
Public Utilities Commission of the State of California

***Public Agenda 2994
Thursday, June 4, 1998, 10 a.m.
San Francisco, 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> (1:30 p.m.) <i>Closed to the Public</i>	<i>Commission Meeting</i> (10 a.m.) <i>Open to the Public</i>
Monday, June 15 ✓	Thursday, June 18
Monday, June 29	Thursday, July 2
Monday, July 20	Thursday, July 23
Monday, August 3	Thursday, August 6

**Ratesetting Deliberative Meeting dates are reserved as noted but will only be held if there are ratesetting matters to be considered. A "✓" next to the date indicates that the meeting will be held.*

Matters of Public Interest

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

For further information contact the Public Advisor
(415) 703-2074 E-mail: 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 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-7, CA-10, 2

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-18850** - Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.
- CA-2** **I83-11-05 - Investigation on the Commission's own motion into the method of implementation of the Moore Universal Telephone Service Account.**
This General Order 153 changes proposed in this proceedings workshop shall be addressed in a new proceeding being established pursuant to Resolution T-16128, dated March 12, 1998. This proceeding is closed.
(Com Conlon - ALJ Galvin)
- CA-3** **A97-01-029 - San Diego Metropolitan Transit Development Board and City of San Diego.**
The decision denies the request of the applicants to construct an at-grade crossing of railroad tracks at Vine Street in the City of San Diego. This proceeding is closed.
(Com Neeper - ALJ Garde)
(Section 311)

- CA-4 A94-02-019 - Pacific Bell.**
For ex parte approval of an expedited certificate of public convenience and necessity process and waiver of certain process and waiver of certain rules governing technology tests and market trials. This application is dismissed as moot. This proceeding is closed.
(Com Bilas - ALJ Weismehl)
- CA-5 Res SU-47 -** This resolution amends Res SU-33 to allow California gas operators to install plastic pipe encased in plastic casing above ground level, internal to bridges structures.
- CA-6 Res SU-46 - Southern California Gas Company (SoCalGas).**
This resolution authorizes SoCalGas to deviate from General Order No. 112-E, Section 192.13(c), by allowing San Diego Gas & Electric Company to use their own operating procedures to operate specific sections of SoCalGas' natural gas pipeline No. 1026, in emergency situation.
(Advice Letter 2601, filed June 18, 1997)
- CA-7 (ECP) C97-08-060 - Reba Edwards vs. Pacific Bell.**
This decision finds insufficient evidence to support allegations of insufficient service and dismisses complaint. This proceeding is closed.
(Com Knight - ALJ Bushey)
- CA-8 A98-02-034 - Riverside County Transportation Commission (RCTC).**
This decision grants request of RCTC for authority to construct a pedestrian overcrossing above the main line tracks of The Burlington Northern and Santa Fe Railway Company at the West Corona Metrolink Station in Corona, Riverside County. This proceeding is closed.
(Exam Koss)
- CA-9 A97-01-020 - International Standards Group, Ltd (ISG) and Total National Telecommunications, Inc. (TNT).**
For approval of stock swap agreement between ISG and TNT. I96-04-024, A94-09-025 - Related matters. This decision determines that PU Code § 854 applies to stock swap agreements, but that applicant has abandoned application. This decision dismisses application without prejudice. This proceeding is closed.
(Com Neeper - ALJ Bushey)

- CA-10** **(ECP) C96-10-020 - Emma L. Jones vs. GTE California Incorporated.**
This complaint is dismissed as investigation reveals no incorrect billing by defendant. This proceeding is closed.
(Com Knight - ALJ Wright)
- CA-11** **I92-03-017 - Investigation on the Commission's own motion into identification and mitigation of local safety hazards on California's railroads. R93-10-002 - Related matter.**
This decision closes I92-03-017.
(Com Conlon - ALJ Ramsey)
- CA-12** **C96-11-006 - First Financial Network vs. Pacific Bell (Pacific).**
In a proceeding involving marginal reliance upon ostensible authority to contract for a Centrex system being exercised in the absence of the owner by an outside independent contractor affiliated with the complainant, where Pacific's "win-back" team took advantage of the situation to recommend and install an oversized system far beyond any reasonable potential for more than partial utilization, thereby incurring for complainant a very large obligation before the situation could be remedied, this decision scales back Pacific's claimed billing balance to a reasonable level based on Pacific's tariff at the remedial level plus actual usage charges, and orders a 12-month no interest payment schedule to be arranged to liquidate the reduced obligation. This proceeding is closed.
(Com Knight - ALJ Weiss)
- CA-13** **A90-07-015 - AT&T Communications of California, Inc.**
Application for additional regulatory flexibility. I85-11-013, A87-10-039 - Related matters.
This decision closes the three consolidated proceedings.
(Com Bilas - ALJ Reed)

CA-14 A96-10-038 - Pacific Enterprises (PE), Enova Corporation (Enova), Mineral Energy Company (MES), B Mineral Energy Sub and G Mineral Energy Sub.
For approval of a plan of merger of PE and Enova with and into B Energy Sub (Newco Pacific Sub) and G Energy Sub (Newco Enova Sub), the wholly-owned subsidiaries of a newly created holding company, MES. This decision grants the petition of PE and Enova to modify D98-03-073 to confirm that merger savings are to be refunded to ratepayers within 90 days after the final jurisdictional approval is received. This proceeding is closed. (Coms Neep/Duque - ALJ Barnett)

CA-15 Res TL-18848 - Antonio Luna and Jeffrey Rhodes dba Bay Area Shuttle (Carrier).
This resolution grants voluntary suspension of certain portions of the certificate of public convenience and necessity issued to carrier.
This item appeared as Res T-1 on the agenda distributed to the public.

CA-16 Res TL-18849 - Isam M. Alziq dba E-E Shuttle & Charter Service (Carrier).
This resolution grants voluntary suspension of the certificate of public convenience and necessity issued to carrier.
This item appeared as Res T-2 on the agenda distributed to the public.

REGULAR AGENDA

UTILITY AND TRANSPORTATION ORDERS

ORDERS HELD OVER

H-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)

(Agenda 2991, Item 1, 4/23/98; Req - Commission)

H-2 A96-08-058 - Wild Goose Storage, Inc. (Wild Goose).

For a certificate of public convenience and necessity (CPCN) to construct facilities for gas storage operations. In D97-06-091, the Commission granted Wild Goose a CPCN to construct a gas storage facility. This decision closes the proceeding by resolving the last two pending issues. A proposed policy statement that would set broad parameters for the allocation of costs related to future upgrades to Pacific Gas & Electric Company's system needed to serve the Wild Goose facilities is rejected. However, D97-06-091 is modified to relieve the company of its responsibility to file a cost justification for the lower end of its tariffed rates. This proceeding is closed.

(Com Conlon - ALJ Weissman)

(Agenda 2993, Item CA-10, 5/21/98; Req - Commission)

H-2a ALTERNATE ORDER TO ITEM H-2. This alternate further clarifies that Wild Goose Storage, Inc. is not required to cost justify its rates.

(Com Knight)

This item was not listed on the agenda distributed to the public.

- H-3** **R95-04-043 - Order instituting rulemaking on the Commission's own motion into competition for local service. 195-04-044 - Related matter.**
- (Rev.)** This decision approves phased relief from number exhaustion for the 619 area code. Under the adopted policy, identified as Alternative 11, the existing 619 Numbering Plan Area (NPA) will be first split on June 12, 1999, with the East Region receiving a new area code and the North and Central Regions retaining the 619 area code. On January 1, 2001, an overlay will be implemented in the North and Central Regions, bringing a new area code to the remaining 619 NPA. This decision also adopts an official permissive 1+10 digit dialing period in the overlay region beginning January 1, 2000, and mandatory 1+10 digit dialing beginning October 1, 2000. (Com Conlon - ALJ Pulsifer)
(Agenda 2990, Item 9, 4/9/98; Agenda 2993, Item H-1, 5/21/98; Req - Commission)
This revision was not listed on the agenda distributed to the public.
- H-3a** **ALTERNATE ORDER TO ITEM H-3.** This alternate provisionally approves a three-way geographic split of the 619 Numbering Plan Area and orders the California-Nevada Code Administrator to present a combination split-overlay proposal (Alternative 11) to the public and local jurisdictions, and directs the Assigned Administrative Law Judge to immediately issue a ruling soliciting comments on the feasibility of Alternative 11 and offer a proposed decision for Commission consideration at the earliest possible Commission meeting.
(Com Neeper)
(Agenda 2990, Item 9a, 4/9/98; Agenda 2993, Item H-1a, 5/21/98; Req - Commission)
- H-3b** **ALTERNATE ORDER TO ITEM H-3.** This alternate order approves a three-way geographic split for the 619 area code to relieve impending NXX code exhaustion. Under the adopted policy, (identified as Alternative 10A), the existing 619 Numbering Plan Area will be split into three separate regions, designated as North, Central, and East, as depicted on the map in Appendix A. The Central Region, which includes downtown San Diego, will retain the existing 619 area code. The newly created North and East areas will each receive a new area code. This relief plan will be the first three-way split implemented within California.
- (Rev.)** (Coms Bilas/Knight)
This item was not listed on the agenda distributed to the public.
This revision was not listed on the agenda distributed to the public.

H-4 **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; Agenda 2991, Item H-2, 4/23/98; Agenda 2992, Item H-2, 5/7/98; Agenda 2993, Item H-3, 5/21/98; Req - Commission)

H-4a **ALTERNATE ORDER TO ITEM H-4.** This alternate order 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 seeks comments on two proposals: 1) the reasonableness of allowing both methods of Competition Transition Charge calculation to be used and 2) the potential for further segmentation of load profiles. This order also grants the petition to modify D.97-08-056 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.
(Com Knight)
This item was not listed on the agenda distributed to the public.

H-5 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; Agenda 2991, Item H-3, 4/23/98; Agenda 2992, Item H-3, 5/7/98; Agenda 2993, Item H-4, 5/21/98; Req - Commission)

H-6 A97-07-030 - Pacific Gas and Electric Company (PG&E).

This decision conditionally grants the application PG&E for approval of an agreement to sell a portion of its distribution and transmission system to Modesto Irrigation District. This decision also approves the application with the condition that PG&E allocate to its ratepayers 75% of the gains from the sale of facilities and that the parties remove from the agreement provisions which would restrict competition between them for 25 years.

(Com Conlon - ALJ Malcolm)

(Section 311)

(Agenda 2992, Item 1, 5/7/98; Agenda 2993, Item H-5, 5/21/98; Req - Commission)

H-6a ALTERNATE ORDER TO ITEM H-6. This alternate order would deny the application of Pacific Gas and Electric Company for approval of an agreement to sell a portion of its distribution and transmission system to Modesto Irrigation District, because the agreement would restrict competition.

(Com Neeper)

(Agenda 2992, Item 1a, 5/7/98; Agenda 2993, Item H-5a, 5/21/98; Req - Commission)

H-6b **ALTERNATE ORDER TO ITEM H-6.** This alternate order conditionally grants the application of Pacific Gas and Electric Company (PG&E) for approval of an agreement to sell a portion of its distribution system to Modesto Irrigation District (MID) provided that; 1) the gain-on-sale is allocated 50% to ratepayers and 50% to shareholders if PG&E requests and the Commission approves a modification of D97-09-047 to ensure that there is a symmetrical assignment of risks. Otherwise 75% of the gain-on-sale would be allocated to ratepayers; 2) PG&E shorten the duration and make other modifications to its Second Service Agreement with MID and 3) PG&E ensures that its customers who are being transferred to MID enjoy a comparable level of direct access opportunities that they would have enjoyed had they remained with PG&E. The proceeding shall remain open.
(Coms Bilas/Conlon)
(Agenda 2993, Item H-5b, 5/21/98; Req - Commission)

H-7 **A97-09-009 - California Water Service Company (CWS).**
For an order authorizing it to increase rates charged for water service in the South San Francisco district. A97-09-010, A97-09-011, A97-09-014 - Related matters. This decision authorizes general rate increases for CWS's Marysville, Oroville, Selma, and South San Francisco Districts. These proceedings are closed.
(Com Bilas - ALJ Garde)
(Section 311)
(Agenda 2992, Item 3, 5/7/98; Agenda 2993, Item H-6, 5/21/98; Req - Commission)

H-8 **A97-07-015 - Southwest Gas Corporation (Southwest).**
This decision dismisses the application of Southwest to modify D95-04-075 and applicant is ordered to proceed with all deliberate speed to fulfill its obligations set forth in D95-04-075 and D94-12-022. This proceeding is closed.
(Com Duque - ALJ Wright)
(Agenda 2992, Item 6, 5/7/98; Agenda 2993, Item H-7, 5/21/98; Req - Commission)

- H-9** **A97-12-005 - Pacific Gas and Electric Company (PG&E).**
This decision grants conditional authority to PG&E to use natural gas-based financial instruments to manage the impact of natural gas prices on the cost of electricity purchased pursuant to existing power purchase contracts. This authority ends no later than December 31, 1999. This proceeding is closed.
(Com Conlon - ALJ Minkin)
(Agenda 2993, Item 4, 5/21/98; Req - Commission)
- H-9a (Rev.)** **ALTERNATE ORDER TO ITEM H-9.** This order would amend the decision to allow Pacific Gas and Electric Company to enter into derivative transactions that expire no later than December 31, 2001.
(Com Neeper)
This item was not listed on the agenda distributed to the public.
This revision was not listed on the agenda distributed to the public.
- H-10** **A97-08-015 - Southern California Edison Company (Edison).**
This decision grants the application of Edison for *ex parte* approval of a proposed settlement of certain disputes through the amendment of four firm-capacity power purchase agreements (PPAs) based on Interim Standard Offer No. 4. The PPAs relate to wind energy small power production facilities located in Riverside County near Palm Springs, California (Projects). The disputes concern a provision in the PPAs providing Edison the right to require the Projects to demonstrate annually the ability to deliver contract capacity. This proceeding is closed.
(Com Conlon - ALJ Patrick)
(Agenda 2993, Item 12, 5/21/98; Req - Commission)

ORDERS

- 1 A96-11-046 - Southern California Edison Company (Edison).**
This decision approves application of Edison for authority, pursuant to Public Utilities Code Section 851, to sell the Ormond Beach plant to Houston Industries Power Generation, Inc. (HIPG), and the terms and conditions of the sale, including a condition that Edison sell an additional 50 acres of real property adjacent to the Cool Water generating station previously sold by Edison to HIPG. This proceeding is closed.
(Coms Bilas/Conlon - ALJ Careaga)

- 2 I96-10-034 - Order instituting investigation and order to show cause into whether the passenger stage certificate of Khalil Homeidan, Farahat Abdelmalek, Edward Chernyak and Fira Chernyak, a partnership doing business as AIRTRANS EXPRESS (Respondents) should not be revoked.**
This decision, in light of Respondents', continued actions and practices demonstrating that they are neither willing nor capable of operating a passenger stage shuttle van operation in compliance with the provisions and requirements of the PU Code, the Cal. Veh. Code, Airport Rules, or Commission orders and General Orders, coupled with their failure to fully pay the fine ordered by D95-01-034 for prior transgressions in I93-09-003, or to have complied with provisions of the two years probation imposed by D95-01-034, revokes and annuls their Passenger Stage Certificate PSC 6369, and orders them to cease and desist from further operations within seven days of the date of the order. This proceeding is closed.
(Com Duque - ALJ Weiss)
(Section 311)
(SB 960 Experiment: Adjudicatory Category)

- 3** **R94-04-0431 - 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 addresses the issue of whether Southern California Edison Company (Edison) should implement a sales revenue adjustment to account for the conservation effects of demand-side management programs, as directed by D96-09-092. This decision finds that subsequent Commission decisions and policies have superseded D96-09-092 with regard to the applicability of a conservation adjustment mechanism in a restructured electric industry. This decision denies Edison's request for approval of Advice Letter (AL) 1246-E, which presents Edison's recommended methodology for the conservation adjustment mechanism. In addition, this decision modifies D97-10-057 to clarify that the elimination of Electric Revenue Adjustment Mechanism (ERAM) accounts ordered therein applies to Edison's existing ERAM, including the conservation adjustment authorized but not yet implemented as of the date of that order. This decision also makes moot the issue of whether to include the conservation adjustment in the Streamlining Residual Account, as requested by Edison in Advice Letter (AL) 1255-E-A.
(Com Neeper - ALJ Gottstein)
- 4** **A97-06-025 - Southern California Gas Company (SoCalGas).**
This decision awards \$10,764,024 to SoCalGas for savings it realized under the Gas Cost Incentive Mechanism and the Procurement Incentive Mechanism and The Storage Incentive Mechanism thereunder. This proceeding is closed.
(Com Bilas - ALJ Careaga)
- 5** **A97-03-052 - California-American Water Company.**
For a certificate that the present and future public convenience and necessity requires applicant to construct and operate the 24,000 acre foot Carmel River Dam and Reservoir in its Monterey Division and to recover all present and future costs in connection therewith in rates. Interim decision resolves appeal by Alliance of Citizens with Water Alternatives of ALJ's ruling regarding its notice of intent to claim compensation.
(Com Duque - ALJ Kotz)

- 6** **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 directs Southern California Edison Company, PG&E, and San Diego Gas & Electric Company to modify the language in their customers' bills which describes the Trust Transfer Amount.
(Coms Conlon/Duque - ALJ Malcolm)

UTILITIES RESOLUTIONS***ENERGY MATTERS***

- E-1 Res E-3536 - Southern California Edison Company (Edison).**
This resolution approves with modifications Edison's request for approval of its 1998 hydroelectric generation revenue requirement.
(Advice Letter 1277-E, filed December 23, 1997)
(Agenda 2993, Item E-1, 5/21/98; Req - Commission)
- E-2 Res E-3539 - Southern California Edison Company (Edison).**
Edison transmits its affiliate transactions compliance plan in accordance with Ordering Paragraph (OP 2) of D97-12-088. Edison's compliance plans were effective upon filing. This resolution rejects portions of Edison's filings and approves other portions. Edison is ordered to file a new Advice Letter to comply with OP 2 of the Decision.
(Advice Letter (AL) 1278-E, filed December 31, 1997 and AL 1278-E-A, filed January 30, 1998)
(Agenda 2993, Item E-2, 5/21/98; Req - Commission)
- E-3 Res E-3538 - Pacific Gas and Electric Company (PG&E), Southern California Edison Company (Edison), and San Diego Gas & Electric (SDG&E).**
This resolution approves with modifications PG&E, Edison, and SDG&E's request for approval of transition cost balancing account tariffs and several memorandum accounts in compliance with D97-06-060, D97-11-074, D97-12-039. In addition, pursuant to D97-12-096, PG&E's request for approval of must run hydroelectric/goothermal memorandum account.
(Advice Letters (AL) 1720-E (PG&E), 1275-E (Edison), 1061-E (SDG&E), filed December 15, 1997. In addition by AL 1723-E (PG&E), filed December 22, 1997 and supplemented by ALs 1723-E-A and 1723-E-B on December 31, 1997 and January 30, 1998, respectively)
(Agenda 2993, Item E-3, 5/21/98; Req - Commission)
- E-3a ALTERNATE RESOLUTION TO RES E-3.** This resolution grants Southern California Edison Company a memorandum account to calculate the net effect that the use of jurisdictional allocation factors may have upon their revenue requirement.
(Com Conlon)
This item was not listed on the agenda distributed to the public.

E-4

Res E-3531 - Pacific Gas and Electric Company (PG&E).

This resolution denies PG&E's request to add a special condition to Schedule E-Exempt that would allow electric customers who select certain irrigation districts as their energy service provider and who take direct access service from PG&E, to be exempt from paying the competition transition charge.

(Advice Letter 1738-E, filed January 29, 1998)

(Agenda 2993, Item E-4, 5/21/98; Req - Commission)

TELECOMMUNICATIONS MATTERS

C-1

Res T-16148 - Pacific Bell (Pacific).

This resolution approves provisionally with conditions Pacific's request to offer anonymous call rejection service.

(Advice Letter (AL) 19265, filed February 11, 1998, as supplemented by AL 19265A, filed February 26, 1998, as supplemented by AL 19265B, filed March 10, 1998)

(Agenda 2993, Item C-1, 5/21/98; Req - Commission)

RAIL SAFETY AND CARRIERS RESOLUTIONS

- T-1** Moved to CA-15 on the Consent Agenda.
This revision was not listed on the agenda distributed to the public.
- T-2** Moved to CA-16 on the Consent Agenda.
This revision was not listed on the agenda distributed to the public.

ADMINISTRATIVE LAW JUDGE DIVISION RESOLUTIONS

HALJ-1 **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). (Agenda 2991, Item ALJ-2, 4/23/98; Agenda 2993, Item HALJ-1, 5/21/98; Req - Commission)

ALJ-1 **Res ALJ-176-2994** - 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.)

LEGAL DIVISION MATTERS

LEGISLATIVE MATTERS

- HLEG-1** H.R. 1401 (Thomas) as introduced on April 17, 1997. Would amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind. S.1459 (Grassley) as introduced November 8, 1997. Would amend the Internal Revenue Code of 1986 to provide a 5-year extension of the credit for producing electricity from wind and closed-loop biomass.
(Agenda 2990, Item LEG-10, 4/9/98; Agenda 2992, Item HLEG-1, 5/7/98; Agenda 2993, Item HLEG-1, 5/21/98; Req - Commission)
- HLEG-2** 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; Agenda 2991, Item HLEG-6, 4/23/98; Agenda 2992, Item HLEG-5, 5/7/98; Agenda 2993, Item HLEG-2, 5/21/98; Req - Commission)
- HLEG-3** 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; Agenda 2991, Item HLEG-7, 4/23/98; Agenda 2992, Item HLEG-6, 5/7/98; Agenda 2993, Item HLEG-3, 5/21/98; Req - Commission)
- HLEG-4** 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.
(Agenda 2991, Item LEG-1, 4/23/98; Agenda 2992, Item HLEG-8, 5/7/98; Agenda 2993, Item HLEG-4, 5/21/98; Req - Commission)

- HLEG-5** SB 2038 Technological Infrastructure (Polanco) amended on April 23, 1998. Would create an Interagency Commission on Technological Infrastructure for the 21st Century.
(Agenda 2991, Item LEG-2, 4/23/98; Agenda 2992, Item HLEG-9, 5/7/98; Agenda 2993, Item HLEG-5, 5/21/98; Req - Commission)
- HLEG-6** AB 2728 (Martinez), as amended. Would amend Public Utilities Code Section 453 to require the Commission to administer and develop consumer education or information programs.
(Agenda 2992, Item LEG-2, 5/7/98; Agenda 2993, Item HLEG-6, 5/21/98; Req - Commission)
- LEG-1** SB 2103 (Haynes), as amended May 19, 1998. Would add Section 13557 to the Water Code regarding establishment of rates for recycled water and resolution of disputes.
This item was not listed on the agenda distributed to the public.

RESOLUTIONS AND MEMORANDUMS

- L-1** **Res L-270** - The plaintiff in a personal injury lawsuit has subpoenaed the Commission for the financial records of Kurz Truck Service, Inc. (T-074962), and Jeff Kurz dba Jeff Kurz Trucking (T-182638), the defendant at trial. The presiding court has awarded plaintiff a money judgment against the defendant exceeding \$1 million, and plaintiff is seeking the requested data for purposes of satisfying her judgment from the defendant's business assets. California Public Utilities Code section 583 and General Order 66-C prohibit disclosure of data provided to the Commission by a regulated carrier, unless officially authorized by the Commission. The California Public Records Act (California Government Code section 6250 et seq.) and Commission decisions favor disclosure of Commission records where public interest in disclosure outweigh interests to the contrary. *See e.g., San Diego Gas and Electric Co., for Rehearing of Resolution L-240* (1993), 49 CPUC 2d 241. In this case, Commission staff recommends disclosure. The public interest in disclosure is that a regulated carrier found legally liable for an automobile accident causing serious physical and emotional injuries to another person, should be held accountable. Little if any countervailing interests appear to outweigh this societal interest. For example, if the records in question were not released, this could thwart plaintiff's efforts to satisfy her judgment against the carrier and consequently abet the carrier's resistance thereto.

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

DIRECTORS' REPORTS

Lynn T. Carew, Chief
Administrative Law Judge Division

Paul Clanon, Director
Energy Division

Jack Leutza, Director
Telecommunications Division

- Report on G.O. 153 Workshops

Dean J. Evans, Director
Water Division

- Status Report on Water Contamination OII
- Report: Effects of El Nino on water supply

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 **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; Agenda 2991, Item HEX-2, 4/23/98; Agenda 2992, Item HEX-1, 5/7/98; Req - Commission)

HEX-2 **R95-04-043, I95-04-044** - Disposition of application for rehearing of D98-01-022 filed by Pacific Bell seeking rehearing of order requiring Pacific Bell and GTE California Incorporated to establish memorandum accounts to track billings for directory assistance services.

(Agenda 2992, Item EX-5, 5/7/98; Req - Commission)

HEX-3 **A97-05-011, A97-06-046, A97-07-005, A97-08-064** - Disposition of

applications for rehearing of D97-12-093 filed by Sierra Pacific Power Corporation and PacifiCorp. D97-12-093 addresses the application of AB 1890 to smaller and multi-jurisdictional utilities including such matters as direct access, bill unbundling, transition cost recovery, the operation of transmission and public purpose programs. The applications allege a number of errors including claims that rates are unreasonable and that AB 1890 and/or D97-12-093 do not meet constitutional requirements relating to confiscation and equal protection.

(Agenda 2992, Item EX-7, 5/7/98; Agenda 2993, Item HEX-1, 5/21/98; Req - Commission)

HEX-4 **A95-05-030** - Disposition of application for rehearing of D96-12-074 filed by Roseville Telephone Company (Roseville). The application contends that the decision does not present adequate information to calculate the rates adopted by the Commission, thus denying Roseville due process, and that certain findings of fact are in error.

(Agenda 2992, Item EX-8, 5/7/98; Agenda 2993, Item HEX-2, 5/21/98; Req - Commission)

HEX-5 **C95-08-039** - Disposition of application for rehearing of D97-11-029 filed by Pacific Bell. D97-11-029 resolved the complaint of Bayside Village et al. 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 2992, Item EX-9, 5/7/98; Agenda 2993, Item HEX-3, 5/21/98; Req - Commission)

HEX-6 **C96-01-016** - Disposition of application for rehearing of D97-11-069 filed by Pacific Bell. D97-11-069 resolved the complaint of Vista Montana Apartments. 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 2992, Item EX-10, 5/7/98; Agenda 2993, Item HEX-4, 5/21/98; Req - Commission)

- HEX-7** **C95-11-021** - Disposition of application for rehearing of D97-11-068 filed by Pacific Bell. D97-11-068 resolved the complaint of Ted Diethofer. 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 2992, Item EX-11, 5/7/98; Agenda 2993, Item HEX-5, 5/21/98; Req - Commission)
- HEX-8** **I92-03-052** - Disposes of Applications for Rehearing of D95-06-053 filed by Pacific Bell and GTE California, Inc. (State Board of Equalization property tax settlement and Z factor treatment). Also disposes of Petition to Set Aside Submission by GTEC.
(Agenda 2993, Item EX-4, 5/21/98; Req - Commission)
- HEX-9** **A95-12-043** - Disposition of application for rehearing of D97-12-012 filed by Utility Consumers' Action Network (UCAN). The Decision adopts a lesser award than that sought by UCAN as compensation for its contribution to D97-03-021. UCAN alleges that D97-12-012 contains legal and factual errors, specifically in its determination that UCAN's contributions to the decision were substantially duplicated by other parties and were out of proportion to the impact of this proceeding on most residential ratepayers.
(Agenda 2993, Item EX-5, 5/21/98; 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** 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-4** **A97-02-003** - Disposition of application for rehearing of D98-03-075, filed by Pacific Bell (Pacific). In D98-03-075, the Commission approved the final Conformed Paging Interconnection Agreement (Agreement) between Pacific and Cook Telecom, Inc. (Cook). Pacific alleges that the Agreement unlawfully orders Pacific to pay termination compensation to Cook in violation of the Telecommunications Act of 1996 (Act) and FCC's Regulations. Pacific also argues that it would not be discriminatory nor against public policy as set forth in the Act to deny reciprocal compensation to one-way paging providers.
- EX-5** **I93-12-007** - Disposes of applications for rehearing of D95-10-032 filed by Cellular Carriers Association of California, and AirTouch Cellular and its affiliates (Commercial Mobile Radio Service: certificates of public convenience & necessity and transfer of control).
- EX-6** **R96-11-004** - Disposition of the application for rehearing of D98-03-036 filed by the California Municipal Utilities Association, with response in support filed by the City and County of San Francisco. The California Municipal Utilities Association challenges the Commission's jurisdiction to impose on publicly-owned utilities distribution facility maintenance and inspection standards initially proposed for investor-owned utilities in D97-03-070.

EX-7

A96-03-031, A96-04-030 - Disposition of applications for rehearing of D97-04-082, filed by the City of Long Beach (Long Beach) and The Utility Reform Network (TURN). Long Beach claims legal error on the ground that D97-04-042 retroactively eliminates the core cap for Long Beach and changes the allocation of the Interstate Transition Cost Surcharge. TURN argues that D97-04-082: (1) results in the allocation of most surcharges to the core and all benefits to noncore, and thus, the decision is arbitrary, unduly discriminatory, and unsupported by either the record or past Commission decisions; (2) is arbitrary and violates Public Utilities Code Section 451 because it fails to require tracking of excess core procurement costs; and (3) adopts a core storage withdrawal reservation which is inconsistent with the record and within the decision itself.

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.

FEX-2 FERC Docket No. ER98-210-000, Application of the California Power Exchange Corporation for Authorization of an Administrative Charge.

CLOSED SESSION - INTERNAL AGENDA

IMPORTANT NOTICE

The Closed Session - Internal Agenda is NOT mailed or available to the public. It is only distributed internally within the Commission. The contents of the Internal Agenda, the memoranda or discussion relating to these matters shall not be disclosed to anyone outside the Commission.

**SUBSCRIPTION NOTICE FOR AGENDA
AND
DRAFT AGENDA ITEMS**

If you wish to subscribe to the *agenda*, please send your request with a check payable to the Public Utilities Commission; Attention: Poly Arca, Room 1003; 505 Van Ness Avenue; San Francisco, CA 94102; or by calling (415) 703-1798. The cost for a one-year subscription to the agenda is \$75.

If you wish to receive *draft agenda items*, please send your request with a check payable to the Public Utilities Commission; Attention: Poly Arca, Room 1003; 505 Van Ness Avenue; San Francisco, CA 94102; or by calling (415) 703-1798. The cost for a one-year subscription to the entire public agenda package (which excludes Executive session materials) is \$1000. The cost for energy agenda items only or telecommunication agenda items only is \$500 per year. The package you receive via mail will include only those agenda items available at the time of the agenda distribution date, which is usually 10 to 12 days prior to the Commission meeting. If agenda items (including revisions) are not ready on the distribution date, they will be made available at no charge in the lobby outside the Commission Auditorium at 9:00 a.m. on the morning of the Commission meeting, but not earlier. In addition, the Commission will make draft agenda items available for viewing and photocopying (at 20 cents per page) at the Commission's Central Files Office (Room 2002), 505 Van Ness Avenue, San Francisco, and in the Commission offices in Los Angeles, San Diego, and the following field offices: El Centro, Eureka, Sacramento, and San Bernardino. Since the agenda package will be mailed to these locations, it will be available at these locations a day or two after the distribution date. These locations will not receive agenda items that are not ready on the distribution date.

Those intervenors who have financial hardship determination pending or granted shall be eligible to receive draft agenda item packets at no charge.