
Public Utilities Commission of the State of California

***Public Agenda 2991
Thursday, April 23, 1998, 10 a.m.
State Board of Equalization
450 N Street, Sacramento, California***

**Commissioners
Richard A. Bilas, President
P. Gregory Conlon
Jessie J. Knight, Jr.
Henry M. Duque
Josiah L. Neeper**

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

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

**Scheduled Commission Meetings
AUDITORIUM
505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> <i>(1:30 p.m.)</i> <i>Closed to the Public</i>	<i>Commission Meeting</i> <i>(10 a.m.)</i> <i>Open to the Public</i>
Monday, May 4	Thursday, May 7
Monday, May 18	Thursday, May 21
Monday, June 1	Thursday, June 4
Monday, June 15	Thursday, June 18
Monday, June 29	Thursday, July 2
Monday, July 20	Thursday, July 23

**Ratesetting Deliberative Meeting dates are reserved as noted but will only be held if there are ratesetting matters to be considered.*

Matters of Public Interest

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



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 TDD# (415) 703-2032 five working 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.
- CA-4, CA-5, CA-24

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.

CA-1 **Res TL-18844** - Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374 (b) of the Public Utilities Code.

CA-2 **A98-02-010 - In Touch Communication Systems, Inc.**
This decision grants applicant a certificate of public convenience and necessity to operate as a competitive local carrier and non-dominant interexchange carrier reseller. This proceeding is closed.
(Com Knight - ALJ O'Donnell)

CA-3 **A90-12-018 - Southern California Edison Company (Edison).**
For authority to increase its authorized level of base rate revenue under electric revenue adjustment mechanism for service rendered beginning January 1, 1992 and to reflect this increase in rates. I91-02-079 - Related matter. This decision approves a settlement of Phase 5 issues between Edison and the Office of Ratepayer Advocates. Edison will credit ratepayers with \$9.9 million plus interest. These proceedings are closed.
(Com Duque - ALJ Stalder)
(Section 311)

- CA-4 I96-04-023 - Order instituting investigation and order to show cause into whether the operating authority of David Martinez Espinoza (respondent), an individual, doing business as Davide Espinoza Trucking, should be revoked.**
This decision orders respondent to pay a fine of \$10,000 in four equal installments over a one-year period for various violations of licensing and insurance requirements which the Commission administered at the time the violation occurred. This proceeding is closed.
(Com Duque - ALJ Ryerson)
(Section 311)
- CA-5 C97-06-004 - Fred McElhaney vs. GTE California, Incorporated (GTEC).**
This decision dismisses complaint with prejudice as complainant failed to prove any violation of law or rule. This proceeding is closed.
(Com Neeper - ALJ Bushey)
(Section 311)
- CA-6 R94-04-031 - Order instituting rulemaking on the Commission's proposed policies governing restructuring California's electric services industry and reforming regulation. I94-04-032 - Related matter.**
This decision directs Pacific Gas and Electric Company, Southern California Edison Company and San Diego Gas & Electric Company to submit proposals for the Energy Reliability Index in their respective applications for reviewing as-available capacity payments to Qualifying Facilities.
(Com Conlon - ALJ Malcolm)
- CA-7 R87-10-013 - Rulemaking proceeding on the Commission's own motion to revise the regulatory treatment of research, development and demonstration (RD&D) in the electric and gas industries.**
This decision eliminates the requirement that the Energy Division prepare a biennial report on the status of the RD&D of the respondent energy utilities. The energy utilities are no longer required to file annual RD&D reports after filing the 1998 reports. This proceeding shall be closed 60 days after the effective date of this decision.
(Com Conlon - ALJ Stalder)

- CA-8 A97-11-025 - Business Telecom, Inc. (BTI).**
This decision authorizes BTI to transfer all its stock to BTI Telcom Corp (BTC), a newly formed holding company after which BTI will be a wholly owned subsidiary of BTC. BTI will continue to provide services authorized by its certificate of public convenience and necessity under its current name. This proceeding is closed.
(Com Knight - ALJ Ramsey)
- CA-9 I90-11-033 - Investigation on the Commission's own motion into the financial and operational risks of Commission regulated water utilities, and whether current ratemaking procedures and policies require revision. I89-03-005 - Related matter.**
The California Water Association filed a petition to modify a 1992 Commission decision. The petition does not comply with requirements of Rule 47 of the Commission's Rules of Practice and Procedure, is not supported by affidavit or declaration, and does not explain the five-year delay in requesting relief. The petition is denied. These proceedings are closed.
(Com Conlon - ALJ Walker)
- CA-10 A97-08-020 - Pacific Gas and Electric Company (PG&E), Scott D. Stephens and Ellen J. Stephens (buyers).**
This decision authorizes PG&E to sell and convey certain parcels of land in Tehama County to buyers. This proceeding is closed.
(Com Duque - ALJ Wright)
- CA-11 A97-07-045 - Samia Shabaan dba EZ Way Out Shuttle.**
For authority to operate as a passenger stage corporation on call between points in the San Francisco, San Mateo, Alameda, Contra Costa, Stanislaus, San Joaquin, and Santa Clara Counties and the San Jose, Oakland, and San Francisco International Airports, and between Berkeley, Emeryville and Oakland and the Oakland International Airport, San Francisco International Airport on scheduled. This application is dismissed. This proceeding is closed.
(Exam Koss)

- CA-12 A91-03-058 - Harbor Bay Maritime, Inc. (Harbor Bay).**
For a certificate of public convenience and necessity to operate as a vessel common carrier of passengers on San Francisco Bay between Alameda and San Francisco. A97-10-075 - Related matter. This decision grants two requests by Harbor Bay with respect to its vessel common carrier service between Alameda's Bay Farm Island and San Francisco. We grant authority for Harbor Bay to extend its service from the San Francisco Ferry Building to Pier 39 at Fisherman's Wharf, and to increase fares by \$0.50 per trip on transbay runs. These proceedings are closed.
(Com Duque - ALJ Ryerson)
- CA-13 R94-04-031 - Order instituting rulemaking on the Commission's proposed policies governing restructuring California's electric services industry and reforming regulation. I94-04-032 - Related matter.**
This decision denies Independent Energy Producers Association's (IEP) petition to modify the Preferred Policy Decision. IEP's petition is moot in light of AB 1890 and San Diego Gas & Electric's A97-12-039, which seeks authority to divest electric generation facilities and power contracts.
(Com Conlon - ALJ Minkin)
- CA-14 A93-12-025 - Southern California Edison Company (Edison).**
For authority to increase its authorized level of base rate revenue under the electric revenue adjustment mechanism for service rendered beginning January 1, 1995 and to reflect this increase in rates. I94-02-002 - Related matter. This decision approves a Settlement Agreement regarding The Utility Reform Network's (TURN) Rate Design Window proposal in this proceeding. The parties proposing the Settlement Agreement are TURN, Southern California Edison Company (Edison), California Industrial Users, California Large Energy Consumers Association, and California Manufacturing Association. Under the Settlement Agreement, Edison will provide its interruptible service program customers official notice that, after March 31, 2002, it will no longer provide a discount for interruptible service under existing tariffs. This decision adopts tariff language revisions to reflect these termination provisions. This decision does not preclude the development, adoption, and implementation of a different interruptible service program applicable to customers after March 31, 2002. These proceedings are closed.
(Com Conlon - ALJ Gottstein)

- CA-15 Res E-3530 - Southern California Edison Company.**
This resolution approves request to modify tariff Rule 17, adjustment of bills and meter tests, clarifying Section A.4, adjustment of bills for unauthorized use and reformatting the rule to ease understanding.
(Advice Letter (AL) 1123-E, filed September 28, 1995 and AL 1123-A, filed March 6, 1998)
- CA-16 Res O-0023 - Koch Pipeline Company, L.P.**
This resolution approves request to cancel movement from its Ten Section Tank Farm, Kern County to Weir Lease, Kern County; cancel movement on its gathering points along 8 inch pipeline east of its Ten Section Tank Farm, Kern County; and add a receipt point of Derby Acres, Kern County to its Ten Section Farm, Kern County. Approved.
(Advice Letter 5, filed February 23, 1998)
- CA-17 Res W-4098 - Yuba Investment Company.**
This resolution approves request for an interim general rate increase producing additional annual revenue of \$12,008.
- CA-18 I86-06-005 - Southern California Gas Company (SoCalGas).
Order instituting investigation on the Commission's motion into implementing a rate design for unbundled gas utility services consistent with policies adopted in D86-03-057. R86-06-006 - Related matter.**
This decision grants, in part, SoCalGas' December 3, 1993 Petition for Modification of D93-09-082 and finds that the relief requested by SoCalGas in its September 6, 1994 Petition for Modification of D87-03-044, D87-05-046, and D86-12-009, was addressed by the Commission in D97-06-110. These proceedings are closed.
(Com Conlon - ALJ Walwlyn)
- CA-19 A97-11-021 - Mammoth Cellular, Inc. (Mammoth Cellular) and Eclipse Communications Corporation (Eclipse).**
This decision grants the transfer of Mammoth Cellular's certificate of public convenience and necessity to its subsidiary, Eclipse. This proceeding is closed.
(Com Neeper - ALJ Walker)

CA-20 I90-11-033 - Investigation on the Commission's own motion into the financial and operational risks of Commission regulated water utilities, and whether current ratemaking procedures and policies require revision. I89-03-005 - Related matter.

The California Water Association filed a petition to modify a 1993 Commission decision. The petition does not comply with requirements of Rule 47 of the Commission's Rules of Practice and Procedure, is not supported by affidavit or declaration, and does not explain the five-year delay in requesting relief. The petition is denied. These proceedings are closed.

(Com Conlon - ALJ Walker)

CA-21 A98-02-029 - Max-Tel Communications (Max-Tel).

This decision grants Max-Tel a certificate of public convenience and necessity to operate as a nonfacilities-based reseller of local exchange service. This proceeding is closed.

(Com Knight - ALJ O'Donnell)

CA-22 R95-01-020 - Rulemaking on the Commission's own motion into Universal Service and to comply with the Mandates of Assembly Bill 3643. I95-01-021 - Related matter.

This decision grants intervenor compensation of \$232,225 to The Utility Reform Network for its contribution to D96-10-066.

(Com Knight - ALJ O'Donnell)

CA-23 A96-03-008 - California-American Water Company.

For an order authorizing it to increase its rates for water service in its Monterey Division. This decision resolves petition to modify D96-12-005 with respect to the rate structure for petitioner's Hidden Hills Subdivision. This decision also approves solution agreed to by all parties participating on this issue. This proceeding is closed.

(Com Duque - ALJ Kotz)

CA-24 C97-06-005 - Gloria Jean Smith (Smith) vs. Pacific Gas and Electric Company (PG&E).

Smith's request for an order requiring PG&E to apply the terms and conditions of its Electric Rule 15 tariff that existed before July 1, 1995, to a line extension on her property is denied, and the complaint is dismissed.

This proceeding is closed.

(Com Bilas - ALJ Ryerson)

REGULAR AGENDA**UTILITY AND TRANSPORTATION ORDERS****ORDERS HELD OVER**

- H-1** **R97-01-009 - Order instituting rulemaking on the Commission's intervenor compensation program. I97-01-010 - Related matter.**
Revisions to our implementation of the intervenor compensation program are adopted and legislative amendments to the governing statutes are invited, both with the intent to broaden participation by customers and improve the effectiveness of that participation. The Public Advisor is directed to report to the Commission on certain matters. Parties are invited to propose legislative amendments to the General Counsel for the Commission's consideration. This proceeding is closed.
(Com Knight - ALJ Hale)
(SB 960 Experiment: Quasi-legislative Category)
(Agenda 2982, Item 4, 12/16/97; Agenda 2984, Item H-2, 1/7/98; Agenda 2987, Item H-1, 2/19/98; Req - Commission)
- H-1a** **ALTERNATE PAGES TO ITEM H-1.** A more critical assessment of whether the participation of third-party customers, separate and apart from customer representation through Office of Ratepayer Advocates or Consumer Services Division, is necessary, and will be routinely conducted for proceedings which cover those sectors of the telecommunications market that are clearly competitive. The assessment will occur at the Notice of Intent stage.
(Com Knight)
- H-2** **A96-12-009 - Pacific Gas and Electric Company (PG&E).**
For authority to identify and separate components of electric rates, effective January 1, 1998. A96-12-011, A96-12-019 - Related matters. This decision denies the petition to modify D97-08-056 filed by New Energy Ventures seeking changes to the method adopted by the Commission for calculating the Power Exchange credit on utility bills. This order also grants the petition to modify D97-08-056 filed by The Utility Reform Network and Utility Consumers Action Network regarding the allocation of costs related to the California Alternative Rates for Energy program.
(Coms Duque/Conlon - ALJ Malcolm)
(Agenda 2989, Item CA-20, 3/26/98; Agenda 2990, Item H-1, 4/9/98; Req - Commission)

H-3 R94-02-003 - Rulemaking on the Commission's own motion to establish a simplified registration process for nondominant telecommunications firms. I94-02-004 - Related matter.

This Decision authorizes interexchange carriers to offer service on a detariffed basis so long as customer signs written contract which complies with consumer protection limitations. These proceedings are closed.

(Com Knight - ALJ Bushey)

(Agenda 2989, Item CA-32, 3/26/98; Agenda 2990, Item H-2, 4/9/98; Req - Commission)

H-4 C97-03-019 - California Cable Television Association (CCTA) vs. Southern California Edison Company (Edison).

Upon complaint of CCTA, an annual fee of \$4.31 for pole attachments covered under Edison's standard pole attachment agreement is established on the effective date of this decision. This proceeding is closed.

(Com Duque - ALJ Wright)

(Section 311)

(Agenda 2988, Item 1, 3/12/98; Agenda 2989, Item H-3, 3/26/98; Agenda 2990, Item H-3, 4/9/98; Req - Commission)

H-4a ALTERNATE ORDER TO ITEM H-4. This alternate adopts an annual fee of \$2.67 for pole attachments and closes this proceeding.

(Coms Knight/Neeper)

(Agenda 2989, Item H-3a, 3/26/98; Agenda 2990, Item H-3a, 4/9/98; Req - Commission)

H-5 R94-04-031 - Order instituting rulemaking on the Commission's proposed policies governing restructuring California's electric services industry and reforming regulation. I94-04-032 - Related matter.

This order conditionally approves the policy rules and request for proposal (RFP) proposed by the California Board for Energy Efficiency, with certain modifications. Approval of these documents is conditioned upon our subsequent determination that the approach to administration of energy efficiency programs we adopted in D97-02-014 and subsequent decisions is feasible. We will not take any action to implement today's adopted policy rules or issue the RFP until this condition is met. If we do not find that this approach is feasible by June 30, 1998, we will consider alternatives, including the option of continued utility administration of these programs.

(Com Neeper - ALJ Gottstein)

(Agenda 2990, Item 4, 4/9/98; Req - Commission)

H-6

R94-04-031 - Order instituting rulemaking on the Commission's proposed policies governing restructuring California's electric services industry and reforming regulation. I94-04-032 - Related matter.

In response to comments on an Assigned Commissioner Ruling of February 24, 1998, this decision addresses implementation dates for independent administrators for low-income and energy efficiency programs, future program planning, and the status of oversight of these programs by the Low-Income Governing Board and the California Board for Energy Efficiency.

(Com Neeper - ALJ Gottstein)

(Agenda 2990, Item 6, 4/9/98; Req - Commission)

ORDERS**1 R95-04-043 - Order instituting rulemaking on the Commission's own motion into competition for local exchange service. I95-04-044 - Related matter.**

This decision adopts rules governing the nondiscriminatory access to the poles, ducts, conduits, and right-of-way of public utilities among all telecommunications carriers competing in the local exchange market within California.

(Com Conlon - ALJ Pulsifer)

2 I89-11-003 - In the matter of the regulation of used household goods transportation by truck.

This decision adopts an amended settlement and stipulation reached in Phase III by all active parties (the California Moving and Storage Association, Tri-Valley Transportation & Moving Company, and the Office of Ratepayer Advocates). The resulting Maximum Rate Tariff 4 (Attachment E) will take effect in 90 days. Ordering paragraph 4 of D96-12-060, along with the related findings of fact, conclusions of law and discussion therein, considered on rehearing in Phase IV, are reversed. This proceeding is closed.

(Com Conlon - ALJ Mattson)

3 A96-08-001 - Pacific Gas and Electric Company (PG&E).

For approval of valuation and categorization of non-nuclear generation-related sunk costs eligible for recovery in the competition transition charge. A96-08-006, A96-08-007, A96-08-070, A96-08-071, A96-08-072 - Related matters. This decision denies, in part, and grants, in part, PG&E's, Southern California Edison Company's and San Diego Gas & Electric Company's joint petition to modify D97-11-074. We grant the petitioners' request to delay filing applications for the Annual Transition Cost Proceedings. We deny petitioners' request to delay market valuation of inventories and to further delay filing applications to establish principles to appraise retained assets, beyond the extension granted by the Executive Director.

(Coms Conlon/Bilas - ALJ Minkin)

4 R95-04-043 - Order instituting rulemaking on the Commission's own motion into competition for local exchange service. I95-04-044 - Related matter.

This decision directs facilities-based local exchange carriers to submit recorded data to the Commission to form the basis for a revision in the cost recovery billing factor for Interim Number Portability (INP). The decision also requires the nondiscriminatory provision of INP using alternate technologies and prescribes the sharing of switched access revenues in conjunction with the porting of numbers.

(Com Conlon - ALJ Pulsifer)

UTILITIES RESOLUTIONS

ENERGY MATTERS

- E-1 Res E-3533 - Mountain Utilities.**
This resolution denies the request for approval to establish a generation and distribution planning memorandum account.
(Advice Letter 6, filed March 6, 1998)
- E-2 Res E-3528 - Stanislaus County Local Agency Formation Commission.**
For a Commission opinion on the effect of the proposed reorganization of Patterson Water District (PWD) within Pacific Gas and Electric Company's (PG&E) service territory. This resolution finds that the proposed PWD will substantially impair PG&E's ability to provide adequate service at reasonable rates in the remainder of PG&E's service territory unless PG&E's distribution system is either leased and/or purchased by PWD.

ADMINISTRATIVE LAW JUDGE DIVISION RESOLUTIONS

ALJ-1 **Res ALJ-176-2991** - Ratification of preliminary determinations 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. (See also Rule 63.2(c) regarding notice of assignment.)

ALJ-2 **Res ALJ-177** - To adopt, in final form, the two generally applicable protocols for closed deliberation of ratesetting proposed decisions that the Commission published for comment in the California Regulatory Notice Register, as described in Res. ALJ-175 (adopted February 4, 1998).

LEGAL DIVISION MATTERS

LEGISLATIVE MATTERS

- HLEG-1** SB 1986 (Haynes), as introduced on February 19, 1998. Would limit, in state agency proceedings, intervenor compensation for attorneys' fees and expert witness fees to the rate of compensation paid to members of the State Bar under the Supreme Court's Guidelines for Appointed Counsel Representing Indigent Criminal Appellants, as specified.
(Agenda 2989, Item LEG-8, 3/26/98; Req - Commission)
- HLEG-2** AB 2662 (Martinez), as introduced on February 17, 1998. Would require incumbent local exchange carriers to file with the Commission the interface protocols for order processing needed to access the incumbent local exchange's operation support system.
(Agenda 2989, Item LEG-4, 3/26/98; Agenda 2990, Item HLEG-1, 4/9/98; Req - Commission)
- HLEG-3** SB 2204 (Calderon), as introduced on February 20, 1998. Would amend the Public Resources Code and the Public Utilities Code regarding electric line clearances and vegetation suitable for planting near electric lines.
(Agenda 2989, Item LEG-9, 3/26/98; Agenda 2990, Item HLEG-2, 4/9/98; Req - Commission)
- HLEG-4** SB 1086 (Schiff), as amended September 3, 1997. Would amend the California Self-Service Storage Facility Act in the Business and Professions Code.
(Agenda 2989, Item LEG-10, 3/26/98; Agenda 2990, Item HLEG-3, 4/9/98; Req - Commission)
- HLEG-5** AB 1973 (Campbell) as introduced on February 17, 1998. Would amend Government Code Section 11351 which exempts the Commission from certain provisions of the Administrative Procedure Act.
(Agenda 2990, Item LEG-1, 4/9/98; Req - Commission)
- HLEG-6** AB 2134 (Escutia), as introduced on February 18, 1998. Would require the establishment of a list of telephone numbers of consumers who do not want to receive telephone solicitations—a "do not call list".
(Agenda 2990, Item LEG-3, 4/9/98; Req - Commission)

- HLEG-7** SB 2006 (Kelley), as introduced on February 20, 1998. Would repeal Public Resources Code Section 25542, regarding Energy Commission siting authority.
(Agenda 2990, Item LEG-8, 4/9/98; Req - Commission)
- HLEG-8** SB 2150 (Peace), as introduced on February 20, 1998. Would require the Commission to commence a proceeding to consider establishment of a new regulatory framework for telecommunications.
(Agenda 2990, Item LEG-9, 4/9/98; Req - Commission)
- LEG-1** AB 554 (Papan) as amended on March 30, 1998. Would amend the Government Code to require the CPUC, upon the request of the Metropolitan Transportation Commission whenever an area code split within the San Francisco bay area is proposed, to order the permanent assignment of identified public transit and traffic information telephone numbers.
- LEG-2** SB 2038 (Polanco) as amended on March 31, 1998. Would amend the Government Code to establish the Office of Telecommunications Policy in the Governor's office and to establish the Interagency Commission on Technological Infrastructure for the 21st Century.

RESOLUTIONS AND MEMORANDUMS

- L-1** **Res L-269** - This resolution would authorize the release of information, including data which is not subject to public inspection pursuant to Section 583 of the Public Utilities Code and General Order No. 66C, in response to the criminal summons served on the Commission by Greenberg & Michelman, on behalf of its client, Michael S. Oliver. The summons seeks quarterly reports for 1992, 1993, 1994 and 1995 for Golden Eagle Express, Inc. and American Eagle Transport Services, Inc. Specifically, it requests all forms filed pursuant to Public Utilities Code Section 3575, former Section 3710, Section 3711, and all statements of gross operating revenue filed pursuant to Section 5003.1 for both entities for 1992, 1993, 1994 and 1995.

COMMISSIONERS' REPORTS

Commissioner Conlon

- Electric Matters
- Transportation Matters

Commissioner Knight

- Telecommunications Matters

Commissioner Duque

- Water Matters

Commissioner Neeper

- Consumer Protection Matters

President Bilas

- Natural Gas Matters

EXECUTIVE DIRECTOR'S REPORT

Wesley M. Franklin, Executive Director

GENERAL COUNSEL'S REPORT

Peter Arth, Jr., General Counsel

MANAGEMENT REPORTS

Lynn T. Carew, Chief
Administrative Law Judge Division

Paul Clanon, Director
Energy Division

Jack Leutza, Director
Telecommunications Division

Dean J. Evans, Director
Water Division

Kenneth L. Koss, Director
Rail Safety and Carriers Division

William Meyer, Director
Strategic Planning Division

Elena Schmid, Director
Office of Ratepayer Advocates

William Schulte, Director
Consumer Services Division

Michael A. Doyle, Representative
Southern California

Robert T. Feraru
Public Advisor

CLOSED SESSION

This notice is furnished under Government Code Section 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 institution of proceedings and pending litigation as provided under Government Code Section 11126(p) and (q), and personnel matters as provided under Government Code Section 11126(a). Items to be considered under Government Code Section 11126(p), 11126(q)(2) and (3) and 11126(a) are not required to be made public. The list of items on the following pages, to be considered under Government Code Section 11126(q) (1), are required by the Government Code to be made public. 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 disclosures required by Government Code Section 11125.2 and 11126.3(f).

APPELLATE SECTION ITEMS**ORDERS HELD OVER**

HEX-1 **R94-04-031, I94-04-032** - Disposes of application for rehearing and petition for modification by the Low Income Governing Board of D97-09-117, which established certain start-up procedures for the Low Income Governing Board and the California Board for Energy Efficiency, both advisory boards.
(Agenda 2982, Item EX-10, 12/16/97; Agenda 2984, Item HEX-6, 1/7/98; Agenda 2985, Item HEX-2, 1/21/98; Agenda 2986, Item HEX-1, 2/4/98; Agenda 2987, Item HEX-2, 2/19/98; Agenda 2988, Item HEX-1, 3/12/98; Agenda 2989, Item HEX-1, 3/26/98; Agenda 2990, Item HEX-1, 4/9/98; Req - Commission)

- HEX-2** **C96-06-042** - Disposition of application for rehearing of D97-02-040 filed by San Martin County Water District (Water District or District). D97-02-040 requires: (1) the District to return possession, control and operation of certain facilities and customers to West San Martin Water Works; (2) to cease and desist from further unauthorized interference with West San Martin Water Works; and (3) to provide an accounting of all revenues charged and collected improperly as a result of unauthorized operations. San Martin County claims that the order in D97-02-040 is legal error as it is beyond the Commission's jurisdiction and that it illegally grants public property to a private water company. The application for rehearing further claims that compliance with the Decision will force the dissolution of the Water District.
(Agenda 2989, Item EX-3, 3/26/98; Agenda 2990, Item HEX-2, 4/9/98; Req - Commission)
- HEX-3** **C95-08-039, C95-11-021, C96-01-016** - Disposes of requests for oral argument and/or applications for rehearing of D97-11-029, D97-11-069, and D97-11-068 filed by Pacific Bell, which resolved the complaints of Bayside Village et al., Vista Montana Apartments, and Ted Diethofer, respectively. Pacific Bell argues that the conclusion that the cross-connects at issue are not inside wire is based on insufficient evidence and is otherwise legally in error.
(Agenda 2989, Item EX-7, 3/26/98; Agenda 2990, Item HEX-3, 4/9/98; Req - Commission)
- HEX-4** **R95-01-020, I95-01-021** - Disposition of Applications for Rehearing on D98-01-023, filed by Los Angeles Cellular Telephone Company and jointly by California Association of Competitive Telecommunications Companies and Cellular Carriers Association of California (CALTEL/CCAC), alleging the following legal errors: (1) the Commission ordered telecommunication carriers to remit interest earned on surcharge revenues collected and held prior to the issuance of D98-01-023, without giving interested parties notice and an opportunity to be heard, as required by Public Utilities Code Section 1708; and (2) the Commission's decision does not contain separately stated findings of fact supported by evidence in the record, in violation of Public Utilities Code Section 1705. CALTEL/CCAC's joint application raises additional arguments: (3) by ordering carriers to pay interest on revenues collected and held prior to the issuance of D98-01-023, the Commission engaged in retroactive rulemaking in violation of Public Utilities Code Section 728; and (4) the Commission violated Public Utilities Code Section 1709 since its collateral order is contrary to the Commission's order in D96-10-066.
(Agenda 2990, Item EX-4, 4/9/98; Req - Commission)

ORDERS

- EX-1** Compilation of Applications for Rehearing filed with the Commission and Petitions filed with the California Supreme court since the last Commission Conference.
- EX-2** Discussion of legal issues related to State Personnel Board determination in CSEA et al. vs. SPB et al., Sacramento Superior Court, No. 978CS03024.
- EX-3** **A98-02-039** - Disposition of Application for Rehearing of Resolution E-3516 filed by Pacific Gas and Electric Company (PG&E). The application contests the Commission's adjustment of PG&E's base revenues pursuant to Section 368(e) of the California Public Utilities Code and the transition to a new market structure for the electric industry.
- EX-4** **I_____** - Order instituting investigation into the operations and practices of Future Net, Inc., its subsidiary Future Net Online, Inc. and its operating division, Future Electric Network; also names as respondents two individuals who are officers and instrumental in directing operations: Alan Setlin and Larry Huff. The respondents are ordered to show cause why they should not be ordered to cease marketing and soliciting for the provision of electric service until they have registered with the Commission as a Non-Utility Electric Service Provider under Public Utilities Code section 394(a) et seq., and why fines should not be imposed for any past unlawful operations.
- EX-5** **I_____** - Order instituting investigation into the operations and practices of two affiliated household goods carriers: Two Guys Relocation Systems, Inc. and AAA Two Guys Will Move You, Inc. Also named as individual respondents are Kathleen, Donald and Scott Nutter. The respondents allegedly violated applicable regulations and are assertedly unfit to continue holding operating authority.

EX-6 **A96-03-051** - Disposition of application for rehearing of D97-11-019 filed by Simpson Ranch (Simpson). D97-11-019 authorizes the transfer of a 20 service connection water system by Pacific Gas and Electric Company (PG&E) to Placer County Water Agency. Applicant protested the transfer and now seeks rehearing of the decision authorizing it on the grounds that: no proposed decision was issued for comment; D97-11-019 contains numerous factual errors; and, D97-11-019 commits legal errors by failing to acknowledge and preserve the contractual relationship which Simpson contends that it had with PG&E and by failing to grant Simpson compensation as an intervenor in this proceeding.

EX-7 Discussion of the legal issues, including possible intervention, in Adler, et al. vs. Southern California Water Company (Los Angeles County Superior Court No. BC 169892) and related cases.

EX-8 **R95-04-043, I95-04-044** - Disposition of application for rehearing of D98-01-022 filed by INFONXX, Inc. seeking reconsideration of determination requiring competitive directory assistance service providers to pay Pacific Bell's tariffed rates for directory assistance database access.

FEDERAL SECTION ITEMS

- FEX-1** A monthly summary of recent developments in Federal Agency and Federal court Cases in which the California Public Utilities Commission is a party or has intervened.

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