

Public Utilities Commission of the State of California

***Public Agenda 3001
Thursday, October 8, 1998, 11 a.m.
Laguna Hills, 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
505 Van Ness Avenue, San Francisco**

<i>Ratesetting Deliberative Meeting*</i> Room 5305 (1:30 p.m.) <i>Closed to the Public</i>	<i>Commission Meeting</i> Auditorium (10 a.m.) <i>Open to the Public</i>
✓ Monday, October 5	Thursday, October 8**
Monday, October 19	Thursday, October 22
Monday, November 2	Thursday, November 5
Monday, November 16	Thursday, November 19

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

***Open Forum/Town Hall Meeting with Commissioners 10 a.m. - 11 a.m.: Commission Meeting begins at 11 a.m. at the Leisure World, Club House 3, 23822 Avenida Savilla, Laguna Hills, CA 92653*

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
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PUBLIC COMMENT

The following items are not subject to public comment:

- All items on the closed session agenda; these are HEX and EX items.
- 3

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

- CA-1** **Res TL-18865** - Resolution approving issuance of charter-party carrier certificates pursuant to Section 5374(b) of the Public Utilities Code.
- CA-2** **Res T-16201 - GTE California (GTEC).**
This resolution approves two interconnection agreements between GTEC and Frontier Local Services, and between GTEC and Computer Business Sciences, Inc. submitted under provisions of ALJ-174 and G.O. 96-A. (Advice Letter (AL) 8793, filed August 3, 1998, and AL 8802, filed August 12, 1998)
- CA-3** **A98-03-037 - Matrix Telecom, Inc. (Matrix) and AvTel Communications, Inc. (AvTel).**
This decision grants joint application of Matrix and AvTel to exchange 100% of stock of Matrix for 80% of outstanding stock of AvTel, so that Matrix becomes a wholly owned subsidiary of AvTel. Matrix will continue to provide services as an interLATA reseller. Matrix will continue to provide services under the authority granted it in D90-12-062 under the same corporate identity number, U-5227-C, and under its tariffs currently on file. This proceeding is closed.
(Com Knight - ALJ Ramsey)

- CA-4 A97-05-016 - Pacific Gas and Electric Company (PG&E).**
For authority to establish its authorized rate of return on common equity, establish its authorized capital structure, and establish its overall rate of return for calendar year 1998. The petition for modification of D97-12-089 filed by Ron Knecht, and Ray Czahar, interested parties, is denied. This proceeding is closed.
(Com Bilas - ALJ Wright)
- CA-5 A97-10-014 - Pacific Gas and Electric Company (PG&E).**
For recovery of 1996 non-nuclear generation capital additions costs. A97-10-015, A97-10-024 - Related matters. This decision grants James Weil an award of \$18,487.78 in compensation for his contribution to D98-05-059. A97-10-014 is closed.
(Coms Conlon/Bilas - ALJ Malcolm)
- CA-6 Res SX-17 - Sacramento Regional Transit District (District).**
This resolution authorizes the District to deviate from Section 7.08 of General Order 143-A, and construct one private at-grade crossing without the installation of automatic warning devices across the Sacramento-Placerville Transportation Joint Powers Authority Folsom Line (milepost 10.64) and Placerville Branch Line (milepost 100.4), in Sacramento County.
- CA-7 A97-06-002 - Pacific Gas and Electric Company (PG&E) and Richard L. Wills and Donna M. Wills (buyers).**
This decision authorizes PG&E to sell and transfer two undeveloped parcels of land in Fremont, Alameda County, to buyers pursuant to Public Utilities Code Section 851. This proceeding is closed.
(Com Bilas - ALJ Wright)
- CA-8 C97-07-007 - INFONXX, Inc. (INFONXX) vs. Pacific Bell (Pacific).**
This decision affirms D98-01-022, as upheld by D98-04-071, and hold that INFONXX which is not a telecommunications carrier, should not obtain access to Pacific's directory assistance database at the same prices as such access is being offered under MCI Metro Access Transmission Services, Inc.'s interconnection agreement or identical interconnection agreements. This complaint is dismissed. This proceeding is closed.
(Com Bilas - ALJ Reed)

- CA-9** **A98-03-002 - Quintelco, Inc.**
This decision grants applicant a certificate of public convenience and necessity to resell local exchange service. This proceeding is closed.
(Com Knight - ALJ O'Donnell)
- CA-10** **Res O-0028 - Pacific Pipeline System Inc. (PPSI).**
This resolution grants PPSI's request for approval of its market based tariff and rates on its new 130 mile crude oil pipeline which extends from Emidio, in Southern Kern County to various refinery destinations in the Los Angeles Basin.
(Advice Letter 1, filed July 7, 1998)
- CA-11** Moved to Item 13 on the agenda.
(Rev.) [This revision was not listed on the agenda distributed to the public.](#)
- CA-12** **Res T-16202 - Pacific Bell (Pacific).**
This resolution approves one Interconnection Agreement between Pacific and Cable Plus Company L.P., and one Resale Agreement between Pacific and TGEC Communications Company L.L.C. submitted under provisions of Resolution ALJ-174 and G.O. 96-A.
(Advice Letter (AL) 19603, filed August 5, 1998, and AL 19569, filed July 20, 1998, respectively)
- CA-13** **A97-04-043 - Pacific Gas and Electric Company (PG&E).**
This decision grants PG&E a permit to construct an electric substation to be known as the Vasona Substation located in the vicinity of Winchester Boulevard and Lark Avenue in the Town of Los Gatos (Town). The permit is granted subject to PG&E undertaking certain mitigation measures as set forth in the decision. Since the substation is needed to meet the Town's 1999 summer load, PG&E is authorized to immediately commence construction. The issue regarding undergrounding the existing Metcalf-Monta Vista 230 kV transmission line in the area surrounding the proposed substation is reserved for a later phase of this proceeding.
(Com Bilas - ALJ Patrick)
(Section 311)

- CA-14 Res E-3564 - Southern California Edison Company (SCE).**
This resolution approves SCE's request to establish the Santa Catalina Island Diesel Fuel memorandum account.
(Advice Letter (AL) 1316-E, filed May 13, 1998 and AL 1316-E-A, filed June 22, 1998)
- CA-15 Res W-4116 - Del Oro Water Company, Paradise Pines District (DOWCPP).**
This resolution rejects DOWCPP's request to continue its current surcharge of \$0.244 per CCF for purchased water.
(Advice Letter 81, filed June 25, 1998)
- CA-16 Res T-16200 - Pacific Bell (Pacific).**
This resolution approves an Interconnection Agreement between Pacific and One Stop Cellular and Paging, submitted under provisions of Resolution ALJ-174 and G.O. 96-A.
(Advice Letter 19571, filed July 23, 1998)
- CA-17 Res T-16199 - GTE California (GTEC).**
This resolution approves an Interconnection Agreement between GTEC and AirTouch Paging of California, submitted under provisions of Resolution ALJ-174 and G.O. 96-A.
(Advice Letter 8798, filed August 6, 1998)
- CA-18 Res E-3569 - Southern California Water Company (SCWC).**
This resolution approves SCWC's request for exemption from the affiliate transaction rules and from filing an affiliate compliance plan.
(Advice Letter 170-E, filed December 31, 1997)
- CA-19 Res E-3568 - Mountain Utilities (previously Kirkwood Gas and Electric Company).**
This resolution approves Mountain Utilities' request for exemption from the affiliate transaction rules and from filing an affiliate compliance plan.
(Advice Letter 3, filed December 31, 1997)

- CA-20** **A97-03-045 - Southern California Gas Company and Southern California Edison Company.**
(Rev.) For approval of demand-side management pilot bidding contract. Since SESCO, Inc has not timely notified the Commission of a desire for evidentiary hearing on the cost-effectiveness issues, this proceeding is closed.
 (Com Neeper - ALJ Patrick)
 [This revision was not listed on the agenda distributed to the public.](#)
- CA-21** **Res T-16203 - J3 Communications, Inc. (J3).**
 This resolution revokes the certificate of public convenience and necessity of J3, which has ceased operations and cannot be found.
- CA-22** **Res T-16205 - Pacific Bell.**
 This resolution grants permanent authority to make changes to tariffed product names effective on 5 day notice. This authority does not apply to other changes such as rates, charges, terms or conditions of such products and services.
 (Advice Letter 19597, filed August 3, 1998)
- CA-23** **A98-04-047 - Alameda Corridor Transportation Authority (ACTA).**
 This decision grants ACTA's request to construct the Alameda Corridor's Redondo Junction Grade Separation Flyover structure over various railroad tracks and city streets in the vicinity of the Los Angeles River, in Los Angeles, Los Angeles County. This proceeding is closed.
 (Exam Koss)
- CA-24** **A98-06-040 - City of Lake Forest (City).**
 This decision grants City's request for authority to construct a new pedestrian undercrossing at separated grades under the tracks of Southern California Regional Rail Authority's Orange Subdivision main line, as an addition to the existing Ridge Route Drive vehicular grade separation underpass, in Lake Forest, Orange County. This proceeding is closed.
 (Exam Koss)

- CA-25** **A96-07-015 - Southern California Water Company (SWC).**
This decision grants SWC's petition for modification of D96-09-059 to extend the period authorization to December 31, 2001. This proceeding is closed.
(Exam Evans)
- CA-26** **C97-04-065 - Southern California Edison Company (Edison) vs. California Cable Television Association.**
Complaint of Edison against CCTA is dismissed for failure to state a cause of action. This proceeding is closed.
(Com Duque - ALJ Wright)
- CA-27** **Res E-3567 - Pacific Gas and Electric Company (PG&E).**
This resolution approves PG&E's request for a deviation from the undergrounding requirements of Public Utilities Code Section 320. The proposed site is along State Highway 12 in Sonoma County near Cohn Winery.
- CA-28** **Res E-3529 - Pacific Gas and Electric Company (PG&E).**
This resolution approves PG&E's request to establish three new energy efficiency and public purpose balancing accounts and authorized electric Low-Income Direct Assistance Program funding.
(Advice Letter 1724-E/2059-G, filed January 6, 1998)
- CA-29** **A92-07-008 - GTE West Coast Incorporated (GTEWC).**
This decision dismisses as moot the radiotelephone utility (RTU) interconnection tariff filed by GTEWC in response to D92-01-016. The decision concludes that, like similar applications filed by Pacific Bell, Contel of California, Inc. and GTE California Incorporated that were dismissed in D98-05-011, D98-08-022 and D98-08-023, respectively, GTEWC's RTU interconnection tariff should be dismissed because it has been rendered moot twice. It was first rendered moot by developments in the Open Access Network Architecture Development docket (R93-04-003/I93-04-002), and then by the interconnection agreements negotiated pursuant to the provisions of the Telecommunications Act of 1996. This proceeding is closed.
(Com Bilas - ALJ McKenzie)

- CA-30 A92-12-005 - Paging Systems, Inc.**
This decision dismisses the instant application for lack of jurisdiction. The decision concludes that by virtue of § 234(b) of the Public Utilities (PU) Code, which became effective on January 1, 1996, this Commission no longer has jurisdiction over the one-way paging sites covered by the application. Further, since the two-way paging sites included within the application are not interconnected with the “public switched network”, as that term is used in the Communications Act, the services provided from those sites are considered “private” mobile radio services, over which -- unlike “commercial” mobile radio services -- the States do not retain any siting jurisdiction pursuant to § 332(c)(3)(A) of the Communications Act. Because the Commission is free under PU Code § 247 to give effect to this federal preemption over the siting of facilities for private mobile radio services, this means that we also lack jurisdiction over the two-way paging sites covered by the application. Accordingly, the Commission lacks jurisdiction over the siting of any of the facilities covered by the application (as amended), and dismissal is appropriate. This proceeding is closed.
(Com Bilas - ALJ McKenzie)
- CA-31 A98-08-042 - The Washington Water Power Company (WWPC).**
This decision grants WWPC authority to issue up to 2,000,000 shares of a new series of its Preferred Stock, Convertible Series L, in exchange for up to 20,000,000 shares of Common Stock (with Mandatory Conversion and Optional Conversion).
This proceeding is closed.
(Exam Evans)
- CA-32 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 the petition to modify D97-05-039 filed on May 4, 1998 by School Project for Utility Rate Reduction and Regional Energy Management Coalition (jointly, SPURR/REMAC) to permit customers who do not purchase electric service from utility competitors to have the choice of subscribing to metering services of utility competitors. We grant a related proposal filed by San Diego Gas & Electric, SPURR/REMAC, Cellnet, Itron, Southern California Edison Company, Pacific Gas & Electric Company, and Coalition of California Utility Employees.
(Com Duque - ALJ Malcolm)

CA-33

A98-05-040 - Southern California Edison Company (Edison).

This decision approves the terms and conditions of the Contract Restructuring Agreement and Termination Amendment by and between Edison and City National Bank, as Trustee for Westwind Trust, the Westwind Association, Frederick W. Noble and Wind Turbine Equipment Company dated as of April 3, 1998 (Restructuring Agreement). Edison may recover payments that it will make pursuant to the Restructuring Agreement through its Annual Transition Cost Proceeding or such other cost recovery mechanism as the Commission may authorize, in either case subject to Edison's reasonable administration of the Restructuring Agreement.

This proceeding is closed.

(Com Conlon - ALJ Careaga)

REGULAR AGENDA

UTILITY AND TRANSPORTATION ORDERS

ORDERS HELD OVER

- H-1** **C97-02-027 - Pacific Bell (Pacific) vs. MCI Telecommunications Corporation (MCI).**
 This decision grants the complaint of Pacific against MCI regarding MCI's alleged failure to remit the Pay Station Service Charge (PSSC) as required by Pacific's tariff and Resolution T-15782. MCI is ordered to pay the PSSC to Pacific in the amount of \$2,097,432 for the period of April 12, 1996, through June 9, 1997. MCI is also ordered to pay the PSSC to the Intervenor in the amount of \$24.63 for each payphone the Intervenor had in service for the period of April 12, 1996 through November 6, 1996. In addition, this decision orders MCI to pay interest to Pacific and the Intervenor assessed in accordance with Pacific's tariffs. Finally, MCI is ordered to file a new PSSC tariff within 30 days. This proceeding is closed. (Com Bilas - ALJ Kenney)
(Section 311)
 (Agenda 2997, Item CA-3, 7/23/98; Agenda 2998, Item H-2, 8/6/98; Agenda 3000, Item H-2, 9/17/98; Req - Commission)
[This revision was not listed on the agenda distributed to the public.](#)
- H-1a** **ALTERNATE PAGES TO H-1.** These alternate pages would impose a penalty on MCI for its failure to comply with Resolution T-15782. (Com Duque)
 (Agenda 3000, Item H-2a, 9/17/98; Req - Commission)
- H-2** **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; Agenda 2994, Item H-1, 6/4/98; Agenda 2995, Item H-2, 6/18/98; Agenda 2996, Item H-5, 7/2/98; Agenda 2998; Item H-1, 8/6/98; Agenda 2999, Item H-2, 9/3/98; Agenda 3000, Item H-4, 9/17/98; Req - Commission)

- H-2a** **ALTERNATE PAGES TO ITEM H-2.** These alternate pages amend the decision to state the Commission can exercise its regulatory authority on owners and managers of multi-dwelling units who own telephone line facilities and operate for compensation but forbears from regulation provided that owners or managers do not unreasonably or unfairly impede the ability of competitive local carriers to access tenants premises for the provision of communications services.
(Com Neeper)
- H-2b** **ALTERNATE PAGES TO ITEM H-2.** The alternate pages impose "fresh look" requirements and direct that previously executed contracts addressing ROW access issues be subject to renegotiations and/or modification to the extent their terms and conditions are in conflict with the rules adopted in the main order.
(Com Neeper)
- H-3** **I95-05-047 - Investigation on the Commission's own motion into the second triennial review of the operations and safeguards of the incentive-based regulatory framework for local exchange carriers.** This decision authorizes the August 1996 audit plan that the Office of Ratepayer Advocates proposed for Pacific Bell and GTE California Incorporated. This proceeding is closed.
(Com Conlon - ALJ Reed)
(Agenda 2995, Item CA-24, 6/18/98; Agenda 2996, Item H-2, 7/2/98; Agenda 2997, Item H-5, 7/23/98; Agenda 2998, Item H-6, 8/6/98; Agenda 2999, Item H-4, 9/3/98; Agenda 3000, Item H-5, 9/17/98; Req - Commission)
- H-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 addresses the issue of whether the voice mail services offered by Pacific Bell through its affiliate Pacific Bell Information Services and offered by GTE California, Inc. should be offered to Competitive Local Carriers for resale. This decision also addresses whether an avoided cost wholesale discount should be required for voice mail subject to resale.
(Com Conlon - ALJ Pulsifer)
(Agenda 2998, Item 5, 8/6/98; Agenda 2999, Item H-5, 9/3/98; Agenda 3000, Item H-6, 9/17/98; Req - Commission)

H-4a **ALTERNATE ORDER TO ITEM H-4.** This alternate order terminates further Commission inquiry into the resale of voice mail services provided that Pacific Bell and GTE California, Inc. file a proposed schedule within 60 days for implementing the necessary tariff changes needed to make voice mail services available to end users of a Competitive Local Carrier when the end-user's service is provided on a resold line of the incumbent carrier.
(Com Duque)
(Agenda 3000, Item H-6a, 9/17/98; Req - Commission)

H-5 **R97-04-011 - Order instituting rulemaking to establish standards of conduct governing relationships between energy utilities and their affiliates. I97-04-012 - Related matter.**
This decision imposes a penalty of \$336,000 against Pacific Gas and Electric Company for 18 separate violations of Rule V.F.1 of the Affiliate Transaction Rules. This penalty consists of \$17,500 for each of the four publications of the March 16, 1998, "High Voltage" advertisement and \$19,000 for the publication of each of the fourteen remaining advertisements. The factors we consider in determining the amount of the penalty for each violation include the appropriateness of such a penalty to the size of the business, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance after having received notification of the violation.
(Coms Bilas/Knight - ALJ Econome)
(SB 960 Experiment: Quasi-legislative Category)
(Agenda 2999, Item 4, 9/3/98; Agenda 3000, Item H-7, 9/17/98; Req - Commission)

H-5a **ALTERNATE ORDER TO ITEM H-5.** This alternate order would impose a penalty against Pacific Gas and Electric Company for 90 violations of Rule V.F.1 of the Affiliate Transaction Rules.
(Com Bilas)
(Agenda 3000, Item H-7a, 9/17/98; Req - Commission)

H-5b **ALTERNATE ORDER TO ITEM H-5.** In addition to imposing a penalty of \$336,000 against Pacific Gas & Electric (PG&E) for 18 separate violations of Rule V.F.1 of the Affiliate Transaction Rules, this alternate order requires PG&E to issue corrective advertising and letters to certain customers.
(Com Conlon)

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

- ✓ **H-6** **A97-11-007 - Citizens Utilities Company of California (Citizens).**
For authority to increase rates and charges for water service in its Felton District. A97-11-008, A97-11-009 - Related matters.
This decision approves a settlement agreement between Citizens and Ratepayer Representation Branch of Water Division (RRB) in Citizens' test years 1998 and 1999 water general rate cases. The adopted settlement sets the test year revenue requirements for the Felton District, Larkfield District, and Sacramento District. These proceedings are closed.
(Com Duque - ALJ McVicar)
(Section 311)
(Agenda 3000, Item 2, 9/17/98; Req - Commission)
- H-7** **A98-06-046 - Sierra Pacific Power Company.**
For authority to sell or assign transition property to one or more financing entities; authority to service rate reduction bonds; authority to establish charges sufficient to recover fixed transition amounts; and such further authority necessary for the company to carry out the transactions described in this application. This decision authorizes applicant to issue up to \$25,000,000 aggregate principal amount of rate reduction bonds. This proceeding is closed.
(Com Duque - ALJ Careaga)
(Agenda 3000, Item 4, 9/17/98; Req - Commission)
- H-7a** **ALTERNATE PAGES TO ITEM H-7.** These alternate pages reverse the Administrative Law Judge's denial of the Office of Ratepayer Advocate's (ORA) motion to accept a late filed response to urge the Commission to adopt a balancing account alternative. Because statutory time limits prevent a remand for consideration of ORA's response in this docket, applicant is invited to file a new application to request the balancing account treatment which should be processed on an expedited basis with a shortened protest period.
(Com Bilas)
(Agenda 3000, Item 4a, 9/17/98; Req - Commission)

- H-8** **A97-05-019 - Santa Fe Pipeline Partners, L.P. (Santa Fe).**
This decision approves Santa Fe's application to issue promissory notes, with the proceeds to be used to construct new pipeline facilities between Carson and Norwalk, to meet increased demand for liquid petroleum products. The Final Environmental Impact Report is certified for the project.
(Com Bilas - ALJ Stalder)
(Agenda 3000, Item 5, 9/17/98; Req - Commission)
- H-9** **C92-08-031 - Philip Ortega vs. AT&T Communications of California, Inc. (AT&T). C92-09-009 - Related matter.**
This decision orders AT&T to refund \$4.5 million rather than \$27 million due to evidence that the larger refund would cause serious dislocations in coin-paid payphone industry. Refund is due because D94-11-026 found rates to be invalid.
(Com Duque - ALJ Bushey)
(Agenda 3000, Item 6, 9/17/98; Req - Commission)

ORDERS

- 1** **A97-07-008 - Landmark Communications, Inc. (Landmark).**
On rehearing (D98-02-115) from D97-11-056. This decision finds Landmark and William Kettle, its alter ego, unfit to be awarded a Certificate of Public Convenience and Necessity. This proceeding is closed.
(Com Bilas - ALJ Ramsey)
(*Section 311*)

- 2** **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, A96-06-08-072 - Related matters. This decision addresses the issue of how the competition transition charge is applied to new customer load, where that load is served by a direct transaction that does not otherwise require the use of transmission or distribution facilities owned by PG&E, Southern California Edison Company, and San Diego Gas & Electric. These proceedings are closed.
(Coms Conlon/Bilas - ALJ Minkin)
(*Section 311*)

- 2a** **ALTERNATE ORDER TO ITEM 2.** This alternate order concludes that new customer load which is connected to the utility's transmission and distribution system for any purpose, including standby service, is not exempt from the competition transition charge collection related to that load. These proceedings are closed
(Com Conlon)

- 3** **I96-09-031 - Order instituting investigation and order to show cause into the operations and practices of Joe Burnley, Sr. (Burnley), (TCP 9811) and consolidation with A96-05-041. A96-05-041 - Related matter.**
The charter-party operating authority of Burnley, dba Royal Circle Ltd. is revoked with prejudice for continuing violations. The application of Burnley and Ena Davis for authority to operate as a passenger stage corporation is denied due to Burnley's lack of fitness to carry passengers. These proceedings are closed.
(Com Neeper - ALJ Stalder)
(*Section 311*)

- 4 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 addresses the Qualifying Facility Restructuring Reasonableness Letter (QFRRL) proposal made by six parties to this proceeding. This decision adopts the QFRRL proposal with the minor modifications and clarifications set forth in this decision.
(Com Neeper - ALJ Econome)
- 5 I97-04-013 - Investigation into the commission's own motion into whether the Bidwell Water Company (Bidwell) misused its Safe Drinking Water Bond Act (SDWBA) surcharge revenues and has violated rules, orders, and decisions of the Commission.**
This decision finds that Bidwell has violated a prior Commission decision. It orders Bidwell to comply with the prior decision and directs that its SDWBA be adjusted. This decision imposes a fine of \$1,000.00 on Bidwell. This proceeding is closed.
(Com Neeper - ALJ Henderson)
(Section 311)

6 R98-03-040 - Rulemaking on the Commission's own motion into the Third Triennial review of the regulatory framework adopted in D89-10-031 for GTE California Incorporated (GTE) and Pacific Bell (Pacific).

This decision modifies some elements of the new regulatory framework (NRF) regulation of Pacific and GTE, but continues others. It continues suspension of the inflation minus productivity plus stretch portion of the price adjustment formula. It suspends sharing, but continues the reporting of earnings. It permanently eliminates annual depreciation reviews and approvals. It phases out existing Z factor adjustments; eliminates new Z factor adjustments; and continues streamlined advice letter consideration of a very limited set of exogenous costs by a new, limited exogenous cost mechanism. It continues residential rate caps just as all rate caps are continued, subject to change by future Commission decision. It orders that any application filed pursuant to ordering paragraph 7 of D96-09-089 ("franchise impact claim") contain certain information on applicant's efforts to mitigate any alleged reserve deficiency. It requires that any other requests to change Category 1 rates, or Category 2 ceilings or floors, be by application. It invites parties to serve information by September 1, 2000 to facilitate Commission issuance of the next NRF Order Instituting Rulemaking. Finally, it finds that The Utility Reform Network, the Greenlining Institute and the Latino Issues Forum may file requests for intervenor compensation within 60 days, and orders that any such requests comply with the preliminary ruling of the Administrative Law Judge. This proceeding is closed.

(Com Knight - ALJ Mattson)

7 A96-12-001 - Destiny Telcomm International, Inc.

This decision denies with prejudice on fitness grounds application seeking authority to act as non-dominant interexchange carrier on resold basis interLATA and intraLATA Telecommunications Services within California. Applicant operated switch without authority, operated pyramid scheme, failed to collect/remit surcharges, fees and taxes to appropriate authorities. Final Judgment and Permanent Injunction entered against applicant in Superior Court Alameda County. Civil penalties of \$1.6 million assessed by court against applicant. This proceeding is closed.

(Com Knight - ALJ Ramsey)

8 R98-01-011 - Rulemaking on the Commission's own motion to assess and revise the regulatory structure governing California's natural gas industry.

This decision adjusts the schedule for the gas strategy rulemaking proceeding in response to recent legislation.

(Coms Bilas/Knight - ALJ Weissman)

9 R97-04-011 - Order instituting rulemaking to establish standards of conduct governing relationships between energy utilities and their affiliates. I97-04-012 - Related matters.

This decision addresses San Diego Gas & Electric Company's and Southern California Gas Company's June 30, 1998, petition for modification of the disclaimer requirement contained in Rule V.F.1 of the Commission's Affiliate Transaction Rules.

(Coms Bilas/Knight - ALJ Econome)

(SB 960 Experiment: Quasi-legislative Category)

10 A98-01-008 - Pacific Gas and Electric Company (PG&E).

This decision approves the request of PG&E to withdraw its request for authorization to sell the Hunters Point Power Plant, as stated in its amendment to its application, filed July 17, 1998, and the agreement between PG&E and the City and County of San Francisco, dated July 19, 1998.

(Coms Conlon/Bilas - ALJ Careaga)

11 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 grants, in part, the requests for intervenor compensation filed by The Utility Reform Network, Utility Consumers' Action Network, and Cal/Neva for their substantial contributions to certain decisions issued in this docket during the time period January 1996 through April 1997.

(Com Conlon/Bilas - ALJ Hale)

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

This order grants the motion of the California Telecommunications Coalition (Coalition). Coalition filed a motion in the Local Competition Docket seeking a ruling affirming that calls to Internet Service Providers (ISPs) should be treated as local calls, under Commission jurisdiction, and subject to the bill-and-keep or reciprocal compensation provisions of applicable interconnection agreements. Under standard reciprocal compensation provisions of interconnection contracts, the cost of providing access for a customer's local call that originates from one local exchange carrier's network and terminates on another local exchange carrier's network is attributed to carrier from which the call originated. (47 CFR Sec. 51.701(e), 51.703 (1977).)

(Com Conlon - ALJ Pulsifer)

13 A98-04-061 - SuperShuttle of San Francisco, Inc. and Affiliates (SuperShuttle).

This decision grants the application of SuperShuttle to use advice letter process rather than application for Public Utilities Code Section 851-854(a) transactions. This proceeding is closed.

(Com Duque - ALJ Bushey)

[This item appeared as CA-11 on the agenda distributed to the public.](#)

UTILITIES RESOLUTIONS

ENERGY MATTERS

E-1

Res O-0027 - Arco Pipeline Company (APL).

This resolution approves APL's request for authority to remove from common carrier service Line 211 and the southern portion of Line 1, starting from its Tejon Pump Station to its Los Angeles basin destinations and to cancel all related tariff rate sheets.

(Advice Letter 46, filed December 23, 1997)

TELECOMMUNICATIONS MATTERS

C-1 Res T-16204 - Pacific Bell (Pacific).

This resolution orders Pacific to file a supplement within 15 days from the effective date of this resolution to reduce its unbundled loop Total Element Long Run Incremental Costs, to assign 35% of product management expenses directly to Unbundled Network Elements, and to reduce its CO loop electronics estimate by \$224 per line.
(Advice Letter 19306, filed March 6, 1998)

RAIL SAFETY AND CARRIERS RESOLUTIONS

- T-1** **Res TL-18866** - Resolution directing that application filing fees and regulatory fees paid by certain charter-party carriers be used only to fund activities permitted under federal law.

ADMINISTRATIVE LAW JUDGE DIVISION RESOLUTIONS

ALJ-1 **Res ALJ-176-3001** - 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

RESOLUTIONS AND MEMORANDUMS

- L-1** **Res L-273** - This resolution orders the release of documents related to an accident that occurred February 25, 1998 involving Southern California Edison Company electric installation near Ridgecrest, California.

COMMISSIONERS' REPORTS

Commissioner Conlon

- Electric Matters
- Transportation Matters

Commissioner Knight

- Telecommunications Matters

Commissioner Duque

- Water Matters
- Administrative 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

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** **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; Agenda 2994, Item HEX-3, 6/4/98; Agenda 2995, Item HEX-2, 6/18/98; Agenda 2996, Item HEX-1, 7/2/98; Agenda 2997, Item HEX-1, 7/23/98; Agenda 2998, Item HEX-1, 8/6/98; Req - Commission)
- HEX-2** **C94-09-038** - Disposition of application for rehearing of D98-03-078 filed by the Larkfield Water Company challenging the imposition of installation costs for backflow prevention devices on it and not the ratepayers or the complainant herein.
(Agenda 2995, Item EX-9, 6/18/98; Agenda 2996, Item HEX-6, 7/2/98; Agenda 2999, Item HEX-1, 9/3/98; Agenda 3000, Item HEX-1, 9/17/98; Req - Commission)

- HEX-3** **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.
(Agenda 2994, Item EX-6, 6/4/98; Agenda 2995, Item HEX-5, 6/18/98; Agenda 2996, Item HEX-3, 7/2/98; Agenda 2997, Item HEX-2, 7/23/98; Agenda 2998, Item HEX-2, 8/6/98; Agenda 2999, Item HEX-2, 9/3/98; Agenda 3000, Item HEX-2, 9/17/98; Req - Commission)
- HEX-4** **A96-09-012** - Disposition of application for rehearing of D98-05-060, filed by GTE California Incorporated (GTEC). Applicant requests that the Commission grant rehearing of D98-05-060, the Commission's opinion denying GTEC's petition to modify D97-01-045. GTEC submits its application in part to preserve its statutory right to federal court review of the unbundled network elements (UNEs) recombination issue, addressed in D98-05-060, in its pending federal action. See, GTE California Inc. v. Conlon et al., Case No. C-97-1757 SI. GTEC also claims that in D98-05-060 the Commission erred in its conclusion that GTEC voluntarily agreed to rebundle UNEs. GTEC further alleges that it is legal error for a state commission to treat as a waiver an agreement by an incumbent local exchange carrier to rebundle UNEs if the agreement was made during the period when the Federal Communications Commission's rules requiring rebundling were still binding.
(Agenda 2999, Item EX-5, 9/3/98; Agenda 3000, Item HEX-3, 9/17/98; Req - Commission)
- HEX-5** **A96-08-041** - Disposition of application for rehearing of D98-06-074, filed by GTE California Incorporated (GTEC). Applicant requests that the Commission grant rehearing of D98-06-074, the Commission's opinion denying GTEC's petition to modify D97-01-022. GTEC submits its application in part to preserve its statutory right to federal court review of the unbundled network elements (UNEs) recombination issue, addressed in D98-06-074, in its pending federal action. See, GTE California Inc. v. Conlon et al., Case No. C-97-1756 SI. GTEC also claims that in D98-06-074 the Commission improperly concluded that the UNEs issue was not properly presented by GTEC. GTEC further alleges that the Commission erred by failing to apply the futility doctrine in considering GTEC's petition to modify D97-01-022.
(Agenda 2999, Item EX-6, 9/3/98; Agenda 3000, Item HEX-4, 9/17/98; Req - Commission)

HEX-6

R97-04-011, I97-04-012 - Disposition of applications for rehearing of D97-12-088, filed by Wild Goose Storage, Inc.; Southern California Gas Company and San Diego Gas and Electric Company (jointly); Edison Electric Institute; and Washington Water Power Company. The applicants challenge the affiliate transaction rules for energy utilities and their affiliates that were adopted in D97-12-088. The main allegations of legal error include: the decision violates due process; the decision does not have legally sufficient findings of fact and conclusions of law; there is a lack of a record to support the decision; some of the rules constitute an unlawful and overbroad prior restraint on the truthful speech of utilities in violation of the 1st and 14th amendments to U.S. Constitution; and the decision places an unlawful restriction on the ability of the directors and officers of the parent holding companies in fulfilling their fiduciary duties.
(Agenda 3000, Item EX-3, 9/17/98; 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** **C93-07-046, C.94-02-009** - Disposition of application for rehearing of D98-07-013 by Utility Audit Company, Inc. (UA) The Commission's decision denied UA's complaints against Southern California Gas Company alleging that the gas company had incorrectly applied baseline allowances in billing multi-family apartment complexes served by master meters. UA now seeks rehearing on grounds of denial of due process, failure to follow precedent, and incorrect findings of fact.
- EX-3** **C93-07-024** - Disposition of application for rehearing of D98-08-007 filed by Donna Matthews. Applicant alleges legal error in the Commission's decision based on her contentions that the Meadows Management Company (Meadows) has not dedicated its water service to the public by serving mobilehome park tenants. Applicant further argues that the Mobilehome Parks Act should have been applied in resolving her complaint against Meadows.

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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