, Item 10 1/13/2005 (Kennedy);

Agenda 3146, Item 4 1/27/2005 (Kennedy);

Agenda 3147, Item 40 2/10/2005 (Peevey)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**36a**

[4292]

**ALTERNATE TO ITEM 4105**

The alternate decision of Commissioner Kennedy finds that the applicant Spectrotel, Inc. is entitled to a CPCN because it has provided a satisfactory explanation of the small number of slamming complaints received by the FCC and adopted procedures to prevent their re-occurrence.

(Comr Kennedy)

**Outcome Signed**

D05-02-053

Yes: (Brown, Grueneich, Kennedy, Peevey)

No: (none)

Abstain: (none)

Absent: (none)

**37**

[4184]

**A01-02-024 - AT&T Communications of California, Inc. and WorldCom, Inc.**

A01-02-035, A02-02-031, A02-02-032, A02-02-034, A02-03-002 - Related matters. This decision resolves outstanding issues in this proceeding relating to the adjustment, or “true-up,” of interim unbundled network element rates to permanent rate levels. This order lifts the stay of billing adjustments established through Ordering Paragraph 4 of D04-09-063, and orders immediate payment of billing adjustments by 10 carriers whose cash or cash equivalents indicate they possess cash at least 10 times the amount of their true-up debt. All other carriers shall pay in equal installments over 12 months, subject to interest and late payment penalties. True-up payments should be calculated based on a 10% shared and common cost markup. These proceedings are closed.

(Comr Peevey - ALJ Duda)

Agenda 3146, Item 38 1/27/2005 (Peevey);

Agenda 3147, Item 41 2/10/2005 (Peevey)

**Outcome Held (3/17/05. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**37a**

[4284]

**ALTERNATE TO ITEM 4184**

A01-02-035, A02-02-031, A02-02-032, A02-02-034, A02-03-002 - Related matters. This alternate differs from the ALJ's draft decision in one respect. The alternate directs the true-up payments to be calculated based on a 15% shared and common cost markup.

(Comr Brown)

Agenda 3147, Item 41a 2/10/2005 (Peevey)

**Outcome Held (3/17/05. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**37b**

[4308]

**ALTERNATE TO ITEM 4184**

A01-02-035, A02-02-031, A02-02-032, A02-02-034, A02-03-002 - Related matters. This alternate differs from the ALJ's draft decision to set an interim 10%. The alternate maintains the 21% shared and common cost markup during the true-up period. On a prospective basis, the shared and common cost markup is lowered to 19% to reflect the Ninth Circuit's remand.

(Comr Peevey)

**Outcome Held (3/17/05. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**38**  
[4311]

**R \_\_\_\_\_ - Order Instituting Rulemaking on the Commission's own motion to assess and revise the regulation of telecommunications utilities.**

This Order institutes a rulemaking to assess and revise the regulation of all telecommunications carriers in California except for small incumbent local exchange carriers (ILECs). The primary goal of this proceeding is to develop a uniform regulatory framework for all telecommunications utilities, except small ILECs, to the extent it is feasible and in the public interest to do so.

**Outcome Held (3/17/05. Further review.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

---

**Telecommunication Resolutions and Reports****39**

[4155]

**Res T-16897 - Citizens Telecommunications Company of California (Citizens).**

This resolution requires Citizens to apply a CHCF-B permanent surcredit rate of 3.63% and an additional surcredit rate of 2.95% to true up the provisional permanent surcredit, totaling 6.58%, for one year. Subsequently, Citizens will continue to apply the 3.63% permanent surcredit on the first day of the month after the twelve-month implementation period of the 6.58% total CHCF-B surcredit on all intrastate billings, with certain exceptions. (Advice Letter (AL) 722, filed October 24, 2001, and Supplement A, filed April 13, 2004. AL 732, filed November 29, 2001, and Supplements A, B, and C, filed December 10, 2001, August 1, 2002, and April 13, 2004, respectively)

Agenda 3145, Item 13 1/13/2005 (Kennedy);

Agenda 3146, Item 40 1/27/2005 (Staff);

Agenda 3147, Item 42 2/10/2005 (Staff)

**Outcome Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**39a**

[4285]

**ALTERNATE TO ITEM 4155**

This alternate requires Citizens Telecommunications Company of California to (1) implement a permanent CHCF-B surcredit rate of 3.63%; and (2) apply a one-month surcharge rate of 1.72% on all intrastate billings, except residential basic service, contracts, and coin-sent paid calls. The one-month surcharge rate is being implemented to recover an over refunded amount to its customers during the three-month temporary catch-up surcredit period. This alternate finds that D.98-09-039 did not contemplate the true-up of the provisional surcredit, but instead anticipated its application on a going forward basis.

Agenda 3147, Item 42a 2/10/2005 (Staff)

**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

#### 41                    **A02-11-044 - Conference with Legal Counsel – Application for Rehearing**

[3979]

Disposition of Applications for Rehearing of D04-07-034 filed by the Office of Ratepayer Advocates, City of Fontana and the Fontana Unified School District. D04-07-034 authorizes a rate increase for the San Gabriel Valley Water Company (San Gabriel), Fontana Water Company Division. Among other things, the decision removes \$2.6 million from the ratebase, finding that is the amount of money the County of San Bernardino reimbursed San Gabriel for its water treatment facility, Plant F-10. The decision also finds that the Fontana Division is experiencing growth that is expected to continue and that it was barely able to meet its 2003 summer peak-day demand following four years of drought and closure of various contaminated wells. Further, the decision finds that it is not reasonable to defer addition for new plant in the Fontana Division until outside funding for contamination cleanup becomes available and finds that the utility has justified its proposed construction program including plans for needed plant additions that would increase its rate base at a rate of 10% per year. The decision advises that the utility to open a water quality memorandum account for any reimbursements from polluters or proceeds ultimately received. The decision permits the utility to purchase land for its new office building but requires it to defer building the new office building at this time. Because the utility has not, in the past, hired new personnel when funded to do so, the decision requires it to file an advice letter for inclusion of the costs of each new position authorized by it. In addition, the decision finds that that the utility's executive salaries are not unreasonable.

Agenda 3143, Item 52 12/2/2004 (Staff);

Agenda 3144, Item 68 12/16/2004 (Staff);

Agenda 3145, Item 60 1/13/2005 (Staff);

Agenda 3146, Item 45 1/27/2005 (Staff);

Agenda 3147, Item 45 2/10/2005 (Staff)

#### **Outcome    Withdrawn**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**42**

[4276]

**R03-09-006 - Conference with Legal Counsel – Application for Rehearing**

Disposition of Application for Rehearing and/or Request for Stay of D04-12-056 filed by Southern California Edison Company (SCE), and/or Disposition of Application for Rehearing of D04-12-056 filed by the Pacific Gas and Electric Company (PG&E) and the San Diego Gas and Electric Company (SDG&E). D04-12-056 prohibits the use of 'reverse auctions' in energy utility construction contract bidding procedures, a practice in which bidders compete for contracts by lowering their bids until the lowest bid is accepted. D04-12-056 also requires respondent utilities to ensure the payment of prevailing wages by their construction contractors in all construction. SCE, PG&E, and SDG&E, respondent utilities, seek rehearing on allegations that latter provision of D04-12-056 is preempted by federal law, contrary to Commission Rules, and not supported by the record of the proceeding. Agenda 3147, Item 48 2/10/2005 (Staff)

**Outcome Held (3/17/05.)**

Yes: (none)

No: (none)

Abstain: (none)

Absent: (none)

**43**

[4280]

**A02-12-027 - Conference with Legal Counsel – Application for Rehearing**

A02-12-028, I03-03-016 - Related matters. Disposition of the application for rehearing of D04-10-012 filed by Southern California Edison Company (SCE). D04-10-012 denied SCE's application for rehearing of D03-12-058 and held that Local 483 Workers Union qualifies as a customer under all three definitions of customer pursuant to Public Utilities Code section 1802(b). D04-10-012 also holds portions of D98-04-059, the Commission's Intervenor Compensation Order, invalid.

Agenda 3147, Item 49 2/10/2005 (Staff)

**Outcome Signed**

D05-02-054

Yes: (Brown, Grueneich, Kennedy, Peevey)

No: (none)

Abstain: (none)

Absent: (none)